BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

PETITION FOR INCREASE IN RATES BY PROGRESS ENERGY FLORIDA, INC. /	DOCKET NO. 090079-EI
PETITION FOR LIMITED PROCEEDING TO INCLUDE BARTOW REPOWERING PROJECT IN BASE RATES, BY PROGRESS ENERGY FLORIDA, INC. /	DOCKET NO. 090144-EI
PETITION FOR EXPEDITED APPROVAL OF THE DEFERRAL OF PENSION EXPENSES, AUTHORIZATION TO CHARGE STORM HARDENING EXPENSES TO THE STORM DAMAGE RESERVE, AND VARIANCE FROM OR WAIVER OF RULE 25-6.0143(1)(C), (D), AND (F), F.A.C., BY PROGRESS ENERGY FLORIDA, INC. /	DOCKET NO. 090145-EU

VOLUME 13

Pages 1782 through 1901

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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 24, 2009
TIME:	Recommenced at 9:34 a.m. Recessed at 7:41 p.m.

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

REPORTED BY: MARY ALLEN NEEL, RPR, FPR

PARTICIPATING: (As heretofore stated.)

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P R O C E E D I N G S

(Transcript continues in sequence from Volume 12.)

Thereupon,

PETER TOOMEY

a witness on behalf of Progress Energy Florida, Inc., continues his sworn testimony as follows:

CONTINUED CROSS-EXAMINATION

BY MS. KAUFMAN:

Q. I want to talk to you a little bit more about that. Do you have the stack of documents that staff was going to introduce through you? It's got a purple sheet on it, and the first one is PEF's Response to Staff's Third Set of Interrogatories, Number 12.

MS. FLEMING: Can you give me the subject area that it's under?

MS. KAUFMAN: Discovery related to cost of capital.

CHAIRMAN CARTER: Hang on a second. Let's all get on the same page here.

MS. KAUFMAN: I just didn't want to make more copies if --

CHAIRMAN CARTER: Okay. That's fine. Just hang on. We just want everybody to get a copy of it, and we can go forward.

Okay. Ms. Kaufman, you may proceed.

MS. KAUFMAN: Thank you, Mr. Chairman.

BY MS. KAUFMAN:

Q. Do you have that package, Mr. Toomey?

A. I believe that I do.

Q. Okay. In the lower right-hand corner of each page, there is a -- it says "Hearing Exhibit," and then there's a Bates stamp number.

A. I see those.

Q. Okay. If you would look at number -- there's four zeros and then 1616. And let me know when you get there.

A. I'm there.

Q. I should have asked you, but you're the sponsor of these interrogatories, are you not?

A. I can tell you on each one. I'm the sponsor on this one.

Q. Okay. I think that's probably why staff grouped them together for you.

A. Okay. Sure.

Q. We just talked about the company's request for a 12.54 return on equity. And in a discovery request to you -- I believe this is from the staff -- they asked you to define what is a low ROE. And am I correct that the company's response would be that any ROE that is lower than 12.54 percent is a low ROE?

A. Yes, that's the essence of our response. That was our response on this; that's correct.

Q. Do you have occasion in your position to look at the ROEs that other companies have recently received?

A. I don't know that I have a comprehensive view of that, but certainly I may see some, sure.

MS. KAUFMAN: I'm going to show you or give you this exhibit, which is already in evidence, I believe. And I apologize, Mr. Chairman. My colleague did not write the number on it.

CHAIRMAN CARTER: 264. It's Number 264. In other cases, 461 -- 462 in the other -- that's right. It's reversed.

MS. KAUFMAN: That's a little scarry.

CHAIRMAN CARTER: It is.

MS. KAUFMAN: May I approach the witness?

CHAIRMAN CARTER: You may approach.

THE WITNESS: Thank you.

BY MS. KAUFMAN:

Q. Mr. Toomey, as we just said, that has been entered into the record as Exhibit Number 264, and it shows the requested as well as the granted returns on -- return on equity for a number of companies in 2009, and there's a column that compares what has been requested and a column that shows what was approved. Do you see that?

A. Yes. I see the columns, the request and the authorized, and I see the ROE column.

Q. Okay. Now, first of all, do you see any company on there that requested an ROE at the level Progress is asking for?

A. No.

Q. Do you see any Commission that granted any company an ROE, the ROE that Progress is asking for?

A. No, I do not.

Q. Would it be your testimony that the ROEs that were approved by other commissions -- and I believe there's one decision by this Commission on there. Is it your testimony that those are all low ROEs?

A. Well, again, our reply to 245 was to refer -- to answer the question, which was in turn referring to the testimony of Mr. Lyash. So I don't know how he intended to use it without looking at his testimony, which I would be happy to do. And I think this answer is in the context of his testimony.

Q. Do you disagree with him?

A. Well, it would be nice to see his testimony and see how he described it so I would know the context.

Q. Well, the company is asking for 12.4; right?

A. The company is asking for 12.54.

Q. .54. I'm sorry.

A. And we believe that's the appropriate rate, and we're defending that here, that's correct.

Q. So let me just be clear with regard to the chart. Is it your -- you don't have an opinion one way or another as to whether those ROEs are low compared to what your company wants?

A. Well, I would certainly say I can observe that they're all lower than 12.54, which is what we're requesting today. And then beyond that, low is -- in what context do you want me to talk about it?

Q. I was just referring to the company's answer, which was anything less than what your expert recommends is low.

A. And that was our reply, and again, we were talking about the way Mr. Lyash used it in his testimony.

Q. Can you look at the very bottom of the chart that you were just looking at?

A. Yes, uh-huh.

Q. And can you tell us what the average requested ROE was?

A. It says average requested ROE, 11.18 percent.

Q. And what was the average that was approved?

A. The average authorized ROE was 10.51 percent.

Q. Let me get that back from you, if I might.

A. Of course.

Q. Let's turn to page 9 of your testimony, Mr. Toomey, please. And I'll wait until you get there.

A. My direct testimony. I think I'm there.

Q. The paragraph that begins on line 6 and goes down almost through the end of the page, you're talking about some of the -- the reasons that the company is seeking this increase. And I particularly wanted to look at the answer -- the sentence actually begins on line 13, but on line 16 and 17, you're talking about you want to recover your required investment and remain financially sound to provide the reliable power our customers demand throughout our capital expenditure program to bring new nuclear generation, and then you go on. And I want to talk to you about the new nuclear generation. Is part of your revenue request here related to the company's desire to bring new nuclear generation online?

A. Not in any direct way, no.

Q. So when you're making that reference to new -- your capital expenditure program and new nuclear generation, you're not intending to use that as a basis for your revenue request here?

A. I think the reference is only valid from the sense that even though our requests for nuclear cost recovery go through that clause, if the overall financial health of the company was damaged in the base rates, we would not be able to continue with our programs, any of them, but certainly for the new nuclear program. So I think it was valid to raise it in that context.

Q. You did anticipate my next question, which is, the costs that are related to the new nuclear generation are going through the nuclear cost recovery clause now; correct?

A. Yes. Everything that is not in base rates, you know, the nuclear costs that are designated to go through the clause go through the clause.

Q. Now, on page 13, line 16 -- actually, on line 15, you say the company is already in the largest capital expansion program in its history. Do you see that?

A. I do.

Q. Is part of your reference there to the Levy nuclear plant?

A. Well, it's not completely clear there. I think it is probably also true that excluding Levy, our capital expenditure program over the future three years or five years might be the highest period in our company's history.

Q. And I'm just trying to understand your sort of general reference to -- the largest capital expansion is intended to encompass the nuclear units as well? Is that part of the largest capital expansion in your history?

A. Well, I would say, again, if you include Levy, the number, of course, gets much larger still. But my point was, even if you were to exclude Levy, we have a very large capital program.

Q. So does your comment at line 16 include or exclude Levy, the Levy nuclear plants?

A. It's not specific. You know, it clearly doesn't define it there, and I guess I was trying to clarify. I think that it would be true with Levy or without Levy.

Q. Well, this is your testimony; correct?

A. Uh-huh. And when I wrote it, I didn't specifically -- I guess I was just trying to be -- I didn't write that specifically with Levy or not.

Q. So when you were writing it, you just didn't consider that one way or the other?

A. I think, again, the idea is -- the magnitude of the capital program that we have was the important point I was trying to make. I didn't further subdivide it into -- you know, for which projects.

Q. Do you happen to know the in-service date of the Levy plants, the Levy nuclear plants, I should say?

A. I think that -- I think they were previously scheduled for 2016 and 2017, and I think we have announced publicly that those dates are going to be shifted to the right, rescheduled. I don't think that we know the new dates yet at this time.

Q. Do you think it's possible that the project may be further delayed or not even completed at all?

A. I don't know.

Q. Is that a possibility?

A. It is a possibility.

Q. I want to talk to you for a moment about the Commission's O&M benchmark that Ms. Bradley mentioned. And I think in your testimony you talk about it beginning at the very bottom of page 21?

A. Okay. And the top of 22. Okay.

Q. First of all, we're talking about the O&M benchmark here. And you would agree with me that the company has exceeded the benchmark in the test year by $143 million; correct?

A. I could look to be sure, but I know --

Q. It's --

A. There's an MFR that details the exact amount, but that number sounds correct.

Q. You have that in your testimony at page 23, line 5, if you want to check.

A. Okay. There you go.

Q. So the company is over by 143 million; correct?

A. Yes.

Q. And again, that's about -- what? 25 percent of the requested increase; correct?

A. 143 million, say, divided by 500, a little bit more, uh-huh.

Q. Now, are you familiar -- I guess I should assume that you are familiar with the Commission's O&M benchmark calculation?

A. Yes. I had to familiarize myself with it to be able to put it in my testimony, that's correct.

Q. Do you know in how many rate cases the Commission has used that benchmark?

A. I don't.

Q. Would you accept, subject to check, that it has been in use at least for the last 20 years?

A. I would have no way to know or to disagree with that.

Q. And would you agree with me that the company is required to make that calculation when it files its MFRs so the Commission company can have a gauge as to the reasonableness of the company's request?

A. I do agree with that, yes.

Q. On page 24 of your testimony at line 7, you're talking about rate case expense; correct?

A. Yes.

Q. And you are recommending an amortization period of two years; correct?

A. Yes, that's correct.

Q. And you tell us that that is based on longstanding Commission practice; correct?

A. Yes, that's what it says.

Q. What is your basis for your comment that it -- let me start again. That your requested time period is based on longstanding Commission practice of using two years?

A. Our basis for it, my basis for putting that here was, I believed that it was true.

Q. I'm sorry. I didn't hear that.

A. I believed that it was true. That's why I put it in there, of course. And I was just going to flip here to an interrogatory that we were asked about that exact statement.

Q. Did you review other Commission orders where they addressed rate case amortization to --

CHAIRMAN CARTER: I think he was trying to answer your question.

MS. KAUFMAN: Oh, I'm sorry.

CHAIRMAN CARTER: You were trying to find the answer? Is that what you were looking for?

MS. KAUFMAN: I'm sorry.

THE WITNESS: Well, it's -- that's what I was doing. Is that what you want me to do?

CHAIRMAN CARTER: Yes. Okay.

MS. KAUFMAN: That will be fine. I'm sorry. I thought you were finished.

CHAIRMAN CARTER: He's got quite a few books.

MS. KAUFMAN: He's got a lot of notebooks up there.

CHAIRMAN CARTER: He's got the library over there.

A. I believe it was OPC Interrogatory 381, which I'll flip to.

And in our answer to that, we refer to at least one case, a TECO docket from 1982. And, you know, I think we tried to write out in our answer there that certainly the practice of taking rate case expenses and amortizing them over several years is the longstanding practice.

Q. Does that complete your answer?

A. If I remember your question, I think it does.

Q. Okay. I just wanted to be sure?

A. No. I was trying to answer fully.

Q. And we appreciate that.

And let me ask the question that I was going to ask. Did you go back and review any Commission orders? I guess you mentioned a 1982 Tampa Electric order?

A. Yes. That's the one that we cited in our interrogatory here that I recalled. I personally, I can tell you I did not go back and further research which orders that was established in.

Q. Did you look at the most recent Tampa Electric order from April 30th, 2009?

A. I did not in answering this. Certainly at the time that we prepared our rate case, that would not have been out in any case, but I did not.

Q. Are you aware of the amortization period that the Commission approved in the Tampa Electric rate case?

A. I'm not.

Q. I'm sorry?

A. I am not. I'm sorry.

MS. KAUFMAN: Mr. Chairman, I'm just going to give the witness a copy of an excerpt from the Tampa

Electric rate case order.

CHAIRMAN CARTER: You may approach. Do you want to cite it for the record?

MS. KAUFMAN: I will. Thank you, Mr. Chairman. This is the Tampa Electric rate case order, Docket Number 080317, Order Number PSC-09-0283.

Mr. Burnett, I apologize. I do not have another copy. If you want to --

MR. BURNETT: I have it memorized, Ms. Kaufman.

MS. KAUFMAN: Good for you. You know what? Me too.

BY MS. KAUFMAN:

Q. Mr. Toomey, I have just handed you an excerpt from quite a long order in the Tampa Electric rate case.

A. Okay.

Q. If you would flip over to page 65, in the middle I've highlighted -- that is where the discussion of the amortization period begins. And if you would turn over to page 67, toward the bottom, you'll see a highlighted sentence. And if you could, read that and tell us what the Commission decided to do in that case regarding the amortization.

A. Yes. It says, "Also, the amortization period shall be increased from three to four years, which is consistent with several of our recent rate cases."

Q. And so the more recent practice, would you agree, is a four-year amortization for rate case expense, not two years?

A. That's what the Commission said here, and I'm sure they're right.

Q. You can set that aside.

A. Okay. Thank you.

Q. I am done with that, yes. Thank you.

Also on page 24 of your testimony, we've had some discussion with other witnesses about the corporate aircraft.

A. Yes.

Q. And I'm correct that any expenses related to that have been removed from this rate case; correct?

A. You are correct. Any expenses associated with that have been removed.

Q. Now, I had some questions for Ms. Wyckoff about some of your affiliated entities, or I guess more appropriately called your non-regulated entities, and I believe she told me that you were the right person to talk to about that. Does that sound right?

A. I recall that, yes.

MS. KAUFMAN: Okay. And I have an exhibit that I would like to distribute, Mr. Chairman.

CHAIRMAN CARTER: Do you need a number?

MS. KAUFMAN: I do.

CHAIRMAN CARTER: Okay. For the record, it will be Number 282. Short title?

MS. KAUFMAN: OPC Interrogatories 402 to 406.

CHAIRMAN CARTER: OPC Interrogatories 402 --

MS. KAUFMAN: Through 406.

CHAIRMAN CARTER: Through 406. Thank you.

(Exhibit Number 282 was marked for identification.)

CHAIRMAN CARTER: You may proceed.

MS. KAUFMAN: Okay. Thank you. And I apologize. The cover sheet says Wyckoff on it, but if everyone wouldn't mind changing that to Toomey.

THE WITNESS: That's fine.

BY MS. KAUFMAN:

Q. You sponsored this set of interrogatory answers, right, Mr. Toomey?

A. On my listing, I had myself down as the sponsor, I believe, for 400, 401, and 406, so maybe not all of these, but I'm familiar with them.

Q. Let's see if we can get through them. If you look at your affidavit at the back, the one that I'm going to be talking to you about is 402.

A. Okay.

Q. And it looks like your affidavit suggests you sponsored that one?

A. Okay. I am familiar with that one.

Q. Okay. Very good. Now, Progress has a number of entities that provide unregulated or non-regulated services; correct?

A. Yes. I thought it might be helpful to clarify.

Q. Go right ahead.

A. Yes. There was a discussion the other day about kind of a corporate organizational chart and the discussion that there are companies owned by the parent holding company that are not regulated utilities. Now, they're not doing a whole lot now. We have the service company that provides services to the utilities. But for me, I think of those as affiliates, like affiliated companies who aren't regulated. That's not a huge difference, but it's sometimes meaningful.

Actually, Progress Energy Florida itself actually engages in some operations that by definition are not utility operations. I don't so much think of those as affiliates, because it's our company. And it will just be helpful if I can keep -- you know, that's kind of below the line type activities.

Q. Okay. I'll try to stay within that

nomenclature --

A. That's fine.

Q. -- if I can, if I know.

A. And again, on 402, in a general way, I think this refers to activities that PEF would be engaged in that are, you know, by definition not tariffed, regulated services. They're kind of below the line.

Q. So if you look at page 3 of 402 at I and also at J, the services that are listed there are provided by the utility, but they are not regulated; is that correct?

A. Yes. That was the distinction I was just trying to highlight earlier. That's correct.

Q. And if you look on page 4 at item J where some of the services are listed, I think that -- I apologize for not remembering the witness's name, but we had some discussion with the customer service representative about some of these.

A. Perhaps Willette Morman.

Q. Yes. I'm sorry.

A. That's fine.

Q. It's been a long week, a long couple of weeks.

If you look on J, you see a service there that's called home wire. What is that?

A. It's -- it may be explained in better detail here. I was just flipping. But it's a service that in a general way -- and I think somewhere here it's probably defined better, but it's a service that we offer that's clearly not regulated, that we will, you know, for the payment of a fee from customers monthly, take care of the wiring inside their house, I believe. I believe that's what it does.

Q. I don't know if you would be familiar with this analogy. In the telecommunications industry, it's like an inside wire service?

A. Yes, that's my understanding. And again, somewhere in the interrogatories, I think we explain what each of the programs are, and from my memory, I believe that's what this one is.

Q. You have -- at the time of this interrogatory, about -- over 180,000 customers were taking that service; correct?

A. Yes, 182,000 is what was mentioned there, that's right.

Q. And the service above that I think is the one that Ms. Morman discussed with us, the surge protection program, and that's -- a little more than 93,000 people are taking that service; correct?

A. Yes.

Q. When a customer of Progress Energy signs up for one of these services, is it billed on their electric bill?

A. Yes. If they're a Progress Energy Florida customer and they sign on on this, they're billed on their bill.

Q. On the next page, page 4, we see the revenue by month --

A. Page 5? It's page 5 on mine.

Q. I'm sorry. Page 5.

A. Okay. Uh-huh.

Q. And, you know, for example, the home wire we just talked about, for the first six months of this year, the company collects over $4 million for that service; correct?

A. I see that, yes.

Q. And I was looking for the -- do you know where the surge protection service is on here?

A. It might be the power quality services. My guess is it would be in the power quality services. That's kind of the nature of the service, and it's the next largest dollar amount.

Q. The 3 1/2 million?

A. Yes.

Q. Is there any compensation back to the regulated entity for billing for these services on the electric bill?

A. There is an overhead allocation that is applied to these below the line type activities to allocate the cost to them. We believe that's correct. So it's not a -- it's an allocation of overhead. I'm sorry.

Q. And that is intended to account for the fact that the service is billed on the electric bill?

A. Yes. That's one of the things accounted for, yes.

Q. Does that allocation also account for these non-regulated services being marketed to a captive customer base?

A. The only reason why I'm hesitating on that answer is, again, somewhere in all of our interrogatories -- and I'll be happy to look for a minute. I believe we were asked a question about how the company is reimbursed for that, and we answered it, and I believe there's sort of a marketing fee paid.

Q. Would that be in this set I handed you, do you think?

A. Well, I'm looking for that right now.

If you go to -- yes. It's on page 3, little letter E. You can see our answer to a question. And if you flip back up to the front in the series of questions, this says customers of FP&L, but it's us. It's asking are they offered non-regulated services at the time they initiate service, and then E says, hey, if you say yes to that, tell us how that works. And so over here we've said, yes, when a new customer signs up, we do offer them this. And then in E, we explain the allocation on the value of the sale.

Q. So when you say value of the sale, I'm just going to --

A. It goes on to explain it in case it's not a universal term, which I don't think it is. It's the value of the sales determined based on one to two months of revenue generated from the product, which it describes here as an industry standard. And --

Q. Can -- I'm sorry.

A. And then it goes on to talk about that on a per sale basis. I'm sorry.

Q. That's okay. Can an entity that is not related to Progress Energy market and bill their services to your captive customers?

A. I believe the answer is no.

Q. So if I wanted to have you market my service for every new customer and bill them for me, that's something that's not permissible?

A. Yes. This is not like a tariffed service that we make available to companies to bill through our bills; that's correct.

Q. So would you agree with me that certainly in marketing a product like inside wire protection or surge protection that the regulated -- not the -- the unregulated entities have somewhat of an advantage over others in the marketplace?

A. Well, they certainly are able to do that when others can't. So if you think of all the things under which businesses compete, that's an advantage for them. And certainly they have to compete on everything, quality, quality of service. But we are the only company that can provide that ourselves; you're correct.

Q. Are there ever bill inserts used to market any of these services?

A. I don't know.

Q. I guess I should have asked Ms. Morman, huh?

A. Perhaps.

Q. All right. We're going to switch gears, and I want to talk to you just for a moment about the storm accrual that Mr. Rehwinkel discussed with you.

A. That's fine.

Q. And I think you told him that the company is requesting to increase the accrual from 6 million to 16 million, so an increase of $10 million per year;

correct?

A. Yes, that's right.

Q. Do you know the current amount that is in the fund at this time?

A. I know it approximately?

Q. I think that would be fine for our purposes.

A. I was going to say, I think it's about, from memory, maybe 150 million, 140 million. And I can look to do better, but --

Q. Well, in your deposition, you told us it was 154 million. Does that sound right?

A. Even better. Okay. That's fine. I apologize.

Q. That's fine. So currently, there's 154 million in there, and that was based on accruing $6 million a year; correct?

A. That's what the accrual has been recently. Just so you know, that has varied in the recent past quite a bit.

Q. And I want to just clarify something that Mr. Rehwinkel asked you. This might have been my misunderstanding. When dollars are collected pursuant to the storm accrual, are those set aside in a dedicated fund?

A. They are not.

Q. So are they part --

A. I should explain more completely. I'm sorry. They're not in the sense of like a trust fund. They're not set up that way. It is, rather, a reserve on the books with limited ability to use it, but it is just a reserve on the books. A term people use is, is it a funded trust or a funding reserve or unfunded, and with that distinction, it's not a funded reserve.

Q. Is it part of the company's cash flow?

A. I would say the receipts are part of the cash flow; that's correct.

Q. Is it part of operating revenue?

A. Well, to the extent -- I guess that if a rate increase is granted and a portion of those revenues are for it, you know, what it is is revenues, which clearly count for the operating revenue part. If they match the expense reserve, the net impact is zero.

Q. And I think that you told Mr. Rehwinkel that in the case of Progress that the storm accrual funds can only be used for that specific purpose, the purpose of repairing damage after a storm; is that correct?

A. Well, I know that -- I'm not familiar with the details, but I do know that it was set up for that specific purpose. It's not in any way general corporate funds. And I believe he was asking didn't that lead to us having to ask if we wanted to use them for something which we had to do, and the Commission, of course, decided no in that instance.

CHAIRMAN CARTER: One second, Ms. Kaufman. Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman. I just wanted to, I guess for my own clarification, ask a question on this point, because I seem to have heard two different answers, and I want to make sure I understand it specifically, because I spoke to it yesterday. But with respect to the question that Mr. Rehwinkel asked, followed by Ms. Kaufman's question, basically, Progress has asked for 10 million additional dollars in storm accrual amounts. And so I think that you've testified, as others have, that that's an unfunded reserve.

So what I'm trying to get some clarification of -- and this is my misunderstanding in terms of what I'm hearing, at least from my perspective -- and correct me if I'm wrong. To me, the moneys collected, if that were to be granted, the $10 million additional request, would represent unencumbered free cash flow to the company to the extent -- and I'll ask you to illustrate this for me in a second in an exhibit that was previously mentioned. But you've got theoretically

$10 million of additional cash flow coming in a year, and you're making an accounting entry. But with respect to the cash itself, it's not being encumbered or swept into a funded account, so that cash is free to go anywhere, theoretically. It could be swept up to pay dividends at the corporate level, swept up to the corporate level or used for other operating expenses.

So I guess what I'm trying to get clarification of, the cash comes in, and until there's a storm event, the company is free to use that incoming cash any way it sees fit within corporate operations; is that correct?

THE WITNESS: I would say yes, and just being careful then to go on and say as you're talking about the cash, I think the receipt of the cash is step one. If after that -- a good thing maybe to me, just for clarity, if you think of like the nuclear decommissioning trust, when the funds are segregated into a separate trust account, that does not exist in this case.

So I think confirming what you're saying, the cash flows come in, in effect, they're part of our cash flows from revenues, because it's in our revenues, and so those are available for any other purposes of the corporation.

COMMISSIONER SKOP: So I guess in summary, the incoming cash or the free cash flow coming in is unencumbered, but there is an offsetting accounting entry made that should there be a storm reserve event, the company would be required at that point to recognize what the consumers have already paid for; correct?

THE WITNESS: Absolutely true. And that's the reserve part of it; that's correct.

COMMISSIONER SKOP: And I guess the response to that -- I was going to look at the monthly cash flows on Citizens' Fourth Set of Interrogatories, Number 65, but I think that's unnecessary based on your response. Thank you.

THE WITNESS: Okay.

COMMISSIONER EDGAR: Ms. Kaufman.

MS. KAUFMAN: Thank you, Madam Chairman. Thank you, Commissioner Skop. That was the point I was trying to get to.

BY MS. KAUFMAN:

Q. So when the cash comes in for the storm accrual, the company can use it as it deems appropriate?

A. Yes. You can say that; that's correct.

Q. Now, would you agree that when -- hopefully not, but if a storm were to hit the Progress service territory and cause some damage that the fund was not sufficient to cover at this point in time, the company could certainly come to the Commission and ask for a surcharge on the customers in order to cover any prudently incurred costs that related to the storm?

A. I would say yes, we are free to ask. I would want to say more if you think that's okay.

Q. Well, I don't know. Given the hour, I guess I'll leave that to the Chairman.

A. I can make it quick. The effect of the reserve there is, if we incur a lot of cost, the book income effect is that we would be able to charge those against that reserve that was created, so the earnings impact of that is somewhat possibly mitigated by the reserve.

But your points on cash flow are -- you know, given that it's not a separate funded trust, the cash costs of putting everything back in place and all that would have to be borne immediately, as they would be, on the cash of the company. It's the reserve that would help from a book income impact standpoint. I just wanted to clarify that briefly.

Q. Thank you for that clarification. The last, I guess, bad storm season we had was in 2004, correct, where you had several storms hit?

A. Well, there were several bad storms there. A question was asked the other day, when was the last tropical storm that hit us, and I remember Fay in 2008, and that was part of our request here. That was, you know, noticeable.

Q. But the sort of events that we had in 2004 caused a lot of damage, because we had a lot of storms?

A. Yes. I wasn't here at the time. Everyone tells me I should be glad. But those depleted everybody in the state's storm reserves. There were lots of surcharges. It was in that period of time; that's right.

Q. And when that happened, am I correct that Progress came to the Commission and requested a surcharge, and as a matter of fact, there was actually a stipulation among most of the parties here that that would be appropriate; correct?

A. I believe that's true.

Q. And you don't have any reason to believe that the Commission won't allow prudent recovery of storm costs in the future, do you?

A. No, I have no reason to believe that they would not.

Q. And would you agree with me to the extent that your request for an additional $10 million a year for the accrual is not granted, or if the Commission decides that no accrual is appropriate, that would certainly lighten the burden on some of the ratepayers at this point in time, because it would reduce your revenue requirement; correct?

A. It would reduce our revenue requirement today, not without a corresponding effect, and that would be that the reserve itself would not build as rapidly over time, and when a storm occurred, while we would go out and get the cash, it would be very destructive from the reserve standpoint. We would need a surcharge to recover that.

Q. Correct?

A. And so the reserve kind of plays a role in buffering against that.

Q. My only point being that you don't have any reason to doubt that such a surcharge would be permitted, assuming that the costs were reasonable and prudent?

A. Yes. I have no reason to doubt that. In fact, I count on the fact that it would be.

Q. Let's talk for a moment about the purchased power adjustment. I have just a few questions on that.

A. Okay.

Q. Some folks have already talked to you about it. And you told us that the annual revenue requirement associated with the imputation of that is, you told Mr. Rehwinkel, about $25 million a year; correct?

A. Yes, for our test year. And he had the specific number, and I could refer to it, but that's what I recall.

Q. I think the record is clear on that.

A. Okay.

Q. Are you familiar with the decision the Commission made on the imputed debt issue for PPAs in the Tampa Electric rate case?

A. I'm not.

Q. Were you aware that Tampa Electric made the same request to the Commission in its rate case, to be allowed to impute debt based on the purchased power --

A. To impute equity?

Q. Excuse me. Yes, impute equity.

A. I did know that they had made a request. I'm not familiar with the details, but I'm familiar that they made a similar request.

Q. And do you know that it was denied?

A. Again, I wasn't familiar with the specifics on that.

Q. I'm going to give you a different excerpt --

A. Okay. That's fine.

Q. -- from the Tampa Electric rate case that we can look at together.

CHAIRMAN CARTER: For the record, Ms. Kaufman, do you want to -- for the record, do you want to give the number for the order, please?

MS. KAUFMAN: Yes. It's Docket Number 080317-EI, Order Number PSC-09-0283-FOF-EI, entered by the Commission on April 30, 2009.

CHAIRMAN CARTER: You may proceed.

MS. KAUFMAN: Thank you.

BY MS. KAUFMAN:

Q. Mr. Toomey, I've only excerpted the portion that deals with the pro forma adjustment to equity that Tampa Electric requested. If you want to take a minute to look through it, I've highlighted the portions that I want to talk to you about.

A. You can just direct me to the highlighted portions if you like.

Q. As I said, in that case, the Commission denied the same adjustment that the company is requesting here. If you would, turn to page 36 and read the highlighted sentence at the top there.

A. "With this proposed adjustment, we find that the company is attempting to take a portion of S&P's consolidated credit assessment methodology and use it for a purpose it was never intended."

Q. And then if you look down on that same page, if you could read the sentence that begins with "therefore."

A. Yes. "Therefore, based on the record evidence and the reasons discussed above, we find that TECO's requested pro forma adjustment to equity shall be denied for purposes of setting rates in this proceeding."

Q. And you were not aware of this order at the time you drafted -- made your recommendation?

A. Made what recommendation?

Q. That the imputed equity adjustment be made in your case.

A. Well, if this came out after we filed ours on March 30th --

Q. It did.

A. Yes. So we wouldn't have known it at the time we filed by virtue of the dates; right?

Q. Yes, sir. I'm sorry. You're right about that?

Does it change your view on whether this adjustment should be made?

A. Well, it's an important data point. I'm not familiar with their specifics versus ours, and, you know, I know the Commission will consider it in this proceeding.

Q. Let's talk for a moment now about pension. You cover a lot of areas in your testimony.

A. That's fine.

Q. And I think you discussed with Mr. Rehwinkel the fact that part of your revenue request relates to the decreased value of your pension fund; correct?

A. Yes. It's an important contributing factor to the increase in the pension expense we're requesting.

Q. And that decline in the pension fund was based on the downturn and the low part of the economy in March; correct?

A. Actually, again, for purposes of this calculation, the 2008 actual results. The way that's used in the pension is -- an important data point in the calculation is what are the assets you have available at the first of the year to be invested to grow the pension fund. And then as I mentioned earlier, that asset balance on January 1st of 2009, instead of having grown maybe something on the order we would have expected of 80 to 90 million during 2008, in fact, it went down by about 320 million, so it was way off where it had been previously.

Q. Can you quantify for us the effect that the stock market decline has had on your requested pension fund request for 2010?

A. Well, maybe not with complete precision. Again, the pension's calculation is very detailed, but --

Q. A high level is always good for me.

A. Okay. I was just going to refer to C-17 for a moment, if I can move this out of the way.

Again, the effect of the stock market and the downturn in 2008 really shows up in that -- what assets do you have available for investment at the beginning of the year. Apparently we used a 8.75 earnings rate for 2010. You know, that was the statistic that I had cited earlier.

And again, I want to say that if you just take the -- I'll flip to the amount, the negative 320 million, I believe it is, that was lost in 2008. Yes. On line 3 is actual return -- woops. Yes, line 3 is actual returns, gains or loss. You can see in the future we're forecasting gains, but in 2008, it was about a $320 million loss. If I just look at that, that's 320 million I wasn't counting on losing that would have been invested. I might also have, other things equal, said I would have earned about 8 or 9 percent on about a billion. That would be another 80 or 90, so let's just call it 400 million that wasn't invested at something like 9 percent. Just that alone would -- using round numbers, 9 percent is like 36 million. So that comes out of the math right away just by virtue of the history in 2008. And --

Q. Could you -- I'm sorry.

A. That's the ballpark that I was trying to capture. That would be the effect of the '08 downturn.

Q. Would you agree that the stock market has rebounded substantially since that time and since you filed your case on March 20th?

A. Yes.

MS. KAUFMAN: I have another exhibit, Mr. Chairman.

CHAIRMAN CARTER: Okay. That number will be 283, 283. Short title?

MS. KAUFMAN: Stock Market Price Indices.

CHAIRMAN CARTER: Stock Market Price Indices.

MS. KAUFMAN: It says -- or indexes.

CHAIRMAN CARTER: Okay.

MS. KAUFMAN: Take a look at these two pages, or three pages, while we're distributing it, Mr. Toomey.

CHAIRMAN CARTER: Thank you. I think you're right. It's indexes.

(Exhibit Number 283 was marked for identification.)

BY MS. KAUFMAN:

Q. I'll represent to you that this was printed off the Internet for me, and it shows the Dow, the S&P, and the NASDAQ. It gives us a historical look at what has happened. So if we take a look at the low point, the first one, which is the Dow Jones Industrial Average, take a look at March '09.

A. Yes. And I'm in the Adjusted Close column, I assume.

Q. That's fine. I think it shows it either way. You would agree with me that certainly we've seen a substantial increase in the value of the Dow from March '09 when you filed your case to September '09?

A. Yes, we have. I see that. That's correct.

Q. And if you flip over to the S&P, which is the next page, and we look at March '09, we see that the S&P was at about 798; correct?

A. Uh-huh.

Q. And the adjusted close is about 1,060; correct?

A. I see that.

Q. So again, you agree that we've had some substantial turn-around there?

A. Yes, I would agree.

Q. And the last one is NASDAQ, and if you look at that, March '09, it closed at about 1,528, and September it's about 2,131; correct?

A. Yes, I see that.

Q. Do you know what the value of your pension fund is today?

A. I don't.

Q. Would you suspect that it's worth substantially more than it was when filed your testimony on March 20th?

A. Yes. I would say yes. I absolutely think it's worth more today than it was.

Q. And wouldn't you agree that if that's the case, your revenue requirement that relates to the pension downturn would be less today than it was on March 20th?

A. Let me explain. Well, I guess I would say not yet, and let me explain. Pension accounting basically relies on this actuarial calculation, which for us is done once a year. If the market goes down today, or in fact if the market has come up today, anything during the year, in effect, we reset all of our adjustments and rebook the pension on a calendar year basis.

So I certainly hope the market stays up and we get to the end of the year and then our pension calculation for next year would result in lower pension expenses next year. But the point I want to make is we don't adjust every month or anything like that. It's done once a year.

Q. But -- I don't know if it was fortuitously or not, but you apparently selected the lowest point from the data we just looked at to base your revenue increase on; is that right?

A. Well, I can assure you, the timing of our rate case was not at all centered on what the optimum time was for the market to crash for the pension assets.

Q. Oh, I didn't mean to imply that. If we know that, we all probably would have made different decisions.

A. You know, the timing of our rate case was centered on having new rates on January 1st of 2010. Yes, I can see from this that the markets obviously dropped quite a bit in late '08 and continued some into early '09, and since then, they have recovered. I completely agree.

Q. And you would agree as well that your pension fund today is worth substantially more than it was when you made the calculation of that portion of your revenue requirement?

A. Yes. I don't have the specific number, but I would agree that it's worth more today than on January 1st.

Q. Do you have any idea how much, a range?

A. I don't.

Q. Once you've redone your actuarial studies, as you said, on an annual basis, if the pension expense is less next year, will ratepayers pay less for that pension expense?

A. Based on a series of assumptions, I would say no. I think what ratepayers pay as it relates to the pension expense will be a function of the outcome of the rate case.

Q. So to the extent that, as we all hope, the economy gets back on track and the market keeps going up, ratepayers will be paying rates based on this low point in the market, right, as it relates to pension?

A. As it relates to the pension expense. However, I would just point out we did defer $34 million out of '09, as we had discussed earlier, and that is to be repaid prospectively. If our pension expense is less than the amount that's set, we're to use that to amortize that 34 million. So there's kind of 34 million that has to get chewed up going forward as well. I just didn't want to lose track of that.

Q. One more question on the pension issue here. I think you said that you target your pension earnings at -- did you say 8.75 percent?

A. Yes. That was on Schedule C-17, which I could flip to again.

Q. You don't need to do that.

A. But there's a data point on there as part of the key pension assumptions that says what's the assumed return on assets invested in the fund. And for the 2010 year, I believe, from memory, it was 8.75 percent.

Q. So am I correct that if your fund earns 8.75, that's a good year for the fund? It's satisfactory?

A. Well, each year at the time all the assumptions are re-examined, the idea is what should we anticipate going forward, or re-examined. I think for the 2010 year, we set a very reasonable expectation. In fact, we should plan on it. It was 8.75 percent.

Q. So that's what you expect and hope the fund will earn in the test year; correct? Is that -- my understanding right?

A. Yes. Our expense projection and everything else is predicated on return.

Q. But in terms of what the company wants to earn on its equity, it wants to earn 12.54; correct?

A. What we've asked for in this case is 12.54, and that's not really an apple and an apple, if you want to discuss that.

Q. Well, I'm just kind of trying to kind of weigh the -- on the one hand, you've got your pension, and you're projecting 8.75. And I'm assuming that, you know, that's an appropriate projection. And on the other hand, you're asking the Commission to grant a return on equity to your company of 12.54 percent. Is that right?

A. Both of those are true. And again, the distinction I -- I kind of got started on this earlier. Just to finish it, the pension will by its nature invest in a broad variety of assets, not all common stocks, certainly not all common stocks of our utility. When they invest in bonds, they will achieve what you get when you invest in bonds, which is more stable, but a lower return, and the pension by its nature devotes a fair portion of its investments to bonds.

So that 8.75 is, as Mr. Rehwinkel was kind of asking earlier, it's kind of a weighted average of the assumed returns on a variety of investments. It's not at all, I think, comparable to what's the appropriate ROE for a single company in a rate case proceeding. That's all I was going to mention.

Q. Can you turn back to that purple package, please?

A. Discovery related to cost of capital?

Q. Yes, that we were talking about before?

A. I have it.

Q. And if you would turn to page 1618, just a few pages in from the front.

A. Yes, I see it.

Q. This question asks you to provide specific examples of Florida regulatory decisions that have contributed to PEF's inability to actually earn its authorized return. Do you see that?

A. I do.

Q. And would you agree with me that there aren't any regulatory decisions cited in that response, are there?

A. There are none; that's correct.

Q. Let me just ask you this. Is it your testimony today before the Commission as Vice President of Finance for Progress Energy that if the Commission doesn't grant you the one-half billion dollar increase along with the 12.54 return on equity, you will be unable to provide safe, reliable service to your customers?

A. No, that would not be my testimony.

Q. So I would be correct that if the Commission were to grant a lower ROE or a lower revenue requirement, you would still be able to provide safe and reliable service to your customers?

A. No, I wouldn't say that. I would say we will always try as hard as we can to provide that safe, reliable service to our customers. I just wanted to avoid an absolute.

Certainly if the Commission were to make a decision that was very low that damaged our financial metrics and everything that was testified about in the ROE testimony yesterday, which I won't go back through, I seriously believe it would hinder our ability to go to the capital markets and get access to capital that we need to serve those customers. So I believe that their decision is tied to our ability to deliver that service. I would not go as far as the absolute, that anything below 12.54 means we could not.

Q. You have -- I would assume you're comfortable that the Commission will make a reasonable decision in this case, weighing all of the different concerns of the consumers and the company?

A. I am.

Q. And in that event, would it be your testimony that the company will be able to provide safe, reliable service to its customers?

A. That's kind of a hypothetical.

Q. Absolutely.

A. It would depend on what they decide.

Q. And the company, I assume, will always do its utmost to provide that safe and reliable service?

A. Yes, we will.

MS. KAUFMAN: Thank you, Mr. Chairman. And thank you very much for your patience, Mr. Toomey.

THE WITNESS: Sure.

CHAIRMAN CARTER: Thank you, Ms. Kaufman. Mr. Wright.

MR. WRIGHT: Thank you, Mr. Chairman.

CROSS-EXAMINATION

BY MR. WRIGHT:

Q. Good afternoon, Mr. Toomey.

A. Good evening.

Q. I guess it depends on how you define evening, but good evening to you.

We haven't formally met. I am Schef Wright. I represent the Florida Retail Federation in this case. And I think I don't have very many questions for you. I hope that turns out to be true.

A. Okay.

Q. I believe that in his opening statement, your general counsel, Mr. Glenn, made a statement to the effect that cash is king. Have you heard that expression?

A. I have heard that expression. I don't know that I recall that from the opening statement, but go ahead.

Q. Well, in the context of your company's request for a rate increase in this case, do you agree that -- is it your opinion that cash is king?

A. Yes. The cash flows of the company are certainly critical, and for the decision here, the cash flows on the revenue side, I absolutely agree.

Q. So in what we call down here "walking around language," the more cash you all get, the better for you?

A. Yes, the company is better off. The more operating cash flow it has, the better off it will be and the stronger it will be financially.

Q. I just have a couple of questions following up on Ms. Kaufman's questions to you regarding the pension fund and expense. Do you know the composition of the pension fund in rough terms as between bonds and equities?

A. I don't know I do sitting here today. I don't know that I do. I know that the -- it's periodically reconsidered. Investment allocations are adjusted based on different things, but I don't know its -- but I don't know the current weighting today.

Q. Do you think it's somewhere between 40-60 and

60-40, either way?

A. Well, I have seen it in the past, and while I don't remember it specifically now, it's -- there are quite a few categories. Again, the MFR that I spoke to earlier, there's, you know, several different gradations within the stocks and as well within the bonds. So it's more like there's five or six layers, not two, and I don't recall the current percentages.

Q. You don't have a document with you that you could look at?

A. If I do, I'm not aware of it. I don't think that I do.

Q. All right. Thank you. I had one follow-up question regarding MFR Schedule C-17, and it really doesn't have anything to do with -- well, it has very little to do with the pension expense, and that is at line 27. The MFR shows assumptions regarding salary increases, and I believe looking at Note 3, it indicates that it's 4.25 percent assumed for the bargaining unit plan customers and 4 percent for non-bargaining unit -- I said customers; I meant employees -- and 4 percent for the non-bargaining unit employees. Is that accurate?

A. Yes. I see those as well, yes.

Q. What I really am trying to get at is, I've seen a bunch of numbers in discovery responses and other testimonies as to exactly what salary increase, what average wage increase or salary increase the company is asking for in 2010. Do you know what it is?

A. Well, I think what you're referring to in that context is, what have we budgeted for salary increases that are included in our O&M request in the rate case, I think.

Q. I was trying to ask on a per employee basis, and I've seen 3 percent, 3.75, 4.7, and now 4.25 and 4.0.

A. Okay. I can -- on the overall, I would have gone with 3.5 percent. On this number, again, this number is specific to the calculation of the pension, so this, just as with everything else in the pension, it is an extremely long-term number by its nature. And they'll consider what they think the rate of inflation is going to be, not so much what's going to happen in 2010. It's much more of a life cycle. So to me, if you consider that, it's easy to see how this number could be different than what we're currently thinking of this year. I just want to mention that.

Q. That's okay. As you're sitting here this afternoon as the company's Vice President of Finance, I think you just testified the number you would go with for an average salary or wage increase is 3 1/2 percent.

Is that true?

A. For the budget purpose, for 2010, I believe that's the instruction that we gave. The only details I provide beyond that is, it's a little different for bargaining unit versus non-bargaining unit, of course.

Q. Thank you. I need to clear up another thing, and that is what the company's estimated current -- or let's say estimated January 1, 2010, or December 31, 2009, balance for the storm reserve account is. Mr. Harris's testimony uses the value of 133 million. I've also seen in an exhibit to Mr. Schultz's testimony about 135 million. And you testified earlier in your cross-examination this afternoon that it's 154 million. I would just like to ask you as the company's Vice President for Finance what your best estimates of that number is.

A. Okay. At what point in time specifically again?

Q. End of 2009, 12/31/2009 or January 1, 2010.

A. Yes. If you'll just bear with me, I'm going to try to find it. I believe there's a schedule in the MFRs that has that forecasted amount.

Q. Thank you.

A. I'm just not sure it's visible separately on the MFR.

Actually, perhaps it might help me find it even faster if I could just ask someone I work with if they know where it might be in the MFRs while I look, if that's acceptable.

MR. WRIGHT: It is certainly acceptable to me, Mr. Chairman. I just want the answer.

CHAIRMAN CARTER: Yes, you can do that. He can help you out there.

THE WITNESS: Okay. And I'll look myself as well. That will double the odds of getting there sooner if it's available.

CHAIRMAN CARTER: I'm all in favor of moving along.

I think he's got a life line.

THE WITNESS: Maybe. I'm sorry to ask that. I should know.

Okay. I don't think it's available in the MFRs directly, but I've got some data points that will bracket it, if you'll bear with me. On MFR B-17, which is a presentation of working capital, but it's on a 13-month average basis. If you're able to flip to that, page 3 of 5, it presents the average during '09 and the average during '10, and it's identifiable there as line number 3, and the 13-month average during '09 is about 145 million. The 13-month average during '10 is 159 million. So during 2009, we're clearly going to be above that midpoint, headed towards something in that 153.

And I know that number exists somewhere, and I'm happy to confirm it. Again, this would confirm my judgment that we're going to be close to that, say, 150-ish, 153-ish by the end of '09, and that's in the MFRs.

CHAIRMAN CARTER: Do you need him to bring that back on rebuttal, Mr. Wright?

MR. WRIGHT: I don't think so. If I could, I would just like to ask the witness to --

BY MR. WRIGHT:

Q. And I'm sorry. You closed your book. I got to B-17, and I was listening and taking notes. If you could just tell me which page and the line number, that would be great.

A. Schedule B-17, page 3 of 5.

Q. Thank you.

A. And the upper right-hand corner of that shows the year. It's for the projected year '10 and the prior year '9. You can see column B is prior year 2009 on that 13-month average. Column C is the test year 2010 13-month average. The line number that you want to look at is line number 3, Account Number 228.13, Retail

Unfunded Storm Reserve. And so those are the 13-month averages I was speaking of.

Q. Thank you. And the real purpose of my question was just to get a handle on the number. So if I use 153 million when I'm talking about the beginning 2010 storm reserve in my brief, nobody is going to fuss at me; right?

A. I will not.

Q. Thank you. I just want to follow briefly along some questions you were asked, I believe, by Ms. Kaufman regarding the company's understanding of the tough realities of the current economic situation. Is it your understanding that the current unemployment rate in the State of Florida is 10.7 percent?

A. I don't know it exactly, but I know that it's very high, and it's probably in that ballpark.

Q. Thanks. Is it your understanding that the foreclosure rate in the State of Florida is the highest, or at least right up there at the very top of those, in the United States?

A. I thought I heard somewhere during the hearing we're second behind Nevada, but, yes, we're very high. I agree with that.

Q. Are you aware whether the company, Progress Energy Florida, evaluated the impact of another half billion dollar a year increase on its customers, on the unemployment rate in Florida?

A. I know of no such study of the impacts that we would have made. I don't think we did.

Q. And you're not aware of any other study of the economic impact on the state of this kind of increase, are you?

A. No, I'm not.

Q. Do you know how much of the company's total revenues goes to investors or vendors outside the State of Florida?

A. The immediate answer is, I don't. And maybe I should just stop. The question itself is a little confusing to me.

Q. Well, I'll risk going for another 30 or 40 seconds.

A. All I was going to say is, when you talk about revenues, those would be cash in, and your question seemed to be directed at where does that cash go and how much of that stays in the State of Florida, I think.

Q. That was indeed my question.

A. So a lot of the salaries are going to stay in the State of Florida. A lot of the operating expenses are going to stay in the State of Florida. A lot of the capital expenditures are doing to stay in the State of

Florida.

And I think you may have asked someone else this the other day, where you also were asking about dividends, and that, of course, would depend on where we mail the dividend checks to. You know, I don't have any kind of good way to measure all that. But I feel safe to say a very substantial part of the cash that we spend lands and stays in the State of Florida.

Q. For base rate expenditures; right?

A. Yes.

Q. You would agree that something real close to 100 percent of your fuel bill goes out of the state, would you not?

A. Yes, a very high percentage.

Q. Now, as indicated by Exhibit 283, I think, the stock market indexes.

A. I've got it.

Q. The financial market is doing substantially better now than it was six months ago; correct?

MR. BURNETT: Mr. Chairman?

CHAIRMAN CARTER: Yes, sir, Mr. Burnett.

MR. BURNETT: This was fascinating the first four or five times we established the stock market is doing better. I've tried to be a gentleman, but this is clearly -- I think the exact same question has already been done.

CHAIRMAN CARTER: Mr. Wright.

MR. WRIGHT: It was a predicate to a couple more questions, Mr. Chairman.

CHAIRMAN CARTER: Okay. Let's see where it leads.

MR. WRIGHT: Thank you.

BY MR. WRIGHT:

Q. Did you hear Mr. Bernanke, Benjamin Bernanke, the Chairman of the Federal Reserve, testify the other day that he believes the recession is over?

A. I saw the headline.

Q. When you were talking with Ms. Kaufman about the pension expense and the potential impact of the increased fund value between some previous time and January 1st of 2010, I want to just follow up on that briefly. Did I understand your earlier testimony correctly to be that you basically do a reset of the fund value at January 1st each year?

A. I'm not 100 percent certain what I might have said. If I could explain that more fully --

Q. That would be great.

A. We go through the process of updating the actuarial assumptions and revisiting the investment returns and the discount rates once a year, and when we do that, we reset the calculation of the pension expense consistent with that entire update. We do that late in the year and update the pension expense early in the next year. The point I was trying to get at there is that we don't really change it for the next year. The expense just runs.

Q. Well, when you say you don't really change it for the next year, you do change the assumptions based on the projected earnings on whatever the fund balance is as of the re-evaluation point; is that correct?

A. Yes, yes.

Q. Okay. And you said late in the year and early in the year, but we're really talking about a reset that occurs sometime around the first of the year. Is that fair enough?

A. Yes. One of the items I mentioned that's very important is your balance at the beginning of the year. So you can do some work ahead of time, but you need that.

Q. And so my question for you is, in light of the current state of the financial markets and in light of Chairman Bernanke's comments, wouldn't you agree that the conditions on September 24, 2009, are a better indicator of where the fund balance is going to be at December 31st, 2009, than what it was at January 1st, 2009?

A. I would say it might appear that way today. I'm still probably one of the casual observers of the market who was astounded how it fell apart in the last four months last year, so I'm probably just going to be cautious about that for quite a while.

Q. And I meant to actually couch my question subject to the usual caveat that past performance is not a guarantee of future profits.

A. That was the point.

Q. Okay. Subject to that caveat, you would agree that where we sit today is a better indicator of where we're likely to be three months from now than where we were nine months ago?

A. I would agree with that.

Q. I too have, I think, one or two questions for you regarding a page in the packet with the purple cover sheet. This one -- my question goes to or addresses the sheet that's numbered in the bottom right-hand corner 00001691.

A. I see it. I'm there, I think. It's headed "2009 Strategic Objectives."

Q. That is the sheet. Thank you. I note that the third from the bottom objective is to achieve a reasonable outcome on PEF rate proceedings. Now, we understand you all want half a billion dollars. Is there something less than that that you would consider reasonable?

A. I guess it would depend on all the terms of the outcome of the rate case.

Q. A couple of other attorneys who have practiced here a really long time ask the following question: Have you ever heard the old -- what I would call an old saw, that the company always asks for twice as much as it needs and gets half and is happy with what it got? Have you heard that?

A. I've not heard that specifically, no.

Q. How long have you been at this job?

A. Actually, I think for quite a while.

Q. Okay. You just mentioned that you've been with the company for quite a while. Have you been Vice President of Finance for a while?

A. Yes. I meant to say I've been at this kind of job for quite a while. I've been the VP of Finance for Progress Energy Florida basically from just at the end of 2007 on, so not quite two years. But I was previously employed by the former Florida Power/Florida Progress at a time in the past.

Q. In financial positions?

A. I was.

Q. Thank you. Are you familiar with the company's that rate case that were filed in 2005?

A. I'm not. That was -- I mean, I'm familiar with the settlement generally since then, but I wasn't here at that time.

Q. I'm sorry. When you say you weren't here, what does that mean?

A. I was out of the state. I'm sorry. You know, I wasn't in Florida paying attention to the rate case outcome. That's all I meant to say.

Q. I'm sorry. It is somewhat late in the day, but when you said you had previously held financial positions with PEF and Florida Power Corporation, the predecessor, I interpreted that to mean continuously from sometime earlier through the present day. Is that not true?

A. Yes. I do see that. I was with the prior company from 1984 to 2000. I then left the company and left the state, and I was gone for seven years and just returned. And that was the reason for my "I wasn't here" comment. I'm sorry.

Q. That's okay. Thank you for that clarification.

I could show you the order, but we don't need to spend the time. Are you aware that the company asked for about a $205 1/2 million increase in 2005?

A. I'm not familiar with the specific amount, no, but that sounds right, approximately.

Q. And you did mention that you're familiar with the settlement?

A. I am.

Q. And the settlement involved a base rate freeze subject to the subsequent recovery for Hines 2 and 4 and some other considerations; correct?

A. Yes, I believe that's correct.

Q. Thank you. Do you know what the company's return on equity on an FPSC-adjusted basis was in 2007?

A. I do not. That was after I left. I don't recall. I know it's public. It's a matter of --

Q. Yes, it's in your earnings surveillance reports. Will you accept that it was 9.70 percent?

A. Subject to check, yes.

Q. Sure. And I'm happy for you to check whatever you want to.

A. That's fine.

Q. And will you also accept, subject to check, that the company's achieved ROE on an FPSC-adjusted basis in 2008 was 9.71 percent?

A. Yes, subject to check.

Q. To the best of your knowledge, was Progress

Energy Florida able to provide safe, adequate, and reliable service in 2007 and 2008?

A. Yes, I believe we were.

Q. Were you able to raise capital in 2007 and 2008?

A. Yes, we were.

MR. WRIGHT: One moment, Mr. Chairman.

CHAIRMAN CARTER: Absolutely.

MR. WRIGHT: Thank you, Mr. Chairman, and thank you, Mr. Toomey. That's all the questions I have.

CHAIRMAN CARTER: Thank you, Mr. Wright. Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman. I'm just going to try and -- I have some quick questions, and I guess that will take us to staff's cross.

Good evening, Mr. Toomey.

THE WITNESS: Good evening.

COMMISSIONER SKOP: Your prefiled testimony essentially summarizes the basis for Progress's request to increase rates; correct?

THE WITNESS: Yes, it does, I believe.

COMMISSIONER SKOP: And given the state of the economy and the economic hardships facing your customers, you would expect that this Commission would thoroughly review and scrutinize the Progress request to increase rates, would you not?

THE WITNESS: I do except that.

COMMISSIONER SKOP: And that would be only fair; right?

THE WITNESS: That's correct.

COMMISSIONER SKOP: If you could please your attention to page 8 of your prefiled testimony, please.

THE WITNESS: Yes.

COMMISSIONER SKOP: And on lines 5 through 8 on page 8 of your prefiled testimony, you discuss the primary drivers of the revenue deficiency; is that correct?

THE WITNESS: I do.

COMMISSIONER SKOP: And the primary drivers for the 2010 revenue deficiency would be the Bartow repowering project and the CR3 steam generator replacement; is that correct?

THE WITNESS: Well, those are the first two that I listed, yes.

COMMISSIONER SKOP: And is it correct to understand that the Bartow repowering project is tentatively scheduled to come into operation or has come into operation in June of this year?

THE WITNESS: Yes. It did come into operation on June 1st of this year; that's correct.

COMMISSIONER SKOP: And the CR3 steam generator replacement is scheduled to be complete in December of this year; is that correct?

THE WITNESS: It is, and that's still the current estimate.

COMMISSIONER SKOP: Okay. With respect to line 8 of your testimony on that page, the 170 million for the impact of the economy on sales, can you briefly explain what that might entail?

THE WITNESS: Yes. We were simply trying to capture what the financial impact was from the downturn in terms of our load forecast and the number of customers we expect to have on the system. Obviously, when we have fewer customers connected and they're buying fewer megawatt-hours, just mathematically, we have fewer revenues.

The source for the 170 million calculation was, I believe, the load and energy forecast used in this rate case, which coincided with that that we used in the Ten-Year Site Plan of almost the same time, if you looked ahead to the 2010 year and looked at what our sales were going to be, comparing it with the view from just one year earlier in the previous Ten-Year Site Plan. So that kind of captures at two different points in time how many megawatt-hours we thought we would be selling in 2010, and that's the drop in revenues from that.

COMMISSIONER SKOP: Thank you. Now if I could draw your attention to lines 20 through 22 on that same page, please.

THE WITNESS: Yes.

COMMISSIONER SKOP: And as the basis for the justification of the CR3 steam generator replacement project, you indicate that it will enable the company to continue to provide customers with energy from the lowest cost fuel source available to the company; is that correct.

THE WITNESS: Yes.

COMMISSIONER SKOP: And is that because that is nuclear generation?

THE WITNESS: Yes.

COMMISSIONER SKOP: And that's the lowest cost dispatched unit in the generating fleet?

THE WITNESS: Yes. The lowest cost fuel source is always the first dispatched; that's correct.

COMMISSIONER SKOP: All right. If I could next turn your attention to page 9 and 10 of your prefiled testimony, please.

THE WITNESS: I see them.

COMMISSIONER SKOP: Starting at line 22 on page 9 with respect to the interim rate relief request, and then continuing on to lines 1 through 12 of page 10.

THE WITNESS: Yes, I see those.

COMMISSIONER SKOP: And is it correct that Progress requested interim relief of $13.1 million as shown in PR-5?

THE WITNESS: Yes, that's correct.

COMMISSIONER SKOP: And you cite in line 3 Commission approval. Has that changed, or has the Commission already granted the interim relief?

THE WITNESS: It's my understanding the Commission granted the interim relief, not on the terms that we requested.

COMMISSIONER SKOP: All right. Thank you. If I could turn your attention to Exhibit PT-5, please.

THE WITNESS: PT-5, the interim revenue requirements?

COMMISSIONER SKOP: Yes, sir.

THE WITNESS: I'm there.

COMMISSIONER SKOP: And this was previously discussed, so I'm going to make it very brief. On line 6, do you see the earned rate of return?

THE WITNESS: I do.

COMMISSIONER SKOP: Okay. And what is that for that projected period?

THE WITNESS: That's 7.68 percent.

COMMISSIONER SKOP: Okay. If the earned rate of return would continue to fall, what detriment might occur to the credit rating if that were to happen?

THE WITNESS: Well, obviously, depending on how long it continues to fall and how far it falls, it certainly would erode our credit metrics, and at a point in time, we wouldn't be able to access the capital markets if it went far enough.

COMMISSIONER SKOP: Okay. And with respect to a question that Ms. Kaufman had previously asked in relation to the requested ROE versus ROEs that were granted by other commissions in the near term, is the earned rate of return shown for the current period significantly less than the approved ROEs that Ms. Kaufman spoke of?

THE WITNESS: Yes. This earned rate of return, the 7.68 percent, is clearly below that range that we were discussing.

COMMISSIONER SKOP: Thank you. If I could now briefly turn your attention to page 11 of your prefiled testimony?

THE WITNESS: Yes, I'm there.

COMMISSIONER SKOP: And on page 11 of your prefiled testimony -- hold on one second. On page 11 of your prefiled testimony, starting at line 4 and continuing to line 20, do you see that?

THE WITNESS: I do.

COMMISSIONER SKOP: You discuss why 2010 is the appropriate test year for the base rate proceeding; is that correct?

THE WITNESS: Yes, I do.

COMMISSIONER SKOP: And that's essentially because it captures the large capital investments that Progress placed in service to serve its customers, and also because that's the primary reason for the 2010 revenue deficiency?

THE WITNESS: Yes. Both of those are true.

COMMISSIONER SKOP: Okay. If I could next -- I think I just have two or three additional questions. If I could turn your attention now to page 23 of your prefiled testimony.

THE WITNESS: Yes, I'm there.

COMMISSIONER SKOP: And beginning on lines 2 through 10, you discuss the results of applying the Commission O&M benchmark test to the proposed O&M costs for the proposed 2010 test year. Do you see that?

THE WITNESS: I do.

COMMISSIONER SKOP: All right. And you stated on line 5 that the Progress request exceeds the O&M benchmark by approximately $143 million; is that correct?

THE WITNESS: I do see that.

COMMISSIONER SKOP: Now, your comparison to the benchmark I guess is on PT-8; is that correct?

THE WITNESS: Yes, it is.

COMMISSIONER SKOP: And if I could ask you to briefly turn to PT-8, please.

THE WITNESS: I am there.

COMMISSIONER SKOP: The majority of the differences or variances appear to be line 1, which is production, fossil fuel and other -- I mean fossil and other, is that correct, as well as line 14, which is G&A expenses?

THE WITNESS: Yes. Those are the two largest dollar amounts, and they make up a substantial portion of the total.

COMMISSIONER SKOP: And on line 20, do you see details of major adjustments?

THE WITNESS: I do.

COMMISSIONER SKOP: And on line 23, it identifies retail rate case expenses. Do you see that?

THE WITNESS: I do.

COMMISSIONER SKOP: And are those the

projected rate case expenses associated with this rate case?

THE WITNESS: Yes, that's citing the adjustment for the retail rate case expenses.

COMMISSIONER SKOP: And that would be approximately $1.4 million; is that correct?

THE WITNESS: Yes, that's the number here.

COMMISSIONER SKOP: And if I could turn your attention to the confidential document, the larger red folder. I'm trying to get a number on this. The document that I would like you to take a look at is Staff's 22nd Set of Interrogatories, and it's the question on the top left-hand side, Number 267.

THE WITNESS: You know, I think I might have that here as well. That's fine. I'll flip to it.

COMMISSIONER SKOP: And if you have a redacted version, that will be sufficient.

THE WITNESS: I think I've got one here. It's 267, and it is on rate case expenses.

COMMISSIONER SKOP: Okay. With respect to the cost of consultants on lines 1, 6, and 7, is there a reason why -- excuse me, on lines -- excuse me, the footnote on the far right, Footnotes 1, 3, 6 and 7. Is there a reason, generally speaking, without disclosing any confidential information, why the expense listed for

Footnote 1 is substantially higher than those for the consultant services provided for Footnotes 3, 6, and 7?

THE WITNESS: I don't know of any one specific reason for that, no.

COMMISSIONER SKOP: Okay. With respect to the footnote on line 8 for legal expenses, do you see that?

THE WITNESS: I do.

COMMISSIONER SKOP: Do you feel that those expenses are prudently and appropriately incurred?

THE WITNESS: Yes, I do.

COMMISSIONER SKOP: All right. Thank you. I think we're done with that. Let's move on to a few additional questions.

If I could turn your attention to MFR schedule C-41, please.

THE WITNESS: Yes, I'm getting that in front of me. That's the benchmark variance by function?

COMMISSIONER SKOP: Yes, sir. And that generally -- starting on page 148 of that filing and continuing on the -- bear with me for one second. Continuing on to page 165, that generally provides the variance analysis that provides the justification for why Progress's proposed O&M costs exceed the O&M benchmark; is that correct?

THE WITNESS: Yes. In each case, that's the explanation of the variances.

COMMISSIONER SKOP: If I could turn your attention to page 151 of that document, lines 40 through 42, please.

THE WITNESS: Yes, I see that.

COMMISSIONER SKOP: And that discusses incremental security costs. Do you see that?

THE WITNESS: Yes, I do.

COMMISSIONER SKOP: How might those costs on that page, which are identified as incremental security costs, differ from the security costs that are identified on page 153, lines 19 through 21 on the following page?

THE WITNESS: They're from two different functional areas, just to be sure that that's clear. One of them is fossil. The other one is nuclear. Other than that, the nature is the same.

COMMISSIONER SKOP: Very well. Thank you. On page 155 of that schedule, on lines 1 through 19, it discusses increased vegetation management spending.

THE WITNESS: Yes, I see that.

COMMISSIONER SKOP: And would it be correct to understand that that increase or that positive variance is resultant from the need to increase program spending for 2010 to meet NERC standards and also Commission hardening initiatives?

THE WITNESS: Yes. The positive number shows it's an unfavorable variance.

COMMISSIONER SKOP: All right. So that's an additional cost that the consumer would need to incur if such a request were approved?

THE WITNESS: Yes.

COMMISSIONER SKOP: And then one last question on this. On page 163, continuing on to page 164, it discusses beginning on line 10 on 163, administrative and general costs, under FERC Account 920 through 935. Do you see that?

THE WITNESS: I do.

COMMISSIONER SKOP: Are those general and administrative costs, particularly those identified on the following page, on 164, that deal with the pension expense, credit, employee benefit costs, and long-term compensation, are those administrative and general expenses dealing with employee benefits, are those properly included within the O&M type costs? I'm not very familiar with FERC accounting standards. That's the reason I'm asking.

THE WITNESS: Yes. They're properly located. It goes by FERC account, and this is where they belong.

COMMISSIONER SKOP: Okay. Very well. If you could next -- I think it's three more questions. We're almost done. Page 25 of your prefiled testimony.

THE WITNESS: Okay.

COMMISSIONER SKOP: And we briefly covered this in terms of what might result if the Progress increase to the storm reserve accrual were granted. I guess Progress is asking for approximately $10 million per year to go into a reserve accrual. I just wanted to get some clarity from you as to the pros and cons of whether such an increase should be approved. Would you agree that a higher accrual amount might be justified if it was necessary to keep parity with replacement costs of equipment, poles, or such?

THE WITNESS: Yes. That's at least one reason that would argue for the increase, yes.

COMMISSIONER SKOP: Okay. Now, a positive aspect of increasing the accrual amount, since it generates additional free cash flow for operations would be that improved cash flow benefits the company; right?

THE WITNESS: Yes, it does, from a financial strength standpoint; that's correct.

COMMISSIONER SKOP: Now, on the flip side of that, given the prevailing economic conditions and the hardships of the consumer, any request to increase the storm reserve accrual amount essentially means that the customers are going to be asked to pay more for that; is that correct?

THE WITNESS: Yes. If we ask for it and it's granted in rates, they clearly would pay more for that; that's correct.

COMMISSIONER SKOP: So notwithstanding some of the positive aspects that might result from that in terms of keeping parity with increased costs or making sure that there's sufficient reserve to handle any storm, which, knock on wood, hasn't happened, but essentially, increasing that reserve is analogous to asking ratepayers to save for a rainy day; is that correct?

THE WITNESS: In a very broad way, I suppose, yes.

COMMISSIONER SKOP: All right. Thank you. And then just on the same page, on lines 12 through 23, they talk about the company's plan to discontinue the practice of accruing interest on the reserve balance for storm related reserves; is that correct?

THE WITNESS: Yes.

COMMISSIONER SKOP: And on line 21 through 23, doing such results or would result in a reduction to base rate; is that correct -- or rate base. I'm sorry.

THE WITNESS: To rate base, yes. The reserve itself counts as a reduction in the calculation of rate base.

COMMISSIONER SKOP: So as it occurs today for the storm hardening accrual, consumers pay into that and an accounting adjustment is made. It generates free cash flow for operations. If a storm were to occur, the company would use those -- then be obligated to use the funds it had previously collected to offset any storm restoration costs. But the accrual amounts currently accrue interest, which is ultimately charged back into rates; right?

THE WITNESS: Well, I suppose accrual of the interest helps the reserve build more rapidly in that sense.

COMMISSIONER SKOP: So under the proposal, the only way the reserve would build would not be through interest accrual. It would be through contributions on an annual basis for the increased reserve amount; is that correct?

THE WITNESS: That's correct.

COMMISSIONER SKOP: All right. And I think just one more question. I guess in response to Ms. Bradley's question, she had suggested that some expenses might be discretionary or within the discretion of management over and above those that would be necessary expenditures. Would it be correct to understand that your testimony does not address any additional cost saving measures that might be taken to further reduce fixed costs or discretionary expenditures in relation to the declining retail sales that you mentioned, thereby mitigating the overall magnitude of the requested rate increase?

THE WITNESS: It doesn't reflect anything beyond our basic filing itself; that's correct.

COMMISSIONER SKOP: Now, in fairness to Progress, Progress has taken steps to do certain things to reduce head count and other measures. Do you see additional steps being taken, or should they have been taken already to mitigate the proposed rate increase?

THE WITNESS: It would be my opinion that there isn't anything that I would have done differently up to this point. I think it has come onto the record on and off before, we're very, very worried about the continued decrease in sales, perhaps beyond what we filed in this rate case. So we're going to be in a tough situation for quite a while on that.

COMMISSIONER SKOP: And I know that not only -- the company takes a long-term approach, and that may be some of the -- you know, in terms of your responses, some reasons or rationale that you previously provided for the record as to why in your judgment certain costs or discretionary expenditures have not been made. I guess Ms. Bradley mentioned the need to, in her opinion, curtail salary increases or executive compensation and such.

But in terms of those additional opportunities where cost savings might be achieved to match parity with declining sales, is Progress currently looking at those opportunities such that instead of seeking rate increases, it could match -- you know, if sales trend down, then obviously, scale back, as many other businesses and consumers have had to do at this time.

THE WITNESS: I have would answer that in a global fashion, as several of the other witnesses have. Yes, we're constantly looking at ways we can take expenses out without hurting the business. I don't have a number that's produced that is different for 2010.

COMMISSIONER SKOP: Well, I appreciate your candor, and thank you for your time.

CHAIRMAN CARTER: Staff.

MR. YOUNG: Thank you, Mr. Chairman. Ms. Fleming is going to handle the exhibits, and we do have cross for this witness, unfortunately.

CHAIRMAN CARTER: Well, let's do the cross before we do the exhibits. Okay?

MR. YOUNG: Not a problem.

CHAIRMAN CARTER: Commissioners, anything further from the bench before we go to staff?

MR. YOUNG: Mr. Chairman, just for point of information, I have -- Mr. Toomey, I have four series of questions to ask you, under four topics. Let me say that. The first three, if you can be concise, but detailed, I will be very grateful for that. Thank you. All right?

THE WITNESS: Okay.

CROSS-EXAMINATION

BY MR. YOUNG:

Q. Mr. Toomey, do you have some knowledge of PEF's application to the U.S. Department of Energy for smart grid funding from the American Recovery and Investment Act?

A. Yes, I have some knowledge of that.

Q. All right. Thank you. Progress has applied for $200 million in smart grid funding from the stimulus bill; correct?

A. Yes, I believe that's correct.

Q. Will any of the costs associated with the project be added to PEF's rate base?

A. While we don't know if we'll get any, I could almost certainly tell you that if we were awarded any funding under the DOE, the application of those funds would in no way increase rate base.

Q. Okay. Was it a condition of the grant that a project -- was it a condition of the grant that projects be incremental above existing plans for the smart grid?

A. I think they were intended to be new projects, you know, so, yes, I think that's a yes.

Q. Okay. Could you please -- could any of these projects be capitalized and added to rate base in future rate cases?

A. I don't -- again, I don't see any way that they could be if in fact they're funded with federal funds.

Q. All right. Are there plans to add them to future rate cases?

A. No.

Q. Okay. What steps, if any, has PEF taken to ensure that no costs of these projects are recovered from customers in future years?

A. Well, again, were we to be awarded any funding from the DOE on that, we would have to carefully segregate the investments we made for that, probably similar to the way we do CIAC or something to be sure it doesn't get in rate base.

Q. All right. Moving to my second series of questions, on page 25 -- do you have your direct testimony with you?

A. I do, and I'll get it.

Q. Okay. On page 25, lines 21 through 23, and continuing on page 26, line 1 -- let me know when you're there, sir.

A. Yes, I see it.

Q. You state that PEF advocates discontinuing the accrual of interest on the storm reserve balance and including the storm reserve in the calculation of PEF's rate base, which results in a reduction of the rate base, and therefore lowers the revenue requirements or rate base; is that correct? Is that a true statement?

A. Yes, that's what it says, and that's true.

Q. Okay. On your correct Schedule B-1 filed June 5th, 2009 -- do you have that?

A. Yes. Let me flip to that. Okay.

Q. All right. The corrected schedule would be the one filed June 2009, and an adjustment has been made on line 7 to increase working capital allowance. Do you see that, column H?

A. I do.

Q. By 154,429,000, entitled "To remove storm reserve." And then on line 32, an adjustment is included to decrease working capital in the amount of

159,106 -- 159 million, excuse me, 106,000, labeled "Company adjustment, storm reserve study." Do you see that?

A. Yes, I see both entries.

Q. Why are there two separate adjustments to storm reserves?

A. It's -- if you'll bear with me, in the line at the top, system per books, there is an amount embedded in that total for the storm reserve. That amount is a credit, a reduction of rate base of 154,429,000.

For the 2010 year -- and part of what triggered the change in this schedule is, we had to go back -- and, again, this is a 13-month average of the storm reserve. On the prior version, we didn't portray that adjustment the way we did after the amendment. The 154 million is what the 13-month average of the storm reserve would be during 2010 if no increase in the storm reserve accrual was granted.

So the sequence there is, it's embedded in the working capital allowance as a credit, it's added back at the 154, and then down in the adjustments section below, it's taken out at the 159 million. That's our proposal. So by the time it makes it to the bottom, we are proposing the increased accrual of 159 million, and it serves as a credit to rate base.

Q. Mr. Toomey, why is it necessary to have the positive 154,429,000 adjustment to working capital, and therefore rate base, that is shown on line 7?

A. There could be different ways to portray it. If you want to isolate the entire 159 million as an adjustment, then you have put the 154 in as a positive. The important thing, both the old and the new presentation, it was a net reduction of 159 in either case. And this is basically the essence of the change in the presentation. You could just show a net adjustment of a negative 5, but I don't think that would be the proper way to do it. It would get you to the same amount, negative 5 million, I mean.

Q. Would the two adjustments to the storm reserve be necessary if the Commission orders PEF to continue to accrue interest in the storm reserve balance?

A. If they continue -- if it continues to accrue interest.

Q. If the Commission orders PEF to continue to accrue interest in the storm reserve balance, would it be necessary, the two adjustments?

A. I'm not certain.

Q. Okay. Applying the jurisdictional factor -- and I'm so sorry. It's late at night, and we've got to do math. I'm sorry.

A. That's okay.

Q. Applying the jurisdictional factor of .85016 show on line 25, column J, and it's to the 154,429,000 --

A. I just caught up with the page again. I'm sorry. Go ahead. If you would repeat it.

CHAIRMAN CARTER: Mr. Young. Are you okay? I'm sorry. You may proceed.

BY MR. YOUNG:

Q. Applying the .85016, okay, shown on line 25, column J --

A. Yes, I see it.

Q. To the 154,429,000 would result in a jurisdictional adjustment to remove the storm reserve of 131,289,000, correct, subject to check?

A. Yes, subject to check.

Q. Okay. Netting the 131,289,000 against a negative 159,106,000 shown on line 32 of column J results in a rate base adjustment to the storm reserve of a negative 27,817,000, correct, subject to check?

A. Yes, that's the way those numbers would net, subject to check.

Q. Can you please refer to OPC's Third Set of Interrogatories, which is going to be handed out right now? Mr. Toomey, if you'll bear with me, I promise I will try to have you done in 25 more minutes.

A. That's fine.

Q. Okay?

A. That's fine.

MR. YOUNG: Mr. Chairman, the parties already have a copy of the interrogatory I'm going to refer to, and it's Interrogatory Number 153.

CHAIRMAN CARTER: Is that the understanding of the parties? Okay.

MS. FLEMING: For ease of reference, it was handed out last night. It's Peter Toomey discovery related to rate base. It's the yellow cover page.

CHAIRMAN CARTER: You guys got it? Mr. Wright, do you have it?

MR. WRIGHT: May I just ask what interrogatory we're looking for here?

MR. YOUNG: Number 153. We're going to give you a copy.

CHAIRMAN CARTER: Mr. Saylor has one for you there, Mr. Wright.

Ms. Kaufman, do you need one? Mr. Saylor, would you give that to Ms. Kaufman, please?

MR. YOUNG: And it's tabbed for ease of reference, Mr. Chairman.

CHAIRMAN CARTER: Okay. You may proceed.

THE WITNESS: I have it.

BY MR. YOUNG:

Q. Okay. And I want you to refer to the column labeled "Month Accrued Interest." Excuse me. This is the -- Number 153, the response has a column labeled "Month Accrued Interest"; correct?

A. I do see it. Yes, I'm there.

Q. Okay. Now, subject to check, would the last 12 months of the accrued interest, April 2008 through March 2009, total $4,117,273?

A. I'll accept that subject to check, yes.

Q. Which methodology results in a lower revenue requirement, the continual accrual of interest of the storm reserve balance or the adjustments shown on B-1, lines 7 and 32, that have been made to rate base related to the storm reserve?

A. The continued payment of the interest clearly gives you a larger reserve balance, which would be a larger credit to rate base, which in turn would lower revenue requirements. The only thing -- the reason why I hesitated earlier on that, if it continues to earn interest, I'm not sure that it would qualify as a reduction of rate base. That was my hesitation.

Q. And a final question on this series before you. What are the appropriate adjustments to reflect the base rate increase for the Bartow repowering authorized -- the Bartow repowering project authorized by Order No. PSC-09-0415-PAA-EI?

A. Could you repeat the question, the first part of the question again?

Q. What are the appropriate adjustments to reflect the base rate increase for the Bartow repowering project authorized in Order No. PSC-09-0415-PAA-EI, in general terms?

A. Well, in general terms, you know, that Bartow limited increase was granted. For our whole rate case, it's part of the calculation of the request for 2010. So it's part of the request here, so it's -- and that's why I wasn't sure how you were referring to what adjustments are necessary.

MR. YOUNG: Mr. Chairman, may we approach the witness?

CHAIRMAN CARTER: You may approach.

BY MR. YOUNG:

Q. Mr. Toomey, I'm going to hand you an article that was printed by the St. Petersburg Times, and it was dated September 21, 2009.

A. Okay.

Q. And it's dealing with the Bartow --

CHAIRMAN CARTER: Hang on. Hang on a sec.

Let all the parties get a copy first.

MR. YOUNG: Mr. Chairman, it's not going to be an exhibit. This is just for cross-examination purposes only.

CHAIRMAN CARTER: Okay. Then let's do it. You may proceed.

MR. YOUNG: If we could have one second for counsel to review it.

BY MR. YOUNG:

Q. Mr. Toomey, could you please read the label of the article?

A. Yes. "St. Petersburg times. Progress Energy wins 22.9 million court judgment. Progress Energy has won a $22.9 million judgment in a lawsuit against" -- I'm sorry. I'll stop.

Q. Are you aware of this decision prior to seeing this article?

A. I'm not, and I just was checking for the date. So this just came out yesterday or today, I suppose.

Q. Are you aware of the lawsuit that Progress filed?

A. I'm aware of the lawsuit, yes.

Q. Subject to check, this is the court's decision based on that lawsuit that was filed by Progress Energy; correct?

A. Yes.

Q. Subject to check?

A. Yes, yes.

Q. Now, the amount is 22.9 million in the court judgment; correct?

A. Yes, I see that. That's right.

Q. Will this amount be used to reduce the cost of the Bartow plant, since it relates to Bartow?

A. If I understand what you're saying, if we actually win through the appeal and we get 22.9 million, that's kind of credited -- you know, the company would get proceeds of the lawsuit. Would we credit that against the money we otherwise have invested in Bartow, and I think the answer is yes.

MR. BURNETT: Mr. Chair.

CHAIRMAN CARTER: Mr. Burnett.

MR. BURNETT: If I may, I don't want to accuse Mr. Young of mischaracterizing, but I would just note this is for the Hines 2 plant that is located in Bartow and not the Bartow plant.

THE WITNESS: I apologize, John. I'm sorry.

BY MR. YOUNG:

Q. We're still dealing with the dollars. I'm sorry for mischaracterizing it, but I want to focus on the dollars in terms of coming back to the customers, if any. Will that amount be credited back to the customers if it wins that on appeal?

A. Let me explain. Not credited back to customers in terms of a credit on their rates. You know, in the absence of these moneys, we invested whatever money it took. And again, with Mr. Burnett's help, this is related to the Hines plant. We built the plant, so it's in rate base at that amount. If we receive the proceeds, we would potentially handle those as a credit to that investment, which in any calculations of revenue requirements, we would have a lower rate base after that. But it wouldn't be credited back, like we have a sudden rate decrease, just to clarify.

Q. Now, you were reading the article; correct? And you saw that Progress won 22.9 million excluding attorney's fees and costs; correct?

A. I'm just reading for that other phrase.

Q. Subject to check. We'll move on.

A. Okay. That's fine.

Q. Now, is it my understanding that cost of litigation is included in rate -- is a part of rate base; correct?

A. Cost of litigation. If we incurred costs and part of that could be specifically attributed to getting an asset in service, it could be capitalized into the project and become part of rate base.

Q. Will those costs be -- I hate to use the word "credited back," but credited back to the customers or rate base if you recoup those dollars?

A. Well, again, to our earlier discussion, if we receive proceeds from the lawsuit and we have it, we would certainly handle that as a credit against the investment in the plant in rate base. That would be the treatment.

Q. All right. Now, moving on to my final series of questions --

A. Okay.

Q. I think I have about 15 more minutes; right? I told you 25 minutes.

Earlier in your discussion with Mr. Rehwinkel and Ms. Kaufman, you talked about the $711 million of imputed equity; correct?

A. I did indeed.

Q. Okay. Is Progress proposing to include the $711 million of imputed equity in the capital structure to increase its equity ratio?

A. Yes, we are. That's part of our filing. That's our intent.

Q. Okay. Can you please refer to PEF's Response to Staff's 27th Set of Interrogatories, Number 328?

A. This is it. Sorry.

Q. Mr. Toomey, are you familiar with this response?

A. I am.

Q. In PEF's Response to Interrogatory Number 328, PEF was asked to explain the offsetting entry for the $711 million specific adjustments to increase the balance of common equity; correct?

A. That's correct. That's what we were asked.

Q. PEF's response was that an offsetting entry is not made by the PEF in the MFRs; rather, it was made by credit rating agencies; correct?

A. Yes. That's the first sentence of our response; that's correct.

Q. Okay. If the Commission decides to disallow the $711 million adjustment for the imputed equity, where in the MFRs should the corresponding adjustment be made to offset the removal of the $711 million from common equity?

A. Sure. As we touched on earlier, I think you would go to that D-1b and look where we had put in the adjustment, in effect, adding that 711 million to the common equity. And if you were to just pull it out on the Excel spreadsheet and recalculate it, that's how you would make the adjustment.

Q. I'm glad you mentioned D-1b. Can you please refer to MFR Schedule D-1b, page 2 of 2?

A. D-1b, page 2 of 2.

Q. Okay. Take a second to review that for me, sir.

A. Okay.

Q. Mr. Toomey, there is no pro rata reduction to total capital in the amount of $711 million offsetting the increase in common equity to the $711 million; correct?

A. Correct from the standpoint that, no, the total capital, and especially not on the jurisdictional capital structure, it would not go up by 711 million.

Q. So no?

A. No. I'm sorry.

Q. If the Commission decides to back out the $711 million from common equity, it must also reduce rate base by $711 million; correct?

A. No. I'm sorry. I would say no to that.

Q. Can you please explain how the adjustment of $711 million to common equity should be removed from the filing?

A. Well, if you were to try to remove it, again, it's part of the calculation of what the equity and debt mix is in this cost of capital schedule. It's not a part of rate base per se. So if you were to decide to take it out, there would be no change in rate base. It would affect the relative mix of equity and debt in the capital structure here. You could have relatively less equity in that mix, relatively more of everything else, I suppose. And as you recalculated that cost of capital, you would get a difference in your cost of capital, but your rate base itself wouldn't be any different, is the way I would explain that.

Q. Are you the witness sponsoring MFR Schedule B-1, D-1a, D-1b, and C-22?

A. I am for B-1, I believe, D-1a and D-1b. And then the last one was C-22?

Q. Yes, sir.

A. Yes, I am.

Q. Okay. MFR Schedule D-1a shows PEF's proposed capital structure and cost of capital for the projected test year ending December 31, 2010; correct?

A. Yes. On page 1 of 3, that's for the 2010 year.

Q. MFR Schedule D-1b, page 2, lists the pro rata and specific adjustments that PEF made to the company's proposed capital structure on MFR Schedule D-1a; correct?

A. Yes. It gives the detail to those adjustments.

Q. This adjustment listed on MFR Schedule D-1b, page 2, are made to the capital structure on a pro rata basis over all sources of capital; correct?

A. Yes. And just to repeat what I think you said, the pro rata adjustments shown on page 2 of 2 are applied pro rata over all capital sources; that's correct.

Q. Okay. Deferred income taxes are included as one of the sources of capital in PEF's proposed capital structure; correct?

A. Yes, they are a component of the capital structure.

Q. All right. Can you please refer to PEF's Response to Staff's 27th Set of Interrogatories, Number 324, which is being handed out to you right now, sir.

A. Okay.

CHAIRMAN CARTER: Very efficient, Mr. Young, very efficient.

BY MR. YOUNG:

Q. Take a second to review it, sir, if you can.

A. Yes, I've reviewed it.

Q. Okay. Interrogatory Number 324 lists the line item adjustments on MFR Schedule D-1b, page 2, that do not involve depreciable plant; correct?

A. Yes. That was the request, and that was what we answered.

Q. And in your deposition, do you recall that you briefly explained the tax normalization rules?

A. Yes, I do.

CHAIRMAN CARTER: You did say briefly; right?

THE WITNESS: Yes. It's in my deposition, as far as I was able to answer it.

BY MR. YOUNG:

Q. Also, during your deposition, you talked about the timing difference between book and tax depreciation that give rise to deferred income tax; correct?

A. I did.

Q. Deferred income taxes, Mr. Toomey, included in the capital structure on MFR Schedule D-1a, line 9, are created by the timing difference between depreciation used for calculating federal income tax liabilities and the actual book depreciation for depreciable utility property or plant; correct?

A. Yes, the deferred income taxes come from those timing differences. I'm just thinking a minute. I don't know if automatically I would say everything is related to depreciable plant. Other things give rise to timing differences, like the items related to Levy.

When we collect payments under the nuclear cost recovery clause, they're treated differently on book and taxes, and that's a timing difference.

Q. Okay. Now, let me have you refer to MFR Schedule C-22.

A. Yes.

Q. MFR Schedule C-22 is PEF's presentation of the state and federal income taxes for the company; correct?

A. Yes, it.

Q. The federal deferred taxes are identified in the last column on MFR Schedule C-22; correct?

A. Yes. There are columns there for the deferred taxes, both state and federal, so they're set out there.

Q. Okay. Do the individual line items listed on MFR Schedule C-22 for the federal deferred taxes match the individual line items one for one on the MFR Schedule D-1b, page 2?

A. No. I was asked this during the deposition, and I answered no, and they don't. This --

Q. Can -- go ahead. I'm sorry.

A. That's fine. You know, again, this C-22, this is part of the net operating income calculations, so this is part of the calculation of taxes just during the test year. So this is kind of the deferred tax calculation -- the components of the deferred taxes during the test year. These items all would end up with balances of deferred taxes, and over on the rate base type schedule, that's more of a balance of deferred taxes presentation.

Q. So it --

A. So it's kind of -- one is a one-year income statement view, and the other one is a balance sheet view. But the line items themselves, as you mentioned the other day, they're not necessarily grouped the same way.

Q. So no?

A. No. I'm sorry. I should have just said that. No.

Q. Thank you. Can you identify the amount of deferred taxes included on MFR Schedule C-22 that are associated or match up to the adjustments to PEF's capital structure on MFR Schedule D-1b, page 2?

A. No.

Q. Okay. Is it PEF's position that the pro rata adjustments made to accounts contained in PEF's rate base that do not generate deferred taxes should be reconciled over all sources of capital?

A. I just want to be very careful about the wording of the question again. If you could repeat it, please.

Q. Sure. Is it PEF's position that the pro rata adjustments made to accounts contained in PEF's rate base that do not generate deferred taxes should be reconciled over all sources of capital?

A. It's -- and I'm not sure I understand the question fully, so I'll start to explain part of it. There clearly are pro rata adjustments that we show, and it is our position on the cost of capital schedule that they should be applied over all sources of capital. Those are those pro rata adjustments that you spoke to. You were kind of relating them specifically to deferred income taxes, I think, in the question, and I'm not 100 percent sure that I could do that, and that's the only part I struggled with on your question.

Q. Do you recall your deposition, sir?

A. I do.

Q. Do you remember during the course of the deposition, you and Ms. Fleming had a discussion where she asked you do you believe that those, "those" meaning the pro rata adjustments, should be reconciled over all sources of capital and past ratemaking capital structures, and do you recall your response was, "I believe the adjustments should be made pro rata across all sources of capital"? Do you recall that discussion?

A. I do.

Q. Okay. In your deposition, you indicated that PEF is proposing to make pro rata adjustments over all sources of capital instead of tracking and segregating the sources of capital because the treatment is the easiest method to comply with Internal Revenue Service tax normalization rules. Do you remember that?

A. Well, I remember a discussion around that point, and we discussed our answer to Interrogatory 321, and we explained our rationale for that. And as I recall my deposition, the first reason we cited is that we don't want to violate normalization. The second reason we cited is that we don't color code the way we fund the capital that way, so there's no rational basis. And I also mentioned for administrative ease, it's easiest to do it pro rata that way. That's what I recall from the deposition.

Q. Okay. Are you familiar with PEF's Response to Staff's 20th Request for Production of Documents?

A. Likely, yes.

MR. YOUNG: May we approach, Mr. Chairman?

CHAIRMAN CARTER: You may approach.

Mr. Young, you said Ms. Fleming will be handling the exhibits? Is that what you said?

MR. YOUNG: Yes, sir. They're stipulated, sir.

CHAIRMAN CARTER: Oh, okay. All right, all right. I feel better already. You may proceed.

MR. YOUNG: And just for point of information, Mr. Chairman, I have five more questions for this witness.

CHAIRMAN CARTER: Okay. We're trying to figure out how to do it in the time, but go right ahead.

MR. YOUNG: If we're concise and detailed, then we'll be fine.

BY MR. YOUNG:

Q. In your response, sir, PEF provided copies of the Internal Revenue Code and the income tax regulations that address the tax normalization rules; correct?

A. Yes, we did.

Q. Are you familiar with the Internal Revenue Code and the internal tax regulations that addresses the IRS tax normalization rules?

A. In a general way, yes.

Q. The IRS tax normalization rules relate to the treatment of deferred taxes and income tax expense for the purpose of calculating federal income tax liability; correct?

A. Yes.

Q. Do the IRS tax normalization rules specify how deferred taxes should be treated when a regulated utility such as PEF makes pro rata adjustments to its capital structure for ratemaking purposes?

A. I think, yes.

Q. Do the IRS tax normalization rules specify how deferred taxes should be treated when a regulated utility such as PEF makes adjustments to reconcile the rate base to the capital structure for ratemaking purposes?

A. Again, I think, yes.

Q. Would you please point out where the documents provide such -- specify such treatment? Excuse me.

A. I'm not sure that I can.

Q. My previous question, can you please specify where the documents that provide such treatment that I asked you does the IRS tax normalization rules specify how deferred taxes should be treated when a regulated utility such as PEF makes pro rata adjustments to its capital structure for ratemaking purposes?

A. I believe the IRS's normalization rules specify things that have to be done in the reporting of the deferred taxes in order to ensure that you don't violate normalization. And again, that's what these rules in their entirety do.

So again, the idea, as I explained in a more general way in my deposition, is -- it's really just not violating the IRS's guidelines on the normalization treatment that is required. I don't think there's anything in here that would specifically tell a PEF exactly how to make the adjustments in its MFRs, for example.

Q. So there's nothing -- you cannot identify anything in the document that tells PEF to make these adjustments; correct?

A. Absent -- if they find that we violated the normalization rules, they're very clear that we lose the benefit of the accelerated depreciation, and that is our concern.

Q. Okay. And the final question, sir. Does the IRS tax normalization rules specify that a regulated utility shall make such adjustments to its rate base over all sources of capital as opposed to only investor sources of capital in its capital structure?

A. I don't know if it does specifically or not.

Q. Can you identify -- can you please point out where in the documents it provides such treatment?

A. I can't.

MR. YOUNG: Okay. Thank you, Mr. Chairman. I'm sorry for batting cleanup.

CHAIRMAN CARTER: That's all right.

MR. YOUNG: I'll turn it over to Ms. Fleming.

CHAIRMAN CARTER: No, no. We're going to do -- we'll come back to the exhibits. Let's do redirect first.

Redirect, Mr. Burnett.

MR. BURNETT: Yes, sir. It's so briefly, I think I could beat the green light even.

REDIRECT EXAMINATION

BY MR. BURNETT:

Q. Mr. Toomey, would you please get Schedule MFR B-1 again, out again, the corrected schedule, B-1, page 1 of 3?

A. B-1, the revised page 1 of 3?

Q. Yes, sir. Do you remember the calculations that staff asked you to do with respect to B-1, column H?

A. Yes.

Q. Looking at B-1, column H, line 7, am I correct or incorrect that that number is a retail number as opposed to a system number?

A. It's -- I think it is the retail number.

Q. And given the fact that we've established that this is in fact a retail number, does that affect or change in any way the calculation that you did provide to staff?

A. It doesn't change at all the net outcome. The credit of 159,106,000 against rate base is the same. But when staff was talking about applying a jurisdictional factor against it, you would not have to because it's the retail only portion.

MR. BURNETT: Thank you. Mr. Chair, that's the end of my redirect, but I do note that Mr. Joyner did punt one of Commissioner Skop's questions to this witness. We can take it up now or in rebuttal, just to your pleasure and the Commission's.

CHAIRMAN CARTER: Commissioner Skop, do you want it now or do you want it -- go for it.

COMMISSIONER SKOP: That was a long time ago. I might have forgotten the question.

MR. BURNETT: Yes, sir. It was reference MFR C-6, page 69. Commissioner Skop had raised the issue of the actuals and the budgets, that there was a variance where the actuals appeared -- the budgets, I'm sorry, appeared consistently greater than the actuals, and Mr. Joyner said Mr. Toomey may be able to explain that.

COMMISSIONER SKOP: Yes. If there's an explanation to that, that the historical -- if I can refresh my memory, the historical budgeted amounts on that schedule were in excess of the actual amounts incurred, and then there was a substantial year-to-year increase on the 2009 budget to 2010 which was a 50 percent year-to-year increase, if my memory serves me correctly.

THE WITNESS: Yes. And while I haven't gotten to the line items that John mentioned yet, I believe that -- well, if I could just get to that right now, that would probably help me just be sure. John, we're on C-6.

MR. BURNETT: Mr. Chair.

THE WITNESS: And we're on -- excuse me. We're on distribution.

CHAIRMAN CARTER: Mr. Burnett.

MR. BURNETT: Mr. Toomey, it was MFR Schedule C as in Charlie 6, reference to pages 69 and 71.

THE WITNESS: Yes, got it. And on page 69 is, I believe, the line that was being discussed, and it's distribution-operation, if you look at that at the subtotal, and I think that's what was yielding that abnormal pattern.

COMMISSIONER SKOP: I believe in the aggregate, it was the summation of line 37, subject to check, and then moving over to page 71, line 39, a summation of those two as they related to actual versus budgeted.

Actually, I'm sorry. I stand corrected. I'll let you answer the question.

THE WITNESS: The pattern on the operations side does in some years show imbalances between the budgets and the actuals. And if you do look at that, perhaps where you were headed, in conjunction with the distribution-maintenance amounts on page 71 at line 39, if you take the sum of the two, you have very little variability, you know, just eyeballing those two.

And that was the point I had touched on earlier. As you push these down into more detail in the FERC accounts, there are times that the budget and the actuals may not line up as well the farther down you push them. But if you total distribution operation and maintenance, you see variances. For 2004, if you were to add those two groups, budget of the two combined was about 78 million, actual was about 78 million. For 2005, budget was about 180 and actuals were about 124. For 2006, budget was about 81 and actuals were about 114. For 2007, the budget was 128 and the actual was 125 1/2. And for -- excuse me. That was 2007. 2008, the budget was 123, and the actuals were about 121.

So again, the only point that I wanted to make in terms of coming back to Jackie's point is, there are times in pushing this down into the FERCs that, you know, the budgets and actuals don't match up as well, and if you just look one line higher, the budgets and actuals are really pretty close through those years. So I just wanted to make that point.

COMMISSIONER SKOP: Okay. Just one follow-up, please, on page 69. I guess when you look at the aggregate of the distribution-operation on 69 combined with the distribution-maintenance on 71 -- I guess those were the combinations that you just read off. So the variance is not as great as it would -- is there any reason why on the distribution-operation side, though, it would be as substantial as it is on line 37 for some of the years?

THE WITNESS: Again, certainly in the operations, you're going to get variability on the operations side based on workload. On the maintenance, it can be very driven by, again, how much maintenance you're able to get done in the year. It's kind of how the work falls. So we take a budget for how much everybody is going to be working on maintenance versus operating type activities. If the work activity in the field responding to storms, dealing with scheduled maintenance, and that kind of stuff varies, you'll get a variance between those two FERC accounts, and we won't automatically correct for it. So you can end up in a situation that actuals and budgets in that detail don't match, but again, in total they're close.

COMMISSIONER SKOP: And with respect -- if I can recall, my memory, the difference between the 2009 budget, aggregating the distribution operation and distribution and distribution maintenance for the year-to-year increase, which was 15 percent greater shown in the 2010 budget, I think the majority of that had to do with vegetation management; is that correct?

THE WITNESS: That's correct.

COMMISSIONER SKOP: All right. Thank you for the clarification, and thank you, Mr. Burnett, for your diligence in following up, because I had forgotten it, so I appreciate that.

CHAIRMAN CARTER: All right. Anything further from the bench? Exhibits?

MR. BURNETT: Yes, sir. With respect to the rate case proper testimony, we would move Exhibits 117 through 127. And with respect to --

CHAIRMAN CARTER: Hang on. Hang on.

MR. BURNETT: Yes, sir. Sorry.

CHAIRMAN CARTER: Any objection to 117 through 127? Without objection, show it done.

(Exhibits Number 117 through 127 were admitted into the record.)

CHAIRMAN CARTER: Okay. Mr. Burnett.

MR. BURNETT: Yes, sir. And with respect to the Bartow testimony, we would move Exhibits 128 through 132.

CHAIRMAN CARTER: Any objection? Without objection, Exhibits 128 through 132.

(Exhibits Number 128 through 132 were admitted into the record.)

CHAIRMAN CARTER: Now, everybody, let's go to the back pages. Mr. Rehwinkel, I think you've got 281.

MR. REHWINKEL: Yes, sir. I would move 281.

CHAIRMAN CARTER: Are there any objections? Without objection, show it done.

(Exhibit Number 281 was admitted into the record.)

CHAIRMAN CARTER: Ms. Kaufman, you've got 282?

MS. KAUFMAN: And 283.

CHAIRMAN CARTER: And 283, that's correct.

MS. KAUFMAN: I would move those.

CHAIRMAN CARTER: Any objections?

MR. BURNETT: Not to 282, sir. I do object to 283. As made clear by Ms. Kaufman's questions, this exhibit is being offered in an attempt to show that pension expenses have decreased based on updated information on stock market performance and projections as to what the stock market will do. If the Commission accepts it for that purpose or makes any expense adjustments based on this exhibit or that concept, the principle of parity would be invoked and, in all fairness, would reopen the door to PEF introducing its updated load and sales forecasts that the intervenors previously moved to withdraw.

MS. KAUFMAN: We'll withdraw the exhibit, Mr. Chairman.

CHAIRMAN CARTER: Okay. Thank you, Ms. Kaufman. Thank you.

(Exhibit Number 282 was admitted into the record.)

CHAIRMAN CARTER: Anything further for this witness at this point in time?

MS. FLEMING: Staff exhibits.

CHAIRMAN CARTER: Staff exhibits, the purple sheet. Ms. Fleming, you actually have cleanup.

MS. FLEMING: Yes, I do.

CHAIRMAN CARTER: You're recognized.

MS. FLEMING: I am happy to note for the record that Staff Composite Exhibits for this witness, Number 42, 43, 44, and 45 are all stipulated. I would like to note, though --

CHAIRMAN CARTER: Hang on. Hang on a second and let me make sure. Is that the understanding of the parties? That would be Exhibits 42, 43, 44. And 44?

MS. FLEMING: And 45.

CHAIRMAN CARTER: And 45? Is that correct?

MS. KAUFMAN: Yes, Mr. Chair.

CHAIRMAN CARTER: Okay.

MS. FLEMING: And I would like to note with respect to Item 1 under Exhibit 45, we will not be moving that portion of the exhibit in, as it relates to an issue that has been dropped in this proceeding.

CHAIRMAN CARTER: Okay. Without objection, show it done.

(Exhibits Number 42 through 45 were admitted into the record.)

MS. KAUFMAN: I'm sorry. Ms. Fleming, could you just repeat that, Mr. Chairman, if that would be all right.

MS. FLEMING: Item 1 under Exhibit 45 related to Issue 55, which was dropped.

MS. KAUFMAN: Thank you.

CHAIRMAN CARTER: Okay.

MS. FLEMING: And Exhibit 46 is not being entered, because that relates to the nuclear decommissioning issues that were spun out.

CHAIRMAN CARTER: Okay.

MS. FLEMING: And we have two additional matters. We handed out this yellow packet, which does not have an exhibit number on it, and staff would ask that it be marked as 284. It's the Peter Toomey discovery related to rate base.

CHAIRMAN CARTER: Okay. Is this the one that has Interrogatory 1 -- PEF's Responses to Staff's 20th Set of Interrogatories, et cetera, et cetera?

MS. FLEMING: Yes. It's got a yellow Post-It --

CHAIRMAN CARTER: With the Yellow Post-It. Okay. That will be --

MS. FLEMING: And the --

CHAIRMAN CARTER: Hang on a second. Commissioners, for the record, that will be 284.

(Exhibit Number 284 was marked for identification.)

CHAIRMAN CARTER: Ms. Fleming.

MS. FLEMING: And finally, earlier today --

CHAIRMAN CARTER: Hang on a second. Is that -- give me a shorter title.

MS. FLEMING: Oh, I'm sorry. Staff's Composite Rate Base.

CHAIRMAN CARTER: Okay. You may proceed.

COMMISSIONER ARGENZIANO: I'm sorry, Mr. Chair.

CHAIRMAN CARTER: Yes, ma'am.

COMMISSIONER ARGENZIANO: Did you say that would be 284?

CHAIRMAN CARTER: 284, yes, ma'am.

COMMISSIONER ARGENZIANO: Okay. Thank you.

CHAIRMAN CARTER: Ms. Fleming.

MS. FLEMING: And finally, Commissioners, we during -- earlier today we handed out two red folders, and staff would ask that that be identified as Exhibit 285, as a composite, and just labeled confidential documents of --

CHAIRMAN CARTER: 285, composite, that will be the confidential documents?

MS. FLEMING: Yes.

CHAIRMAN CARTER: Okay.

(Exhibit Number 285 was marked for identification.)

MS. FLEMING: And it's my understanding that the parties have stipulated to Exhibits 284 and 285.

CHAIRMAN CARTER: Is that the understanding of the parties? Okay. Show it done.

(Exhibit Number 284 and 285 were admitted into the record.)

CHAIRMAN CARTER: Ms. Fleming.

MS. FLEMING: We have no other exhibits.

CHAIRMAN CARTER: Commissioners, let's do this. The parties have been working together. Staff has been working with them, and when we leave, they normally meet. So I think rather than go to 8:00 and then have them meet afterwards, let's kind of reward them with some good time, and you guys can -- we'll just go ahead on and break for the evening, and you guys can have your meeting now and then maybe get a decent night's sleep.

Yes, the witness may be excused.

MR. BURNETT: Thank you.

CHAIRMAN CARTER: See you guys at 9:30 in the morning.

(Proceedings recessed at 7:41 p.m.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA:

COUNTY OF LEON:

I, MARY ALLEN NEEL, Registered Professional Reporter, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1782 through 1900 are a true and correct record of the aforesaid proceedings.

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

DATED THIS 29th day of September, 2009.

Mary Allen Neel

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