

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION FOR INCREASE IN RATES DOCKET NO. 080677-EI  
BY FLORIDA POWER & LIGHT COMPANY.

2009 DEPRECIATION AND  
DISMANTLEMENT STUDY BY FLORIDA DOCKET NO. 090130-EI  
POWER & LIGHT COMPANY.

VOLUME 39  
Pages 5201 through 5280

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PROCEEDINGS: HEARING

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

DATE: Thursday, September 17, 2009

TIME: Commenced at 4:50 p.m.  
Concluded at 7:00 p.m.

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

REPORTED BY: CLARA C. ROTRUCK  
Court Reporter  
(850) 222-5491

PARTICIPATING: (As heretofore noted.)

**ORIGINAL**

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I N D E X

WITNESS

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

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(Transcript follows in sequence from  
Volume 38.)

CHAIRMAN CARTER: We're back on the record,  
and before we continue, Ms. Bradley, you're recognized  
for a preliminary matter.

MS. BRADLEY: I'm not sure how much effect  
this is going to have, but we had earlier agreed that we  
were not going to change the order of witnesses again  
unless we had overnight notice of that, and we have been  
notified this afternoon that they're going to switch  
Reed and Slattery, or put Reed in front of Slattery or  
something to that effect. This would kind of seem to  
violate that agreement that we had had earlier about not  
changing the order of witnesses, and I don't know what  
effect that's going to have on everybody else, but I  
just want to bring it up.

CHAIRMAN CARTER: Yes, I think we were way  
beyond the musical chairs we had for that list. It  
seemed to change every day from -- in fact, I can --

MR. MOYLE: With my cross, I will make it a  
moot point.

CHAIRMAN CARTER: Oh, really?

MR. MOYLE: I'm kidding.

CHAIRMAN CARTER: Talking about change, that

1 would really be a change.

2 Okay. Ms. Bradley, you may proceed.

3 MS. BRADLEY: Mr. Chairman, I've talked with  
4 Ms. Clark, who I guess is the only one that can view  
5 these documents. She's confirmed these are the correct  
6 numbers from the secret list, and if I may approach the  
7 witness?

8 CHAIRMAN CARTER: Absolutely.

9 CROSS EXAMINATION (continued)

10 BY MS. BRADLEY:

11 Q I understand that all but the top number are  
12 confidential, the 2008 that we mentioned, but those are  
13 the numbers that are appearing on your company's working  
14 papers for your total compensation package. Were you  
15 aware of that? Have you seen those?

16 A No, I haven't.

17 Q Those seem to show a -- at least a substantial  
18 increase between 2008 and 2009, and additional increases  
19 for 2010 and 2011. Do you have any reason to think that  
20 is in error?

21 A I hope not. One of the differences between  
22 '08 and '09, though, would be that I was only at the  
23 company for, I think it is between ten and ten and a  
24 half months in '08. I know that would account for one  
25 of the differences. I'm not sure about the others.

1           Q     All right. Now, you talked also in your  
2 testimony about a strong financial position for the  
3 company and that that was in the interest of customers  
4 and that you wanted to provide affordable rates for  
5 customers, correct?

6           A     Yes.

7           Q     Would you agree that there might be a  
8 difference in how "affordable" is viewed between people  
9 in your company that are making millions of dollars and  
10 the average citizen that is probably making less than  
11 \$50,000?

12          A     I would agree that there might be a  
13 difference. My comment was based on where we see  
14 ourselves compared to our peers, our company peers here  
15 in Florida, and having the, what we believe is the  
16 lowest typical residential bill in Florida.

17                   And again, if you live in our service  
18 territory today, compared to the average in Florida, you  
19 are saving over \$300 a year. So when I use the term  
20 "affordable," I'm comparing our rates to others. Having  
21 a low customer bill is important to us, but it's also  
22 important for us, it's important to me, to make sure  
23 that we maintain the effectiveness and efficiency that  
24 we have at the company.

25          Q     We discussed it with some of the other

1 witnesses, but are you aware that the Governor and  
2 Cabinet all make below \$135,000?

3 A I was not aware of that, but I did hear that  
4 come up previously in this hearing, yes.

5 Q Are you aware, as the chief financial officer,  
6 that there are 463 Florida Power & Light employees that  
7 make more than the Governor and Cabinet?

8 A I don't -- I don't know what the number is.  
9 Clearly I understand that we have provided a list to the  
10 Commission and to many of you where there is 400-and-  
11 some-odd people that make over \$165,000 a year. I think  
12 several parties have talked about the types of talent  
13 that we -- types of people that we have to hire in order  
14 to do the things that I think are important to do and  
15 that Mr. Olivera talked about were important to get  
16 done.

17 Q Would you agree that the jobs that the  
18 Governor and Cabinet do involve more complex and more  
19 important issues than that of one company?

20 MR. ANDERSON: Chairman Carter?

21 CHAIRMAN CARTER: Mr. Anderson.

22 MR. ANDERSON: Thank you. FPL objects to this  
23 line of questioning with this witness. Mr. Pimentel has  
24 offered no testimony with respect to compensation,  
25 comparative compensation or compensation in relation to

1 Florida officers and the like. We have offered the  
2 testimony of Ms. Slattery, who is our next witness and  
3 an expert witness on this subject. And as you know, the  
4 legal standard requires comparability of the services  
5 and all those other things in relation to the jobs  
6 performed in the industry and things like that.

7 So this line of questioning is both irrelevant  
8 and also beyond the scope of Mr. Pimentel's testimony.  
9 I'd request that counsel move on.

10 CHAIRMAN CARTER: To the objection, Ms.  
11 Bradley? To the objection.

12 MS. BRADLEY: His comment a few seconds ago  
13 was that he mentioned the 463 people and the list that  
14 they had furnished all making above 165,000 and stated  
15 that that was because they have to pay that much to get  
16 good people doing important work or something along  
17 those lines, so I think it's squarely in line with what  
18 he had just commented on.

19 MR. ANDERSON: Counsel can't open her own door  
20 in that way, though, with the question and answer.

21 CHAIRMAN CARTER: Ms. Cibula?

22 MS. CIBULA: Ms. Bradley hasn't indicated  
23 where in the direct testimony this witness addresses  
24 that information, so if she could point us to his direct  
25 testimony cite, then --

1 MS. BRADLEY: I think you misunderstood. It  
2 was not in response -- it was not in his direct  
3 testimony. He offered that comment in response to my  
4 previous question a few seconds ago.

5 CHAIRMAN CARTER: Objection sustained. Move  
6 on.

7 BY MS. BRADLEY:

8 Q Sir, would you agree -- you talk about the  
9 benefit of a strong financial company, and would you  
10 agree that those who can't afford your rates would not  
11 enjoy any of that benefit?

12 A Would I agree that those that cannot afford  
13 our rate would not enjoy any of that benefit, was  
14 that --

15 Q Correct. I'm talking about the comment that  
16 you made in your testimony about a strong financial  
17 outlook for your company provides a benefit to your  
18 customers.

19 A Right, and which I strongly believe that it  
20 does, that the ability for us to raise capital and have  
21 access to capital for the long term gives us the ability  
22 to pass those savings on to our customers.

23 I will agree with your question because I  
24 don't know how to disagree, but if I may, there's a lot  
25 more people that can afford our service than the average



1 utility service in Florida, and our bill is on the lower  
2 half, less than average of all of the United States. So  
3 if we're just comparing to who can afford our service, I  
4 think if our average bill is \$340 less than the average  
5 bill in Florida and it is the lowest typical residential  
6 bill in Florida, I think -- I think our customers should  
7 be -- should want us to have a strong financial  
8 position, because we're able to pass that on to them.

9 Q But if I understood you correctly, you did  
10 agree that those who can't afford your rates won't enjoy  
11 the benefit of that, correct?

12 A Yes, if you can't -- yes.

13 Q All right, thank you.

14 MS. BRADLEY: No further questions, Mr.  
15 Chairman.

16 CHAIRMAN CARTER: Thank you, Ms. Bradley.

17 Mr. Moyle?

18 MR. MOYLE: Thank you, Mr. Chairman.

19 CROSS EXAMINATION

20 BY MR. MOYLE:

21 Q Mr. Pimentel, good afternoon.

22 A Good afternoon.

23 Q Jon Moyle. I represent the Florida Industrial  
24 Power Users Group, and we have spoken on the phone  
25 during your deposition and met briefly, and I have

1 questions that I would like to ask you. You've been on  
2 the stand quite a long time, you've been asked a lot of  
3 questions. I'm going to try to be respectful of lines  
4 of inquiry that you have already been asked about, maybe  
5 highlight a point or two or clarify something, but  
6 hopefully we can move this along fairly quickly.

7           You are conversant and familiar with the yes/  
8 no practice, correct?

9           A     Yes. I practiced that, answering your first  
10 question last night.

11          Q     You are relatively new to the company,  
12 correct?

13          A     Yes.

14          Q     And where were you prior to that? You were at  
15 Deloitte & Touche, is that right?

16          A     That is correct.

17          Q     And what was your role and responsibility at  
18 Deloitte?

19          A     For the last ten years or so at Deloitte &  
20 Touche I served as an audit partner, both in regulated  
21 utility company audits and in financial service company  
22 audits.

23          Q     And is that how you first were introduced to  
24 FPL, that they -- Deloitte does their audits, correct?

25          A     Yes, they do.

1 Q And they did them at the point in time when  
2 you were at Deloitte, correct?

3 A Yes. Yes.

4 Q And they still do them?

5 A Yes.

6 Q And is that how you became familiar and  
7 acquainted with FPL?

8 A Yes.

9 Q So the audits that were done by Deloitte prior  
10 to you becoming employed by FPL were done under your  
11 supervision and responsibility, or your partnership  
12 auspices, is that correct?

13 A The three years of audits before I started  
14 with FPL were not done under my supervision. I was off  
15 doing something else at Deloitte.

16 Q Okay. Deloitte is a good accounting firm, you  
17 have confidence in them, correct?

18 A I have -- I'm sorry, what do I have in them?

19 Q Confidence.

20 A Yes.

21 Q How many customer service hearings were held  
22 in FPL's territory?

23 A I don't recall the exact number.

24 Q Was it close to ten, do you know?

25 A Yes.

1           Q     And I guess you had scheduling conflicts and  
2     couldn't make any of them, or did you just not think it  
3     was something that was important to go to?

4           A     No, we sent Marlene Santos, who is our vice-  
5     president in charge of customer service. She was in  
6     charge of our representation there and she attended all  
7     of them.

8           Q     I have not been doing this that long and went  
9     to one customer service hearing, and you are aware that  
10    they're an opportunity for customers to get up and tell  
11    what they think about the utility, correct?

12          A     Yes.

13          Q     And also for other people in the community,  
14    it's kind of an open mike event where people can get up  
15    and comment about the utility, correct?

16          A     Yes.

17          Q     Would you consider going to the customer  
18    service hearings, you know, in the future if -- you  
19    know, if I guess, God willing, you are still with the  
20    company and around, maybe not 20 years from now, would  
21    you go to a customer service hearing if, let's say, you  
22    came in for a rate case in a few years?

23          A     I've tried over the last year to, little by  
24    little, acquaint myself with different parts of the  
25    company, and yes, I would think that at some point I

1 would like to attend a customer service hearing.

2 Q And you would agree with me that it may be --  
3 that opportunity may present itself sooner rather than  
4 later if the company is not successful in its quest for  
5 rate increases in 2011 and for the GBRA mechanism,  
6 correct?

7 A That is true, yes.

8 Q You have quite a bit of testimony in your  
9 prefiled testimony about the state of the economy and  
10 markets, and I just want to spend a minute and try to  
11 summarize from a high-level perspective, if we can.

12 A lot of your testimony you talked about the  
13 market constriction in the fourth quarter of last year,  
14 correct?

15 A In the third and fourth quarter of last year.

16 Q Yes, sir. Including one point in time when  
17 the access to capital was -- I don't know if *frozen* is  
18 the right word, but it was very difficult to reach for  
19 companies that were not A-rated, correct?

20 A Yes, that is true.

21 Q And companies that were A-rated, they were  
22 able to maintain access to capital during that two-week  
23 period, correct?

24 A Yes, for the most part, those entities that  
25 were higher up on the credit profile were able to

1 maintain some access to capital, although even -- even  
2 for them, longer-term capital was very scarce.

3 Q And you've been in the financial community for  
4 about your whole professional life, correct?

5 A Yes.

6 Q And you have never seen, with respect to  
7 access to capital, that -- a similar contraction as was  
8 experienced in that two-week period last year, correct?

9 A I don't think that's correct. I don't think I  
10 had seen the contraction in both the short-term and the  
11 long-term capital markets as severe as what we saw in  
12 the third and fourth quarter of last year, but I do  
13 remember that at different parts over the last 20 years,  
14 in the late -- the late '80s with the S&L crisis, there  
15 was a significant issue regarding loans, short-term and  
16 longer-term capital. That was clearly again the case in  
17 2001-2002, at that point specifically, short-term  
18 capital, but long-term capital in some of the  
19 industries; and even in August of 2007, when the first  
20 of the Bear Stearns collateralized mortgage obligations  
21 funds started having trouble, there was a significant  
22 pullback in the short-term markets.

23 So there's been periods where either/or or  
24 both have contracted, sometimes significantly, but I  
25 have not seen both of them to the severity that they did

1 last year.

2 Q And I appreciate the detail, but just so that  
3 we're clear, the answer to the question with respect to  
4 the contraction I'm referring to and you refer to in  
5 your testimony, that was unprecedented from your  
6 professional experience, correct?

7 A Yes.

8 Q And you're not asking this Commission today to  
9 look at that period and make its judgment on that  
10 anomalous situation, correct?

11 A I am not, no, correct, I'm not asking this  
12 Commission to make its judgments on -- its longer-term  
13 judgments on six months in 2008, but what I am asking  
14 the Commission to consider is the fact that what we saw  
15 last year, as I talk about in my direct testimony, in my  
16 view, will have some long-term implications to the  
17 financial markets, implications that we're still trying  
18 to work through today. And by that I mean the longer-  
19 term credit facilities that this industry -- this  
20 company and this industry relies on significantly. A  
21 lot of those players that were around are either gone or  
22 merged, and we're going to have to go through another  
23 whole wave of trying to find out how this industry can  
24 afford the same liquidity that it had in the past.

25 Q All right. We're going to talk in a minute

1 about the specific financials. I just want to get a  
2 couple of additional questions in with respect to your  
3 view of the overall state of the economy.

4 You would agree on a national level that it  
5 appears that the recession may be ending, correct?

6 A I have certainly seen indications to that  
7 effect. I have seen more indications to that effect  
8 than I have seen indications that say that it's not  
9 ending, but that -- once Chairman Bernanke whispers it,  
10 that seems to be what most people have grabbed onto.

11 Q And while that may be the case from a national  
12 perspective, it's probably likely that Florida's  
13 problems will persist a little bit longer, correct?

14 A I would -- my own view is that yes, that's the  
15 case.

16 A significant part, as you know, of our  
17 national economy is consumer spending, which is about 70  
18 percent or so of our gross domestic product. That has  
19 taken a significant hit nationally, primarily because of  
20 what folks lost, unfortunately, in the market and lost  
21 in the value of their homes, and now we're facing with  
22 unemployment. Here in Florida, we're a little worse in  
23 all of those metrics that I just mentioned, so I don't  
24 know how quickly Florida will rebound, although we  
25 certainly hope that it starts picking up in '10 and then



1 back again in '11.

2 Q And here in Florida, you're aware that we have  
3 a record unemployment situation currently, correct?

4 A Mr. Moyle, I don't know whether it's a record  
5 or not, but it's quite high.

6 Q Okay. Same question with respect to  
7 foreclosure rates: Do you know if it's a record or if  
8 it's high as compared to --

9 A Yes, I do know that it's high.

10 Q Do you also know that there has been a decline  
11 in per capita disposable income with respect to  
12 Floridians?

13 A Yes, I do.

14 Q So what does that mean in your financial  
15 background, the per capita disposable income, a decline  
16 in per capita disposable income?

17 A What does it mean to us, what does it mean to  
18 the economy?

19 Q Just in general. Is it fair to say people  
20 have less money in their pockets to spend?

21 A It is fair to say that; it's -- we don't  
22 necessarily know what that means. We don't necessarily  
23 know whether the reports that we have started to hear,  
24 which is folks are going to save more money, that's what  
25 we have been hearing, right, the savings rate is going

1 up, whether that will -- that will persist in the long  
2 term. If it does, that doesn't bode well for opening  
3 up -- I'm sorry, for consumers spending more money on  
4 the economy. If in fact the increase in savings rates  
5 that we're seeing is really just a short-term  
6 phenomenon, even as personal income is decreasing, you  
7 could have the effect that folks might save even less  
8 than they did before. So it's difficult to tell at this  
9 point what the result of what we're currently seeing  
10 will be.

11 Q You answered a lot there. I'm not sure that I  
12 intended to get into that, but just so that we're clear,  
13 with respect to savings, if somebody has less disposable  
14 income, they have less money in their pocket whether  
15 they want to spend it on a product or put it in a bank  
16 account, correct?

17 A Yes.

18 Q So the notion of savings doesn't necessarily  
19 directly relate to the amount of disposable income  
20 somebody would have, correct?

21 MR. ANDERSON: Commissioner Carter, FPL would  
22 like to object to this line of questioning. We respect  
23 that it's interesting and the like, but it really  
24 doesn't bear on any issue in the witness's testimony,  
25 and we request that the counsel move on to a line that's

1 relevant to his direct or rebuttal testimony.

2 CHAIRMAN CARTER: Mr. Moyle, to the objection?

3 MR. MOYLE: Well, I think that it does have  
4 relevancy to this proceeding in that considerations of  
5 impacts of rates that are being requested on consumers  
6 in Florida is something that's ripe and on the table for  
7 this Commission to consider, and I'm testing this  
8 witness's knowledge as to the conditions, the economic  
9 conditions in Florida. If he doesn't think it's  
10 something to consider, he can tell me that. If counsel  
11 for FPL thinks it's irrelevant, we have a difference of  
12 opinion on that. I think it's purely relevant, I think  
13 there's a statute that specifically addressed the  
14 customer's acceptance of rates, so I think it's an  
15 appropriate line, and, P.S., I'm just about done with it  
16 anyway.

17 CHAIRMAN CARTER: Ms. Cibula?

18 MS. CIBULA: I think it's within the scope of  
19 the direct testimony.

20 CHAIRMAN CARTER: You may proceed.

21 BY MR. MOYLE:

22 Q Do you think, as your counsel suggested, it's  
23 irrelevant as to --

24 CHAIRMAN CARTER: Mr. Moyle, you can do better  
25 than that, I know.

1 THE WITNESS: I was trying to figure out -- he  
2 gave me an out, and I can't remember what it was now.

3 MR. MOYLE: We had a lot of discussion  
4 yesterday about relevancy, so I --

5 CHAIRMAN CARTER: But the witnesses don't  
6 argue the motions, the lawyers do.

7 MR. MOYLE: Let me move on.

8 BY MR. MOYLE:

9 Q You would agree that this Commission can  
10 consider and should consider impacts on consumers of  
11 rates that they're asked to approve, wouldn't you?

12 A I -- I -- yes, I believe this Commission needs  
13 to balance the company's request with the customers.  
14 That is what this Commission is in place for. There are  
15 some, obviously some bearings in Supreme Court decisions  
16 and so on. At the end of the day, we -- you know, we  
17 must have a return on our invested capital that's  
18 reasonable based on our risks and similar industries,  
19 but I fully expect this Commission to take into account  
20 the effect to our customers.

21 Q And you would agree that's a tough balancing  
22 act, is it not, to weigh the impacts upon consumers and  
23 the impacts on the company and the --

24 A Yes.

25 Q -- views of Wall Street versus Main Street,

1 correct?

2 A Yes.

3 Q You would agree that we spent a lot of time  
4 talking about the views of Wall Street. Would you agree  
5 that equally as important is the views of consumers on  
6 Main Street in Florida as to the impact of rates on  
7 them?

8 A I would think that that would have to be a  
9 consideration that the Commission takes into account. I  
10 would like to repeat something that I have said several  
11 times already today: I'm pretty proud of our company  
12 and where we're at, and we're not -- at this point, we  
13 don't expect it to be a bill increase in January, we  
14 expect it to be a bill decrease. And even our, as I've  
15 said before, our current bill is approximately \$340 less  
16 than the Florida average.

17 So yes, I think this Commission needs to take  
18 all that into account, including that the strong  
19 financial position of this company and the Commission's  
20 policies in the past have put us in the position that  
21 we're in, a pretty darn terrific position for our  
22 customers.

23 Q Let's talk for a minute specifically about  
24 industrial load. We have talked about impacts on  
25 customers, and I've been pretty generic in customers,

1 but you would agree that an industrial load presents  
2 greater risk than a residential load or a commercial  
3 load, correct?

4 A Yes, I think we talked about that during our  
5 deposition. My comments were general comments. An  
6 industrial load for a utility, because of volatility in  
7 that load during cyclical times, does represent a higher  
8 risk. For us specifically, industrial load is not  
9 significant -- of significance. Obviously it's very  
10 important to us, but in terms of percentage of overall  
11 net energy load, it's quite low.

12 Q I appreciate that. You can understand how  
13 it's important to the people that I represent, can't  
14 you?

15 A Yes.

16 Q And you can also understand that the people I  
17 represent pay taxes and hire people and there is a  
18 little bit of a trickle-down effect with respect to  
19 large consumers of electricity who are in the industrial  
20 sector, correct?

21 A Yes.

22 Q Let's talk on the ROE issue for a little bit.  
23 You spent a lot of time on this. I want to just try to  
24 hit a couple of points. And I'm going to ask you some  
25 questions about the airplane logs. I know that's a

1 little difficult because you don't appear to have a lot  
2 of information first-hand about them, but I think  
3 Commissioner Skop made a point earlier on, there's some  
4 significant dollar issues out there that are in dispute.

5           You would agree that the appropriate return on  
6 equity is one of the significant dollar issues out there  
7 in dispute, correct, in terms of the choices that this  
8 Commission has to make and what the impact will be on  
9 the ratepayers' bills?

10           A     Yes.

11           Q     Okay. Is this the first time that you've been  
12 asked to fix a return on equity for a power company or  
13 for any company?

14           A     I'm sorry, to fix it?

15           Q     To peg it. I understand what has happened is  
16 that you're the person who, for the company, decided  
17 what the requested ROE would be. Am I not understanding  
18 that correctly?

19           A     I was confused by your use of the word "fix."

20                     Are you -- is your question is this the first  
21 time that I have been asked to provide testimony  
22 suggesting an ROE for a regulated utility, is that --

23           Q     You can answer that.

24           A     Yes.

25           Q     Okay. And then the question was, have you

1 ever done it in any other context?

2 A No.

3 Q Okay. And the way you did this, essentially,  
4 if I understand it, was you all hired an expert who  
5 presented a range to you and then you -- you basically  
6 took an average, isn't that correct?

7 A It's -- well, no, it's not correct, it's a  
8 little more complicated than that. We did hire Dr.  
9 Avera to run the fundamental models that he has run, and  
10 over the last year I have spent a lot of time talking  
11 to, directly to investors, both the debt investors and  
12 the equity investors, which is what we're talking about  
13 right now, trying to understand from them the risks that  
14 they see in our company, the risks they see in our state  
15 and what that means for them to continue to provide us,  
16 to keep their capital in our business and continue to  
17 provide us capital in the past.

18 Based on that, based on Dr. Avera's testimony,  
19 what I indicated this morning, which is exactly what I  
20 have done, I looked at all that evidence, and the 12 and  
21 a half percent is an average of the three models that he  
22 used, and that's consistent with my understanding of  
23 what investors are requiring.

24 Q Just so I'm clear, you said you took the  
25 average of the three models, correct, to figure out your



1 requested 12.5?

2 A To be clear, what I said this morning is I  
3 took the middle, which is 12 and a half, the middle  
4 between 12 and 13, and that also happens to be just  
5 about the average of the three methods, which I believe  
6 was 12.46 or 12.47.

7 Q And part of determining your sought ROE, did  
8 you ask for or review opinions from other Public Service  
9 Commissions during the 2009 year?

10 A Not that I'm aware of.

11 Q You've been shown this Exhibit 462 that we  
12 have talked about. It's the one that shows all of the  
13 2009 rate case decisions, correct? Do you have that?

14 A I do have that, 462.

15 Q And you didn't look at anything like this or  
16 inform yourself about what other decisions have been  
17 coming down in 2009 with respect to return on equity  
18 prior to you making your decision to request 12.5, is  
19 that correct?

20 A No, that's not correct. I indicated before  
21 that I do get a summary of what happens on a monthly  
22 basis around the nation. One of them, one of the cases  
23 that I tried to follow was one of the Florida cases  
24 here, Tampa Electric, which is one of the ones on here,  
25 and taking a look at information like this without

1 trying to get into the details is often very difficult,  
2 because some of the numbers are misleading. I can look  
3 at Tampa Electric right here on this list, which is one,  
4 two, three, four, five from the bottom, look at their  
5 common equity ratio, I believe it was Mr. Mendiola, and  
6 I didn't --

7 Q I think we're on the wrong list.

8 A Is it not 462?

9 Q You said five from the bottom. I guess you  
10 meant five from the top.

11 A I'm sorry, five from the top.

12 Q Okay.

13 A So I look at that equity ratio, which has  
14 47.49. That is the regulatory common equity ratio,  
15 that's the same as our 47.9 percent, which -- it's not  
16 the same, it's similar to our 47.9 percent, which I  
17 point out in my Exhibit AP-10.

18 So again, when we look at information like  
19 this, it's kind of important to know what is the basis  
20 of this, because our -- if they're all like Tampa  
21 Electric, then our 47.9 percent is very consistent with  
22 the rest of the ones that are presented on here.

23 Q Do you have any questions about the reported  
24 return on equity that has been handed down by any of  
25 these other Commissions?

1           A     I haven't had a chance, Mr. Moyle, to look at  
2 it. I do believe, though, taking a look at -- there's a  
3 number of NAs on here, but taking a look at many of the  
4 companies that I see on here, I doubt that there are any  
5 integrated companies on here with an A rating like  
6 Florida Power & Light Company. I recognize a lot of  
7 these names. Most of these are BBB companies or below.

8           So I -- again, I'm seeing the schedule, I  
9 haven't had a chance to look at all the details of the  
10 schedule, but just taking a look at it briefly, it's  
11 somewhat dangerous to just start looking at averages and  
12 try to portray those as something that's important to  
13 us.

14          Q     Would this information have been helpful to  
15 you if you had had it in advance of making your decision  
16 to request a 12.5 ROE?

17          A     This specific information?

18          Q     Yes, found on Exhibit 462.

19          A     In -- I don't know whether it would have been  
20 helpful or not. I did say that I receive a summary of  
21 rate cases within the United States, and what happens, I  
22 do get to spend some time, what the risks of those  
23 entities are, how large those entities are, what they're  
24 asking for, what they're receiving, how it's similar to  
25 us. I do -- it's not this specific schedule that I have

1 looked at before, but it's summaries of what happens in  
2 each one of these cases. Based on the reading of all of  
3 that and my discussion with investors, everything else  
4 that I've mentioned before, I'm comfortable with our  
5 12.5 percent.

6 Q Dr. Avera indicated I believe in his testimony  
7 that the models that he use, all of them have some  
8 problems or -- *flaws* is not the right word, but some  
9 difficulties, you would agree with that, correct, the  
10 DCF model, the CAPM model?

11 A I may have missed -- if he said difficulty or  
12 flaws, I may have missed that. I would agree that the  
13 models do have assumptions. I'm comfortable with the  
14 assumptions that Dr. Avera has used in his three  
15 fundamental models.

16 Q Help me understand, because it sounds like in  
17 terms of what you did is you essentially made your  
18 judgment, you talked to investors and then you took the  
19 average of the three models that he ran. This document  
20 shows historical returns for 2009 and shows an average  
21 of 10.51. You would agree that part of a decision that  
22 this Commission could make if they wanted to go with an  
23 average approach, they could reject your average  
24 approach and take the average approach that's reflected  
25 on 462, that's a possible option, correct?

1           A     Yes. I would think that there are a lot of  
2 possible options, but I believe what this Commission is  
3 going to do is it's going to look at the risks, the  
4 individual risks of our company, which are not, in the  
5 aggregate, similar to the individual risks of any of  
6 these companies. The Commission is going to look at the  
7 strong financial position that we have, hopefully not  
8 compared to entities that are BBB. Many are BBB and  
9 below. I don't think that's what they will do. They  
10 will look at the size of the company and the generation  
11 build of the company, because that's part of the risk of  
12 the company.

13                 Again, I hadn't seen this schedule before this  
14 morning. The last column, "Rate Base," the \$16 billion  
15 that we have talked about building here in Florida over  
16 the next five years, if I look at closely, that's bigger  
17 than -- although that's just an addition to our company,  
18 that's bigger than the rate base of many of these  
19 companies.

20           Q     Is it your testimony here today, sir, that you  
21 believe your company, Florida Power & Light, has greater  
22 risk than many of these companies that are reflected on  
23 Exhibit 462?

24           A     I don't want to say greater risk, I want to  
25 say that each one of the entities needs to be taken a

1 look at. We have some unique risks, as I've mentioned  
2 in my direct testimony and my rebuttal testimony.  
3 Looking at this list, I don't -- I can't say whether  
4 many of these companies have the same unique risks that  
5 we have.

6 Q But you said that many of these companies are  
7 rated BBB, correct?

8 A Yes.

9 Q And if you follow economic theory, as I  
10 understand it, in order to attract capital, the more  
11 risk that's assumed, the higher return that an investor  
12 would require, correct?

13 A An equity investor, yes.

14 Q Right. So to the extent -- the return on  
15 equity is used for determining the cost of equity  
16 capital, correct?

17 A Yes.

18 Q And so to the extent that you assume that  
19 these Commissions have decided, well, some of these are  
20 BBB and all these numbers reflect the risk, wouldn't it  
21 logically follow, then, that the risk for FPL -- which  
22 is rated what, A?

23 A Yes.

24 Q That that would be a lower return on equity?

25 A Well, no, and Dr. Avera, I did hear him cover

1 that exact topic for more than a few minutes yesterday,  
2 and it is the topic of debt investors are interested in  
3 the balance sheet and equity investors are interested in  
4 the income statement and what's happening in the future.

5           Again, it's difficult to take a look at the  
6 schedule, understand what risks equity investors are  
7 facing, because the debt rating is only one of the many  
8 things that gives us an indication of the riskiness of  
9 the company to an equity investor. I don't understand  
10 and I don't have in front of me what equity investors  
11 believe the risks of these entities are. It may be that  
12 they don't have large capital program or volatile fuel  
13 or storm or nuclear operations and so on. Clearly TECO  
14 doesn't have nuclear operations, isn't building 16  
15 billion in CAPEX and so on. So it's important to  
16 understand what is behind these numbers.

17           Q     Do you believe generally that rating companies  
18 get it right when assigning ratings?

19           A     Yes.

20           Q     And you have mentioned you have lots of  
21 conversations with the rating agencies. I think earlier  
22 on you said you were getting phone calls since this  
23 hearing has started from rating agencies, correct?

24           A     Yes.

25           Q     And I think we have also established, have we

1 not, that rating agencies look at all aspects of a  
2 company, their business risk, their financial risk,  
3 their management, they try to know as much as they can  
4 about companies for the purposes of assigning ratings to  
5 them, correct?

6 A Yes, but their only focus is debt investors.

7 Q I understand. So then would you suggest that  
8 to the extent that an equity investor had -- if I have  
9 \$100 to invest or \$200 to invest, that the ratings  
10 provided by companies is completely irrelevant, that  
11 that's not useful information to an investor who has  
12 equity to invest?

13 A No, that's not what I said. I said that's one  
14 of the pieces of information. Debt investors are  
15 concerned about the liquidity of a company and the  
16 balance sheet of the company. They are concerned about  
17 getting the return of their capital back. That's not  
18 what equity investors are concerned about. Equity  
19 investors are concerned about getting a return that's  
20 significant or that's comparable with the risks. When I  
21 talk to investors, I never talk to debt investors and  
22 equity investors at the same time. They don't even hang  
23 out with each other. They are just different people  
24 interested in different things.

25 Q If you were having a conversation with your --



1 a relative who was asking about, well, I have some money  
2 I would like to invest in it, I presume you would tell  
3 them to research the companies and find out as much as  
4 you can about the companies they're considering  
5 investing in, correct?

6 A Yes.

7 Q Okay. And would you also recommend that they  
8 read the investor rating agency reports, many of which  
9 you looked at today, for the purposes of obtaining  
10 information to make an investment, that that's a good  
11 source of information about what's going on with the  
12 company?

13 A Well, if I could only recommend one piece of  
14 information, I would ask my relative whether they were  
15 interested in investing in a debt security or an equity  
16 security, and if they said a debt security, I would tell  
17 them to look at one of the rating agency reports, and if  
18 they said an equity security, I would tell them to look  
19 at one of the Value Line reports. It's different  
20 information that's of interest to a debt investor and an  
21 equity investor.

22 Q And is a chief difference relates to the fact  
23 that a debt investor looks to see, okay, what money is  
24 going to be available when this company gets their money  
25 in, how much are they going to have to serve as debt,

1 because debt gets paid before equity, correct?

2 A Yes.

3 Q Okay. And the equity investor, he could look  
4 at the same information, could he not, to make a  
5 judgment and say, "I know that I'm further down the  
6 queue, but I can understand fundamentals of the company  
7 through information put together by companies like  
8 Fitch's, Moody's and Standard & Poor's," would you agree  
9 with that?

10 A I -- no, only because I lost the first part of  
11 your question.

12 Q I guess what I'm having difficulty with is the  
13 distinction between debt and equity and the contention  
14 that I seem to understand that you have that the  
15 documents provided by Fitch's, Moody's and Standard &  
16 Poor's is of little value to an equity investor.

17 A No, that's not what I said. What I said is  
18 that the rating agency reports are one of the pieces of  
19 information that an equity investor will use before they  
20 invest their money. I was trying to, and maybe I  
21 shouldn't have, simplified the discussion by saying if  
22 you could only -- if you could only give one piece, one  
23 document of advice to your relative, I wanted to make a  
24 point that equity investors and debt investors are  
25 different. That is not to say that equity investors

1 also do not look at the debt rating agency reports.  
2 Absolutely they look at the debt rating agency reports,  
3 but ultimately what they're concerned is, what are the  
4 risks to the future and what's my return.

5 Q Would the Standard & Poor's, Fitch's and  
6 Moody's be in the top three pieces of information you  
7 would recommend to your relative to look at?

8 A You mean one of them, or is that three of the  
9 top three?

10 Q Let's take those three and consider them one.

11 A Yes.

12 Q Have you read the *Hope* and *Bluefield*  
13 decisions?

14 A I have not. I have read a summary of them  
15 that's been provided to me.

16 Q And just to finish up this discussion about  
17 ROE, for 2009 your average ROE was, I think Dr. Avera  
18 said 10.4 -- I'm sorry, 2008, your ROE was 10.4. Did he  
19 get that right yesterday?

20 A I don't think -- I think it's right around  
21 10.8, if I remember correctly.

22 Q And a 10.8 return, did that work okay for the  
23 company, you still maintained your A rating?

24 A Well, we did maintain our A rating. In my  
25 view, we've maintained our A rating because of everyone

1 understanding that we have a rate case in -- now, in  
2 2009, and the belief of the investment community that,  
3 in fact, the Commission, as it has in the past, will not  
4 just focus on the short term, but longer term, taking  
5 into account both customers and the capital structure of  
6 the company and that things will turn out okay.

7 Q Do you know that there was a settlement  
8 agreement entered into that indicated that Power & Light  
9 was precluded from coming in and seeking rate relief  
10 unless its ROE was less than 10?

11 A The 2005 agreement you're referring to?

12 Q Yes, sir.

13 A Yes.

14 Q So for the purposes of that agreement, 10.1  
15 was okay, less than ten became a trigger device to come  
16 back in and seek relief, correct?

17 A Only because that ten percent was just one of  
18 the many pieces of information in that agreement.  
19 That's not something that the company or I would have  
20 agreed to independently. There was a lot of things, a  
21 lot of give-and-takes in that agreement, and the entire  
22 agreement was acceptable to the company.

23 Q Okay, I'm just about done with this, but I  
24 just want to go back to the one point on these numbers  
25 that the rating agencies sign. I guess they're letters,

1 actually, but the --

2 A That they assign?

3 Q That they assign to the companies. They're an  
4 indication of risk, correct?

5 A Yes.

6 Q And you're not contending, are you, that when  
7 you ask this Commission to consider other risks when  
8 setting the ROE, you're not contending that the rating  
9 agencies have not considered those risks, correct?

10 A That's correct. The rating agencies, as I  
11 indicated before, have considered those risks as they  
12 affect debt investors.

13 Q Let me talk to you for a minute about the  
14 storm fund.

15 A Yes.

16 Q You are asking for \$150 million per year storm  
17 accrual, correct?

18 A Yes.

19 Q And FPL does have insurance on assets, does it  
20 not, on its generation assets?

21 A Yes.

22 Q And you have approximately 50 billion in  
23 assets in the ground that include generation and  
24 transmission and distribution, correct?

25 A I believe that's the replacement value, yes.

1 Q And of that, generation is approximately  
2 30 billion, correct?

3 A I believe that's the replacement value, yes.

4 Q Who is the insurer for those?

5 A A number of insurers. I don't know how many  
6 there are, but in order to insure a property program  
7 like Florida Power & Light has, it's really not possible  
8 to have one insurance company.

9 Q Do you know where they're based?

10 A They're based here in the United States and  
11 they're based outside of the United States, both.

12 Q Where outside of the United States?

13 A If I remember correctly, some are based in  
14 Europe, some are based in Bermuda, I believe, and there  
15 may be some that are based in other places, globally.

16 Q You have not recently checked to see whether  
17 insurance is available for transmission and  
18 distribution, have you?

19 A Yes, I have. We have to provide a report --  
20 on an annual basis we have to provide a report to the  
21 staff and to the Commission, talking about the  
22 availability of insurance for transmission and  
23 distribution, so at least once a year we have to canvass  
24 the market to try to understand whether there's any  
25 commercially feasible insurance available to us.

1 Q Have you done that for 2009?

2 A I believe we have. I believe we have.

3 Q And what did you discover?

4 A We discovered that the T&D insurance was --  
5 continued to be prohibitively expensive. In order of  
6 magnitude, you would be looking at 200 to 300 million  
7 dollars of retainage, then you would be looking at four  
8 to maybe seven hundred million dollars of coverage,  
9 probably not even that much, for a very significant fee,  
10 and then you would be looking for -- you would be self-  
11 insured beyond that amount. I don't remember the amount  
12 of the premium. I don't even know if we got down to a  
13 negotiation or just a can-somebody-provide-it, and I  
14 don't remember whether we got down to a negotiation of a  
15 premium.

16 Q So as we sit here today, you can't inform this  
17 Commission as to whether -- that you didn't get a  
18 premium quote, in effect?

19 A Yeah. This Commission's already informed. We  
20 have to file once a year. I just --

21 Q Yes, sir.

22 A I don't recall all the numbers off the top of  
23 my head.

24 Q And I'm asking specifically for 2009.

25 A Yeah, and I believe that we did for 2009. I

1 don't recall the numbers off the top of my head.

2 Q Do you know if it was more than 150 million  
3 per year?

4 A I do not.

5 Q You currently have 200 million in the kitty,  
6 correct, for storms?

7 A We have a \$200 million reserve for storms,  
8 yes.

9 Q And you also have a \$2.7 billion line of  
10 credit available to FPL, correct? Credit facilities?

11 A We do have a \$2.75 billion line of credit, but  
12 since that question came from you right after talking  
13 about storms, I think it's important to note that that  
14 \$2.75 billion is there for a whole bunch of reasons,  
15 including \$600 million of short-term tax-exempt debt,  
16 very similar to commercial paper, that rolls over on a  
17 daily basis. So we need to have \$600 million available  
18 under that facility just in case it doesn't roll over.

19 That credit facility is there to back up our  
20 commercial paper program, which, although we would like  
21 to maintain low balances in that program, if things --  
22 whether it's the credit events of the third and fourth  
23 quarter or other events, whatever the balance in  
24 commercial paper is, there needs to be a like amount of  
25 that facility available.



1                   And it's also there to back up our fuel  
2 hedging, any margin that we might have, any letters of  
3 credit that we might have to issue, which, depending on  
4 the time, could be 300 million, 400 million, 500 million  
5 dollars or so. So there's a lot of things that go  
6 against that credit facility other than a potential  
7 storm.

8           Q       As we sit here today, how much is available of  
9 the 2.75 billion? God forbid a storm hits, how much do  
10 you have on that credit line?

11           A       Subject to check, somewhere around I would say  
12 a billion dollars.

13           Q       One billion?

14           A       Yes.

15           Q       And you're considering that 600 million short-  
16 term as committed, correct?

17           A       Yes.

18           Q       But, in fact, that 600 million, that's --  
19 those are overnight funds, I mean, the paper is traded  
20 on a nightly basis, correct?

21           A       Yes, investors put that paper back to the  
22 company on an overnight basis, and then you've got to  
23 essentially reissue it and clear the market, yes.

24           Q       Since you've been with the company, has more  
25 than 20 percent of that ever been not reissued?

1           A     Actually, I think close to a hundred percent  
2 was not reissued to investors during the credit crisis  
3 last year, but it was held off in overnight facilities  
4 by some of our banks.

5           Q     So as we sit here today, isn't it pretty  
6 regular and routine that most of that money gets  
7 reissued nightly, that 600 million?

8           A     Yes, it's routine, but again, my job is not  
9 just to worry about the routine, my job is to worry  
10 about making sure that we have sufficient liquidity to  
11 meet our obligations, and we need to have sufficient  
12 liquidity available to meet those obligations should,  
13 for whatever reason, investors push that back to us and  
14 we're unable to find new investors.

15          Q     All right. So I think we've established you  
16 have 200 million presently in the kitty, you have a  
17 billion dollars available on your line of credit, again,  
18 related to storms.

19                   FPL Group, you are the CFO of FPL Group,  
20 correct?

21          A     Yes.

22          Q     And FPL Group and FPL, the utility company,  
23 have a close relationship, I mean, to the extent that  
24 FPL, the regulated utility, had a need, FPL Group could  
25 assist, could it not, from a financial perspective?

1 A Yes.

2 Q And isn't it true that FPL Group has a  
3 \$4 billion credit facility available to it?

4 A No, actually, FPL Group does not have a credit  
5 facility available to it.

6 Q Does it have four billion in credit available  
7 to it?

8 A No, FPL Group does not have four billion of  
9 credit available to it. NextEra Energy Resources has a  
10 \$4 billion credit facility available to it.

11 Q How much does FPL Group have available to it?

12 A None.

13 Q Exhibit 504 that was provided to you by the  
14 South Florida Hospital Association, do you have that?

15 A Well, I didn't number any of the exhibits.

16 Q It's the one that says FPL Group, Inc.,  
17 Investor Presentation.

18 A Yes.

19 Q Paul Cutler and Kathy Bealheart.

20 A Yes.

21 Q If you flip over to -- it's page 7, I believe,  
22 it's noted as FPL 112974.

23 A Yes.

24 Q The title says, "FPL Group maintains a strong  
25 liquidity position." Do you see that?

1 A Yes.

2 Q Then it says, "Summary of corporate credit  
3 facilities."

4 A Yes.

5 Q What is the total?

6 A 6.5 billion.

7 Q And it's 2.5 billion for FPL?

8 A Correct.

9 Q And four billion for FPL Group Capital?

10 A That's right. FPL Group Capital is the  
11 unregulated entity that owns NextEra. FPL Group does  
12 not have any credit facilities available to it.

13 Q Where is FPL Group Capital in the hierarchy of  
14 your holding company? It's underneath your holding  
15 company, is it not?

16 A It is, yes.

17 Q Could any of that money that is a credit  
18 facility for FPL Group Capital be used to support credit  
19 needs of FPL, the regulated company?

20 A No.

21 Q Why not?

22 A Because those credit facilities are available  
23 to FPL Group Capital. Those are the commitments that we  
24 have made to the banks. The banks have given us a  
25 maximum credit facility of \$2.75 billion, which is

1 available to Florida Power & Light Company, not any more  
2 than that.

3 Q The securitization legislation that this  
4 Legislature passed, that was a help to preparing or  
5 dealing with hurricanes, was it not?

6 A That was certainly a help in funding the  
7 amount of storm costs that we hadn't recovered. Is that  
8 your question?

9 Q Yes. You worked with Mr. Harris, your  
10 hurricane expert, did you not?

11 A Yes.

12 Q It was your office or your folks that supplied  
13 him the information that was found in his testimony  
14 about an unlimited line of credit at a four percent  
15 rate, is that right?

16 A Yes, that was an assumption for his model,  
17 yes.

18 Q Okay. And were you aware that when he put  
19 together his damage estimate that he didn't do any  
20 research as to what the design standards were for  
21 transmission facilities in the state of Florida?

22 A No, I was not.

23 Q Do you think that's a relevant consideration,  
24 to try to figure out damage, what something is designed  
25 to withstand from a wind perspective?

1           A     I do. I know that Mr. Harris had availability  
2 of much of the information on FPL's transmission and  
3 distribution system.

4           Q     Do you think it's a relevant consideration as  
5 to the vegetation management program as to the  
6 anticipated damages from hurricanes?

7           A     It is. The vegetation management program is  
8 something that we have discussed previously with the  
9 Commission during the 2007 storm hearings, and was part,  
10 specifically part of the discussion when we talked about  
11 the hardening of our transmission and distribution  
12 system.

13          Q     How long has it been in Florida since we've  
14 had a hurricane impact your service area? Do you know?

15          A     I think it's been since 2005 that we had a  
16 hurricane. We have had, certainly, some tropical storms  
17 that have caused damage to our territory, which the  
18 storm reserve also covers, but I don't think we've had a  
19 hurricane since 2005.

20          Q     You were asked a lot of questions about  
21 imputed debt, and I'm going to try not to be repetitive  
22 on those, but I did want to ask you this: Currently,  
23 when you have a PPA agreement, Florida Power & Light  
24 doesn't earn any money on the PPA agreement, correct,  
25 it's a pass-through?

1           A     Yes.

2           Q     So from the standpoint of a shareholder point  
3 of view, a PPA agreement is not anything that's of great  
4 benefit to a shareholder to the extent that the  
5 shareholder is concerned about getting a return on his  
6 or her equity, correct?

7           A     Well, the only concern that I can think of to  
8 the shareholder is that the cost of that PPA is not  
9 recovered, but that shareholder is also concerned about  
10 the long-term obligations that have been made at the  
11 company.

12          Q     And I think we would agree that the risk of  
13 non-recovery from this Commission, historically  
14 speaking, has been slim, correct?

15          A     I think that's right, Mr. Moyle, and that's --  
16 again, different investors do different things. It's  
17 left to S&P to provide the most visibility into -- into  
18 what investors do, but the calculation that S&P goes  
19 through and that we talked about today does provide for  
20 a significant reduction in the actual amount of the  
21 present value of those PPAs.

22          Q     Yes, sir, and I really don't want to get back  
23 into those weeds, if you will, but what I want to make  
24 sure that we're clear about is as far as you know, this  
25 Commission has never denied one dollar of recovery for

1 capacity or energy purchases pursuant to a PPA, correct?

2 A Not that I recall, but I -- not that I recall.

3 Q Okay. And the steps that you all have taken,  
4 as I understand it, are a little different from TECO in  
5 that TECO was in front of this Commission, and it kind  
6 of reminds me of my kids when -- you know, ask for  
7 permission or ask for forgiveness. TECO came in and  
8 said, "We would like to adjust our capital structure so  
9 that we have additional equity in there to offset these  
10 purchase power agreements," is that generally right?

11 A Generally, yes.

12 Q All right. And what you're saying is, "Look,  
13 we've already made this adjustment in our capital  
14 structure in that we have this much equity to offset for  
15 the purchase power agreements," correct?

16 A Correct, but that's not a decision that we  
17 made during the last six months or year. That's the  
18 capital structure that we've had invested in the  
19 business well over ten years.

20 Q And I was considering on this line of  
21 questioning that to the extent that you don't earn any  
22 money on PPAs, and you're running a business, your  
23 railroad, one way to earn money on PPAs is to put equity  
24 in the company related to the debt component of the PPA,  
25 correct? Am I losing you on that?



1           A     You kind of lost me.

2           Q     Let's just say hypothetically that you have a  
3     54 percent capital structure without any PPAs, and that  
4     if you impute the debt associated with the PPAs, then  
5     you go up to two percent to 56 percent. Are you with me  
6     on that?

7           A     You would go down, right? If you were at 54  
8     percent and you added more debt to your structure, then  
9     the amount of equity, which has stayed the same, would,  
10    the percentage would go down.

11          Q     Right. And then you put equity in, correct,  
12    to offset that?

13          A     No, we didn't put equity in. We've had -- the  
14    equity has been in. This isn't a situation where we  
15    added the PPAs and then we put equity in. We've had --  
16    that's the amount of equity that we've had in the  
17    business, I keep using ten years, because that's my last  
18    reference point, maybe it's been more than ten years,  
19    but the calculation that we do for our equity ratio is  
20    on a combined capital structure, that number, that 55.8  
21    percent number, includes a portion of the off-balance-  
22    sheet commitments, which we have been calling PPAs.

23          Q     Right. And I guess the point that I was  
24    trying to make with you is to the extent that that's  
25    reflected as equity in your books, you have an

1 opportunity to earn a return on that equity, correct?

2 A Yes, we have an opportunity to earn a return  
3 on all of the equity that we have actually invested in  
4 the business.

5 Q Do you have a preference as to whether FPL  
6 recovers rates through clauses or base rates? When I  
7 say "you," I'm talking about FPL.

8 A Whether we recover revenue through clauses or  
9 base rates --

10 Q Yes, sir.

11 A -- that's your question?

12 Yes, I think I do have a preference, which I  
13 think is what you asked. I -- you know, in -- the  
14 structure that we have here today currently allows us to  
15 recover through costs some of the unique business risks  
16 that we have, right, for fuel, as an example, nuclear  
17 and solar. Some of those things may not have been  
18 investments that we would have made had there not been a  
19 specific clause or recovery mechanism to deal with it.  
20 Rate base is left with the unique business risks that  
21 aren't recovered through those clauses.

22 Q So, based on that answer, I assume that you  
23 would agree that clauses mitigate risk?

24 A Yeah, I think I have even said that, that  
25 clauses do mitigate risk. That doesn't mean that the

1 company after clauses doesn't have some significant  
2 business risks as viewed by investors.

3 Q And Dr. Avera yesterday said he didn't go out  
4 and dig in and do an analysis of all of the other states  
5 for his proxy group and what clauses they have.

6 As we sit here today, are you aware of any  
7 other state in this country that has as many clauses  
8 available to an investor-owned utility as the state of  
9 Florida?

10 A No, I don't know that I'm aware one way or the  
11 other whether there is a state that has more clauses.  
12 I'm certainly aware of states that have similar and  
13 different clauses from the ones that we have here.  
14 There's certainly states that have clauses that decouple  
15 revenues from usage. That's not something that we have  
16 here in Florida. Dr. Avera mentioned a couple yesterday  
17 that I was familiar with. Some have bad debt clauses,  
18 others have pension clauses.

19 At least for me, the way I think about clauses  
20 is the evidence of a clause doesn't in and of itself  
21 mean that there is an overall -- that there is less risk  
22 without the clause. He gave an example yesterday that  
23 he and I have talked about before: If company A has a  
24 nuclear plant, or is building a nuclear plant and is  
25 recovering a portion of that revenue through a clause,

1 and company B doesn't, and they both have \$100 in  
2 revenue, I don't think any investor would say that  
3 because company A, that is building a nuclear plant, is  
4 recovering ten percent of their revenue through clauses,  
5 that it's less risky than company B. In fact, what the  
6 clauses do is they try to mitigate a specific risk,  
7 whether it's fuel or nuclear or some other point, and  
8 that's why I believe he made the comment yesterday that  
9 it's difficult if you just want to compare clauses and  
10 from that take away that one entity is less risky than  
11 another.

12 Q You would agree if this Commission grants the  
13 GBRA that it would make it less likely that FPL would  
14 come in for a rate case anytime in the near future,  
15 correct?

16 A Yes, I believe that it would be less likely  
17 if -- as we continue to build generation without the  
18 GBRA, I think it would be less likely for us to not come  
19 in, but I will reiterate what other witnesses have said,  
20 which is, this Commission has the right at any time to  
21 bring us in for any reason.

22 Q Yes, sir, and Intervenors can also file to  
23 initiate a rate case, correct?

24 A I'm not a student on the rate proceeding  
25 process, but you said that with some conviction, so

1 subject to check, I will agree.

2 Q Well, that's all right. I guess the point  
3 that I was discussing with you is the rate case versus  
4 the clause, I think you acknowledge a GBRA would make it  
5 less likely you'd be back in for a rate case.

6 I think you also agreed that the base rate  
7 case is sort of the ultimate true-up, correct?

8 A I believe that's true.

9 Q Okay. And that's not a bad thing, is it, to  
10 have an ultimate true-up for an investor-owned utility?

11 A I don't think -- no, it is not a bad thing.  
12 What the -- if we're still talking about the GBRA, I'm  
13 not sure whether we are or are not, but if we're still  
14 talking about the GBRA mechanism, what the GBRA  
15 mechanism attempts to do is to match the benefit that  
16 the customers are getting, fuel benefits, with the  
17 inclusion of that plant in base rates. It does so, I  
18 believe, very nicely. It supports our strong financial  
19 position. So I don't -- if we're still talking about  
20 GBRA, I don't think it's necessarily inconsistent to  
21 have a GBRA mechanism and feel comfortable with the cost  
22 of the organization.

23 Q Yes, sir, and some people have just kind of  
24 offhandedly said, "Well, if the GBRA gets granted, you  
25 will never see another rate case." Let's leave that

1 discussion for another day. But does FPL have a  
2 strategy -- we talked about clauses. To get to the  
3 point, isn't it FPL's strategy to try to get more and  
4 more through clauses so that the chances of having a  
5 base rate case are diminished?

6 A It's not any strategy that I'm familiar with.

7 Q But you would agree that that's one of the  
8 reasons you're asking that the GBRA be adopted, to avoid  
9 a base rate case, correct?

10 A That's not the primary reason for us asking  
11 for the GBRA --

12 Q I'm just asking, is it a reason?

13 A No, it's not a reason. It's the old babies  
14 and diapers, right? If we do get a GBRA, it may in fact  
15 be that over a longer period of time we don't have a  
16 rate base case. That doesn't mean that the Commission  
17 can't bring us in, or the staff can't call us to come in  
18 to talk about base rates, but that's not the primary  
19 reason that we believe the GBRA mechanism is a good  
20 reason.

21 The primary reason is if we have gone through  
22 a need filing where the Commission has approved  
23 inclusion of generation in a specific spot and we prove  
24 that customers are going to be able to save money over  
25 the long term, it does match the cost savings that

1 customers are going to get through fuel savings with the  
2 generation that we're about to add to the system without  
3 us having to come back in for a rate case, that's the  
4 need filing that we have already discussed with the  
5 Commission. That's the reason.

6 Q So you're saying that the fact -- never mind.  
7 Let's talk about airplanes now.

8 MR. MOYLE: If I could approach, Mr. Chairman?

9 CHAIRMAN CARTER: You may.

10 While you're getting ready, I had Michael to  
11 go out and check the doors, because we -- I remember I  
12 promised to have the doors unlocked, and they have these  
13 automatic electronic locks on them, and so he's going to  
14 get Capitol Police to release those locks on the doors  
15 so you guys can get in.

16 Mr. Moyle, you may proceed.

17 MR. MOYLE: I just want everyone to be clear.  
18 I have some questions that I would like to ask this  
19 witness about two documents that FPL has claimed  
20 confidentiality over. I got these documents yesterday  
21 in the red folder. I have made copies of the documents,  
22 and in my handwriting at the top have indicated that  
23 confidentiality is claimed by FPL over these documents,  
24 but I want to hand them out and just make everybody  
25 aware at this point I think that they should be -- that

1 FPL has claimed confidentiality over them.

2 CHAIRMAN CARTER: Mr. Butler?

3 MR. BUTLER: Is there a reason we can't use  
4 the ones out of the red folder and just refer to the  
5 Bates numbers of those documents?

6 MR. MOYLE: We can, but for the Commissioners  
7 and everybody I thought it would be easier just to pass  
8 them out and we can pick them up at the end.

9 MR. BUTLER: That's fine. If we're picking  
10 them back up again, we'll treat them as confidential and  
11 just pick them back up at the end, that's okay.

12 CHAIRMAN CARTER: Let's take a moment to pass  
13 those out. Are you going to use this primarily for  
14 cross-examination purposes pending -- oh, that's right,  
15 got it.

16 MR. MOYLE: Before we get started, like Ms.  
17 Bradley, I have some documents that I have marked as  
18 having further questions about it. It may make better  
19 sense, if FPL is agreeable, rather than me spend the  
20 time to read it into the record, we're coming back in  
21 October, if I can just send them an e-mail with the  
22 documents and they can provide answers when we come  
23 back, if they would be willing to do that, that would  
24 work for me.

25 CHAIRMAN CARTER: Is this pertaining to this



1 witness and pertaining to this document here?

2 MR. MOYLE: Well, it's similar to the  
3 questions that were asked that this witness doesn't know  
4 any information other than what's on the document about.

5 CHAIRMAN CARTER: Let's do this, let's take  
6 five minutes so you can talk to Mr. Butler and we can do  
7 that.

8 We're on recess, everybody.

9 (Brief recess.)

10 CHAIRMAN CARTER: So we can move forward?

11 MR. MOYLE: I think so, and Mr. Butler  
12 graciously agreed that to the extent that there are  
13 questions related to other documents on these flight  
14 logs that I can e-mail the document Bates number to him,  
15 and that way it will work. They will get the  
16 information, we come back in October and we won't burden  
17 the record with me reading those into the record. So,  
18 thank you, Mr. Butler.

19 I want to move forward with the witness, if I  
20 can, on some questions about air travel, and that has  
21 been the topic of considerable conversation.

22 BY MR. MOYLE:

23 Q Specific questions, I think your counsel and I  
24 have worked out how we can deal with that, but I want to  
25 step back and try to understand better the relative

1 roles of how this practice is reviewed.

2 You, I think in response to a question from  
3 the Attorney General, detailed now that there are more  
4 processes or better processes in place, maybe you didn't  
5 say it that way, but there's five officers and you have  
6 to review it with another officer as to whether you're  
7 going to take air travel.

8 Would you agree as a general proposition that  
9 air travel policies and procedures have changed since  
10 you came with the company?

11 A I don't -- I think they have changed. My  
12 comment was a little general, only because I haven't had  
13 time since yesterday, when we started going through  
14 these logs, to determine exactly what processes and  
15 policies we had in place during '06 and '07. But it was  
16 sometime in '08, I believe fairly close -- closer to the  
17 front end of '08 than the back end of '08, where we  
18 wanted to make sure that we had good policies or  
19 processes together on who would be approving -- and  
20 maybe it was only three people approving before, I just  
21 don't know the exact details, I'm just more familiar  
22 with the approval process today.

23 So, I apologize, I don't remember who asked  
24 the question, but my comment was that I believe as a  
25 general rule we have good processes in place today that

1 we developed during 2008, and since I'm more familiar  
2 with them, I feel more comfortable than I do about  
3 something before 2008.

4 Q Okay. And you're still licensed as a CPA in  
5 the state of Florida, correct?

6 A Yes.

7 Q And would you agree, say, based on what has  
8 been pointed out to you thus far by Commissioners and  
9 others, that there are issues of concern related to the  
10 way in which travel was accounted for?

11 A Mr. Moyle, I can't agree with that comment at  
12 this point because I don't have enough background into  
13 these trips and how they got recorded and so on. All we  
14 have to look at is the flight log itself.

15 Q And just so I'm clear, you had used the term  
16 "source document" in response to an earlier question.  
17 The flight logs are considered the source document?

18 A Yeah, I have used that. I believe this is the  
19 source document. Again, Mr. Bennett would better be  
20 able to answer, or maybe even Mr. Barrett or Mr. Davis,  
21 as to whether something happens from this document to  
22 another document before it gets into accounting records,  
23 but the reason I used "source document" -- and sometimes  
24 source document is the record right before the  
25 accounting records -- but the reason I used its source

1 was I believe this is the information that's the basis  
2 for us recording the accounting entries.

3 Q That's the point I was trying to understand,  
4 that the -- you are of the belief that the best  
5 information or the best evidence with respect to the  
6 flights would be what is found on these flight logs,  
7 correct?

8 A With respect to the flights. What I can't  
9 answer is whether -- because I don't know -- whether in  
10 fact it is the best evidence of what actually got  
11 recorded in our books.

12 Q So what --

13 A These are the -- I'm sorry.

14 Q I'm sorry, go ahead.

15 A This is the best evidence of the trip of the  
16 flight because this is the actual flight log. That we  
17 know.

18 Q And you indicated you became familiar with FPL  
19 when you were serving as an auditor, and Deloitte, the  
20 company you used to be with, audits FPL's books. Would  
21 Deloitte typically in an audit get into something like  
22 this and review this type of information?

23 A They don't share with me what they do today,  
24 for obvious reasons, but from what I'd be familiar with  
25 the past, this wouldn't rise up to the, generally the

1 threshold that they would have been looking at.

2 Q It would or would not?

3 A Would not have risen to the threshold.

4 Q And why is that?

5 A There's always materiality matters that any  
6 auditor has to deal with with the company, and the  
7 materiality -- I don't know what the materiality today  
8 is, but I believe back in older years, the materiality  
9 would have been in excess of the O&M numbers that I --  
10 at least I think are, in some of these older years,  
11 seven and a half million, eight million and so on.

12 Q There was a witness previously that talked  
13 about making sure that costs are properly allocated  
14 between the FPL and the non-regulated entities, and she  
15 had talked about FPL has an internal audit process  
16 that's conducted. Do you know, would an internal audit  
17 have been conducted on these flight logs to see if it  
18 squared?

19 A Not during 2008, which are the ones that I'm  
20 -- or 2009, that I'm familiar with. Not -- not on the  
21 actual flight logs itself, I don't recall that.

22 Q So if the internal auditors are not going to  
23 the source documents, then how are they performing  
24 internal audits for 2008, 2009?

25 A Well, the internal auditors are independent

1 from the Accounting Department that looks at the source  
2 documents to try to record any accounting records. The  
3 internal auditors don't necessarily audit all of the  
4 transactions of the company; they pick and choose areas  
5 of the company to focus on and issue a report.

6 Q I have given you two documents and I want to  
7 ask you a couple of questions about them. Let's start  
8 with 161619.

9 A Yes.

10 Q Is there anything about this document that  
11 you, as an officer of FPL Group, which, as I understand  
12 it, has within it NextEra Energy and also FPL, that you  
13 consider confidential?

14 A For purposes of this proceeding, I wouldn't  
15 have thought that it was important and I don't know what  
16 -- I haven't checked the redacted document, but I  
17 wouldn't have thought it was important to disclose the  
18 names of individuals that charged the cost to FPL  
19 Energy.

20 Q I'm sorry, you said you would not have thought  
21 it was important?

22 A That's right.

23 Q Okay. But do you have an understanding of the  
24 Commission rules on confidentiality and what is  
25 confidential or what the company considers as

1 confidential?

2 A No, but I'm sure one of my attorneys do.

3 Q I don't want to get into a big legal argument,  
4 I just want to understand from your perspective as an  
5 officer of FPL Group if there is anything in 161619 that  
6 you believe is confidential. And I'll tell you,  
7 confidentiality, gives away business secrets or anything  
8 that's competitively sensitive information that might  
9 give a competitor an advantage or anything like that.  
10 Do you see anything in this document that you would  
11 consider confidential?

12 MR. ANDERSON: Chairman Carter, FPL objects  
13 because it's asking for a legal conclusion as to the  
14 definition of *confidential*, which, as we all know, is  
15 Florida statutes. This witness is not an attorney, he's  
16 not studied that. Accordingly, it's not appropriate.

17 And we do have a motion pending should counsel  
18 wish to make any challenges in relation to any  
19 individual document, but it's not correct for this  
20 witness to be asked this question.

21 CHAIRMAN CARTER: To the objection, Mr. Moyle?

22 MR. MOYLE: I'm not asking him for a legal  
23 opinion. I'm asking for him -- for his view, as an  
24 officer of FPL Group who is charged with running this  
25 business, whether there's anything considered

1 confidential on this document.

2 I also believe that the confidentiality  
3 provision is being stretched inordinately with things  
4 like this. Given what I understood to be the situation  
5 where these were initially blacked out on relevancy  
6 grounds and after a ruling was made that they were  
7 relevant and should be produced on an unredacted basis,  
8 at that point in time, confidentiality was asserted.  
9 The way the Commission's confidentiality rule works is  
10 when you file something initially, that's when you're  
11 supposed to assert confidentiality over it. It's a  
12 little bit like the boy that cries wolf. That  
13 confidentiality rule ought to be used when there is  
14 confidential information. All I want to do is ask him  
15 if he considers anything on here confidential.

16 CHAIRMAN CARTER: No, hang on a second. Ms.  
17 Cibula?

18 MS. CIBULA: There's a request pending, and  
19 Mr. Moyle can file a response to that request and I  
20 think we should just move on.

21 CHAIRMAN CARTER: Sustained. Move on.  
22 Commissioner?

23 COMMISSIONER SKOP: Thank you.

24 Just a quick question on that. Again, I  
25 respect the pending motion for confidentiality



1 treatment. This was another one that I had a question  
2 on, and I dismissed it in the big stack last night, but  
3 with respect to this document, Mr. Anderson, and I know  
4 that your colleague, Mr. Butler, is not here, but when I  
5 asked him last night in specific reference to the  
6 documents that were claimed confidential, he indicated  
7 that for Group employees, as well as the company  
8 activity charged and the to-and-from locations, were not  
9 confidential. Would you agree with that? If not, I can  
10 have the court reporter read back.

11 MR. ANDERSON: The part I'm recalling was that  
12 we have no problem with the city pairs and also with  
13 the -- you can literally count the lines -- numbers from  
14 the redaction of the FPL -- you know, the non-FPL folks.

15 COMMISSIONER SKOP: All right. That's fine.

16 May I ask a question, then, pertaining to that  
17 Bates-numbered document, which would be 161619? And,  
18 Mr. Pimentel, do you have that in front of you?

19 THE WITNESS: Yes.

20 COMMISSIONER SKOP: And you -- do you see the  
21 one, two, three, fourth passenger listed on that sheet?

22 THE WITNESS: Yes. That's me.

23 COMMISSIONER SKOP: I was not going to ask you  
24 that, but -- I thought I heard that was confidential,  
25 but --

1 THE WITNESS: I just checked the redacted one  
2 and I had not been redacted, so --

3 COMMISSIONER SKOP: Excellent. So we'll speak  
4 to what's not confidential. But the company activity  
5 charged is Group, is that correct?

6 THE WITNESS: Yes.

7 COMMISSIONER SKOP: And this particular  
8 document doesn't have the annotation on there where  
9 Group expenses are typically allocated between FPL and  
10 affiliates, but I assume that would be the case also if  
11 the charges were Group-related charges, is that correct?

12 THE WITNESS: Yes.

13 COMMISSIONER SKOP: And would you agree,  
14 subject to check, that the city pair for the fourth  
15 passenger listed there would be from Palm Beach  
16 International to -- I can't even pronounce this --  
17 Sundsvall, Sweden, SDL, subject to check, and the  
18 return?

19 THE WITNESS: Do you know what state that's  
20 in?

21 COMMISSIONER SKOP: I don't believe it's in --  
22 I think it's in a country.

23 THE WITNESS: Yes. I don't remember the name  
24 of the airport. I think it's Arizona.

25 COMMISSIONER SKOP: Oh, is it? Okay. So

1 that's Arizona instead of Sweden. I don't know.  
2 Subject to check, I think SDL, the airport code, that's  
3 what I had a question of, but maybe we could get that  
4 taken a look at.

5 THE WITNESS: Mr. Moyle might know.

6 MR. MOYLE: Well, I will tell you that we have  
7 a printout, the Attorney General's Office has a printout  
8 listing all U.S. codes, and SDL is not found on there.  
9 I mean, if you went to Sweden, I'd hope you would  
10 remember a Swedish trip, but --

11 COMMISSIONER SKOP: Mr. Moyle, again, I don't  
12 want to speak to you, but to Mr. Anderson, do we have  
13 the sequential Bates page to that showing the actual  
14 flight log for that flight, and would it be possible  
15 to -- I guess it would be in the documents in front of  
16 me. So let me take a quick look and I will eyeball it  
17 based upon my aviation experience.

18 COMMISSIONER ARGENZIANO: Mr. Chair?

19 CHAIRMAN CARTER: Commissioner Argenziano.

20 COMMISSIONER ARGENZIANO: While Commissioner  
21 Skop is looking for that, can I ask a question just to  
22 clarify things? On the confidentiality issues that we  
23 have been trying to figure out, I know there is a  
24 motion, and I don't know when we're going to move, and  
25 if there are confidential issues that the company needs

1 to be kept confidential that are proprietary in any  
2 nature, well, then, I'm a hundred percent there if  
3 that's the case. But I wonder when we're going to  
4 figure it out, if you would just tell me how it pans  
5 out, if we wait and all the witnesses are gone, will we  
6 have to call them back at another time?

7 CHAIRMAN CARTER: No, these documents were --  
8 are not pertaining to this witness *per se*.

9 And the other thing on it -- in the context of  
10 the confidentiality is that the parties are entitled to  
11 make their arguments in terms of one way or the other,  
12 and I have withheld ruling on that, but in the context  
13 of these documents here -- when I say "these documents  
14 here," I'm talking about the flight logs -- this is,  
15 from my understanding, is not necessarily the witness  
16 that's the one that could actually identify the  
17 questions *per se* pertaining to those.

18 COMMISSIONER ARGENZIANO: Okay, so then when  
19 the witness that can answer those, given that there may  
20 very well be proprietary information in there or not, we  
21 would have determined or --

22 CHAIRMAN CARTER: Absolutely.

23 COMMISSIONER ARGENZIANO: All right.

24 CHAIRMAN CARTER: Absolutely, I will have  
25 ruled by then.

1 COMMISSIONER ARGENZIANO: Thank you.

2 CHAIRMAN CARTER: Okay. Commissioner?

3 COMMISSIONER SKOP: I guess I would just  
4 suggest it's -- to me, it's indeterminate, I guess  
5 subject to check. It would be nice to get what the  
6 airport code identification is for what appears to be  
7 SDL, which, if you were to look that up, would be  
8 Sweden, but it could be somewhere in the U.S., but --

9 THE WITNESS: It's definitely not Sweden.

10 MR. MOYLE: Captain McNeil indicated that she  
11 believes it's Scottsdale, Arizona.

12 COMMISSIONER SKOP: That's why I said subject  
13 to check. Thank you.

14 CHAIRMAN CARTER: Mr. Moyle?

15 MR. MOYLE: Thank you.

16 BY MR. MOYLE:

17 Q And the reason I wanted to ask questions about  
18 this, one was related to confidentiality, which we're  
19 going to move on with, but the other is to ask you about  
20 your understanding. You were on this trip, correct?

21 A Yes.

22 Q What was the purpose of this trip?

23 A The purpose of this trip was to meet with  
24 investors at an EEI meeting in, I guess, Scottsdale,  
25 Arizona, I didn't remember the city, but it was Arizona.

1 Q And who did you meet with?

2 A We met -- I don't have the list of all the  
3 names that we met with. The reason I'm thinking is  
4 whether we met with any debt investors on that trip, but  
5 I believe, if my memory serves me correct, it was only  
6 equity investors.

7 Q And then the equity investors would be  
8 investing in -- let me ask you this: Were you asked  
9 about who this should be charged to, do you recall, when  
10 you got on the plane?

11 A No, I was not asked -- well, for this trip,  
12 since I'm looking at the handwriting, one of us must  
13 have wrote it down and asked each other who to charge,  
14 because it's all the same handwriting for the first four  
15 passengers.

16 Q And do you recall that all of the people  
17 listed here, did they all go to the same meeting?

18 A Yes, they all went to the same meeting.

19 Q And you were at that meeting?

20 A Yes.

21 Q Okay. And do you find it a little unusual  
22 from an accounting perspective that five people getting  
23 on a plane from Palm Beach to Scottsdale would bill  
24 three different entities for that trip?

25 A No, I don't find it -- I don't find it

1 unusual. I do believe that for investor meetings, the  
2 appropriate code to bill is a Group code, as you can see  
3 from two of the five. I'd have questioned why passenger  
4 number two did not -- did not book a Group code, and  
5 passenger number five only, looks like only went from  
6 Phoenix to -- I'm sorry, Scottsdale to PBI, and I just  
7 do not recall at this point -- I don't recall him on the  
8 trip. That doesn't mean he wasn't on the trip. I don't  
9 recall the reason for him billing FPL.

10 Q And my understanding is the names that are  
11 deleted essentially are names of NextEra employees, is  
12 that right, is that your understanding?

13 A Well, passenger number two is a NextEra  
14 employee, passenger number three is the spouse of  
15 passenger number two.

16 Q Okay. And do you have any information or  
17 knowledge as to why that name was blacked out?

18 A Why which name was blacked out?

19 Q The spouse.

20 A Again, my understanding is that we blacked out  
21 all names where the activity charged was not Group or  
22 FPL.

23 Q I was under the impression that you were only  
24 blacking out NextEra employees, so I guess that was my  
25 mistake.

1           A     NextEra -- it's not your mistake, that's  
2 exactly what I said. The second and third say "FPLE,"  
3 which was the former name of NextEra.

4           Q     Go to the next document, if you would, 161957.

5           A     Yes.

6           Q     The third person down, that person is not an  
7 employee of NextEra, is he?

8           A     Yes, he is. That's not the same person that  
9 you think it is.

10          Q     Okay. Thanks for clarifying that.

11                COMMISSIONER SKOP: Mr. Chair?

12                CHAIRMAN CARTER: One second, Mr. Moyle.

13                Commissioner Skop.

14                COMMISSIONER SKOP: Thank you, Mr. Chairman.

15                Just on that previous document, I just wanted  
16 to clarify the reason for my confusion. Again, in the  
17 first column, the airport code for PBI, which is Palm  
18 Beach International, was used, and then in the  
19 destination, you would think the airport code would be  
20 what is listed with the SDL, but, in fact, it appears to  
21 be an abbreviation for Scottsdale as opposed to the  
22 airport code, and if you were to look up that airport  
23 code, it would be a city in Sweden. So I thought it was  
24 important to clarify that. No disrespect or error  
25 intended, but again, you'd think it would be apples to



1 apples, and it's not in that case, it was an  
2 abbreviation. So just wanted to correct that for the  
3 record, that the SDL does appear to be a shorthand  
4 abbreviation for Scottsdale, but it's not the correct  
5 airport code, which would be SCF, I believe.

6 CHAIRMAN CARTER: Mr. Moyle.

7 MR. MOYLE: If it's okay, I know it will take  
8 a minute, but since there's uncertainty about  
9 confidentiality, I'm just going to ask my colleague, Mr.  
10 Wright, to pick these documents up and we can return  
11 them to FPL, or return them to me.

12 CHAIRMAN CARTER: Mr. Wright is better at  
13 picking them up than you are.

14 Mr. Moyle, you may continue.

15 MR. MOYLE: Thank you.

16 BY MR. MOYLE:

17 Q I'm unclear as to how you allocate cost for  
18 these aircraft. I think -- and the record will reflect  
19 it, but I was under the impression in discussions with  
20 one of your earlier witnesses that the aircraft is  
21 allocated on a per-trip basis, that you determine was it  
22 a NextEra flight or an FPL flight and you allocate it  
23 based on actuals. In response to a question earlier,  
24 you said it's a 50-50 basis for fixed cost. Could you  
25 clarify that, please?

1           A     Yes, I will clarify it, but I think it's  
2 important that my responses may be overly general in  
3 this area, not very helpful, and so my suggestion is  
4 that we've got at least two more witnesses other than  
5 Mr. Bennett that can talk specifically about the  
6 allocation.

7                     My comment was that during 2008, the fixed  
8 costs of the airplanes were allocated based on a review  
9 of the variable costs of the airplane, who was actually  
10 using the flights. The best determinant of that is the  
11 variable costs, and since the variable costs looked to  
12 be allocated 50-50, we had -- we switched to an  
13 allocation of 50-50 for the fixed costs.

14           Q     Okay. And it struck me, I mean, Florida Power  
15 & Light's assets are located wholly within the state of  
16 Florida, with the exception of the one substation in New  
17 Hampshire and a piece of Scherer in Georgia, isn't that  
18 correct?

19           A     But the 50-50 is all the aircraft, including  
20 the helicopters.

21           Q     So you don't make a distinction between the  
22 helicopters flying solely within Florida and the fixed-  
23 wing aircraft that fly all around the country?

24           A     We've gotten to the end of my detailed  
25 knowledge on this matter.

1 Q All right.

2 I guess the map that's on page 20 of your  
3 Exhibit 504, it shows NextEra Energy Resources'  
4 generation portfolio spread all across the country from  
5 Washington to Maine to it looks like North Dakota, South  
6 Dakota. Would that give you cause for concern about  
7 splitting fixed costs on a straight 50-50 basis, given  
8 the breadth and width of the NextEra generation  
9 resources?

10 A Mr. Moyle, I would suggest that whenever we go  
11 visit these places, we take -- we take the aircraft that  
12 we own, and that would be an incorrect assumption. On a  
13 percentage basis, if you add up all of our trips, I  
14 don't know the number off the top of my head, but it's a  
15 very, very small amount of miles that are taken on our  
16 company aircraft compared to the miles that all of the  
17 employees travel.

18 Q Did you check and see whether commercial  
19 flights were available for your trip to Tallahassee?

20 A We did.

21 Q Did you -- FPL has 20 witnesses or so that are  
22 testifying in this case, correct, in the rate case?

23 A In total, somewhere around there, yes.

24 Q And you said 99 percent of the people were  
25 taking commercial or driving, correct?

1           A     Yes.

2           Q     And you and Mr. Olivera took the company plane  
3 to come testify, correct?

4           A     Yes.

5           Q     Any others?

6           A     Yes, a few others, maybe -- I'm not going to  
7 remember in total, somewhere around five or seven.

8           Q     All right, so let's say five. You would agree  
9 five out of 20 is not 99 percent, correct?

10          A     I didn't say, Mr. Moyle, I didn't say just  
11 witnesses. We have a lot of people that are supporting  
12 the company in this rate case here in Tallahassee.

13          Q     Do you know how many?

14          A     I don't know how many off the top of my head.  
15 Quite a few.

16          Q     Did you have a concern when you decided to  
17 take the corporate aircraft up to provide your testimony  
18 that that might send a bad signal or a bad message, to  
19 fly on the corporate aircraft up here to provide  
20 testimony to support a \$1.5 billion rate increase?

21          A     I absolutely did think about that, and the  
22 other things I thought about was my schedule, how long  
23 we would go in this proceeding. I did not know at that  
24 point whether in fact Thursday, today, would be the last  
25 day. I was rather hopeful that we would be able to

1 finish up this week sometime. So taking my schedule,  
2 taking what I believe was the Commission's schedule into  
3 account, I made a decision.

4 Q Mr. Stall was asked questions by staff about  
5 watercraft owned by FPL, and he had mentioned one  
6 watercraft that FPL owns that's a below-the-line  
7 expense. Do you have any information about that?

8 A I do not.

9 Q Do you know if FPL owns a watercraft that it  
10 pays for below the line?

11 A I do not. If there is a watercraft that's  
12 owned, it must be awfully small.

13 Q And if it was, you would be aware of it, would  
14 you not, as the CFO of FPL Group?

15 A If there was a small watercraft that was  
16 owned, would I be aware of it, is that your question?

17 Q Yes.

18 A No.

19 Q The investment tax credit discussion,  
20 Commissioner Skop asked you a whole bunch of questions  
21 about the investment tax credit, and it was along the  
22 lines of -- I interpreted it as trying to get money back  
23 in the hands of ratepayers in these tough economic  
24 times. Do you have any information with respect to  
25 whether that tax credit, the ITC tax credit, is salable

1 to third parties?

2 A No, it's not salable to -- none of the tax  
3 credits that I'm aware of that we use are salable to  
4 third parties.

5 Q Tax credits associated with affordable housing  
6 are syndicated to third parties, are you aware of that?

7 A I believe so, yes, I believe the financial  
8 institutions create -- created, I'm not sure about  
9 anymore -- created quite a market for those.

10 Q But you don't think that's the case with your  
11 ITCs, correct?

12 A No, I do not believe that's the case.

13 Q In response to a question from Commissioner  
14 Skop, you used the term, "a rate cliff." What were you  
15 referring to when you mentioned a rate cliff?

16 A I believe I was referring to -- we were having  
17 a discussion about the theoretical depreciation reserve  
18 and about the crediting back of that reserve to  
19 customers, and I indicated that in our -- in our MFRs,  
20 we show that credit back, that depreciation reserve over  
21 the life of the assets, and I indicated that if in fact  
22 someone believed that that depreciation credit should be  
23 credited back in a faster manner, that there were three  
24 things that needed to be taken into account.

25 One of the things that I mentioned is when you

1 do that, you're actually increasing your rate base,  
2 because you're taking an amount that's on your income  
3 statement and you're putting it back onto your balance  
4 sheet, so it's an amount that you have already  
5 recovered, the customer has already paid for and you're  
6 going to put it right back onto rate base. And as you  
7 do that, the shorter the period of time that you do do  
8 that, the higher your rate base becomes, and the higher  
9 your rate base becomes, the higher your customer bills  
10 will be the next time we all sit down to determine what  
11 rates should be.

12 (Brief pause at 7:00 p.m.)

13 (The transcript continues in sequence with  
14 Volume 40.)

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## 1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA )

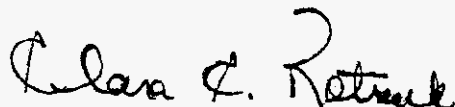
3 COUNTY OF LEON )

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

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

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

15 DATED this 22nd day of September, 2009, at  
16 Tallahassee, Leon County, Florida.

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22 CLARA C. ROTRUCK  
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