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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 160021-EI

PETITION FOR RATE INCREASE BY
FLORIDA POWER & LIGHT COMPANY.

DOCKET NO. 160061-EI

PETITION FOR APPROVAL OF
2016-2018 STORM HARDENING PLAN
BY FLORIDA POWER & LIGHT COMPANY

DOCKET NO. 160062-EI

2016 DEPRECIATION AND
DISMANTLEMENT STUDY BY, FLORIDA
POWER & LIGHT COMPANY.

DOCKET NO. 160088-EI

PETITION FOR LIMITED PROCEEDING
TO MODIFY AND CONTINUE INCENTIVE
MECHANISM, BY FLORIDA POWER &
LIGHT COMPANY.

VOLUME 30
PAGES 4366-4532

PROCEEDINGS: HEARING

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

DATE: Tuesday, August 30, 2016

TIME: Commenced at ^{12:09}~~12:05~~ p.m.
Concluded at 3:00 p.m.

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

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REPORTED BY: DEBRA KRICK
Court Reporter
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APPEARANCES: (As heretofore noted.)

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

2 (Transcript follows in sequence from Volume
3 29.)

4 EXAMINATION continued

5 BY MR. JERNIGAN:

6 Q Okay. And in this testimony, you have
7 recommended an ROE of no more than 10.0, correct?

8 A Correct.

9 Q Have you reviewed Mr. Gorman's testimony
10 recommending a 9.5?

11 A I am aware that he recommended 9.5, yes.

12 Q Are you aware over the last, approximately 18
13 months or so, a 9.5 is more in line with what's been
14 awarded to other utilities in other commissions?

15 A Yes. In fact, I have an exhibit that actually
16 shows that. It's my Exhibit JP-3.

17 Q Okay.

18 A And that shows the trends from 2012 through
19 about March of 2016 of authorized returns on equity for
20 vertically integrated electric investor owned utilities.

21 Q Okay. You are jumping ahead of my questions,
22 thank you.

23 Okay, so you would agree that that's a trend
24 that's -- the lowering the ROE is the continual trend
25 over the last few years?

1 MS. CLARK: Madam Chairman, I would object to
2 this. I believe it's friendly cross.

3 CHAIRMAN BROWN: Sustained.

4 Please move on.

5 MR. JERNIGAN: Ma'am, if I may, when
6 Mr. Gorman was on the stand, FIPUG was allowed to
7 ask our witness several with regards to ROE and our
8 recommendation. I am simply doing -- simply asking
9 questions --

10 CHAIRMAN BROWN: Limited questions.

11 MR. JERNIGAN: -- with regards to --

12 CHAIRMAN BROWN: He was allowed limited --
13 limited questions. So to the extent that they are
14 not friendly cross, I will allow them, but that
15 last question was clearly friendly cross.

16 MR. JERNIGAN: Okay. No further questions.
17 Thank you.

18 CHAIRMAN BROWN: Thank you.

19 Sierra Club is not here.

20 MR. WILLIAMSON: No, ma'am.

21 CHAIRMAN BROWN: Thank you.

22 AARP.

23 MR. COFFMAN: Yes, a clarifying question.

24 CHAIRMAN BROWN: Sure.

25 EXAMINATION

1 BY MR. COFFMAN:

2 Q Good to see you today, Mr. Pollock.

3 A Hello, Mr. Coffman.

4 Q Good to have yet another Missouri witness
5 here.

6 A Missouri.

7 Q You say Missouri, I say Missouri.

8 A That's a Missouri truck.

9 Q And we may have some other issues that we are
10 not quite on the same page about besides how to
11 pronounce our state of residence.

12 We -- AARP is here representing residential
13 customers, and if -- and as a point of clarification,
14 the three issues that you highlighted in your statement,
15 the three whammies, if you will, the CILC CDR credits,
16 the class cost of service issues, and then the
17 gradualism principles of the Florida Commission. The
18 position that you are advocating on those three issues
19 would tend to, on a revenue neutral basis, shift cost on
20 to residential households; correct?

21 A Yeah. I mean, just looking at the actual
22 revenue requirement, there would be some shifting going
23 on. As to whether or not that affects the rates, it
24 would be pretty minimal given the disparities and class
25 rates of return. So while the issues clearly affect how

1 the costs are defined, the fact that classes are not as
2 parity, and applying gradualism, doesn't really -- isn't
3 really going to change the revenue allocation a whole
4 lot.

5 MR. COFFMAN: Okay. Thank you.

6 CHAIRMAN BROWN: Thank you.

7 FPL.

8 MS. CLARK: Thank you, Madam Chairman. We do
9 have some exhibits to pass out. I am going to give
10 Mr. Moyle his full copies.

11 CHAIRMAN BROWN: Thank you.

12 Staff, could you help Ms. Clark?

13 We will be starting at 725 if you would like
14 them marked -- or when you would like them marked.

15 MS. CLARK: Shall I wait until you have copies
16 of them?

17 CHAIRMAN BROWN: Yes, please.

18 Thank you. It's okay. Thanks.

19 MS. CLARK: Thank you. You might want to --
20 you got the full copies. Those are the excerpts.

21 CHAIRMAN BROWN: While these are being handed
22 out, I just want to make sure, Ms. Clark, that we
23 have -- are you -- are you -- are these six
24 exhibits? Some are stapled, some are not, so I am
25 not sure how many exhibits we have.

1 MS. CLARK: Madam Chairman, you should have
2 six exhibits.

3 CHAIRMAN BROWN: Okay. Can we please try to
4 limit the chatter.

5 Okay, I have six.

6 MS. CLARK: Are you ready to go ahead?

7 CHAIRMAN BROWN: I am ready to go ahead.

8 MS. CLARK: All right.

9 CHAIRMAN BROWN: Okay. So we will be starting
10 at 725.

11 MS. CLARK: All right. I would suggest we do
12 FIPUG's response --

13 CHAIRMAN BROWN: Can you -- can you all please
14 be quiet for the record so that we can identify
15 these properly? Thank you.

16 MS. CLARK: I would suggest we label FIPUG's
17 response to FPL's second set of interrogatories No.
18 19 as 725.

19 CHAIRMAN BROWN: No. 19, okay. So we will
20 label FIPUG's response to FPL's second set of
21 interrogatories No. 19 as 725.

22 (Whereupon, Exhibit No. 725 was marked for
23 identification.)

24 CHAIRMAN BROWN: Go ahead.

25 MS. CLARK: And I would suggest that we label

1 order number -- the excerpts from order number
2 PSC-08-0327-FOF-EI as the next number, 726.

3 CHAIRMAN BROWN: Okay. That would be PSC
4 order PSC-08-0327-FOF-EI issued May 19th, 2008, as
5 726.

6 (Whereupon, Exhibit No. 726 was marked for
7 identification.)

8 CHAIRMAN BROWN: Keep them coming.

9 MS. CLARK: Just making sure I have them
10 right. And then the next one would be PSC order
11 10-0153-FOF. That would be --

12 CHAIRMAN BROWN: 727, and we will mark it and
13 identify it as such.

14 (Whereupon, Exhibit No. 727 was marked for
15 identification.)

16 CHAIRMAN BROWN: Again, that's PSC-10-0153.
17 All right.

18 MS. CLARK: And then the next one would be
19 order number PSC-13-0443-FOF.

20 CHAIRMAN BROWN: Okay. And we will mark that
21 as 728.

22 (Whereupon, Exhibit No. 728 was marked for
23 identification.)

24 CHAIRMAN BROWN: And we will identify it as
25 such. Again, that's PSC-13-0443-FOF-EI.

1 MS. CLARK: And then, Madam Chairman, the last
2 exhibit would be FPL's response to -- excuse me,
3 FIPUG's response to FPL's second set of
4 interrogatories No. 20.

5 CHAIRMAN BROWN: Okay. We are going to mark
6 that as 729.

7 (Whereupon, Exhibit No. 729 was marked for
8 identification.)

9 MS. CLARK: And I believe that also has an
10 excerpted from an order attached to it.

11 CHAIRMAN BROWN: Would that be the PSC order
12 PSC-09-0283? I have an extra exhibit.

13 MR. WISEMAN: I have that as a separate
14 exhibit.

15 CHAIR BROWN: I have it, like, twice.

16 MS. CLARK: Which one was it? Madam Chairman,
17 forgive me. I think order number PSC-09-0283 was
18 not marked.

19 CHAIRMAN BROWN: Right. I have that. So
20 would you like that marked as 730?

21 MS. CLARK: I would.

22 CHAIRMAN BROWN: Would you like that marked as
23 730?

24 MS. CLARK: I would. Thank you.

25 CHAIRMAN BROWN: Okay. We are going to mark

1 that PSC order PSC-09-0283-FOF-EI as 730.

2 (Whereupon, Exhibit No. 730 was marked for
3 identification.)

4 CHAIRMAN BROWN: So I can going to read them
5 off so that -- we have a lot of them and I just
6 want to make sure it's clear.

7 725 is FIPUG's response to FPL's second set of
8 interrogatories No. 19.

9 726, it's the PSC 08 order.

10 727 is the PSC 10 order.

11 728 is the PSC 13 order.

12 729 is FIPUG's response to FPL's second set of
13 interrogatories No. 20.

14 And 730 is the 09 order, PSC; is that correct?

15 MS. CLARK: I believe it is. On the 729,
16 which is the response to the interrogatory, there
17 should also be an excerpt from an order attached to
18 that.

19 CHAIRMAN BROWN: And that is the only copy
20 that I have that is stapled, so I am looking at it,
21 and, yes, it looks like there is an order attached
22 to it.

23 MS. CLARK: Okay.

24 CHAIRMAN BROWN: All right.

25 MS. CLARK: No, Madam Chairman, I will clarify

1 that.

2 CHAIRMAN BROWN: All right. Ms. Clark, you
3 can proceed whenever you are ready.

4 MS. CLARK: Okay.

5 EXAMINATION

6 BY MS. CLARK:

7 **Q Good afternoon, Mr. Pollock.**

8 MR. MOYLE: Excuse me, could I just get
9 clarification? I think -- so the record is clear,
10 I think that the response to the interrogatory that
11 has an order attached, I don't think the order was
12 part of the response to the interrogatory. I just
13 want to ask counsel to confirm that.

14 CHAIRMAN BROWN: Okay. That's Exhibit 729
15 that Mr. Moyle is referring to.

16 MR. MOYLE: Yes, ma'am.

17 CHAIRMAN BROWN: And there is an order
18 attached to that.

19 MS. CLARK: Madam Chairman, he is correct, but
20 that is the order he cited --

21 CHAIRMAN BROWN: Okay.

22 MS. CLARK: -- in his answer.

23 CHAIRMAN BROWN: Okay. Thanks.

24 Proceed whenever you are ready.

25 MS. CLARK: Thank you, Madam Chairman.

1 BY MS. CLARK:

2 Q Mr. Pollock, I would like to ask you a few
3 questions about your gradualism. And I have to admit to
4 being a little confused about your answer to Mr. Jenkins
5 regarding your testimony about other jurisdictions who
6 apply gradualism the way you have suggested it. Did you
7 say there were other jurisdictions that do that?

8 A Yes, quite a number.

9 Q I would like you to look at Exhibit 725, if
10 you would.

11 A Okay.

12 Q And was this an interrogatory you responded
13 to?

14 A Yes.

15 Q And the reference in this interrogatory is to
16 page 39 of your testimony. I may have the wrong page
17 number there, but in your testimony, you make the
18 statement that gradualism is typically measured on
19 revenues generated from electricity sales, not revenues
20 from other sources.

21 A That's correct.

22 Q Okay. And when you were answering
23 Mr. Jenkins' questions, is that how -- is that method of
24 measuring gradualism consistent with what you were
25 responding to him, that the other jurisdictions do limit

1 gradualism to only revenues from electricity sales?

2 A Yes.

3 Q Okay. Could you -- in response to FPL's
4 request that you list any and all orders that support
5 your statement, that gradualism is typically measured on
6 revenues from the generated sales of electricity, did
7 you provide FPL with any orders?

8 A We did not provide any orders because it would
9 have required me to do an awful lot of research over my
10 40-year history, and it's just not possible to do that.

11 Q Even though you make the statement, "it's
12 typically done that way," you couldn't come up with any
13 order in response to FPL's request, and yet here today,
14 you are listing Texas and other jurisdictions that apply
15 it?

16 A Yes. I have stated that, yes. I said I
17 didn't feel compelled to do the legal research because
18 anybody could do the legal research.

19 Q With regard to any research you did, did you
20 look at any commission orders regarding gradualism?

21 A I didn't really specifically go back to any
22 commission orders other than this commission orders to
23 reaffirm my understanding of how the gradualism issue
24 has evolved.

25 Q So do you count the method by which Florida

1 **Power -- excuse me -- the Florida Public Service**
2 **Commission calculates gradualism as being one of those**
3 **typically measured on revenues generated from the sales**
4 **of electricity?**

5 A I think it depends on the utility. I think,
6 in FPL's case, FPL has certainly defined it differently
7 than, say, Tampa Electric, or Gulf Power, or Duke
8 Energy, for example, that don't look at all operating
9 revenues.

10 Q **Well, Mr. Pollock, did you look at any**
11 **commission orders and the articulation of the gradualism**
12 **policy in those orders?**

13 A Yes, I did.

14 Q **Can you be specific as to which orders you**
15 **looked at?**

16 A I looked at all the ones that are listed here
17 as exhibits.

18 Q **Well, let's go through them then. I would**
19 **suggest we start with Exhibit 726.**

20 CHAIRMAN BROWN: And that's to the 08 order.

21 Do you have a copy of that, Mr. Pollock, in front
22 of you?

23 THE WITNESS: Yes, I do.

24 BY MS. CLARK:

25 Q **And, Mr. Pollock, for your convenience, I have**

1 highlighted the Commission's recitation of what the
2 gradualism policy is. Could you go ahead and read that
3 into the record, please?

4 MR. MOYLE: I'm going to object to the form
5 with respect to the characterization of what --
6 what she is representing this to be, it's an order,
7 whether it represents the policy or not I think
8 remains to be seen.

9 CHAIRMAN BROWN: Ms. Clark, can you rephrase
10 the question?

11 MS. CLARK: Yes.

12 BY MS. CLARK:

13 Q Mr. Pollock, would you read the highlighted
14 language in the order, please?

15 A "The increase should be allocated to the rate
16 classes in a manner that moves the class rates or return
17 indices as close to parity as practicable based on the
18 approved cost allocation methodology subject to the
19 following constraints: One, no class should receive an
20 increase greater than 1.5 times the system average
21 percentage increase in total. And, two, no class should
22 receive a decrease."

23 Q That says nothing about limiting the
24 calculation to revenues from the sales of electricity,
25 does it?

1 A No. And that's the problem with reading
2 orders and trying to interpret them, unless you actually
3 look at the underlying exhibits in the client's filing,
4 you would not know that that practice has been
5 interpreted the same by everybody.

6 **Q Well, do you know what was the result of this**
7 **order?**

8 A I was not -- I did not participate in this
9 particular case so I do not.

10 **Q All right. Let's look at Exhibit 726.**

11 A 720?

12 **Q I am sorry?**

13 CHAIRMAN BROWN: 727.

14 MR. BUTLER: 727.

15 MS. CLARK: 727.

16 THE WITNESS: Seven, thank you.

17 CHAIRMAN BROWN: That's the 2010 order in
18 front of you.

19 THE WITNESS: Yes.

20 BY MS. CLARK:

21 **Q Would you also read the language on page 179**
22 **of that order?**

23 A "Consistent with our decisions in more recent
24 electric rate cases, we find that, in this case, no
25 class shall receive an increase greater than 1.5 times

1 the system average percentage in total, i.e., with
2 adjustment clauses, and no class should receive a
3 decrease. When calculating the percentage increase, FPL
4 should use the approved 2010 adjustment clause factors."

5 **Q Well, that's pretty specific. It's more than**
6 **revenues from the sales of electricity, isn't it?**

7 A I don't think it says other operating
8 revenues. I think it says revenues in total, like the
9 other orders do. But what you are allocating is the --
10 essentially the base revenue increase. And it's the
11 base revenue increase as a percentage of total revenues
12 from sales of electricity that derives the percentage
13 that you then apply gradualism to.

14 Now, in this instance, FPL -- as I said, FPL
15 has been kind of unique because they include other
16 charges in the revenue calculation. Not all the
17 utilities do that.

18 **Q And hasn't this commission routinely approved**
19 **FPL's calculation of the gradualism?**

20 A Well, in the 2010 case, the order speaks for
21 itself. But I think, just to elaborate on that a little
22 bit --

23 MS. CLARK: Madam Chairman, I think he has
24 answered my question. If he wants to elaborate,
25 Mr. Moyle can redirect him.

1 MR. MOYLE: He should be able to explain, like
2 FPL's witnesses were able to do.

3 CHAIRMAN BROWN: You can go ahead and
4 clarify -- clarify your answer succinctly.

5 THE WITNESS: I would be happy to.

6 Yeah, gradualism, you know, it has different
7 shades. And what gradualism looks like when a
8 utility is asking for a \$1.3 billion increase can
9 look a whole lot differently than when a utility is
10 actually awarded only \$70 million of increase, as
11 in this case, you know.

12 So when you are measuring gradualism with a
13 revenue increase that's 0.8 percent, that -- how
14 you measure gradualism is not going to change the
15 answer a whole lot between customer classes. On
16 the other hand, we are talking about this case, and
17 as I indicated, it will have a major effect on how
18 some classes are affected.

19 And so you have to, I think -- and that's why
20 I am saying your policies are not static. You
21 know, you are policies should evolve with the
22 circumstances that may be appropriate with the case
23 in question. And in this case, it's clearly an
24 exception that, I think, requires a different
25 interpretation.

1 BY MS. CLARK:

2 Q So to be clear, Mr. Baron, you are
3 requesting --

4 A Mr. Pollock. Don't call me that other guy.

5 Q I am aware that you are not Mr. Baron.

6 A I know you are.

7 Q Mr. Pollock, would you look to the next
8 exhibit -- well, would you look at 730, if you wouldn't
9 mind? That is PSC-09-0283.

10 A Yes.

11 Q And would you read the highlighted language
12 there?

13 A "The appropriate allocation compares present
14 revenues for each class to the class cost of service
15 requirement and then distributes the change in revenue
16 requirements to the classes. No class should receive an
17 increase greater than 1.5 times the system average
18 percentage increase in total, and no class should
19 receive a decrease."

20 Q Okay. And finally, if you would look at what
21 is marked as 728, which is the 13-0443 order. And you
22 will see there that it is an order, but then the
23 agreement with Tampa Electric settling that case is also
24 attached, and there is highlighted language on that
25 agreement, would you also read that, please?

1 A Sure. So this is the case that was settled --

2 **Q Could you read the language first, Mr.**

3 **Pollock?**

4 A Gladly.

5 "Except as otherwise specifically provided in
6 the agreement, the cost of service support used to
7 calculate the rate increases authorized in this
8 paragraph has been and will be produced, and rates have
9 been and will be designed based on the FPSC's practice
10 that no class receive a base rate decrease in an overall
11 base rate increase proceeding, and that no class be
12 increased more than 1.5 times the system average percent
13 revenue increase, including clauses."

14 **Q Thank you.**

15 But it is true, Mr. Pollock, that none of the
16 orders mention limiting gradualism to the sales of
17 electricity, correct?

18 MR. MOYLE: I'm going to object to the form of
19 that question. He has been given excerpts of
20 orders, some of which are very voluminous. It's
21 kind of hard to ask him, you know, what's in all
22 these -- this huge pile of orders with respect to,
23 you know, a sentence like that.

24 CHAIRMAN BROWN: Ms. Clark, could you rephrase
25 it?

1 MS. CLARK: I am sorry?

2 CHAIRMAN BROWN: Could you rephrase the
3 question?

4 MS. CLARK: Well, the question I asked him was
5 whether or not -- I will rephrase it.

6 BY MS. CLARK:

7 Q In the language and text you read from those
8 orders, which relate to the gradualism principle, was
9 there any mention of limiting it to the sale of
10 electricity?

11 A None of the orders said, limit it and apply it
12 this way. However, when you go beyond the orders, and
13 look at what was actually done, you can get to that
14 interpretation.

15 As I said, this reading the orders -- reading
16 the words don't necessarily give meaning to what
17 actually happened. As I said in that Tampa case, which
18 we have an exhibit here, the company didn't even apply
19 the gradualism constraint to total revenues, including
20 clauses. It only applied it to base rates, and other
21 operating revenues were not part of that calculation.
22 So I am -- I am a little --

23 The answer is it's ambiguous. It's not clear.
24 It's totally unambiguous as far as FPL is concerned
25 because we all know what FPL is doing and I will just

1 say that's probably the first and only utility I have
2 seen do it that way.

3 **Q But with regard to FPL, it was approved by the**
4 **Commission, that method of calculating gradualism;**
5 **correct?**

6 A It doesn't -- it doesn't say, other operating
7 revenues per se. It just says revenues in total,
8 including clauses. You can interpret that to mean what
9 you want. FPL obviously believes that includes
10 everything. And I understand why FPL gets to that, you
11 know, to that conclusion, but that's not the same
12 interpretation that I have with all of these orders, or
13 how these orders were actually implemented.

14 **Q Well, it is true that two of those orders**
15 **specifically mention including clause revenue, correct?**

16 A I am not disputing the fact that, except in
17 one case in Gulf Power, where the Commission
18 specifically said, base revenues excluding fuel; other
19 than that, it's been pretty much including clauses. I
20 understand that.

21 **Q Well, let me ask you this: If you are**
22 **familiar with the Gulf order that excluded it, and I**
23 **guess, to your interpretation, based it on sales of**
24 **electricity, why did you not provide that order in**
25 **response to FPL's discovery request?**

1 A I did. It's in Interrogatory No. 20, I
2 referred to order number 10-557 in docket number
3 81-0136-EU.

4 **Q I would -- in regard to the interrogatory 19.**

5 A 19.

6 CHAIRMAN BROWN: Which is Exhibit 725.

7 THE WITNESS: 729?

8 CHAIRMAN BROWN: 725, No. 19.

9 THE WITNESS: The question in 19 I read to
10 mean include all jurisdictions, not just the
11 Commission -- not just the Florida jurisdiction;
12 whereas the response to interrogatory 20
13 specifically referred to Florida Public Service
14 Commission.

15 BY MS. CLARK:

16 **Q Okay. Let's look at 29, then -- 729, I am**
17 **sorry, which is your answer to 20, where you provided**
18 **the Gulf order.**

19 A Seven --

20 **Q It's Exhibit 729, and it's FIPUG's response to**
21 **FPL's second set of interrogatories No. 20. And you**
22 **cite that order, and an excerpt from that order is**
23 **attached, correct?**

24 MR. MOYLE: Can I just get clarification
25 whether the entire order is attached or -- I guess

1 this is only part of it?

2 MS. CLARK: It's an excerpt. I gave you the
3 whole order.

4 CHAIRMAN BROWN: Mr. Pollock.

5 THE WITNESS: I am sorry.

6 CHAIRMAN BROWN: I think there is a question
7 there.

8 BY MS. CLARK:

9 **Q I will ask the question.**

10 You indicate in there that that is support for
11 the contention that gradualism calculations should
12 exclude revenues from cost recovery clauses, correct?

13 A The order that -- and I think this is an order
14 on reconsideration. I am not sure this is the same
15 order, or I maybe misstated it, but, year, there was
16 certainly a phrase, which I don't see in this particular
17 excerpt, that says excluding fuel.

18 **Q Well --**

19 MR. MOYLE: Can we get clarity whether this is
20 the order on reconsideration or the original order,
21 please?

22 CHAIRMAN BROWN: Yes. Ms. Clark.

23 MS. CLARK: Yes, this is the order he cited.

24 MR. MOYLE: But is it the order -- he
25 referenced --

1 MS. CLARK: I don't know. That would be a
2 question for Mr. Pollock. This is the order he
3 referenced in his discovery response. That is what
4 is attached.

5 CHAIRMAN BROWN: Please move along with the
6 questions.

7 BY MS. CLARK:

8 Q Mr. Pollock, would you read the highlighted
9 language on page 39? Mr. Pollock, just to be clear,
10 would you agree that this is the order you cited?

11 A Well, this is certainly one of the orders.
12 There were a number of orders issued in that case. And
13 if I misstated the order number, I greatly apologize.
14 Let me get that in front of me.

15 CHAIRMAN BROWN: And we are still on Exhibit
16 729.

17 THE WITNESS: Yes.

18 CHAIRMAN BROWN: Okay.

19 THE WITNESS: I am sorry, I am having some
20 organizational issues here. Wait -- okay. That's
21 the -- okay.

22 BY MS. CLARK:

23 Q Do you confirm it is the order that you cited
24 in your response?

25 A I don't recognize this as the order because it

1 does not have the language that I was looking for in it.

2 Q Well, Mr. Pollock, would you look at the title
3 of the order and --

4 A Yeah. I see the title of the order, but it
5 says --

6 Q And it's the right order, and it's the right
7 docket, correct?

8 A It's -- yes, it is.

9 Q All right. Would you read the language
10 highlighted in the order, please?

11 A "In doing so, we are departing from our policy
12 in previous cases of limiting the increase to any one
13 class to not more than 1.5 times the system average
14 increase. Were we to apply that policy in this case,
15 some classes whose present rates of return are above
16 parity would receive an increase."

17 Q Mr. Pollock, you mention CILC customers in
18 your summary, correct?

19 A Yes.

20 Q When was the last time CILC customers were
21 interrupted under the permitted rate?

22 A I don't know.

23 Q Would you accept, subject to check, it was
24 2010?

25 A How would I check it?

1 Q How would you check it?

2 A Yes.

3 Q There was testimony provided earlier in this
4 case.

5 A Okay.

6 Q Do you know how much FPL has paid for CILC
7 customers since 2010, what their credits have been?

8 A I know the amount on an annual basis,
9 approximately.

10 Q Can you give us that number?

11 A Yes.

12 Q Would you accept it's 300 million?

13 A That's like 62 million times five? It's about
14 60 million in credits a year times five.

15 Q Sounds about right, maybe over 300 million,
16 correct.

17 A I accept that, subject to check.

18 Q And isn't CILC fully subscribed?

19 A The rate is closed, so no new load can get on
20 that rate.

21 Q And isn't it also true that the CILC credits
22 were lower in 2010 than they are today?

23 A Yes.

24 Q And they were also lower in 2011 than they are
25 today, correct?

1 A Yes.

2 MS. CLARK: Thank you, Madam Chairman.

3 CHAIRMAN BROWN: Okay. Thank you.

4 Staff. And I will note that the order that
5 Mr. Pollock was just referring to actually has Ms.
6 Brownless' name on from 1982.

7 MS. BROWNLESS: And there you are.

8 THE WITNESS: And we still look the same.

9 MR. BUTLER: High school intern.

10 EXAMINATION

11 BY MS. BROWNLESS:

12 Q Were you provided the responses to staff's
13 interrogatories and POD requests associated with your
14 subject area as they became available?

15 A Yes.

16 Q And were you also provided the responses
17 associated with your subject areas of FEA's, South
18 Florida's, AARP's and other intervenors in the case?

19 A Yes, I was.

20 Q And during the course of your engagement in
21 this proceeding, did you make discovery requests?

22 A Yes.

23 Q And did you receive and review the responses
24 to your discovery requests?

25 A Yes.

1 Q Now, I just want to go back -- because even
2 though I wrote the order, I am confused -- to Exhibit
3 No. 729?

4 A Okay.

5 Q And I am looking on page 39 that Ms. Clark
6 referred you to. And I am going to the sentence right
7 above the part that starts in yellow.

8 A Oh, you are right.

9 Q Okay.

10 A There are the words I was looking for.

11 Q And am I correct that fuel was excluded in
12 this parity gradualism calculation?

13 A Yes.

14 Q Because that's what it says in the sentence
15 above, correct?

16 A Yes, that's right. I missed that. You are
17 right.

18 Q Thank you so much.

19 A Thank you.

20 Q And if I have done this before, I hope you
21 will forgive me. Did I ask you to identify and verify
22 the exhibits in 541?

23 A You did.

24 MS. BROWNLESS: I think that's all I have now.

25 Thank you so much.

1 CHAIRMAN BROWN: Ms. Draper?

2 Okay, Commissioners?

3 Redirect?

4 MR. MOYLE: I know you wanted to take a break
5 at 12:30, it's a quarter to 1:00. I have some
6 redirect that may take some -- whatever your
7 pleasure is.

8 CHAIRMAN BROWN: Roughly, how many questions?

9 MR. MOYLE: Well --

10 CHAIRMAN BROWN: Mr. Moyle.

11 MR. MOYLE: -- you know, redirect, you kind of
12 got to go with topics --

13 CHAIRMAN BROWN: Go with the flow?

14 MR. MOYLE: -- so I am going to ask him about
15 CILC and some of these orders, so probably, if you
16 are hungry, it would be a good time to take a
17 break.

18 CHAIRMAN BROWN: I am not hungry.

19 MR. MOYLE: Okay.

20 CHAIRMAN BROWN: How many -- how many minutes,
21 roughly?

22 MR. MOYLE: 15, maybe. I don't know. I mean,
23 I don't know.

24 CHAIRMAN BROWN: Why don't we go for five
25 minutes and see how it goes.

1 MR. MOYLE: Okay.

2 CHAIRMAN BROWN: Sorry, everyone. I am not
3 hungry.

4 FURTHER EXAMINATION

5 BY MR. MOYLE:

6 Q You were -- you were asked questions about
7 jurisdictions and how jurisdictions apply gradualism,
8 and whether jurisdictions applied gradualism consistent
9 with your understanding and recommendation to this
10 commission, do you recall that?

11 A Yes.

12 Q Okay. What jurisdictions are you referring
13 to?

14 A I am talking about other state commissions
15 that -- that -- in similar forums like this, you know,
16 make decisions about moving rates closer to costs and
17 providing some limitations in cases where it's necessary
18 to avoid rate shock. That's the principle of
19 gradualism.

20 Q And you are recommending to this commission
21 that they apply gradualism by looking -- well, I guess
22 by -- by only looking at base rates; is that right?

23 A That's right, because this is a base rate
24 case, and only the base rates are changing and,
25 therefore, it's logical to -- within that context and

1 within the broader context that the clauses are not
2 changing in a base rate case, the clauses are separate
3 determinations that it makes sense to compares apples
4 and apples.

5 **Q And in response to some of your questions, I**
6 **think you said more needs to be done than just reading**
7 **orders. You need to actually go and look and see how**
8 **things may have been applied; is that right?**

9 A Yes. As I said, in one Tampa Electric case
10 that they said the orders said revenues in total, like
11 the other ones did, but the compliance filing told a
12 different story.

13 **Q And just so we are clear, what story did the**
14 **filing tell?**

15 A Well, since the base rate case is, by
16 definition, you exclude all the clause revenues, the
17 company interpreted the order literally, and says, all
18 revenues in total. Well, the only revenues in total
19 that were at issue in the case were the base revenues,
20 and that's how they applied gradualism.

21 **Q With respect -- with respect to, just as a**
22 **matter -- a matter of policy, do you have familiarity**
23 **with, you know, how clause -- clauses are handled, and**
24 **how they work?**

25 A In Florida? Yes.

1 **Q All right.**

2 MS. CLARK: Madam Chairman, I think this is
3 outside the scope of cross-examination.

4 CHAIRMAN BROWN: Mr. Moyle.

5 MR. MOYLE: Well, I don't think it is, because
6 I think FPL is taking the position that gradualism
7 should be applied, not only looking at base
8 revenues, but looking at clause revenues. And, you
9 know, we would take the position, no, it's only
10 base revenues that should be looked at. So I want
11 to ask him about clause revenues, and why you
12 shouldn't include them. And I want to ask him, are
13 they lumpy? Sometimes clause revenues have big
14 things coming through.

15 MS. CLARK: Madam Chairman, if he is going to
16 testify, let's swear him in.

17 MR. MOYLE: No thank you.

18 CHAIRMAN BROWN: Staff.

19 MS. BROWNLESS: I think there has been
20 cross-examination, and fairly extensive
21 cross-examination, on whether fuel is in, fuel is
22 out, how do you calculate the -- what's the amount
23 of money you -- how do you calculate the amount of
24 money to which you apply the gradualism policy.

25 CHAIRMAN BROWN: Okay. Objection overruled.

1 Continue.

2 MR. MOYLE: Thank you.

3 BY MR. MOYLE:

4 Q So, sir, I mean -- and you would agree that
5 natural gas is a commodity for which price can be
6 volatile, correct?

7 A Certainly.

8 Q And fuel is recovered through a clause?

9 A Yes.

10 Q All right. So hypothetically, to the extent
11 that there became a situation where fuel went up in a
12 very rapid fashion, that would be an independent
13 variable that this commission or -- they wouldn't have
14 any control over that, right?

15 A Well, I presume the Commission will allow the
16 company to recover its fuel and purchase power costs.
17 So if those costs have gone up, I assume that the rates
18 would go up accordingly.

19 Q All right. And do you believe it's a good
20 policy to inject independent variables when applying
21 gradualism policy? And I say independent variables, you
22 know, like the fuel clause?

23 MS. BROWNLESS: Objection, I believe you now
24 Mr. Moyle is going beyond the scope of
25 cross-examination.

1 MR. MOYLE: I mean, the whole conversation is
2 about how you apply gradualism and the policy
3 around it, and I am asking him. He is -- you know,
4 y'all are having to make a policy call on it, I
5 think the --

6 CHAIRMAN BROWN: FPL.

7 MS. CLARK: I join in the objection.

8 CHAIRMAN BROWN: I am going to have to defer
9 to staff's better judgment and go with sustaining
10 the motion.

11 Continue.

12 BY MR. MOYLE:

13 **Q All right. Do you have -- sir, do you know**
14 **how many clauses Florida has?**

15 A Essentially four; plus if a storm occurs,
16 there might be another one.

17 **Q Nuclear?**

18 A Yeah, nuclear and purchase power capacity, I
19 think, are on the same clause.

20 **Q Environmental?**

21 A Yes.

22 CHAIRMAN BROWN: Just a reminder, please do
23 not lead the witness on redirect.

24 THE WITNESS: Yeah, fuel and purchase power,
25 energy efficiency, environmental and -- God --

1 purchase -- I think I said purchase power capacity.
2 Fuel, purchase power capacity, environmental,
3 energy conservation.

4 BY MR. MOYLE:

5 Q You don't have any reason to object to --

6 A I had a Rick Perry moment there.

7 Q -- to any testimony with respect to the
8 percent of revenues that FPL collects through the
9 clauses?

10 A Yeah. FPL collects roughly 40, 47 percent of
11 its total revenues through the clauses. I mean, they
12 are substantial.

13 Q You were asked some questions by AARP about
14 the ROE and your -- FIPUG's recommendation that any ROE
15 award not exceed 10 percent. What is the basis for that
16 recommendation?

17 A I think I was asked a question about ROE, but,
18 as I indicated in my answer, that the basis is the fact
19 that your colleagues throughout the country are looking
20 at the same issues that you are, and coming to the
21 conclusion that it's time to break through the
22 10-percent barrier because interest rates remain very
23 stubbornly low, and it's not necessary to award a high
24 ROE to that to attract the capital needed for the
25 company to fulfill its mission.

1 MR. MOYLE: I probably passed my five-minute
2 mark.

3 CHAIRMAN BROWN: I know.

4 MR. MOYLE: You want to keep plugging away?

5 CHAIRMAN BROWN: I am okay with it as long --
6 do any other parties have an objection with
7 continuing? We will continue then.

8 BY MR. MOYLE:

9 Q So you were also asked some questions about
10 the CILC credits?

11 A Yes.

12 Q What -- what role do those serve?

13 A So the credits provide essentially a payment
14 for customers to provide extra capacity for FPL when
15 that capacity is needed for reliability. It's really no
16 different in principle than the investments that the
17 company has in peakers, or other resources, that are
18 there to operate when called on to meet system demand.

19 Q And the credits for which customers who agree
20 to be interrupted are being provided, you are aware that
21 those -- do those serve as a -- as a tool, a useful tool
22 for the utilities and its system planning?

23 MR. BUTLER: Objection, leading.

24 BY MR. MOYLE:

25 Q What role -- what role do the -- does the

1 people who get the CILC credits, you know, what do they
2 provide that may or may not be of value to -- well,
3 strike that.

4 A You want me to answer?

5 Q How -- the CILC credits, why do the credits
6 get paid to customers who are eligible for the CILC --
7 CILC credits with respect to demand side management?

8 A Okay. So customers are saying to FPL, you can
9 interrupt us when you need our resource, our load, in
10 order to have extra resources to maintain reliability to
11 serve the loads of all the other firm customers. And
12 further, these interruptions can occur not just because
13 of issues on FPL's system, but also statewide.

14 Q So that's a resource that FPL doesn't plan for
15 but provides value?

16 MR. BUTLER: Objection, leading.

17 CHAIRMAN BROWN: Mr. Moyle.

18 MR. MOYLE: I can rephrase, if you would
19 prefer.

20 CHAIRMAN BROWN: I would prefer that.

21 MR. MOYLE: Okay.

22 BY MR. MOYLE:

23 Q What are the CILC credits designed for, and
24 what do they do?

25 A So CILC and CDR credits are designed to

1 compensate customers for the capacity that they are
2 providing to the system, much in the same way that
3 customers pay the company to provide capacity to meet
4 their reliability needs.

5 **Q Okay. And are the payments -- do you know how**
6 **the payments are keyed or pegged? Are they tied to any**
7 **inflation indicators, or adjusted based on cost of**
8 **construction that the utility might experience when**
9 **building a peaking power plant, if you know?**

10 A The payments are not specifically tied to
11 that. However, in the goals docket, the analysis is
12 looked at in terms of cost-effectiveness, which looks at
13 the avoided cost of capacity and measures the credits as
14 how they compare relative to the cost of installing
15 generation, which they are designed to essentially
16 replace, and have replaced.

17 **Q And counsel for FPL asked you about the monies**
18 **paid pursuant to the credits, I think over a four-year**
19 **period of time, I think you said it was a little north**
20 **than 300 million; is that right?**

21 A Yes, I think over five years.

22 **Q Do you know how much FPL is asking the**
23 **ratepayers to pay in this case for upgraded, new peaking**
24 **power plants?**

25 A Well, the revenue requirement associated with

1 not just the upgrades, but also maintaining the existing
2 capacity is substantial. I mean, I see them as almost
3 the same thing. You are paying the company to provide
4 the reliability that customers want when they turn on
5 the light, the light actually goes on, and the AC
6 actually goes on. And that's -- the only difference
7 here is that it's the customers that are providing the
8 resource in the case of CILC and CDR, rather than the
9 company. That helps the company avoid having to build
10 additional generation, which, as I said, in total, their
11 load management programs have saved the equivalent of 16
12 400-megawatt power plants.

13 **Q If a -- if a -- well, is it any kind of**
14 **negative commentary on the policy if it's not used every**
15 **week?**

16 A Well, the value is not really a function of
17 how often interruptions may be called, because you don't
18 know when those calls may be. So it's a value of having
19 an option to call the interruption. Same as the value
20 of the company's peaking capacity, you don't -- you
21 don't give the company less money because they don't
22 operate their peakers every year, or don't operate them
23 very much. They get -- customers continue to pay their
24 rates to compensate the company for the value of the
25 resource that's being provided.

1 MR. MOYLE: Can I have a minute just to look
2 at my notes?

3 CHAIRMAN BROWN: Sure.

4 MR. MOYLE: Those are all the redirect
5 questions I have. Thank you.

6 CHAIRMAN BROWN: Thank you, Mr. Moyle.

7 This witness has Exhibits 236 through 251.
8 Would you like those entered?

9 MR. MOYLE: Yes, ma'am.

10 CHAIRMAN BROWN: All right. Any objection?

11 MS. CLARK: No objection.

12 CHAIRMAN BROWN: We will move in 236 through
13 251 into the record.

14 (Whereupon, Exhibit Nos. 236-251 were received
15 into evidence.)

16 CHAIRMAN BROWN: And then Florida Power &
17 Light.

18 MS. CLARK: Yes, we would move 725 through 730
19 into the record.

20 CHAIRMAN BROWN: Mr. Moyle?

21 MR. MOYLE: We would just -- you know, a lot
22 of them are records and record excerpts, so if they
23 have already been officially recognized, they can
24 come in, whatever your pleasure is.

25 CHAIRMAN BROWN: Yes. Again, I stress to the

1 parties, if they would like, although we do
2 recognize our orders by official notice, we will go
3 ahead -- if a party requests to enter into the
4 record separately, we will go ahead and do that,
5 but as long as that's full and complete copies.

6 MS. CLARK: I would offer the same procedure
7 to FIPUG. We would move the excerpts in the record
8 with the understanding that it is appropriate to
9 cite to the entire order.

10 CHAIRMAN BROWN: Okay.

11 MR. MOYLE: If we want to put the whole orders
12 in, which are here, what do I do with them? I
13 mean, is it my deal to put the whole -- the whole
14 thing in, or give them to the clerk, or how does
15 that work?

16 CHAIRMAN BROWN: Ms. Clark.

17 MS. CLARK: We can provide the complete order
18 to the clerk. I think that burdens the record a
19 little bit, and we have already indicated to Mr.
20 Moyle that he can cite to the whole record --

21 CHAIRMAN BROWN: Okay.

22 MS. CLARK: -- to the whole order.

23 MS. BROWNLESS: Your Honor, may I --

24 CHAIRMAN BROWN: Ms. Brownless.

25 MS. BROWNLESS: -- may I offer a suggestion?

1 CHAIRMAN BROWN: Please do.

2 MS. BROWNLESS: Our OEP specifically says that
3 with regard to orders of the Commission, official
4 recognition does not have to be taken of them in
5 order for the orders to be used in post-hearing
6 briefs, or for any other purpose.

7 So rather than, as Ms. Clark says, burden the
8 record with what's literally going to be hundreds
9 of pages of PSC orders, which are readily available
10 to all on the PSC's website, why don't we just move
11 these portions into the record with the
12 understanding, that to the extent parties want to
13 cite the entire order, or use it however they want
14 to use it in their post-hearing brief, that that's
15 perfectly acceptable?

16 CHAIRMAN BROWN: I am okay with that if the
17 parties are okay with that.

18 MS. CLARK: I am.

19 MR. MOYLE: I am as well. I just -- I have
20 not been clear, because FPL had a lot of things
21 that they were putting in, so I don't want to be
22 disadvantaged in any way by not putting the whole
23 record in. But with that conversation, I am good.
24 We don't need to put the whole thing in.

25 CHAIRMAN BROWN: Great. Thank you, Ms.

1 Brownless.

2 So we will go ahead and enter 725 through 730
3 into the record.

4 (Whereupon, Exhibit Nos. 725-730 were received
5 into evidence.)

6 CHAIRMAN BROWN: Would you like your witness
7 excused?

8 MR. MOYLE: Yes, ma'am.

9 CHAIRMAN BROWN: Mr. Pollock, it's always a
10 pleasure to see you.

11 THE WITNESS: Thank you. Likewise.

12 CHAIRMAN BROWN: Safe travels.

13 THE WITNESS: Appreciate it.

14 (Witness excused.)

15 CHAIRMAN BROWN: All right. We are going to
16 take a lunch break, and we will reconvene at 1:45.

17 MR. MOYLE: Thank you.

18 CHAIRMAN BROWN: Thank you for your patience,
19 everyone.

20 (Lunch recess.)

21 CHAIRMAN BROWN: We are on the Wal-Mart
22 witness at this time -- not Wal-Mart. My
23 apologies. We are on AARP witness.

24 MR. COFFMAN: AARP is ready and thrilled to
25 have its chance to put its witness on the stand.

1 CHAIRMAN BROWN: Okay. Great.

2 Has this witness sworn in? Yes, he has?

3 Thank you, we got that covered.

4 Whereupon,

5 MICHAEL L. BROSCH

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

9 CHAIRMAN BROWN: Are there any other
10 preliminary matters or housekeeping matters to
11 address before we move forward?

12 Seeing none, AARP, please proceed.

13 MR. COFFMAN: Thank you.

14 EXAMINATION

15 BY MR. COFFMAN:

16 Q Good afternoon. Please state your name for
17 the record.

18 A Michael Brosch.

19 Q And by whom are you employed?

20 A Utilitech, Incorporated.

21 Q And on whose behalf are you providing
22 testimony today?

23 A On behalf of AARP.

24 Q Are you the same Michael L. Brosch that had
25 prefiled written testimony filed with this commission on

1 July 7, 2016, and totaling 58 pages, plus exhibits?

2 A I am, yes.

3 Q And if you were asked the same questions
4 contained therein today, would your answers be the same
5 or substantially the same?

6 A Yes, they would.

7 Q And so --

8 A I do have a couple of minor corrections.

9 Q Oh, yes. And before you do, I want -- would
10 like to let the bench know that we -- we had a -- we had
11 a problem with one of the exhibits. We found a couple
12 lines were cut off on one of the exhibits and so we
13 filed that as an errata over the weekend. That's
14 exhibits MLB-1.2, and so hopefully all the parties have
15 that. And we provided the corrected version to the
16 court reporter.

17 And I guess there are a couple of other typos,
18 I understand --

19 A Yes.

20 Q -- that need to be made?

21 A Yes. Thank you.

22 Q Please proceed.

23 A Starting with the table of contents, the first
24 entry there refers to introduction and summary, and
25 should probably point to page one instead of two. And

1 then if you turn to the next page, that has that
2 introduction summary heading, you will see it's numbered
3 two. It should be numbered one, the following page then
4 is two, et cetera.

5 **Q Otherwise, it would be two pages, too?**

6 **A** Correct.

7 Then, at page 13, footnote 21, there is a
8 reference to prior years 2010 through 2015. That last
9 year should be 2013, not 2015.

10 Next on page 18, at line 15, the word
11 "address" should be "addresses", add E-S to the end,
12 please.

13 And finally, on page 50, at line 15, the word
14 "which" should be, instead, "with", W-I-T-H.

15 Thank you.

16 **Q Does that consist of all your changes?**

17 **A** Yes.

18 MR. COFFMAN: Okay. We would now offer the
19 testimony of Mr. Brosch into the record as if read.

20 CHAIRMAN BROWN: Okay. We will enter
21 Mr. Brosch's prefiled direct testimony into the
22 record as though read.

23 (Prefiled direct testimony inserted into the
24 record as though read.)

25

I. INTRODUCTION / SUMMARY

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

2 A. My name is Michael L. Brosch. My business address is PO Box 481934, Kansas City,
3 Missouri 64148-1934.

4
5 **Q. By whom are you employed and in what capacity?**

6 A. I am a principal in the firm Utilitech, Inc., a consulting firm engaged primarily in utility
7 rate and regulation work. The firm's business and my responsibilities are related to the
8 conduct of regulatory projects for utility regulation clients. These services include rate
9 case reviews, cost of service analyses, jurisdictional and class cost allocations, financial
10 studies, rate design analyses, utility reorganization analyses, the design and
11 administration of alternative regulation mechanisms, and focused investigations related
12 to utility operations and ratemaking issues.

13 **Q. On whose behalf are you appearing in this proceeding?**

14 A. I am appearing on behalf of AARP, which is a non-profit membership organization that
15 is focused on providing information and services to members over age 50.

16 **Q. Will you summarize your educational background and professional experience in
17 the field of utility regulation?**

18 A. Yes. AARP Exhibit No. 1.1 summarizes my education and professional qualifications.
19 I have testified before utility regulatory agencies in Arizona, Arkansas, California,
20 Florida, Hawaii, Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, New Mexico,
21 Ohio, Oklahoma, Texas, Utah, Washington, and Wisconsin in regulatory proceedings
22 involving electric, gas, telephone, water, sewer, transit, and steam utilities. A listing of

1 my previous testimonies in utility regulatory proceedings is set forth in AARP Exhibit
2 No. 1.2.

3 **Q. What is the purpose of your testimony in this docket?**

4 A. My testimony is responsive to the asserted multi-year revenue requirement and
5 requested rate increases of Florida Power & Light Company (“FPL” or “Company”) that
6 are sponsored by various Company witnesses in their Direct Testimony, as summarized
7 in FPL’s Minimum Filing Requirement (“MFR”) Schedules.¹ My testimony explains
8 why the Company’s proposed rate increase for the forecasted 2017 Test Year is
9 seriously overstated and why the Company’s further requests for an additional
10 “subsequent year” rate increase in 2018 and for third Limited Scope Adjustment
11 (“LSA”) rate increase in 2019 should be rejected. I also address certain policy reasons
12 why residential customer charges should not be increased.

13 **Q. Please summarize the recommendations that are set forth in your testimony.**

14 A. My testimony addresses several major policy issues raised by FPL’s ratemaking
15 proposals that collectively serve to seriously overstate the Company’s proposed overall
16 base rate request. These policy issues include the Company’s proposed:

- 17 • Multi-year rate plan that is not supported by credible financial forecast data and
18 entails unreasonable risk to ratepayers,
- 19 • Subsequent year 2018 rate increases that are dependent upon financial data that
20 is highly speculative and cannot accurately predict FPL’s revenue requirement
21 that far into the future,

¹ MFR Schedule A-1 is separately presented by FPL for multiple future years, including the Projected Test Year Ended 12/31/17, a Projected Subsequent Year Ended 12/31/2018 and for the First Year Annualized Revenue Requirement associated with the Okeechobee Energy Center for a Projected Year Ended 5/31/2020. Schedule A-1 summarizes amounts pulled forward from other MFR Schedules referenced therein, for each of the three periods.

- 1 • Additional Limited Scope rate increases proposed on a piecemeal basis for the
2 Okeechobee generation expected to be completed in 2019, with no credible
3 showing of overall financial need,
- 4 • Excessive return on equity capital levels proposed in all three years.
- 5 • An excessive equity ratio that further overstates the claimed overall cost of
6 capital, and
- 7 • An additional equity return “bonus” for claimed management performance that
8 should be rejected.

9 I have concluded that the Company’s proposed multi-year rate plan, with sequential and
10 cumulatively massive base rate increases, has not been shown to be reasonable and
11 should be rejected. Instead, only a single base rate change should be implemented in
12 this Docket, based solely upon 2017 test year rate base, operating income and cost of
13 capital findings, to the extent found to be reasonable by the Commission after analysis
14 by the Commission Staff and other intervenors,.

15 The uncertainties inherent in attempting to accurately forecast electric sales
16 volumes, capital market conditions, utility expense levels and rate base investments
17 more than 24 months into the future, when coupled with the unavoidable management
18 bias in developing such ratemaking forecasts, dictates that such speculative forecasts not
19 be relied upon as support for large utility rate increases stretching into 2020 and beyond.
20 The risks of FPL’s proposed multi-year rate plan argue against its adoption. Instead of a
21 multi-year approach, if changes in FPL’s cost and revenue levels signal the need for
22 additional base rate increases after 2017, it is my understanding that the Company can
23 submit a future base rate case application to justify such increases.

24 **Q. What information have you relied upon in formulating your recommendations?**

1 A. I relied upon the Company’s pre-filed testimony, exhibits and MFR Schedules in this
2 Docket, as well as the Company’s responses to data requests submitted by the
3 Commission Staff, AARP, the Office of Public Counsel (“OPC”) and other intervenors.
4 I also rely upon my prior experience with the regulation of public utilities over the past
5 38 years, including significant experience with traditional test year rate cases and
6 alternative forms of regulation of electric utilities in many different states.
7

8 II. FPL PROPOSED RATE INCREASES 9

10 **Q. What is your understanding of the Company’ proposed Base Rate increase in this
11 Docket?**

12 A. FPL witness Ms. Ousdahl states that the purpose of her testimony, “...is to support the
13 calculation of the rate relief and appropriateness of the ratemaking adjustments FPL
14 proposes in this proceeding.”² She indicates that her calculations support the following
15 three rate increases:

- 16 1. A requested 2017 Base Rate Increase of \$866 million.³
- 17 2. A requested 2018 Subsequent Year Base Rate Increase of \$262 million.⁴
- 18 3. Another 2019 Limited Scope Base Rate Increase of \$209 million, for the first 12
19 months of operation of the Okeechobee generating unit facility.⁵

20 The cumulative annual increase in revenues of \$1.3 billion represents an increase of more
21 than 23 percent over jurisdictional base rate revenues at present rates in the 2017 test year.⁶

² Direct Testimony of Kim Ousdahl, page 5.

³ Id. page 9.

⁴ Id. page 10.

⁵ Id. page 12.

1 **Q. How would FPL's residential customers be impacted by a cumulative 23 percent**
2 **increase in the Company's base rates?**

3 A. A residential customer using 1,000 kWh would experience a monthly bill increase of \$8.78
4 in 2017, rising to an \$11.40 cumulative increase in 2018 and then \$13.62 cumulatively in
5 2019. After all three proposed rate increases, the percentage increase in this residential
6 customer's estimated bill would be 14.85%. When properly viewed in the context of only
7 Base Rate revenues, FPL's cumulative proposed increase to a residential customer at 1,000
8 kWh would exceed 23 percent.⁷ We should be mindful of the fact that FPL customers also
9 remain exposed to potentially large additional future bill increases, when and if natural gas
10 market prices rebound from the historically low levels now being enjoyed, because of the
11 Company's large exposure to natural gas as a generation fuel.

12 **Q. How do the values you recite from MFR Schedule A-2 compare to the projected**
13 **customer bills set forth in FPL witness Ms. Cohen's Exhibits TCC-2?**

14 A. Ms. Cohen shows Base charges within a typical residential customer bill rising from
15 \$54.86 at January 2016 to \$70.28 in June of 2019, which represents a Base Rate increase
16 of 28 percent.⁸ However, by including an assumption of no significant increase in fuel
17 input prices throughout the entire five year period,⁹ Ms. Cohen is able to conclude,
18 "...under FPL's rate proposal, the five-year compound annual growth rate ("CAGR") of

⁶ The sum of the Company's three proposed base rate increases is \$1,337 million, which is 23.3% of jurisdictional "Revenue from Sales" for the 2017 projected test year of \$5,728 million in MFR Schedule C-1 at line 1, column (10).

⁷ See MFR Schedule A-2, line 5 for 2017, 2018 and a Projected Year Ended 5/31/2020. The \$13.62 increase starting in 2019 is a 23.3% increase over Present Rates - Base Revenues of \$58.39 at 1,000 kWh.

⁸ Exhibit TCC-2, page 1. When Base charges in the typical bill at June of 2019 of \$70.28 are compared to Base charges in April of 2016 of \$57.00, the percentage increase in Base charges is 23 percent within only 38 months.

⁹ Fuel input price assumptions embedded in Ms. Cohen's Exhibit TCC-2 are unstated, but the "Fuel" element of monthly estimated future bills is only 5 percent higher in January 2020 than in January of 2016, an assumed increase of less than 1.5% per year.

1 the total bill increase from January 1, 2016, through the end of the four year rate proposal
2 on December 31, 2020, is projected to be approximately 2.8 percent.”¹⁰ Of course, Ms.
3 Cohen and FPL cannot guarantee that fuel prices will not significantly increase throughout
4 the next five years. Notably, this is a base rate case proceeding, so the more valid measure
5 of rate impacts is to consider the very large increase that is proposed for base rates over the
6 next three (not five) years.

7

8 **Q. Why has FPL proposed a multi-year rate plan?**

9 A. The Company’s policy witness, Mr. Silagy, describes FPL’s multi-year rate increase
10 proposal in this way:

11 In an effort to promote long term stability for customers, the Company
12 and Florida's economy, FPL's request addresses rates over a multi-year
13 period. Specifically, we are proposing a base rate adjustment in 2017, a
14 smaller, subsequent-year adjustment in 2018, and an adjustment in mid-
15 2019 that is limited only to recovery of the cost of the FPL Okeechobee
16 Clean Energy Center. With the approval of these requests, there would
17 be no general base rate increases in 2019 and 2020. While not without
18 risks to FPL, this approach is itself a significant benefit for customers in
19 terms of providing rate certainty, and avoiding repetitive and costly rate
20 proceedings.

21

22 In addition, this multi-year approach would allow the Company to
23 continue focusing on ways to improve its operations and performance,
24 better meet customer needs and expectations, and ultimately provide
25 strong, smart infrastructure that delivers reliable, clean, affordable
26 electricity to the Floridians and businesses we serve.

27

28 Mr. Silagy continues with a discussion in his testimony of what he calls a “History of
29 Constructive Settlements” that are characterized as providing customers with “stability
30 and predictability” in rates, providing FPL with “financial strength” to make necessary
31 investments, while the settlements, “avoided additional costly and resource-intensive

¹⁰ Direct Testimony of Tiffany Cohen, page 6.

1 base rate proceedings and allowed the Company's management team and employees to
2 focus on ways to continue to find efficiencies, develop and implement innovative
3 technologies and solutions, and improve the way in which services are delivered.”

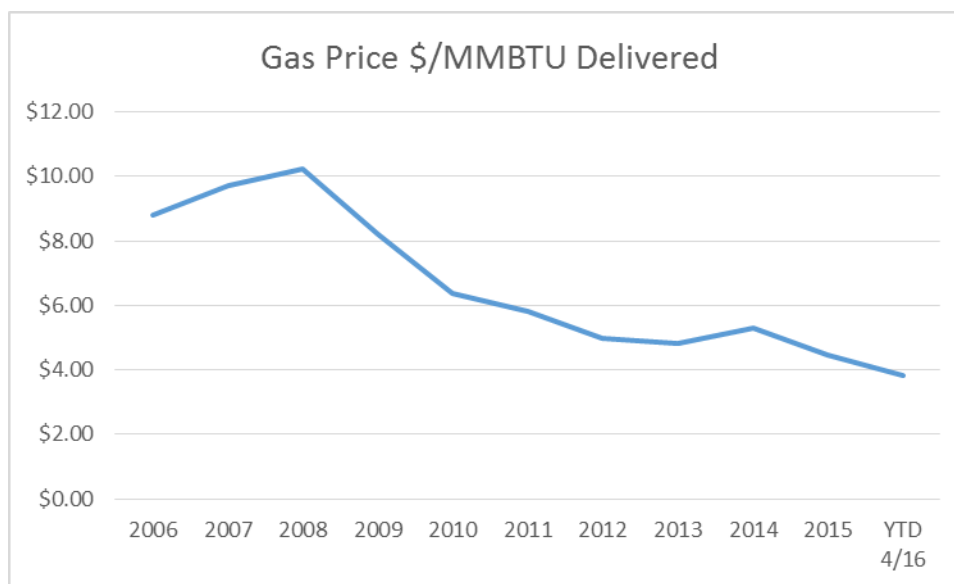
4 **Q. Does the Company attempt to characterize its proposed 23 percent, \$1.3 billion base**
5 **rate increase, under the future multi-year rate plan now being proposed, as**
6 **beneficial to customers?**

7 A. Not directly. Instead, Mr. Silagy and the Company's other witnesses seem to rationalize
8 the large proposed future base rate increases by looking backward and discussing
9 operational and financial results under the prior rate settlement. For example, Mr.
10 Silagy claims, “As described by FPL witness Barrett and other FPL witnesses, the 2012
11 Rate Settlement has proven to be of significant value for our customers. During the term
12 of this settlement agreement, FPL has been able to continue to improve its already high
13 level of service and operational performance. As I stated earlier, this period of stability
14 has been one of the key benefits of a multi-year rate solution, allowing management and
15 all employees to focus on improving service delivery for customers and realizing
16 additional efficiencies in the Company's operations.” Mr. Silagy then lists several
17 generation modernization projects, cost reduction, emission reduction and reliability
18 improvement initiatives and concludes, “[t]his was accomplished while keeping typical
19 customer bills among the lowest in the state and the nation.”¹¹

20 **Q. How important are the favorable trends in the cost of natural gas to the Company's**
21 **argument that its rates are currently very low in comparison to other utilities?**

¹¹ Direct Testimony of Eric Silagy, pages 9-10.

1 A. Gas is the primary fuel consumed by FPL to generate electricity and in 2014 natural gas
 2 represented 69 percent of the Company's overall fuel mix.¹² Fortunately, from the
 3 perspective of FPL customers, the delivered cost per MMBTU of natural gas consumed
 4 by FPL for electric generation has trended dramatically downward since 2008:



5
 6 Over the same time period, FPL has increased its dependence upon natural gas as a
 7 generation fuel source, reducing fuel diversity and increasing the risk to ratepayers that
 8 higher future gas prices will amplify the higher bill impacts caused by the Company's
 9 proposed large base rate increases. If the 636 million MMBTU of natural gas that was
 10 used by FPL for generation fuel in 2015 were priced at the 83.5 cents higher average
 11 price incurred just one year earlier, in 2014, the annual cost difference to FPL and
 12 ratepayers (via the fuel adjustment) would exceed \$531 million.¹³

¹² FPL responses to Staff Interrogatory No. 140 and AARP Interrogatory No. 28.

¹³ FPL's response to AARP Interrogatory No. 18 shows FPL's average delivered cost of Natural Gas in 2015 was \$4.4543/MMBTU, compared to \$5.2897/MMBTU in 2014, a reduction of \$0.8354. When this difference is applied to 2015 annual gas volumes of 636,277,332 MMBTU, the cost savings impact is \$531.5 million.

1 **Q. FPL witness Ms. Cohen states, “Even with FPL’s proposed base rate increases,**
2 **FPL’s projected typical bills in 2020 will be *lower* than 2006, as compared to the**
3 **CPI which is projected to increase 33 percent over the same time period.”¹⁴ Mr.**
4 **Silagy raises a similar argument, stating, “[a]s illustrated in Exhibit ES-2, today’s**
5 **typical residential bill is significantly lower than both the state and national**
6 **averages and also is lower than it was ten years ago in 2006.”¹⁵ Did the favorable**
7 **trend in natural gas costs since 2006 contribute to the bill impacts cited by Ms.**
8 **Cohen and Mr. Silagy?**

9 A. Yes. The gas price trends shown in the graph above contributed significantly to FPL’s
10 historically favorable bill impacts. However, when FPL was asked to quantify how the
11 trends in typical residential bills shown in Mr. Silagy’s Exhibit ES-2 would change “in
12 order to hold constant the average 2006 average delivered price of natural gas
13 throughout all periods,” the Company claims to be unable to respond without conducting
14 hypothetical System Production Cost Modeling of how FPL’s system would have been
15 dispatched in those prior years and asserted that “...such an analysis would have no
16 probative value in evaluating FPL’s success in controlling costs.”¹⁶

17 **Q. When the Commission considers FPL’s proposal for much higher base rates as**
18 **part of a new multi-year rate plan, should trends in the Company’s overall bills**
19 **historically be relied upon to find the Company’s past performance acceptable?**

20 A. No. Fuel costs are recovered through a rate adjustment mechanism because they are
21 believed to be financially important and potentially volatile and because such costs are
22 determined by market conditions that are largely beyond the control of utility

¹⁴ Direct Testimony of Tiffany Cohen, page 27.

¹⁵ Direct Testimony of Eric Silagy, page 7.

¹⁶ FPL response to AARP Interrogatory No. 17.

1 management. FPL should receive no “credit” for historically favorable trends in market
2 natural gas prices. The Commission should also remain aware of the substantial risk of
3 future gas price volatility that the fuel adjustment mechanism effectively shifts to
4 ratepayers. If higher fuel adjustment clause charges are needed in the future because gas
5 prices return to historical average levels, those fuel charges will become additive to the
6 base rate increases now being sought by FPL, at which time the Company will have less
7 interest in touting trends in customers’ typical bills.

8 **Q. Should FPL’s proposed new multi-year rate Base Rate plan be adopted by the**
9 **Commission in order to achieve rate stability and predictability for customers?**

10 A. No. FPL has not proven the need for any Base rate relief beyond the 2017 test year. The
11 massive uncertainties associated with projecting costs and revenues more than 24 months
12 into the future argue against accepting such projections as a basis for higher charges to
13 ratepayers in 2018 and 2019 as proposed by FPL.¹⁷ Any new multi-year rate plan must
14 be supported by robust financial projections that employ reasonably balanced input
15 assumptions to demonstrate that ratepayers are better off under the plan than without
16 such pre-approved rate levels in all applicable future years. Even with such projections
17 in hand, the massive uncertainties involved in accurately predicting the utility’s future
18 operational and financial environment multiple years into the future involves risks that
19 are likely insurmountable while injecting considerable controversy over which party’s
20 assumptions about the more distant future should be adopted.

21

¹⁷ The Company’s filing submitted in March of 2016 depends upon projected results through 2020 to commit to no additional base rate changes until after 2020, a period extending more than 57 months past the filing date. The proposed 2018 subsequent year rate changes involve forecasted operations through December of 2018, which extends 33 months beyond the submission of the Company’s rate filing package.

III. MULTI-YEAR RATE PLANS

1
2
3 **Q. Mr. Silagy referenced rate stability as a claimed benefit of the Company’s multi-**
4 **year proposal. Are stable rates being proposed by FPL?**

5 A. No. The Company’s proposal is for a cumulative base rate increase of about \$1.3
6 billion, that would increase overall base revenues by about 23 percent if approved by the
7 Commission.¹⁸ In addition to the proposed base rate increases, FPL ratepayers are
8 exposed to potentially large future fuel adjustment charge increases if future natural gas
9 fuel prices increase toward historical average levels. This is not a recipe for rate
10 “stability” for FPL customers.

11 **Q. Mr. Silagy also claims a benefit of multi-year rate plans is an improved ability for**
12 **management to “focus” upon the business to improve service quality and efficiency.**
13 **Is it necessary for electric rates to be established for multiple future years in a**
14 **single rate case in order for utility management to remain focused upon the need to**
15 **improve reliability, maximize operational efficiency, comply with emission**
16 **regulations and control costs?**

17 A. Of course not. Utility management is responsible for these core utility business
18 responsibilities without regard to how electric rates are established. Hypothetically, if
19 electric rates were tightly constrained for multiple years within a rate plan that was
20 carefully designed to impose “stretch” financial goals upon the utility, it could be argued
21 that efficiency incentives are improved. However, during FPL’s current rate plan that
22 expires after 2016, the Base Rate levels and other additional rate relief approved in
23 Order No. PSC-13-0023-S-EI clearly did not involve “stretch” goals. Instead, forecasted

¹⁸ See footnote 6.

1 non-fuel O&M expenses and capital costs were seriously overstated by FPL in its filing
2 in Docket No. 120015, relative to actual costs in subsequent years. Additionally, FPL's
3 large incremental investments in modernization of the Cape Canaveral, Riviera Beach
4 and Port Everglades plants were not completed by FPL without incremental rate relief
5 through three additional generation base rate adjustment ("GBRA") rate increases, all at
6 additional expense to ratepayers.¹⁹

7 **Q. On the other hand, was the multi-year rate plan established in Docket No. 120015-**
8 **EI extremely beneficial to FPL and its shareholders?**

9 A. Yes. The Company's rate plan that expires at the end of 2016 has clearly been very
10 beneficial to FPL and to NextEra shareholders. The expiring rate plan has produced
11 sustained, exceptionally strong financial performance in every year 2013 through 2016
12 for the Company and its shareholders. According to MFR Schedule D-7, FPL has
13 experienced persistently strong earned returns on average book equity and steadily
14 increasing interest coverage ratios, which have contributed to reported growth in
15 earnings per share and the market value of the common shares of NextEra Energy, Inc.

16 **Q. If we look further back into history, have FPL's shareholders experienced any**
17 **periods of inadequate returns in the past decade, under the Commission's rate**
18 **orders or the multi-year rate plans that are discussed by FPL witnesses?**

19 A. No. One would expect that previously approved FPL rate plans that had carefully
20 balanced the interests of shareholders and ratepayers would produce fluctuating return
21 levels both above and below authorized levels, because of changing business conditions,
22 weather variations and the normal risks of business operations imposing costs that
23 occasionally exceed rate case forecasted levels. However, rather than fluctuations in

¹⁹ See Order No. PSC-13-0023-S-EI, page 5.

1 such results, FPL's actual return on average common equity for the past decade (years
2 2006 through 2015) has exceeded 10.0% in every one of the last ten years, including
3 each of the recession years starting in late 2008. Most recently, FPL earned 11.5%
4 returns on equity in both years 2014 and 2015.²⁰

5 **Q. Have FPL/NextEra shareholders taken any large risks or incurred potentially**
6 **unrecovered costs in order to earn the historically large returns that have been**
7 **reported?**

8 A. No. The financial rewards achieved by FPL and NextEra shareholders over the past
9 decade have come largely at the expense of ratepayers, who continued to pay ever higher
10 Base Rate charges to support FPL's financial results while also absorbing a growing
11 liability for larger future rate base rates as the Company booked amortizations of
12 depreciation reserve balances to further improve FPL recorded earnings.²¹

13 **Q. Has the multi-year rate plan that was established in Docket No. 120015-EI**
14 **produced base rate stability FPL ratepayers?**

15 A. No. While customers' overall bills have not increased much, due mostly to the declining
16 market prices of natural gas fuel used by FPL, there has not been Base Rate price
17 stability since the Company's last rate case was completed. In fact, FPL customers are
18 actually now paying significantly higher base rates than were approved by the
19 Commission in Order PSC-13-0023-S-EI. Because this Docket is concerned with the
20 adjustment of base rates, the proper focus of regulatory attention should be strictly upon

²⁰ FPL Response to AARP Interrogatory No. 10.

²¹ In response to AARP Interrogatory No. 71, FPL provided calculations showing how return on equity has been increased historically each of the prior years 2010 through 2015, through the recording of negative depreciation expenses that increased earnings in those years, but will increase future rate base and required depreciation recoveries from ratepayers in future years.

1 base rates, without the mixing of recently favorable historical fuel price trends that
2 distract attention from the Company's persistently growing Base rates.

3 **Q. How much have FPL's residential base rates increased under the current rate**
4 **plan?**

5 A. Using Residential Service under rate schedule RS-1 as an example, the Commission
6 approved Customer and Energy Base Rate levels four years ago that resulted in a total
7 Base Rate charge to a typical residential customer using 1,000 kWh of \$49.61.²²
8 Comparing the Company's filed MFR Schedule A-2 "Bill Under Present Rates"
9 calculation for Rate Schedule RS-1 in 2016 reveals that the same 1,000 kWh residential
10 customer is now paying \$58.44 in Base Rate charges to FPL. Base Rate charges to
11 residential customers, at this usage level, have already increased about 18 percent in the
12 past four years, an annual rate well above general inflation,²³ before any attention is
13 given to the large prospective increases in Base Rates that are now being proposed by
14 FPL.

15 **Q. Are there any conceptual benefits of adopting a multi-year rate plan?**

16 A. Yes. The primary benefit of a multi-year rate plan is the expanded regulatory lag
17 incentive that is provided to utility management to find new ways to reduce costs, with
18 the prospect of retaining any resulting savings for shareholders for an extended period
19 between rate cases. Then, eventually, any incremental achieved level of savings could
20 be captured for the benefit of ratepayers within the forecasts used in future rate cases. A

²² See Order PSC-13-0023-S-EI, Attachment A, page 31, RS-1 Tariff, Fortieth Revised Sheet No. 8.201, the approved Customer Charge was \$7.00 and approved Base Energy Charges were 4.261 cents per kWh for the first 1,000 kWh per month and 5.261 cents thereafter.

²³ For example, FPL witness Ms. Morley states in Direct Testimony at pages 51-52, "The overall CPI is forecasted to increase at a compound annual rate of 2.5% between 2015 and 2020, the same rate experienced on average since the 1990s and up modestly from the 2.1% compound annual rate averaged between 2010 and 2014."

1 secondary and much smaller potential benefit is the avoidance of rate case expenses by
2 reducing the frequency of base rate cases. However, these benefits are only realized by
3 customers if rate case forecasts accurately and completely reflect only the reasonable
4 cost required to be incurred to provide utility services over the extended period between
5 rate cases, while anticipating and including a productivity offset that requires
6 management to reduce costs in order to earn targeted return levels.

7 **Q. What are the risks that are created when utility rates are established for more than**
8 **one future forecasted year?**

9 A. The primary risk associated with any test year using forecasted operational and financial
10 data is that the forecast will be wrong. That risk is amplified as one moves further away
11 from known, present factual circumstances toward ever more distant future forecasted
12 periods. The dependence upon management judgment in developing forecasts, where
13 management has unique knowledge of its facilities and relevant cost drivers, coupled
14 with the financial incentive utility management has to pessimistically forecast relatively
15 higher costs and lower revenues when setting utility rates (and future revenues and
16 profits) contributes substantially to this risk. Only genuinely inept utility management
17 would neglect to allow for all reasonably foreseeable cost increases throughout the
18 forecasting period, while cautiously quantifying its ability to find new operational
19 efficiencies and uncertain future cost savings.

20 Consider, for instance, the challenges in attempting to accurately predict the
21 interest rate levels that will be demanded by financial markets in 2017 and then again in
22 2018, in 2019 and in 2020.²⁴ Market interest rates represent one of the many forecasting

²⁴ FPL's rate plan is offered with a commitment to not seek additional general base rate relief in 2019 and 2020 according to Mr. Silagy's Direct Testimony at page 7.

1 assumption inputs needed to accurately determine FPL revenue requirements for
2 multiple future years. Similar future knowledge and accurate forecast assumptions are
3 needed for many other key inputs across the entire utility business enterprise, including
4 major cost drivers such as:

- 5 • workforce staffing and labor hour requirements in each department,
- 6 • wage rate assumptions for each employee group,
- 7 • employee benefit cost rates for pensions, insurance and all other plans,
- 8 • employee incentive compensation terms and performance assumptions,
- 9 • non-labor expense inflation/escalation rates applicable to all vendors,
- 10 • generating unit outage schedules and work scope estimates,
- 11 • vegetation management work scope and scheduling,
- 12 • insurance premium charges and damage claims estimates,
- 13 • customer growth and electric sales demand trends across all classes,
- 14 • capital spending programs, projects, priorities, and contingencies,
- 15 • property, income and other tax rate and determinants, and
- 16 • affiliate cost allocations and charge/credit amounts.

17 The scope and complexity of forecasting, including recitation of some of these key
18 assumptions, is revealed in the Company's MFR Schedule F-8 and Exhibit REB-2,
19 which is a 35 page Planning and Budgeting Process Guideline document sponsored by
20 FPL witness Mr. Barrett.

21 **Q. Is it possible to accurately predict all the elements of test year revenue**
22 **requirements?**

23 A. No. Even with best efforts and assuming no bias, future conditions are often ultimately
24 not very predictable and unexpected changes in operating conditions, weather, market

1 conditions, laws and regulations will occur that will impact the costs treated as
2 recoverable through Base Rates in ways that are not predictable. The challenge is
3 therefore to carefully examine rate case forecasts with a healthy appreciation of the
4 many challenges to accurate forecasting as well as the profit incentives that tend to
5 encourage utility management to overstate forecasted costs and understate future sales
6 and revenue growth that will be available to offset higher costs.

7 **Q. Does the difficulty in predicting future electric sales/revenues, expense and**
8 **capitalized (Rate Base) cost levels preclude the use of a forecasted test year?**

9 A. No. But dependence upon forecasted data adds considerable complexity to the
10 ratemaking process and should demand much more involvement in rate case audits and
11 the careful testing of forecasting assumptions that drive what level of forecasted costs
12 ratepayers must support. A single future test year can be reasonably tested against
13 recent historical facts and amounts, because changes are more predictable in the near
14 future than the more distant future. For example FPL knows how many employees in
15 each department are required to operate and maintain all the facilities and automated
16 systems that exist today. However, the staffing levels needed next year, in terms of
17 employee headcounts and labor hours, is somewhat less certain, due to continuous
18 changes in installed facilities, new technologies being deployed, weather impacts,
19 variable customer demands, changes in laws and regulations, opportunities for
20 outsourcing work to contractors and the potential for business mergers and
21 reorganizations. In more distant forecast years two or three, much less is known or
22 knowable about the variables impacting the quantity of required labor. At the same
23 time the unit prices for employee wage increases and benefit costs become less certain in
24 more distant future forecasts. The same types of uncertainty exist and expand in more

1 distant future periods when forecasting interest rates, inflation rates, productivity rates,
2 sales volumes and the many other components of a rate case test year forecast.
3 Judgment is involved throughout the forecasting process, since future outcomes are
4 uncertain.

5 **Q. Does the required judgment in constructing forecasts introduce an unavoidable**
6 **bias when forecasted test years are used to set utility rates that define and limit the**
7 **utility's future earnings opportunity?**

8 A. Of course. From the utility's perspective, there is a strong incentive to pessimistically
9 forecast future utility cost increases and sales growth, so as to reduce the risk of
10 unfavorable variances caused when actual costs exceed the levels of forecasted cost used
11 in setting rates. From the ratepayers' perspective, utility management has a tremendous
12 information advantage from which to develop rate case forecasts that employ pessimistic
13 assumptions and inputs, so as to optimize rate levels and reduce the risk of lower future
14 earnings if future actual costs exceed rate case forecasted levels.

15 **Q. Are you aware of any published study that address the problems with bias and**
16 **information asymmetry that are associated with utility forecasts that are used to set**
17 **rates?**

18 A. Yes. On August 13, 2013, the National Regulatory Research Institute ("NRRI")
19 published a report titled, Future Test Years: Challenges Posted for State Utility
20 Commissions. NRRI is the research arm of the National Association of Regulatory
21 Utility Commissioners ("NARUC"). A full copy of this report is [included](#) in AARP
22 Exhibit 1.3. The Executive Summary of this report defines future test year ("FTY") and
23 historical test year ("HTY") approaches and states:

1 The reader might ask why a commission should rely on anything other than an
 2 FTY, since good ratemaking requires that new rates reflect the utility's costs
 3 and sales, at least over the first several months that they are in effect.
 4 Ratemaking, after all, is prospective, and an FTY matches the test year with the
 5 effective period of new rates. Although in theory this argument seems
 6 indisputable, it ignores the reality that forecasts are susceptible to error and
 7 some costs and sales elements are inherently difficult to predict. Another
 8 factor, as this paper stresses, is that utilities would have incentives to present
 9 biased forecasts that are not always easy for commission staff and interveners
 10 to uncover. A commission would be presumptuous to assume that forecasted
 11 costs and sales are more accurate than modified HTY data accounting for
 12 "known and measurable" changes. In fact, many commissions have taken this
 13 view, which seems sensible and in line with their mandate to set "just and
 14 reasonable" rates.

15
 16 In sum, an environment of rising average cost does not constitute a sufficient
 17 condition for the use of an FTY. Supporters of an FTY give this false
 18 impression, which ignores the reality of utility forecasts being susceptible to
 19 bias and inherent error. Information asymmetry, which is an acute problem in
 20 public utility regulation, makes it difficult for commissions to evaluate a
 21 utility's forecasts in terms of their accuracy and objectivity.²⁵
 22

23 This report also discusses three major areas of concern when using future test year
 24 forecasts:

- 25
 26 ■ **Why would a utility be more inclined to overstate costs than to understate**
 27 **costs?** The utility expects the commission to lower its cost forecasts, so it would
 28 tend to initially file inflated costs. There is little payback for a utility that hedges
 29 on the low side. The likelihood of the utility's actual costs being higher would
 30 increase, thus jeopardizing its rate of return and penalizing shareholders.
- 31 ■ **How serious is this problem?** It depends on the ability of a utility to get away
 32 with reporting inflated costs. For example, the utility might ask for recovery of
 33 costs in a rate case no matter how frivolous or unlikely they are. It has little to
 34 lose if the commission catches it (except for the credibility of future forecasts); if
 35 the commission approves the cost, the utility recovers "phantom" or imprudent
 36 costs. The result is that the utility's customers are paying excessively for utility
 37 service.
- 38 ■ **How can a commission detect overstating of costs?** It can observe any
 39 systematic bias in past forecasts. For example, it may detect constant
 40 overforecasting of a certain cost item for a number of years. The only way for a

²⁵ Future Test Years: Challenges Posted for State Utility Commissions; August 13, 2013, National
 Regulatory Research Institute ("NRRI"), Executive Summary at iv.

1 commission to uncover inflated costs, although admittedly imperfect, is to do a
2 thorough review of the assumptions, methodologies and other factors underlying
3 the forecasts. This activity requires a commission staff with adequate resources
4 and skills. It also subtracts time from other crucial rate-case matters that could
5 lead to ill-informed decisions.²⁶
6

7 The bias inherent in test year rate case forecasts is undeniable and appears to have
8 negatively affected FPL ratepayers when the Company's forecasts were relied upon in
9 prior rate case proceedings.

10 **Q. Do you know if FPL has presented significantly overstated forecasts of test year**
11 **O&M expenses, in its most recent prior rate case filings before this Commission,**
12 **when such forecasts are compared to actual expenses that were incurred in the**
13 **same test year?**

14 **A.** Yes. FPL's forecasted non-fuel O&M expenses were significantly overstated in each of
15 the last two rate case cycles involving 2010 and 2013 test years. To the extent these
16 forecasts were relied upon in setting rates,²⁷ the Company's ratepayers were
17 disadvantaged by the unreasonably pessimistic forecasts that became the basis of the
18 approved revenue requirements.

19 In the Company's most recent rate filing in Docket No. 120015-EI, the
20 forecasted 2013 test year non-fuel O&M expenses included in FPL's filing, after
21 removing recoverable fuel costs and making all other required ratemaking adjustments,
22 was \$1.558 billion. The comparable adjusted actual 2013 non-fuel O&M expenses

²⁶ Id., page 24, footnotes omitted.

²⁷ Approved rates in Docket No. 120015-EI were based upon a settlement that was approved by the Commission. If any of FPL's forecasted costs were disallowed in Docket No. 080677-EI, such disallowances may have impacted some of the variance amounts that were actually charged to ratepayers.

1 totaled \$1.428 billion, a favorable variance of about \$130 million or more than eight
2 percent of the forecasted expenses included in FPL's rate filing.²⁸

3 In the Company's earlier rate case filing involving a forecasted 2010 test year
4 in Docket No. 080677-EI, FPL again seriously overstated expected test year O&M
5 expenses. The forecasted 2010 test year non-fuel O&M expenses included in FPL's
6 filing, after removing recoverable fuel costs and making all other required ratemaking
7 adjustments, was \$1.504 billion. The comparable adjusted actual 2010 non-fuel O&M
8 expenses totaled \$1.407 billion, a favorable variance of about \$97 million or more than
9 six percent of the forecasted expenses included in FPL's rate filing.²⁹

10 **Q. Would adoption of multiple test years, as now proposed by FPL, amplify the risk to**
11 **ratepayers that the Company's forecasted costs could again be overstated in more**
12 **than one future period?**

13 A. Yes. FPL management has a strong financial incentive and a fiduciary responsibility to
14 shareholders to maximize the utility's earnings opportunity provided under
15 Commission-approved rates. Because of this reality, more extensive regulatory
16 dependence upon management-prepared forecasts for multiple future periods increases
17 the exposure of ratepayers to these incentives and responsibilities.

18 **Q. Do any of FPL's witnesses acknowledge the added risk caused by use of multiple**
19 **future forecasted test years?**

20 A. Yes, but only from the perspective of shareholders, for whom FPL has a duty to
21 maximize profits. Mr. Silagy describes the rate increases proposed within the
22 Company's multi-year rate plan and then states, "With the approval of these requests,

²⁸ FPL response to AARP Interrogatory No. 68, Attachment 1.

²⁹ FPL response to AARP Interrogatory No. 67, Attachment 1.

1 there would be no general base rate increases in 2019 and 2020. While not without risks
2 to FPL, this approach is itself a significant benefit for customers in terms of providing
3 rate certainty, and avoiding repetitive and costly rate proceedings.” Mr. Dewhurst takes
4 this concern for shareholders one step further, indicating the Company’s proposed ROE
5 level was increased due to the risks to shareholders of the multi-year rate plan:

6 It is my judgment that an ROE of 11 percent would adequately reflect
7 FPL's risk profile, including the attendant risk of the Company's proposed
8 multi-year rate case stay-out, as discussed by FPL witness Hevert in his
9 assessment of FPL's risk profile and the appropriateness of his
10 recommended ROE. During this extended period of time, FPL and its
11 investors will have significant exposure to the forecasted rising interest rate
12 environment, and terms of access to capital could change unexpectedly,
13 with more likelihood of unfavorable than favorable change. The Federal
14 Reserve's December 2015 decision to increase short-term interest rates
15 from near-zero levels for the first time in seven years is a signal of the
16 central bank's shifting stance on monetary policy; however, there is
17 substantial uncertainty around possible future actions. From an investor's
18 perspective, FPL is foregoing the possibility of seeking rate relief over this
19 four-year period in the face of substantial uncertainty. This risk is
20 appropriately reflected in the recommended 11 percent ROE.³⁰
21

22 Of course, there is no compelling need to impose these added risks upon either
23 shareholder or ratepayers. The better answer is to simply avoid the problems
24 created by attempting to set reasonable rates for multiple future years.

25 **Q. What analysis has the Company produced to show that its rate plan will**
26 **produce reasonable results for both shareholders and ratepayers through**
27 **the year 2020, when the Company’s plan would terminate?**

28 A. The Company’s filing includes no financial forecast data or analysis beyond the
29 2018 subsequent year to show expected financial results under proposed rates.
30 However, it seems obvious to me that FPL’s long term projections of future

³⁰ Direct Testimony of Moray Dewhurst, page 26.

1 electric sales/revenues and costs to provide service, through at least future year
2 2020, must have convinced management that shareholders would be better off
3 under the proposed multi-year Base rate plan than without it. It is far less certain
4 that ratepayers would be advantaged by this FPL-derived rate plan, for all the
5 reasons explained in my testimony. The disadvantages of a multi-year approach
6 would be magnified if FPL were awarded an excessive 11 percent authorized
7 equity return (11.5 percent with Mr. Dewhurst's proposed performance bonus)
8 that is said to be needed because of the Company's proposed multi-year rate
9 plan.

10 **Q. How has FPL achieved comfort with its proposed multi-year plan for Base Rates,**
11 **given the uncertainties involved in accurately predicting the future and the risks**
12 **created by such long-term rate planning?**

13 A. This is not clear from the Company's filed materials. From my experience, I expect that
14 multiple scenarios of long-term financial forecasts for FPL's operations have been
15 developed to test the adequacy of the proposed rates in the FPL rate plan against
16 different levels of assumed electric load growth, capital expenditure plans, market
17 interest rate assumptions and expense inflation scenarios. Only in this way could
18 management be sure that its fiduciary duties to shareholders are upheld and that the
19 financial risks to the Company caused by the multi-year rate plan are acceptable.
20 However, no long-term financial projections of this type have been included in the
21 Company's prefiled evidence to show whether the FPL-proposed multiple Base Rate
22 increases stretching into 2020 are adequate but not excessive in each proposed future
23 year.

1 When AARP asked if the Company has prepared long-term financial forecasts
2 that were prepared to evaluate future financial performance under varying assumptions,
3 (such as varying energy sales levels, different capital investment scenarios, alternative
4 staffing and labor scenarios, inflation rate environments, interest rate expectations and
5 other changeable input assumptions) the Company responded, “No” and answered
6 “N/A” when asked for a descriptive listing of such forecasts.³¹

7 **Q. Is this a credible response?**

8 A. No. The more credible response was provided to NextEra’s investors in the most recent
9 earnings release on the Company’s web site.³² When asked about NextEra Energy,
10 Inc.’s First Quarter 2016 Release and the Projected Adjusted Earnings per Share range
11 stated therein, the Company admitted that:

12 NextEra Energy, Inc. must consider a wide variety of risk factors with respect
13 to FPL and its other direct and indirect subsidiaries to provide a consolidated
14 range of earnings to investors. For example, NextEra Energy must consider a
15 range of factors that could affect its forecast: the national and state economics,
16 the credit and financing market, potential changes in capital expenditure
17 estimates, potential changes in construction schedules of capital expenditure
18 projects, O&M fluctuations, future prices of fuel and estimated days for
19 nuclear outages – among others. Because of the many factors that can affect
20 an earnings estimate, and the difficulty in modeling all possible outcomes,
21 NextEra Energy provides investors with a wide potential range of earnings.³³
22

23 All of these variables and risk factors clearly contribute uncertainty to FPL’s
24 forecast, a major business segment within NextEra Energy, and cannot be ignored
25 when evaluating any multi-year rate plan. However, it is not convenient for FPL to
26 admit that these types of uncertainties exist when discussing rate case forecasts,
27 because there can be only one approved rate case forecast scenario upon which the

³¹ FPL responses to AARP Interrogatory Nos. 2 and 3.

³² Available at: <http://www.investor.nexteraenergy.com/phoenix.zhtml?c=88486&p=EarningsRelease>

³³ FPL response to AARP Interrogatory No. 9.

1 Commission ultimately determines approved rate levels. Ultimately, after several
2 efforts to solicit various long term financial forecast scenarios that were produced
3 by NextEra for different purposes, the Company has repeatedly referred only to its
4 MFR's for FPL's rate case financial forecast.³⁴ This must be the only long term
5 financial forecast scenario the Company wants to share with the Commission.

6 **Q. Are there significant risks to ratepayers if the Company's recommended**
7 **multi-year rate plan is approved?**

8 A. Yes. Ratepayers are exposed to not only the risks of dependence upon the FPL-
9 prepared forecast of the revenue requirement in the 2017 test year, but also the
10 added uncertainties and greater risks associated with the more distant forecasts of
11 sales/revenues, expenses and rate base for the proposed 2018 subsequent year.
12 To make matters worse, for 2019 no consideration is given by FPL in its filing to
13 whether the Company's overall revenue requirements in 2019 may be higher or
14 lower due to changes in inflation, interest rates, productivity or other economic
15 circumstances. Instead, FPL asks that single-issue rate increase be approved in
16 2019 solely to account for the incremental costs at completion of the Okeechobee
17 generation project.

18 When asked for each iteration of the financial forecasts evaluating
19 sensitivities to alternative future sales growth, inflation, interest rates, capital
20 investment and other changed assumptions that may impact FPL's overall
21 revenue requirements in 2019, the Company responded with a single
22 Confidential document containing FPL's "high-level base scenario" of projected

³⁴ See FPL responses to AARP Interrogatory Nos. 2, 3, 5, 7, 8 and 9.

1 financial results and with no alternative scenarios or sensitivities to account for
 2 the large uncertainties impacting forecasted years 2019 and beyond.³⁵

3
 4 **Q. Several FPL witnesses claim that superior management performance has**
 5 **allowed the Company to reduce O&M costs historically. FPL witness Mr.**
 6 **Barrett references “Project Momentum” as the “main catalyst that has**
 7 **contributed to FPL’s tremendous success in lowering its operating costs**
 8 **since the last base rate case.”³⁶ Do the Company’s rate case forecasts of**
 9 **O&M expense underlying the asserted revenue requirement in 2017 or 2018**
 10 **include any assumed new future productivity gains?**

11 **A. No.** According to the Company’s response to AARP Interrogatory No. 56:

12 Except for the Project Momentum process, there are no new
 13 productivity improvement programs/initiatives expected to be
 14 undertaken in 2017, 2018 and subsequent years.

15
 16 The momentum 4 process, to be executed in 2016, which would
 17 produce incremental savings in 2017 and 2018, has not been
 18 completed. Forecasting costs and savings for the Momentum
 19 processes that have not yet been completed is difficult as there is no
 20 way to know in advance what productivity-improvement ideas will be
 21 generated. Moreover, the results of past Momentum processes do not
 22 necessarily provide an accurate prediction of what the future processes
 23 will be able to achieve, as the opportunities for productivity gains have
 24 been more difficult to attain and have diminished with each subsequent
 25 Momentum process. Due to these difficulties, FPL management does
 26 not forecast productivity gains associated with a Momentum process
 27 prior to its execution.

28
 29 While the Company’s 2017 and 2018 forecasts are said to include the continued
 30 results of prior years’ Momentum processes already executed in 2013 through

³⁵ FPL response to AARP Interrogatory No. 5, referencing Office of Public Counsel Interrogatory No. 3, Confidential Attachment 1.

³⁶ Direct Testimony of Robert Barrett, page 37.

1 2015, when asked to quantify forecasted costs savings from any incremental,
2 new productivity measures included in such forecasts, the Company's response
3 simply stated, "not applicable."³⁷ This is an alarming admission from a
4 Company that is forecasting future costs that drive \$1.3 billion in proposed base
5 rate increases. If the FPL costs driving higher base rates are increasing at the
6 levels being projected by the Company in 2017 and beyond, this is no time for
7 management to stop performing and to simply assume no ability to incrementally
8 reduce future costs through new productivity initiatives.

9 **Q. Has the Commission previously rejected an FPL-proposed multi-year rate plan**
10 **under similar circumstances that exist today?**

11 A. Yes. In the Company's last litigated base rate case, Docket No. 080677-EI, the
12 Commission's Order No. PSC-IO-0153-FOF-EI issued March 17, 2010 stated a policy
13 preference against "back-to-back" rate increases and then rejected the subsequent test
14 year 2011 proposed base rate increase that was proposed by FPL in that Docket, stating:

15 We believe that back-to-back rate increases should be allowed only in
16 extraordinary circumstances. Historically, we have used the test year
17 concept for setting rates. Under this concept, the test year is deemed to be
18 representative of the future, and used to set rates that will allow the utility
19 the opportunity to earn a rate of return within an allowed range. If the test
20 year is truly representative of the future, then the utility should earn a return
21 within the allowed range for at least the first 12 months of new rates.³⁸

22
23 The Commission also rejected FPL's arguments that ratepayers would benefit by
24 avoiding a separate rate proceeding sometime in 2010 for rates that would be
25 effective in 2011, noting that, "FPL witness Barrett admitted that FPL did not
26 perform a cost-benefit analysis to examine whether the costs of a rate case

³⁷ FPL response to AARP Interrogatory No. 56, part (d).

³⁸ Order No. PSC-IO-0153-FOF-EI issued March 17, 2010 in Docket No. 080677-EI, page 9.

1 outweighed savings that could result from reexamining changing costs.” Expanding
2 upon this message, the Order stated:

3 The subsequent increase requested in this case is based on a second
4 projected test year of 2011 and is in fact a second full rate case filing. FPL
5 claims that this second case is necessary "to address the deterioration in
6 earnings that will take place during 2010." However, it is important to note
7 here that filing two general rate cases with back-to-back projected test years
8 deprives us and deprives the Company's ratepayers of the benefit of an
9 additional twelve months of actual economic data and operating history of
10 the Company. This additional data could be used to validate whether an
11 additional increase is truly necessary and whether the second test year is
12 really representative of the future.

13 The Company's ratepayers deserve a full investigation into the
14 cause of FPL's claimed deterioration of its earnings. Two general rate
15 increases that are barely twelve months apart justify the time and expense of
16 a second separate proceeding. Two back-to-back general rate increases are
17 especially of concern when one considers that the need for base rate
18 increases has already been reduced for FPL due to the effect of the cost
19 recovery clauses. Cost recovery clauses provide for approximately 61
20 percent of FPL's revenue and reduce the risk of underrecovery of a
21 substantial portion of FPL's operating costs. The recovery of costs through
22 the clauses should limit the need and frequency of full rate cases for FPL.

23 States that make use of a projected test year, like Florida, typically
24 only attempt to look one year into the future. FPL is asking us to look far
25 beyond the horizon, into 2011, and raise consumers' rates not only in 2010
26 based on a 2010 projected test year, but to raise consumers rates again in
27 2011 based on speculative and untested projections for a 2011 subsequent
28 projected test year. These test years were developed in 2008. As one reaches
29 farther into the future, predictions and projections of future economic
30 conditions become less certain and more subject to the vagaries of changing
31 variables. This is particularly true given that for 2010, FPL projected results
32 based upon the assumption of a "down economy," and for 2011 projected
33 results based upon a "down economy just beginning to recover."

34 Because of unpredictable changes in the economy, it is certainly
35 possible that FPL's perceived need for a 2011 base rate increase could be offset
36 by changes in sales growth, billing determinants, additional Stimulus Bill of the
37 American Recovery and Reinvestment Act of 2009 (Stimulus Bill) benefits, and
38 other cost-decreasing measures. At a time when Florida's ratepayers have been
39 hit hard by the downturn in the economy, it makes sense to wait and see if a
40 subsequent rate case is justified. FPL's claim that it will need a rate increase in
41 2011 simply is too speculative, and is hereby rejected.³⁹
42

³⁹ *Id.* at 9-10.

1 **Q. Do the same concerns that caused the Commission to reject FPL's proposed**
2 **Subsequent Test Year in Docket No. 080677-EI persist today?**

3 A. Yes. FPL has not proven that, 1) ratepayers are better off under its proposed multi-year
4 rate plan, 2) that any savings from avoidance of a next rate case are sufficient to offset
5 the risks of using speculative second year forecast data, 3) that changing economic
6 conditions would not justify a careful, formal review of future revenue requirements or,
7 that 4) FPL ratepayers don't deserve a full investigation into 2018 revenue requirements
8 with "the benefit of an additional twelve months of actual economic data and operating
9 history of the Company" as was demanded by the Commission in this prior Docket.

10 **Q. Did the Commission also reject FPL's proposed Generation Base Rate Adjustment**
11 **("GBRA") mechanism in Order No. PSC-IO-0153-FOF-EI?**

12 A. Yes. The Commission properly recognized that generating unit investments can be
13 reasonably considered within traditional rate case filings, where costs and revenues can
14 be reviewed "as a whole" rather than on a piecemeal basis, to determine whether rate
15 relief is actually needed at the time of completion of such new investments:

16 According to FPL, we should approve continuation of the GBRA because it is
17 "reasonable, cost-based and sends the appropriate price signals to customers."
18 While the term "cost-based" may accurately describe the GBRA, a rate case
19 proceeding provides more of an opportunity to rigorously review costs and
20 earnings as a whole. Regarding the price signals, we agree that
21 implementation of the GBRA may link reductions in fuel costs to increases in
22 base rates that may occur as a new plant is put in service. However, a
23 traditional base rate proceeding could also be timed (based on the Company's
24 request) to coincide with the in-service date of a new plant, thus achieving the
25 same result. FPL witness Barrett testified that it is possible for the Company
26 to structure the timing of a rate request associated with a new plant so that
27 both the plant's costs and its fuel savings benefits are received by the customer
28 at the same time. FPL witness Pimentel stated that "the reason that we're
29 requesting the GBRA, first and foremost, is as we build generation that's been
30 approved by this Commission in need determinations, we're trying to match
31 the customer savings and fuel efficiency with the actual capital that we are

1 putting into the business." This goal could be achieved within the process of a
2 traditional rate case.

3
4 Another of FPL's arguments for the GBRA mechanism was that it has the
5 potential to avoid the need for a rate case. It is not possible for us or interested
6 parties to examine projected costs at the same level of detail during a need
7 determination proceeding as we would be able to do in a traditional rate case
8 proceeding. A need determination examines costs only in comparison to
9 alternative sources of generation. It does not allow for a review of the full
10 scope of costs and earnings, as a rate case does. FPL witness Barrett
11 acknowledged that the GBRA mechanism would be a limited-scope
12 proceeding focused only on the GBRA, and intervenors would not be able to
13 raise other cost issues in such a proceeding. SFHHA witness Kollen also
14 argued against the GBRA because FPL would have the ability to impose a
15 base rate increase for new generation and transmission projects without
16 consideration of other revenues and costs. OPC witness Brown explained that
17 if the GBRA is approved and the economy subsequently recovers, FPL's
18 shareholders may earn greater returns that could be sufficient to cover the cost
19 of new generating units without increasing base rates. According to OPC,
20 having a GBRA mechanism in place would mean FPL would have less
21 incentive to control overall costs. Witness Brown also pointed out that under
22 the GBRA, FPL would essentially be "imposing a surcharge on customers'
23 bills to cover the costs associated with a single component of its overall costs
24 of providing service," and we would not have the ability to evaluate whether
25 FPL's existing base rates were sufficient to cover some or all of the costs.⁴⁰
26

27 These circumstances noted by the Commission in FPL's last litigated rate case, that
28 caused rejection of GBRA recovery of generating unit costs in isolation, all pertain to
29 the Company's proposed third year 2019 so-called Limited Scope Adjustment rate
30 increase and dictate its rejection.

31 **Q. Would a GBRA rate increase for the revenue requirement arising from only**
32 **completion of the Okeechobee generation project send cost-based and appropriate**
33 **price signals to customers?**

34 **A.** Probably not. There has been no showing by FPL that the Company's overall cost of
35 service in 2019, if measured using normal "single" test year forecasting procedures and
36 the best current factual information that is available two years from now in mid-2018,

⁴⁰ *Id.*, at 14-15.

1 would be equal to the piecemeal revenue requirement of only the new generation
2 investment in isolation. The most appropriate price signals to customers would be
3 driven by an updated measurement of the Company's overall cost to provide utility
4 services in 2019, rather than inherently unreliable estimates prepared by FPL today of its
5 expected 2018 subsequent year revenue requirement, increased by only the costs of the
6 Okeechobee investments on a piecemeal basis in 2019.

7 **Q. Could a base rate proceeding be timed by FPL to provide timely recovery at**
8 **completion of the Okeechobee project?**

9 A. Yes. It is my understanding that FPL is not constrained in its ability to file base rate
10 increase applications in the future, using a test year that could provide for recovery of
11 the change in revenue requirement caused by commercial operation of the Okeechobee
12 generating facility. Of course, by pursuing cost recovery within a general rate case, the
13 Company would be forced to update its sales and revenue forecasts, reflect current
14 capital market conditions and account for other changes in revenue requirements that
15 would be included the test year analysis undertaken at that time.

16 **Q. Has FPL forecasted changes in sales and revenues in 2019 and 2020 that would**
17 **provide additional funding that could help to offset the Okeechobee facility revenue**
18 **requirement?**

19 A. Yes. FPL witness Ms. Morley has projected that the Company's retail billed sales will
20 be 108.5 million MWH in 2019. This represents an increase of 0.5 percent over 2018
21 forecasted sales of 107.9 million MWH. Then, in 2020, total billed sales are expected to
22 grow another 1.0 percent to 109.6 million MWH.⁴¹ The Company's retail rates provide
23 a contribution to fixed costs within energy charges that are expected to increase with

⁴¹ FPL Exhibit RM-3, page 1.

1 MWH sales in these future years, providing revenues to support overall cost increases
2 that may be encountered by FPL after the 2018 subsequent year that is proposed. Ms.
3 Morley also indicates that, "...annual customer growth is also expected to average 1.5%
4 between 2015 and 2020"⁴² which will contribute to the aforementioned MWH growth
5 that is projected and will also yield additional customer charge revenues to help offset
6 the Company's Okeechobee fixed costs and any other changes in revenue requirements
7 after 2018. The uncertainty associated with sales forecasts, particularly multiple years
8 into the future, makes it very difficult to know the amounts of any base rate increases
9 that could actually be needed by FPL in 2019 or 2020. As noted above, if FPL's overall
10 costs that do not pass through existing rate adjustment mechanisms grow more quickly
11 than base revenues, the Company is able to timely file a base rate increase petition to
12 prove its need for incremental rate relief, using the best current information available at
13 that time.

14 **Q. Does the Company's proposed 2019 Limited Scope Adjustment rate increase at**
15 **completion of the Okeechobee project include any accounting for the continued**
16 **growth in customers, sales and revenues that the Company has reflected in Ms.**
17 **Morley's forecasts?**

18 A. No. In fact, the Company has not accounted for any changes in its revenues or costs
19 after 2018, other than accounting for the expected direct costs that are attributable solely
20 to the newly completed Okeechobee project as a proposed piecemeal, single-issue rate
21 increase to customers.

22 **Q. Is it possible for revenue growth or cost reduction efforts to offset the costs of the**
23 **completed Okeechobee project in the years 2019 and 2020?**

⁴² Direct Testimony of Rosemary Morley, page 17.

1 A. Of course. As an example, Mr. Silagy states, "...a key factor in the ability of our
2 Company to avoid the need for a base rate increase since 2013 has been our aggressive
3 focus on controlling these O&M costs. As FPL witness Barrett describes, despite general
4 inflation-related increases and customer growth that are projected to add nearly \$145
5 million to our non-fuel operating costs, we estimate that our non-fuel base O&M
6 expense will actually be *lower* in 2017 than it was in 2013."⁴³ Assuming the Company
7 may be able to further reduce its O&M expenses after 2018, in keeping with its touted
8 historical performance levels, any new O&M savings could help to offset the increased
9 costs of completing the Okeechobee project.

10 **Q. Could other major changes in business conditions impact FPL's revenue**
11 **requirement after 2018, beyond the direct impacts of the Okeechobee project?**

12 A. Yes. Other structural changes to the business environment could impact FPL's future
13 cost of service after 2018 that are not presently known and cannot be considered at this
14 time, even though such changes may offset some of the expected Okeechobee project
15 costs. These include the possibility of:

- 16 • NextEra mergers or acquisitions, beyond the pending Hawaiian Electric
17 transaction, that could more broadly spread shared corporate administrative
18 costs that are now born largely by FPL and its ratepayers,
- 19 • Changes in corporate tax laws or regulations,
- 20 • Refinancing of long term debt at lower cost rates, depending upon future capital
21 market conditions.⁴⁴

⁴³ Direct Testimony of Eric Silagy, page 24.

⁴⁴ As an historical example, in September 2015, FPL repurchased \$400 million of its debt in a transaction that resulted in savings to the Company and its customers, according to FPL's response to AARP Interrogatory

- 1 • Expanded deployment of technologies that reduce operational costs.
- 2 • Additional distribution and transmission hardening investments that reduce
- 3 service restoration costs after storm events.⁴⁵
- 4 • Continued productivity initiatives, of the types described in FPL testimony.

5 The point is not that these beneficial changes will fully offset rising costs, but rather that
6 one cannot dismiss the fact that unforeseen future events may have a material impact
7 upon FPL’s actual revenue requirement in 2019 and beyond. The Company’s proposed
8 limited scope rate increase for only the Okeechobee project costs has assumed away
9 such possibilities, proposing to ignore them in favor of piecemeal, single-issue
10 ratemaking for only selected Okeechobee cost increases in 2019. If Okeechobee costs
11 were instead considered within the context of an overall base rate proceeding, other
12 changes in costs and revenues would not be ignored.

13 **Q. You have referred in prior testimony to “piecemeal, single-issue ratemaking.”**
14 **Why should utility rates generally not be changed to account for only known**
15 **changes in isolated types of costs?**

16 A. As suggested in my prior testimony and in the Commission’s rate order in the
17 Company’s last litigated rate case, a general rate case proceeding provides more of an
18 opportunity to rigorously review costs and earnings as a whole. This holistic analysis is
19 very important to the determination of just and reasonable overall rate levels that
20 consider both favorable and unfavorable changes to the utility’s forecasted revenues,

No. 72 and POD No. 47. The Company’s Treasury Department is responsible for monitoring all outstanding debt to determine whether opportunities to improve the overall funding profile exist.

⁴⁵ FPL’s pending 2016-2018 Storm Hardening Plan Petition states at page 9, paragraph 20, “FPL has estimated that, over an analytical study period of 30 years, the net present value of Restoration Cost Savings per mile of hardened feeder would be approximately 45 percent to 70 percent of the cost to harden that mile of feeder for future major storm frequencies in the range of once every three to five years. Of course, it is possible that FPL will face major storms more frequently than that, as it did in the 2004-2005 hurricane seasons. If that were the case, then the net present value of Restoration Cost Savings likely would exceed the hardening costs.”

1 expenses and earnings levels. If the utility or any other party were allowed to “pick and
2 choose” only certain costs or revenues in isolation to adjust utility rates, the Commission
3 can expect attempts at gaming of the regulatory framework to occur, simply because of
4 the amounts of revenue and earnings that can be impacted by such gaming. The utility
5 would likely propose rate changes for only increasing costs, like FPL’s proposed
6 Okeechobee limited scope adjustment, while a consumer intervenor might recommend
7 full decoupling of utility sales and revenues for a persistently growing utility like FPL.
8 Setting rates on a piecemeal basis invites such gaming and should be avoided to the
9 maximum extent possible.

10 **Q. Are there limited instances where rate adjustment mechanisms or deferral**
11 **accounting for specific utility costs should be afforded extraordinary treatment**
12 **outside of base rate cases?**

13 A. Yes. Most states have adopted a form of fuel/energy cost adjustment mechanism that
14 changes rate levels to ensure recovery of the large costs of fuel and purchased energy
15 that can be volatile because of changing market conditions and that are largely beyond
16 the control of utility management. Similarly, it is not uncommon after major storm
17 events for utility regulators to allow the deferral of recovery of incremental storm
18 restoration expenses, recognizing that utility management has little control over such
19 events and that rapid service restoration should be encouraged without imposing a
20 financial penalty to the utility’s earnings. Some electric and gas utilities have revenue
21 decoupling mechanisms to encourage utility support of customer energy efficiency and
22 conservation initiatives while protecting utility earnings from deterioration due to
23 declining sales. I understand that FPL has a broadly inclusive fuel adjustment

1 mechanism and also benefits from a storm restoration cost recovery mechanism, but
2 does not employ sales/revenue decoupling.⁴⁶

3 As a matter of broader policy, rate tracking mechanisms for electric utilities
4 should be limited to only those cost or revenue changes that are so large and volatile and
5 beyond the control of utility management that not providing tracking would introduce
6 unacceptable earnings volatility and risk to the utility, reducing its access to capital on
7 reasonable terms. Completion of FPL's Okeechobee project does not meet any of these
8 criteria.

9 **Q. FPL argues that a multi-year rate plan is beneficial to customers by offering**
10 **“regulatory economy” and avoiding the cost of additional base rate proceedings.⁴⁷**
11 **How does the cost savings from the potential avoidance of rate case expenses**
12 **compare to the risk or adopting FPL's proposed multi-year rate plan?**

13 A. There really is no comparison. The Company's estimated rate case expenses for the
14 presentation and defense of its multi-year \$1.3 billion increase proposal is \$4.9 million.

15 FPL witness Ms. Ousdahl sponsors this amount, stating:

16 FPL is requesting a four-year amortization period for estimated, incremental
17 rate case expenses associated with this case totaling \$4.9 million. In
18 addition, FPL is requesting that the unamortized balance be included in rate
19 base in the 2017 Test Year and 2018 Subsequent Year in order to avoid an
20 implicit disallowance of reasonable and necessary costs. The fact that FPL is
21 requesting a 2018 SYA and the 2019 Okeechobee LSA as part of one
22 proceeding reduces the amount of rate case expenses we would otherwise
23 incur for multiple back-to-back rate cases.⁴⁸
24

⁴⁶ FPL benefits from cost recovery clause treatment of Fuel and Purchased Capacity costs, Environment costs, Energy Conservation costs, Nuclear costs and a Storm Surcharge that provide for recovery of changing cost levels outside of base rates. See FPL response to AARP Interrogatory No. 69.

⁴⁷ Direct Testimony of Robert Barrett, pages 11-12.

⁴⁸ Direct Testimony of Kim Ousdahl, page 21.

1 As a percentage of the proposed overall rate increase, rate case expenses contribute less
2 than half of one percent to the Company's proposed cumulative rate increase.⁴⁹ With
3 this in mind, even a very slight improvement in the accuracy of the annual FPL revenue
4 requirement that is ultimately approved by the Commission is well worth incurring the
5 necessary rate case expenses. Even if FPL required annual rate cases to fully recover a
6 more accurately determined revenue requirement in each of the years 2017, 2018 and
7 2019, which is unlikely for the reasons described in my testimony, \$4.9 million in costs
8 each year would likely be a very small portion of any resulting rate increase. For a
9 utility the size of FPL, rate case expense is a small price for ratepayers to reimburse in
10 order to avoid being burdened with excessive and unproven rate increases under multi-
11 year rate plans based upon highly uncertain forecasts.

12 **Q. Please summarize your testimony with respect to the Company's proposed multi-**
13 **year rate plan.**

14 A. Rate case forecasts involve considerable uncertainty and judgment. In a single
15 forecasted test year, utility management has a tremendous incentive and ample
16 opportunity to pessimistically forecast higher future costs and few offsets for assumed
17 new productivity gains, while proposing conservative estimates of future revenue
18 growth. Including multiple future forecast years in support of a multi-year rate plan, as
19 suggested by FPL, amplifies this uncertainty and judgment to levels that are
20 unacceptable. I recommend that FPL's proposed multi-year rate plan be rejected by the
21 Commission because of the excessive risks involved and the lack of demonstrated
22 benefits to ratepayers from bearing such risks. In the event FPL can actually prove up
23 any need for rate relief in periods after 2017, it should file future base rates cases when

⁴⁹ \$4.9 million / \$1,337 million = 0.37%

1 needed to allow the Commission to holistically consider new facts and circumstances at
2 that time.

3
4 **IV. RETURN ON EQUITY**
5

6 **Q. What is the Company’s proposed return on equity (“ROE”) for ratemaking**
7 **purposes?**

8 A. FPL witness Mr. Hevert concludes, “[b]ased on the quantitative and qualitative analyses
9 discussed throughout my Direct Testimony and the Company's risk profile, I conclude
10 that an ROE of 11.00 percent is a reasonable estimate of FPL's Cost of Equity.”⁵⁰ FPL
11 witness Mr. Dewhurst offers his supporting opinion, stating, “It is my judgment that an
12 ROE of 11 percent would adequately reflect FPL's risk profile, including the attendant
13 risk of the Company's proposed multi-year rate case stay-out, as discussed by FPL
14 witness Hevert in his assessment of FPL's risk profile and the appropriateness of his
15 recommended ROE.”⁵¹ However, the Company is actually proposing to charge
16 ratepayers more than FPL’s asserted cost of equity capital. According to Mr. Dewhurst,
17 “FPL is asking the Commission to increase the authorized ROE established in this case
18 by 50 bps, both to reflect what FPL has already accomplished in its efforts to deliver
19 superior value to its customers and as an incentive to promote further efforts to improve
20 the customer value proposition.”⁵²

21 **Q. Have you prepared any independent analysis of the cost of equity capital that**
22 **should be authorized by the Commission for FPL?**

⁵⁰ Direct Testimony of Robert Hevert, pages 4-5.

⁵¹ Direct Testimony of Moray Dewhurst, page 26.

⁵² Id. page 27.

1 A. No. However, I believe the information presented in this section of my testimony is
2 supportive of Commission approval of an ROE for FPL that is significantly lower than
3 the authorized ROE levels approved in recent FPL rate orders. Capital market
4 conditions remain very favorable, with Federal Reserve policies remaining quite
5 accomodative, which has caused regulators across the country to systematically reduce
6 allowed returns for regulated electric utilities.

7 **Q What ROE was approved by the Commission in the Company's last litigated base
8 rate case proceeding?**

9 A In FPL Docket No. 080677 that employed a projected 2010 test year, the Commission
10 approved an authorized ROE of 10.0 percent.⁵³

11 **Q What ROE was negotiated by the signatory parties in settlement of the Company's
12 2013 test year rate case in Docket No. 120015-EI and approved by the Commission
13 in its Order?**

14 A In FPL Docket No. 120015-EI, the settling parties agreed to an authorized ROE of 10.5
15 percent that was approved by the Commission.⁵⁴

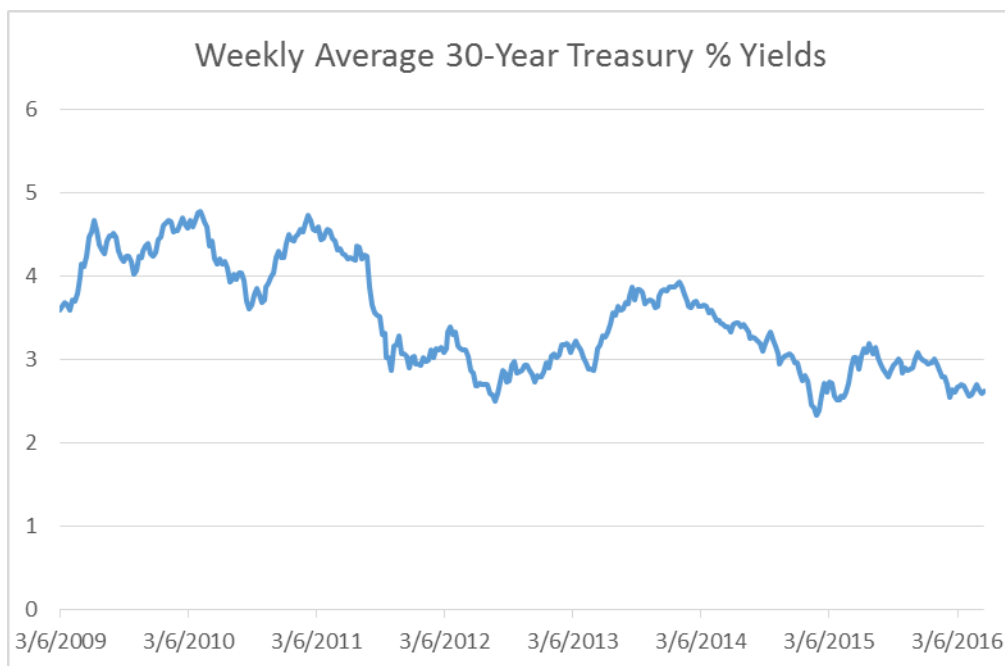
16 **Q What has happened to market interest rates, as measured by 30-year U S Treasury
17 bond yields, since the 2010 and 2013 projected test years that were most recently
18 employed to determine the Company's cost of equity and overall revenue
19 requirement?**

20 A Long term risk free rates of return, as indicated by the yield on 30-year treasury bonds,
21 are significantly lower in 2016 than the average of such yields in 2010 or in 2013, as

⁵³ Order No. PSC-10-0153-FOF-EI, page 132 and Schedule 2. The authorized ROE was unchanged in Order No. PSC-11-0089-S-EI issued February 1, 2011 in Docket No. 080677-EI.

⁵⁴ Order No. PSC-13-00230S-EI, page 5 and Attachment A, page 2.

1 illustrated in the following chart containing data from March of 2009 through May of
 2 2016:⁵⁵



3

4 The settlement ROE adopted in Docket No. 120015-EI for the 2013 test year was part of
 5 a negotiated package of ratemaking provisions. Therefore, the agreed-upon authorized
 6 ROE of 10.5% may not have been directly tied to any particular party's analysis of the
 7 cost of equity. However, with regard to the earlier Commission-approved ROE in FPL's
 8 last litigated test year 2010 rate case, it is obvious that current risk free capital cost rates
 9 are much lower today than when the Commission last received evidence regarding
 10 capital costs in Docket No. 080677-EI and determined the Company's cost of equity.⁵⁶

⁵⁵ Information downloaded at federalreserve.gov/releases/h15 as weekly "Treasury constant maturities 30-year" as weekly (Friday) information. For the week ended July 1, 2016, the 30-year treasury yield was 2.28%.

⁵⁶ Order No. PSC-10-0153-FOF-EI issued March 17, 2010. At pages 3 and 4, the Order states that FPL's Petition that initiated the proceeding was filed on March 18, 2009 and that the Technical Hearing was held in Tallahassee on August 24-28 and 31, 2009, September 2-5, 16 and 17, 2009 and October 21-23, 2009.

1 **Q. Does the Company’s cost of capital witness, Mr. Hevert, rely upon 30-year treasury**
2 **yield data within his Bond Yield Plus Risk Premium analysis, as an indicator of the**
3 **risk free cost of capital?**

4 A. Yes. Mr. Hevert states, “First, because utility assets represent long-duration
5 investments, I relied on estimates of the 30-year Treasury yield as the risk-free rate
6 component of the CAPM analysis.” However, the “estimates” referenced by Mr. Hevert
7 are his future estimates at 4.00 percent in 2017 to 4.80 percent in 2020, which are much
8 higher than recent actual 30-Year treasury yields of well less than 3.0 percent.⁵⁷

9 **Q. Are you aware of any regulatory commission that has relied solely upon published**
10 **30-year treasury yields to determine the cost of capital for major electric utilities?**

11 A. Yes. In Illinois, the two largest electric utilities, Commonwealth Edison Company and
12 Ameren Illinois Companies, have opted into a major capital expansion program enabled
13 by legislation referred to as Electric Infrastructure Modernization Act (“EIMA”).
14 Annual formula-based rate adjustments are prescribed under EIMA, with an updated
15 ROE each year based upon the average 30-year treasury yield for the prior twelve
16 month period, plus 580 basis points (5.80 percent). In the pending cases filed by both
17 utilities, this calculation yields an allowed return on equity of 8.64 percent, which is the
18 sum of average monthly market yield for 30-year Treasury Securities in 2015 of 2.84%,
19 plus 5.80% as the statutory “spread” above the risk free rate of return.

20 **Q. Have FPL ratepayers benefited from the lower cost of capital in U.S. capital**
21 **markets under the Company’s past settlements and rate orders?**

⁵⁷ Direct Testimony of Robert Hevert, page 20. See also Table 3 at page 26 and FPL’s response to Staff Interrogatory No. 245.

1 A Unfortunately, no they have not. The approved 10 percent ROE level in the last litigated
2 FPL rate case has proven to be excessive, compared to subsequent favorable trends in
3 the risk free cost of capital in public financial markets. Since late 2009 when the
4 Commission last ruled upon cost of equity evidence in a litigated FPL rate case, the
5 average risk free cost of capital has declined from well above 4 percent to well below 3
6 percent, a decline of more than 100 basis points. The approved ROE level in the
7 settlement agreed upon in Docket No. 120015-EI was even more excessive, given the
8 continuing downward trend in capital costs that has persisted in recent years.

9 **Q. Have regulators in other states reduced the allowed ROE levels of electric utilities**
10 **to recognize favorable trends in capital market conditions?**

11 A. Yes. The comparable average ROE levels authorized for electric utilities throughout the
12 rest of the United States in the past several years has declined, as illustrated at page 1 of
13 the Edison Electric Institute (“EEI”) Rate Case Summary – Q1 2016 Financial Update
14 report that I have attached as AARP Exhibit 1.4 to my testimony. This report reveals the
15 generally declining trend in average authorized ROE levels in rate orders that were
16 issued since 2009, with the average authorized ROE across the Country below 10.0
17 percent in eight out of the last twelve quarters reported.⁵⁸ Further amplifying the
18 excessive authorized ROE requested by FPL is the Company’s extremely high equity
19 ratio included within the ratemaking capital structure, that further burdens FPL
20 ratepayers with excessive capital costs.

⁵⁸ See AARP Exhibit 1.4 at page 4. The period Q1 2013 through Q1 2016 includes a range of average authorized ROE levels from a low of 9.4% in Q3 2015 to a high of 10.37% in Q1 2015. The 10.5% cost of equity included in the Settlement of Docket No. 120015-EI that was filed in Q3 2012 exceeded the monthly average ROE levels granted U.S. Investor Owned Electric Utilities in every month reported by EEI since Q1 2012. Notably, the 10.26% average awarded ROE in Q1 2016 in this report is characterized by EEI at page 1 under “HIGHLIGHTS” as “...boosted by a Virginia Electric & Power case that included ROE incentives” as more fully explained on page 5.

1 **Q. What is your recommendation to the Commission regarding the ROE that should**
2 **be awarded FPL in this Docket?**

3 A. I recommend that FPL's authorized ROE be reduced from levels approved in the
4 Company's last litigated rate case, based upon careful consideration of all of the cost of
5 equity evidence offered by FPL and the other parties in this Docket, so as to reflect the
6 general trend of declining costs in U.S. capital markets since 2009 in a manner
7 consistent with the general lower recently authorized ROE levels found reasonable for
8 U.S. Investor Owned utilities across the Country. I also recommend no performance
9 bonus to increase the authorized ROE, as recommended by FPL witness Dewhurst, for
10 the reasons explained in my testimony below.

11

12 **V. EQUITY RATIO**

13

14 **Q. What was FPL's equity ratio that was used to establish revenue requirements**
15 **approved in Docket No. 080677-EI?**

16 A. Order No. PSC-10-0153-FOF-IE described the many controversial issues surrounding
17 FPL's proposed equity ratio and ultimately accepted the Company's proposed equity
18 ratio as a percentage of investor capital, stating:

19 Based on the foregoing, we approve the capital structure shown on Schedule
20 2, attached to this order. This capital structure reflects an equity ratio as a
21 percentage of investor capital of 59.1 percent for 2010. While this relative
22 level of equity is near the top of the range of equity ratios of the IOUs owned
23 by the companies in witness Avera's proxy group, it is still within the range
24 of equity ratios of comparably rated IOUs. In addition, this equity ratio is
25 consistent with the relative level of equity FPL has maintained, on an
26 adjusted basis, over the past decade.⁵⁹
27

⁵⁹ Order No. PSC-10-0153-FOF-IE; Docket No. 080677-EI, page 119.

1

2 **Q. Is the Company seeking to again employ a very high common equity ratio for**
3 **ratemaking purposes?**

4 A. Yes. FPL continues to maintain a very equity “thick” capital structure on its books
5 and has proposed an equity ratio of 59.6 percent be used to set rates in this Docket
6 No. 160021-EI. Mr. Dewhurst refers to this ratio as “based on investor sources”
7 and notes that the equity ratio is reduced to 44.13 percent “based on all sources”
8 when combined with customer deposits, deferred taxes and investment credits,
9 which are non-investor supplied sources of capital.⁶⁰ The testimony that follows
10 will refer to the equity ratio solely in the context of “investor sources” of capital,
11 which considers only capital provided by equity and debt investors.

12 **Q. What is the impact upon utility rates of using the Company’s proposed**
13 **relatively equity “thick” capital structure for ratemaking purposes?**

14 A. Equity capital imposes a significantly higher cost rate upon ratepayers than long-
15 term debt or short-term debt. First, common equity capital requires a higher
16 percentage annual return than long-term debt, causing a larger equity ratio to
17 increase the overall weighted average cost of capital. Additionally, equity capital
18 requires a factor-up for income taxes because, unlike debt financing where interest
19 payments are income tax deductible by the utility, the collection of common equity
20 return from ratepayers has no corresponding tax deduction and therefore produces

⁶⁰ Direct Testimony of Moray Dewhurst, page 23.

1 taxable income and income tax expense that amplifies the equity return cost by
2 about 1.6 times the nominal cost.⁶¹

3 **Q. Can you illustrate this point by comparing the Company's asserted pretax⁶²**
4 **overall cost of investor-supplied capital, including FPL's proposed 59.6 percent**
5 **common equity ratio, to the pretax cost of cost of capital that would result if**
6 **the equity ratio were held to an industry average 47 percent?**

7 A. Yes. The table below converts the FPL-proposed investor-supplied capital structure
8 and cost rates, from MFR Schedule D-1 to its pretax return requirement, by
9 factoring up the equity elements of the return for federal and state income taxes.⁶³

10

Investor-Supplied Cost of Capital - per FPL Schedule D-1 (test year):

| | Amount | TY Ratio | Cost % | Pretax % | Weighted |
|---|---------------|-----------------|---------------|-----------------|-----------------|
| Common Equity | \$ 14,683 | 59.6% | 11.50% | 18.40% | 10.96% |
| Long-Term Debt | 9,358 | 38.0% | 4.62% | 4.62% | 1.75% |
| Short-Term Debt | 613 | 2.5% | 1.88% | 1.88% | 0.05% |
| Total Investor Supplied | \$ 24,654 | 100.0% | | | |
| Pretax Overall Cost of Investor-Supplied Capital per FPL | | | | | 12.76% |

11

12 The Company's equity thick capitalization dramatically inflates the revenues that
13 ratepayers must provide, in order to pay income taxes and provide an 11.5 percent
14 return on so much equity capital. Every dollar of rate base that is supported by
15 investor-supplied capital would require 12.7 cents of pretax return revenues under

⁶¹ MFR Schedule A-1 applies a "Net Operating Income Multiplier" of 1.63024 at line 14 to recognize that additional Net Operating Income for common equity investors requires this factor up for income taxes. MFR Schedule C-44, in turn, depicts the development of this factor, revealing that it includes Federal income taxes at a 35% rate, State income tax at 5.5% and a small additional allowance for regulatory assessments and bad debts.

⁶² "Pretax" means inclusive of the income taxes that are assessed on the net income that is required to provide the authorized equity return.

⁶³ For this illustration, bad debts and regulatory assessments are ignored and a simplified 1.6 factor is applied to the equity component of investor supplied capital. It also assumes that no changes to deferred income taxes, customer deposits or investment tax credits that are included in the ratemaking capital structure would be caused by adoption of an alternative equity ratio for ratemaking purposes.

1 the Company's cost of capital proposal. In contrast, by remixing the investor-
 2 supplied elements of the capital structure to limit the equity ratio to an industry
 3 average 47 percent, while leaving FPL's excessive 11.5% ROE recommendation
 4 unchanged, one can observe the dramatically lower pretax return percentage that
 5 ratepayers are required support with revenues if more typical industry average
 6 equity capitalization ratios were employed:

Investor-Supplied Cost of Capital - Equity Ratio at 47% (test year):

| | Amount | TY Ratio | Cost % | Pretax % | Weighted |
|---|---------------|-----------------|---------------|-----------------|-----------------|
| Common Equity | \$ 11,587 | 47.0% | 11.50% | 18.40% | 8.65% |
| Long-Term Debt | 12,454 | 50.5% | 4.62% | 4.62% | 2.33% |
| Short-Term Debt | 613 | 2.5% | 1.88% | 1.88% | 0.05% |
| Total Investor Supplied | \$ 24,654 | 100.0% | | | |
| Pretax Overall Cost of Investor-Supplied Capital at 47% Equity | | | | | <u>11.03%</u> |

9
 10 The pretax cost of investor supplied capital declines dramatically with lower equity
 11 included in the ratemaking capital structure.

12 **Q. Using this illustrative information, how much higher are the revenue**
 13 **requirements in the Company's 2017 test year at FPL's proposed equity ratio,**
 14 **compared to industry average equity ratios?**

15 A. Yes. Using FPL's asserted 2017 test year revenue requirement as an example, if the
 16 ratemaking capital structure were limited to a more typical 47 percent weighting of
 17 common equity within the financial capital structure used to set rates, holding all

1 else constant in the Company's filing, the resulting revenue requirement in the 2017
2 test year would decline by approximately \$426 million.⁶⁴

3 **Q. Would significant revenue requirement reductions also occur in the**
4 **Company's proposed 2018 Subsequent year and 2019 Limited Scope**
5 **Adjustment for the Okeechobee project if the equity ratio were limited to**
6 **industry average levels?**

7 A. Yes. Large reductions in revenue requirement would occur in every test year, if
8 FPL were constrained by the Commission to a more typical, industry average level
9 of equity capitalization.

10 **Q. Why should reasonably "balanced" ratios of equity and debt capital be**
11 **employed by electric utilities and be used to determined electric utility revenue**
12 **requirement?**

13 A. If one considered only the static difference in equity versus debt costs of capital,
14 extremely high debt ratios would be desirable so as to maximize the "leverage" of
15 utility income streams for the benefit of the utility and its ratepayers. As noted
16 above, long term debt capital is much less costly than common equity and the return
17 charged to ratepayers for debt capital is not subject to income taxes, a cost that
18 greatly amplifies the cost of added equity capital. On the other hand, adding higher
19 proportions of debt to the capital structure increases financial risk to the utility,
20 because interest and principal repayment on debt is a fixed obligation that must paid
21 regardless of variations in income. Higher debt "leverage" increases earnings

⁶⁴ Rate base for 2017 on MFR Schedule A-1 of \$32,536 million, less \$7,882 million supported by non-investor supplied capital in MFR Schedule D-1 of (\$7,368 Deferred Taxes + \$106 ITC + \$407 Deposits), yields investor supplied capital of \$24,654 million. Reducing the pretax return requirement on this amount of investor-supplied capital from 12.76% to 11.03% (a change of 1.73%) would reduce the revenue requirement by approximately \$426 million.

1 volatility because reported income is reduced by interest expense, in amounts that
2 grow whenever more debt is included in the capitalization of any business. This is
3 why electric utilities generally maintain a balanced capital structure employing
4 equity ratios that generally fall between 45 and 50 percent of total investor-supplied
5 capital.

6 **Q. How does FPL's equity ratio compare to the average equity ratios of other**
7 **electric utilities?**

8 A. By any comparison, the Company's proposed ratemaking equity ratio is excessive.
9 According to AUS Monthly Utility Reports June 2016 issue, the average common
10 equity ratio for a sample of 17 large investor owned electric utilities was only 46.1
11 percent.⁶⁵ I have included a copy of this report as AARP Exhibit 1.5 to my
12 testimony. Similarly, an industry survey published by the Edison Electric Institute,
13 the EEI 2015 Financial Review of Electric Utilities indicates a composite common
14 equity ratio for the "Regulated" category of the U.S Investor-Owned Electric Utility
15 Industry at 45.7 percent at year-end 2014 and 44.9 percent at year-end 2015.⁶⁶ As a
16 third source of industry data, I downloaded current balance sheet statistics from Y
17 Charts for 26 of the largest investor-owned electric utilities in North America and
18 the average equity ratio for this group is 46.9 percent. This information is
19 summarized in AARP Exhibit 1.6. Even FPL's own rate of return witness, Mr.
20 Hevert, relies upon a proxy group of electric utilities with an indicated mean "%

⁶⁵ See AARP Exhibit 1.5, June 2016 AUS Utility Report, page 6. NextEra Energy is included at a reported common equity ratio of only 40.9 percent that is presented to the investment community on a consolidated basis. However, for ratemaking purposes a much higher 59.6% equity ratio is used, which has the effect of increasing FPL's revenue requirement.

⁶⁶ Edison Electric Institute, 2015 Financial Review, page 14, available at: http://www.eei.org/resourcesandmedia/industrydataanalysis/industryfinancialanalysis/finreview/Documents/FinancialReview_2015.pdf "Regulated" electric utilities are those with greater than 80% of total asset subject to regulation.

1 Common Equity” ratio of about 53 percent for this group, a level significantly
2 below FPL’s proposed 59.6 % equity ratio. Notably, Mr. Hevert’s selected proxy
3 group includes several outlier utilities with equity ratios above 70 percent and
4 includes no electric utilities with an equity ratio below 45 percent.⁶⁷

5 **Q. How does the actual consolidated equity ratio of FPL’s parent company, NextEra**
6 **Energy, Inc. compare to the equity thick capital structure that NextEra maintains**
7 **within its FPL subsidiary?**

8 A. The capitalization used for NextEra’s consolidated business employs much less equity,
9 so as to take advantage of the cost savings of increased debt leverage for shareholders.
10 NextEra Energy, Inc. maintains a consolidated equity ratio of only 42 percent,⁶⁸ as of
11 March 31, 2016, that is more consistent with typical electric utility industry
12 capitalization policies. However, for ratemaking purposes, FPL proposes that the
13 financial benefits of higher debt maintained on a consolidated basis by NextEra Energy,
14 Inc. be ignored when determining utility rates in Florida.

15 **Q. Is NextEra, Inc., through ownership control of FPL and its other subsidiaries, able**
16 **to control the attribution of its equity capital among its various business units**
17 **without impacting its overall, consolidated capital structure?**

18 A. Yes. NextEra Energy, Inc., as controlling parent of FPL, has both the ability and a
19 strong financial incentive to maximize the amount of equity capital that is directed into
20 FPL’s regulated utility balance sheet, because any additional FPL equity that is accepted
21 by the Commission translates directly into higher revenue requirements. NextEra

⁶⁷ See FPL Exhibit RBH-10, page 1.

⁶⁸ NextEra, Inc. Condensed Consolidated Balance Sheets supporting SEC 8K reporting available at: <http://www.investor.nexteraenergy.com/phoenix.zhtml?c=88486&p=EarningsRelease> includes total equity of \$23.6 billion, LT debt of \$27.8 billion and commercial paper, notes payable and current maturities of LT debt of \$1.6, \$0.9 and \$2.1 billion, respectively.

1 Energy Inc., as FPL's parent company, decides the timing and amounts of debt financing
2 within each subsidiary, controls the infusion of equity capital into subsidiary units and
3 directs the upstream dividend policies adopted by each subsidiary. The parent
4 company's discretion around these decisions allows the consolidated business to adopt
5 policies that maximize the common equity ratio within FPL that will be tolerated by the
6 Commission because doing so maximizes utility revenue requirements and earnings.

7 **Q. Has FPL presented any evidence to show that its equity "thick" capitalization**
8 **policy for is cost effective for ratepayers?**

9 A. No. FPL's proposed extremely high equity ratios should minimize financial risk and
10 result in far below average required returns on equity capital. However, FPL has
11 inexplicably proposed an ROE far above levels recently granted to other public utilities
12 in spite of its equity thick capitalization. Thus, there is no offsetting ROE benefit to FPL
13 ratepayers attributed to the very costly equity thick capitalization that is proposed. I
14 have seen no evidence from FPL quantifying how its equity ratio exceeding 59 percent
15 applied to a proposed ROE of 11.5 percent, which both representing levels significantly
16 higher than industry norms, can be considered cost effective from the perspective of
17 ratepayers. Even when consideration is given to any incremental benefits from higher
18 credit ratings or lower costs upon newly issued debt, the much higher nominal costs of
19 equity capital and related income taxes that are imposed upon ratepayers argue for use of
20 a normalized equity ratio for ratemaking purposes.

21 **Q. Do you recommend that the Commission employ either an industry average equity**
22 **ratio not exceeding 47 percent or the much lower consolidated equity ratio of**
23 **NextEra, Inc. in determining revenue requirements, in place of the equity "thick"**
24 **capitalization that is recorded on FPL books?**

1 A. Yes. Absent compelling evidence that FPL ratepayers are better off with the additional
2 equity capital that NextEra maintains within the regulated utility, I recommend that the
3 common equity ratio allowed by the Commission not exceed the high end of the range
4 of published industry averages of 47 percent level in the previously mentioned AUS
5 Report, and levels reported by EEI for 2015 and Y Charts in 2016.

6

7 **VI. EFFICIENCY INCENTIVES / ROE BONUS**

8

9 **Q. FPL witness Mr. Dewhurst argues that the Commission should grant the Company**
10 **“an ROE performance adder of 50 basis points” when setting rates.⁶⁹ Do you agree**
11 **that this is appropriate as a matter of regulatory policy to “reflect what FPL has**
12 **already accomplished” and to promote further efforts to improve the customer**
13 **value proposition” as suggested by Mr. Dewhurst?**

14 A. No. It is the responsibility of utility management to constantly strive for the provision of
15 safe and reliable service at the lowest practical cost and there is no need to burden
16 ratepayers with higher rates in the form of an ROE bonus for such efforts. FPL and
17 NextEra shareholders have been richly rewarded in every year of the past decade with
18 consistently strong earnings under the existing regulatory framework in Florida, without
19 adding another layer of prospective rewards for investors.⁷⁰ Additionally, I understand
20 that FPL has included in its revenue requirement significant costs for incentive
21 compensation that is expected to be awarded to utility employees and management,

⁶⁹ Direct Testimony of Moray Dewhurst, pages 5, 8, 17 and 27-32.

⁷⁰ FPL's response to AARP Interrogatory No. 10 indicates FPL's actual return on average common equity from 2006 through 2015 stayed within a narrow range of 10.14% (in 2009) and 12.01% (in 2006) in spite of the major recession years experienced after 2007.

1 based upon their anticipated ongoing efforts to improve service quality and efficiency,⁷¹
2 so any further bonus payments to shareholders for the same performance would be
3 redundant.

4 **Q. Mr. Dewhurst admits that “all utilities with an obligation to serve will naturally**
5 **strive to deliver good value” but that his experience, “...suggests that there can be**
6 **substantial degrees of difference in how intensively different companies pursue**
7 **opportunities to improve” and because of this he claims, “...[a] performance adder**
8 **would provide positive, economic encouragement to induce a higher degree of**
9 **innovation and a higher degree of ‘stretch’ in pursuit of superior outcomes,**
10 **encouraging utilities to develop initiatives and programs that have the potential to**
11 **generate savings and improve productivity.”⁷² Do you agree with these theories?**

12 A. No. An ROE bonus reward is a blunt instrument that would be very costly to ratepayers.
13 Mr. Dewhurst and FPL have not shown the proposed bonus to be cost-effective in
14 relation to any specifically extraordinary risks taken or achievements accomplished by
15 the utility. Adding 50 basis points to the ROE would charge ratepayers an extra \$119
16 million annually, based upon the Company’s proposed rate base and equity ratio in the
17 2017 test year.⁷³ Mr. Dewhurst and Mr. Reed have not quantified specific and unique
18 benefits that FPL will achieve incrementally in each future year to justify these extra
19 annual charges to customers. In fact, as noted in my prior testimony, the Company’s
20 rate case forecasts do not include any assumed incremental productivity measures that

⁷¹ See FPL responses to Staff Interrogatories 16-21.

⁷² Direct Testimony of Moray Dewhurst, pages 29-30.

⁷³ The overall ROR at an 11% ROE in 2017 on MFR Schedule D-1 would decline to 6.38%, which would flow through Schedule A-1 and reduce the required net operating income by \$73.4 million, then be multiplied by the conversion factor of 1.6x.

1 would reduce future charges to customers as an offset to the return bonus then being
2 collected.

3 **Q. Does the fact that FPL is proposing large base rate increases in its filing in this**
4 **Docket undermine the claims of Mr. Dewhurst that the Company's cost controls**
5 **are better than an average utility?**

6 A. Yes. Mr. Dewhurst and other FPL witnesses repeatedly reference the Company's
7 success in controlling the growth in non-fuel O&M expenses.⁷⁴ However, non-fuel
8 O&M expenses are only one element of the Company's revenue requirement and do not
9 tell the complete story regarding cost controls. The primary driver of FPL-proposed rate
10 increases is the large amounts of capital spending that are planned and forecasted and
11 this is where cost control could be most important to the Company and its ratepayers.
12 The fact that large base rate increases are believed to be required by FPL in each of the
13 next three years is an admission that the Company has limited control over its total cost
14 of service, including capital expenditures and the depreciation of capital assets.

15 **Q. Mr. Dewhurst and other FPL witnesses refer to the Company's electric rates in**
16 **comparison to other electric utilities in Florida and elsewhere.⁷⁵ Is much of this**
17 **comparison influenced by FPL's heavy reliance upon natural gas fuel and the**
18 **favorable trends in market prices for that fuel source?**

19 A. Yes. As indicated in my prior testimony, FPL management cannot realistically claim
20 credit for the large historical declines in natural gas market prices. Additionally, the
21 Company's fuel adjustment procedures will ensure that electric rates will trend upward
22 in the future if natural gas generation fuel market prices rebound.

⁷⁴ See Direct Testimony of Moray Dewhurst at page 28 and of John Reed at pages 24-25.

⁷⁵ Direct Testimony of Moray Dewhurst, page 11, Direct Testimony of Tiffany Cohen, pages 6-7, Direct Testimony of Eric Silagy, pages 4-5.

1 **Q. Should FPL be rewarded prospectively for claimed management performance**
2 **achievements historically?**

3 A. No. Any prospective awards should be tied to future performance. It is important to
4 note that FPL shareholders will be rewarded prospectively with higher earnings in each
5 instance where future cost reductions are achieved by management, because of
6 regulatory lag and the use of forecasted test year in Florida. Unfortunately, this same
7 reward system also provides a strong incentive for overstatement of rate case test year
8 forecasts, making it difficult to distinguish how much of any improved earnings caused
9 by favorable expense and investment variances relative to forecast levels are the result of
10 management performance or overly pessimistic forecasts.

11 **Q. Mr. Dewhurst states that the factors the Commission should consider in evaluating**
12 **ROE performance bonuses for electric utilities include, "...cost or affordability,**
13 **reliability of service, and customer service quality"** as well as **"FPL's comparative**
14 **emissions rates, particularly of CO2, the principal long-term driver of climate**
15 **change."** **Has FPL proposed any specific metrics or committed to any incremental**
16 **future improvement targets for any of these proposed "factors" as a condition for**
17 **the recommended ROE adder?**

18 A. No. If Mr. Dewhurst or FPL are proposing an incentive regulation framework that is
19 more than a reward for claimed past performance, the Company would need to commit
20 to specific measurable future goals and then set the value of any rewards from ratepayers
21 in a manner that is carefully calibrated so that the size of each reward was proportionate
22 to the value of the improvement actually achieved. Presumably, such a system would
23 also require that FPL bake into its rate case forecasts the anticipated performance levels

1 for cost reductions, to ensure that ratepayers actually receive the benefits for which
2 rewards are paid.

3 **Q. Is there a less complicated and more precise way for targeted incentives to be**
4 **directed to utility employees and management personnel who are directly able to**
5 **effect beneficial service quality and cost efficiency changes through their day to day**
6 **actions?**

7 A. Yes. The incentive compensation plans that most utilities have installed are designed to
8 reward employees for performance, in a cost-effective manner that tailors the size of any
9 rewards to achieved results as part of an overall package of compensation. FPL employs
10 such incentive compensation arrangements. According to the Company's SEC filings,
11 the FPL incentive compensation goals adopted for 2015 included metrics for controlling
12 O&M costs, capital expenditures, fossil generation availability, nuclear unit
13 performance, service reliability, employee safety, environmental compliance, customer
14 satisfaction and performance against FERC/NERC reliability standards.⁷⁶

15 **Q. Has Mr. Dewhurst or FPL proposed that ROE penalties be assessed when utilities**
16 **perform poorly?**

17 A. No.⁷⁷ Presumably, utility ratepayers should always pay more for good service through a
18 bonus ROE adder, but not receive any relief from higher rates when performance is

⁷⁶ See NextEra Energy, Inc. SEC Schedule 14A Proxy Statement filed with the SEC on 4/21/2016 to announce NextEra's Annual Meeting of shareholders, page 68. AARP Interrogatory Nos. 39 and 40 asked for more details regarding FPL incentive compensation costs, but the Company declined to answer any of these questions, by improperly interpreting AARP's questions as limited to incentive compensation for the Named Executive Officers discussed in the SEC filing.

⁷⁷ Mr. Dewhurst discounts penalty provisions at page 31 of his testimony, stating, "While penalties for deliberately or negligently poor performance may be appropriate in some circumstances, in the vast majority of cases regulated utilities are seeking to provide good value to customers. The practical issue is how to encourage new and different approaches in order to advance the "state of the art" in providing service to customers."

1 unremarkable. This is a clearly unbalanced view of how regulation should work, that
2 should be rejected by the Commission.

3
4 **VII. RESIDENTIAL CUSTOMER CHARGES**
5

6 **Q. WHAT CHANGES TO RESIDENTIAL CUSTOMER CHARGES ARE**
7 **PROPOSED BY FPL IN THIS DOCKET?**

8 A. According to FPL witness Ms. Cohen, “FPL also proposes a \$2.00 increase to the RS-1
9 Customer Charge to recover a portion of fixed distribution costs currently being
10 recovered through the variable energy charge.” She explains this proposal by stating
11 that, “...over 80 percent of FPL’s costs recovered through base rates are fixed costs,
12 while only 26 percent of these fixed costs are recovered through a fixed charge. In order
13 to more closely align recovery of fixed costs with fixed charges, FPL is proposing this
14 modest customer charge increase.”⁷⁸

15 **Q. Is it necessary or reasonable to recover more of a utility’s “fixed costs” to serve**
16 **residential customers through a “fixed charge” as suggested by Ms. Cohen?**

17 A. No. There are important public policy reasons why electric utilities typically do not
18 have very high fixed residential monthly customer charges, even though the majority of
19 the utility’s costs other than fuel and purchased energy are relatively fixed and do not
20 vary with kWh consumption levels. Low residential customer charges are desirable as a
21 matter of public policy because they:

⁷⁸ Direct Testimony of Tiffany Cohen, page 18. Exhibit TCC-6 at page 3 states that the proposed RS-1 customer charge of \$10.00 would be further increased to \$10.30 in 2019 “...to account for the LSA increase percentage” arising from Okeechobee piecemeal rate increases being proposed by the Company at that time.

- 1 1. Increase the degree of control residential customers have over their monthly
- 2 energy bills, by reducing the fixed charge at zero or minimal energy usage.
- 3 2. Improve affordability for low income customers that also have low monthly
- 4 energy usage levels.
- 5 3. Encourage energy conservation habits with larger per-kWh savings rewards.
- 6 4. Improve the payback on energy efficiency investments with larger bill savings
- 7 for each kWh of ongoing reduced energy consumption.

8 It is not practical or desirable to maintain fully cost-based residential customer charge
9 rates because of these important public policy considerations.

10 **Q. Has the Company provided any cost justification for an increase in its residential**
11 **customer charge in this Docket?**

12 A. No. The Company's cost of service evidence actually supports no increase in this rate
13 element. FPL's existing customer charge of \$7.87 per month⁷⁹ more than covers the
14 monthly fixed "customer" costs that are incurred by FPL to provide meters, meter
15 reading, service lines, billing, collection and other costs to connect and serve each
16 residential customer, while providing a small contribution to remaining fixed costs.⁸⁰
17 The other demand-related fixed costs allocable to the residential class for the production,
18 transmission and network distribution facilities that are needed to serve residential
19 customers cannot be recovered through a "demand" rate because such a rate element
20 does not exist in the residential rate structure. Therefore, these costs are properly

⁷⁹ MFR No. E-14, Attachment 1 of 6, page 11 shows the RS-1 Customer Charge increasing from \$7.87 to \$10.00 per month.

⁸⁰ See, for example, MFR No. E-6a, Attachment 2, page 8, line 2, where "Customer" unit costs for the RS(T)-1 class equal \$6.603212 using the 12cp 25 methodology proposed by FPL.

1 recovered through the per-kWh residential energy rate, to the extent not recovered
2 through the monthly customer charge rate element.

3 Additionally, for the reasons stated in my testimony, it is obvious the FPL's
4 overall asserted rate increase amounts over the next three years have been overstated. If
5 the Commission concludes that the Company's revenue requirement is much smaller
6 than indicated by FPL's filed MFR schedules, there is even less reason to increase
7 monthly residential customer charges.

8 **Q. Does this conclude your testimony at this time?**

9 A. Yes.

1 MR. COFFMAN: We then, I guess, tender
2 Mr. Brosch for cross-examination.

3 CHAIRMAN BROWN: Just one moment.
4 Staff.

5 EXAMINATION

6 BY MS. BROWNLESS:

7 Q Did you identify your exhibits, sir?

8 A I am sorry?

9 Q Are you going to identify your exhibits at
10 this time?

11 A Okay. They are labeled, in headings, AARP
12 Exhibits MLB-1.1 through 1.6. And I understand they
13 have been assigned different numbers for the official
14 record.

15 Q Yes, sir.

16 A And I think I know them to be 198 through 203.

17 Q Thank you.

18 And have you had an opportunity to review
19 what's been marked on the comprehensive exhibit list as
20 No. 537?

21 A I think so if it is -- if that exhibit is
22 AARP's response to FPL's second set of interrogatories
23 numbered 13 and 14. Are we at the same place?

24 Q Yes, sir.

25 A Then -- then I have, yes.

1 Q Okay. And did you prepare these exhibits, or
2 were they prepared under your supervision and control?

3 A They were prepared in collaboration with
4 counsel for AARP.

5 Q Okay. Are the responses here true and correct
6 to the best of your knowledge and belief?

7 A Yes.

8 Q And if you were asked the same questions as in
9 these discovery requests today, would your answers be
10 the same?

11 A Yes.

12 Q And is any portion of this exhibit
13 confidential, to your knowledge?

14 A Are we still on 537?

15 Q Yes, sir.

16 A To my knowledge, these responses are not
17 confidential.

18 MS. BROWNLESS: Thank you so much.

19 CHAIRMAN BROWN: Thank you.

20 Mr. Coffman, is your witness available for a
21 five-minute brief summary?

22 MR. COFFMAN: Yes. I believe he has prepared
23 one.

24 THE WITNESS: I have.

25 CHAIRMAN BROWN: All right.

1 THE WITNESS: Thank you.

2 Good afternoon, Madam Chair, Commissioners.
3 My testimony on behalf of AARP explains why the
4 multiyear rate plan proposed by FPL should be
5 rejected. That plan would burden the company's
6 ratepayers with cumulative rate increases of about
7 1.3 billion, or more than 23 percent over the
8 company's present base rate revenues. This is not
9 rate stability that would benefit customers.
10 Instead, FPL's plan is a series of large sequential
11 rate increases that are significantly overstated
12 because they rely upon an excessive request of
13 return on equity, that is, made worse by an ROE
14 bonus for past performance, then further amplified
15 by an excessive common equity ratio, all stacked on
16 top of highly uncertain financial forecasts of
17 expenses, rate base and revenue expectations that
18 were prepared by FPL with all the judgment,
19 uncertainty and bias that cannot be avoided in
20 utility forecast creation.

21 The beneficiaries of the company's rate plan
22 proposal, if it is granted by the Commission, would
23 be NextEra shareholders and not Florida's
24 residential ratepayers.

25 My testimony is presented in five sections

1 that I will summarize individually.

2 First, I explain in testimony that the
3 significant rate-making challenges that arise from
4 use of forecasted test years in setting utility
5 rates. I understand that forecasts are used to set
6 utility rates in Florida, and clearly appreciate
7 these challenges because of my work in other states
8 that also use forecasted test years.

9 In any forecasted test years, the input
10 amounts are not based upon known fact data, but,
11 instead, are numbers that are essentially made up
12 by utility management personnel who have unique and
13 unfettered access to the relevant data, and a
14 strong incentive to be sure that all potential
15 future costs can be fully recovered from
16 ratepayers.

17 Forecasted test years are very difficult to
18 regulate because of the judgment that's involved.
19 The tremendous information advantage the utility
20 has and the financial pressures upon management to
21 employ pessimistic forecasting assumptions
22 throughout that process. These are not just my
23 observations, they have been reported by NRRI, the
24 research arm of NARUC, in a report that is attached
25 to my testimony as Exhibit MLB-1.3.

1 FPL's financial forecasts have not been
2 reliable in the recent past. In both of the
3 company's most recent rate cases, management
4 forecast of future O&M expenses were seriously
5 overstated when compared to what was actually spent
6 each of the same years after actual data became
7 available.

8 Regardless of why FPL's actual costs were
9 lower than forecasted, the undeniable outcome is
10 ratepayers paid too much in past years because of
11 the company's unrealistically pessimistic
12 forecasting assumptions. There is considerable
13 risk this will happen again in the 2017 test year
14 because of the same judgments and incentives still
15 faced by management. But it doesn't stop there.
16 FPL has proposed that we also trust their
17 speculative cost estimates to increase rates again
18 in 2018, and then again in 2019. I explain in my
19 testimony that the further one goes into the future
20 attempting to forecast uncertain financial and
21 operating conditions, the greater the uncertainty
22 and risk that those forecasts to be inaccurate.

23 My testimony also addresses return on equity.
24 I do not sponsor a specific ROE study or point
25 estimate, but, instead, note that long-term risk

1 free rates of return in capital markets have
2 declined dramatically since the Commission last
3 approved a 10-percent ROE in FPL's last litigated
4 rate case. I provide a chart illustrating the
5 dramatic decline in risk free 30-year treasury
6 yields supporting my conclusion that FPL should be
7 allowed a return lower than 10 percent that was
8 last set by the Commission.

9 With regard to the equity ratio issue, my
10 testimony explains that FPL is seeking to employ a
11 very equity thick capitalization for rate-making
12 purposes of about 60 percent of financial
13 capitalization. This proposal should be rejected
14 by the Commission because the company has not
15 demonstrated its position on this issue is
16 cost-effective for its ratepayers.

17 There is no denying that I can quit capital is
18 the most expensive form of capital, particularly
19 when income taxes associated with equity are
20 considered. Calculations in my testimony show the
21 difference in cost.

22 When compared to the equity ratios much other
23 utilities, the company's approximately 60 percent
24 equity ratio is excessive, as shown in the AUS, EEI
25 and wide chart's data included in exhibits attached

1 to my testimony.

2 With respect to efficiency rewards, my
3 testimony recommends that FPL's proposed 50 basis
4 point penalty, or bonus, rather, be rejected.

5 CHAIRMAN BROWN: Thank you.

6 Mr. Coffman.

7 MR. COFFMAN: AARP would now offer Mr. Brosch
8 for cross-examination.

9 CHAIRMAN BROWN: Okay.

10 Thank you, and welcome, Mr. Brosch.

11 THE WITNESS: Thank you.

12 CHAIRMAN BROWN: Office of Public Counsel.

13 MR. SAYLER: Good afternoon, Mr. Brosch.

14 THE WITNESS: Good afternoon.

15 MR. SAYLER: We don't have any questions for
16 you today.

17 CHAIRMAN BROWN: Thank you.

18 Mr. Moyle.

19 MR. MOYLE: Thank you. Just a couple
20 questions.

21 EXAMINATION

22 BY MR. MOYLE:

23 Q Sir, what's -- what's pancake rate-making, if
24 you know?

25 A I have heard that term used in connection with

1 the filing of rate increases on top of one another, or
2 for multiple periods before the first case has been
3 resolved.

4 **Q And is that typically viewed as a good thing**
5 **or a bad thing? Or can you char -- how would you**
6 **characterize it?**

7 A I would characterize that as problematic for
8 regulators to deal with because of the additional
9 complexity and uncertainty associated with trying to
10 address changing cost of service across multiple periods
11 of time.

12 **Q Okay. And that concerned you, in your**
13 **opinion, believe it is presented here given that we have**
14 **a request of change rates in '17, '18 and '19?**

15 MR. DONALDSON: Objection, this is friendly
16 cross.

17 CHAIRMAN BROWN: Mr. Moyle.

18 MR. DONALDSON: And I don't see a position
19 where he is adverse to this line of questioning.

20 CHAIRMAN BROWN: Mr. Moyle.

21 MR. MOYLE: I am adverse to about everything
22 FPL is trying to do in this case.

23 MR. DONALDSON: Well, apparently he is not
24 adverse to the witness' testimony.

25 CHAIRMAN BROWN: If you could focus your

1 questions on -- on -- refocus your questions so
2 that they are not friendly, and that they are
3 adverse to your position, those will be acceptable.

4 BY MR. MOYLE:

5 Q Do you know Mr. Pollock?

6 A Yes.

7 Q And you know that he is a professional,
8 credible witness, whose testimony -- well, you don't
9 have any reason --

10 MR. DONALDSON: Can I object now?

11 CHAIRMAN BROWN: He gets himself in trouble.

12 MR. MOYLE: I am sorry.

13 MR. DONALDSON: I haven't even taken my button
14 off.

15 BY MR. MOYLE:

16 Q You don't have any reason, do you, to believe
17 that Mr. Pollock, in providing testimony, would do
18 anything other than provide professional testimony
19 consistent with regulatory policy?

20 MR. DONALDSON: Objection. This is bolstering
21 and inappropriate.

22 CHAIRMAN BROWN: Objection sustained.

23 COMMISSIONER GRAHAM: It's okay to say you
24 don't have questions.

25 MR. MOYLE: Okay. I think I am done. Thank

1 you.

2 CHAIRMAN BROWN: Commissioner Graham.

3 All right. Hospitals.

4 MR. SUNBACK: Thank you, Madam Chair.

5 Following Commissioner Graham's advice, we have no
6 questions.

7 CHAIRMAN BROWN: Retail Federation.

8 MR. LAVIA: No questions, Madam Chair. Thank
9 you.

10 CHAIRMAN BROWN: FEA.

11 MR. JERNIGAN: No questions for FEA, ma'am.

12 CHAIRMAN BROWN: Thank you.

13 Sierra Club is not here.

14 Wal-Mart.

15 UNIDENDIFIED SPEAKER: No questions, ma'am.

16 CHAIRMAN BROWN: Thank you.

17 Florida Power & Light.

18 MR. DONALDSON: Yes, we have questions.

19 EXAMINATION

20 BY MR. DONALDSON:

21 **Q Good afternoon, Mr. Brosch. Kevin Donaldson**
22 **on behalf of FPL. How are you today?**

23 A Good afternoon. Fine, thank you.

24 **Q Good. All right. Can you turn to your now**
25 **revised page one on the bottom?**

1 A Okay.

2 Q And I am looking on lines 13 through 15. And
3 let me know when you are there.

4 A Yes.

5 Q Okay. Am I correct that you are appearing on
6 behalf of AARP, which is a nonprofit membership
7 organization that is focused on providing information
8 and services to members overage 50?

9 A Yes, that's what it says there.

10 Q All right. I want to delve into your reason
11 for being here a little bit further today, if you don't
12 mind.

13 MR. DONALDSON: I have an exhibit to past out,
14 please.

15 CHAIRMAN BROWN: Okay. We are at 731.

16 MR. DONALDSON: Exhibits.

17 CHAIRMAN BROWN: Oh, thank you.

18 Staff, please assist Mr. Donaldson. Thank
19 you.

20 Okay. So, Mr. Donaldson, as I indicated, we
21 are at 731. Would you like these marked at this
22 time?

23 MR. DONALDSON: Yes. So the first one that
24 731 would be AARP's response to FPL's first INT
25 numbers 12 and first POD number four.

1 CHAIRMAN BROWN: Okay. We are going to mark
2 that. And, Mr. Brosch, if you could mark them
3 along with us, that will help in your response to
4 questions.

5 THE WITNESS: All right.

6 CHAIRMAN BROWN: So we are going to mark that,
7 as Mr. Donaldson indicated, as Exhibit 731.

8 (Whereupon, Exhibit No. 731 was marked for
9 identification.)

10 MR. DONALDSON: 732 can be AARP's
11 correspondence to FPL customers.

12 CHAIRMAN BROWN: We are going to mark that, as
13 you have just indicated, as Exhibit 732.

14 (Whereupon, Exhibit No. 732 was marked for
15 identification.)

16 CHAIRMAN BROWN: Okay.

17 MR. DONALDSON: 733 will be AARP's membership
18 fee increase.

19 CHAIRMAN BROWN: Okay. We are going to mark
20 that, again as you indicated, as 733.

21 (Whereupon, Exhibit No. 733 was marked for
22 identification.)

23 CHAIRMAN BROWN: And then the last one, which
24 is Social Security cost of living adjustment
25 history, we are going to mark that as 734.

1 MR. DONALDSON: Thank you, Madam Chair.

2 CHAIRMAN BROWN: You are welcome.

3 (Whereupon, Exhibit No. 734 was marked for
4 identification.)

5 CHAIRMAN BROWN: Mr. Brosch, I just want to
6 make sure you have all the documents in front of
7 you.

8 THE WITNESS: I have four documents that I
9 have I tried to follow along and number 731 through
10 734.

11 CHAIRMAN BROWN: That's right.

12 All right. Please proceed when you are ready.

13 MR. DONALDSON: Thank you.

14 BY MR. DONALDSON:

15 Q So you are here on behalf of the nonprofit arm
16 of AARP, is that correct?

17 A As far as I know. I know them only as AARP.
18 I am not familiar with what you are calling the
19 nonprofit arm.

20 Q Well, are you aware --

21 MR. COFFMAN: Objection, I am not -- I don't
22 know what the foundation of this nonprofit arm
23 presumption is.

24 CHAIRMAN BROWN: I will allow the question.

25 MR. DONALDSON: Okay.

1 BY MR. DONALDSON:

2 Q Well, I am just reading what your testimony
3 says --

4 CHAIRMAN BROWN: I will allow the question.

5 MR. DONALDSON: Thank you.

6 BY MR. DONALDSON:

7 Q Are you aware that there is a for-profit side
8 of AARP?

9 A No. I have no awareness of that.

10 Q Okay. So you are not aware of AARP selling
11 insurance or royalties for credit cards, or things of
12 that nature, and you are not appearing for that side of
13 AARP; is that correct?

14 A I have no familiarity with AARP activities of
15 that sort.

16 Q Okay. Are you a member of AARP?

17 A I believe I am. I am not certain.

18 MR. MOYLE: I would just note, the fact
19 whether they provide insurance, whether they, you
20 know, do this other stuff, that -- that should be
21 stricken. It's not in the record as evidence. It
22 was counsel's question with respect to that. The
23 witness said he has no knowledge of it, so --
24 anyway.

25 CHAIRMAN BROWN: Mr. Donaldson.

1 MR. DONALDSON: I am simply asking him on
2 whose behalf he is appearing for to make sure that
3 the record is clear that he is appearing on the
4 nonprofit side of AARP, and not on the nonprofit
5 and profit -- for-profit side of AARP. I just want
6 to make sure the record is clear as far as who
7 Mr. Brosch is appearing on behalf of.

8 MR. COFFMAN: Asked and answered.

9 CHAIRMAN BROWN: Okay. Please proceed.

10 MR. DONALDSON: Thank you.

11 CHAIRMAN BROWN: We will not strike that
12 portion.

13 BY MR. DONALDSON:

14 **Q Mr. Brosch, can you turn to Exhibit 731, and**
15 **go to the last page, which is the POD response that FPL**
16 **requested from AARP, and let me know when you are there.**

17 A It has a number four at the top?

18 Q **It does.**

19 A I am there.

20 Q **Okay. And the question that FPL asked AARP**
21 **was to please produce all materials and documents that**
22 **reflect AARP's mandate to participate in this docket.**
23 **Do you see that question, sir?**

24 A I do.

25 Q **Okay. And do you see AARP's response below?**

1 A I am seeing it, yes.

2 Q Okay. Now, the section that I specifically
3 want you to focus on is the part where it talks about
4 "the policy, in part, states as follows," do you see
5 that section, sir?

6 A I am looking at it now.

7 Q All right. And the part that I want to focus
8 you on a little bit further is the "Meaningful Public
9 Participation in Regulatory Proceedings." Do you see
10 that?

11 A I do.

12 Q All right. And do you see where it says, and
13 I will paraphrase some parts, if you don't mind --

14 MR. DONALDSON: Your Honor, I am going to
15 object to this line of questioning. Mr. Brosch has
16 stated he has no familiarity with the workings of
17 AARP, and this line of questioning seems to be
18 leading toward some sort of impeachment of AARP, or
19 other irrelevant matters that don't relate to the
20 cost of providing service by FPL.

21 CHAIRMAN BROWN: Mr. Donaldson.

22 MR. DONALDSON: Actually it does relate to it,
23 because this witness is being put on in this
24 proceeding to discuss, as he discusses, focuses on
25 providing services of services and members to over

1 50 -- members of over 50, as well as I also address
2 certain policy reasons why residential customers
3 should not be increased.

4 And so he is providing testimony in this case
5 with respect to what these residential customers
6 that AARP seems to represent are being charged, and
7 I am just trying to delve into this further as far
8 as when he was hired to do this analysis, what he
9 understands the analysis was supposed to be doing
10 in maintaining what the mandate of AARP says.

11 CHAIRMAN BROWN: Objection overruled.

12 You may answer the question.

13 MR. DONALDSON: Sure.

14 BY MR. DONALDSON:

15 **Q So do you -- go ahead.**

16 A Could I have it again? I am not sure I
17 retained your question.

18 **Q Right. Okay.**

19 So do you see the part where it says -- and I
20 am going to paraphrase -- impact on consumer lives, do
21 you see that? It's the first line.

22 A Yes.

23 **Q And where it says the affect -- this is three**
24 **lines down -- the affect that -- that affected the cost,**
25 **quality and availability of electricity. Do you see**

1 that?

2 A And some other things, yes.

3 Q Right. I mean, it talks about natural gas,
4 telecommunications and water, but we are not dealing
5 with telecommunications here; is that right?

6 A That's correct.

7 Q And we are not dealing with water; is that
8 right?

9 A True.

10 Q Okay. And this is not a natural gas
11 transportation company, correct?

12 A FPL is not.

13 Q All right. So we are just strictly limiting
14 it to electricity, can we agree to that?

15 A Okay.

16 Q Okay. So with respect to the cost aspect that
17 the mandate is seeking to deal with, are you aware of
18 any cost issues in this particular case where FPL's
19 bills are not lower than other utilities' bills?

20 MR. DONALDSON: Objection --

21 BY MR. DONALDSON:

22 Q -- in the state of Florida as it relates to
23 cost for the members of AARP?

24 MR. DONALDSON: Objection. This -- this
25 question is premised on some understanding of

1 this -- the AARP guide book for which I don't think
2 Mr. Brosch has any knowledge of or understanding.

3 This -- these questions are apparently
4 designed to impeach AARP as an organization, not
5 Mr. Brosch's opinions and role in this case, which
6 is to provide recommendations based for residential
7 customers.

8 CHAIRMAN BROWN: Mr. Donaldson, can you lay a
9 foundation?

10 MR. DONALDSON: Sure.

11 Well, on page two of his -- actually, he talks
12 about cost several places. If you go to page 14 of
13 his -- of his prefiled direct testimony, lines 10
14 through 12, specifically he states: "Base rate
15 charges to residential customers at this usage
16 level" -- and he is talking about what's going on
17 with the actual bills of customers -- have already
18 increased a certain percentage in the past four
19 years, and are well above general inflation.

20 And so he is supposed to be providing
21 testimony on the costs that are going to be
22 affected to his -- the members of AARP, and I am
23 trying to delve in a little bit, when they are
24 talking about cost whether or not he knows whether
25 FPL's cost that his members pay are lower or higher

1 than other general utilities in the state of
2 Florida.

3 MR. COFFMAN: Your Honor, that's not exactly
4 correct. AARP is providing recommendations in this
5 case through Mr. Brosch's testimony on behalf of
6 all residential customers. Not just AARP members?

7 CHAIRMAN BROWN: Okay.

8 MR. DONALDSON: We are not trying -- AARP is
9 not seeking some sort of special benefit for its
10 members through this case.

11 CHAIRMAN BROWN: Got you. Thank you.

12 Mr. Donaldson, could you rephrase your
13 question, or repeat your question so I can --

14 MR. DONALDSON: Well, let me get a little
15 clarity, because I thought I just heard counsel say
16 that they are doing it for all residential folks
17 and not AARP members. And I thought that that's
18 what the position of the Office of Public Counsel
19 is, is to represent all the residential customers
20 and all customers within the state of Florida.

21 CHAIRMAN BROWN: Yes, Mr. Coffman.

22 MR. COFFMAN: I mean, I can't speak for OPC,
23 because, but, yes, AARP's interest in this case, as
24 stated in our application to intervene, is all
25 residential customers, the interest of residential

1 customers, not all customers, and not just AARP
2 members, but all residential customers.

3 CHAIRMAN BROWN: Okay.

4 MR. DONALDSON: Members over 50, that's what
5 his testimony says, so I am focusing only on what
6 his testimony says.

7 MR. COFFMAN: And not just customers over 50,
8 but all residential customers.

9 MR. DONALDSON: Okay, well --

10 CHAIRMAN BROWN: Mr. Donaldson.

11 MR. DONALDSON: Well, can I ask him if he is
12 going to amend his -- who you are representing
13 then? Do you want to amend that, sir?

14 CHAIRMAN BROWN: Mr. Coffman.

15 MR. COFFMAN: Amend what?

16 MR. DONALDSON: Who he is representing.

17 MS. BROWNLESS: Madam Chair.

18 CHAIRMAN BROWN: Yes.

19 MR. DONALDSON: The testimony of Mr. Brosch --

20 CHAIRMAN BROWN: Just one second, Mr. Coffman.
21 Ms. Brownless.

22 MS. BROWNLESS: Okay. I believe I have an
23 objection to this line of questioning as to
24 relevance. If you wish to ask Mr. Brosch
25 specifically what he is talking about, or referring

1 to on page 14, lines 11 through 13, that appears to
2 me to be fair game and relevant. However, if you
3 wish to talk about AARP policy, I do not know how
4 that is relevant to this proceeding and what we are
5 discussing here. So perhaps FPL's counsel could
6 clear that up.

7 MR. DONALDSON: Sure. Well, it seems that
8 AARP's policy is actually trying to introduce
9 whatever their policy is into this particular
10 proceedings through this witness here. And --
11 no -- and by it that fact, and the opinions that he
12 is taking on behalf of AARP, that is the reason why
13 I am questioning what his purpose -- meaning who --
14 why -- when he was hired, what was he hired to do?
15 Was he hired to effectuate an analysis on the cost,
16 on the quality, on the availability of
17 electricity --

18 CHAIRMAN BROWN: Okay. Okay.

19 MR. DONALDSON: -- things of that nature that
20 their mandate states, and so I am just trying to
21 make sure that it's being consistent.

22 CHAIRMAN BROWN: All right. Before I hear
23 from you, Mr. Moyle, I want to turn to Ms. Helton.

24 MS. HELTON: As I -- as I am sitting here, it
25 sounds to me like he is trying to get -- Mr.

1 Donaldson is trying to get to whether AARP should
2 have standing in this matter, and AARP has already
3 been granted intervention status. And I am also
4 having -- struggling with how this is relevant to
5 the proceeding as far as his line of questioning
6 goes.

7 CHAIRMAN BROWN: All right.

8 Mr. Donaldson, is there a way you can move
9 along?

10 MR. DONALDSON: Sure.

11 CHAIRMAN BROWN: Thank you.

12 MR. DONALDSON: Sure.

13 BY MR. DONALDSON:

14 **Q Let me see if I can ask you this way:**

15 **Mr. Brosch, is there anything in your testimony that**
16 **talks about the quality of service that FPL is**
17 **providing? Yes or no?**

18 A Not with any specificity, the answer is no.

19 **Q Okay. Is there anything in your testimony**
20 **that talks about the reliability that FPL is providing**
21 **to AARP or those members over the age of 50? Yes or no?**

22 A To my knowledge, there is no discussion of any
23 specific reliability differences for any groups of FPL
24 customers.

25 **Q Okay. Can you tell me, when were you hired in**

1 **this particular case?**

2 A I don't recall.

3 **Q Was it this year?**

4 A Yes.

5 **Q Was it in the spring?**

6 A Probably.

7 **Q Was it before FPL filed its direct case, which**
8 **was March 15th of this year?**

9 A I think it might have been soon thereafter.

10 **Q Okay. Have you performed any analysis -- or**
11 **let me ask you this way: In looking in your -- in your**
12 **testimony, I did not see in the analysis where you**
13 **specified what profits -- and I am going to use that**
14 **word, quote, unquote, profits -- that FPL would be**
15 **incurring as a result of this base rate increase. Is**
16 **there something in your testimony that goes to that**
17 **effect?**

18 A One could construe all of my discussion around
19 the multiple year rate plan, the return on equity, the
20 equity ratio and the ROE bonus as having an impact on
21 FPL's future profits.

22 **Q Maybe I am -- you are not understanding my**
23 **question.**

24 Is there a number that you calculated that is
25 within your testimony that specifies what FPL's profits

1 are going to be as a result of this base rate request?

2 Yes or no?

3 A There are numbers -- yes, there are numbers
4 specified that the authorized ROE should not exceed 10
5 percent; that the equity ratio should be reduce the more
6 towards the --

7 Q I don't think you are understanding my
8 question --

9 MR. DONALDSON: I am sorry, Madam Chairman. I
10 don't think he was understanding my question, so
11 let me see if I can do it a different way.

12 MR. MOYLE: Can I object to the form with
13 respect that profits? I mean, I think that term
14 has been used, but it would help probably to know
15 exactly what's being referenced.

16 CHAIRMAN BROWN: Okay. And Mr. Donaldson is
17 going to try to restate his question so that the
18 witness understands.

19 Just a reminder, please don't interrupt the
20 witness when he is trying to respond.

21 MR. DONALDSON: I apologize, Madam Chair.

22 CHAIRMAN BROWN: Thank you.

23 BY MR. DONALDSON:

24 Q Can you look at Exhibit 732?

25 CHAIRMAN BROWN: And that should be in front

1 of you. And that's the AARP correspondence to FPL
2 customers.

3 THE WITNESS: I have it.

4 BY MR. DONALDSON:

5 Q All right. Now, have you seen this
6 correspondence to AARP's members before today?

7 A I may have seen a copy of this seeking
8 confirmation of numbers. I am not entirely sure whether
9 I did or not.

10 Q Okay. I want to direct your attention to
11 where it says number one, do you see that, sir?

12 A I see that.

13 Q It's indented, and it says, 960 million of
14 FPL's rate increase will go into investor profits. Is
15 that a number that you provided to AARP?

16 A I don't recall. I don't think so. My
17 recollection is there was a draft that I was asked to
18 review, and it may have been provided after circulation.
19 I really don't have much recall of this.

20 Q Okay. Did you calculate that \$960 million
21 number, sir?

22 A I don't think so.

23 Q Okay. And the part where it says number two,
24 according to its own filing, FPL is on target to make
25 1.6 billion in profit in 2017 without the requested rate

1 **increase. Did you calculate that number and provide**
2 **that to AARP?**

3 A Not that I recall.

4 Q **Okay. We were talking about when you were**
5 **hired. How many hours have you put into this case?**

6 A I have record of that but not good recall.

7 Q **Okay. How much have you charged AARP for your**
8 **services, to date?**

9 A I expect it would be in the neighborhood of
10 \$30,000 to \$35,000.

11 Q **Okay. Now, I want to go and actually look at**
12 **your CV, which I believe is an exhibit to your**
13 **testimony.**

14 A The one marked MLB-1.1 in my copy?

15 Q **That was the same as my copy as well.**

16 A Okay.

17 Q **All right. And we can turn to page four of**
18 **eight.**

19 A Oh, you are on the list now.

20 MR. COFFMAN: You are looking at 1.2.

21 MR. DONALDSON: I am sorry. Yes. MLB-1.2. I
22 apologize, counsel.

23 THE WITNESS: All right. I am at page four of
24 the list of prior testimony.

25 BY MR. DONALDSON:

1 Q Okay. And, sir, within the last 20 years of
2 you testifying for numerous different consumer advocates
3 throughout the state -- or throughout the country, am I
4 correct that most of those testimonies have been
5 primarily in either Hawaii, or as they say out there
6 Hawaii, or Illinois -- Illinois?

7 A Well, if you look more broadly at the list,
8 you will see that the first long string of early cases
9 back in the late '70s was when I was employed by the
10 Missouri PSC staff.

11 Q That wasn't my question. I said within the
12 last 20 years from -- that's why I started on page four
13 of eight, going forward.

14 A Oh, you only want to talk about '95 and
15 beyond?

16 Q Yes. The last 20 years.

17 A The Attorney General, State of Oklahoma, the
18 staff of the Arizona Corporation Commission.

19 Q All right. My question is just --

20 A There has been a lot of diversity there.

21 Q Right. But was a majority -- I counted it up,
22 and you had -- you appeared, within the last 24 years --
23 20 years, 24 times in Illinois and approximately 16
24 times in Hawaii, would you agree with that, subject to
25 check?

1 A Yes. Yes. Let me explain. It's referenced
2 in my testimony. In the state of Illinois, there are
3 annual formula rates permitted under the EMA statute
4 that require the two large electric utilities to come in
5 every year and update their cost of service, which gives
6 rise to many cases year after year that you see listed.

7 In the state of Hawaii, since we started
8 working there, my firm has come to process all of the
9 major rate cases for -- for the state agency that
10 oversees regulation of utilities in Hawaii.

11 Q **And when you say your firm, you are the**
12 **principle and owner of Ulitech (sic), is that correct?**

13 A I call it Utilitech.

14 Q **I am sorry, Utilitech.**

15 A And I am the partial owner and president.

16 Q **Okay. Now, this is your first time actually**
17 **appearing before this commission in a base rate**
18 **proceeding; isn't that right?**

19 A No.

20 Q **In a base rate proceeding?**

21 A Well, I don't know how base rates may apply,
22 but I worked and appeared before this commission on
23 behalf of the Office of Public Counsel in
24 telecommunications rate cases many years ago.

25 Q **And that was in 1992?**

1 A It sounds like you are more familiar with my
2 list than I am.

3 **Q As I should be, I am cross-examining you on**
4 **it, so I want to make sure I know what you are talking**
5 **about.**

6 A Yes, I am. Telephone rates, I don't know if
7 you can call them -- I guess some of them are base rates
8 back in the day.

9 **Q But for electric -- an electric company base**
10 **rate proceeding, this is the first time you are**
11 **appearing here today, is that correct?**

12 A Probably, to my recollection, yes.

13 **Q Okay. Now, with respect to the testimonies**
14 **that you provide in Illinois, would you agree -- and**
15 **subject to check, if you want to -- that the electric**
16 **rates in Illinois are higher than the electric rates**
17 **here in Florida and FPL?**

18 A It's a little difficult to generalize because
19 Illinois is unbundled, and the regulated rates are only
20 for electric delivery service, but I would expect,
21 because of differences in the overall cost environment,
22 fuel mix, fuel sources and the like, and the affects of
23 deregulated generation, that many consumers in Illinois
24 pay higher rates than here.

25 **Q Okay. And would you also agree that, for**

1 those times that you appeared in Hawaii over the last 20
2 years, that the electric rates in Hawaii are
3 substantially higher than the electric rates here in
4 Florida?

5 A They are generally the highest in the United
6 States because of the structural differences of no
7 native fuel supply in the state, and a number of other
8 high cost considerations, non-interconnected electric
9 grids. There are many reasons why electric rates are
10 high in Hawaii that don't necessarily reflect on the
11 relative performance of utility management in that
12 state.

13 Q Okay. Would you happen to know what the
14 membership fee for AARP is?

15 A I don't.

16 Q Okay. If I told you that, in 2009, it was
17 \$12.50, would you have any reason to dispute that?

18 A I have no knowledge of it.

19 Q Okay. Can you actually look at Exhibit 7 --

20 CHAIRMAN BROWN: 33.

21 MR. DONALDSON: 33. Thank you, Madam Chair.

22 CHAIRMAN BROWN: You are welcome.

23 THE WITNESS: All right.

24 BY MR. DONALDSON:

25 Q Do you see the first line, where it says that

1 in February 2009, AARP was increasing its dues from
2 \$12.50 to \$16? Do you see that, sir?

3 MR. COFFMAN: Objection, relevance.

4 Absolutely irrelevant to Florida Power & Light's
5 rates and rate design.

6 MR. MOYLE: And objection. He said he doesn't
7 know anything about it. He can't put a document in
8 front of him and then tell him --

9 CHAIRMAN BROWN: I am more inclined to agree
10 with FIPUG on the fact that he -- the witness just
11 testified that he had no knowledge of the
12 membership fee, and this is directly dealing with
13 membership dues. So I would beg to question,
14 counsel, how this is relevant.

15 MR. DONALDSON: Well, Mr. Brosch talks about
16 the level of increase, in percentage increase, with
17 respect to FPL's rates. And I am just trying to
18 show that, for his client, who is being represented
19 by AARP, the one-year increase between the rates
20 that they set in 2009 and to the \$16 is a
21 28-percent increase, which is much different than
22 what FPL is doing in this case, so -- and he makes
23 specific objections and opinions about the way that
24 we are increasing our rates.

25 So it's relevant to the credibility of the

1 witness. It's relevant to the positions that he is
2 taking as far as when increases are occurring, and
3 that's the reason why I am asking the questions on
4 it.

5 MR. COFFMAN: Your Honor --

6 CHAIRMAN BROWN: I agree with FIPUG, objection
7 sustained.

8 Please move along.

9 MR. DONALDSON: Okay.

10 BY MR. DONALDSON:

11 Q Mr. Brosch, would you agree, subject to check,
12 that FPL's rates -- well, FPL's bills are 14 percent
13 lower than they were in 2006?

14 A Are you talking about residential bills? What
15 bills are we --

16 Q Yeah, residential bills?

17 A I recall a response to a company witness in my
18 testimony -- maybe you have the reference for me.

19 Q It's Ms. Cohen.

20 A I see at the top of page nine of my testimony
21 my reference to Ms. Cohen, where I am referencing the
22 trend in gas prices, and suggesting that comparisons of
23 bills back to 2006 should be made with constant natural
24 gas prices so that we can track the parts of performance
25 over those years that FPL management might have played.

1 Q So if I understand you correctly, you want to
2 keep gas prices constant over a 10-year period, even
3 though gas prices have been fluctuating over that
4 10-year period in order to calculate how bills have
5 occurred, increased or decreased; is that -- is that my
6 understanding of your testimony?

7 A Well, I am not sure what your understanding
8 is. My understanding is that FPL would like to take
9 credit for the massive decline in the market price of
10 natural gas in the way it presents and compares customer
11 bills from time to time, and I am suggesting, in my
12 testimony, that that's unreasonable, because those costs
13 are flowed through a fuel adjustment clause because they
14 are presumably determined by this commission to be
15 largely beyond the control of management.

16 Q Would you agree that FPL, through the combined
17 cycle units that it has installed in its system, is
18 operating those units 33 percent more efficient,
19 therefore, burning less fuel than they would have
20 otherwise; you would agree with that statement?

21 A I would agree that generally --

22 MR. DONALDSON: Madam Chair, can he actually
23 say yes or no and then give an explanation, please,
24 and then I will understand where he is going with
25 his response?

1 CHAIRMAN BROWN: Mr. Brosch, it is the, not
2 policy, but our practice --

3 THE WITNESS: Sure.

4 CHAIRMAN BROWN: -- to have a yes or no, I
5 don't know answer followed by a succinct response.

6 THE WITNESS: Thank you.

7 CHAIRMAN BROWN: You are welcome.

8 THE WITNESS: Yes. I expect that when the
9 company incurs cost to modernize its generation
10 fleet by replacing simple cycle combustion turbines
11 and old steam units with more efficient combined
12 cycle units, that in return for ratepayers bearing
13 the positive of that increase in investment
14 included in rate base, they would recover some of
15 the fuel savings through the fuel adjustment
16 clause.

17 BY MR. DONALDSON:

18 **Q And that was a management decision to convert**
19 **its combined cycle -- convert its fleet from old steam**
20 **units to combined cycle units, wasn't it?**

21 A I assume, yes, that management had to make
22 that decision, that it didn't happen without management
23 approval.

24 **Q Okay. And you would agree that not all**
25 **companies make those management decisions, correct?**

1 A I would agree that facts and circumstances may
2 differ between companies from time to time, such that a
3 combined cycle generation investment makes sense under
4 one set of facts and circumstances and not under a
5 different set. I would like to believe that management
6 applies traditional modeling capabilities to those
7 decisions to make optimization decisions about major
8 investments like that.

9 **Q Okay.**

10 A Management at FPL and all the other utilities
11 I have reviewed over the years seek to accomplish least
12 cost planning in that manner.

13 **Q Sir, I want to turn your attention to the**
14 **section of your testimony that talks about the ROE**
15 **performance adder.**

16 CHAIRMAN BROWN: Mr. Donaldson, can you point
17 us to the page?

18 MR. DONALDSON: I am about to turn you right
19 now, Madam Chair.

20 THE WITNESS: Page 51?

21 BY MR. DONALDSON:

22 **Q There we go. Thank you.**

23 A I am there.

24 **Q Thank you. Sir, you are aware that, in**
25 **Florida, this commission has previously granted a**

1 performance adder for superior performance in the Gulf
2 case, correct?

3 A Yes. I believe in response to discovery,
4 the -- the company identified perhaps two instances
5 dating back to as far back as 1981, where increases and
6 awarded ROE and in the 10 to 20 basis point -- maybe 25
7 basis point range were identified.

8 Q And were you aware that, when the Commission
9 granted that performance adder, it did not require the
10 company to show that it was cost-effective, as you
11 allege in your testimony?

12 A Where are you at in my testimony? I want to
13 make sure.

14 Q I am on page 52, lines 13 and 14.

15 A I was not involved in those prior cases. I
16 don't know what the Commission said or evaluated to
17 determine that the awards made then were or were not
18 cost-effective.

19 Q Okay. However, you put in your testimony that
20 you believe that this commission should make some type
21 of determination whether or not a performance -- ROE
22 performance adder could be granted in this case only if
23 it's cost-effective and the company provides information
24 supporting that it's cost-effective, is that correct?

25 MR. COFFMAN: Objection, I don't think that

1 accurately characterizes his testimony.

2 CHAIRMAN BROWN: Objection overruled. I will
3 allow the witness an opportunity to answer.

4 THE WITNESS: In the part of my testimony I
5 think you are referencing, I am responding to the
6 50 basis point adder to ROE that Mr. Dewhurst is
7 recommending. I quantify that it would charge
8 ratepayers an extra 119 million by the calculation
9 in my footnote, and explain that that's a
10 relatively high cost that the company, I think,
11 should meet a burden to justify, and they failed to
12 do that.

13 In fact, elsewhere in my testimony, I explain
14 that, looking backwards, over the performance
15 period Mr. Dewhurst references, the company has
16 already earned extraordinarily high returns at the
17 expense of its ratepayers.

18 BY MR. DONALDSON:

19 Q Okay. But the part that I am specifically
20 referring to is where you specifically state, FPL has
21 not shown the proposed bonus to be cost-effective in
22 relation to any specifically extraordinary risk taken or
23 achievements accomplished by the utility.

24 And my question to you is that, I guess being
25 unfamiliar with what has occurred in prior commission

1 practice, that that requirement is not a requirement
2 that this commission has had in past orders. Are you
3 aware of that?

4 MR. MOYLE: I'm going to object. I think he
5 said he wasn't aware of past orders, and now he is
6 asking him, tell me about the past orders. So, I
7 mean, it's already -- I thought the witness said he
8 is not that familiar with all the orders on the
9 adder, and now it's unfair to ask him, you know,
10 what was in or what was out.

11 MR. DONALDSON: Well, Madam Chair, he has
12 given an opinion stating that he believes that we
13 need to do some kind of cost-effective test to get
14 a performance adder, and that's specifically what
15 he just stated on the stand in my response to the
16 question.

17 CHAIRMAN BROWN: I will allow the witness to
18 clarify, and can you restate the question, Mr.
19 Donaldson?

20 MR. DONALDSON: Sure.

21 BY MR. DONALDSON:

22 Q You have proposed that there be a
23 cost-effective test to -- for FPL to be rewarded, or
24 receive a performance -- ROE performance incentive in
25 this particular case; is that right?

1 A I don't call it a test. I suggest in my
2 testimony that Mr. Dewhurst and FPL should make a
3 showing to justify \$119 million a year extra from its
4 ratepayers for past performance.

5 Q Okay.

6 A And I suggest elsewhere in my testimony that
7 that performance reward should be tied to prospective
8 performance with metrics established to track future
9 performance.

10 Q All right. And from my understanding from
11 your testimony, you have not reviewed any past
12 performance with respect to reliability. We established
13 that earlier, correct?

14 A My testimony does not specifically address
15 reliability, either historical or anticipated future
16 reliability.

17 Q And you had the testimony of all of the
18 operational witnesses, such as Mr. Miranda, Ms. Kennedy,
19 Ms. Santos, Mr. Goldstein, you had all those testimonies
20 in order to review that past performance, did you not?

21 A I had access to all of that testimony, yes.

22 Q Okay. And you also did not do any kind of
23 analysis, which is what you are saying Mr. Dewhurst has
24 not provided, with respect to the type of customer
25 service that FPL has provided to its customers; is that

1 **correct?**

2 A That's true. The focus of my testimony here
3 was on cost-effectiveness. And what is painfully
4 missing from Mr. Dewhurst's presentation on this subject
5 is any evidence that FPL has taken any extraordinary
6 risks, or borne any costs in order to achieve the
7 performance levels that it is presenting in its
8 testimony.

9 To my knowledge, the company has earned
10 handsomely throughout its recent history, indicating
11 that it has recovered all of the costs it has incurred
12 to provide the service it has provided from its
13 ratepayers.

14 **Q Would you agree with me, sir, that the company**
15 **has earned within the range that this PSC has allowed**
16 **for ROE in previous years; is that correct?**

17 A The company -- well, I have testimony on that.

18 **Q It's earned within the range, the ROE range,**
19 **as authorized by the PSC?**

20 A Bumping the top of the range nearly every
21 year.

22 **Q Well, that's a yes or no -- I am just asking**
23 **if it's earned within the range?**

24 A I recall in my testimony 11.5 percent being
25 achieved in 2014, in 2015, and above 10 percent in all

1 the years I looked at before that.

2 Q Okay. And that was all within the range that
3 the PSC has authorized, correct?

4 A At or near the top of the range every year.

5 Q So that's a yes?

6 A Yes, largely by adding to depreciation reserve
7 amortizations that will be additional cost to ratepayers
8 in future years.

9 Q One of the other things that you have
10 mentioned is the impact -- and we were speaking about
11 this earlier on page 14 of your testimony, where you
12 discuss the impact of the base rate increase. Do you
13 recall that, sir?

14 A I am turning there. I am at page 14.

15 Q Okay. And I would like to actually utilize
16 Exhibit 734 while we talk about this -- this topic,
17 please. That's the Social Security cost of living
18 history.

19 A Had I have not seen this before, but I have it
20 in front of me.

21 Q Okay. Can you turn to the last page, which is
22 page three of four?

23 A All right.

24 Q And we can --

25 MR. COFFMAN: Your Honor, I am not sure if

1 this exhibit has been authenticated, or if a proper
2 foundation has been laid.

3 MR. DONALDSON: It's -- it's taken directly
4 off of the Social Security website. If you see the
5 first page, that's why it has the symbol that's on
6 there. If you see the bottom of each one of the
7 pages, it has the website that shows exactly where
8 it's coming from --

9 CHAIRMAN BROWN: Mr. Donaldson --

10 MR. DONALDSON: -- it's a public document.

11 CHAIRMAN BROWN: -- I believe the witness said
12 this is the first time that he has seen this. I am
13 assuming you are going to get to relevant
14 questions --

15 MR. DONALDSON: I am.

16 CHAIRMAN BROWN: -- as they relate to his
17 direct testimony.

18 MR. DONALDSON: Yes, I am.

19 CHAIRMAN BROWN: Okay. I will give you a
20 little latitude here.

21 MR. DONALDSON: Thank you.

22 BY MR. DONALDSON:

23 **Q Okay. So page three of four deals with the**
24 **cost of living adjustment increase, or it's known as**
25 **COLA. Have you heard that term before, sir?**

1 A Yes.

2 Q All right. And would it surprise you, sir,
3 that if you were to apply the COLA increases from 2006
4 through 2016, as it relates to FPL's bills, that under
5 and applying COLA, a member of AARP, or someone that is
6 receiving COLA, would have had 23 percent higher bills
7 than FPL is projecting?

8 CHAIRMAN BROWN: Mr. Donaldson, before you
9 answer that. Mr. Brosch, this appears to be going
10 out side the scope of his prefiled testimony. If
11 you could direct me to a page where this exhibit is
12 relevant, or you are putting facts here into
13 evidence that are not related to his prefiled
14 direct testimony.

15 MR. DONALDSON: Well, it talks about -- it
16 talks about, on page 14, where it says, how the
17 typical residential customer using a thousand
18 kilowatt hours of 49.61 is being compared with the
19 MFRs, and what it's increasing to. And then he
20 talks about it's increased by 18 percent over the
21 past four years and before any attention is given
22 to this large prospective increase that is being
23 proposed by FPL.

24 So it's being put in context and in relation
25 to what the increase is going to be for a typical

1 residential customer in 2020, and so I am just
2 asking him to compare that with what --

3 MR. COFFMAN: Your Honor -- I am sorry.

4 MR. DONALDSON: -- with what, similarly, a
5 COLA increase for someone in the same situation
6 would have been receiving.

7 CHAIRMAN BROWN: I appreciate that
8 explanation.

9 Ms. Brownless, thoughts?

10 MS. BROWNLESS: I have got a couple problems.
11 Number one is the authentication of the document.
12 That's number one. And number two is the relevance
13 to this proceeding. Whatever did or did not happen
14 with regard to Social Security COLA benefits, I do
15 not know how it's relevant to what has been
16 referenced on page 14 of the testimony.

17 CHAIRMAN BROWN: Thank you.

18 And, Ms. Helton?

19 MR. DONALDSON: Well --

20 CHAIRMAN BROWN: Please, for a second.

21 Ms. Helton.

22 MS. HELTON: I don't have any reason to
23 disagree with Ms. Brownless.

24 CHAIRMAN BROWN: Okay.

25 MR. DONALDSON: If I -- Mr. Coffman, in his

1 opening statement, talked about the cost of living
2 increases as a result of the fact that members of
3 AARP are not getting a cost of living increase,
4 however, FPL is imputing a cost of living increase
5 by the fact of these base rate increases in this
6 proceeding. And that's the relevance that I am
7 responding to that was stated in opening -- in his
8 opening statement. And Mr. Silagy was also
9 questioned on it as well.

10 That's the relevance. It was already placed
11 into the record by, not only the testimony from Mr.
12 Silagy based on the questions from counsel for
13 AARP, but also in responding to his opening
14 statement. So that's why I am putting it into the
15 record.

16 CHAIRMAN BROWN: Can you authenticate this
17 exhibit? Can you have him authenticate it?

18 MR. COFFMAN: Your Honor, could --

19 MR. DONALDSON: It's a self-authenticating
20 document. I -- I mean, it has the symbol of the
21 Social Security website on the front of it.

22 CHAIRMAN BROWN: I don't have it on the bottom
23 of mine, on the bottom --

24 MR. DONALDSON: It's on the very front page.

25 CHAIRMAN BROWN: Okay.

1 MR. MOYLE: It's incomplete, too.

2 CHAIRMAN BROWN: Mr. Coffman, you can be
3 heard?

4 MR. COFFMAN: Yeah. Thank you. I just wanted
5 to add to, and state an objection for relevance.
6 Mr. Donaldson's question was asking about Social
7 Security, COLAs going back to 2006. And what's
8 relevant here are the costs to provide service
9 right now -- or rather, you know, projected in the
10 future, 2017, '18, that the company has put at
11 issue. You know, we have -- there is a statement
12 here going back, you know, four years, but I think
13 it's irrelevant to be looking at -- to something to
14 go back to 2006.

15 And, again, we are here talking about
16 residential ratepayers generally, not just AARP
17 members, not just Social Security recipients, and
18 so I just think that this is irrelevant to the
19 subject that is at issue in this case, which is
20 what this regulated monopoly is hoping to charge in
21 future years.

22 CHAIRMAN BROWN: Okay. Thank you.

23 Mr. Donaldson, please move along with your
24 questions and do not have reference to this 734.

25 MR. DONALDSON: Sure.

1 BY MR. DONALDSON:

2 Q With respect to the rates that are going to be
3 received by residential customers as a result of this
4 base rate request, were you here when FIPUG's Witness
5 Pollock was talking about the CILC and CDR credits?

6 A Yes.

7 Q Okay. And did you hear the questions about
8 the customers that are receiving the CL -- CILC and CDR
9 credits receiving \$60 million a year that is being
10 placed -- or shifted towards residential customers?

11 MR. MOYLE: Can he point to where he is
12 referring to the gentleman's direct testimony?

13 CHAIRMAN BROWN: Mr. Donaldson.

14 MR. DONALDSON: One second.

15 CHAIRMAN BROWN: And, Mr. Moyle, you could add
16 a please in there, too.

17 MR. MOYLE: Oh, please and thank you.

18 MR. DONALDSON: I always say please.

19 CHAIRMAN BROWN: Thank you. We are forgetting
20 our manners here.

21 MR. DONALDSON: Well, I was bringing that in
22 through Mr. Brosch's testimony on page 56, where
23 it's talking about residential customer charges.

24 MR. COFFMAN: That is a rate design issue
25 within the residential class. It does not

1 affect -- actually relate -- not that this question
2 would necessarily be against our interest, but it's
3 not within the scope of his testimony.

4 CHAIRMAN BROWN: Is that an objection?

5 MR. COFFMAN: Yes. It's just not within the
6 scope --

7 MR. MOYLE: And similarly, I would like to
8 make an objection that it's not within the scope of
9 his direct testimony.

10 CHAIRMAN BROWN: Okay. Mr. Donaldson.

11 MR. DONALDSON: Okay. Well, no further
12 questions, then.

13 CHAIRMAN BROWN: Thank you.

14 MR. DONALDSON: Thank you.

15 CHAIRMAN BROWN: Thank you. Okay, staff.

16 EXAMINATION

17 BY MS. BROWNLESS:

18 **Q Afternoon.**

19 A Good afternoon.

20 **Q Were you provided the responses to staff's**
21 **interrogatories and POD requests associated with your**
22 **subject areas as they became available?**

23 A I was provided access to a website where
24 responses to staff and other parties were posted by the
25 company.

1 Q Okay. And as far as you know, were those all
2 the responses that were posted there?

3 A I have no way of knowing.

4 Q Okay. Were you also provided responses
5 associated with your subject areas for other
6 intervenors? Did the website you mention cover all the
7 parties in this case?

8 A Well, again, I assume it did. I can't say
9 that I have examined the contents of the website to
10 determine that every response to every party was
11 presented there, but I found what I was looking for, if
12 that helps.

13 Q Okay. And during the course of your
14 engagement, did you prepare discovery questions for your
15 client?

16 A Yes.

17 Q And were -- did you receive and review
18 responses to your own discovery requests?

19 A I did.

20 MS. BROWNLESS: Thank you.

21 CHAIRMAN BROWN: Any further questions, staff?

22 MS. BROWNLESS: No, ma'am. Thank you, ma'am.

23 CHAIRMAN BROWN: Okay. Commissioners?

24 Commissioner Edgar.

25 COMMISSIONER EDGAR: Thank you.

1 I don't remember the exact words of your
2 answer, but in reply to a question from Mr.
3 Donaldson about the FPL request for an incentive
4 adder, you said something along the lines of they
5 should not be granted that because they haven't
6 taken any extensive risk or financial something. I
7 don't remember the exact term.

8 THE WITNESS: Yes. Let me explain.

9 COMMISSIONER EDGAR: Please.

10 THE WITNESS: Normally, an incentive that
11 someone earns is based upon a showing of the
12 incurrence of costs that weren't funded by someone
13 else, or the taking of risks beyond those incurred
14 in the normal course of business that justify, that
15 show merit for the reward that's being requested.

16 And here, I think the evidence shows that FPL,
17 historically, has performed very well financially,
18 earning at or near the top end of the Commission
19 approved earnings range, at times by amortizing a
20 depreciation reserve balance --

21 COMMISSIONER EDGAR: But that's not my
22 question. I know the history.

23 THE WITNESS: Okay.

24 COMMISSIONER EDGAR: My question is, you
25 said -- I thought you said, and I will actually go

1 back and look at the transcript when we are on
2 break, but that they have not taken extensive risk,
3 and you said something else, and I just did not
4 catch the words. It just sort of seems, then, the
5 corollary would be if they had taken extensive risk
6 in order to have the same performance that then an
7 incentive would be warranted.

8 THE WITNESS: It could be, yes, and certainly
9 within your discretion to consider those kinds of
10 issues in determining the appropriate return. But,
11 you know, here you have approximately half of the
12 total cost of service tracked, putting ratepayers
13 on the hook for variations in cost. You have a
14 prospective test year that gives the opportunity to
15 anticipate --

16 COMMISSIONER EDGAR: I know all that.

17 THE WITNESS: Okay.

18 COMMISSIONER EDGAR: It's that you are -- it's
19 this term that they have not taken extensive risk,
20 as if that would be a good thing. That's what I
21 didn't understand.

22 THE WITNESS: Well, risks that produce
23 benefits that are extraordinary in some way,
24 that -- that something has been undertaken by
25 utility management that --

1 COMMISSIONER EDGAR: What would you consider
2 an extensive risk that would be worthy of
3 rewarding?

4 THE WITNESS: Investment in automated systems
5 that achieved significant cost savings above those
6 achieved by other regulated utilities. Containment
7 of costs using proven methods of operation,
8 operational systems that are unique to FPL and that
9 demonstrate exceptional performance.

10 COMMISSIONER EDGAR: Okay. Thank you.

11 THE WITNESS: I look at cost performance as
12 important, not just providing reasonable service.

13 CHAIRMAN BROWN: Thank you.

14 Redirect?

15 MR. COFFMAN: I don't have very much.

16 FURTHER EXAMINATION

17 BY MR. COFFMAN:

18 **Q Mr. Brosch, you were asked by Mr. Donaldson to**
19 **compare electric rates in the state of Illinois under**
20 **their unbundled and formula rate system to the rates**
21 **here in Florida, do you recall that?**

22 A Yes, customer bills, I believe.

23 **Q Did you -- can you compare the requested**
24 **return on equity here to what is currently being allowed**
25 **for return on equity in the state of Illinois?**

1 MR. DONALDSON: Objection, that's outside the
2 scope of cross.

3 CHAIRMAN BROWN: Mr. Coffman.

4 MR. COFFMAN: Well, I think it helps to put in
5 context the comparison in rates there.

6 CHAIRMAN BROWN: I believe that the line of
7 questioning was limited in a general sense. Can
8 you restate your question?

9 MR. COFFMAN: All right. I can move on.

10 CHAIRMAN BROWN: Thank you.

11 MR. COFFMAN: I think we are good. That's all
12 I have.

13 CHAIRMAN BROWN: Okay. Thank you.

14 This witness has Exhibits 198 through 203.
15 Would you like those --

16 MR. COFFMAN: Yes. I would like to offer
17 Exhibits 198, 199, 200, 201, 202 and 203, which are
18 the exhibits attached to his testimony.

19 CHAIRMAN BROWN: Any objection?

20 MR. DONALDSON: No objection.

21 CHAIRMAN BROWN: We will entered 198 through
22 203 into the record.

23 (Whereupon, Exhibit Nos. 198-203 were received
24 into evidence.)

25 CHAIRMAN BROWN: FPL.

1 MR. DONALDSON: FPL would like to offer into
2 the record Exhibit No. 731 and 733, and we won't be
3 entering in 732 and 734.

4 CHAIRMAN BROWN: Are there objections to 731
5 and 733?

6 MR. COFFMAN: 731 --

7 CHAIRMAN BROWN: Was the AARP --

8 MR. COFFMAN: Yes, I am going to object to
9 that. I think Mr. Brosch did not prepare those
10 responses, and I don't think that a proper
11 foundation was laid that he had knowledge of those
12 AARP policies.

13 CHAIRMAN BROWN: And 733.

14 MR. COFFMAN: And 733, I would like to object
15 to because the witness specifically said he had no
16 knowledge of it.

17 CHAIRMAN BROWN: Mr. Donaldson, I tend to
18 agree with AARP on both.

19 MR. DONALDSON: Well, Mr. Brosch doesn't
20 necessarily have to sponsor the interrogatory
21 because this is done through -- it's a party
22 document, so these are statements of AARP as far as
23 731 is concerned.

24 With respect to 733, I mean, I don't really
25 want to fight that one --

1 MR. COFFMAN: Great.

2 MR. DONALDSON: -- so --

3 MR. COFFMAN: I really have no problem with
4 731 if they want to offer it in, I withdraw my
5 objection.

6 CHAIRMAN BROWN: All right. But we are not
7 entering 733.

8 MR. DONALDSON: That was a good trade.

9 CHAIRMAN BROWN: All right. So --

10 MR. MOYLE: Ma'am --

11 CHAIRMAN BROWN: Wait, I haven't done anything
12 yet.

13 So I would like to enter into the record 731.
14 (Whereupon, Exhibit No. 731 was received into
15 evidence.)

16 CHAIRMAN BROWN: And we are disregarding 732,
17 373 and 734.

18 MR. DONALDSON: Yes, ma'am.

19 CHAIRMAN BROWN: Okay. All right.

20 MR. MOYLE: Could FIPUG move 732, please? The
21 witness was asked questions about it. He
22 identified it. Yes, I helped put together the
23 responses to this. It has been authenticated, we
24 would like to move it.

25 CHAIRMAN BROWN: I have that the witness saw

1 it but didn't compute the numbers.

2 MR. DONALDSON: That's what I heard as well.

3 MR. MOYLE: And I think the record will be
4 clear, I thought he said he reviewed it, he had
5 reviewed drafts of it, had familiarity with it.

6 CHAIRMAN BROWN: You are trying to move in
7 FPL's document?

8 MR. MOYLE: Yeah, because it has really good
9 facts, you know, that will help.

10 CHAIRMAN BROWN: You crack me up.

11 MS. BROWNLESS: Madam Chair, if I could --

12 CHAIRMAN BROWN: Just a second, please.

13 Mr. Coffman, do you have an objection to
14 entering 732 into the record?

15 MR. COFFMAN: No. I mean, my recollection is
16 that Mr. Brosch said he wasn't sure if he saw it,
17 but I have no objection.

18 CHAIRMAN BROWN: Okay. Seeing no objection,
19 we will move in 732 --

20 MR. DONALDSON: Well, I don't want it in the
21 record.

22 CHAIRMAN BROWN: Oh, you don't want it?

23 MR. DONALDSON: That's why I was withdrawing
24 it.

25 CHAIRMAN BROWN: Hold the record. Hold.

1 Hold.

2 Go ahead.

3 MS. BROWNLESS: I do not think, based upon the
4 lack of authentication here, that 732 ought to be
5 in the record --

6 CHAIRMAN BROWN: Okay.

7 MS. BROWNLESS: -- so I agree with the
8 objection.

9 CHAIRMAN BROWN: All right. We will not
10 move -- sorry, Mr. Moyle, we are not moving 732
11 into the record. My notes here said that he saw it
12 but he didn't compute the numbers, but he was
13 familiar with the document, so --

14 MR. MOYLE: That's what I thought I heard, and
15 was the basis for moving it in.

16 CHAIRMAN BROWN: That's what I thought, too,
17 but we will not enter it in. The only one is 731.

18 Would you like your witness excused at this
19 time?

20 MR. COFFMAN: Yes, please.

21 CHAIRMAN BROWN: Okay.

22 MR. COFFMAN: Thank you.

23 CHAIRMAN BROWN: You are excused.

24 THE WITNESS: Thank you.

25 CHAIRMAN BROWN: Have a good afternoon.

1 (Witness excused.)

2 CHAIRMAN BROWN: Staff, I believe we are going
3 to the staff witness at this juncture before we
4 take up rebuttal.

5 MS. BROWNLESS: Could we have a brief break?

6 CHAIRMAN BROWN: What's brief?

7 MS. BROWNLESS: Three minutes?

8 CHAIRMAN BROWN: Yep.

9 MS. BROWNLESS: Thank you.

10 (Brief recess.)

11 (Transcript continues in sequence in Volume
12 31.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED this 31st day of August, 2016.



DEBRA R. KRICK
NOTARY PUBLIC
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EXPIRES JULY 13, 2016