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Docket No. 20190140-EI  
Cross-Examination  
Hearing Exhibit

Exhibit No.: 23C

Proffered by: Public Counsel

Short title: \_\_\_\_\_

Witness(s): \_\_\_\_\_

CONFIDENTIAL

Page 1

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to approve transaction for accelerated decommissioning services at CR3 facility, transfer of title to spent fuel and associated assets, and assumption of operations of CR3 facility pursuant to the NRC license, and request for waiver from future application of Rule 25-6.04365, F.A.C. for nuclear decommissioning study, by Duke Energy Florida, LLC.

DOCKET NO.: 20190140-EI  
FILED: June 22, 2020

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DEPOSITION OF JEFFREY P. ADIX

(Conducted Via Videoconference)

DATE: June 24, 2020

TIME: 1:03 p.m. to 6:09 p.m.

PURSUANT TO: Notice by counsel for the Citizens of the State of Florida for purposes of discovery, use at trial or such other purposes as are permitted under the Florida Rules of Civil Procedure

REPORTED BY: ANN S. BEILSTEIN, RPR  
Notary Public  
State of Florida at Large

Pages 1 - 184

CONFIDENTIAL

Page 2

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25

CONFIDENTIAL

Page 3

1 ALSO PRESENT:

2 SCOTT STATE, NorthStar Group Services, Inc.  
 3 RICHARD POLICH, GDS Associates

4 I N D E X

5		PAGE
6	DIRECT EXAMINATION BY MR. REHWINKEL.....	9
7	CROSS-EXAMINATION BY MR. BREW.....	120
8	CROSS-EXAMINATION BY MS. BROWNLESS.....	128
9	CROSS-EXAMINATION BY MR. MOYLE.....	141
10	CROSS-EXAMINATION BY MR. HERNANDEZ.....	179
	RE-CROSS-EXAMINATION BY MR. MOYLE.....	180
	CERTIFICATE OF OATH.....	182
	CERTIFICATE OF REPORTER.....	183
	ERRATA SHEET.....	184

11 E X H I B I T S

12 DESCRIPTION

13	FOR THE CITIZENS OF THE STATE OF FLORIDA:	PAGE
14	Exhibit 1 - Notice of Deposition Duces Tecum.....	11
15	Late-Filed Exhibit 2 - Vermont Testimony.....	20
16	Late-Filed Exhibit 3 - Explanation of Parental Support Agreement and Fixed-Cost Relationship.....	99

## CONFIDENTIAL

Page 4

1 THE COURT REPORTER: The attorneys  
2 participating in this deposition acknowledge that  
3 I, the court reporter, am not present with the  
4 witness and that I will be reporting the  
5 proceedings and administering the oath remotely.  
6 This arrangement is pursuant to the Florida Supreme  
7 Court Administrative Order No. AOSC-20-16 (and  
8 extended by AOSC-20-17). The parties and their  
9 counsel consent to this arrangement and waive any  
10 objections to this manner of reporting. Please  
11 indicate your agreement by stating your name and  
12 your agreement on the record.

13 MR. HERNANDEZ: Daniel Hernandez on behalf of  
14 Duke agrees.

15 MR. REHWINKEL: Charles Rehwinkel with the  
16 Office of Public Counsel agrees.

17 MR. MOYLE: Jon Moyle representing FIPUG, the  
18 Florida Industrial Power Users Group. We agree  
19 with that.

20 MS. BROWNLESS: Suzanne Brownless, on behalf  
21 of the Staff of the PSC, agree.

22 MR. BREW: Jay Brew.

23 MR. REHWINKEL: Okay. I guess you can ask him  
24 if he agrees when he gets -- when it's his turn, I  
25 guess. Is that okay?

## CONFIDENTIAL

Page 5

1 THE COURT REPORTER: Yes.

2 MR. REHWINKEL: All right. Daniel, are you  
3 ready to continue? I'm hearing an echo now.

4 MR. HERNANDEZ: Was that Jay trying to talk or  
5 what's that?

6 MR. REHWINKEL: That was Charles. I don't  
7 know, I'm hearing an echo. Is that better.

8 MR. MOYLE: You're better now.

9 MR. HERNANDEZ: Yes, Charles, we're ready to  
10 proceed.

11 MR. REHWINKEL: Okay. Well, you could go  
12 ahead and administer the oath now.

13 JEFFREY ADIX,  
14 the witness herein, being first duly sworn on oath, was  
15 examined and deposed as follows:

16 MR. REHWINKEL: Thank you. And before we get  
17 underway, I just wanted to make a statement for the  
18 record that the deposition is confidential. It's  
19 been designated that way because we may ask about  
20 confidential information. And I believe all the  
21 participants who have been online or are online are  
22 either Florida Public Service Commission's  
23 employees, Office of Public Counsel employees, who  
24 are both covered by the statute and the rules of  
25 the Commission and entitled to view information

## CONFIDENTIAL

Page 6

1           that's been classified as confidential in this  
2           docket. The other attorneys are signatories to a  
3           Nondisclosure Agreement with Duke Energy Florida  
4           and are entitled to receive, view and discuss  
5           confidential information that may be elicited in  
6           this deposition. And there should be no one else  
7           on the line who does not fit into those categories.  
8           Is that correct, Counsel?

9           MR. HERNANDEZ: That is correct.

10          MR. REHWINKEL: Okay. In addition, I would  
11          propose this. The Public Counsel will be ordering  
12          the deposition. We're going to ask for it to be  
13          expedited and I've asked for it by Wednesday of  
14          this coming week, and I think that's agreeable. We  
15          would ask that we get a copy of it directly and  
16          that a copy go to Duke and Duke be responsible, if  
17          that's agreeable to the rest, to disseminate it to  
18          the parties just so they have control over the  
19          deposition with respect to who the NDA signatories  
20          are.

21          The Public Service Commission Staff is a  
22          special situation. If they want a copy of the  
23          deposition or any form of -- a portion of it,  
24          they -- Duke will have to make certain filings with  
25          the Public Service Commission, and if they are a

## CONFIDENTIAL

Page 7

1 recipient of the deposition, they could control  
2 that as required by law.

3 Is that an acceptable process?

4 MR. HERNANDEZ: This is Danny. That's  
5 acceptable with the understanding that any copies  
6 solicited by any of the other parties will be paid  
7 for to the court reporter.

8 MR. REHWINKEL: Yes, that was my -- that's a  
9 good clarification.

10 MS. BROWNLESS: And I also wanted to add that  
11 we will separately request a copy if we wish, Madam  
12 Court Reporter, and we just need you to send the  
13 information to me about how we would go about doing  
14 that, how we contact you.

15 THE COURT REPORTER: Okay.

16 MR. REHWINKEL: Okay.

17 MR. MOYLE: And that's the same for FIPUG  
18 again. I assume that the court reporter has email  
19 addresses for us.

20 THE COURT REPORTER: Yes.

21 MR. BREW: This is James Brew. Also, I would  
22 also request that contact information for getting  
23 the transcript.

24 THE COURT REPORTER: Yes, sir.

25 MR. REHWINKEL: Okay. And one last final



## CONFIDENTIAL

Page 8

1 administrative issue.

2 Daniel, I would assume that all objections  
3 except as to form of the question will be reserved  
4 for hearing?

5 MR. HERNANDEZ: That's correct.

6 MR. REHWINKEL: Okay. And you will not waive  
7 reading and signing?

8 MR. HERNANDEZ: No. We will read.

9 MR. REHWINKEL: Did I say that right? Yes.  
10 Good afternoon --

11 MR. MOYLE: Hey, Charles, one thing you  
12 might -- there's someone else that is with the  
13 witness. I can't see. All I can see is a tie and  
14 a suit. But can we just have everybody who is, you  
15 know, there identified?

16 MR. REHWINKEL: I was going to take  
17 appearances.

18 MR. DICARLO: Sure. This is Greg DiCarlo,  
19 General Counsel for NorthStar.

20 MR. REHWINKEL: You can go ahead around the  
21 room and make appearances after Mr. DiCarlo.

22 MS. TRIPLETT: This is Dianne Triplett, Deputy  
23 General Counsel for Duke Energy Florida.

24 MR. ADIX: And Jeff Adix. I'll be the witness  
25 this afternoon.

## CONFIDENTIAL

Page 9

1 MR. HERNANDEZ: Daniel Hernandez with Shutts &  
2 Bowen on behalf of Duke.

3 MR. STATE: And Scott State, Chief Executive  
4 Officer of NorthStar.

5 MR. REHWINKEL: And I'm Charles Rehwinkel,  
6 Deputy Public Counsel with the Office of Public  
7 Counsel.

8 Jon?

9 MR. MOYLE: Oh, I'm sorry. Jon Moyle with the  
10 Moyle Law Firm on behalf of FIPUG.

11 MS. BROWNLESS: Suzanne Brownless with the  
12 Florida Public Service Commission on behalf of  
13 Commission Staff.

14 MR. BREW: And I'm James Brew for White  
15 Springs Agricultural Chemicals, PCS Phosphate.

16 MR. REHWINKEL: Okay. All right. We can  
17 start now.

18 DIRECT EXAMINATION

19 BY MR. REHWINKEL:

20 Q Good afternoon. Is it Adix, is that how you  
21 pronounce it?

22 A Adix, yes.

23 Q Okay. Good afternoon, Mr. Adix. As I said,  
24 my name is Charles Rehwinkel. I'm with the Office of  
25 Public Counsel and I'm here to ask you a few questions

## CONFIDENTIAL

Page 10

1 today. I would ask you if there's anything that you  
2 don't understand, if there's an issue with the  
3 communications, please ask me to repeat it. And also, I  
4 am not trying to rush you in any way. I know that this  
5 technology can be difficult, so please take your time.  
6 I'm not trying to take advantage of that and get you to  
7 answer a question before your counsel has an opportunity  
8 to speak if he needs to. Do you understand that?

9 A Yes, that makes sense. Thank you.

10 Q Okay. And if you need a break, please let me  
11 know and we'll take one. You control that, but just let  
12 us know. I tend to -- I tend to go longer than people  
13 otherwise want me to or I don't -- I lose track of time.  
14 So if you need a break, let me know, please.

15 A Yes, understood. Thank you.

16 Q Okay. Can you state your name for the record?

17 A Yes. It's Jeffrey, J-E-F-F-R-E-Y, middle  
18 initial P, Adix, A-D-I-X.

19 Q And by whom are you employed?

20 A I'm employed by NorthStar Group Services, Inc.  
21 as the Vice President, Chief Financial Officer and  
22 Treasurer. And I am also the Vice President and Chief  
23 Financial Officer of Waste Control Specialists, LLC.

24 Q Are you appearing on their behalf today or on  
25 behalf of Duke Energy Florida?

## CONFIDENTIAL

Page 11

1           A     I would ask Counsel to clarify exactly. I'm  
2     appearing as an employee of NorthStar Group Services to  
3     respond to the testimony in conjunction with the overall  
4     process of the testimony and the regulatory process of  
5     Duke Energy Florida.

6           Q     Okay. Did you receive a Notice of Deposition  
7     and review it?

8           A     I did.

9           Q     Okay. And did you take note of the list of  
10    documents that you were requested to appear with today?

11          A     Yes, I did.

12               MR. REHWINKEL: Okay. Madam Court Reporter, I  
13     would like to ask that the Notice of Deposition be  
14     made Exhibit 1 to the deposition.

15               THE COURT REPORTER: Yes, sir.

16               (Exhibit 1 was marked for identification.)

17               MR. HERNANDEZ: And Charles, can you just  
18     clarify? We've got several notices, and I know  
19     which one you're referring to, but just so the  
20     record is clear, can you clarify which one you're  
21     speaking about?

22               MR. REHWINKEL: This is a June 22nd, 2020  
23     Notice of Deposition Duces Team and it is for  
24     Jeff Adix to appear on June 23rd, 2020 at 1:00 p.m.

25               MR. HERNANDEZ: And you're referring to the

## CONFIDENTIAL

Page 12

1 one issued by the Office of Public Counsel, right?

2 MR. REHWINKEL: Yes.

3 MR. HERNANDEZ: Yes, thank you.

4 BY MR. REHWINKEL:

5 Q And I listed -- am I echoing?

6 THE COURT REPORTER: Now you are.

7 MR. REHWINKEL: Okay. Well --

8 THE COURT REPORTER: I think it's better now.

9 THE WITNESS: You're coming in clearly on this  
10 end.

11 BY MR. REHWINKEL:

12 Q Okay. I asked you to bring with you eight  
13 documents and I received a few, several documents by a  
14 ShareFile today. I think there were at least four  
15 documents. Did you bring any documents other than the  
16 documents that were provided to the parties via the  
17 ShareFile through the Shutts & Bowen law firm?

18 A I did not.

19 Q Okay. Is that because those were the only  
20 documents that you had with you that met the definitions  
21 of the documents that I listed in 1 through 8 there?

22 A Yes, that is correct.

23 Q Okay. But you do have the ShareFile documents  
24 with you?

25 A I do.

CONFIDENTIAL

Page 13

1           Q     And are they printed out or do you have them  
2     online?

3           A     No, they are printed out. I have them with me  
4     to my right.

5           Q     Okay. And do you also have your testimony  
6     with you?

7           A     I believe I do.

8                     THE WITNESS: Is that part of this document?

9                     MR. HERNANDEZ: Was that an exhibit to  
10     Mr. Polich's deposition, Charles?

11                    MR. REHWINKEL: I was asking about his -- his  
12     rebuttal testimony, if he had that with him.

13                    THE WITNESS: I have a copy of my rebuttal  
14     testimony with me.

15     BY MR. REHWINKEL:

16           Q     Okay. And do you have a copy of Mr. Polich's  
17     testimony with you as well?

18           A     Yes, I do.

19           Q     Okay. And do you have access to Mr. Polich's  
20     deposition?

21           A     Yes, I believe that is included in here.

22                    THE WITNESS: Correct?

23                    MR. HERNANDEZ: We do have the transcript of  
24     his deposition, yes.

25                    MR. REHWINKEL: Okay. Thank you very much.

## CONFIDENTIAL

Page 14

1 BY MR. REHWINKEL:

2 Q Let me do this, if we can, and go through and  
3 just understand what documents you have. I'll call them  
4 the ShareFile documents. These are the documents that  
5 were provided to all the parties via the Shutts & Bowen  
6 ShareFile earlier today and I just want to understand  
7 what those documents are.

8 So if you could tell me -- just pick the first  
9 one that's close to you and just tell me what it is and  
10 describe it and give me, actually, the Bates numbers.  
11 We'll use those.

12 A Which --

13 Q These are at ADIX DEP DT, dash, and then  
14 there's a Bates number. So let me ask about the one  
15 that's at 1.

16 A Okay. I don't have Bates numbers on my  
17 copies, so --

18 Q This would be the biggest one.

19 A I'm sorry. Which one are you referring to as  
20 document 1?

21 Q It's the Credit and Guarantee Agreement.

22 A Oh, okay. Yes. Okay. So that is -- this is  
23 a full and complete copy, including all of the  
24 supplemental schedules of the credit agreement currently  
25 in effect between NorthStar and its senior lender group.

## CONFIDENTIAL

Page 15

1 Q And would this be document number 6 on the  
2 duces tecum list?

3 A Yes, it is.

4 Q Okay. All right. Do you have the -- there's  
5 a two-page document that's -- it appears to say -- it's  
6 about revenue backlog. Do you have that one?

7 A Yes, I do.

8 Q Can you tell me what that document is and  
9 which number it responds to?

10 A Yes. That is responding to item number 8 in  
11 the document request where the request was to show the  
12 calculation of the dollar amount of revenue backlog from  
13 page 11, lines 18 to 19 of my testimony. And so this is  
14 our internal reporting that is consistently prepared to  
15 track the total backlog of revenue in the business.

16 Q Okay. And those two documents that are number  
17 6 and number 8, those are both confidential, correct?

18 A Yes, they are.

19 Q Okay. And then there were two other documents  
20 that I received, one with Bates 343, but it says  
21 Industrial Services Industry Update Summer 2019. Could  
22 you tell me what that is and which number it corresponds  
23 to?

24 A Yes. That and the other similar document were  
25 provided to respond to point number 7 in the document



## CONFIDENTIAL

Page 16

1 request where I was requested to produce documents  
2 showing the calculation of the market value of the  
3 companies with similar profiles that I discussed on  
4 Page 11, lines 12 and 13 of my testimony.

5 Q Okay. And these documents are not considered  
6 confidential; is that right?

7 A No, they are not.

8 Q Okay. Is there in any way any licensing  
9 agreement or anything like that that you would have that  
10 would restrict their use?

11 A Not that I'm aware of. I receive them on a  
12 regular basis from an investment banking firm, but I  
13 believe they're disseminated widely.

14 Q Okay. Thank you. And are there -- so did  
15 I -- are these the only documents that you brought with  
16 you, these four?

17 A Yes, that is correct.

18 Q Okay. All right. So I want to start off  
19 asking if you could tell me what your relationship --  
20 well, who do you report to?

21 A I report to Scott State, the Chief Executive  
22 Officer of the company of NorthStar.

23 Q Okay. Do you know to whom he reports?

24 A I would characterize it as he reports to the  
25 board of directors of the company.

## CONFIDENTIAL

Page 17

1 Q Who makes up the board of directors?

2 A There are multiple individuals on the board of  
3 directors, at least five or six different individuals.  
4 I don't recall every single name who is formally on the  
5 board and who is an observer to our board meetings, but  
6 there are approximately five to six individuals.

7 Q Okay. Are they also investors in NorthStar?

8 A There are some independent -- there are some  
9 independent directors and there are direct  
10 representatives of the controlling investor of the  
11 company. I do believe that all of the board members  
12 have -- that are not direct investors do have some  
13 equity interest in the company as well.

14 Q Okay. Can you tell me who the -- what do you  
15 call, the controlling investor is? Can you tell me who  
16 that person is?

17 A It's a firm. It's J.F. Lehman & Company,  
18 L-E-H-M-A-N.

19 Q Okay. Do you have any either direct or what  
20 I'll call dotted line reporting responsibility to anyone  
21 at JFL-NGS Partners, Inc.?

22 A No, I do not.

23 Q Okay. Do you have any reporting  
24 responsibility above you other than to Mr. State?

25 A No. I work with representatives of the

## CONFIDENTIAL

Page 18

1 investment group on a regular basis on providing  
2 information, providing business updates, but there's no  
3 formal or what I would characterize as a dotted line  
4 reporting relationship other than my direct reporting to  
5 Mr. State.

6 Q Okay. Have you ever testified in a -- well,  
7 let me start off, have you ever testified under oath  
8 before?

9 A Yes, I have.

10 Q Can you tell me the circumstances?

11 A Yes. I've done it a number of times now  
12 throughout my career. I've testified under oath for  
13 certain regulatory processes under -- or certain  
14 regulatory proceedings as part of the company's Vermont  
15 Yankee transaction.

16 Q Let me stop you right there. You're doing  
17 what I was going to ask you to do which is to go  
18 backwards in time. So was that the first most recent  
19 instance of testifying?

20 A No. I've also testified under oath as part of  
21 litigation that the company was involved in unrelated to  
22 any of these matters.

23 Q Okay. Was that in a court or a regulatory  
24 proceeding?

25 A No. It was in a civil proceeding.

## CONFIDENTIAL

Page 19

1 Q Okay. So when was that?

2 A I believe it was sometime in late -- late  
3 2019.

4 Q When you say unrelated to these matters, are  
5 you saying it had nothing to do with nuclear  
6 decommissioning?

7 A Correct.

8 Q Okay. And then the next most recent before  
9 that would be Vermont Yankee?

10 A I believe so.

11 Q Okay. Well, tell me about that. Did you  
12 actually testify in that case?

13 A I did. I gave two different sworn depositions  
14 at various points in that process. I don't recall the  
15 exact characterization of what they were called, but at  
16 least two different times in that process I did give a  
17 sworn testimony or sworn deposition.

18 Q Okay. Did you testify before a hearing  
19 officer before the Commission itself?

20 A No, I don't believe that I did.

21 Q Okay. So did you -- I know that you filed two  
22 pieces of testimony, a direct and a rebuttal in that  
23 case; is that correct?

24 A Yes. As I mentioned a moment ago, I recall  
25 being deposed two different times in that and that would

## CONFIDENTIAL

Page 20

1 make sense. I believe that was the testimony I referred  
2 to.

3 Q Okay. So you filed written testimony and then  
4 you testified under oath live?

5 A That is correct.

6 Q Okay. Was there -- was it transcribed, your  
7 live testimony under oath?

8 A Yes.

9 MR. REHWINKEL: Okay. Danny, is it possible  
10 for us to identify a late-filed exhibit and just  
11 ask for the transcriptions of his two depositions  
12 if they are not otherwise publicly available on the  
13 Vermont Commission website, or if you could just  
14 tell us if they are?

15 MS. TRIPLETT: I'm asking Mr. DiCarlo if he  
16 even knows -- this is Dianne. I'm asking if he  
17 knows whether they're even available either on the  
18 website or available to NorthStar.

19 MR. DICARLO: Charles, we can look into  
20 locating those, and if we can locate them, then  
21 we'll produce this as a late-filed exhibit.

22 MR. REHWINKEL: I'll just identify it as  
23 Late-Filed Exhibit Number 2, and we'll just call it  
24 Vermont Yankee -- we'll just call it Vermont  
25 testimony, okay? And so all I want is either a

## CONFIDENTIAL

Page 21

1 copy of the transcript if you have access to it or  
2 a link to where I could get it. Does that make  
3 sense? You understand that?

4 MR. HERNANDEZ: Yes, I do.

5 MR. REHWINKEL: Okay.

6 MR. MOYLE: If you're able to locate it, I'd  
7 appreciate it being sent to all the parties.

8 MR. HERNANDEZ: Yes, if we are able to locate  
9 it and have access, we will distribute it.

10 MR. REHWINKEL: Thank you.

11 BY MR. REHWINKEL:

12 Q Okay. Mr. Adix, I interrupted you. I think  
13 you were at the Vermont Yankee testimony stage. What's  
14 the next before that that you can recall?

15 A Prior to that everything else would have been  
16 probably over the course of my career, two or three  
17 different legal matters at various points in time, again  
18 unrelated to nuclear decommissioning, but just  
19 testifying as an officer of either NorthStar or earlier  
20 in my career for other companies that I worked for prior  
21 to NorthStar.

22 Q But you've testified for NorthStar before  
23 Vermont Yankee?

24 A Yes. That would have been another -- another  
25 legal matter unrelated to nuclear decommissioning. I

## CONFIDENTIAL

Page 22

1 don't recall the exact dates. It's several years in the  
2 past now.

3 Q Okay. When you started with NorthStar, was  
4 that in 2018? Do I have that right?

5 A No. I actually started with NorthStar in  
6 January of 2016.

7 Q Okay. All right. And it was WCS that you  
8 started in 2018; is that right?

9 A That is correct. That was in December of  
10 2018.

11 Q Okay. Let me just take you through just real  
12 quickly your Exhibit JA-1, if you've got that in front  
13 of you, this -- I guess --

14 A I'm quite familiar with it.

15 Q Okay. Well, you started off as a -- with the  
16 Arthur Andersen firm; is that right?

17 A That is correct.

18 Q So it says final position, experienced manager  
19 and consulting segment leader. Did you start off as an  
20 auditor?

21 A Yes, I did.

22 Q Okay. And how many years did you audit?

23 A I was an auditor -- for all seven years that I  
24 was with the firm I remained involved in auditing. Even  
25 when I was doing more financially-oriented consulting

## CONFIDENTIAL

Page 23

1 work, I always kept at least one audit client to try and  
2 maintain that side of my skill set. So I was primarily  
3 in consulting towards the end but with audit involvement  
4 throughout my time at Arthur Andersen.

5 Q Okay. Were any of the clients that you  
6 audited, were they any of your subsequent employers?

7 A No. They were -- the place where I went to  
8 after leaving Arthur Andersen was a client of the firm,  
9 but not a client that I had worked on or worked for.

10 Q Okay. You went to SC Johnson & Sons and you  
11 were, I guess, for -- it looked like you worked for SC  
12 Johnson & Sons for three, almost four years?

13 A Correct.

14 Q Doing -- was it kind of accounting and  
15 auditing work?

16 A It was a mix. It was more of -- I would  
17 characterize it as more financial analysis, working my  
18 first role there helping to support the valuation  
19 process for acquisitions and other special projects.  
20 And then the last two years I was there, I was in an  
21 area controller role, as it was called, where I was part  
22 of the financial liaison team between the corporate  
23 headquarters office and the Central and South American  
24 subsidiary companies.

25 Q Okay. Tell me about Veolia. Is that when you



## CONFIDENTIAL

Page 24

1 got into the sort of the waste management arena?

2 A I did. I joined there originally in November  
3 of 2000 initially as the Vice President of Finance for  
4 the North American solid waste business and later added  
5 the CFO title to my responsibilities there, but was with  
6 them -- the first time I was at Veolia for a little over  
7 eight years.

8 Q All right. And then you went to Manpower for  
9 about three years, a little over three?

10 A Yeah, it was three and a half, a little over  
11 three and a half, just less than four years. It would  
12 have been, I believe, from March of Two Thousand -- I'm  
13 sorry, March of 2009 through November of 2012.

14 Q All right. Then you went back to Veolia in  
15 2012 for, it looks like, less than a year?

16 A Correct. Yes.

17 Q So can you just tell me why you left Veolia,  
18 went to Manpower and then went back to Veolia?

19 A Yes. Viola's North American environmental  
20 services business was going through a significant  
21 restructuring where they had sold off more than half the  
22 business. The North American solid waste business that  
23 I had been the chief financial officer for had been  
24 divested as well as another business, the waste energy  
25 business.

## CONFIDENTIAL

Page 25

1           And so they were looking for -- as part of  
2   that spinoff, the executive that was running all of  
3   North America was leaving and going with the spinoff of  
4   the waste business, and so they were looking for an  
5   experienced executive who knew the business, who knew  
6   the environmental services business and was known by  
7   people there to come back and lead that business after  
8   the spinoffs were completed. So it was a unique  
9   opportunity going from the type of financial background  
10   I had to actually go back and take an operating role as  
11   the CEO of that business unit.

12           And so I came back and did that, though  
13   shortly after returning, about five months after  
14   returning, Veolia launched another global restructuring  
15   that completely eliminated environmental services as a  
16   stand-alone business everywhere in the world and they  
17   went to more of a geographic business structure. And so  
18   I ended up leaving the company as part of that  
19   restructuring.

20           Q     Okay. I may ask you about this later on, but  
21   does Veolia in any way compete with WCS?

22           A     No. Actually, they are more -- one of their  
23   divisions actually is a client of WCS, but their  
24   disposable assets that they have are really not directly  
25   competitive. They have an incinerator -- unless they've

## CONFIDENTIAL

Page 26

1 sold that. They may have sold that since I left.

2 But the short answer to your question is no,  
3 they are not seen as a competitor to WCS.

4 Q They don't have -- they don't take any  
5 low-level radioactive waste in any of their facilities?

6 A No, to the best of my knowledge, they do not  
7 have any low-level radioactive waste disposal capacity.

8 Q And you said they're a client of WCS?

9 A There's a division called Eleron that does do  
10 some business with WCS.

11 Q Okay. Would they be involved in this  
12 decommissioning transaction with CR3?

13 A No, I don't believe that that would be part of  
14 the plan.

15 Q Okay. So you left Veolia after they  
16 reorganized again and you went to Pfizer?

17 A Correct.

18 Q Okay. And what generally did you do there  
19 for -- that was around two years?

20 A Yes. I was a Senior Vice President of Finance  
21 for two different groupings of business within Pfizer,  
22 so two different effectively divisional chief financial  
23 officer roles where I was responsible for leading the  
24 finance team and support and information to the business  
25 unit leaders for those various segments and really the

## CONFIDENTIAL

Page 27

1 full scope of financial analysis and planning  
2 responsibility for those business units.

3 Q Okay. Now, tell me if you can why you made  
4 the change from Pfizer to NorthStar. What was going on  
5 there?

6 A Yeah. I was really looking for the  
7 opportunity to get back to something closer to the  
8 environmental services space. I enjoyed very much my  
9 time with Veolia. When I left Veolia the second time, I  
10 was under a non-compete agreement that lasted two years.  
11 So towards the end of that non-compete agreement  
12 expiring, I started to look at alternatives or options  
13 to return to this industry and was introduced to  
14 Mr. State by a recruiter as NorthStar was looking for a  
15 new chief financial officer. And we spoke about the  
16 business and about my background, and I was interested  
17 in taking the full stand-alone chief financial officer  
18 responsibilities for a company like NorthStar and  
19 accepted the offer that was made to me.

20 Q Do you know the reason why the CFO, your  
21 predecessor, left?

22 A His employment was ultimately terminated. He  
23 was someone who had been with the company for a long  
24 time, and I believe Mr. State, when we were talking  
25 during the interview process, he was looking for a chief

## CONFIDENTIAL

Page 28

1 financial officer, considering the growth plans and  
2 growth potential of NorthStar, that had more experience  
3 working in larger global organizations, scope of  
4 responsibility that was up to, you know, a billion  
5 dollars of revenue or beyond and just a fresh leadership  
6 approach as the company was preparing to scale to a  
7 greater size.

8 Q Okay. Was there some level of -- I guess I  
9 don't know how to say this. Was there some level of  
10 financial stress at NorthStar at that time that you were  
11 trying to work your way out of or they were?

12 MR. DICARLO: Object to form.

13 A My recruiting was not a function of that. My  
14 recruiting, as I testified a moment ago, was really more  
15 the type of companies and the type of experience that I  
16 brought to NorthStar. And it was understood when I was  
17 joining the company that it was likely we were going to  
18 seek a new investor group and bring new capital into the  
19 company to strengthen its position.

20 And so I would say that there was an awareness  
21 that in order to really execute on the strategy that we  
22 had, that new capital -- that a new capital structure  
23 and that new investors would be required to be brought  
24 in, and I was recruited in expectation that that process  
25 was about to begin, which it did about six months after

## CONFIDENTIAL

Page 29

1 I joined.

2 Q Okay. And then finally, you're shown here and  
3 you testified at the beginning that you're Vice  
4 President and CFO of WCS?

5 A Yes.

6 Q Is that purely a function of the acquisition  
7 of WCS by NorthStar?

8 A No, NorthStar did not acquire WCS. The  
9 connection there is that there is this common investor  
10 between the two companies. I mentioned J.F. Lehman as  
11 the controlling investor of NorthStar previously. They  
12 also have a controlling investment in WCS. So they were  
13 familiar with me after having worked with me through --  
14 when they became involved in NorthStar, and I was asked  
15 to get involved with WCS a little less than a year after  
16 they had acquired that business.

17 Q Okay. Who is Interim Storage Partners?

18 A Interim Storage Partners is a joint venture  
19 between WCS where they are -- WCS is a minority partner  
20 and Orano as the majority partner.

21 Q Okay. Is that different than the WCS that is  
22 going to be the recipient of the low-level waste?

23 A It's an entity that WCS has an investment in.

24 Q Okay. Is there a difference in -- well, is  
25 Interim Storage Partners going to be building and

## CONFIDENTIAL

Page 30

1 operating a storage site in Andrews County, Texas?

2 A Potentially. That's still in the regulatory  
3 and permitting process to be determined.

4 Q Is there an actual waste disposal site in  
5 Andrews County that's owned by WCS?

6 A Yes, there is.

7 Q Okay. And it's WCS only and not with anyone  
8 else?

9 A I'm sorry. Could you repeat that question.

10 Q I apologize. Is that owning and operating of  
11 the existing facility, is that just by WCS and without  
12 any joint venture partner?

13 A That is correct. The disposal site in Andrews  
14 County, Texas is the primary operating location of WCS.

15 Q Okay. Is the existing -- is that an  
16 above-ground facility?

17 A No, it's not. The disposal is below grade.  
18 There are above-ground support operations, processing  
19 facilities, waste disposal container manufacturing  
20 facilities, but the ultimate disposal is below grade.

21 Q Okay. What was the -- I think you used the  
22 term "air space" in your testimony. What did you mean  
23 by that with respect to WCS? Do you know what I'm  
24 talking about?

25 A Yes, I do. Air space is a common term in the

## CONFIDENTIAL

Page 31

1 landfill disposal industry. If you think about a  
2 landfill, it will have a permitted volume, whether that  
3 could be -- you know, in a municipal solid waste  
4 landfill, that might be the mound we commonly see when  
5 you drive by a disposal site, and so there's a permitted  
6 volume.

7 In the case of WCS where the disposal was  
8 below grade, you dig a hole in the ground of a certain  
9 size. I'm oversimplifying obviously. But the air space  
10 is the volume that is available to be filled with waste  
11 for disposal. And so it is something that's measured  
12 and tracked in the landfill disposal industry as the  
13 amount of available capacity for a given site.

14 Q Okay. Thank you. That makes sense.

15 Is what WCS does now -- does WCS accept  
16 low-level radioactive waste today?

17 MR. HERNANDEZ: Object to form.

18 A Yes.

19 BY MR. REHWINKEL:

20 Q Okay. So you objected, but you can go ahead  
21 and answer the question, Mr. Adix, if you understand it.

22 A Yes, I believe I do, and WCS does accept  
23 low-level radioactive waste in its current operations  
24 today.

25 Q Okay. Are there any licenses that need to be



## CONFIDENTIAL

Page 32

1     obtained by WCS in order to process and accept -- or  
2     accept and process the low-level radioactive waste from  
3     the CR3 site in the future?

4           A     No. To the best of my knowledge, all of that  
5     waste could go to the site without any further licensing  
6     or permitting changes.

7           Q     Okay. So if for whatever reason,  
8     hypothetically, the low-level radioactive waste at the  
9     CR3 site, if it was all available today to ship and it  
10    could be shipped, it could be taken into that site today  
11    without any regulatory or other legal restrictions?

12           MR. HERNANDEZ: Object to form.

13           A     Yes, I believe so. There's -- you know,  
14    there's different classes of waste and WCS is one of the  
15    few sites in the country that can accept all of class A,  
16    B and C low-level radioactive waste. So I would expect  
17    that all of the waste there could go there. And to the  
18    extent that the result would be a decision to send a  
19    class of waste known as greater than class C waste to  
20    the site, I am not sure whether -- what would be  
21    required for that particular waste stream to go there.  
22    But anything deemed a class A, B or C is fully within  
23    the site's permits and that type of waste is commonly  
24    taken in today.

25

## CONFIDENTIAL

Page 33

1 BY MR. REHWINKEL:

2 Q Is greater than class C something other than  
3 high-level radioactive waste?

4 A It is. That is not my core area of expertise  
5 on the regulatory classifications of waste, but I do  
6 know that greater than class C waste is not considered  
7 high-level waste.

8 Q Okay. So is there a plan if there's not a  
9 permanent repository that the WCS site would be a place  
10 to move the spent fuel or high-level radioactive waste  
11 from CR3 to Andrews County?

12 MR. HERNANDEZ: Object to form.

13 A That's certainly a possibility, though I don't  
14 believe current permitting allows that, but that is  
15 certainly a possibility.

16 BY MR. REHWINKEL:

17 Q Okay. And I guess my question was premised  
18 upon that facility being licensed to accept high-level  
19 radioactive waste at some point in the future.

20 A Yes, that is the focus of the Interim Storage  
21 Partners that you brought up previously, and I believe  
22 where you were going with that would be addressed by  
23 some of the permitting work that is in process with that  
24 entity.

25 Q Okay. So is there permitting underway right

## CONFIDENTIAL

Page 34

1 now with respect to the greater than class C waste? Is  
2 there any permitting that needs to occur before that  
3 Andrews County facility can accept greater than class C  
4 radioactive waste?

5 MR. HERNANDEZ: Object to form.

6 A Yes, I'm not -- I'm not sure on the exact  
7 status of that waste stream or where its requirements  
8 are. Again, that's a little bit beyond my core  
9 expertise. So I know that's an issue that will need to  
10 be looked at, but I can't tell you exactly what would be  
11 required, if anything, in order for that waste to move.

12 BY MR. REHWINKEL:

13 Q Okay. Well, when I was asking you before  
14 about A, B and C, you were pretty confident that any A,  
15 B and C waste could -- if it was available, it could go  
16 to that site today. Is that fair.

17 A That is a fair characterization.

18 Q Do you have the same level of confidence about  
19 greater than class C waste or is there something that  
20 makes you think that that might not be as certain?

21 A I know that it's not looked at exactly the  
22 same, but I can't speak to the specific differences, if  
23 any, that may exist.

24 Q Okay. You had mentioned that the Andrews  
25 County facility is one of the few sites in the

## CONFIDENTIAL

Page 35

1 United States that can take A, B and C waste. Did I  
2 hear that right?

3 A For certain types of waste, it may be the only  
4 facility. So again, the exact nuances of waste  
5 classification and what can go where. But it is my  
6 belief that there are certain waste streams that can  
7 only go to WCS.

8 Q Do you know what those -- without holding you  
9 to it being an exclusive list, do you know what those  
10 waste streams are?

11 A No, not explicitly. I believe it is the  
12 class B and the class C waste, and there are some  
13 nuances around different types of class B and what can  
14 go where. But generally, the more active materials and  
15 certain types of irradiated hardware is what I was  
16 basing my prior comment on.

17 Q Okay. Fair enough.

18 Can you tell me what other facilities that  
19 you're aware of that are your competitors that could  
20 take any portion of A, B and C radioactive waste?

21 MR. HERNANDEZ: Object to form.

22 A A primary competitor of WCS is Energy  
23 Solutions. I can't tell you specifically which sites of  
24 theirs can take which classes of waste. That's not  
25 something I'm factually comfortable with. But I do know

## CONFIDENTIAL

Page 36

1 that they are the primary competitor for WCS. There may  
2 be a little bit of overlap with another company like US  
3 Ecology for certain types of waste, but probably a more  
4 limited overlap than Energy Solutions, but I can't tell  
5 you by site what is permitted for different companies.

6 Q Okay. Is Energy Solutions in any way related  
7 to Holtec?

8 A No, I don't believe so.

9 MR. REHWINKEL: Okay. I think that's  
10 H-O-L-T-E-C.

11 THE WITNESS: Yes.

12 MR. REHWINKEL: For the court reporter.

13 BY MR. REHWINKEL:

14 Q These documents that you gave for number 7 in  
15 the duces tecum list, they are -- I think you  
16 characterized these on page 11 of your testimony as  
17 being -- how did we say that? These are companies that  
18 are similar or comparable?

19 MR. DICARLO: Charles, give me a second. I  
20 need to get to his testimony, page 11. It's on  
21 page 11, Charles? Is that what you said?

22 MR. REHWINKEL: Yes, line 13. These are the  
23 companies with similar profiles, and that's what we  
24 got, the Environmental Services and Industrial  
25 Services Industry Update and Sector Update

## CONFIDENTIAL

Page 37

1 documents.

2 MR. DICARLO: Yes.

3 MR. REHWINKEL: Okay.

4 A I was referring -- those are two industries  
5 that share some overlap with the type of work that  
6 NorthStar does, more industrial or environmental related  
7 work. And so, you know, not an exact match, but hence  
8 the term "similar profiles," looking at a couple of  
9 different industries versus relying on one single  
10 document or one single data point.

11 BY MR. REHWINKEL:

12 Q Okay. So if I looked -- if I opened up --  
13 let's take the Environmental Services document. And for  
14 the record, this is -- the Bates number on mine starts  
15 at 357. It's the Sector Update string of 2020. Do you  
16 have that?

17 A Yes, I do.

18 Q And if I turn to the fourth page where it says  
19 Public Company Valuation --

20 A Yes.

21 Q -- are these exemplars of the similar profiles  
22 that you were referring to in your testimony?

23 A Loosely. My testimony when I talked about  
24 that range was based more primarily on general knowledge  
25 of what is typical for transaction values when, let's

## CONFIDENTIAL

Page 38

1 say, a company is sold from one private equity investor  
2 to another private equity investor, and prior  
3 discussions with investment bankers, prior discussions  
4 around that.

5 Since I was requested to produce some evidence  
6 or some basis for where that comment came from as  
7 opposed to simply stating, you know, what I've heard in  
8 conversations, the intent was to produce a range that  
9 said in a -- you know, in companies in an environmental  
10 services space, that it wouldn't be seen as unusual for  
11 them to trade at a multiple of 11 times EBITDA to  
12 establish a valuation.

13 My comment was actually somewhat conservative  
14 compared to that. You get to the numbers that are in my  
15 testimony. Even if you apply a range of eight to ten,  
16 you get to the same general point that I was trying to  
17 make, that it is very reasonable based on common  
18 industry multiples to see NorthStar as a company that is  
19 worth or has an enterprise value of one billion dollars  
20 or more.

21 Q Okay. And EBITDA, for the court reporter, is  
22 E-B-I-T-D-A, all caps?

23 A Correct. It is an acronym that stands for  
24 earnings before interest, taxes, depreciation and  
25 amortization.

## CONFIDENTIAL

Page 39

1           Q     On this page 4 of the document that I asked  
2     you about, are any of these entities considered  
3     competitors of WCS in the radioactive waste disposal  
4     arena?

5           A     Not generally. There's a little bit of  
6     overlap for certain waste streams perhaps with US  
7     Ecology. Perhaps a little bit into the -- there's a  
8     little bit for Clean Harbors, but neither of them would  
9     be primary competitors, particularly on the low-level  
10    radioactive waste.

11          Q     Okay. And just with respect to the other  
12    document which begins at Bates 343, this is the  
13    Industrial Services, and I would ask you, this isn't  
14    exactly set up the same way, but are any of the  
15    documents discussed in here, perhaps maybe on Page 10,  
16    are any of these entities, other than the ones you've  
17    mentioned, I see Clean Harbors here and I guess US  
18    Ecology, are any of these competitors of Waste -- of  
19    WCS?

20          A     I'm just checking the list again. Give me a  
21    moment.

22          Q     Sure.

23          A     No, I would not characterize any of these  
24    remaining companies as WCS competitors. Waste  
25    Management does have some hazardous waste landfills, but



## CONFIDENTIAL

Page 40

1 not, to my knowledge, any low-level radioactive waste  
2 capacity. It's not something that's commonly discussed  
3 as a key competitor of the company.

4 Q Okay. Thank you.

5 All right. Let's move from your exhibit JA-1  
6 and I want to go to Page -- let's go to -- well, let me  
7 ask you this.

8 A I'm sorry. Your screen may have froze for a  
9 moment there. If there was a question, you may need to  
10 repeat it.

11 Q Okay. My brain froze.

12 A Oh.

13 Q Let me ask you this about the Vermont Yankee  
14 proceeding. Was that the first time you ever testified  
15 before a Public Service Commission or public utility  
16 commission?

17 A Yes, it was.

18 Q Okay. Was that your first experience with  
19 being a participant in a Public Service Commission  
20 proceeding anywhere in the country?

21 A Yes.

22 Q Do you consider yourself testifying in this  
23 case on behalf of NorthStar and ADP and Duke, or do you  
24 consider yourself testifying on behalf of those entities  
25 and the customers of Duke Energy Florida?

## CONFIDENTIAL

Page 41

1 MR. HERNANDEZ: Object to form.

2 A I haven't really thought about it in that way.  
3 I primarily am testifying to rebut the testimony that  
4 was offered in the proceedings and would defer to  
5 Counsel on the best way to characterize my involvement.

6 Q Okay. Well, are you yourself testifying on  
7 behalf of the customers in any way?

8 MR. HERNANDEZ: Object to form.

9 A I do not know whether the testimony that I am  
10 offering and whether the rebuttal I am offering would be  
11 considered in any way on behalf of the customers or not.  
12 So in my mind, that's more of a procedural question. I  
13 don't believe I'm testifying, you know, in opposition to  
14 the customers certainly.

15 BY MR. REHWINKEL:

16 Q Okay. Well, is NorthStar a for profit  
17 company?

18 A It is.

19 Q It's not a charitable organization, is it?

20 A No, it is not.

21 Q And it wouldn't be considered a nonprofit if  
22 it's a for profit; is that right?

23 A I'm sorry. Could you repeat that question?

24 Q It would not be considered a nonprofit in the  
25 sense that it is a for profit company; is that right?

## CONFIDENTIAL

Page 42

1 A No, I don't believe that it would.

2 Q Okay. Do you consider yourself to be  
3 responsible for enhancing the value of the shareholders'  
4 interests in NorthStar and ADP?

5 MR. HERNANDEZ: Object to form.

6 A Yes, I do.

7 BY MR. REHWINKEL:

8 Q And I didn't ask that in the sense of you're  
9 solely responsible, but that is where your  
10 responsibility is as CFO is to contribute to the  
11 enhanced value of the shareholders' interests in your  
12 companies; is that fair?

13 A I think that's a reasonable characterization,  
14 yes.

15 Q Okay. Tell me -- if we can turn to Page 4 of  
16 your testimony, I just want to understand on line 5  
17 through 6 what your distinction is between a  
18 hypothetical liquidation basis and a going concern basis  
19 is. Tell me what you see as the difference between  
20 those two scenarios.

21 MR. HERNANDEZ: Object to form.

22 A I would characterize that in a hypothetical  
23 liquidation scenario, generally you're assuming that the  
24 company stops operating and that you raise cash through,  
25 again, liquidating the assets and trying to convert

## CONFIDENTIAL

Page 43

1 everything to cash on a one-off basis, whereas a going  
2 concern takes into the account the recurring cash  
3 generation, the recurring revenue generation, the  
4 recurring profitability of an entity, and is more  
5 commonly how investors would look at the value of an  
6 entity is what are its future earnings expected to be,  
7 future annual earnings to be.

8 Q Does it always have to be one or the other?  
9 Can it be a combination or a hybrid situation?

10 MR. HERNANDEZ: Object to form.

11 A I believe it depends on the question one is  
12 trying to answer. In this case, I felt that there was  
13 an over-reliance on one scenario in the context of the  
14 overall transaction.

15 BY MR. REHWINKEL:

16 Q Well, can a company liquidate part of its  
17 business and remain a going concern?

18 A Potentially if a company were to divest in an  
19 orderly way, part of its business -- sell off a part of  
20 its business. You know, that is possible. That is a  
21 scenario depending on the context of the situation.

22 Q Well, would you agree that it's not an unheard  
23 of scenario?

24 A To divest a portion of a business?

25 Q Yes, sir.

## CONFIDENTIAL

Page 44

1 A No, that is not unheard of.

2 Q Okay. And is it -- in such scenarios is it  
3 possible that a partial divestment could be related to  
4 some sort of turbulence in the marketplace either  
5 generally or with respect to that company's specific  
6 business operation?

7 MR. HERNANDEZ: Object to form.

8 A That is possible. That is a possible  
9 scenario.

10 BY MR. REHWINKEL:

11 Q Okay. Further down on Page 4 on line 19, you  
12 refer to the DSA, which is the -- tell me what DSA means  
13 again.

14 A I believe that would be Decommissioning  
15 Services Agreement.

16 Q Okay. Is a fixed-price contract; is that  
17 correct?

18 A Yes.

19 Q What is your definition of fixed-price  
20 contract?

21 A It is a contract where the consideration that  
22 is being paid is known to the party that is paying it  
23 and cannot change.

24 Q Is it one where you cannot change or it's not  
25 expected to change?

## CONFIDENTIAL

Page 45

1 A It could be either depending on the context.

2 Q What can you think of -- of the DSA here, is  
3 there a possibility that NorthStar could receive more  
4 than the currently expected compensation based on  
5 changed circumstances in the future?

6 MR. HERNANDEZ: Object to form.

7 A No, I believe that to be highly unlikely based  
8 on the nature of the agreement and the commercial  
9 negotiations with Duke Energy Florida.

10 BY MR. REHWINKEL:

11 Q Okay. In the answer to my question, you used  
12 the phrase "highly unlikely." But does that rule out  
13 all possibilities?

14 A There is no scenario I can envision, but I  
15 call very few things impossible.

16 Q Okay. You used the word "will" on line 20.  
17 Are you expressing a level of certainly there or is that  
18 an expectation that you will decommission and take  
19 ownership of the spent fuel?

20 A I'm sorry. Could you read the full sentence  
21 that you're referring to on that "will" just to ensure  
22 clarity?

23 Q Yes, sir. It says: The DSA is a fixed-price  
24 contract to which the ADP group through its affiliates,  
25 ADP CR3 and ADP SF-I will decommission CR3 and take

## CONFIDENTIAL

Page 46

1 ownership of the spent fuel.

2 Do you see that?

3 A Yes.

4 Q Okay. Is the use of the word "will" there  
5 meaning that it's certain that it will be decommissioned  
6 or they will, well -- tell me what you think the word  
7 "will" means there.

8 A I take a very plain reading of the word. That  
9 is the commercial agreement that is struck and that is  
10 the work that will commence immediately upon receiving  
11 the approvals to do so.

12 Q Does it mean that you are obligated to  
13 decommission CR3 pursuant to the DSA?

14 A Yes, that is inherent in the structure of the  
15 DSA.

16 Q Okay. Is it a guarantee that you will be  
17 successful in doing that?

18 A The word "will" is not a guarantee. It's a  
19 statement of what is expected and will begin as soon as  
20 the transaction moves ahead.

21 Q Okay. On Page 5, on lines 4 and 5, the phrase  
22 "cannot be isolated or otherwise changed" is used and  
23 it's in this sentence. It reads: The DSA represents  
24 the result of a lengthy negotiation process and every  
25 provision as written in the DSA is important and cannot

## CONFIDENTIAL

Page 47

1 be isolated or otherwise changed without changing other  
2 parts of the transaction.

3 Did I read that right?

4 A Yes.

5 Q Is your testimony here that nothing in the  
6 contract can be changed?

7 A Not with -- yes, my testimony is that nothing  
8 in the contract will be changed without reopening the  
9 entire contract.

10 Q Okay. So any change to the contract would  
11 mean that everything else would be opened up and subject  
12 to renegotiation?

13 A Yes, I believe that's a fair characterization.

14 Q Is it your understanding if I -- well, let me  
15 ask you. Do you have your testimony in front of you?

16 A Yes. It's available on the computer in front  
17 of me.

18 Q Okay. If you could go to Page 5 and look at  
19 lines 8 through 12 for me, please?

20 MR. HERNANDEZ: Page 5, lines 8 through 12.

21 BY MR. REHWINKEL:

22 Q The sentence that starts, "In the unlikely  
23 event"?

24 A Yes.

25 Q Okay. Would you mind reading that aloud?



## CONFIDENTIAL

Page 48

1           A        "In the unlikely event that ADP was unable to  
2   complete the decommissioning or for any reason, both DEF  
3   and the Florida customers are protected by the fact that  
4   DEF would have only paid for verified progress against  
5   specific decommissioning milestones, retaining all other  
6   funding and trust to support future alternatives."

7           Q        Is it your understanding that the milestones  
8   have been -- I'm going to use the word "calibrated." If  
9   you don't understand it, I'll try to rephrase it. Have  
10   been calibrated to approximate the cost of the tasks  
11   that would be completed to make that milestone a  
12   reality?

13                   Well, let me ask you that. Is there something  
14   about the DSA that makes sure that those milestones and  
15   the payments that are expected to be made somehow  
16   approximate the costs that will be incurred by ADP to  
17   reach those milestones?

18                   MR. HERNANDEZ: Object to form.

19           A        Generally, yes, that is my understanding.  
20   This was a very focused and lengthy point of negotiation  
21   between ADP and Duke Energy and Duke Energy Florida to  
22   ensure that there was a proper balanced protection built  
23   into the overall transaction structure, and that ADP  
24   could not get too far out in front of the work or be  
25   paid for work that had not been performed.

## CONFIDENTIAL

Page 49

1           That whole concept, that whole structure that  
2 I spoke to in my testimony was a very critical part and  
3 lengthy part of the commercial negotiations of the  
4 transactions.

5 BY MR. REHWINKEL:

6           Q     So is it possible that if the cost and  
7 difficulty of a particular set of tasks that were  
8 embedded in reaching a certain milestone were  
9 miscalculated and they were greater than what were  
10 assumed, that you could, as you used the term, get out  
11 ahead of the payments?

12          A     No, I don't -- I don't believe that is likely  
13 the way this has been structured. Perhaps there's some,  
14 again, hypothetical scenario one could construct. But  
15 because of the focus that was paid to this area, I'm not  
16 aware of any realistic scenario where that could occur.

17          Q     The first part of that sentence starts off  
18 with the phrase, "In the unlikely event," which  
19 indicates that although you think it's unlikely, it's  
20 possible that you could get into that hypothetical  
21 scenario?

22               MR. HERNANDEZ: Object to form.

23          A     Yes, that is how that sentence begins.

24 BY MR. REHWINKEL:

25          Q     Okay. And the phrase, "retaining all other

## CONFIDENTIAL

Page 50

1 funding in trust to support future alternatives," what  
2 does that phrase mean as you intended?

3 A Yes. In the context of my testimony, that  
4 phrase was directed towards the fact that Duke Energy  
5 Florida retains ownership of the trust and that the  
6 payments and the payment structure would only be for  
7 work completed on the decommissioning.

8 And so let's -- since we're speaking  
9 hypothetical scenarios, let's say that 50 percent of the  
10 work was complete and some completely -- some event of  
11 any kind prevented the work from going forward under  
12 ADP, that there would be approximately 50 percent of the  
13 work complete and that the funding would still be in the  
14 trust controlled by and owned by Duke Energy Florida to  
15 evaluate how to best complete the other 50 percent of  
16 the work.

17 Q Okay. And that's how I understand it.

18 So my question to you is if that hypothetical  
19 scenario occurred, would it always be the case that  
20 there was going to be enough money left in what was not  
21 paid to ADP to ensure that the remaining percent of the  
22 work scenario is -- would be sufficient to complete the  
23 job under a SAFSTOR, S-A-F-S-T-O-R, all caps, scenario?

24 MR. HERNANDEZ: Object to form.

25 A Yes, I believe that is the case, and there

## CONFIDENTIAL

Page 51

1 were multiple layers of protections built into the DSA  
2 to ensure that. So beyond the normal case schedule on  
3 the project where ADP is only being paid for completion,  
4 completed progress or progress against predefined  
5 milestones, then there's the additional buffer layer of  
6 the \$50 million of cash and committed disposal that is  
7 available from day one as another layer of protection.

8           So if there was someone looking at a  
9 hypothetical scenario that says you may be 5 million  
10 behind here, or I believe in his testimony Mr. Polich  
11 raised the example of the \$20 million bucket where  
12 there's the pay, then grieve requirement, you know, that  
13 was perceived as being a hole or a risk that could allow  
14 ADP to get out in front of, going back to my previous  
15 term, the payments on the project, when in reality that  
16 entire \$20 million gap is covered and effectively cash  
17 collateralized by the provisional trust that is part of  
18 the DSA from day one.

19           So as a specific rebuttal point on that, it's  
20 not a coincidence that the amount of cash that is put in  
21 trust on day one at closing matches this concept where  
22 Duke must pay and then will work out the timing or work  
23 out any question of where a specific item is because the  
24 size of that gap again is cash collateralized on the  
25 first day of the transaction.

## CONFIDENTIAL

Page 52

1           Q     Okay. But going back to my question, if the  
2     assumption was that you had achieved or done 50 percent  
3     of the work, got 50 percent of the money out of the fund  
4     such that 50 percent of the work was left to be done,  
5     and 50 percent of the money was left in the trust fund  
6     to pay for that and there would be enough money to  
7     finish the job without going back to the customers and  
8     asking for more money, is that -- am I right about sort  
9     of the basic assumptions that are built into that?

10          A     Yes, I think that is a fair characterization,  
11     and that was a very strong point of the negotiations,  
12     the customers' protections and ensuring that ADP would  
13     not be in a position to go back and ask for more money  
14     at the 50 percent mark, using your example.

15          Q     So if the extreme event happened and you for  
16     whatever reason had to walk away from the job -- and I'm  
17     just using that in a hypothetical sense.

18          A     Understood.

19          Q     And if it turned out that there was 50 percent  
20     of the money left, but really the work left to be done  
21     was more like 75 percent just because costs had  
22     escalated, there had been some change in the environment  
23     that required more costs to be expended to do the same  
24     tasks that would have cost less, you know, three years  
25     ago, if that circumstance arose, there would be -- these

## CONFIDENTIAL

Page 53

1     protections might not be enough.   Would you agree with  
2     that?

3                     MR. HERNANDEZ:   Object to form.

4             A     Actually, no, I wouldn't because of the  
5     structure.   I think it's important to note for the  
6     record that ADP is being paid for progress for  
7     decommissioning progress, not for costs incurred.   So  
8     just because ADP spent more money on a certain phase or  
9     because we ran up the cost in a certain area because of  
10    some operational decision, that doesn't accelerate or  
11    trigger any faster release of the available payments out  
12    of the trust.

13                    So that, again, was a very specific commercial  
14    point that was negotiated to ensure the protection that  
15    I think everyone is looking for exists is that the  
16    payments are based on progress, not costs incurred.   And  
17    for that to get that meaningfully out of balance and the  
18    fact that there's a monthly reconciliation of what has  
19    actually been accomplished against the milestones, for  
20    that reason, I would not see that being a realistic  
21    scenario under the full structure that's been  
22    negotiated.

23             Q     Further on down on Page 5 you use the term  
24    "core protection."   Do you see that?   It's on lines 22  
25    and 23.

## CONFIDENTIAL

Page 54

1           A     Yes.

2           Q     Okay.  You're saying that the parent guarantee  
3     is a supplemental enhancement rather than a core  
4     protection in the transaction structure; is that right?

5           A     Yes, that was my testimony.

6           Q     Now, when you talk about the parent guarantee,  
7     are there -- are you talking about -- there are two  
8     guarantees.  There's one that would be given by ADP or  
9     NorthStar to ADP and one given by Orano to the Orano  
10    subsidiary that's your partner; is that right?

11          A     I was using the term generally for any  
12    guarantees -- parental guarantees in play in the  
13    transaction versus referring to one specific one or the  
14    other.

15          Q     Okay.  So this term would also include the  
16    Parental Support Agreement that you have with NRC or  
17    that you will have with NRC; is that right?

18          A     That is correct, yes.

19          Q     Okay.  If that's not a core protection, what  
20    is your definition of core protection and what is an  
21    example of a core protection?

22          A     Yes.  The core protection in my testimony is  
23    the structure that I spoke to a moment ago where ADP is  
24    only being paid for progress against milestones on an  
25    ongoing basis.  So the heart of what was negotiated in

## CONFIDENTIAL

Page 55

1 the DSA with the focus of ensuring that that protection  
2 could be demonstrated was this idea that you only get  
3 paid for decommissioning progress, not the -- you know,  
4 just incurring costs without moving ahead on the  
5 decommissioning steps.

6 So in the context of this testimony, the core  
7 protection is the structure, is the payment structure,  
8 is the pay for performance along the way. And then very  
9 closely aligned with the provisional trust being used  
10 and basically backstopping any timing misalignment month  
11 to month, period to period within that payment structure  
12 that was negotiated with DSA.

13 Q Is it your opinion that since this is a  
14 supplemental enhancement, that the parent guarantees  
15 aren't really necessary?

16 A You could do the work without it. It's  
17 something that -- but I use the term "supplemental."  
18 It's something that we demonstrated. I believe it's  
19 necessary from a Nuclear Regulatory Commission  
20 perspective. So there may be certain NRC requirements  
21 around that. But I use supplemental in the context of  
22 in terms of protecting the customers -- protecting Duke  
23 Energy Florida. Core versus supplemental is the payment  
24 structure for the work and the timing and the  
25 restrictions on how those payments are made are core.



## CONFIDENTIAL

Page 56

1 And I referred to the guarantees as supplemental because  
2 if the work progresses as scheduled and planned, they  
3 would be irrelevant to the ultimate performance under  
4 the project.

5 Q You're saying if everything goes perfectly as  
6 designed, that wouldn't be needed; is that right?

7 A Not even perfectly. Just if things -- if the  
8 work is executed and completed, they don't come into  
9 play unless there's some unforeseen scenario, but that's  
10 deemed remote. And that's why I referred to it as  
11 supplemental in my testimony.

12 Q Okay. You started when in 2016 with --  
13 January?

14 A Correct.

15 Q Putting aside Vermont Yankee, during your  
16 tenure has NorthStar completed a nuclear decommissioning  
17 project while you've been CFO?

18 A No, I am not aware of any other projects  
19 completed other than the focus on Vermont Yankee.

20 Q Okay.

21 MR. HERNANDEZ: Hey, Charles?

22 MR. REHWINKEL: Yes.

23 MR. HERNANDEZ: Can we take about five minutes  
24 right now?

25 MR. REHWINKEL: Absolutely, let's do that.

## CONFIDENTIAL

Page 57

1           It's -- yeah, let's come back a little after 2:30.

2           MR. HERNANDEZ: Sounds good. Thank you very  
3           much.

4           (Recess from 2:25 p.m. to 2:34 p.m.)

5   BY MR. REHWINKEL:

6           Q     Have you seen -- have you looked at the org  
7     chart that Mr. Polich included in his testimony at  
8     RAP-3? It's called Simplified Organization Chart. Are  
9     you familiar with that?

10          A     I recall seeing something like that in his  
11     testimony. I would need to refresh my memory.

12          Q     Okay. If you could take a quick look at it?

13          MR. DICARLO: Charles, you're going to have to  
14     give us a minute because the transcript that I  
15     printed out does not include the exhibit.

16          MR. REHWINKEL: Oh, okay.

17          MR. DICARLO: Let me try to locate them. We  
18     may not have gotten a copy of the transcript with  
19     exhibits attached.

20          MS. TRIPLETT: This is Dianne. Are you  
21     talking about, Charles, Exhibit -- his direct  
22     testimony?

23          MR. REHWINKEL: Yes, prefiled testimony. All  
24     I want to do is ask if that org chart, if there are  
25     any changes to that since it was filed. And I

CONFIDENTIAL

Page 58

1 think this was filed with the NRC.

2 MR. HERNANDEZ: I've got it here, Charles.

3 Let me pull that up real quick.

4 MR. REHWINKEL: Okay.

5 MR. HERNANDEZ: Can you tell me approximately  
6 what page that appears on, Charles?

7 MR. REHWINKEL: It's pretty early. It's right  
8 after his testimony. It's RAP-3 and I don't have  
9 the Bates. It's before all that financial stuff.  
10 It says Exhibit RAP-3.

11 MR. HERNANDEZ: I'm not finding RAP-3 for some  
12 reason on the copy we have.

13 MR. REHWINKEL: Well, he has his CV which is  
14 the first exhibit, and then there's a listing of  
15 his testimony which is number 2, and then number 3  
16 is just this one page. It looks like this.

17 MR. HERNANDEZ: Let me see on the redacted  
18 version it shows up.

19 MR. REHWINKEL: Yes, it should be -- it's  
20 unredacted.

21 We can go off the record right now.

22 (Discussion off the record.)

23 BY MR. REHWINKEL:

24 Q Okay. So back on the record. So have you  
25 located RAP-3?

## CONFIDENTIAL

Page 59

1           A     Yes, we have.

2           Q     Okay. And my question to you is, this org  
3 chart, it says Simplified Organization Chart, is this  
4 accurate as far as you know?

5           A     Yes, I believe it is.

6           Q     Okay. And I asked you about the investors in  
7 all of these entities and I'm not asking about the Orano  
8 side, O-R-A-N-O. I'm just asking about the right-hand  
9 side, the NorthStar side. Do you know who all of the  
10 investors are?

11          A     I have some familiarity with the ownership  
12 structure. Is there a specific investor that you're  
13 interested in?

14          Q     Well, I was just -- if you -- okay. So at the  
15 very top in the elliptical circle there, it lists John  
16 Lehman and Mr. Mintz, M-I-N-T-Z, Mr. Brooks, Mr. Harmon  
17 as class A managing members, right?

18          A     Yes.

19          Q     And then over to the right we see JFL Equity  
20 Investors IV, Roman numeral IV, LP; JFL Executive  
21 Investors IV, L.P.; and JFL Parallel Fund IV, L.P. Do  
22 you see that?

23          A     Yes, I do.

24          Q     Are there discrete and known shareholders in  
25 those entities or are those made up of people who just

## CONFIDENTIAL

Page 60

1 have ownership in these kind of funds? Can you tell me  
2 what type of investors are there?

3 MR. HERNANDEZ: Object to form.

4 A In general, they are all going to be funds  
5 raised and/or controlled by the private equity sponsor,  
6 in this case J.F. Lehman. In terms of the nuances of  
7 which fund holds investment from which individual  
8 parties, I cannot speak to that, but my understanding is  
9 those are all just different entities through which  
10 funding is available for investments made by the firm.

11 Q Okay. And the same -- and so Mr. Lehman and  
12 Mintz, et al, that are in the elliptical there, are they  
13 investors in JFL GP Investors IV, LLC?

14 A They are the managing -- as noted on the firm,  
15 they are the managing partners or managing members of  
16 the overall firm, and then the firm raises funding from  
17 limited partner investors or other investors and uses  
18 that to fund their investing activities, but those four  
19 individuals are the managing partners of the firm.

20 Q Okay. And then the JFL Equity Investors that  
21 I listed that are in the box to the upper right, are  
22 those different mixes of investors or investor funds  
23 than those that are in JFL GP Investors IV, LLC?

24 A I don't know if there's any overlap between  
25 those entities or not. I would simply characterize them

## CONFIDENTIAL

Page 61

1 as different sources of funding that provided investment  
2 that ultimately supported the acquisition of NorthStar.  
3 Whether or not those are completely discrete or whether  
4 there is overlap within the investor mix of those  
5 various limited partnerships, I cannot tell you.

6 Q Okay. And then if I go down to Medley Capital  
7 Corporation and Medley Opportunity Fund LP, is that yet  
8 another source of investor funds?

9 A That is a separate firm. They are a minority  
10 investor in NorthStar. So they are unrelated to any of  
11 JFL entities and are a separate independent minority  
12 investor in NorthStar.

13 Q Okay. And do you have visibility into who all  
14 the equity owners are as far as individuals that make up  
15 all of the investors in all of those corporations that  
16 sit above NorthStar Group Holdings, LLC?

17 A No, I do not. I could not give you detail on  
18 all of the individual investors there.

19 Q And I'm just asking because I'm just trying to  
20 understand not who they are, but just the way the  
21 transaction or the investment entities are set up.  
22 Could there be numerous individuals that have equity  
23 interest in investment funds that are part of these  
24 ellipses or boxes, ellipticals or boxes that we just  
25 talked about?

CONFIDENTIAL

Page 62

1 MR. HERNANDEZ: Object to form.

2 A Could you repeat the question? I'm not sure  
3 if I followed that.

4 BY MR. REHWINKEL:

5 Q Yes. So what I'm asking about is, I asked you  
6 about the -- the four principal managing partners in --

7 A Correct.

8 Q -- Lehman -- it's not Lehman Brothers.  
9 Lehman.

10 A Unrelated for the record, thank you.

11 Q Yes. And then over here we have the JFL  
12 Equity investment entities or funds over in the box  
13 above Medley, right?

14 A Correct.

15 Q And then we have Medley.

16 A Correct.

17 Q So what I'm asking is, are there just people  
18 off the street that could be aggregated as investors in  
19 these funds that you wouldn't know about, or are they --  
20 well, I mean, can people buy shares or some sort of  
21 interest in these funds that also invest in NorthStar?

22 MR. HERNANDEZ: Object to form.

23 A No. What I can tell you is that these are not  
24 publicly-available investments and they are, you know,  
25 private investments by I believe what would be deemed to

## CONFIDENTIAL

Page 63

1 be called qualified investors. Someone off the street  
2 couldn't walk in and say, I'd like to buy some shares in  
3 NorthStar. They are limited to accepted, qualified  
4 limited partnership investors in the various fund  
5 vehicles is probably the best way to characterize that.

6 Q Okay. So I'm going to ask you a question here  
7 that's not intended to cast dispersions in any way on  
8 anybody, but I just have to ask for the record so I  
9 understand.

10 Can you tell me or would you be aware if it  
11 was the case, can you tell me whether anybody who is an  
12 employee or an executive of Duke could be an investor in  
13 one of these funds?

14 MR. HERNANDEZ: Object to form.

15 A I do not know if there are any legal  
16 prohibitions on that and I'm not aware of that being the  
17 case at all.

18 BY MR. REHWINKEL:

19 Q Okay. Can you say that it isn't the case?

20 A I cannot definitively say that, but I do not  
21 believe it to be the case, but I don't have knowledge.

22 Q Okay. And I'm not asking you to know whether  
23 Duke itself has corporate ethical guidelines that  
24 prohibit this kind of investment. That's something you  
25 wouldn't know about, I think. So my question is can you



## CONFIDENTIAL

Page 64

1 tell me that there are not?

2 A That is not something I have researched or  
3 have knowledge of.

4 Q Okay. And if a -- hypothetically, if a Duke  
5 executive or employee was a sophisticated enough  
6 investor to qualify to invest in one of these funds and  
7 they did, hypothetically, you wouldn't know about it one  
8 way or the other; is that fair?

9 A No, I do not have visibility -- personal  
10 visibility into who the investors are or who the limited  
11 partners are in these various investment entities.

12 Q Okay. And I'm not going to leave this  
13 hanging. Of course I'll ask Duke in an appropriate  
14 circumstance if they can assure that. So I'm not just  
15 trying to ask you a question you can't answer and leave  
16 it hanging there. I just was wanting to understand the  
17 quality of your knowledge about who is in the investment  
18 chain above you.

19 A Okay. Understood.

20 Q All right. Let's go to Page 7 and this is --  
21 I want to go down to the testimony about goodwill.

22 MR. HERNANDEZ: On Page 7 of what, Charles?

23 MR. REHWINKEL: Of Mr. Adix's testimony  
24 starting on line 8.

25

## CONFIDENTIAL

Page 65

1 BY MR. REHWINKEL:

2 Q And actually, starting on line 10, you say  
3 that Mr. Polich incorrectly characterizes goodwill as  
4 being, quote, an acquisition in which the purchase price  
5 is higher than the fair market value of the purchase.

6 Do you see that?

7 A I do.

8 Q Can I ask you, do you have his confidential  
9 testimony with you?

10 MR. DICARLO: We do, yes.

11 BY MR. REHWINKEL:

12 Q And I would ask you to turn to Page --

13 MR. DICARLO: I'm sorry, Charles. You're  
14 referring to Mr. Polich's confidential testimony?

15 MR. REHWINKEL: Yes, with the confidential  
16 exhibit. And I want to go to Page 162 which I  
17 think may be -- I think you just add four Bates  
18 numbers to that and I think it's 166 on your Bates  
19 numbering if you have it that way. But this is  
20 RAP-6, Page 162 that I want to ask about.

21 MR. HERNANDEZ: And at the top it says Page  
22 162?

23 MR. REHWINKEL: Yes, on the top right.

24 MR. HERNANDEZ: We are there.

25

## CONFIDENTIAL

Page 66

1 BY MR. REHWINKEL:

2 Q You're there?

3 A Yes.

4 Q Okay. So this is a document, and if you want  
5 to look on Page 150, it looks like it's NorthStar Group  
6 Services, Inc. Consolidated Financial Statements and  
7 Supplemental Information December 31, 2019 and 2018.  
8 And on the following two or three pages, it shows an  
9 Unqualified Opinion by PWC or Price Waterhouse Coopers.

10 A Correct.

11 Q Do you see that?

12 A Yes.

13 Q Okay. And are these Financial Statements that  
14 you as the CFO would be familiar with?

15 A Yes.

16 Q Okay. So if I could get to you turn to 162  
17 and ask you to read the first line under the header  
18 "Goodwill" aloud?

19 A Yes. "Goodwill represents the excess of cost  
20 over fair value of the net assets purchased in  
21 acquisitions."

22 Q Okay. Can you tell me what's the difference  
23 between that and what you quote Mr. Polich as saying in  
24 your testimony?

25 A Yes. There's a -- could you go back to the

## CONFIDENTIAL

Page 67

1 actual testimony?

2 Okay. The subtle and important difference  
3 there is he left out the net assets reference and simply  
4 refers to the fair market value of the purchase. So I  
5 read that as saying that, okay, the whole company is  
6 worth \$100 million, but we paid \$150 million for it, so  
7 therefore, we have goodwill because we overpaid relative  
8 to the fair value.

9 It's a subtle difference from an accounting  
10 point of view the way -- I understand why you would ask  
11 that about the footnote, but his testimony, if you call  
12 it the simplified version of that there, when you don't  
13 talk about net assets or specific tangible assets and  
14 simply say the fair market value of the purchase, then I  
15 read that as a financial professional as referring to  
16 the entirety of what was purchased. And therefore, I  
17 took exception to that as an accurate characterization  
18 of goodwill.

19 Q Well, you don't bring up the net asset  
20 differential or the subtle difference that you just  
21 talked about in your criticism of his testimony, do you?

22 A No. I actually compared it to the definition  
23 from the authoritative accounting literature as my basis  
24 for comparison.

25 Q Okay. But PWC is -- I mean, they're not going

## CONFIDENTIAL

Page 68

1 to use an out-of-date unauthoritative definition of  
2 goodwill in their footnote, are they?

3 MR. HERNANDEZ: Object to form.

4 A No. And I wouldn't have called Mr. Polich on  
5 that point if he had used the exact language from our  
6 footnote, but he did not.

7 BY MR. REHWINKEL:

8 Q Okay. Tell me what is meant -- and going back  
9 to the footnote, if you have it in front of you, on  
10 Page 162, tell me about what it means to elect the  
11 option to perform a qualitative assessment.

12 MR. HERNANDEZ: Let me get to the footnote,  
13 Charles.

14 THE WITNESS: It's in that same footnote you  
15 were just looking at.

16 BY MR. REHWINKEL:

17 Q While he's looking for that, let me ask you  
18 this question. Are these footnotes prepared by a client  
19 for Arthur Andersen -- Arthur Andersen -- PWC or does  
20 PWC themselves prepare these footnotes?

21 A No, the company prepares the footnotes and  
22 then they are reviewed by PWC as part of reaching their  
23 audit opinion.

24 Q Okay. So this language under Goodwill is  
25 something that your staff would have provided or

## CONFIDENTIAL

Page 69

1 prepared for PWC's review of PBC documents; is that  
2 fair?

3 A Yes, the company's corporate controller would  
4 have drafted the footnotes and they would have been  
5 reviewed, and we would have reacted to any comments from  
6 PWC as part of reaching a financial opinion or a  
7 financial report issuance.

8 Q Okay. So tell me if you've got this in front  
9 you. What does it mean to elect the option to perform a  
10 qualitative assessment, et cetera?

11 A Yes. Essentially, under the accounting rules,  
12 if it's fairly obvious that the company has not impaired  
13 its goodwill because the performance -- and because the  
14 performance has been maintained or increased from the  
15 last formal assessment as it says here, you're allowed  
16 to perform a qualitative assessment to say in lieu of  
17 doing a detailed calculation that involves third-party  
18 valuation professionals. You're allowed to perform a  
19 qualitative assessment to determine, as it says here,  
20 whether it's more likely or not that the goodwill is  
21 still supported, the carrying value of the goodwill is  
22 still supported in the Financial Statements.

23 Q Okay. And in the next paragraph, the little  
24 paragraph that starts with, "As a result," you see that  
25 underneath that?

## CONFIDENTIAL

Page 70

1 A Yes.

2 Q It says: As a result of performing its annual  
3 impairment analysis at December 31, 2019 and 2018, the  
4 company has concluded that no factors existed that  
5 indicated that it is more likely than not that the fair  
6 value of its reporting unit was less than its carrying  
7 amount.

8 Did I read that right?

9 A Yes.

10 Q So is this saying that you didn't see any  
11 evidence that there was an impairment?

12 A Correct, that more likely than not, language  
13 is taken from the relevant accounting standards. So  
14 that is a standard conclusion for this sort of paragraph  
15 in a financial statement disclosure.

16 Q Okay. So for purposes of the auditor to give  
17 their unqualified opinion, you don't have to prove that  
18 there is no impairment. You have to demonstrate that  
19 based on your tests and procedures, that no evidence was  
20 revealed that demonstrates that it is impaired and  
21 should be written down in any way. Is that fair?

22 A Generally, yes.

23 Q Do you know whether companies can borrow  
24 against goodwill?

25 MR. HERNANDEZ: Object to form.

## CONFIDENTIAL

Page 71

1           A     Not as a stand-alone asset. Generally no.

2     BY MR. REHWINKEL:

3           Q     Okay. I was going to ask you a question about  
4     the big document that you provided to us in the duces  
5     tecum list, which is the credit agreement, the Credit  
6     and Guarantee Agreement.

7           A     Yes.

8           Q     Okay. And this -- I want to ask you about  
9     goodwill with respect to this document, but let's just  
10    go over to Page 9 of your testimony and link this  
11    document up to your testimony, if we can, on -- this is  
12    in the Confidential section that goes from line 8  
13    through line 11.

14          A     Yes.

15          Q     Okay. So on line 9 when it refers to the  
16    current Lender Credit Agreement, this is what you're  
17    talking about, the Credit and Guarantee Agreement dated  
18    as of September 6, 2019, and it's at Bates 0001; is that  
19    right?

20          A     Yes.

21          Q     I'll come back to goodwill, but I want to ask  
22    you about this statement in here. You're saying that  
23    this credit -- this current credit lender agreement  
24    explicitly prohibits any such payments that would raise  
25    the company's net leverage ratio to greater than two to



## CONFIDENTIAL

Page 72

1 one. Is that fair?

2 A Yes.

3 Q I sort of paraphrased the word "prohibiting,"  
4 but could you show me or direct me to the page in the  
5 agreement that says this, or maybe there's a definition  
6 in another provision together that say it?

7 A Yes. I would ask you to look at Page 130 of  
8 the agreement, section 6.4, sub part N, please.

9 Q Okay. Sub part N. All right. Would you mind  
10 reading the language?

11 A Yes. Sub part N: Additional restricted  
12 payments made by holdings or any of holdings' restricted  
13 subsidiaries provided on a proforma basis immediately  
14 after giving effect to any such restricted payment, A,  
15 no event of default should have occurred and be  
16 continuing or would result therefrom, and B, the  
17 consolidated total net leverage ratio shall not exceed  
18 2.00 to 1.00.

19 Q Okay. And if we turn back to Page 18 of this  
20 agreement --

21 A Yes.

22 Q -- you see that the -- this is where the  
23 definition of consolidated -- is this the right  
24 definition? It says consolidated total net leverage  
25 ratio?

## CONFIDENTIAL

Page 73

1 A Yes.

2 Q And it says: Means the ratio at any date of  
3 termination of X 6, in parentheses, consolidated total  
4 net debt as of such date to Y, consolidated adjusted  
5 EBITDA for the then most recently ended test period.

6 A Yes.

7 Q Did I read that right?

8 Okay. So if EBITDA is close to zero or zero,  
9 can -- would that -- how would that affect this ratio  
10 here?

11 A Well, EBITDA is the denominator of the ratio.  
12 So it would change the calculation to whatever current  
13 EBITDA was for the reporting period.

14 Q Okay. If your EBITDA was zero, would that  
15 likely mean that you were in default anyway?

16 A Yes. For any extended period of time, and  
17 there are other covenants in the agreement now that you  
18 have that require the company to maintain its net debt  
19 to a certain multiple of EBITDA. So if EBITDA were  
20 zero, it is very likely that there would be a compliance  
21 problem with the credit agreement.

22 Q Okay. Going back to goodwill, am I reading  
23 this agreement correctly that -- if I turn to, I guess  
24 it's the definition of collateral which is on Page 9, it  
25 refers to the collateral documents which the principal

## CONFIDENTIAL

Page 74

1 one of those is the security -- the Pledge and Security  
2 Agreement; is that right?

3 A Yes, that sounds correct. I'd have to trace  
4 it back through the document to confirm, but that sounds  
5 reasonable.

6 Q Okay. The Pledge and Security Agreement  
7 starts at page 273, the definition of collateral is on  
8 277. Can I get you to turn to that?

9 A Yes, I hear you.

10 MR. HERNANDEZ: Do you want him to turn to 273  
11 or 277?

12 MR. REHWINKEL: 277. I was just showing you  
13 where the document started. It's about an eighth  
14 of an inch from the back.

15 MR. HERNANDEZ: This version may not be  
16 numbered, Charles.

17 THE WITNESS: I believe I found it. Is the  
18 bottom of the actual page numbered 2?

19 BY MR. REHWINKEL:

20 Q Yes, that's it.

21 A Okay.

22 Q So if I'm looking at collateral, the  
23 definition of collateral up here, does it include  
24 goodwill?

25 A No, not as it's defined here.

## CONFIDENTIAL

Page 75

1           Q     Is goodwill covered by this security  
2     agreement? In other words, is it a security for the  
3     loans that are covered by these covenants?

4           A     Indirectly. Let me try and explain that.  
5     Goodwill in this context really represents the company's  
6     ability to generate continuing earnings. If a new  
7     investor were to buy the company, they would buy the  
8     company based on the expectation of its ability to  
9     generate continuing earnings. Someone looking at  
10    NorthStar to buy NorthStar as an investor would not say  
11    their trucks are worth X and their excavators are worth  
12    Y. They would look at the total earnings power EBITDA  
13    generation of NorthStar as a part of arriving at the  
14    value. That's why EBITDA is a key criteria for the  
15    covenants and a key limiting factor on the dividends per  
16    my previous testimony.

17                So I believe we may be trying to mix a couple  
18    of different concepts here. Goodwill is not a piece of  
19    tangible collateral. It is really the accounting  
20    representation of the company's ability to generate a  
21    continuing earnings stream.

22           Q     Okay. So back on Page 7 of your testimony,  
23    and I want you to -- at line 13 when you get there.

24           A     Yes.

25           Q     Okay. When you talk about future economic

## CONFIDENTIAL

Page 76

1 benefits, is that the same as what you just described  
2 as --

3 A Yes, that is consistent. The future economic  
4 benefits in this context are the ability for an entity  
5 to continue to generate revenue and earnings on an  
6 ongoing basis. That's something that an investor would  
7 pay for above and beyond the tangible value of the  
8 assets that were being acquired.

9 Q Okay. When we go back and hopefully without  
10 having to refer back to that note at 162 of Mr. Polich's  
11 testimony, Exhibit RAP-6, the test to retain the  
12 goodwill on your balance sheet as an asset isn't that  
13 you will achieve future economic benefits. It's that  
14 you don't find any evidence that you won't achieve it,  
15 in so many words. Is that fair?

16 A Well, I think we're speaking about goodwill in  
17 two different contexts. There's the original source of  
18 the goodwill on the balance sheet. So when goodwill is  
19 created and originally put on the balance sheet, it is  
20 being done how someone has evaluated the continuing  
21 earnings power of the company. And then on an ongoing  
22 basis from an accounting point of view, you're required  
23 to look at whether anything has changed that would  
24 basically impair the earnings potential of the company  
25 going forward. So there's the original recognition of

## CONFIDENTIAL

Page 77

1 the goodwill and then there's the continuing validation  
2 of the goodwill as part of an annual reporting process.

3 Q Okay. I won't make an analogy to momentum,  
4 but it seems like what you're saying is that that  
5 original assessment is good unless you can prove that  
6 it's not. Is that right?

7 MR. HERNANDEZ: Object to form.

8 A Yes, loosely, I think, once it's on the books,  
9 under current accounting principles you don't amortize  
10 it. You maintain it until there was some change in  
11 circumstance that would cause one to question whether it  
12 could still be supported.

13 BY MR. REHWINKEL:

14 Q Okay. Let's turn to Page 8 and talk about the  
15 Parent Support Agreement and whether GAP would require  
16 you to show that as a liability on your balance sheet.

17 A Okay.

18 Q And this discussion is down in the bottom  
19 third of that Page 8. But on lines 22 and 23 you say:  
20 From an accounting perspective, execution of the PSA  
21 creates a contingent obligation with a remote  
22 probability of being called, and therefore is not  
23 appropriate to recognize in financial statements  
24 presented under GAP. Is that right?

25 A Yes.

## CONFIDENTIAL

Page 78

1           Q     So is there a procedure or a test that either  
2     you have to perform for your outside auditors or that  
3     they have to perform under GAAS, G-A-A-S, that would  
4     make some sort of probable listed determination about  
5     whether that probability is remote or not?

6                     MR. HERNANDEZ: Object to form.

7           A     Well, yes, in order -- the existence of those  
8     agreements, whether they -- they don't exist yet here in  
9     the context of this transaction, but any of those -- you  
10    know, to the extent an agreement of that nature exists,  
11    there are specific accounting rules around how  
12    contingent liabilities are treated. And so whether they  
13    are remote or reasonably possible, there's different  
14    thresholds.

15                    And so in this case, this structure, this  
16    agreement would be deemed a remote probability of being  
17    called qualitatively because you can't run a numerical  
18    test on it and there is no evidence or any factors that  
19    suggest that it would be anything but that in the  
20    context going back to how the overall transaction  
21    structure and how the DSA was put together.

22   BY MR. REHWINKEL:

23           Q     Okay. I mean, what you're saying is that you  
24    wouldn't structure the transaction like this, have all  
25    these documents, the counter-parties negotiate and then

## CONFIDENTIAL

Page 79

1 say that this was likely enough to occur where you'd  
2 recognize it as a liability because that would be kind  
3 of circular or self-defeating; is that fair?

4 A Yes, I actually believe that is a fair  
5 characterization, and it goes back to my previous  
6 testimony on supplemental protection versus core  
7 protection.

8 Q Okay. Just real quickly on Page 9, we talked  
9 a little bit about the credit agreement and that  
10 covenant that you pointed us to on -- I think it was  
11 Page 130 that has the two to one ratio in it.

12 Are there any other provisions of the credit  
13 agreement, any covenants in there or other provisions  
14 that would be an obstacle to adopting any of the five  
15 enhancements that Mr. Polich recommends?

16 A I'll have to think about that for a moment.  
17 It would really come down to this recommendation that a  
18 hundred million dollars of cash is set off to the side  
19 and held. Depending on the structuring on that, it is  
20 likely that there would be an issue or a conflict there.  
21 Without the specific structure or how that was put  
22 together, I can't point to a specific provision, but  
23 saying that those funds are set aside and unavailable to  
24 any other purpose, including debt service, in order for  
25 there to be any meaningful protection out of that, you'd



CONFIDENTIAL

Page 80

1 have to say that the company couldn't turn around and  
2 make those funds available to service its debt.

3 So as we sit here, without having prepared for  
4 that question, I can't point to subsection X, Y and Z of  
5 the agreement, but that is generally going to be  
6 problematic in what's obviously a fairly sophisticated  
7 credit agreement to say that you're taking \$100 million  
8 of the company's money and putting it in a place where  
9 it cannot be accessed for debt service, and Mr. Polich's  
10 assertion that restricted cash is an asset and you can  
11 go borrow enough new money against it is explicitly  
12 false and a direct contradiction to the overall  
13 construct of the credit agreement.

14 Q Okay. So I guess -- and I wasn't trying to  
15 kind of submarine you with this question, but I just  
16 wanted to understand if there was anything else that the  
17 credit agreement would be an obstacle to.

18 I would be happy if you would like to answer  
19 that question in a late-filed exhibit. I mean, you've  
20 kind of given me an answer, that you think that the  
21 dollars flow all the way through and there are  
22 provisions in here that likely would be triggered that  
23 would create default situations or some other jeopardy  
24 in the agreement. Is that fair?

25 A Well, it is, and it depends again on what

## CONFIDENTIAL

Page 81

1 those funds, this minimum cash requirement, you know,  
2 how that would be held. So again, I want to be careful  
3 for the record to not imply any kind of a support or  
4 agreement in that provision.

5 But to the extent that it existed in order for  
6 it to have any protection value, there would have to be  
7 restrictions on how it can be used. And I can  
8 definitively say that as soon as you start restricting  
9 cash within the existing company and say that that cash  
10 is no longer available for debt service, that is going  
11 to be an issue with the credit agreement.

12 If you would like specifics provisions on  
13 that, we can certainly provide that. But of the five  
14 recommendations, the one that I believe is specifically  
15 a problem in the context of the existing credit  
16 agreement is definitely this request to set aside  
17 \$100 million of cash until the completion of the  
18 project.

19 Q Okay. That is what I was looking for is just  
20 that kind of an explanation, so thank you.

21 Right below that on Page 13 -- I mean Page 9,  
22 lines 13 and 14, you say: In reality Vermont Yankee  
23 generates no accounts receivable under GAP as NorthStar  
24 already owns the source of payment.

25 A Yes.

## CONFIDENTIAL

Page 82

1 Q Do you see that?

2 Are there accounts receivable recorded on any  
3 set of books that recognize the timing difference  
4 between the submittal of the invoice and the payment of  
5 the invoice out of the fund?

6 MR. HERNANDEZ: Object to form.

7 A There are -- there is no such receivable on  
8 any of our quarterly lender reporting or our annual  
9 audit because all of those documents are prepared under  
10 GAP. On our internal reporting, we simply recognize the  
11 transfer between the trust entity because we keep the  
12 trust on the balance sheet and then we pay out of the  
13 trust to fund the work that is then earned in a given  
14 period. And so we'll track what is pending there, but  
15 then we eliminate it for external reporting purposes and  
16 any statement prepared under GAP.

17 Q Okay. Is it similar to the eliminations that  
18 would occur in the consolidating -- consolidated  
19 reporting where you would eliminate intercompany  
20 transactions, for example?

21 A Yes, a similar concept to that.

22 Q On Page 10 on line 21, you talk about  
23 Mr. Polich referring to financial results as old as 2014  
24 as evidence of the company's forward-looking financial  
25 prospects. Do you see that?

## CONFIDENTIAL

Page 83

1           A     I do.

2           Q     And I paraphrased a little bit there.

3                     Can you tell me where he says that they -- he  
4     ties old financial results to the forward-looking  
5     financial prospects?

6           A     I'd have to go back and find that in his  
7     testimony. What I was generally testifying there,  
8     though, is Mr. Polich specifically recognized in his  
9     testimony that the company was recapitalized in 2017 and  
10    that the financial position and the balance sheet  
11    improved as part of that recapitalization. And as I  
12    said in my testimony, that was part of a specific  
13    strategy to do so.

14                    And so yet despite recognizing that the  
15    company had a different capital structure as of 2017,  
16    going back three years into the past and pointing to how  
17    the company was performing what's now six years ago, I  
18    didn't feel that that was a relevant data point in the  
19    context of the full transaction and the structure.

20                    So I would have to go back into his testimony  
21    to find his commentary around 2014. But fundamentally,  
22    I was questioning why that six-year-old information with  
23    all the acknowledged changes that occur was still deemed  
24    as relevant to NorthStar's ability to perform on this  
25    transaction.

## CONFIDENTIAL

Page 84

1           Q     So right now you're in the early stages -- I  
2     think you testified you're a year and half into the  
3     Vermont Yankee decommissioning; is that right?

4           A     Yes.

5           Q     And this is the first -- you're in the midst  
6     of a major baseload nuclear power plant decommissioning  
7     for the first time since this restructuring has  
8     occurred; is that fair?

9           A     Yes. Vermont Yankee is the first full plant  
10    transaction of this type, correct.

11          Q     If you go back before 2016, a decade back, the  
12    company or some element of the company before it got  
13    bigger through mergers and acquisitions did some  
14    decommissioning of very small educational institution  
15    nuclear reactors; is that right?

16          A     Yes. The company has a list of multiple  
17    reactor decommissionings that it's done. As you point  
18    out, many of them -- many, if not all of them in a  
19    researched or university context.

20          Q     Okay. So -- well, I won't be argumentative  
21    about it.

22                 Let's go to Page 11, and I would -- let's go  
23    back to the line 12 and 13. You talk about sort of a  
24    proxy of measurement of EBITDA of 112 million, implying  
25    a market value of nearly one billion dollars. Do you

## CONFIDENTIAL

Page 85

1 see that?

2 A I do.

3 Q Okay. Is there a treatise or a text or some  
4 authoritative source that says that's the case?

5 A Two parts, and I spoke to this partially  
6 before. So that comment is based on my own personal  
7 knowledge of what private equity owned companies often  
8 trade for, and for purposes of making that comment, I  
9 used a range of 8X to 10X as the source of that. And  
10 then upon request, I -- the two documents that were  
11 provided for both the industrial services and the  
12 environmental services industry were provided not to  
13 point to an exact match, and this company looks exactly  
14 like NorthStar, but simply to support the point that an  
15 8X to 10X range is not arbitrary or unrealistic when  
16 compared to the type of numbers like 11 to 13X for  
17 companies in the environmental space, in the industrial  
18 services space, and the multiples that they often trade  
19 for.

20 So this is not intended to be a precise  
21 valuation, but simply to frame the context and say under  
22 a very realistic set of assumptions for a company  
23 performing at this level, it is very likely that the  
24 valuation is at least in that range.

25 Q Is there an industry-wide recognized rule of

## CONFIDENTIAL

Page 86

1 thumb that's incorporated in any kind of literature that  
2 would say that this is a good rule of thumb?

3 MR. HERNANDEZ: Object to form.

4 A I certainly tried to provide two different --  
5 and there are other investment bankers. There are other  
6 industry publications just to provide support to show  
7 that a recognized investment banking firm has reported  
8 common enterprise value multiples and current valuations  
9 north of 10 for companies in the environmental and  
10 industrial space and using that as a proxy for  
11 NorthStar. There are other materials that could be  
12 found, but generally, companies that generate those  
13 kinds of earnings in anything resembling this space will  
14 trade on that basis.

15 I base that comment on a combination of  
16 personal knowledge, multiple conversations, multiple  
17 years of discussing those kind of values, but then  
18 buttressed it with two specific recent examples from a  
19 recognized investment banking firm that is involved in  
20 buying and selling companies in this industry.

21 Q Can you take me, for example, through the  
22 environmental services document and show me where  
23 there's a tangible kind of evidence of what you're  
24 talking about in the document? What's the best place  
25 for me to look to see this phenomenon?

## CONFIDENTIAL

Page 87

1           A     Very simply, Page 4 of that document,  
2     historical averages from 2016 to the last 12 months,  
3     EV/EBITDA, that's the ratio of enterprise value to  
4     EBITDA is 11X.

5           Q     Okay. And I would see the same thing over --  
6     what about on the other document, the industrial  
7     services?

8           A     Yes. In the other document, you correctly  
9     noted before that Page 10 was the best place to see  
10    that. And so depending on which sector you looked at,  
11    for environmental services, the mean EV to EBITDA was  
12    13X for that collection of companies. There are other  
13    spaces, engineering and construction, where it's listed  
14    as 10.9 to the left of that. So relatively consistent  
15    with the 11 that was mentioned before, it will vary, but  
16    that is the cleanest place of some industry comparables  
17    in this set of documents.

18          Q     Okay. What is your opinion or what is your  
19    understanding of what the equity ratio of NorthStar is?

20          A     Well, I don't have the calculation right in  
21    front of me, but it's going to be the comparison of the  
22    equity in the company to the debt in the company and the  
23    ratio of the two. So that's not a number I have off the  
24    top of my head, but I certainly understand the concept.

25          Q     Can you go to Page 152 of Mr. Polich's RAP-6?



## CONFIDENTIAL

Page 88

1 And I just want to know kind of what the two numbers are  
2 that you would look at for the -- or what numbers, maybe  
3 there are more than two, to determine the equity ratio  
4 from this balance sheet for 2019.

5 A Yes. So total equity on this balance sheet is  
6 129 million in round numbers, 128,973,000, and total --  
7 well, long debt in this context, it's going to be  
8 labeled long-term financing obligations. You would need  
9 to total the 160 million that's long term along with the  
10 4.5 million that are the current maturities. So on a  
11 combined basis, approximately \$165 million at the end of  
12 2019.

13 Q Okay. So 129 to 165, whatever ratio that is?

14 A Yes.

15 Q Okay. Let's go to Page 11, line 18 through  
16 20, and it's -- if we go to Page 11 and go to lines 18  
17 through 19, and I want to direct you to the sentence  
18 that starts with the word "Consistent."

19 A Yes.

20 Q Do you see that?

21 A Yes.

22 Q Could you read that aloud, and then I want to  
23 ask you about the document that I think relates to that.

24 A Okay. "Consistent with the going concern  
25 testimony above, these results are sustained by

## CONFIDENTIAL

Page 89

1 1.4 billion of reported revenue backlog entering 2020  
2 and a larger pipeline of additional opportunities."

3 Q Okay. Now, the \$1.4 billion backlog, we asked  
4 you for the document. I think you gave us what's  
5 number 8.

6 A Yes.

7 Q Okay. Can you show me on this document where  
8 the components of the 1.4 billion are?

9 A Yes. It's going to be the combination of the  
10 784, call it rounded 785 million rounded company total  
11 on Page 1 and the \$648 million total on Page 2. And I  
12 can explain the distinction between those two sections  
13 if helpful, but it is the total of those two is the  
14 \$1.4 billion.

15 Q Yes, if you wouldn't mind, and then I want to  
16 ask you what soft backlog means, but --

17 A Yes. So in the way that we do our reporting,  
18 hard backlog is existing signed fixed-price contracts on  
19 percentage of completion work that is accounted for on a  
20 percentage of completion accounting basis. And so this  
21 is -- you know, there's a contract. You can point to  
22 the contract and say, this contract has a fixed price of  
23 \$10 million and we're 60 percent of the way through it,  
24 so we have a hard backlog remaining of \$4 million.  
25 Sixty percent of the 10 million is complete.

## CONFIDENTIAL

Page 90

1 Four million remains in backlog yet to complete, as a  
2 simple example. So that is for the portion of the work  
3 that's performed on that basis.

4           There's two other -- there's a few other  
5 different categories. When we use the term "soft  
6 backlog," there's a portion of our work that's performed  
7 on a time and materials basis. Let's say our emergency  
8 response division shows up to a company that's had a  
9 major flood or a major fire. Oftentimes you'll be  
10 tasked to go deal with the issue. You don't sign a  
11 fixed-price contract up front because you don't know  
12 what the full scope of the work is going to be. And so  
13 you account for that on a time and materials basis and  
14 bill it as you go along.

15           There's a recognition in our soft backlog  
16 numbers that there's a certain amount of recurring  
17 revenue in the business that's not tied to any  
18 fixed-price contract. It more happens as part of  
19 recurring time and materials work. It happens when we  
20 consistently historically generate additional change  
21 orders off of fixed-price work and contracts where that  
22 is relevant. And there's also a certain amount of work  
23 that is very small recurring work that may run through  
24 the numbers in a given month without ever really showing  
25 up in backlog because you both book it and perform it in

## CONFIDENTIAL

Page 91

1 the same month.

2 So those are all types of work that roll into  
3 what we would call soft backlog which are revenue that  
4 we expect to see in the coming 12 months.

5 The other category of soft backlog is work  
6 where we have a signed contract or we are in the  
7 process -- we've been given an award by the customer,  
8 but we're in the process of negotiating a contract. If  
9 the work has been won, but you haven't yet moved it to  
10 hard backlog, then that would also be included in our  
11 standard recurring definition of soft backlog.

12 So there's two examples included in here.  
13 Obviously, a large and very relevant one to this  
14 conversation is the \$540 million value associated with  
15 the Crystal River decommissioning. That qualifies as  
16 soft backlog in this reporting because we have an  
17 executed agreement against it as noted in the reporting,  
18 subject to regulatory approval, of course. Or it can be  
19 smaller things like this project up here, Ameren,  
20 McLean, Illinois, where we have an \$8 million scope  
21 expansion that's been awarded to us, but the relevant  
22 contract documents, purchase orders were still in the  
23 process of being issued at the reporting cutoff date.  
24 So that's an example, a smaller example of a similar  
25 concept.

## CONFIDENTIAL

Page 92

1           So it's the total of those two, the  
2   fixed-price, fully contracted work, the recurring  
3   non-fixed-price work that runs through the numbers, as  
4   well as timing items for work that's in the process --  
5   it's awarded but in the process of being contracted that  
6   makes up our total definition of backlog.

7           Q     What is the reference to -- thank you for  
8   that. What is the reference to the Duke Crystal River  
9   Units 1 and 2? It says "exclude" and it's a negative of  
10  28.6 million. What does that reference?

11          A     So that's the section of the calculation where  
12  we start with the total hard backlog, the 784, 783 from  
13  the previous page, and this is the section where we are  
14  calculating expected change orders on future work. And  
15  so we're not saying that we're going to earn change  
16  orders on all of the work that's in hard backlog. We're  
17  backing out Vermont Yankee. We're not going to earn  
18  change orders against ourselves there. We don't expect  
19  to apply for change orders or receive change orders on  
20  the Duke Crystal River 1 and 2. We're not assuming that  
21  on this other 270 Park project that's referenced.

22                So fundamentally, we're excluding these  
23  individually larger projects where we don't expect  
24  change orders to be following a similar pattern to  
25  routine historical smaller work.

## CONFIDENTIAL

Page 93

1           And so we're applying this 32 percent change  
2   order factor not to the entire \$785 million of hard  
3   backlog, but only applying it to this residual  
4   \$100 million pool of individually smaller projects. So  
5   we're just backing that out of a calculated -- out of a  
6   calculation to get to the relevant denominator, if you  
7   will.

8           Q     So if I go look on the first page in the hard  
9   backlog, this is the hard backlog on the first page?

10          A     Correct.

11          Q     The Tampa IE, is that Crystal River?

12          A     No, it is not. That's a different business.

13          Q     So where is -- okay. First of all, I wasn't  
14   aware you were doing decommissioning. Is this a D&D job  
15   at Crystal River 1 and 2?

16          A     Of the fossil units that are -- yes, that was  
17   announced as part of the overall transaction  
18   announcement at the same time that Crystal River 3 was  
19   publicly announced, as I recall, and that is fossil  
20   decommissioning work at that site.

21          Q     So were those negotiated together?

22          A     At least on a parallel timeline. I don't know  
23   exactly if they overlap. I believe there were different  
24   individuals involved from different parts of Duke and  
25   certainly even parts of NorthStar, but the timing ran in

## CONFIDENTIAL

Page 94

1 parallel. And there are certain efficiencies that are  
2 expected from having those units out of the way at the  
3 time CR3 -- at the time the CR3 decommissioning work is  
4 progressing.

5 Q Okay. So is Duke -- is CR1 and 2, is that  
6 done?

7 A No. That is in process right now.

8 Q Okay. But it will be done before you do the  
9 work on 3?

10 A There may be some overlap, but they're not  
11 expected to interfere with each other in any way, and if  
12 anything, to be complementary.

13 Q Are you saying there are some synergies  
14 between the two jobs?

15 A Well, having those plants out of the way will  
16 make it easier to access the footprint of CR3. So  
17 that's really the basis for my comment.

18 Q Oh, okay. You've lodged some criticisms of  
19 Mr. Polich in your rebuttal testimony, and my question  
20 to you is, are there any other objections or criticisms  
21 that you have that you haven't -- that you have  
22 formulated that you haven't included in your rebuttal  
23 testimony?

24 MR. HERNANDEZ: Object to form.

25 A Generally, I would say I raised the issues of

## CONFIDENTIAL

Page 95

1    greatest concern. As a general theme that I believe I  
2    stated or alluded to in my testimony, there were just a  
3    number of statements that were incorrect or things like  
4    the repeated references to there's no restriction on the  
5    company being able to pay dividends out that were not  
6    true. And so there are just a number of statements that  
7    were made that in my opinion undercut the overall  
8    credibility of the testimony. But I believe I raised  
9    the primary ones that I identified in reading through  
10   both his testimony and his deposition.

11   BY MR. REHWINKEL:

12           Q     So I guess my question comes down to this: Do  
13   you have any plans to raise additional objections or  
14   concerns at the hearing that you haven't put in your  
15   prefiled direct testimony?

16           MR. HERNANDEZ: Object to form.

17           A     Not at this time, no. I'm not aware of  
18   anything else that I would plan to introduce in a  
19   hearing that I haven't spoken to now absent new  
20   information.

21   BY MR. REHWINKEL:

22           Q     Absent what?

23           A     New information.

24           Q     Okay. Going back to the credit agreement real  
25   quickly, if I could get you to turn to the page that has



## CONFIDENTIAL

Page 96

1 the preamble which is -- I guess it's Page 1.

2 A Yes. It says Credit and Guarantee Agreement  
3 at the top?

4 Q Yes, sir. And there's a definition -- well, I  
5 guess the first definition is 2019 dividend. And this  
6 is that \$50 million that Mr. Polich discussed in his  
7 testimony; is that right?

8 A Yes.

9 Q What does that have to do with this agreement?  
10 I'm just curious.

11 A It was specifically -- as I mentioned  
12 previously, in a credit agreement like this, the lenders  
13 are going to generally put restrictions on the company's  
14 ability to pay difficult dividends out, pay funds out to  
15 investors in the company. And so that 50 million  
16 dividend that's referenced here on the first page was  
17 explicitly allowed as part of the refinancing  
18 transaction. So it was actually paid concurrently with  
19 the refinancing. And so it was referenced here in the  
20 document as being allowed by the lenders.

21 Q Is it fair to say that the refinancing or the  
22 restructuring provided for funds to make the dividend  
23 payment?

24 A Yes, it is actually.

25 Q Okay. If you could go to Page 40 and 41 of

## CONFIDENTIAL

Page 97

1 this credit agreement, and this is under the definition  
2 of Parental Support Agreement, and let me know you're  
3 there.

4 A Yes, I'm there.

5 Q Okay. The arrangements that are defined in  
6 Parental Support Agreement, is this consistent with your  
7 answer you gave to me earlier in the deposition about  
8 parental support agreements or parental guarantees as  
9 being sort of all under the same umbrella?

10 A Yes, I believe it is. This section  
11 specifically speaks to and contemplates parental support  
12 required to support nuclear decommissioning  
13 transactions.

14 Q One of the recommendations of Mr. Polich is to  
15 put the State of Florida on the Parental Support  
16 Agreement that you would execute with the NRC. Do you  
17 understand that?

18 A Yes, I'm aware that's a recommendation.

19 Q Is there anything in the credit agreement that  
20 would prohibit the State of Florida being an additional  
21 beneficiary like the State of Vermont is?

22 MR. HERNANDEZ: Object to form.

23 A I don't believe that is a credit agreement  
24 issue.

25

## CONFIDENTIAL

Page 98

1 BY MR. REHWINKEL:

2 Q Okay. On Page 41, at the end of that Parental  
3 Support Agreement definition, it has a subsection E that  
4 says: Each nuclear decommissioning project shall be  
5 established on a, quote, fixed cost basis, fixed cost,  
6 closed quote, basis. Do you see that?

7 A I do.

8 Q Is that something that the -- is this notion  
9 of a fixed-cost agreement, does that reference what  
10 we've been talking about in the DSA being a fixed-cost  
11 agreement?

12 A Yes, I believe it does.

13 Q So is this agreement recognizing that that's a  
14 fixed-cost agreement or was there some reason that you  
15 had to for borrowing purposes make that a fixed-cost  
16 agreement?

17 MR. HERNANDEZ: Object to form.

18 A I don't recall the origin of that specific  
19 clause in the drafting of the agreement, but that's  
20 generally our approach and is consistent with the  
21 methodology that was used in Vermont for structuring the  
22 transaction and tying payments to performance under a  
23 fixed schedule of payments and costs. So it doesn't  
24 surprise me seeing something like that because that's  
25 generally how you approach these projects, but I don't

## CONFIDENTIAL

Page 99

1 recall the specific origin of that clause here in the  
2 definition.

3 BY MR. REHWINKEL:

4 Q With a little more research and maybe some  
5 contemplation, would you be able to answer that question  
6 in a late-filed deposition exhibit, explain to me why  
7 provision E in the Parental Support Agreement definition  
8 is there, what's the purpose of it?

9 A Yes, I believe we could do that.

10 MR. REHWINKEL: Danny, can we make a  
11 late-filed number 3, and it would just be  
12 Explanation of Parental Support Agreement and  
13 Fixed-Cost Relationship, just to give it a title.

14 MR. HERNANDEZ: Okay.

15 BY MR. REHWINKEL:

16 Q And I just want to understand if you can tell  
17 me why that's there and what's the purpose of it as it  
18 relates to the DSA.

19 A Yes, I have some -- I believe I know, but I  
20 won't speculate without going back to the transaction  
21 documents.

22 Q Okay. And that's fair. I'm not trying to put  
23 you on the spot. That's why some more time to answer it  
24 would be fine with me.

25 Okay. On Page 14 you reference Mr. Polich

## CONFIDENTIAL

Page 100

1 talking about -- and this is on line 9 and 10, that  
2 Mr. Polich says restricted cash or trust assets could be  
3 borrowed against.

4 A Yes.

5 Q And you cited his deposition testimony. If I  
6 could get you to turn to the first reference on Page 61  
7 if you have that nearby?

8 A One second.

9 MS. TRIPLETT: Charles, this is Dianne. Isn't  
10 that page included as an exhibit?

11 MR. REHWINKEL: Yes, it's in his testimony,  
12 Mr. Adix's testimony.

13 MS. TRIPLETT: The copy of the deposition  
14 transcript we have isn't numbered. That's --

15 MR. REHWINKEL: Okay. Well, you should have  
16 this as his testimony, JA-2.

17 MR. HERNANDEZ: This particular line on  
18 Page 62?

19 MR. REHWINKEL: Well, this is on JA-2, Page 3,  
20 and I'm asking about lines 10 through 14 of the  
21 deposition excerpt.

22 THE WITNESS: Is it the line that starts, "To  
23 the extent the company"?

24 BY MR. REHWINKEL:

25 Q Yes. So my question is, is this what you mean

## CONFIDENTIAL

Page 101

1 where he has testified -- or Mr. Polich has testified  
2 that restricted cash or trust assets could be borrowed  
3 against?

4 A Yes, that's one example. He repeats this  
5 theme several times in his testimony, but this is one  
6 specific example.

7 Q And is it because the prior questions talked  
8 about increasing the contributions from 6 to 10 percent?

9 A Both that and the recommendation to set aside  
10 more than \$100 million of restricted cash. The same  
11 point applies to both of those recommendations.

12 Q Well, when you say restricted cash, tell me  
13 what you mean by restricted cash as it relates to the  
14 105 million.

15 A I mean cash that has to be held and can't be  
16 used for any other purpose.

17 Q Okay. And I think he said amortized, but if  
18 you substituted monetized or collateralized, would that  
19 make more sense?

20 A No. The whole premise is actually incorrect.

21 Q I'm just talking about, do you think he meant  
22 to say amortized or do you think he meant to say  
23 securitized, collateralized, monetized? He means to  
24 borrow against, right?

25 A I don't know what Mr. Polich meant to say, to

## CONFIDENTIAL

Page 102

1 be perfectly honest with you.

2 Q But did you assume he meant amortize it like  
3 you would amortize an asset over a period of time?

4 MR. HERNANDEZ: Object to form.

5 A No. I assume that Mr. Polich said that this  
6 was an asset that could be borrowed against.

7 BY MR. REHWINKEL:

8 Q Okay. And collateralized would be more  
9 descriptive of borrowing against an asset, right?

10 A Well, he's trying to make the argument, I  
11 think, and I don't want to put myself in his head, but  
12 he's trying to make the argument that it's not really  
13 unavailable to the company because we're going to make  
14 you set it aside, but then we're going to say that it's  
15 still available to the company because you can obtain  
16 credit against it and still utilize the fund associated  
17 with it. It's a little bit circular, but in the reality  
18 of how we operate and how virtually any company that has  
19 a sophisticated credit agreement would operate, it's  
20 just false.

21 Q On Page 14, when you talk about the Vermont  
22 Yankee trust funds --

23 A Yes.

24 Q -- would you agree that those funds are not --  
25 you can't collateralize those funds or borrow against

## CONFIDENTIAL

Page 103

1     them in any way?

2           A     Yes. They are only available to support the  
3     continued performance of the ongoing decommissioning  
4     work.

5           Q     Okay. On Page 14 starting at line 17, you  
6     talk about -- well, you get into talking about the  
7     \$30 million disposal guarantee. Do you see that?

8           A     Yes.

9           Q     Okay. And you talk about the value that  
10    creates for DEF's customers. What do you mean by that  
11    phrase, "value that creates for DEF's customers"?

12          A     That disposal cost is a -- disposal is a key  
13    cost variable on any decommissioning project. And  
14    knowing that there is \$30 million of pre-committed  
15    disposal as part of the transaction structure, that  
16    creates a layer of protection, a buffer layer. And  
17    when, you know, we talk about the scenario, you  
18    mentioned some hypothetical scenarios of what if there  
19    was a cost overrun, or what if, you know, 50 percent of  
20    the money had been paid but there was still 75 percent  
21    of the work to do, this is a protection because it is a  
22    dollar to dollar -- dollar for dollar offset effectively  
23    to the expected cost of performing the decommissioning.

24                  So it is a resource that provides additional  
25    funding and/or really reduces the out-of-pocket cost to



CONFIDENTIAL

Page 104

1 complete the decommissioning if you could send  
2 \$30 million of material to a disposal site at no  
3 incremental cost to the trust fund if there was some  
4 problem.

5 Q Okay. So I don't know how a low-level  
6 radioactive waste disposal site works, but I assume  
7 there is some kind of a unit cost either by weight or  
8 volume or some other measure that's got a dollar sign  
9 attached to each unit. Is that fair?

10 A For accounting purposes, yes. For economic  
11 purposes, not necessarily. I'm not trying to be  
12 evasive. I can clarify that if you'd like.

13 Q I'm just trying to understand how you would  
14 know that you've got \$30 million of value. Is it like  
15 30 percent of what you're going to take out of CR3? How  
16 do you know that?

17 Well, first of all, how do you value that  
18 relative to the job you're trying to do?

19 MR. HERNANDEZ: Object to form.

20 A Yes, at a high level there would be standard  
21 pricing established for waste coming out of the site  
22 depending on the characterization of that waste.  
23 Whether it's class A, class B, class C, there's  
24 different pricing associated with those different levels  
25 of waste.

## CONFIDENTIAL

Page 105

1           And so in the normal course of business, the  
2   expectation would be that NorthStar or Orano, depending  
3   on the nature of the work being performed, would  
4   generate low-level radioactive waste in the  
5   decommissioning, would send it to WCS. WCS would send  
6   an invoice to the relevant party. Cash would change  
7   hands and things would flow that way.

8           Q     Okay.

9           A     The pricing that's used to support the flow of  
10   waste back and forth in what's anticipated to be the  
11   normal course of business, if one of the parties didn't  
12   perform or there was payment not made or anything along  
13   those lines, that same -- instead of sending a  
14   \$30 million check to WCS, if there was a failure to  
15   perform, this agreement has been put in place to say  
16   that that waste could still be sent to the disposal  
17   site. WCS is effectively guaranteeing to take that  
18   waste regardless of -- take that waste and guarantee  
19   that they'll take \$30 million of waste if there was some  
20   event that triggered this provision to become relevant.

21          Q     Has the \$30 million, has that become fixed in  
22   terms of what services will be provided? In other  
23   words, I'm going to make a number up. One hundred -- I  
24   mean 10 million pounds. I don't know how many tons that  
25   is. Let's say that you sat down and you said

## CONFIDENTIAL

Page 106

1 10 million pounds today over X period of time is  
2 \$30 million of waste. Is that in any way fixed? In  
3 other words, do you know for sure that you could put  
4 this amount of volume over there for \$30 million credit  
5 or cash, however, over this period of time or can that  
6 number change?

7 MR. HERNANDEZ: Object to form.

8 A I don't know whether that's completely  
9 finalized or it's in a draft form, but there's  
10 indicative pricing, I believe, that exists. I don't  
11 know whether that's still being refined or not, but it's  
12 not a -- it's a number that has some basis behind it.

13 It's important to remember that this  
14 30 million is being replaced by cash over time. So if  
15 you think about the balance of how this is structured,  
16 and this is another, you know, thing that was done  
17 intentionally and thoughtfully as part of the  
18 negotiations on this, at the beginning of the project  
19 you haven't by definition disposed of anything yet. So  
20 you have your greatest disposal liability at the time  
21 you have the \$30 million allowance.

22 Over time, as some of the work and some of the  
23 volume starts being sent there, through the 6 percent  
24 contribution we're replacing the \$30 million upfront  
25 disposal guarantee with more general cash collateral

## CONFIDENTIAL

Page 107

1 that could be used for anything, not just disposal.

2 So there's some thought that goes into that  
3 structure because at the beginning you have your  
4 greatest disposal exposure to the project, and as you go  
5 from starting to send waste over and taking down the  
6 remaining disposal, you're replacing that specific type  
7 of project guarantee or support with a more general cash  
8 collateral.

9 But the reason you wanted to rebut this point  
10 specifically in the testimony is there really didn't  
11 seem to be any credit being given for this 30 million up  
12 front when you have all of the disposal of the project  
13 out in front of you, and then we replace it over time  
14 with cash to get to the commercially negotiated  
15 50 million. But there's always \$50 million of cost  
16 protection to the project the way this was structured  
17 and designed.

18 BY MR. REHWINKEL:

19 Q So the transaction between ADP and WCS, that  
20 would be an affiliate party transaction, right?

21 A Yes, because of the relationship there, we  
22 would likely characterize it as that.

23 Q And is the financial arrangement contract  
24 indicative pricing, whatever, that's going to be at some  
25 point, I guess, executed, is that a fixed price over the

## CONFIDENTIAL

Page 108

1 life of the project?

2 A Fixed price per unit of volume based on waste  
3 classification.

4 Q Is that a yes?

5 A Well, it's fixed price -- if there's less  
6 waste that's ultimately sent, then the price for  
7 disposal would go down. If there's more volume  
8 discovered, the absolute dollar could go up. But the  
9 fixed price for a cubic foot of a certain class of waste  
10 would not change from once established for the project.

11 Q And that's going to be a contract that says  
12 that or that's what you're saying is you expect that's  
13 how it's going to be?

14 A Yeah. No, there will be a contract between  
15 WCS and the entities that are sending disposal volume to  
16 WCS. That would be a contracted arrangement.

17 Q Are you saying that WCS won't be able to raise  
18 the price for a given unit of volume or given unit of  
19 pricing?

20 A Yes, once -- they will be fixed for the  
21 project on a unit of volume basis. That is a variable  
22 that's not being left to float or fluctuate.

23 Q Is that stated in any of the documents that  
24 have been filed like the DSA or anything like that?

25 A I don't recall whether that is explicitly

## CONFIDENTIAL

Page 109

1     there or not. I suspect that Mr. Hobbs will be able to  
2     testify to that tomorrow.

3           Q     Okay. I can ask him about that. But I'm  
4     asking you because you're the CFO of both entities, so I  
5     just thought you might know.

6           A     Yeah, it's -- well, I know that there will be  
7     and I previously testified that there will be a  
8     fixed-price contract established. What I was saying I  
9     didn't know is whether that was explicitly referenced --  
10    the existence of that contract was explicitly referenced  
11    in the DSA. It's an important nuance there.

12          Q     Okay. If there are waste disposal sites that  
13    are -- well, does Holtec have a waste disposal site for  
14    low-level A, B, C waste?

15          A     No, I don't believe so. I don't think that is  
16    their business.

17          Q     Does ES? Is that what it's called, ES,  
18    Environmental -- what's it called?

19          A     Energy Solutions perhaps?

20          Q     Yes. Do they?

21          A     They have low-level waste disposal sites.  
22    Their different sites can take different classes of  
23    waste. As I testified earlier, not everything that can  
24    go to WCS could go to Energy Solutions, but I can't give  
25    you chapter and verse on that by site.

## CONFIDENTIAL

Page 110

1 Q If a competitor's site is closed for whatever  
2 reason, through a court challenge or some operational  
3 issue, and the waste has to go somewhere else, could it  
4 go to WCS, Andrews County site?

5 MR. HERNANDEZ: Object to form.

6 A Generally yes. I mean, you would have to know  
7 the specifics and the characterization of the waste, but  
8 generally for low-level radioactive waste, it's very  
9 possible it could come to WCS.

10 BY MR. REHWINKEL:

11 Q If something like that happened hypothetically  
12 and supply was exceeded by demand, are you saying that  
13 there would be no way that WCS could raise the price for  
14 waste disposal from the CR3 project to ADP?

15 A Yes, I am.

16 MR. REHWINKEL: Okay. I'm about to wrap up  
17 with a few more questions, but let's take a break  
18 right now.

19 (Recess from 4:06 p.m. to 4:16 p.m.)

20 BY MR. REHWINKEL:

21 Q Page 15 of your testimony between lines 18 and  
22 20, you talk about Entergy being completely out of the  
23 state of Vermont. Do you see that?

24 A Yes.

25 Q Do you know whether Entergy was ever regulated

## CONFIDENTIAL

Page 111

1 by the State of Vermont as a public utility?

2 MR. HERNANDEZ: Object to form.

3 A Yes, I believe they were. They were -- as the  
4 operator of the plant there, I believe that they were.

5 BY MR. REHWINKEL:

6 Q Well, was it a merchant plant that Entergy  
7 owned?

8 A Yes, it was.

9 Q Do you know whether the Vermont PSA regulated  
10 anything to do with that plant?

11 A I believe that it did.

12 Q Okay. Would the Florida Public Service  
13 Commission have any regulatory authority over ADP?

14 MR. HERNANDEZ: Object to form.

15 A I would have to defer to Counsel on that. I'm  
16 not a Florida regulatory expert unfortunately.

17 BY MR. REHWINKEL:

18 Q Okay. Could the Florida Public Service  
19 Commission do anything to Duke based on something they  
20 were not happy about ADP doing with respect to  
21 decommissioning of CR3?

22 MR. HERNANDEZ: Object to form.

23 A I do not know what their full rights would be  
24 with respect to Duke, but I do understand that Duke is a  
25 regulated entity, is a regulated entity. I just can't



## CONFIDENTIAL

Page 112

1 speak to the full rights as it relates to this project.

2 BY MR. REHWINKEL:

3 Q On Page 16, lines 6 through 7, you say that  
4 Mr. Polich has suggested that NorthStar is overextended  
5 because of its work on VY. Do you see that?

6 A I do, yes.

7 Q Are you testifying that he said it is  
8 overextended or that he implied it in some way?

9 A He certainly implied it. I would have to find  
10 in his testimony my basis for that comment. I could  
11 look for it if you would like me to.

12 Q Well, I am kind of interested in whether you  
13 think it's something that he explicitly said.

14 A Okay. If you give me a moment, I would look  
15 for that reference.

16 Q Okay.

17 A Okay. We're getting warmer. Give us just one  
18 moment.

19 Q Okay.

20 MR. DICARLO: Charles, he's looking at  
21 Mr. Polich's direct testimony right now.

22 MR. REHWINKEL: Okay.

23 MS. BROWNLESS: And Charles, may I take  
24 advantage of this pause to ask, can you give us an  
25 estimated time of how much longer you'll be?

## CONFIDENTIAL

Page 113

1 MR. REHWINKEL: Inside of ten minutes, maybe  
2 five.

3 MS. BROWNLESS: Thank you, sir.

4 THE WITNESS: I'm getting there.

5 (Discussion off the record.)

6 BY MR. REHWINKEL:

7 Q Back on?

8 A Yes, back on the record. So --

9 MR. DICARLO: Charles, for the record, he's  
10 looking at the deposition transcript of Mr. Polich  
11 and our version is not paginated for some reason.  
12 I don't know why.

13 THE WITNESS: It is under questioning by  
14 Mr. Hernandez. Okay. So if you go immediately  
15 after the testimony at the end, immediately after  
16 the brief recess from 2:23 to 2:32 p.m.

17 MR. REHWINKEL: Okay.

18 MS. TRIPLETT: Charles, it's near the back.

19 MR. REHWINKEL: Okay.

20 BY MR. REHWINKEL:

21 Q I was thinking you were saying he did this in  
22 his direct testimony. I didn't understand that you were  
23 talking about his deposition.

24 A It was based on the deposition testimony in  
25 here for clarity.

## CONFIDENTIAL

Page 114

1           Q     Okay. Well, can you read the passage? And I  
2     can probably find it from the index because --

3           A     Okay. So there's kind of multiple allusions  
4     to this. I don't -- so he does not directly use that  
5     word. But the comment is: Decommission -- he talks  
6     about the Vermont Yankee project -- decommissioning  
7     project that it has put itself in a position of  
8     completing, and that is the Vermont Yankee project, that  
9     is projected to be a 500 million dollar plus project.  
10    When you think about it, that if things on that project  
11    start deteriorating to the extent that you start having  
12    cost overruns, you can very quickly put them into a  
13    position where cash coming in does not equal the amount  
14    of cash liabilities that are occurring as part of the  
15    project.

16                Then proceeds to talk about how Crystal River  
17    is another \$500 million project. Now we've got a  
18    billion dollars worth of nuclear decommissioning  
19    projects on board, what the cost overruns are.

20                But then he talks about specifically -- his  
21    testimony is that there are serious unknowns in terms of  
22    whether these projects will move forward in accordance  
23    with NorthStar's projections. And if they don't,  
24    NorthStar could be put in financial trouble very  
25    quickly, unable to pay its bills.

## CONFIDENTIAL

Page 115

1           And so that was my -- I interpret all of that  
2   to be indicating a risk of NorthStar being overextended  
3   because of the project. There may be other references  
4   in here, but that's an example of some of the testimony  
5   that gave rise to my comment wanting to rebut the idea  
6   that somehow we're stretched or overextended as part of  
7   completing the Vermont Yankee work.

8           Q     Okay. You mentioned I think when we were  
9   talking about the backlog document about hurricane work.  
10   Is that a material part of the revenue that the company  
11   earns, NorthStar?

12          A     No, not at this point in time. There had been  
13   some years where that has generated a meaningful amount  
14   of revenue in the 2017 and 2018 storms. It was really  
15   fairly minimal in 2019. It's event based, so it's  
16   something that will flex up and down when there's some  
17   sort of an event, hurricane or any other type of  
18   disaster or project of that sort. So we don't see it as  
19   a recurring part of the revenue base, but when something  
20   happens, we have some demonstrated credentials on being  
21   able to support that type of work.

22          Q     So you haven't relied on it as part of the  
23   financial strength, if you will, of NorthStar?

24          A     No. It is more financial -- incremental to  
25   the financials when a large event like that happens.

## CONFIDENTIAL

Page 116

1 Whenever we do financial projections or modeling, we  
2 tend to take very conservative assumptions on that line  
3 of business because it is harder to predict obviously.

4 Q Okay. Let's go back to Page 6 of your  
5 testimony. Actually, before we do that, let me ask you  
6 about -- if you can tell me how -- just mechanically how  
7 the dollars that are transferred from the Vermont Yankee  
8 NDT or Nuclear Decommissioning Trust to ADP, how they  
9 are tracked and reported to the NRC. Do you have an  
10 understanding of that?

11 A Yes, I do. But just to clarify, they're not  
12 being transferred to ADP. They're being transferred to  
13 NorthStar in this case because that's a NorthStar  
14 stand-alone project.

15 Q Okay. Thank you for the correction.

16 A So before any funds are withdrawn from the  
17 Vermont Yankee trust funds for the decommission trust  
18 fund, a notice letter is sent to the Nuclear Regulatory  
19 Commission a minimum of 30 days before any draws are  
20 made giving them a period to react and object if  
21 appropriate to the draw. That's never happened, but if  
22 I understood your question correctly, there is a  
23 standard 30-day notice to the Nuclear Regulatory  
24 Commission before any draws are made against the trust.

25 Q And do you have some sort of standard

## CONFIDENTIAL

Page 117

1 reporting format that you track these dollars? And I  
2 guess it's sort of a cumulative reporting with some  
3 itemization?

4 A Yes, that's a reasonable characterization.  
5 There is a -- let's call it kind of a formal accounting  
6 that's prepared every month. There's a similar  
7 structure here that was approved in Vermont where we are  
8 only being paid for progress against defined  
9 decommissioning milestones. And so there is a running  
10 tracking of the percent complete against the defined  
11 milestones that are relevant to that project, and then  
12 that becomes the underlying basis and support for the  
13 payment draws that are ultimately made. So I think the  
14 summary that you provided is reasonable and that is how  
15 we manage it.

16 Q Is that documentation that's given to the NRC  
17 periodically?

18 A I don't recall -- they receive periodic  
19 reports. I don't recall whether they receive -- the  
20 notice that is given is more of a general notice of here  
21 are the dollars that we expect to draw and it's  
22 approximately this amount, whereas the actual document  
23 that supports the draw from the trust is much more  
24 detailed and will be at the disclosed amount to the NRC  
25 or less. I know there are a number of different pieces

## CONFIDENTIAL

Page 118

1 of reporting that go back and forth, but the monthly  
2 30-day notice that I just described is more of a -- is  
3 less detailed than the actual underlying support that is  
4 provided to support the trust draw itself.

5 Q Is that underlying support and the report that  
6 it supports, are those public documents or are they  
7 filed confidentially?

8 A I don't believe any of that is made public. I  
9 would have to -- would have to confirm what, if  
10 anything, comes out, but generally, that's considered  
11 proprietary and that level of detail I believe would not  
12 be public.

13 Q Will the reporting -- will there be any  
14 similar level of detail reporting for Florida?

15 MR. HERNANDEZ: Object to form.

16 A In general, as part of supporting -- in this  
17 case, the structure is different. We're applying for  
18 payment to a trust that continues to be owned and  
19 controlled by Duke Energy Florida. So I'm comfortable  
20 and confident in saying that yes, there will be detailed  
21 reporting to justify the payment draws against the  
22 defined -- pay item schedule is the term we often use.  
23 But yes, there will be detailed reporting provided to  
24 Duke Energy Florida as part of the application for  
25 monthly payment from the decommissioning trust.

## CONFIDENTIAL

Page 119

1 Q Has Duke passed on the types of reports that  
2 you make in Vermont to see kind of how you do business?

3 MR. HERNANDEZ: Object to form.

4 A I don't know what has been shared back and  
5 forth at the level of detail draft monthly reporting.  
6 Mr. Hobbs may be able to speak to that, but I have not  
7 been personally involved in drafting the monthly  
8 reporting format yet.

9 Q Okay. Now let's go to Page 6. Just the last  
10 couple of questions here. Are you there?

11 A Yes.

12 Q Okay. So there's a Q and A about Mr. Polich  
13 not being a CPA. Do you see that?

14 A Yes.

15 Q And then I just want to understand the  
16 qualitative nature of this sentence. You say he appears  
17 to be an engineer, and I want to understand why you said  
18 it that way.

19 A It was just -- I don't have definitive  
20 knowledge of that. From reading his resume, he appeared  
21 to be a licensed engineer. So I didn't imply anything  
22 negative on that particular sentence. It was just from  
23 reading his resume, he appears to be an engineer.

24 Q Okay. In the same way you appear to be a CPA?

25 A If one read my resume and saw that it said



## CONFIDENTIAL

Page 120

1 CPA, yes.

2 Q So you're not suggesting that somehow you  
3 don't believe that Mr. Polich is not only a nuclear, but  
4 I think a mechanical engineer, right?

5 A No, I am in no way casting aspersions on  
6 Mr. Polich's engineering qualifications.

7 MR. REHWINKEL: Okay. That's all I have. I  
8 appreciate your time and your patience and your  
9 answers. Thank you.

10 THE WITNESS: Thank you.

11 MR. MOYLE: Now we're at that part of the  
12 deposition where we get to figure out who gets to  
13 go next. So I know Jay Brew has some questions, I  
14 think Suzanne has questions and I have questions.  
15 And I'm happy to let Jay take the lead if he is  
16 comfortable doing that.

17 MS. BROWNLESS: Let's let Jay go first, Jon.

18 MR. MOYLE: Yeah, Suzanne, are you okay with  
19 that?

20 MS. BROWNLESS: Yes, sir.

21 MR. BREW: Can you hear me?

22 THE WITNESS: Yes.

23 CROSS-EXAMINATION

24 BY MR. BREW:

25 Q Okay. Good afternoon, Mr. Adix. I'll be

## CONFIDENTIAL

Page 121

1     brief.   I'm Jay Brew.   I represent PCS Phosphate.

2                 MR. REHWINKEL:   Hey, Jay?

3                 MR. BREW:    Yes.

4                 MR. REHWINKEL:   Before you get started, the  
5     court reporter needs to ask you a question that you  
6     weren't around for when she went through it, I  
7     think.

8                 MR. BREW:    Okay.

9                 THE COURT REPORTER:   Do you consent to the  
10    fact that I remotely swore in the witness at the  
11    beginning of the deposition?

12                MR. BREW:    Yes.

13                THE COURT REPORTER:   Thank you.

14   BY MR. BREW:

15           Q     Can you hear me all right?

16           A     Yes, I can hear you.

17           Q     Okay.   I'm having a little trouble with my  
18    speaker.

19                Good afternoon, Mr. Adix.   This should be  
20    relatively quick and painless.

21           A     Okay.

22           Q     First, have you reviewed the Duke petition in  
23    this matter?

24           A     No, I have not.

25           Q     Okay.   Are you completely familiar with the

## CONFIDENTIAL

Page 122

1 underlying transactional documents?

2 A No. I would characterize it as I have a  
3 general working knowledge, but Mr. Hobbs is going to be  
4 much more of the expert witness on all aspects of the  
5 transactional documents.

6 Q Okay. Is it your understanding that the  
7 transactional documents are supposed to cover all  
8 elements of the transaction, including dismantling and  
9 decommissioning removal of materials, high-level  
10 storage, maintenance and security of the storage  
11 facility?

12 MR. HERNANDEZ: Object to form.

13 A That is my understanding, yes, at a high  
14 level.

15 BY MR. BREW:

16 Q Okay. And in your testimony, you described  
17 the DSA as a fixed-price contract; is that right?

18 A That is correct.

19 Q And by fixed price, you're referring to the  
20 \$540 million that's supposed to be included in a sub  
21 account?

22 A Correct also.

23 Q Okay. Is that fixed price sufficient to  
24 accomplish everything that ADP has agreed to accomplish  
25 in the transaction?

## CONFIDENTIAL

Page 123

1           A     Yes, we believe that it is in the current  
2     construct of the transaction.

3           Q     Okay. Does it include any responsibility for  
4     the independent spent fuel storage installation and  
5     spent nuclear fuel?

6                     MR. HERNANDEZ: Object to form.

7           A     Yes, that scope is included as part of the  
8     overall transaction structure.

9     BY MR. BREW:

10          Q     Okay. Are any costs associated with the  
11     independent spent fuel storage installation and spent  
12     nuclear fuel included -- or to be included in the DSA?

13          A     No, I don't believe so. That was not part of  
14     the structure as the -- that was actually part of the  
15     reason the ownership transfer of the fuel occurs to put  
16     ADP in a position to seek Department of Energy recovery  
17     for the key costs related to the spent fuel management.

18          Q     Okay. And so am I correct that ADP SF, is it  
19     1 or i?

20          A     1, SF-1.

21          Q     Okay. That's what I thought. That ADP SF-1  
22     assumes ownership of the independent spent fuel storage  
23     installation and the spent fuel from the date of  
24     closing?

25          A     Yes, that is my understanding as well.

## CONFIDENTIAL

Page 124

1 Q And it remains responsible and has ownership  
2 of those materials indefinitely?

3 A Correct.

4 Q Okay. And ADP SF-1 and the related companies  
5 have no recourse to Duke or its rate payers for any of  
6 the costs associated with the independent spent fuel,  
7 storage installation and spent fuel beyond the date of  
8 closing?

9 MR. HERNANDEZ: Object to form.

10 A That is my understanding as well and again  
11 would defer to Mr. Hobbs on the details of that  
12 structure and the negotiations around it, but yes, that  
13 is my understanding.

14 BY MR. BREW:

15 Q Okay. I'm trying to get the understanding  
16 from your side right now, not from Duke's side.

17 A Okay.

18 Q Part of the arrangement includes removal of  
19 all of the listed materials except for excluded  
20 facilities from the site; is that right?

21 A I believe so.

22 Q Okay. And you discussed earlier that that  
23 would include or contemplates removing low-level waste,  
24 meaning levels A, B and C to the site plans for Andrews  
25 County in Texas; is that right?

## CONFIDENTIAL

Page 125

1           A     Correct. That is the planned destination for  
2 all of that waste.

3           Q     Okay. To the extent that decommissioning  
4 generates greater than class C waste, does ADP SF-1 own  
5 that greater than class C waste?

6           A     Yes.

7           Q     Okay. And so you are totally responsible for  
8 decontaminating it and finding a place to put it; is  
9 that right?

10          A     Yes. That was a core commercial point  
11 negotiated into the transaction.

12          Q     And can the site in Andrews County, Texas  
13 accept greater than class C waste?

14          A     Right now it can be accepted to be stored  
15 there. The long-term disposal is still under  
16 evaluation, what steps may be necessary to allow for  
17 that, but it is available as a, at a minimum, an interim  
18 destination and potentially more.

19          Q     Okay. But for our purposes in this docket,  
20 how the greater than class C waste is stored, disposed  
21 of or moved is your problem, not Duke's; is that right?

22                THE COURT REPORTER: Was there an answer?

23          A     I said that is correct. I don't -- I'm sorry  
24 if there was --

25

## CONFIDENTIAL

Page 126

1 BY MR. BREW:

2 Q I'm sorry. I didn't hear the answer. Okay,  
3 thank you.

4 With respect to the DSA and decommissioning  
5 and dismantling itself, is there any provision for  
6 changing the fixed contract other than a change in  
7 end-state conditions?

8 A No, I do not believe there is.

9 Q Okay. On Page 5 of your testimony, and  
10 Mr. Rehwinkel talked a little bit about this, but I just  
11 wanted some clarification.

12 You say beginning on line 3 that the DSA  
13 represents the result of a lengthy negotiation process  
14 and every provision as written in the DSA is important  
15 and cannot be isolated or otherwise changed without  
16 changing other parts of the transaction.

17 Do you see that?

18 A I do.

19 Q Okay. Throughout the entire period of the  
20 negotiation -- first of all, were you involved in those  
21 negotiations?

22 A No, I was not the primary company  
23 representative on those negotiations, but remained in  
24 close contact with the executives who were representing  
25 NorthStar and ADP in those negotiations.

## CONFIDENTIAL

Page 127

1           Q     Okay. Is it your understanding that those  
2 negotiations were conducted with the full knowledge that  
3 Duke would require approval from the Public Service  
4 Commission of Florida for the transaction?

5           A     Yes.

6           Q     Okay. You talked briefly with Mr. Rehwinkel  
7 about Vermont Yankee and the role of Entergy in Vermont  
8 and it was a little confusing to me.

9                     Is it your understanding that Entergy has any  
10 recourse to Vermont rate payers for any of its costs of  
11 decommissioning?

12                   MR. HERNANDEZ: Object to form.

13           A     It's my understanding that Entergy is not  
14 involved in the decommissioning of Vermont Yankee in any  
15 way, shape or form anymore, that the transaction that  
16 NorthStar closed with Entergy removed them from that  
17 responsibility.

18 BY MR. BREW:

19           Q     Was there -- okay. That's fine.

20                   MR. BREW: That's all I have. Thank you so  
21 much.

22                   THE WITNESS: Thank you.

23                   MR. MOYLE: Suzanne, whatever your preference  
24 is.

25                   MS. BROWNLESS: I don't have very many, Jon,



## CONFIDENTIAL

Page 128

1           so if I could go next I'd appreciate it.

2           MR. MOYLE: Sure.

3                           CROSS-EXAMINATION

4 BY MS. BROWNLESS:

5           Q     Good afternoon, sir. How are you?

6           A     Good afternoon. Good. Thank you. Yourself?

7           Q     Fine.

8                   I want to go back to the sentence on Page 5  
9 that everybody keeps talking about which is the sentence  
10 that talks about how the DSA cannot be isolated or  
11 otherwise changed without changing other parts of the  
12 transaction.

13          A     Yes.

14          Q     And there's been several questions about that  
15 and I just want to make sure I understand sort of in  
16 simple terms what that means.

17                   Is it NorthStar's position that the Commission  
18 must approve all of the provisions of the DSA as is  
19 without modification, all up or all down; is that  
20 correct?

21          A     It's NorthStar's position and ultimately  
22 through ADP that if the deal was re-opened for any  
23 reason, it's a very integrated document and a lot of  
24 overlap between the different provisions. And so, yes,  
25 at a minimum, it would be a source of significant delay

## CONFIDENTIAL

Page 129

1 because the deal could not be signed with any of these  
2 suggestions just layered in and would require a  
3 revisiting of the entire transaction.

4 So I don't feel I am in a position to tell the  
5 Commission what it can or cannot do, but this point of  
6 my testimony was, when I say it cannot be isolated or  
7 otherwise changed without changing other parts of the  
8 transaction, part of my testimony is that we would have  
9 to revisit the entire transaction at that point because  
10 of the degree of integration and overlap and interplay  
11 between the final negotiated outcome.

12 So I don't presume to tell the Commission what  
13 it can or can't do, but arbitrarily or dropping in one  
14 point in isolation is not as simple as it may appear as  
15 we think about the transaction, if that's a fair  
16 response.

17 Q So the bottom line for you is if any of the  
18 five terms and conditions that OPC has suggested be  
19 added are, in fact, added, as far as NorthStar is  
20 concerned, that would scotch the whole deal and  
21 everybody would have to go back and negotiate?

22 A Yes.

23 Q Is it fair to say that in your opinion the  
24 most important safeguard for DEF's customers is that the  
25 ADP group only gets paid for each specific

## CONFIDENTIAL

Page 130

1 decommissioning milestone it completes in accord with a  
2 set time schedule?

3 A Yes, I believe that -- I agree with that  
4 characterization.

5 Q Okay. On Page 7 of your testimony, if you can  
6 turn there?

7 A Yes.

8 Q On lines 8 through 19 you discuss GAP  
9 standards regarding goodwill. Do you see that, sir?

10 A I do.

11 Q Okay. Can you tell me the specific GAP  
12 standards that you are referencing there?

13 A Yes. It's based on the -- the relevant  
14 accounting standard is -- it's from the Accounting  
15 Standards Codification. ASC 805 is the most current  
16 authoritative source of the accounting rules around  
17 goodwill.

18 Q Okay. And that's A as in Adam, S as in Sam,  
19 what else?

20 A C as in Charlie.

21 Q Okay. ASC 805?

22 A Correct.

23 Q Thank you. And are these the current GAP  
24 standards regarding goodwill as far as you're aware?

25 A Yes, they are. And in my rebuttal testimony,

## CONFIDENTIAL

Page 131

1 I was simply wanting to point out that among other  
2 things there was some outdated information on the need  
3 to amortize goodwill versus evaluating for impairment,  
4 and ASC 805 in my opinion is the most current source of  
5 reference to look at for what the relevant accounting  
6 rules are around that.

7 Q On Page 11, if you can turn there?

8 A Okay.

9 Q Lines 7 and 8.

10 A Yes.

11 Q Is it fair to say that you think it  
12 appropriate that NorthStar be evaluated as a going  
13 concern and not liquidation salvage value?

14 A Yes, I agree with that.

15 Q Okay. Wouldn't a liquidation salvage value be  
16 a worst case scenario, in other words, represent the  
17 greatest risk for rate payers?

18 A I think, you know, under the circumstances  
19 that you found yourself in that position, that would be  
20 a -- that would be a bad situation for NorthStar. It  
21 wouldn't necessarily be a bad position for rate payers  
22 because of the protections that had already been  
23 negotiated into the DSA.

24 So consistent with my previous testimony  
25 earlier this afternoon, because of the protections

## CONFIDENTIAL

Page 132

1 generated by the way the payment is scheduled, because  
2 of the protections generated by the provisional trust  
3 and a number of the other terms that are built in there,  
4 that would be a very bad outcome for NorthStar, but my  
5 testimony would be that there are reasonable protections  
6 that would keep that type of liquidation scenario from  
7 being a bad outcome for rate payers or necessarily even  
8 costing additional to rate payers because there would be  
9 the work that had already been completed, plus there  
10 would be the value of the provisional trust that's  
11 structured into the transaction as a primary layer of  
12 incremental cash and disposal or eventually all cash  
13 protection in the transaction.

14 So I think about that a little bit differently  
15 is the way I -- is the way I think about the approach on  
16 that and the risk specifically from a rate payer  
17 perspective.

18 Q When you were negotiating this contract, did  
19 you negotiate it with protections that were aimed at a  
20 complete liquidation scenario or did you negotiate the  
21 protections based on what you discussed with  
22 Mr. Rehwinkel, perhaps a positive -- a partial  
23 liquidation?

24 MR. HERNANDEZ: Object to form.

25 A I would say that the protections were intended

## CONFIDENTIAL

Page 133

1 and negotiated to apply in any scenario along the  
2 spectrum. Of course, in the normal course of  
3 operations, we complete the project. There is a  
4 meaningful, you know, surplus funding above and beyond  
5 the \$540 million that was transferred to ADP and it's a  
6 benefit to the rate payers.

7 The protections were negotiated where if under  
8 any scenario the work was not able to be completed, that  
9 there would be funding left for the work that had not  
10 been completed with a direct provisional buffer.

11 So, you know, I think the protections are  
12 really negotiated with the thought of any scenario,  
13 worst case or otherwise, not pushing the problem back to  
14 the rate payers. It's a problem for NorthStar, it's a  
15 problem for ADP, but negotiated and structured in such a  
16 way that it shouldn't be a problem for the rate payers,  
17 particularly with Duke Energy Florida keeping control of  
18 the trust.

19 BY MS. BROWNLESS:

20 Q Okay. Can you turn to Pages 12 through 15 of  
21 your testimony, please?

22 A Yes.

23 Q And on those pages you discuss Mr. Polich's  
24 recommendations, do you not?

25 A I do, yes.

## CONFIDENTIAL

Page 134

1           Q     Okay. And I just want to go through each of  
2     these five recommendations and ask you the same  
3     question, which is have you quantified a cost to  
4     NorthStar of implementing each rack. So let's start  
5     with the amendment of the Parental Support Agreement to  
6     add the State of Florida.

7                     Have you done any attempt to quantify the cost  
8     to NorthStar if you had to do that?

9           A     No, we have not.

10          Q     Okay. Are you aware of whether -- and I'm  
11     going to ask you about each enhancement as well.

12                     Are you aware of whether that recommendation  
13     would require additional Nuclear Regulatory Commission  
14     approval?

15          A     For -- and this is for the addition to the  
16     Parental Support Agreement?

17          Q     Yes, sir, of the State of Florida.

18                     MR. HERNANDEZ: I'm going to object to form.

19          A     I believe there is a requirement around that,  
20     though the regulatory details around that are a little  
21     bit beyond my expertise. But I believe there is  
22     certainly a notice and approval requirement around that.

23     BY MS. BROWNLESS:

24          Q     Thank you.

25                     With NorthStar -- and I know you discussed

CONFIDENTIAL

Page 135

1 this quite at length that NorthStar maintain a  
2 \$105 million cash or cash equivalent during the term of  
3 the transaction. Have you attempted to quantify the  
4 financial cost to NorthStar if required to do that?

5 A No, I have not.

6 Q Okay. Is that a term or condition which would  
7 essentially make it highly difficult for NorthStar to  
8 complete the project?

9 A Absolutely.

10 Q Okay. Are you aware of whether this -- are  
11 you aware of whether this condition would require NRC  
12 approval?

13 MR. HERNANDEZ: Object to form.

14 A I do not know if that condition would require  
15 NRC approval. As I testified earlier, I do believe it  
16 would become an issue with the company's creditors  
17 depending on how it was structured specifically, and I  
18 can't speak to the NRC on that point.

19 BY MS. BROWNLESS:

20 Q Thank you.

21 Point number 3: Increasing the contracture's  
22 provisional trust contributions from 6 percent to  
23 10 percent. Have you calculated a cost to NorthStar for  
24 that provision?

25 A No, I have not.



## CONFIDENTIAL

Page 136

1           Q     Okay. And again, were you required to do  
2     that, what impact do you think it would have on  
3     NorthStar's ability to perform?

4           A     I think it would make it more difficult to  
5     perform and actually would raise the risk of successful  
6     performance because there would be less working capital  
7     and less flexibility in how the work was pursued.

8           Q     Okay. Do you understand or know whether this  
9     additional requirement would require NRC approval?

10          A     I do not know about the NRC on that position.  
11     And again, we anticipate potential creditor issues on  
12     that subject to further review.

13          Q     Okay. What about amending the reporting  
14     requirements in Attachment 9, Section B, from quarterly  
15     to monthly, expanding the information reported requiring  
16     reporting to PSC on a monthly basis, quarterly and  
17     annual basis. Have you quantified the potential cost  
18     for those enhancements?

19          A     No, we have not quantified the cost for that  
20     recommendation.

21          Q     Okay. Here today can you give us any kind of  
22     estimate off the top of your head?

23          A     No, I really cannot because of the -- going  
24     back to the integrated nature of the transaction, I  
25     don't feel comfortable trying to put a cost at something

## CONFIDENTIAL

Page 137

1 that really isn't quantifiable in my opinion.

2 Q Okay. And would this addition require NRC  
3 approval, do you know?

4 A I do not know.

5 Q And finally, establishing an independent  
6 monitor to oversee decommissioning activities and ADP  
7 CR3's financial status, have you attempted to quantify  
8 how much it would cost to hire an independent monitor?

9 A No, I have not.

10 Q Okay. In Mr. Polich's deposition exhibit  
11 number 10, late-filed deposition exhibit, he indicated a  
12 cost between \$90,000 and \$120,000 per year. Are you  
13 familiar with his exhibit?

14 A I have seen that, yes.

15 Q Okay. Do you agree with, first of all, the  
16 types of activities he's listed there?

17 A No, I do not.

18 Q And what do you think is wrong or missing or  
19 inaccurate about what he's listed?

20 MR. DICARLO: I would just add for the record,  
21 the witness does not have that document in front of  
22 him, and I recall that it was a list that was  
23 fairly extensive. I just wanted to make that clear  
24 for the record.

25 MS. BROWNLESS: Sure, and I understand that.

CONFIDENTIAL

Page 138

1 I thought he would have that with him as part of  
2 Polich's deposition.

3 A My answer to that point, subject to that  
4 clarification by Counsel, is it's not a matter of  
5 redlining or editing the list. The entire proposed  
6 function is both redundant in its nature related to the  
7 other protections already negotiated as part of the DSA  
8 and ADP's obligations to Duke Energy Florida, and it  
9 actually significantly -- in the spirit of a lot of  
10 testimony and questions about project execution and cost  
11 and timeliness, it raises the risk of project delays and  
12 cost increases as you have, you know, someone trying to  
13 look over the shoulder and provide another perspective  
14 when there are extensive reporting and monthly update  
15 processes already negotiated into the transaction.

16 So I see it as both redundant and actually  
17 raising the risk of delays and cost increases to the  
18 overall project depending on how someone interpreted  
19 their mandate for that type of role.

20 BY MS. BROWNLESS:

21 Q Okay. And do you have an idea generally  
22 whether the ballpark range he's got here, \$90,000 to  
23 \$120,000, is reasonable for an independent monitor? Do  
24 you have any experience which would give you any idea  
25 how to evaluate that?

## CONFIDENTIAL

Page 139

1           A     Well, if someone has -- if an established firm  
2     has quoted to do the work for that price, I think that's  
3     a price for the work. I am testifying that I'd question  
4     the whole kind of the underlying premise of that.

5     Mr. Polich has testified that his firm would do that  
6     scope of work for that price. I agree that that is his  
7     testimony for the record.

8           Q     Okay. But you have no opinion as to whether  
9     that is a reasonable amount given the activities listed?

10          A     I do not.

11          Q     Okay. And again, do you know whether adding  
12     that would require approval by the NRC?

13          A     I do not.

14          Q     Okay. Finally, in Mr. Polich's deposition, he  
15     indicated that he thought the price of these types of  
16     enhancements would be \$10 million. Do you remember  
17     that?

18          A     I do.

19          Q     Okay. Do you agree with that figure?

20          A     I do not.

21          Q     Okay. And do you have any -- can you give any  
22     idea at all of a ballpark figure or are you just unable  
23     to at this time?

24          A     No, I'm unable to. I found that to be an  
25     unsupported number and I thought it was inconsistent

## CONFIDENTIAL

Page 140

1 with previous testimony that said there would be no  
2 financial impact to the transaction in the original  
3 testimony, and then when questioned upon deposition, the  
4 number was 10 million. I don't know if that's a good  
5 number or a bad number, but it's an inconsistency where  
6 we start out with recommendations that are supposed to  
7 have no financial impact, and all of a sudden we're at a  
8 eight-figure cost which may or may not even be right.  
9 And so I struggle with the entire construct around  
10 quoting a number like that and its relevance to the  
11 original filed testimony.

12 MS. BROWNLESS: That's all I have. Thank you  
13 so much, sir.

14 THE WITNESS: Thank you.

15 MR. MOYLE: I'm going to have some questions.  
16 It's probably not going to be as short as the  
17 others. So do you want to take a break before we  
18 jump in?

19 THE WITNESS: I'm good if everyone else is  
20 good.

21 MR. REHWINKEL: Jon, you didn't include me in  
22 that other part, right?

23 MR. MOYLE: Yes. Well, let's do this. The  
24 court reporter has been going for a while. Let's  
25 just take a quick five, stretch, and then we'll

## CONFIDENTIAL

Page 141

1           come back.

2           THE WITNESS: All right. Very good.

3           (Recess from 5:05 p.m. to 5:11 p.m.)

4           CROSS-EXAMINATION

5   BY MR. MOYLE:

6           Q     Good afternoon. I know that you've been  
7     answering questions for a few hours now. I'm Jon Moyle  
8     and I represent the Florida Industrial Power Users  
9     Group. Some of the questions that I have for you have  
10    been addressed, so I'll review my notes and try not to  
11    be redundant, but let me start with kind of a broad  
12    question. Tell me, if you would, your understanding of  
13    the role of the Florida Public Service Commission.

14          A     Well, I understand them to be certainly the  
15    relevant regulator for Duke Energy Florida and they have  
16    approval rights over this transaction.

17          Q     Anything else?

18          A     No, that's how I would summarize things at a  
19    high level.

20          Q     Okay. So with respect to obligations to  
21    customers, do you believe they have any obligations or  
22    responsibilities to people that Charles represents and  
23    that Mr. Brew represents and that I represent?

24          A     Yes, I believe they do.

25          Q     And what is your belief about those

## CONFIDENTIAL

Page 142

1 responsibilities?

2 A Well, I can't give you a chapter and verse on  
3 their charter statement, but I certainly believe that  
4 they have an obligation to represent the interests of  
5 the rate payers and customers in the state of Florida  
6 and to ensure that transactions and changes are in their  
7 interests.

8 Q Yeah. And when you say changes there, you  
9 know, there's been some discussion about possible  
10 changes to the transaction and I just want to be clear.  
11 I mean, you're not saying that the Commission doesn't  
12 have the power to change anything in this transaction,  
13 are you?

14 MR. HERNANDEZ: Object to form.

15 A No, that's not my testimony.

16 BY MR. MOYLE:

17 Q But you're just -- you are saying, though, and  
18 Susan Brownless asked you questions about it, that any  
19 changes you believe would cause this deal to go off  
20 track?

21 A Yes, that is my testimony.

22 Q And that could be even a minor change?

23 A I can't speculate on what's minor or what's  
24 major. I believe that the entire transaction would  
25 reopen if something was imposed on the original

## CONFIDENTIAL

Page 143

1 construct. It's within the Commission's rights to do  
2 so. As I testified previously, I'm not in any way  
3 trying to say what they can or can't do, but changes to  
4 the current agreement construct would open the  
5 agreement.

6 Q Do you have an opinion whether you think it's  
7 fair to go to the Commission and say, here's this  
8 transaction, it's presented to you on a take it or leave  
9 it basis? Do you think that's a fair position to put  
10 the Commission in?

11 MR. HERNANDEZ: Object to form.

12 A I don't have an opinion on fairness. I  
13 believe the transaction is a fairly negotiated  
14 transaction between two sophisticated parties and with  
15 significant protections for the rate payers of the state  
16 of Florida and it's in their interest for the  
17 transaction to move ahead.

18 BY MR. MOYLE:

19 Q Are you familiar with the history of the CR3  
20 project?

21 A Not in a detailed way, no.

22 Q So with respect to some of the past problems  
23 that have taken place, you wouldn't have knowledge about  
24 the building cracking or anything like that?

25 A I'm aware that the building crack occurred and



## CONFIDENTIAL

Page 144

1 I'm aware of the circumstances under which the plant  
2 shut down. I don't have detailed knowledge beyond those  
3 sorts of high level pieces of history.

4 Q Yeah. Are you aware that there was an upgrade  
5 made to the project that cost the rate payers hundreds  
6 of millions of dollars because the upgrade was made but  
7 then the plant never started operating again?

8 MR. HERNANDEZ: Object to form.

9 A No, I wasn't aware of that.

10 BY MR. MOYLE:

11 Q Yeah. But you're of the belief that  
12 notwithstanding the history of the Crystal River 3, that  
13 having -- if you're the Commission, having someone keep  
14 an eye on it as monitoring the project and the flow of  
15 the project, you think that's an unreasonable  
16 proposition; is that right?

17 MR. HERNANDEZ: Object to form.

18 A I believe that provision increases the risk of  
19 timely project execution and potentially raises the cost  
20 of completing the project.

21 BY MR. MOYLE:

22 Q Do you have an independent monitor in, where  
23 is it, Vermont?

24 A Information is provided to the State there on  
25 an ongoing basis as part of the public Memorandum of

## CONFIDENTIAL

Page 145

1 Understanding that is available on that project. So  
2 there is reporting that was agreed to as part of our  
3 Memorandum of Understanding with the State of Vermont.

4 Q And is that -- so that was a poor question. I  
5 apologize for that. Is there an independent third party  
6 that is involved in the Vermont deal?

7 A Not in that role. They have consultants that  
8 are representing the State's interests and I believe  
9 they're contracted by the Public Service Commission, but  
10 I'm not sure who the ultimate contracting party is for  
11 their consultants. But ultimately, we answer to the  
12 State versus some independent monitor.

13 Q Yeah. So what do these consultants for the  
14 Vermont Public Service Commission do?

15 MR. HERNANDEZ: Object to form.

16 A Review reporting and its completeness relative  
17 to what was agreed in our Memorandum of Understanding  
18 with the State.

19 BY MR. MOYLE:

20 Q Yeah. And are you -- I think I saw somewhere  
21 where you said you're on time and on budget with the  
22 Vermont project; is that right?

23 A That is correct.

24 Q So I take it that this review process or this  
25 monitoring process in Vermont has not slowed things

## CONFIDENTIAL

Page 146

1 down; is that correct?

2 MR. HERNANDEZ: Object to form.

3 A No, it has not been a source of delay there  
4 because we're simply doing what we agreed to in the  
5 original agreement that gave rise to the transaction.

6 BY MR. MOYLE:

7 Q It's not costing you any money there either;  
8 is that correct?

9 MR. HERNANDEZ: Object to form.

10 A It's not costing us money beyond what we  
11 included in our budget. I testified that we are on  
12 budget.

13 BY MR. MOYLE:

14 Q Right. Did you include money in your budget  
15 for monitoring like they're doing in Vermont?

16 A We included money in our budget to execute the  
17 DSA as it's currently been constructed.

18 Q Okay. And that includes a monitoring  
19 component, correct?

20 A It includes the agreed-upon reporting to Duke  
21 Energy Florida.

22 Q Yeah. To Duke Energy Florida or you meant --  
23 I'm sorry. We're talking past each other. I'm asking  
24 you about your monitoring in Vermont.

25 A Oh, you're still talking about Vermont. I did

## CONFIDENTIAL

Page 147

1 not understand that.

2 Q Did you budget money for that reporting and  
3 monitoring in Vermont?

4 A Yes.

5 Q How much?

6 A It's not carved out. It's part of the general  
7 project overhead and administration. It's not a  
8 separate line item.

9 Q So you don't know -- you don't have  
10 information on that specifically?

11 A It's not a separately identified cost for that  
12 component.

13 Q And was this something that the Vermont  
14 Commission asked of the petitioners, the folks who  
15 brought the deal to them, to say we want to have some  
16 consultants, we want to keep an eye on this, we want to  
17 monitor this, this is going to be part of what we  
18 require? Was that how that happened?

19 MR. HERNANDEZ: Object to form.

20 A There was an extensive negotiation process  
21 that gave rise to the Memorandum of Understanding that  
22 allowed the project to move forward. And so what  
23 appears in that document is the byproduct or the end  
24 product of those negotiations with the State of Vermont.

25

## CONFIDENTIAL

Page 148

1 BY MR. MOYLE:

2 Q Okay. So the State of Vermont was negotiating  
3 and sought those provisions, fair?

4 A I'm sorry. What kind of provisions?

5 Q The provisions that we're talking about with  
6 respect to the monitoring and the consultants that are  
7 involved in giving reports to the Vermont Public Service  
8 Commission?

9 A Yes, everything that was negotiated is in the  
10 publicly-available Memorandum of Understanding for the  
11 transaction.

12 Q Okay. You talked about a distinction between  
13 hard deals and soft deals. I'm not sure you said deals,  
14 but my recollection is hard and soft. Do you recall  
15 that?

16 A Yes. That was in the context of backlog.

17 Q And this project is still classified as soft;  
18 is that right?

19 A Yes. It is an executed contract subject to  
20 regulatory approval.

21 Q All right. And so the reason it's soft is  
22 because there's still a possibility that an independent  
23 body like the Public Service Commission could request  
24 some changes like an independent monitor, correct?

25 A No. The reason it's soft is because the

## CONFIDENTIAL

Page 149

1 regulatory approval process hasn't been completed. And  
2 therefore, we're not in a position to proceed with the  
3 actual execution of the work.

4 Q You have an executed contract with Duke,  
5 right?

6 A Yes.

7 Q Are there other contracts that are not  
8 executed at this point?

9 A No. At this point, there's nothing else --  
10 there's nothing else material in that number that is not  
11 supported by an underlying contract.

12 Q When you were talking about the Disposal  
13 Reservation Agreement, the 30 million --

14 A Yes.

15 Q -- it sounded to me like you weren't sure  
16 whether that contract was executed or not. Do you know,  
17 is that contract executed and in place?

18 A There is agreed-upon price -- well, the  
19 \$30 million disposal guarantee is executed and will be  
20 executed and will be in place as of the date of the  
21 closing. We don't have an approved transaction yet, so  
22 it's not really in force at this point. So, you know,  
23 it will be effective the date of the closing of the  
24 transaction.

25 Q Right. But you're saying that you've seen the

## CONFIDENTIAL

Page 150

1 document, you're aware of the document, there are  
2 signatures on the document, there's a document that says  
3 this is the deal and it's just subject to a condition  
4 subsequent of the Commission approving the transaction.  
5 Is that your testimony?

6 MR. HERNANDEZ: Object to form.

7 A I'm testifying that that agreement exists and  
8 it is an integral part of the DSA and must be in place  
9 as part of closing the DSA.

10 BY MR. MOYLE:

11 Q Okay. And it's in writing?

12 A Yes.

13 Q Have you seen it?

14 A No.

15 Q Are there other parts of your rebuttal  
16 testimony that were based not on the testimony filed by  
17 Mr. Polich in this case but based on his deposition?

18 A Yes, there were -- well, there were multiple  
19 rebutting both the original testimony and the  
20 clarification of his testimony that he offered in the  
21 deposition. So there are elements of both pieces of his  
22 on the record testimony that I had attempted to address  
23 in my rebuttal.

24 Q Yeah. And did you decide to do this? This  
25 was just your decision to say, I'm going to take on

## CONFIDENTIAL

Page 151

1 issues that he raised in his deposition?

2 MR. HERNANDEZ: Object to form.

3 A That was following discussions with Counsel on  
4 the transaction.

5 BY MR. MOYLE:

6 Q Okay. You have a good background in the waste  
7 business based on your work with, is it Veolia?

8 A Yes.

9 Q Yeah. The classifications that you described,  
10 A, B and C --

11 A Yes.

12 Q -- have you-all looked at -- I mean, C is the  
13 most significant with respect to radiological  
14 characteristics and A is the least; is that right?

15 A Yes.

16 Q So when you're looking at putting together  
17 this arrangement, did you do some kind of an inventory  
18 about how much was going to be waste that was going to  
19 be an A compared to B compared to C? Did somebody do  
20 that in this deal?

21 MR. HERNANDEZ: Object to form.

22 A Yes, there are assumed waste profile and waste  
23 mix assumptions underlying the overall transaction  
24 model.

25



## CONFIDENTIAL

Page 152

1 BY MR. MOYLE:

2 Q Yeah. And who did that? Who put together  
3 those -- like, is it fair to call them waste  
4 characterization studies?

5 A I don't recall who did that. I don't know who  
6 specifically performed that piece of the project or that  
7 piece of the preparation.

8 Q Yeah. But it was one of the companies that  
9 you're representing or you're not sure?

10 A I believe so, but I don't know for sure who  
11 actually completed that work.

12 Q Yeah. Do you know what that was based on?

13 A No, I cannot speak to that in detail.

14 Q Yeah. Is there any situation where you take  
15 apart a nuclear power plant and you have material that  
16 is beyond the C classification?

17 MR. HERNANDEZ: Object to form.

18 A Yes, that's possible.

19 BY MR. MOYLE:

20 Q And what do you do you if that happens?

21 MR. HERNANDEZ: Object to form.

22 A Well, that's been contemplated in the  
23 transaction that that's a part of the scope for ADP to  
24 manage that waste, and we are required to move it off  
25 site either to a storage or permanent disposal location.

## CONFIDENTIAL

Page 153

1 BY MR. MOYLE:

2 Q Have you been aware historically that's been  
3 quite a challenge to try to move nuclear fuel rods,  
4 correct?

5 A Yes. That's not my area of expertise, but I  
6 understand that that is -- that has been contemplated as  
7 part of the construct of this transaction by people that  
8 have the right experience, the right expertise on how  
9 to -- on how this will actually work.

10 Q Yeah. So tell me at a high level, what  
11 happens with the spent fuel rods?

12 MR. HERNANDEZ: Object to form.

13 A They stay where they are until there is an  
14 approved location for them to go elsewhere.

15 BY MR. MOYLE:

16 Q And that could either be at a facility that  
17 you-all own and gets permitted or it could be, you know,  
18 a Yucca mountain type facility that the federal  
19 government puts in place?

20 A Yes, I would agree that there are multiple  
21 scenarios.

22 Q Yeah. And what's the status of permitting  
23 with respect to you-all being able to accept that  
24 material on an interim basis? You had answered a prior  
25 question talking about that could be a possibility that

## CONFIDENTIAL

Page 154

1 you could take it in Texas on an interim basis; is that  
2 right?

3 A That is one possible scenario. It's too soon  
4 to say whether that is going to be an allowable or the  
5 preferred option as we go forward.

6 Q Yeah. But none of the pricing of that is part  
7 of this deal?

8 A No, it's not.

9 Q Okay. Do the companies that you're involved  
10 with, do they have permits in hand to be able to take on  
11 an interim basis spent nuclear fuel rods?

12 MR. HERNANDEZ: Object to form.

13 A To be able to take where? Can you clarify the  
14 question?

15 BY MR. MOYLE:

16 Q Yes. Your facility in Texas, I mean,  
17 that's -- my understanding is that you think that that  
18 may be a potential solution to take the spent nuclear  
19 fuel rods, consolidate them in a single location, and  
20 Texas might be a location to do that; is that right?

21 A That is a possible outcome.

22 Q Yeah. And where is that from a business  
23 development standpoint on your side of the table?

24 MR. HERNANDEZ: Object to form.

25 A It's still in process and there have been no

## CONFIDENTIAL

Page 155

1 permits issued at this point, but it is an active  
2 project.

3 BY MR. MOYLE:

4 Q Okay. So no permits, not a single permit with  
5 respect to that at this point?

6 A No, there is not a permit in place with  
7 respect to that at this point.

8 Q If a commissioner was to ask you when you're  
9 on the stand to say, Well, what are we going to do with  
10 the spent nuclear fuel rods, I mean, I understand Duke  
11 is changing title from that from Duke to another  
12 company, but it's all going to stay at Crystal River,  
13 what are we supposed to do with that, how would you  
14 answer that?

15 MR. HERNANDEZ: Object to form.

16 A Who is "we" in this context?

17 BY MR. MOYLE:

18 Q We, the Public Service Commission.

19 A The fuel rods remain where they are until  
20 there's a permitted option to take them somewhere else.  
21 It is no longer Duke's responsibility to manage the cost  
22 of the operation and maintenance of it until there is an  
23 option somewhere else.

24 Q And do you know with respect to the trust  
25 fund, the nuclear trust fund that you've talked about

## CONFIDENTIAL

Page 156

1 some, whether that would have sufficient funds in it to  
2 deal with the spent nuclear fuel rods?

3 A The decommissioning trust fund doesn't have  
4 anything to do with the spent fuel rods as I understand  
5 it. Please correct it.

6 Q No, you may have a better understanding than  
7 me. What's your understanding?

8 A My understanding is that the nuclear  
9 decommissioning trust is not available to pay for the  
10 costs of spent fuel management, and the structure of  
11 this transaction specifically excludes it from -- it  
12 does not contemplate any funding from the  
13 decommissioning trust, the spent fuel management.

14 Q Do you have an understanding of how management  
15 and ultimate disposal of spent nuclear fuel rods would  
16 be handled?

17 A Define how it would be handled.

18 Q From a financial standpoint.

19 A It's an obligation of the Department of Energy  
20 and it's something that we would manage with the  
21 Department of Energy to seek reimbursement for the  
22 related costs.

23 Q Yeah. Do you know if there was a fee on a per  
24 megawatt hour basis that has anything to do with spent  
25 nuclear fuel rod management?

## CONFIDENTIAL

Page 157

1           A     No, I'm not familiar with that topic at all.

2           Q     Okay. I just -- on a couple of points, just,  
3 I did math quickly in my head, but the cost of having an  
4 independent monitor would be -- how long is the project  
5 supposed to take, ten years?

6           A     The current estimate is approximately six and  
7 a half.

8           Q     So if you did -- if you had \$100,000 per year,  
9 the cost that the OPC expert said, \$600,000, you know,  
10 that's -- what is that, just over one percent of the --  
11 or one-tenth of a percent of the overall cost of this  
12 project? The overall cost is 500 million, right?

13          A     540 million to be exact.

14          Q     Yeah. So 500,000 is what, one-tenth of  
15 one percent?

16          A     Yes.

17                   MR. HERNANDEZ: Object to form.

18 BY MR. MOYLE:

19          Q     And the \$10 million number is one percent  
20 of -- less than one percent of your estimated value of  
21 the company as an ongoing concern, correct?

22                   MR. HERNANDEZ: Object to form.

23          A     If that math is correct.

24 BY MR. MOYLE:

25          Q     Yeah. The record probably will not reflect

## CONFIDENTIAL

Page 158

1     that. You said that in a way that might have had a  
2     little question mark in it, but I guess the math is what  
3     the math is.

4           A     I guess I wasn't clear on the point you were  
5     trying to make, sir, but I was agreeing that you  
6     interpreted that correctly.

7           Q     Okay. You are agreeing with my math?

8           A     Yes.

9           Q     Okay. You were asked some questions about a  
10    couple of business models that you have and that you use  
11    and you're familiar with in the company. One is the  
12    fixed cost basis, and that's the project that we have  
13    here, right?

14          A     Yes.

15          Q     And then you said there's also a time and  
16    materials way of doing business, correct?

17          A     Yes.

18          Q     Are you familiar with those kind of at a high  
19    level?

20          A     I am, yes.

21          Q     Okay. So time and materials, typically you  
22    have some costs that are added on top of the time and  
23    materials; isn't that correct?

24          A     Well, time and materials as I think about it  
25    and in the context of my previous testimony is that you

## CONFIDENTIAL

Page 159

1 are billing someone based on the time and based on the  
2 amount of work provided. There's not an end fixed cost  
3 for the work, but based on the ultimate scope and the  
4 level of effort to complete the work, it will be a  
5 variable number that is billed.

6 Q Yeah. Do people add 10 percent overhead  
7 administration, or maybe not 10 percent, but some figure  
8 for overhead administration and then also a profit  
9 number on time and material contracts that you're  
10 familiar with?

11 MR. HERNANDEZ: Object to form.

12 A There's usually some markup on the time and  
13 materials. It can vary from contract to contract.

14 If I could, though, I would like to correct  
15 one point for the record just since I'm not sure what  
16 the point of the question was going back to your  
17 previous point. \$10 million is one percent of a  
18 billion, not a tenth of a percent, because I did the  
19 math. It seemed to be a point that was being made, so I  
20 just wanted to correct that point for the record before  
21 I agree to it.

22 BY MR. MOYLE:

23 Q Yeah. Well, thanks for doing that. And I  
24 think anyone who is familiar with my math skills will  
25 not be surprised that it was an error.



## CONFIDENTIAL

Page 160

1           A     I just didn't want to make an incorrect  
2     statement for the record.  Nothing beyond that.

3           Q     Yeah.  No, thank you for correcting it.  I  
4     appreciate it.

5                     All right.  So the fixed -- the time and  
6     materials, there is some adder that has a markup is your  
7     testimony, correct?

8           A     Yes.  Time and materials contracts usually  
9     work with recovery of direct incurred costs plus some  
10    sort of markup.

11          Q     Okay.  And the fixed costs does not work that  
12    way, correct?

13          A     That is correct.  There's a negotiated  
14    up-front number, and then as the contractor, you must  
15    live within that number to complete the work.

16          Q     Yeah.  And you would agree with me, would you  
17    not, looking at the two, that there's more risk  
18    associated with a fixed-price contract for the  
19    contractor as compared to a time and materials contract,  
20    with all other things being equal?

21          A     Generally, yes.  You have to be efficient in  
22    how you execute the work.

23          Q     Right.  And if there are inefficiencies or  
24    if -- this is on a fixed price.  The way the fixed price  
25    works is both parties identify a scope and say here's

## CONFIDENTIAL

Page 161

1 what the fixed price covers, correct?

2 A Generally, yes.

3 Q And then there's some negotiation and you come  
4 up with a monetary number that says here's the number  
5 that we're going to have as the fixed price and that's  
6 going to affect the deal?

7 A Generally, yes, I agree with your summary.

8 Q Okay. And in this document, what's your  
9 understanding with respect to the ability to get change  
10 orders? You had talked about change orders a little  
11 bit. What would have to happen for a change order to be  
12 processed as you understand it?

13 A Fundamentally, there's no provision for change  
14 orders in the agreement as I understand it. And the  
15 only contemplated scenario where the cost to Duke could  
16 increase, the fees received or the payment received by  
17 ADP could increase is there was a discovered change in  
18 end-state conditions. To the best of my knowledge,  
19 that's the only scenario that would be deemed a change  
20 of scope where total cost of the project could be  
21 revisited.

22 Q Is your company -- a lot of companies that  
23 I've been seeing in the popular press and others are  
24 making adjustments, these are mainly publicly-traded  
25 companies making adjustments to their guidance of their

## CONFIDENTIAL

Page 162

1 earnings. Are you familiar with that?

2 A Yes, I am.

3 Q Yeah. Have you-all considered doing anything  
4 in that regard?

5 A No, we haven't actually. We've actually  
6 reaffirmed our projections for 2020 and potentially even  
7 increased them modestly, but we are sticking to our  
8 original plan for 2020 and are actually ahead of it  
9 through the first five months of the year.

10 Q Yeah. And have you considered things like all  
11 of a sudden if we have a labor -- an impact on labor  
12 because of the pandemic and how that might affect your  
13 business?

14 A Yeah, we live that every day. That's the  
15 nature of what we do on a national basis and it's  
16 something we're quite good at managing, and we've  
17 managed it very well through the pandemic to date and  
18 it's something that we'll anticipate continuing to need  
19 to manage.

20 Q The term "schedule of values," are you  
21 familiar with that?

22 A Yes.

23 Q And will this project be done in a way that  
24 you have a schedule of values that essentially says,  
25 okay, X percent of the scope of the work has been

## CONFIDENTIAL

Page 163

1 completed, please send us X percent of the dollars? Is  
2 that what's contemplated?

3 A Fundamentally, yes, though it will be broken  
4 down into many components or many phases. It's not one,  
5 you know, monolithic number across the  
6 six-and-a-half-year project. So it will be on a phase  
7 by phase, work scope by work scope approach.

8 So fundamentally what you've said is correct  
9 and it would be -- but it would be broken down into a  
10 number of discrete parts versus looking at the entire  
11 project start to finish as a number and saying what  
12 percent are we. It would be broken down in a more  
13 refined way.

14 Q Yeah. And I'm not -- obviously, nuclear  
15 plants and taking care of them are, you know, not  
16 something that has been done a lot. But you see this a  
17 lot in the construction context, agree?

18 A I'm sorry. See what in a construction  
19 context?

20 Q A schedule of values, a scope of work, could  
21 you please build this office building; I'll have an  
22 architect that will look at the work and sign off on a  
23 schedule of values and the bank or the lender will pay  
24 based on somebody looking at it and saying, okay, this  
25 much is done, so the parties aren't arguing is it

## CONFIDENTIAL

Page 164

1 20 percent, is it 30 percent, is it 50 percent?

2 MR. HERNANDEZ: Object to form.

3 A In general, yeah, that type of construct I  
4 would agree is -- different variations of that are  
5 fairly common.

6 BY MR. MOYLE:

7 Q Yeah. And can you just enlighten me with  
8 respect to how that would be determined in this deal  
9 with regard to determining what percent of the project  
10 has been completed? Does Duke look at that and say, you  
11 know, we agree with your number? Is there some kind of  
12 a third party that looks at it, would come up with a  
13 third -- you know, with a number in terms of the  
14 schedule of values?

15 A Yes. As currently constructed, the primary  
16 interplay on that would be between the EDP project team  
17 and the Duke personnel that would be physically  
18 verifying the completion of scope of work and the  
19 monthly pay applications that would be made based on the  
20 progress against the milestones.

21 Q And I mean, the way it works in general terms  
22 is that if the contractor gets ahead of the owner of the  
23 building, that's not good for the owner typically, all  
24 other things being considered, correct?

25 A Agreed.

## CONFIDENTIAL

Page 165

1           Q     Yeah. Are you familiar that oftentimes  
2     there's a retainage amount that's held in these type of  
3     arrangements that have schedules of values? They pay,  
4     but then there's a retainage amount that's typically  
5     held to the end to pick up things that are not done,  
6     punch list things, and then that's provided as a last  
7     payment to the contractor?

8                     MR. HERNANDEZ: Object to form.

9           A     Yes, that's a fairly common construct in  
10    construction contracts. I would suggest that the  
11    six percent provisional trust funding effectively plays  
12    that role in the context of this transaction.

13   BY MR. MOYLE:

14          Q     What was the percent held back in Vermont?  
15    Was it ten?

16          A     It was ten after the first hundred million was  
17    drawn from the trust. And in the construct here, it's  
18    six percent from day one.

19          Q     Yeah. In your time and materials, are there  
20    retainers that are typically used there in those  
21    contracts?

22                     MR. HERNANDEZ: Object to form.

23          A     It varies. Not necessarily. Sometimes yes,  
24    sometimes no. It depends on the contract of  
25    construction.

## CONFIDENTIAL

Page 166

1 BY MR. MOYLE:

2 Q Yeah. The facility in Texas, do you know how  
3 much air space it has in it now as we sit here today?

4 A I can't quote an exact number. There is a  
5 large amount of available capacity there, but I can't  
6 give you a number from memory.

7 Q Yeah, I understand. You do it by cubic feet  
8 or a ton? How do you measure radioactive material?

9 A Yeah, it's volume based on a cubic foot basis  
10 is the primary unit of measure.

11 Q And then when it comes in, is it in  
12 semi-trailers or trains or how does it get sent?

13 A A lot of the waste does come in by rail, and  
14 so it's removed. There are rail offloading facilities  
15 at the site, overhead crane setups. It depends on the  
16 packaging of the waste when it comes in. But the site  
17 is fully served by rail and most of the volume,  
18 particularly for a project like this, would be expected  
19 to come in by rail.

20 Q Yeah. And my question about how much, you  
21 know, capacity is there, I wasn't seeking, like, in  
22 terms of tons. I was just wondering if at a high level  
23 you've got 10 percent filled and 90 percent remaining or  
24 50/50. Just where in the life of the landfill or the  
25 solid waste disposal facility is it, if you can help me

## CONFIDENTIAL

Page 167

1 with that?

2 A Well, conservatively, you know, there's 40 to  
3 50 years of expected permitted operation at a minimum  
4 and a potential for expansions beyond that. So again, I  
5 can't give you exact numbers, but the potential -- the  
6 volumes associated with the guarantee here are amply  
7 covered multiple times over by the capacity of the site.

8 Q And you would agree if that guarantee, that  
9 number, it could be a good deal for Duke or maybe it's  
10 not a good deal for Duke?

11 MR. HERNANDEZ: Object to form.

12 A The number is a supplemental protection. The  
13 deal for Duke is in the \$540 million pricing. The  
14 30 million is just a supplemental layer of protection as  
15 part of the whole provisional trust concept that's  
16 structured into the DSA.

17 BY MR. MOYLE:

18 Q So it's not an add on 30. It's just part of  
19 the overall 540 and you've got a locked-in disposal  
20 price?

21 A No, it's -- there's a \$540 million fixed  
22 price. That is what Duke is going to put into the trust  
23 and that's all that's available to support the project.  
24 What the 30 is is simply saying if ADP didn't perform  
25 for any reason, that there's \$30 million of committed



## CONFIDENTIAL

Page 168

1 disposal capacity available at the site and it would be  
2 no cost to Duke, it would be no cost to the rate payers  
3 if there was some problem that prevented ADP from  
4 executing on the decommissioning as planned.

5 Q And who is providing that guarantee?

6 A It's being provided by WCS, the disposal site.

7 Q And how are they affiliated with the name of  
8 the company that's going to do the removal?

9 A They are the committed source for all of the  
10 disposal out of the project. So they are effectively a  
11 prime supplier, a prime customer. ADP is a customer of  
12 the disposal site. There's common ownership between  
13 NorthStar and WCS that's been disclosed for the record,  
14 but no other -- the commercial relationship is supplier  
15 and customer.

16 Q Okay. And there's no interlocking ownership  
17 or financial interest in the disposal facility?

18 MR. HERNANDEZ: Object to form.

19 A Between -- there is a common investor between  
20 the disposal facility and NorthStar. NorthStar doesn't  
21 own the disposal facility. There is -- there is  
22 common -- a common investor between the two sites, as I  
23 disclosed in the beginning of my testimony.

24 BY MR. MOYLE:

25 Q J.F. Lehman?

## CONFIDENTIAL

Page 169

1 A Correct.

2 Q Yeah. Mr. Rehwinkel asked you some questions  
3 about the board. I believe it was of the company that  
4 you're the chief financial officer for.

5 Who is the chairman of the board?

6 A An individual -- I believe the name shares an  
7 individual by the name of Alex Harmon, H-A-R-M-O-N.

8 Q Just briefly at a high level, does he have a  
9 background in law or engineering or finance or solid  
10 waste?

11 MR. HERNANDEZ: Form.

12 A I would characterize his background more of a  
13 financial nature.

14 BY MR. MOYLE:

15 Q Are you -- I know you said you're a CPA. Was  
16 that a retrospective answer or are you still currently  
17 licensed?

18 A No, I've maintained my continuing education  
19 and I still hold an Iowa certificate.

20 Q But you're not actively practicing?

21 A I'm not practicing as a CPA because I work for  
22 a private -- I'm in a private enterprise. I'm not  
23 performing tax services or complication services. So  
24 it's an active certificate, but I'm not practicing as a  
25 CPA because I don't work for an accounting firm.

## CONFIDENTIAL

Page 170

1           Q     Yeah. You had said that you kept one customer  
2     just to keep your skills kind of fresh. I assume you're  
3     not doing that anymore or no?

4           A     That was in the early 1990s when I was still  
5     working for an accounting firm.

6           Q     Yeah, okay. So do you have any understanding  
7     with respect to the trust, you're going to ultimately be  
8     paid from a trust; is that right?

9           A     Yes, from a sub account of the investing  
10    decommissioning trust.

11          Q     Yeah. And the entity responsible for the  
12    trust is Duke, correct?

13          A     Yes.

14          Q     Yeah. Do you have any understanding with  
15    respect to Duke's fiduciary duty with respect to the  
16    trust?

17                   MR. HERNANDEZ: Object to form.

18          A     Could you clarify your question?

19    BY MR. MOYLE:

20          Q     Sure. I mean, what is -- you're familiar with  
21    the phrase "fiduciary duty"?

22          A     Yes.

23          Q     Do you believe that Duke has a fiduciary duty  
24    with respect to the trust?

25          A     With respect to the trust or the beneficiaries

## CONFIDENTIAL

Page 171

1 of the trust? I'm trying to tease out your focus here,  
2 sir.

3 Q Well, with the beneficiaries.

4 A I believe that Duke has a responsibility to  
5 manage the trust, to manage its earnings prudently, and  
6 to ensure that the funds are only spent for -- the  
7 funding in the trust is only spent for qualified  
8 activities.

9 Q Who are the beneficiaries of the trust?

10 MR. HERNANDEZ: Object to form.

11 A My understanding is that the primary purpose  
12 of the trust is to allow for the decommissioning of the  
13 Crystal River nuclear power plant. And my understanding  
14 also is that to the extent that that's accomplished with  
15 excess funding remaining, then that excess funding flows  
16 to the benefit of the rate payers of the state of  
17 Florida. That's my high-level understanding.

18 BY MR. MOYLE:

19 Q Okay. And this deal that is before the  
20 Commission, it's anticipated there will be funds left  
21 over, approximately 100 million; is that your  
22 understanding?

23 A Yes.

24 Q In your testimony, and this is on Page 12,  
25 line 11, there's a note I had.

## CONFIDENTIAL

Page 172

1           A     Okay.

2           Q     So when you talk about abrupt economic  
3     disruption, you're talking about the COVID-19 situation;  
4     is that right?

5           A     Yes, I am.

6           Q     And have you gone out -- you say that you've  
7     been able to raise net equity. Is that since the COVID?

8           A     Yes. Actually, we did disclose a  
9     publicly-announced recent acquisition about a week ago.

10          Q     And it's publicly announced. I'm not familiar  
11     with it. Would you describe it briefly?

12          A     It's a demolition company that serves the  
13     Chicago market, a company by the name of Heneghan  
14     Wrecking NorthStar acquired about a week ago. And to  
15     your question of whether we've raised debt since the  
16     COVID-19 outbreak, we did to fund that transaction.

17          Q     Yeah. Who funded that?

18          A     A consortium of our existing lenders.

19          Q     There were some questions about dividends and  
20     dividend payments. Just bottom line, tell me what  
21     prevents dividend payments from being made to your  
22     shareholders without any limit. Was it the two-to-one  
23     ratio that you had talked about? Just help me with  
24     that.

25          A     Correct. That was the Section 6.4N of our

## CONFIDENTIAL

Page 173

1 credit agreement reference that we discussed that is  
2 typically capped, leveraged at two to one as part of any  
3 dividend payment.

4 Q Okay. And for someone who didn't get a degree  
5 in economics, the two to one, just describe that.

6 A It's net debt of the company, so total  
7 indebtedness less cash on hand divided by the company's  
8 EBITDA. I believe we defined that previously as the  
9 earnings before interest and taxes, depreciation and  
10 amortization. Basically, the company's cash earnings in  
11 layman terms, so our layman's terms. So it is our net  
12 debt less cash divided by our EBITDA which again I would  
13 characterize simplistically as cash earnings.

14 Q So if you had a hundred million in cash  
15 earnings, what would be your debt limit?

16 A Two hundred million.

17 Q Okay.

18 A And just to be clear, that's not a debt limit  
19 on the company. It's the limit at which the company  
20 could not pay a dividend that would take that ratio  
21 above that. So no dividend could be paid if debt was  
22 200 million or more in the example of \$100 million of  
23 EBITDA. So there definitely is not an unlimited  
24 liability to send dividends upstream. The banks share a  
25 common interest in ensuring that that type of scenario

## CONFIDENTIAL

Page 174

1 could not occur.

2 Q Right. If you exceed that ratio, does it also  
3 constitute a breach of your financing agreement or your  
4 credit facility?

5 A Yes, that would be a restricted payment, and  
6 making a dividend that violated that would be a breach  
7 of the credit agreement.

8 Q Yeah, I'm sorry. I was asking a little  
9 broadly. If you -- in that scenario that we had,  
10 100 million and 200 million was your debt limit, if you  
11 said, I want to go borrow another 50 million to take you  
12 to 250 million, you wouldn't be able to do that under  
13 the credit facility you have or would you?

14 A You could talk to the lenders about borrowing  
15 money, but you couldn't pay dividends. I was answering  
16 that question. There were a number of references in the  
17 testimony to an unlimited ability to pay dividends, and  
18 I wanted to clarify that there is not an unlimited  
19 ability to pay dividends and there is a hard cap on the  
20 level at which a dividend can be paid.

21 Q Yeah. I was a little confused by your  
22 testimony where you said, oh, if there's something in  
23 the agreement that says we can pay a \$50 million  
24 dividend. Is it your understanding that in order to pay  
25 a dividend, you have to have something in that agreement

## CONFIDENTIAL

Page 175

1 or some signed document by the lender that you can pay a  
2 dividend, or can you pay the dividend so long as you  
3 don't exceed that ratio?

4 MR. HERNANDEZ: Object to form.

5 A Well, it's both. The up-front provision of  
6 the 50 million governs the use of the financing proceeds  
7 from the refinancing, and then going forward, any future  
8 dividends would be subject to the two-to-one leverage  
9 cap.

10 BY MR. MOYLE:

11 Q Yeah. What would happen -- because this fund,  
12 right, I mean, do you know -- I don't have a great deal  
13 of knowledge about funds, but I generally understand  
14 they set up funds and they acquire assets and they have  
15 a projected life fund. So they tell their investors,  
16 we're going to run this fund for five years and then  
17 we're going to sell it and pay it out.

18 Does that make sense to you? Have you heard  
19 of that?

20 A I get the concept that you're talking about.  
21 The investment in NorthStar is company specific. You  
22 know, private equity investors buy and sell companies,  
23 but there's no hard deadline on when that may happen or  
24 a date where, you know, there's some stated sunset date,  
25 if I'm understanding the spirit of your question



## CONFIDENTIAL

Page 176

1 correctly.

2 Q Yeah. I just am curious. What happens if  
3 somebody comes along and says, boy, we like your  
4 company, we like its prospects, we like the idea of  
5 being in a business with some, what is it, radiological  
6 waste, we'll pay you 15 times EBITDA, 20 times EBITDA;  
7 how would that affect this transaction, if at all?

8 A I don't think it would affect this transaction  
9 at all. They would probably listen very carefully if  
10 somebody was offering that type of number for their  
11 shares in the company.

12 Q Yeah. So with respect to Duke knowing that  
13 they're going to be doing business with NorthStar, I  
14 guess if somebody bought NorthStar, they'd still be  
15 doing business with NorthStar, but it could be managed  
16 and owned by other people, fair?

17 A Yeah, that's a fair possibility.

18 Q The layman folks that are the main investor,  
19 do they have a track record of buying and selling that  
20 is active or are they more characterized as buying and  
21 hold? Can you give us a little insight on that, if you  
22 know?

23 A Yes. If you look at the history of their  
24 funds, it's really been company specific. There have  
25 been some transactions they've been in for shorter

## CONFIDENTIAL

Page 177

1 periods of time. They've had some portfolio companies  
2 they've been in in a longer period of time, multiple  
3 years, five, six, seven, eight years. I don't even know  
4 the exact number for some of these. But they can be  
5 very patient when there's a reason to do so. And you  
6 know, I've heard them say specifically that it's really  
7 situation dependent. So there's no -- you know, there's  
8 no buy and flip, buy and flip. It's really situation  
9 dependent.

10 Q Yeah. But they do sell companies  
11 periodically? You said five to seven?

12 A That's what the heart of their business is,  
13 yes.

14 Q And did in 2017 ownership change?

15 A Yes.

16 Q Describe that, if you would.

17 A Well, that's the transaction where J.F. Lehman  
18 bought their controlling interests in the company and  
19 consolidated what had been at a fairly fragmented  
20 ownership group briefly, and so recapitalized the  
21 company and brought in a single controlling owner, and  
22 it's been very helpful to NorthStar's ability to  
23 execute. It's been very, very helpful over the last  
24 three years having a steady focused owner that put  
25 capital into the company.

## CONFIDENTIAL

Page 178

1 Q Who owned it prior to the acquisition?

2 A It was a group of four different investment  
3 groups. A company named Apollo, another company called  
4 Evergreen, another company called CHS, and another  
5 company called Felton. There were four different  
6 investment groups that had positions in the company  
7 previously.

8 Q Okay. And all those companies are investment  
9 banking firms?

10 A Private equity firms of one kind or another.

11 Q Just give me a second. I think I've covered  
12 most of the ground I wanted to discuss with you, if you  
13 could.

14 A Of course.

15 MR. MOYLE: Okay. That's all I have. Thank  
16 you. Thank you for your time. I appreciate it.  
17 And off the record.

18 (Discussion off the record.)

19 MR. HERNANDEZ: Jon, this is Danny. I'm going  
20 to have just one follow-up clarification for  
21 Mr. Adix.

22 MR. MOYLE: Yeah, okay. And that whole  
23 conversation was off the record there, sir.

24 Thank you for your time. I appreciate it. I  
25 guess we'll see you like this for the hearing, but

## CONFIDENTIAL

Page 179

1           anyway, I appreciate your time and answers to the  
2           questions.

3                   THE WITNESS: Thank you. Have a good evening.

4                               CROSS-EXAMINATION

5   BY MR. HERNANDEZ:

6           Q     Okay. Mr. Adix, you were asked a series of  
7           questions about the independent monitor recommended  
8           enhancement by Mr. Polich. Do you recall that?

9           A     Yes.

10          Q     Mr. Moyle attempted to draw some comparisons  
11       between the independent monitor recommended enhancement  
12       made by Mr. Polich and the reporting requirements that  
13       NorthStar has with respect to the Vermont Yankee deal.  
14       Do you recall that?

15       A     I do.

16       Q     Okay. Can you tell us whether the Vermont  
17       Yankee deal involves an independent monitor relationship  
18       between NorthStar and any individual such as the one  
19       that Mr. Polich is recommending for this deal?

20       A     No. As I testified previously, we answer to  
21       the State there, and because they don't have a utility  
22       to regulate and while they hire consultants to support  
23       them in their financial review and status of the  
24       reporting, we're not answering directly to any  
25       independent monitor there or providing information other

## CONFIDENTIAL

Page 180

1     than honoring our commitments that we made to the State  
2     as part of that transaction.

3           Q     And is there an independent monitoring  
4     reporting to the Vermont Commission at all in connection  
5     with the Vermont Yankee deal?

6           A     No, I'm not aware of any structure like that  
7     at all.

8                   MR. HERNANDEZ: I don't have any further  
9     questions.

10                  MR. MOYLE: And I think I just have one  
11     follow-up on that, on your questions.

12                               RECROSS-EXAMINATION

13     BY MR. MOYLE:

14           Q     How did the State get involved with  
15     negotiating with your company in Vermont?

16           A     It was really a function of the structure of  
17     that transaction where we were buying the plant, and as  
18     part of buying the plant and the special purpose entity  
19     that owned the plant, as part of Entergy's exit from the  
20     state and exit from any future decommissioning or site  
21     restoration responsibilities. So that was their entry  
22     point to engage with NorthStar directly because we were  
23     going to be the party owning the plant, owning the trust  
24     funds and on the hook and responsible for all site  
25     restoration activities beyond the radiological piece of

## CONFIDENTIAL

Page 181

1 the decommissioning at the close of the transaction.

2 MR. MOYLE: Yeah. Okay, thank you.

3 THE WITNESS: Thank you.

4 MR. HERNANDEZ: And we will read.

5 MR. REHWINKEL: Okay. Well, thank you very  
6 much, and I guess we have taken care of all the  
7 administrative stuff, and of course we'll order.  
8 I've asked the court reporter for both depositions  
9 to get them by Wednesday and she believes that's  
10 doable, so that's the expectation. Thank you.  
11 Safe travel.

12 (The deposition concluded at 6:09 p.m.)

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CONFIDENTIAL

Page 182

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CERTIFICATE OF OATH

STATE OF FLORIDA                    )  
COUNTY OF HILLSBOROUGH )

I, the undersigned authority, certify that  
JEFFREY P. ADIX appeared remotely and was duly sworn.  
WITNESS my hand and official seal this 29th  
day of June, 2020.

\_\_\_\_\_  
ANN S. BEILSTEIN, RPR  
Notary Public  
State of Florida  
My Commission Expires 10/31/2020  
Commission No. GG 037843

CONFIDENTIAL

Page 183

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CERTIFICATE OF REPORTER

STATE OF FLORIDA                    )  
COUNTY OF HILLSBOROUGH        )

I, Ann S. Beilstein, Registered Professional Reporter, certify that I was authorized to and did stenographically report the foregoing deposition; that a review of the transcript was reserved; and that the transcript is a true record of the testimony given by the witness.

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

Dated this 29th day of June, 2020.

\_\_\_\_\_  
Ann S. Beilstein, RPR



CONFIDENTIAL

Page 184

1 PLEASE ATTACH TO THE DEPOSITION OF JEFFREY P. ADIX,  
 2 TAKEN ON JUNE 24, 2020, IN THE CASE OF IN RE: PETITION  
 3 TO APPROVE TRANSACTION FOR ACCELERATED DECOMMISSIONING  
 4 SERVICES AT CR3 FACILITY, ETC.

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PAGE	LINE	CORRECTION AND REASON THEREFOR
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20 I HAVE READ THE FOREGOING PAGES AND, EXCEPT FOR ANY  
 21 CORRECTIONS OR AMENDMENTS INDICATED ABOVE, I HEREBY  
 22 SUBSCRIBE TO THE ACCURACY OF THIS TRANSCRIPT.

23 \_\_\_\_\_  
 24 JEFFREY P. ADIX

\_\_\_\_\_  
 DATE

25 \_\_\_\_\_  
 WITNESS TO SIGNATURE

\_\_\_\_\_  
 DATE

CONFIDENTIAL

Page 1

<b>A</b>	75:19 76:22	158:22	123:16,18,21	27:10,11 44:15
<b>A-D-I-X</b> 10:18	77:9,20 78:11	<b>adder</b> 160:6	124:4 125:4	45:8 46:9
<b>ability</b> 75:6,8,20	89:20 104:10	<b>adding</b> 139:11	126:25 128:22	54:16 71:5,6
76:4 83:24	117:5 130:14	<b>addition</b> 6:10	129:25 133:5	71:16,17,23
96:14 136:3	130:14,16	134:15 137:2	133:15 137:6	72:5,8,20
161:9 174:17	131:5 169:25	<b>additional</b> 51:5	152:23 161:17	73:17,21,23
174:19 177:22	170:5	72:11 89:2	167:24 168:3	74:2,6 75:2
<b>able</b> 21:6,8 95:5	<b>accounts</b> 81:23	90:20 95:13	168:11	77:15 78:10,16
99:5 108:17	82:2	97:20 103:24	<b>ADP's</b> 138:8	79:9,13 80:5,7
109:1 115:21	<b>ACCURACY</b>	132:8 134:13	<b>advantage</b> 10:6	80:13,17,24
119:6 133:8	184:21	136:9	112:24	81:4,11,16
153:23 154:10	<b>accurate</b> 59:4	<b>address</b> 150:22	<b>affect</b> 73:9 161:6	91:17 95:24
154:13 172:7	67:17	<b>addressed</b> 33:22	162:12 176:7,8	96:2,9,12 97:1
174:12	<b>achieve</b> 76:13,14	141:10	<b>affiliate</b> 107:20	97:2,6,16,19
<b>above-ground</b>	<b>achieved</b> 52:2	<b>addresses</b> 7:19	<b>affiliated</b> 168:7	97:23 98:3,9
30:16,18	<b>acknowledge</b> 4:2	<b>Adix</b> 1:10 5:13	<b>affiliates</b> 45:24	98:11,13,14,16
<b>abrupt</b> 172:2	<b>acknowledged</b>	8:24,24 9:20	<b>afternoon</b> 8:10	98:19 99:7,12
<b>absent</b> 95:19,22	83:23	9:22,23 10:18	8:25 9:20,23	102:19 105:15
<b>absolute</b> 108:8	<b>acquire</b> 29:8	11:24 14:13	120:25 121:19	134:5,16 143:4
<b>Absolutely</b>	175:14	21:12 31:21	128:5,6 131:25	143:5 146:5
56:25 135:9	<b>acquired</b> 29:16	120:25 121:19	141:6	149:13 150:7
<b>accelerate</b> 53:10	76:8 172:14	178:21 179:6	<b>aggregated</b>	161:14 173:1
<b>accelerated</b> 1:3	<b>acquisition</b> 29:6	182:7 184:1,22	62:18	174:3,7,23,25
184:2	61:2 65:4	<b>Adix's</b> 64:23	<b>ago</b> 19:24 28:14	<b>agreements</b> 78:8
<b>accept</b> 31:15,22	172:9 178:1	100:12	52:25 54:23	97:8
32:1,2,15	<b>acquisitions</b>	<b>adjusted</b> 73:4	83:17 172:9,14	<b>agrees</b> 4:14,16
33:18 34:3	23:19 66:21	<b>adjustments</b>	<b>agree</b> 4:18,21	4:24
125:13 153:23	84:13	161:24,25	43:22 53:1	<b>Agricultural</b>
<b>acceptable</b> 7:3,5	<b>acronym</b> 38:23	<b>administer</b> 5:12	102:24 130:3	9:15
<b>accepted</b> 27:19	<b>action</b> 183:14,15	<b>administering</b>	131:14 137:15	<b>ahead</b> 5:12 8:20
63:3 125:14	<b>active</b> 35:14	4:5	139:6,19	31:20 46:20
<b>access</b> 13:19	155:1 169:24	<b>administration</b>	153:20 159:21	49:11 55:4
21:1,9 94:16	176:20	147:7 159:7,8	160:16 161:7	143:17 162:8
<b>accessed</b> 80:9	<b>actively</b> 169:20	<b>administrative</b>	163:17 164:4	164:22
<b>accomplish</b>	<b>activities</b> 60:18	4:7 8:1 181:7	164:11 167:8	<b>aimed</b> 132:19
122:24,24	137:6,16 139:9	<b>adopting</b> 79:14	<b>agreeable</b> 6:14	<b>air</b> 30:22,25
<b>accomplished</b>	171:8 180:25	<b>ADP</b> 40:23 42:4	6:17	31:9 166:3
53:19 171:14	<b>actual</b> 30:4 67:1	45:24,25,25	<b>agreed</b> 122:24	<b>al</b> 60:12
<b>accord</b> 130:1	74:18 117:22	48:1,16,21,23	145:2,17 146:4	<b>Alex</b> 169:7
<b>account</b> 43:2	118:3 149:3	50:12,21 51:3	164:25	<b>aligned</b> 55:9
90:13 122:21	<b>Adam</b> 130:18	51:14 52:12	<b>agreed-upon</b>	<b>allow</b> 51:13
170:9	<b>add</b> 7:10 65:17	53:6,8 54:8,9	146:20 149:18	125:16 171:12
<b>accounted</b> 89:19	134:6 137:20	54:23 107:19	<b>agreeing</b> 158:5,7	<b>allowable</b> 154:4
<b>accounting</b>	159:6 167:18	110:14 111:13	<b>agreement</b> 3:16	<b>allowance</b>
23:14 67:9,23	<b>added</b> 24:4	111:20 116:8	4:11,12 6:3	106:21
69:11 70:13	129:19,19	116:12 122:24	14:21,24 16:9	<b>allowed</b> 69:15

69:18 96:17,20 147:22 <b>allows</b> 33:14 <b>alluded</b> 95:2 <b>allusions</b> 114:3 <b>aloud</b> 47:25 66:18 88:22 <b>alternatives</b> 27:12 48:6 50:1 <b>amending</b> 136:13 <b>amendment</b> 134:5 <b>AMENDMEN...</b> 184:20 <b>Ameren</b> 91:19 <b>America</b> 25:3 <b>American</b> 23:23 24:4,19,22 <b>amortization</b> 38:25 173:10 <b>amortize</b> 77:9 102:2,3 131:3 <b>amortized</b> 101:17,22 <b>amount</b> 15:12 31:13 51:20 70:7 90:16,22 106:4 114:13 115:13 117:22 117:24 139:9 159:2 165:2,4 166:5 <b>amply</b> 167:6 <b>analogy</b> 77:3 <b>analysis</b> 23:17 27:1 70:3 <b>and/or</b> 60:5 103:25 <b>Andersen</b> 22:16 23:4,8 68:19 68:19 <b>Andrews</b> 30:1,5 30:13 33:11 34:3,24 110:4	124:24 125:12 <b>Ann</b> 1:18 182:14 183:5,21 <b>announced</b> 93:17,19 172:10 <b>announcement</b> 93:18 <b>annual</b> 43:7 70:2 77:2 82:8 136:17 <b>answer</b> 10:7 26:2 31:21 43:12 45:11 64:15 80:18,20 97:7 99:5,23 125:22 126:2 138:3 145:11 155:14 169:16 179:20 <b>answered</b> 153:24 <b>answering</b> 141:7 174:15 179:24 <b>answers</b> 120:9 179:1 <b>anticipate</b> 136:11 162:18 <b>anticipated</b> 105:10 171:20 <b>anybody</b> 63:8,11 <b>anymore</b> 127:15 170:3 <b>anyway</b> 73:15 179:1 <b>AOSC-20-16</b> 4:7 <b>AOSC-20-17</b> 4:8 <b>apart</b> 152:15 <b>Apollo</b> 178:3 <b>apologize</b> 30:10 145:5 <b>appear</b> 11:10,24 119:24 129:14 <b>appearances</b> 2:1 8:17,21 <b>appeared</b>	119:20 182:7 <b>appearing</b> 10:24 11:2 <b>appears</b> 15:5 58:6 119:16,23 147:23 <b>application</b> 1:7 118:24 <b>applications</b> 164:19 <b>applies</b> 101:11 <b>apply</b> 38:15 92:19 133:1 <b>applying</b> 93:1,3 118:17 <b>appreciate</b> 21:7 120:8 128:1 160:4 178:16 178:24 179:1 <b>approach</b> 28:6 98:20,25 132:15 163:7 <b>appropriate</b> 64:13 77:23 116:21 131:12 <b>approval</b> 91:18 127:3 134:14 134:22 135:12 135:15 136:9 137:3 139:12 141:16 148:20 149:1 <b>approvals</b> 46:11 <b>approve</b> 1:2 128:18 184:2 <b>approved</b> 117:7 149:21 153:14 <b>approving</b> 150:4 <b>approximate</b> 48:10,16 <b>approximately</b> 17:6 50:12 58:5 88:11 117:22 157:6 171:21 <b>arbitrarily</b>	129:13 <b>arbitrary</b> 85:15 <b>architect</b> 163:22 <b>area</b> 23:21 33:4 49:15 53:9 153:5 <b>arena</b> 24:1 39:4 <b>arguing</b> 163:25 <b>argument</b> 102:10,12 <b>argumentative</b> 84:20 <b>arose</b> 52:25 <b>arrangement</b> 4:6,9 107:23 108:16 124:18 151:17 <b>arrangements</b> 97:5 165:3 <b>arriving</b> 75:13 <b>Arthur</b> 22:16 23:4,8 68:19 68:19 <b>ASC</b> 130:15,21 131:4 <b>aside</b> 56:15 79:23 81:16 101:9 102:14 <b>asked</b> 6:13 12:12 29:14 39:1 59:6 62:5 89:3 142:18 147:14 158:9 169:2 179:6 181:8 <b>asking</b> 13:11 16:19 20:15,16 34:13 52:8 59:7,8 61:19 62:5,17 63:22 100:20 109:4 146:23 174:8 <b>aspects</b> 122:4 <b>aspersions</b> 120:5 <b>assertion</b> 80:10 <b>assessment</b> 68:11 69:10,15	69:16,19 77:5 <b>asset</b> 67:19 71:1 76:12 80:10 102:3,6,9 <b>assets</b> 1:5 25:24 42:25 66:20 67:3,13,13 76:8 100:2 101:2 175:14 <b>associated</b> 1:4 91:14 102:16 104:24 123:10 124:6 160:18 167:6 <b>Associates</b> 3:2 <b>assume</b> 7:18 8:2 102:2,5 104:6 170:2 <b>assumed</b> 49:10 151:22 <b>assumes</b> 123:22 <b>assuming</b> 42:23 92:20 <b>assumption</b> 1:5 52:2 <b>assumptions</b> 52:9 85:22 116:2 151:23 <b>assure</b> 64:14 <b>ATTACH</b> 184:1 <b>attached</b> 57:19 104:9 <b>Attachment</b> 136:14 <b>attempt</b> 134:7 <b>attempted</b> 135:3 137:7 150:22 179:10 <b>attorney</b> 2:4,8 2:14,18,21,24 183:12 <b>attorneys</b> 2:11 4:1 6:2 183:14 <b>audit</b> 22:22 23:1 23:3 68:23 82:9
--	---	---	---	---

<b>audited</b> 23:6	109:14 124:24	<b>balanced</b> 48:22	37:14 39:12	142:3,19,24
<b>auditing</b> 22:24	136:14 151:10	<b>ballpark</b> 138:22	58:9 65:17,18	143:13 144:18
23:15	151:19	139:22	71:18	145:8 152:10
<b>auditor</b> 22:20,23	<b>back</b> 24:14,18	<b>bank</b> 163:23	<b>beginning</b> 29:3	169:3,6 170:23
70:16	25:7,10,12	<b>bankers</b> 38:3	106:18 107:3	171:4 173:8
<b>auditors</b> 78:2	27:7 51:14	86:5	121:11 126:12	<b>believes</b> 181:9
<b>authoritative</b>	52:1,7,13 57:1	<b>banking</b> 16:12	168:23	<b>beneficiaries</b>
67:23 85:4	58:24 66:25	86:7,19 178:9	<b>begins</b> 39:12	170:25 171:3,9
130:16	68:8 71:21	<b>banks</b> 173:24	49:23	<b>beneficiary</b>
<b>authority</b>	72:19 73:22	<b>base</b> 86:15	<b>behalf</b> 4:13,20	97:21
111:13 182:6	74:4,14 75:22	115:19	9:2,10,12	<b>benefit</b> 133:6
<b>authorized</b>	76:9,10 78:20	<b>based</b> 37:24	10:24,25 40:23	171:16
183:6	79:5 83:6,16	38:17 45:4,7	40:24 41:7,11	<b>benefits</b> 76:1,4
<b>available</b> 20:12	83:20 84:11,11	53:16 70:19	<b>Beilstein</b> 1:18	76:13
20:17,18 31:10	84:23 95:24	75:8 85:6	182:14 183:5	<b>best</b> 26:6 32:4
31:13 32:9	99:20 105:10	108:2 111:19	183:21	41:5 50:15
34:15 47:16	113:7,8,18	113:24 115:15	<b>belief</b> 35:6	63:5 86:24
51:7 53:11	116:4 118:1	130:13 132:21	141:25 144:11	87:9 161:18
60:10 80:2	119:4 128:8	150:16,17	<b>believe</b> 5:20 13:7	<b>better</b> 5:7,8 12:8
81:10 102:15	129:21 133:13	151:7 152:12	13:21 16:13	156:6
103:2 125:17	136:24 141:1	159:1,1,3	17:11 19:2,10	<b>beyond</b> 28:5
145:1 156:9	159:16 165:14	163:24 164:19	19:20 20:1	34:8 51:2 76:7
166:5 167:23	<b>background</b>	166:9	24:12 26:13	124:7 133:4
168:1	25:9 27:16	<b>baseload</b> 84:6	27:24 31:22	134:21 144:2
<b>Avenue</b> 2:7,17	151:6 169:9,12	<b>basic</b> 52:9	32:13 33:14,21	146:10 152:16
<b>averages</b> 87:2	<b>backing</b> 92:17	<b>basically</b> 55:10	35:11 36:8	160:2 167:4
<b>award</b> 91:7	93:5	76:24 173:10	41:13 42:1	180:25
<b>awarded</b> 91:21	<b>backlog</b> 15:6,12	<b>basing</b> 35:16	43:11 44:14	<b>BIANCA</b> 2:9
92:5	15:15 89:1,3	<b>basis</b> 16:12 18:1	45:7 47:13	<b>big</b> 71:4
<b>aware</b> 16:11	89:16,18,24	38:6 42:18,18	49:12 50:25	<b>bigger</b> 84:13
35:19 49:16	90:1,6,15,25	43:1 54:25	51:10 55:18	<b>biggest</b> 14:18
56:18 63:10,16	91:3,5,10,11	67:23 72:13	59:5 62:25	<b>bill</b> 90:14
93:14 95:17	91:16 92:6,12	76:6,22 86:14	63:21 74:17	<b>billed</b> 159:5
97:18 130:24	92:16 93:3,9,9	88:11 89:20	75:17 79:4	<b>billing</b> 159:1
134:10,12	115:9 148:16	90:3,7,13	81:14 93:23	<b>billion</b> 28:4
135:10,11	<b>backstopping</b>	94:17 98:5,6	95:1,8 97:10	38:19 84:25
143:25 144:1,4	55:10	106:12 108:21	97:23 98:12	89:1,3,8,14
144:9 150:1	<b>backwards</b>	112:10 117:12	99:9,19 106:10	114:18 159:18
153:2 180:6	18:18	136:16,17	109:15 111:3,4	<b>bills</b> 114:25
<b>awareness</b> 28:20	<b>bad</b> 131:20,21	143:9 144:25	111:11 118:8	<b>bit</b> 34:8 36:2
	132:4,7 140:5	153:24 154:1	118:11 120:3	39:5,7,8 79:9
<b>B</b>	<b>balance</b> 53:17	154:11 156:24	123:1,13	83:2 102:17
<b>B</b> 3:11 32:16,22	76:12,18,19	158:12 162:15	124:21 126:8	126:10 132:14
34:14,15 35:1	77:16 82:12	166:9	130:3 134:19	134:21 161:11
35:12,13,20	83:10 88:4,5	<b>Bates</b> 14:10,14	134:21 135:15	<b>Blvd</b> 2:20
72:16 104:23	106:15	14:16 15:20	141:21,24	<b>board</b> 16:25

17:1,2,5,5,11 114:19 169:3,5 <b>body</b> 148:23 <b>book</b> 90:25 <b>books</b> 77:8 82:3 <b>borrow</b> 70:23 80:11 101:24 102:25 174:11 <b>borrowed</b> 100:3 101:2 102:6 <b>borrowing</b> 98:15 102:9 174:14 <b>bottom</b> 74:18 77:18 129:17 172:20 <b>bought</b> 176:14 177:18 <b>Boulevard</b> 2:10 <b>Bowen</b> 2:19 9:2 12:17 14:5 <b>box</b> 60:21 62:12 <b>boxes</b> 61:24,24 <b>boy</b> 2:20 176:3 <b>brain</b> 40:11 <b>breach</b> 174:3,6 <b>break</b> 10:10,14 110:17 140:17 <b>Brew</b> 2:22 3:6 4:22,22 7:21 7:21 9:14,14 120:13,21,24 121:1,3,8,12 121:14 122:15 123:9 124:14 126:1 127:18 127:20 141:23 <b>brief</b> 113:16 121:1 <b>briefly</b> 127:6 169:8 172:11 177:20 <b>bring</b> 12:12,15 28:18 67:19 <b>broad</b> 141:11 <b>broadly</b> 174:9 <b>broken</b> 163:3,9	163:12 <b>Brooks</b> 59:16 <b>Brothers</b> 62:8 <b>brought</b> 16:15 28:16,23 33:21 147:15 177:21 <b>Brownless</b> 2:9 3:7 4:20,20 7:10 9:11,11 112:23 113:3 120:17,20 127:25 128:4 133:19 134:23 135:19 137:25 138:20 140:12 142:18 <b>bucket</b> 51:11 <b>budget</b> 145:21 146:11,12,14 146:16 147:2 <b>buffer</b> 51:5 103:16 133:10 <b>build</b> 163:21 <b>building</b> 29:25 143:24,25 163:21 164:23 <b>built</b> 48:22 51:1 52:9 132:3 <b>business</b> 15:15 18:2 24:4,20 24:22,22,24,25 25:4,5,6,7,11 25:16,17 26:10 26:21,24 27:2 27:16 29:16 43:17,19,20,24 44:6 90:17 93:12 105:1,11 109:16 116:3 119:2 151:7 154:22 158:10 158:16 162:13 176:5,13,15 177:12 <b>buttressed</b> 86:18 <b>buy</b> 62:20 63:2	75:7,7,10 175:22 177:8,8 <b>buying</b> 86:20 176:19,20 180:17,18 <b>byproduct</b> 147:23 <hr/> <b>C</b> <b>C</b> 2:12 32:16,19 32:22 33:2,6 34:1,3,14,15 34:19 35:1,12 35:20 104:23 109:14 124:24 125:4,5,13,20 130:20 151:10 151:12,19 152:16 <b>calculated</b> 93:5 135:23 <b>calculating</b> 92:14 <b>calculation</b> 15:12 16:2 69:17 73:12 87:20 92:11 93:6 <b>calibrated</b> 48:8 48:10 <b>call</b> 14:3 17:15 17:20 20:23,24 45:15 67:11 89:10 91:3 117:5 152:3 <b>called</b> 19:15 23:21 26:9 57:8 63:1 68:4 77:22 78:17 109:17,18 178:3,4,5 <b>cap</b> 174:19 175:9 <b>capacity</b> 26:7 31:13 40:2 166:5,21 167:7	168:1 <b>capital</b> 28:18,22 28:22 61:6 83:15 136:6 177:25 <b>capped</b> 173:2 <b>caps</b> 38:22 50:23 <b>care</b> 163:15 181:6 <b>career</b> 18:12 21:16,20 <b>careful</b> 81:2 <b>carefully</b> 176:9 <b>carrying</b> 69:21 70:6 <b>carved</b> 147:6 <b>case</b> 19:12,23 31:7 40:23 43:12 50:19,25 51:2 60:6 63:11,17,19,21 78:15 85:4 116:13 118:17 131:16 133:13 150:17 184:1 <b>cash</b> 42:24 43:1 43:2 51:6,16 51:20,24 79:18 80:10 81:1,9,9 81:17 100:2 101:2,10,12,13 101:15 105:6 106:5,14,25 107:7,14 114:13,14 132:12,12 135:2,2 173:7 173:10,12,13 173:14 <b>cast</b> 63:7 <b>casting</b> 120:5 <b>categories</b> 6:7 90:5 <b>category</b> 91:5 <b>cause</b> 77:11 142:19	<b>Central</b> 23:23 <b>CEO</b> 25:11 <b>certain</b> 6:24 18:13,13 31:8 34:20 35:3,6 35:15 36:3 39:6 46:5 49:8 53:8,9 55:20 73:19 90:16,22 94:1 108:9 <b>certainly</b> 33:13 33:15 41:14 45:17 81:13 86:4 87:24 93:25 112:9 134:22 141:14 142:3 <b>certificate</b> 3:9,9 169:19,24 182:1 183:1 <b>certify</b> 182:6 183:6,11 <b>cetera</b> 69:10 <b>CFO</b> 24:5 27:20 29:4 42:10 56:17 66:14 109:4 <b>chain</b> 64:18 <b>chairman</b> 169:5 <b>challenge</b> 110:2 153:3 <b>change</b> 27:4 44:23,24,25 47:10 52:22 73:12 77:10 90:20 92:14,15 92:18,19,19,24 93:1 105:6 106:6 108:10 126:6 142:12 142:22 161:9 161:10,11,13 161:17,19 177:14 <b>changed</b> 45:5 46:22 47:1,6,8
--	--	---	---	--

76:23 126:15 128:11 129:7 <b>changes</b> 32:6 57:25 83:23 142:6,8,10,19 143:3 148:24 <b>changing</b> 47:1 126:6,16 128:11 129:7 155:11 <b>chapter</b> 109:25 142:2 <b>characteristics</b> 151:14 <b>characterizati...</b> 19:15 34:17 42:13 47:13 52:10 67:17 79:5 104:22 110:7 117:4 130:4 152:4 <b>characterize</b> 16:24 18:3 23:17 39:23 41:5 42:22 60:25 63:5 107:22 122:2 169:12 173:13 <b>characterized</b> 36:16 176:20 <b>characterizes</b> 65:3 <b>charitable</b> 41:19 <b>Charles</b> 2:2 4:15 5:6,9 8:11 9:5 9:24 11:17 13:10 20:19 36:19,21 56:21 57:13,21 58:2 58:6 64:22 65:13 68:13 74:16 100:9 112:20,23 113:9,18 141:22 <b>Charlie</b> 130:20	<b>chart</b> 57:7,8,24 59:3,3 <b>charter</b> 142:3 <b>check</b> 105:14 <b>checking</b> 39:20 <b>Chemicals</b> 9:15 <b>Chicago</b> 172:13 <b>chief</b> 9:3 10:21 10:22 16:21 24:23 26:22 27:15,17,25 169:4 <b>CHS</b> 178:4 <b>circle</b> 59:15 <b>circular</b> 79:3 102:17 <b>circumstance</b> 52:25 64:14 77:11 <b>circumstances</b> 18:10 45:5 131:18 144:1 <b>cited</b> 100:5 <b>Citizens</b> 1:14 2:4 3:13 <b>civil</b> 1:16 18:25 <b>clarification</b> 7:9 126:11 138:4 150:20 178:20 <b>clarify</b> 11:1,18 11:20 104:12 116:11 154:13 170:18 174:18 <b>clarity</b> 45:22 113:25 <b>class</b> 32:15,19 32:19,22 33:2 33:6 34:1,3,19 35:12,12,13 59:17 104:23 104:23,23 108:9 125:4,5 125:13,20 <b>classes</b> 32:14 35:24 109:22 <b>classification</b>	35:5 108:3 152:16 <b>classifications</b> 33:5 151:9 <b>classified</b> 6:1 148:17 <b>clause</b> 98:19 99:1 <b>Clean</b> 39:8,17 <b>cleanest</b> 87:16 <b>clear</b> 11:20 137:23 142:10 158:4 173:18 <b>clearly</b> 12:9 <b>client</b> 23:1,8,9 25:23 26:8 68:18 <b>clients</b> 23:5 <b>close</b> 14:9 73:8 126:24 181:1 <b>closed</b> 98:6 110:1 127:16 <b>closely</b> 55:9 <b>closer</b> 27:7 <b>closing</b> 51:21 123:24 124:8 149:21,23 150:9 <b>Codification</b> 130:15 <b>coincidence</b> 51:20 <b>collateral</b> 73:24 73:25 74:7,22 74:23 75:19 106:25 107:8 <b>collateralize</b> 102:25 <b>collateralized</b> 51:17,24 101:18,23 102:8 <b>collection</b> 87:12 <b>combination</b> 43:9 86:15 89:9	<b>combined</b> 88:11 <b>come</b> 25:7 56:8 57:1 71:21 79:17 110:9 141:1 161:3 164:12 166:13 166:19 <b>comes</b> 95:12 118:10 166:11 166:16 176:3 <b>comfortable</b> 35:25 118:19 120:16 136:25 <b>coming</b> 6:14 12:9 91:4 104:21 114:13 <b>commence</b> 46:10 <b>comment</b> 35:16 38:6,13 85:6,8 86:15 94:17 112:10 114:5 115:5 <b>commentary</b> 83:21 <b>comments</b> 69:5 <b>commercial</b> 45:8 46:9 49:3 53:13 125:10 168:14 <b>commercially</b> 107:14 <b>commission</b> 1:1 5:25 6:21,25 9:12,13 19:19 20:13 40:15,16 40:19 55:19 111:13,19 116:19,24 127:4 128:17 129:5,12 134:13 141:13 142:11 143:7 143:10 144:13 145:9,14 147:14 148:8 148:23 150:4	155:18 171:20 180:4 182:16 182:16 <b>Commission's</b> 5:22 143:1 <b>commissioner</b> 155:8 <b>commitments</b> 180:1 <b>committed</b> 51:6 167:25 168:9 <b>common</b> 29:9 30:25 38:17 86:8 164:5 165:9 168:12 168:19,22,22 173:25 <b>commonly</b> 31:4 32:23 40:2 43:5 <b>communicatio...</b> 10:3 <b>companies</b> 16:3 21:20 23:24 28:15 29:10 36:5,17,23 38:9 39:24 42:12 70:23 85:7,17 86:9 86:12,20 87:12 124:4 152:8 154:9 161:22 161:25 175:22 177:1,10 178:8 <b>company</b> 16:22 16:25 17:11,13 17:17 18:21 25:18 27:18,23 28:6,17,19 36:2 37:19 38:1,18 40:3 41:17,25 42:24 43:16,18 67:5 68:21 69:12 70:4 73:18 75:7,8 76:21
--	---	---	---	--

CONFIDENTIAL

Page 6

76:24 80:1 81:9 83:9,15 83:17 84:12,12 84:16 85:13,22 87:22,22 89:10 90:8 95:5 96:15 100:23 102:13,15,18 115:10 126:22 155:12 157:21 158:11 161:22 168:8 169:3 172:12,13 173:6,19,19 175:21 176:4 176:11,24 177:18,21,25 178:3,3,4,5,6 180:15 <b>company's</b> 18:14 44:5 69:3 71:25 75:5,20 80:8 82:24 96:13 135:16 173:7 173:10 <b>comparable</b> 36:18 <b>comparables</b> 87:16 <b>compared</b> 38:14 67:22 85:16 151:19,19 160:19 <b>comparison</b> 67:24 87:21 <b>comparisons</b> 179:10 <b>compensation</b> 45:4 <b>compete</b> 25:21 <b>competitive</b> 25:25 <b>competitor</b> 26:3 35:22 36:1 40:3	<b>competitor's</b> 110:1 <b>competitors</b> 35:19 39:3,9 39:18,24 <b>complementary</b> 94:12 <b>complete</b> 14:23 48:2 50:10,13 50:15,22 89:25 90:1 104:1 117:10 132:20 133:3 135:8 159:4 160:15 <b>completed</b> 25:8 48:11 50:7 51:4 56:8,16 56:19 132:9 133:8,10 149:1 152:11 163:1 164:10 <b>completely</b> 25:15 50:10 61:3 106:8 110:22 121:25 <b>completeness</b> 145:16 <b>completes</b> 130:1 <b>completing</b> 114:8 115:7 144:20 <b>completion</b> 51:3 81:17 89:19,20 164:18 <b>compliance</b> 73:20 <b>complication</b> 169:23 <b>component</b> 146:19 147:12 <b>components</b> 89:8 163:4 <b>computer</b> 47:16 <b>concept</b> 49:1 51:21 82:21 87:24 91:25	167:15 175:20 <b>concepts</b> 75:18 <b>concern</b> 42:18 43:2,17 88:24 95:1 131:13 157:21 <b>concerned</b> 129:20 <b>concerns</b> 95:14 <b>concluded</b> 70:4 181:12 <b>conclusion</b> 70:14 <b>concurrently</b> 96:18 <b>condition</b> 135:6 135:11,14 150:3 <b>conditions</b> 126:7 129:18 161:18 <b>conducted</b> 1:11 127:2 <b>confidence</b> 34:18 <b>confident</b> 34:14 118:20 <b>confidential</b> 1:5 5:18,20 6:1,5 15:17 16:6 65:8,14,15 71:12 <b>confidentially</b> 118:7 <b>confirm</b> 74:4 118:9 <b>conflict</b> 79:20 <b>confused</b> 174:21 <b>confusing</b> 127:8 <b>conjunction</b> 11:3 <b>connected</b> 183:14 <b>connection</b> 29:9 180:4 <b>consent</b> 4:9 121:9	<b>conservative</b> 38:13 116:2 <b>conservatively</b> 167:2 <b>consider</b> 40:22 40:24 42:2 <b>consideration</b> 44:21 <b>considered</b> 16:5 33:6 39:2 41:11,21,24 118:10 162:3 162:10 164:24 <b>considering</b> 28:1 <b>consistent</b> 76:3 87:14 88:18,24 97:6 98:20 131:24 <b>consistently</b> 15:14 90:20 <b>consolidate</b> 154:19 <b>consolidated</b> 66:6 72:17,23 72:24 73:3,4 82:18 177:19 <b>consolidating</b> 82:18 <b>consortium</b> 172:18 <b>constitute</b> 174:3 <b>construct</b> 49:14 80:13 123:2 140:9 143:1,4 153:7 164:3 165:9,17 <b>constructed</b> 146:17 164:15 <b>construction</b> 87:13 163:17 163:18 165:10 165:25 <b>consultants</b> 145:7,11,13 147:16 148:6 179:22	<b>consulting</b> 22:19 22:25 23:3 <b>contact</b> 7:14,22 126:24 <b>container</b> 30:19 <b>contemplate</b> 156:12 <b>contemplated</b> 152:22 153:6 161:15 163:2 <b>contemplates</b> 97:11 124:23 <b>contemplation</b> 99:5 <b>context</b> 43:13,21 45:1 50:3 55:6 55:21 75:5 76:4 78:9,20 81:15 83:19 84:19 85:21 88:7 148:16 155:16 158:25 163:17,19 165:12 <b>contexts</b> 76:17 <b>contingent</b> 77:21 78:12 <b>continue</b> 5:3 76:5 <b>continued</b> 103:3 <b>continues</b> 118:18 <b>continuing</b> 72:16 75:6,9 75:21 76:20 77:1 162:18 169:18 <b>contract</b> 44:16 44:20,21 45:24 47:6,8,9,10 89:21,22,22 90:11,18 91:6 91:8,22 107:23 108:11,14 109:8,10 122:17 126:6
--	--	--	--	---

132:18 148:19 149:4,11,16,17 159:13,13 160:18,19 165:24 <b>contracted</b> 92:2 92:5 108:16 145:9 <b>contracting</b> 145:10 <b>contractor</b> 160:14,19 164:22 165:7 <b>contracts</b> 89:18 90:21 149:7 159:9 160:8 165:10,21 <b>contracture's</b> 135:21 <b>contradiction</b> 80:12 <b>contribute</b> 42:10 <b>contribution</b> 106:24 <b>contributions</b> 101:8 135:22 <b>control</b> 6:18 7:1 10:11,23 133:17 <b>controlled</b> 50:14 60:5 118:19 <b>controller</b> 23:21 69:3 <b>controlling</b> 17:10,15 29:11 29:12 177:18 177:21 <b>conversation</b> 91:14 178:23 <b>conversations</b> 38:8 86:16 <b>convert</b> 42:25 <b>Coopers</b> 66:9 <b>copies</b> 7:5 14:17 <b>copy</b> 6:15,16,22 7:11 13:13,16	14:23 21:1 57:18 58:12 100:13 <b>core</b> 33:4 34:8 53:24 54:3,19 54:20,21,22 55:6,23,25 79:6 125:10 <b>corporate</b> 23:22 63:23 69:3 <b>Corporation</b> 61:7 <b>corporations</b> 61:15 <b>correct</b> 6:8,9 8:5 12:22 13:22 15:17 16:17 19:7,23 20:5 22:9,17 23:13 24:16 26:17 30:13 38:23 44:17 54:18 56:14 62:7,14 62:16 66:10 70:12 74:3 84:10 93:10 122:18,22 123:18 124:3 125:1,23 128:20 130:22 145:23 146:1,8 146:19 148:24 153:4 156:5 157:21,23 158:16,23 159:14,20 160:7,12,13 161:1 163:8 164:24 169:1 170:12 172:25 <b>correcting</b> 160:3 <b>correction</b> 116:15 184:4 <b>CORRECTIO...</b> 184:20 <b>correctly</b> 73:23	87:8 116:22 158:6 176:1 <b>corresponds</b> 15:22 <b>cost</b> 48:10 49:6 52:24 53:9 66:19 98:5,5 103:12,13,19 103:23,25 104:3,7 107:15 114:12,19 134:3,7 135:4 135:23 136:17 136:19,25 137:8,12 138:10,12,17 140:8 144:5,19 147:11 155:21 157:3,9,11,12 158:12 159:2 161:15,20 168:2,2 <b>costing</b> 132:8 146:7,10 <b>costs</b> 48:16 52:21,23 53:7 53:16 55:4 98:23 123:10 123:17 124:6 127:10 156:10 156:22 158:22 160:9,11 <b>counsel</b> 1:14 2:2 2:10 4:9,16 5:23 6:8,11 8:19,23 9:6,7 9:25 10:7 11:1 12:1 41:5 111:15 138:4 151:3 183:12 183:14 <b>counter-parties</b> 78:25 <b>country</b> 32:15 40:20 <b>County</b> 30:1,5	30:14 33:11 34:3,25 110:4 124:25 125:12 182:3 183:3 <b>couple</b> 37:8 75:17 119:10 157:2 158:10 <b>course</b> 21:16 64:13 91:18 105:1,11 133:2 133:2 178:14 181:7 <b>court</b> 4:1,3,7 5:1 7:7,12,15,18 7:20,24 11:12 11:15 12:6,8 18:23 36:12 38:21 110:2 121:5,9,13 125:22 140:24 181:8 <b>covenant</b> 79:10 <b>covenants</b> 73:17 75:3,15 79:13 <b>cover</b> 122:7 <b>covered</b> 5:24 51:16 75:1,3 167:7 178:11 <b>covers</b> 161:1 <b>COVID</b> 172:7 <b>COVID-19</b> 172:3,16 <b>CPA</b> 119:13,24 120:1 169:15 169:21,25 <b>CR1</b> 94:5 <b>CR3</b> 1:4,5 26:12 32:3,9 33:11 45:25,25 46:13 94:3,3,16 104:15 110:14 111:21 143:19 184:2 <b>CR3's</b> 137:7 <b>crack</b> 143:25 <b>cracking</b> 143:24	<b>crane</b> 166:15 <b>create</b> 80:23 <b>created</b> 76:19 <b>creates</b> 77:21 103:10,11,16 <b>credentials</b> 115:20 <b>credibility</b> 95:8 <b>credit</b> 14:21,24 71:5,5,16,17 71:23,23 73:21 79:9,12 80:7 80:13,17 81:11 81:15 95:24 96:2,12 97:1 97:19,23 102:16,19 106:4 107:11 173:1 174:4,7 174:13 <b>creditor</b> 136:11 <b>creditors</b> 135:16 <b>criteria</b> 75:14 <b>critical</b> 49:2 <b>criticism</b> 67:21 <b>criticisms</b> 94:18 94:20 <b>CROSS-EXA...</b> 3:6,7,7,8 120:23 128:3 141:4 179:4 <b>Crystal</b> 91:15 92:8,20 93:11 93:15,18 114:16 144:12 155:12 171:13 <b>cubic</b> 108:9 166:7,9 <b>cumulative</b> 117:2 <b>curious</b> 96:10 176:2 <b>current</b> 31:23 33:14 71:16,23 73:12 77:9 86:8 88:10
---	---	--	--	--



123:1 130:15 130:23 131:4 143:4 157:6 <b>currently</b> 14:24 45:4 146:17 164:15 169:16 <b>customer</b> 91:7 168:11,11,15 170:1 <b>customers</b> 40:25 41:7,11,14 48:3 52:7 55:22 103:10 103:11 129:24 141:21 142:5 <b>customers'</b> 52:12 <b>cutoff</b> 91:23 <b>CV</b> 58:13	128:22 129:1 129:20 142:19 145:6 147:15 150:3 151:20 154:7 156:2 161:6 164:8 167:9,10,13 171:19 175:12 179:13,17,19 180:5 <b>deals</b> 148:13,13 148:13 <b>debt</b> 73:4,18 79:24 80:2,9 81:10 87:22 88:7 172:15 173:6,12,15,18 173:21 174:10 <b>decade</b> 84:11 <b>December</b> 22:9 66:7 70:3 <b>decide</b> 150:24 <b>decision</b> 32:18 53:10 150:25 <b>decommission</b> 45:18,25 46:13 114:5 116:17 <b>decommission...</b> 46:5 <b>decommission...</b> 1:3,8 19:6 21:18,25 26:12 44:14 48:2,5 50:7 53:7 55:3 55:5 56:16 84:3,6,14 91:15 93:14,20 94:3 97:12 98:4 103:3,13 103:23 104:1 105:5 111:21 114:6,18 116:8 117:9 118:25 122:9 125:3 126:4 127:11 127:14 130:1	137:6 156:3,9 156:13 168:4 170:10 171:12 180:20 181:1 184:2 <b>decommission...</b> 84:17 <b>decontaminati...</b> 125:8 <b>deemed</b> 32:22 56:10 62:25 78:16 83:23 161:19 <b>DEF</b> 48:2,4 <b>DEF's</b> 103:10,11 129:24 <b>default</b> 72:15 73:15 80:23 <b>defer</b> 41:4 111:15 124:11 <b>Define</b> 156:17 <b>defined</b> 74:25 97:5 117:8,10 118:22 173:8 <b>definitely</b> 81:16 173:23 <b>definition</b> 44:19 54:20 67:22 68:1 72:5,23 72:24 73:24 74:7,23 91:11 92:6 96:4,5 97:1 98:3 99:2 99:7 106:19 <b>definitions</b> 12:20 <b>definitive</b> 119:19 <b>definitively</b> 63:20 81:8 <b>degree</b> 129:10 173:4 <b>delay</b> 128:25 146:3 <b>delays</b> 138:11,17 <b>demand</b> 110:12	<b>demolition</b> 172:12 <b>demonstrate</b> 70:18 <b>demonstrated</b> 55:2,18 115:20 <b>demonstrates</b> 70:20 <b>denominator</b> 73:11 93:6 <b>DEP</b> 14:13 <b>Department</b> 123:16 156:19 156:21 <b>dependent</b> 177:7 177:9 <b>depending</b> 43:21 45:1 79:19 87:10 104:22 105:2 135:17 138:18 <b>depends</b> 43:11 80:25 165:24 166:15 <b>deposed</b> 5:15 19:25 <b>deposition</b> 1:10 3:14 4:2 5:18 6:6,12,19,23 7:1 11:6,13,14 11:23 13:10,20 13:24 19:17 95:10 97:7 99:6 100:5,13 100:21 113:10 113:23,24 120:12 121:11 137:10,11 138:2 139:14 140:3 150:17 150:21 151:1 181:12 183:7 184:1 <b>depositions</b> 19:13 20:11 181:8	<b>depreciation</b> 38:24 173:9 <b>Deputy</b> 8:22 9:6 <b>describe</b> 14:10 172:11 173:5 177:16 <b>described</b> 76:1 118:2 122:16 151:9 <b>DESCRIPTION</b> 3:12 <b>descriptive</b> 102:9 <b>designated</b> 5:19 <b>designed</b> 56:6 107:17 <b>despite</b> 83:14 <b>destination</b> 125:1,18 <b>detail</b> 61:17 118:11,14 119:5 152:13 <b>detailed</b> 69:17 117:24 118:3 118:20,23 143:21 144:2 <b>details</b> 124:11 134:20 <b>deteriorating</b> 114:11 <b>determination</b> 78:4 <b>determine</b> 69:19 88:3 <b>determined</b> 30:3 164:8 <b>determining</b> 164:9 <b>development</b> 154:23 <b>Dianne</b> 2:6 8:22 20:16 57:20 100:9 <b>DiCarlo</b> 2:15 8:18,18,21 20:15,19 28:12
<b>D</b>				
<b>D</b> 3:4 <b>D&amp;D</b> 93:14 <b>Daniel</b> 2:19 4:13 5:2 8:2 9:1 <b>Danny</b> 7:4 20:9 99:10 178:19 <b>dash</b> 14:13 <b>data</b> 37:10 83:18 <b>date</b> 1:12 73:2,4 91:23 123:23 124:7 149:20 149:23 162:17 175:24,24 184:22,24 <b>dated</b> 71:17 183:16 <b>dates</b> 22:1 <b>day</b> 51:7,18,21 51:25 162:14 165:18 182:9 183:16 <b>days</b> 116:19 <b>DC</b> 2:23 <b>deadline</b> 175:23 <b>deal</b> 90:10				

CONFIDENTIAL

Page 9

36:19 37:2 57:13,17 65:10 65:13 112:20 113:9 137:20 <b>difference</b> 29:24 42:19 66:22 67:2,9,20 82:3 <b>differences</b> 34:22 <b>different</b> 17:3 19:13,16,25 21:17 26:21,22 29:21 32:14 35:13 36:5 37:9 60:9,22 61:1 75:18 76:17 78:13 83:15 86:4 90:5 93:12,23 93:24 104:24 104:24 109:22 109:22 117:25 118:17 128:24 164:4 178:2,5 <b>differential</b> 67:20 <b>differently</b> 132:14 <b>difficult</b> 10:5 96:14 135:7 136:4 <b>difficulty</b> 49:7 <b>dig</b> 31:8 <b>direct</b> 3:6 9:18 17:9,12,19 18:4 19:22 57:21 72:4 80:12 88:17 95:15 112:21 113:22 133:10 160:9 <b>directed</b> 50:4 <b>directly</b> 6:15 25:24 114:4 179:24 180:22 <b>directors</b> 16:25	17:1,3,9 <b>disaster</b> 115:18 <b>disclose</b> 172:8 <b>disclosed</b> 117:24 168:13,23 <b>disclosure</b> 70:15 <b>discovered</b> 108:8 161:17 <b>discovery</b> 1:15 <b>discrete</b> 59:24 61:3 163:10 <b>discuss</b> 6:4 130:8 133:23 178:12 <b>discussed</b> 16:3 39:15 40:2 96:6 124:22 132:21 134:25 173:1 <b>discussing</b> 86:17 <b>discussion</b> 58:22 77:18 113:5 142:9 178:18 <b>discussions</b> 38:3 38:3 151:3 <b>dismantling</b> 122:8 126:5 <b>dispersions</b> 63:7 <b>disposable</b> 25:24 <b>disposal</b> 26:7 30:4,13,17,19 30:20 31:1,5,7 31:11,12 39:3 51:6 103:7,12 103:12,15 104:2,6 105:16 106:20,25 107:1,4,6,12 108:7,15 109:12,13,21 110:14 125:15 132:12 149:12 149:19 152:25 156:15 166:25 167:19 168:1,6 168:10,12,17	168:20,21 <b>disposed</b> 106:19 125:20 <b>disruption</b> 172:3 <b>disseminate</b> 6:17 <b>disseminated</b> 16:13 <b>distinction</b> 42:17 89:12 148:12 <b>distribute</b> 21:9 <b>divest</b> 43:18,24 <b>divested</b> 24:24 <b>divestment</b> 44:3 <b>divided</b> 173:7,12 <b>dividend</b> 96:5 96:16,22 172:20,21 173:3,20,21 174:6,20,24,25 175:2,2 <b>dividends</b> 75:15 95:5 96:14 172:19 173:24 174:15,17,19 175:8 <b>division</b> 26:9 90:8 <b>divisional</b> 26:22 <b>divisions</b> 25:23 <b>doable</b> 181:10 <b>docket</b> 1:2 6:2 125:19 <b>document</b> 13:8 14:20 15:1,5,8 15:11,24,25 37:10,13 39:1 39:12 66:4 71:4,9,11 74:4 74:13 86:22,24 87:1,6,8 88:23 89:4,7 96:20 115:9 117:22 128:23 137:21 147:23 150:1,1	150:2,2 161:8 175:1 <b>documentation</b> 117:16 <b>documents</b> 11:10 12:13,13 12:15,15,16,20 12:21,23 14:3 14:4,4,7 15:16 15:19 16:1,5 16:15 36:14 37:1 39:15 69:1 73:25 78:25 82:9 85:10 87:17 91:22 99:21 108:23 118:6 122:1,5,7 <b>doing</b> 7:13 18:16 22:25 23:14 46:17 69:17 93:14 111:20 120:16 146:4 146:15 158:16 159:23 162:3 170:3 176:13 176:15 <b>dollar</b> 15:12 103:22,22,22 103:22 104:8 108:8 114:9 <b>dollars</b> 28:5 38:19 79:18 80:21 84:25 114:18 116:7 117:1,21 144:6 163:1 <b>dotted</b> 17:20 18:3 <b>draft</b> 106:9 119:5 <b>drafted</b> 69:4 <b>drafting</b> 98:19 119:7 <b>draw</b> 116:21 117:21,23	118:4 179:10 <b>drawn</b> 165:17 <b>draws</b> 116:19,24 117:13 118:21 <b>drive</b> 31:5 <b>dropping</b> 129:13 <b>DSA</b> 44:12,12 45:2,23 46:13 46:15,23,25 48:14 51:1,18 55:1,12 78:21 98:10 99:18 108:24 109:11 122:17 123:12 126:4,12,14 128:10,18 131:23 138:7 146:17 150:8,9 167:16 <b>DT</b> 14:13 <b>duces</b> 3:14 11:23 15:2 36:15 71:4 <b>Duke</b> 1:8 2:6,8 4:14 6:3,16,16 6:24 8:23 9:2 10:25 11:5 40:23,25 45:9 48:21,21 50:4 50:14 51:22 55:22 63:12,23 64:4,13 92:8 92:20 93:24 94:5 111:19,24 111:24 118:19 118:24 119:1 121:22 124:5 127:3 133:17 138:8 141:15 146:20,22 149:4 155:10 155:11 161:15 164:10,17 167:9,10,13,22 168:2 170:12 170:23 171:4
---	--	---	---	---

176:12 <b>Duke's</b> 124:16 125:21 155:21 170:15 <b>duly</b> 5:14 182:7 <b>duty</b> 170:15,21 170:23	<b>education</b> 169:18 <b>educational</b> 84:14 <b>effect</b> 14:25 72:14 <b>effective</b> 149:23 <b>effectively</b> 26:22 51:16 103:22 105:17 165:11 168:10 <b>efficiencies</b> 94:1 <b>efficient</b> 160:21 <b>effort</b> 159:4 <b>eight</b> 12:12 24:7 38:15 177:3 <b>eight-figure</b> 140:8 <b>eighth</b> 74:13 <b>either</b> 5:22 17:19 20:17,25 21:19 44:4 45:1 78:1 104:7 146:7 152:25 153:16 <b>elect</b> 68:10 69:9 <b>element</b> 84:12 <b>elements</b> 122:8 150:21 <b>Eleron</b> 26:9 <b>elicited</b> 6:5 <b>eliminate</b> 82:15 82:19 <b>eliminated</b> 25:15 <b>eliminations</b> 82:17 <b>ellipses</b> 61:24 <b>elliptical</b> 59:15 60:12 <b>ellipticals</b> 61:24 <b>email</b> 7:18 <b>embedded</b> 49:8 <b>emergency</b> 90:7 <b>employed</b> 10:19 10:20	<b>employee</b> 11:2 63:12 64:5 183:12,13 <b>employees</b> 5:23 5:23 <b>employers</b> 23:6 <b>employment</b> 27:22 <b>end-state</b> 126:7 161:18 <b>ended</b> 25:18 73:5 <b>energy</b> 1:8 2:6,8 6:3 8:23 10:25 11:5 24:24 35:22 36:4,6 40:25 45:9 48:21,21 50:4 50:14 55:23 109:19,24 118:19,24 123:16 133:17 138:8 141:15 146:21,22 156:19,21 <b>engage</b> 180:22 <b>engineer</b> 119:17 119:21,23 120:4 <b>engineering</b> 87:13 120:6 169:9 <b>enhanced</b> 42:11 <b>enhancement</b> 54:3 55:14 134:11 179:8 179:11 <b>enhancements</b> 79:15 136:18 139:16 <b>enhancing</b> 42:3 <b>enjoyed</b> 27:8 <b>enlighten</b> 164:7 <b>ensure</b> 45:21 48:22 50:21 51:2 53:14	142:6 171:6 <b>ensuring</b> 52:12 55:1 173:25 <b>Entergy</b> 110:22 110:25 111:6 127:7,9,13,16 <b>Entergy's</b> 180:19 <b>entering</b> 89:1 <b>enterprise</b> 38:19 86:8 87:3 169:22 <b>entire</b> 47:9 51:16 93:2 126:19 129:3,9 138:5 140:9 142:24 163:10 <b>entirety</b> 67:16 <b>entities</b> 39:2,16 40:24 59:7,25 60:9,25 61:11 61:21 62:12 64:11 108:15 109:4 <b>entitled</b> 5:25 6:4 <b>entity</b> 29:23 33:24 43:4,6 76:4 82:11 111:25,25 170:11 180:18 <b>entry</b> 180:21 <b>environment</b> 52:22 <b>environmental</b> 24:19 25:6,15 27:8 36:24 37:6,13 38:9 85:12,17 86:9 86:22 87:11 109:18 <b>envision</b> 45:14 <b>equal</b> 114:13 160:20 <b>equity</b> 17:13 38:1,2 59:19 60:5,20 61:14	61:22 62:12 85:7 87:19,22 88:3,5 172:7 175:22 178:10 <b>equivalent</b> 135:2 <b>ERRATA</b> 3:10 <b>error</b> 159:25 <b>ES</b> 109:17,17 <b>escalated</b> 52:22 <b>ESQUIRE</b> 2:2,6 2:9,9,15,19,22 <b>essentially</b> 69:11 135:7 162:24 <b>establish</b> 38:12 <b>established</b> 98:5 104:21 108:10 109:8 139:1 <b>establishing</b> 137:5 <b>estimate</b> 136:22 157:6 <b>estimated</b> 112:25 157:20 <b>et</b> 60:12 69:10 <b>ethical</b> 63:23 <b>EV</b> 87:11 <b>EV/EBITDA</b> 87:3 <b>evaluate</b> 50:15 138:25 <b>evaluated</b> 76:20 131:12 <b>evaluating</b> 131:3 <b>evaluation</b> 125:16 <b>evasive</b> 104:12 <b>evening</b> 179:3 <b>event</b> 47:23 48:1 49:18 50:10 52:15 72:15 105:20 115:15 115:17,25 <b>eventually</b> 132:12 <b>Evergreen</b> 178:4 <b>everybody</b> 8:14
--	--	---	---	--

128:9 129:21 <b>evidence</b> 38:5 70:11,19 76:14 78:18 82:24 86:23 <b>exact</b> 19:15 22:1 34:6 35:4 37:7 68:5 85:13 157:13 166:4 167:5 177:4 <b>exactly</b> 11:1 34:10,21 39:14 85:13 93:23 <b>EXAMINATI...</b> 3:6 9:18 <b>examined</b> 5:15 <b>example</b> 51:11 52:14 54:21 82:20 86:21 90:2 91:24,24 101:4,6 115:4 173:22 <b>examples</b> 86:18 91:12 <b>excavators</b> 75:11 <b>exceed</b> 72:17 174:2 175:3 <b>exceeded</b> 110:12 <b>exception</b> 67:17 <b>excerpt</b> 100:21 <b>excess</b> 66:19 171:15,15 <b>exclude</b> 92:9 <b>excluded</b> 124:19 <b>excludes</b> 156:11 <b>excluding</b> 92:22 <b>exclusive</b> 35:9 <b>execute</b> 28:21 97:16 146:16 160:22 177:23 <b>executed</b> 56:8 91:17 107:25 148:19 149:4,8 149:16,17,19 149:20	<b>executing</b> 168:4 <b>execution</b> 77:20 138:10 144:19 149:3 <b>executive</b> 9:3 16:21 25:2,5 59:20 63:12 64:5 <b>executives</b> 126:24 <b>exemplars</b> 37:21 <b>exhibit</b> 3:14,15 3:16 11:14,16 13:9 20:10,21 20:23 22:12 40:5 57:15,21 58:10,14 65:16 76:11 80:19 99:6 100:10 137:10,11,13 <b>exhibits</b> 57:19 <b>exist</b> 34:23 78:8 <b>existed</b> 70:4 81:5 <b>existence</b> 78:7 109:10 <b>existing</b> 30:11 30:15 81:9,15 89:18 172:18 <b>exists</b> 53:15 78:10 106:10 150:7 <b>exit</b> 180:19,20 <b>expanding</b> 136:15 <b>expansion</b> 91:21 <b>expansions</b> 167:4 <b>expect</b> 32:16 91:4 92:18,23 108:12 117:21 <b>expectation</b> 28:24 45:18 75:8 105:2 181:10 <b>expected</b> 43:6 44:25 45:4	46:19 48:15 92:14 94:2,11 103:23 166:18 167:3 <b>expedited</b> 6:13 <b>expended</b> 52:23 <b>experience</b> 28:2 28:15 40:18 138:24 153:8 <b>experienced</b> 22:18 25:5 <b>expert</b> 111:16 122:4 157:9 <b>expertise</b> 33:4 34:9 134:21 153:5,8 <b>Expires</b> 182:16 <b>expiring</b> 27:12 <b>explain</b> 75:4 89:12 99:6 <b>explanation</b> 3:16 81:20 99:12 <b>explicitly</b> 35:11 71:24 80:11 96:17 108:25 109:9,10 112:13 <b>exposure</b> 107:4 <b>expressing</b> 45:17 <b>extended</b> 4:8 73:16 <b>extensive</b> 137:23 138:14 147:20 <b>extent</b> 32:18 78:10 81:5 100:23 114:11 125:3 171:14 <b>external</b> 82:15 <b>extreme</b> 52:15 <b>eye</b> 144:14 147:16 <hr/> <b>F</b> <hr/> <b>F.A.C</b> 1:7 <b>facilities</b> 26:5	30:19,20 35:18 124:20 166:14 <b>facility</b> 1:4,5 30:11,16 33:18 34:3,25 35:4 122:11 153:16 153:18 154:16 166:2,25 168:17,20,21 174:4,13 184:2 <b>fact</b> 48:3 50:4 53:18 121:10 129:19 <b>factor</b> 75:15 93:2 <b>factors</b> 70:4 78:18 <b>factually</b> 35:25 <b>failure</b> 105:14 <b>fair</b> 34:16,17 35:17 42:12 47:13 52:10 64:8 65:5 66:20 67:4,8 67:14 69:2 70:5,21 72:1 76:15 79:3,4 80:24 84:8 96:21 99:22 104:9 129:15 129:23 131:11 143:7,9 148:3 152:3 176:16 176:17 <b>fairly</b> 69:12 80:6 115:15 137:23 143:13 164:5 165:9 177:19 <b>fairness</b> 143:12 <b>false</b> 80:12 102:20 <b>familiar</b> 22:14 29:13 57:9 66:14 121:25 137:13 143:19 157:1 158:11	158:18 159:10 159:24 162:1 162:21 165:1 170:20 172:10 <b>familiarity</b> 59:11 <b>far</b> 48:24 59:4 61:14 129:19 130:24 <b>faster</b> 53:11 <b>FAUSTIN</b> 2:9 <b>federal</b> 153:18 <b>fee</b> 156:23 <b>feel</b> 83:18 129:4 136:25 <b>fees</b> 161:16 <b>feet</b> 166:7 <b>felt</b> 43:12 <b>Felton</b> 178:5 <b>fiduciary</b> 170:15 170:21,23 <b>figure</b> 120:12 139:19,22 159:7 <b>filed</b> 1:3 19:21 20:3 57:25 58:1 108:24 118:7 140:11 150:16 <b>filings</b> 6:24 <b>filled</b> 31:10 166:23 <b>final</b> 7:25 22:18 129:11 <b>finalized</b> 106:9 <b>finally</b> 29:2 137:5 139:14 <b>finance</b> 24:3 26:20,24 169:9 <b>financial</b> 10:21 10:23 23:17,22 24:23 25:9 26:22 27:1,15 27:17 28:1,10 58:9 66:6,13 67:15 69:6,7
---	--	--	--	---

69:22 70:15 77:23 82:23,24 83:4,5,10 107:23 114:24 115:23,24 116:1 135:4 137:7 140:2,7 156:18 168:17 169:4,13 179:23 <b>financially</b> 183:15 <b>financially-ori...</b> 22:25 <b>financials</b> 115:25 <b>financing</b> 88:8 174:3 175:6 <b>find</b> 76:14 83:6 83:21 112:9 114:2 <b>finding</b> 58:11 125:8 <b>fine</b> 99:24 127:19 128:7 <b>finish</b> 52:7 163:11 <b>FIPUG</b> 2:14 4:17 7:17 9:10 <b>fire</b> 90:9 <b>firm</b> 2:13,22 9:10 12:17 16:12 17:17 22:16,24 23:8 60:10,14,16,16 60:19 61:9 86:7,19 139:1 139:5 169:25 170:5 <b>firms</b> 178:9,10 <b>first</b> 2:7 5:14 14:8 18:18 23:18 24:6 40:14,18 49:17 51:25 58:14 66:17 84:5,7,9	93:8,9,13 96:5 96:16 100:6 104:17 120:17 121:22 126:20 137:15 162:9 165:16 <b>fit</b> 6:7 <b>five</b> 17:3,6 25:13 56:23 79:14 81:13 113:2 129:18 134:2 140:25 162:9 175:16 177:3 177:11 <b>fixed</b> 89:22 98:5 98:5,23 105:21 106:2 107:25 108:2,5,9,20 122:19,23 126:6 158:12 159:2 160:5,11 160:24,24 161:1,5 167:21 <b>fixed-cost</b> 3:16 98:9,10,14,15 99:13 <b>fixed-price</b> 44:16,19 45:23 89:18 90:11,18 90:21 92:2 109:8 122:17 160:18 <b>FL</b> 2:4,7,11,14 2:20 <b>flex</b> 115:16 <b>flexibility</b> 136:7 <b>flip</b> 177:8,8 <b>float</b> 108:22 <b>flood</b> 90:9 <b>Florida</b> 1:1,8,15 1:16,19 2:3,5,6 2:8 3:13 4:6,18 5:22 6:3 8:23 9:12 10:25 11:5 40:25 45:9 48:3,21	50:5,14 55:23 97:15,20 111:12,16,18 118:14,19,24 127:4 133:17 134:6,17 138:8 141:8,13,15 142:5 143:16 146:21,22 171:17 182:2 182:15 183:2 <b>flow</b> 80:21 105:7 105:9 144:14 <b>flows</b> 171:15 <b>fluctuate</b> 108:22 <b>focus</b> 33:20 49:15 55:1 56:19 171:1 <b>focused</b> 48:20 177:24 <b>folks</b> 147:14 176:18 <b>follow-up</b> 178:20 180:11 <b>followed</b> 62:3 <b>following</b> 66:8 92:24 151:3 <b>follows</b> 5:15 <b>foot</b> 108:9 166:9 <b>footnote</b> 67:11 68:2,6,9,12,14 <b>footnotes</b> 68:18 68:20,21 69:4 <b>footprint</b> 94:16 <b>force</b> 149:22 <b>foregoing</b> 183:7 184:20 <b>form</b> 6:23 8:3 28:12 31:17 32:12 33:12 34:5 35:21 41:1,8 42:5,21 43:10 44:7 45:6 48:18 49:22 50:24 53:3 60:3 62:1	62:22 63:14 68:3 70:25 77:7 78:6 82:6 86:3 94:24 95:16 97:22 98:17 102:4 104:19 106:7,9 110:5 111:2,14 111:22 118:15 119:3 122:12 123:6 124:9 127:12,15 132:24 134:18 135:13 142:14 143:11 144:8 144:17 145:15 146:2,9 147:19 150:6 151:2,21 152:17,21 153:12 154:12 154:24 155:15 157:17,22 159:11 164:2 165:8,22 167:11 168:18 169:11 170:17 171:10 175:4 <b>formal</b> 18:3 69:15 117:5 <b>formally</b> 17:4 <b>format</b> 117:1 119:8 <b>formulated</b> 94:22 <b>forth</b> 105:10 118:1 119:5 <b>forward</b> 50:11 76:25 114:22 147:22 154:5 175:7 <b>forward-looking</b> 82:24 83:4 <b>fossil</b> 93:16,19 <b>found</b> 74:17 86:12 131:19 139:24	<b>four</b> 12:14 16:16 23:12 24:11 60:18 62:6 65:17 90:1 178:2,5 <b>fourth</b> 37:18 <b>FPSC</b> 2:11 <b>fragmented</b> 177:19 <b>frame</b> 85:21 <b>fresh</b> 28:5 170:2 <b>front</b> 22:12 47:15,16 48:24 51:14 68:9 69:8 87:21 90:11 107:12 107:13 137:21 <b>froze</b> 40:8,11 <b>fuel</b> 1:4 33:10 45:19 46:1 123:4,5,11,12 123:15,17,22 123:23 124:6,7 153:3,11 154:11,19 155:10,19 156:2,4,10,13 156:15,25 <b>full</b> 14:23 27:1 27:17 45:20 53:21 83:19 84:9 90:12 111:23 112:1 127:2 <b>fully</b> 32:22 92:2 166:17 <b>function</b> 28:13 29:6 138:6 180:16 <b>fund</b> 52:3,5 59:21 60:7,18 61:7 63:4 82:5 82:13 102:16 104:3 116:18 155:25,25 156:3 172:16
---	--	---	---	--

175:11,15,16 <b>fundamentally</b> 83:21 92:22 161:13 163:3,8 <b>funded</b> 172:17 <b>funding</b> 48:6 50:1,13 60:10 60:16 61:1 103:25 133:4,9 156:12 165:11 171:7,15,15 <b>funds</b> 60:1,4,22 61:8,23 62:12 62:19,21 63:13 64:6 79:23 80:2 81:1 96:14,22 102:22,24,25 116:16,17 156:1 171:6,20 175:13,14 176:24 180:24 <b>further</b> 32:5 44:11 53:23 136:12 180:8 183:11 <b>future</b> 1:7 32:3 33:19 43:6,7 45:5 48:6 50:1 75:25 76:3,13 92:14 175:7 180:20	95:1 106:25 107:7 117:20 118:16 122:3 147:6 164:3,21 <b>generally</b> 26:18 35:14 39:5 42:23 44:5 48:19 54:11 70:22 71:1 80:5 83:7 86:12 94:25 96:13 98:20,25 110:6,8 118:10 138:21 160:21 161:2,7 175:13 <b>generate</b> 75:6,9 75:20 76:5 86:12 90:20 105:4 <b>generated</b> 115:13 132:1,2 <b>generates</b> 81:23 125:4 <b>generation</b> 43:3 43:3 75:13 <b>geographic</b> 25:17 <b>getting</b> 7:22 112:17 113:4 <b>GG</b> 182:16 <b>give</b> 14:10 19:16 36:19 39:20 57:14 61:17 70:16 99:13 109:24 112:14 112:17,24 136:21 138:24 139:21 142:2 166:6 167:5 176:21 178:11 <b>given</b> 31:13 54:8 54:9 80:20 82:13 90:24 91:7 107:11 108:18,18 117:16,20	139:9 183:9 <b>giving</b> 72:14 116:20 148:7 <b>global</b> 25:14 28:3 <b>go</b> 5:11 6:16 7:13 8:20 10:12 14:2 18:17 25:10 31:20 32:5,17 32:21 34:15 35:5,7,14 40:6 40:6 47:18 52:13 58:21 61:6 64:20,21 65:16 66:25 71:10 76:9 80:11 83:6,20 84:11,22,22 87:25 88:15,16 88:16 90:10,14 93:8 96:25 107:4 108:7,8 109:24,24 110:3,4 113:14 116:4 118:1 119:9 120:13 120:17 128:1,8 129:21 134:1 142:19 143:7 153:14 154:5 174:11 <b>goes</b> 56:5 71:12 79:5 107:2 <b>going</b> 6:12 8:16 18:17 24:20 25:3,9 27:4 28:17 29:22,25 33:22 42:18 43:1,17 48:8 50:11,20 51:14 52:1,7 57:13 60:4 63:6 64:12 67:25 68:8 71:3 73:22 76:25	78:20 80:5 81:10 83:16 87:21 88:7,24 89:9 90:12 92:15,17 95:24 96:13 99:20 102:13,14 104:15 105:23 107:24 108:11 108:13 122:3 131:12 134:11 134:18 136:23 140:15,16,24 147:17 150:25 151:18,18 154:4 155:9,12 159:16 161:5,6 167:22 168:8 170:7 175:7,16 175:17 176:13 178:19 180:23 <b>good</b> 7:9 8:10 9:20,23 57:2 77:5 86:2 120:25 121:19 128:5,6,6 140:4,19,20 141:2,6 151:6 162:16 164:23 167:9,10 179:3 <b>goodwill</b> 64:21 65:3 66:18,19 67:7,18 68:2 68:24 69:13,20 69:21 70:24 71:9,21 73:22 74:24 75:1,5 75:18 76:12,16 76:18,18 77:1 77:2 130:9,17 130:24 131:3 <b>gotten</b> 57:18 <b>government</b> 153:19 <b>governs</b> 175:6 <b>GP</b> 60:13,23	<b>grade</b> 30:17,20 31:8 <b>great</b> 175:12 <b>greater</b> 28:7 32:19 33:2,6 34:1,3,19 49:9 71:25 125:4,5 125:13,20 <b>greatest</b> 95:1 106:20 107:4 131:17 <b>Greg</b> 8:18 <b>GREGORY</b> 2:15 <b>grieve</b> 51:12 <b>ground</b> 31:8 178:12 <b>group</b> 2:16,18 2:21 3:2 4:18 10:20 11:2 14:25 18:1 28:18 45:24 61:16 66:5 129:25 141:9 177:20 178:2 <b>groupings</b> 26:21 <b>groups</b> 178:3,6 <b>growth</b> 28:1,2 <b>guarantee</b> 14:21 46:16,18 54:2 54:6 71:6,17 96:2 103:7 105:18 106:25 107:7 149:19 167:6,8 168:5 <b>guaranteeing</b> 105:17 <b>guarantees</b> 54:8 54:12,12 55:14 56:1 97:8 <b>guess</b> 4:23,25 22:13 23:11 28:8 33:17 39:17 73:23 80:14 95:12 96:1,5 107:25
<b>G</b> <b>G</b> 2:15 <b>G-A-A-S</b> 78:3 <b>GAAS</b> 78:3 <b>Gadsden</b> 2:13 <b>gap</b> 51:16,24 77:15,24 81:23 82:10,16 130:8 130:11,23 <b>GDS</b> 3:2 <b>general</b> 2:10 8:19,23 37:24 38:16 60:4				

117:2 158:2,4 176:14 178:25 181:6 <b>guidance</b> 161:25 <b>guidelines</b> 63:23	<b>header</b> 66:17 <b>headquarters</b> 23:23 <b>hear</b> 35:2 74:9 120:21 121:15 121:16 126:2 <b>heard</b> 38:7 175:18 177:6 <b>hearing</b> 5:3,7 8:4 19:18 95:14,19 178:25 <b>heart</b> 54:25 177:12 <b>held</b> 79:19 81:2 101:15 165:2,5 165:14 <b>help</b> 166:25 172:23 <b>helpful</b> 89:13 177:22,23 <b>helping</b> 23:18 <b>Heneghan</b> 172:13 <b>Hernandez</b> 2:19 3:8 4:13,13 5:4 5:9 6:9 7:4 8:5 8:8 9:1,1 11:17 11:25 12:3 13:9,23 21:4,8 31:17 32:12 33:12 34:5 35:21 41:1,8 42:5,21 43:10 44:7 45:6 47:20 48:18 49:22 50:24 53:3 56:21,23 57:2 58:2,5,11 58:17 60:3 62:1,22 63:14 64:22 65:21,24 68:3,12 70:25 74:10,15 77:7 78:6 82:6 86:3 94:24 95:16	97:22 98:17 99:14 100:17 102:4 104:19 106:7 110:5 111:2,14,22 113:14 118:15 119:3 122:12 123:6 124:9 127:12 132:24 134:18 135:13 142:14 143:11 144:8,17 145:15 146:2,9 147:19 150:6 151:2,21 152:17,21 153:12 154:12 154:24 155:15 157:17,22 159:11 164:2 165:8,22 167:11 168:18 169:11 170:17 171:10 175:4 178:19 179:5 180:8 181:4 <b>Hey</b> 8:11 56:21 121:2 <b>high</b> 104:20 122:13 141:19 144:3 153:10 158:18 166:22 169:8 <b>high-level</b> 33:3,7 33:10,18 122:9 171:17 <b>higher</b> 65:5 <b>highly</b> 45:7,12 135:7 <b>HILLSBORO...</b> 182:3 183:3 <b>hire</b> 137:8 179:22 <b>historical</b> 87:2 92:25 <b>historically</b>	90:20 153:2 <b>history</b> 143:19 144:3,12 176:23 <b>Hobbs</b> 109:1 119:6 122:3 124:11 <b>hold</b> 169:19 176:21 <b>holding</b> 35:8 <b>holdings</b> 61:16 72:12 <b>holdings'</b> 72:12 <b>holds</b> 60:7 <b>hole</b> 31:8 51:13 <b>Holtec</b> 36:7 109:13 <b>honest</b> 102:1 <b>honoring</b> 180:1 <b>hook</b> 180:24 <b>hopefully</b> 76:9 <b>hour</b> 156:24 <b>hours</b> 141:7 <b>hundred</b> 79:18 105:23 165:16 173:14,16 <b>hundreds</b> 144:5 <b>hurricane</b> 115:9 115:17 <b>hybrid</b> 43:9 <b>hypothetical</b> 42:18,22 49:14 49:20 50:9,18 51:9 52:17 103:18 <b>hypothetically</b> 32:8 64:4,7 110:11	95:9 147:11 <b>identify</b> 20:10 20:22 160:25 <b>Illinois</b> 91:20 <b>immediately</b> 46:10 72:13 113:14,15 <b>impact</b> 136:2 140:2,7 162:11 <b>impair</b> 76:24 <b>impaired</b> 69:12 70:20 <b>impairment</b> 70:3,11,18 131:3 <b>implementing</b> 134:4 <b>implied</b> 112:8,9 <b>imply</b> 81:3 119:21 <b>implying</b> 84:24 <b>important</b> 46:25 53:5 67:2 106:13 109:11 126:14 129:24 <b>imposed</b> 142:25 <b>impossible</b> 45:15 <b>improved</b> 83:11 <b>inaccurate</b> 137:19 <b>inch</b> 74:14 <b>incinerator</b> 25:25 <b>include</b> 54:15 57:15 74:23 123:3 124:23 140:21 146:14 <b>included</b> 13:21 57:7 91:10,12 94:22 100:10 122:20 123:7 123:12,12 146:11,16 <b>includes</b> 124:18 146:18,20 <b>including</b> 14:23
<b>H</b> <b>H</b> 3:11 <b>H-A-R-M-O-N</b> 169:7 <b>H-O-L-T-E-C</b> 36:10 <b>half</b> 24:10,11,21 84:2 157:7 <b>hand</b> 154:10 173:7 182:8 <b>handled</b> 156:16 156:17 <b>hands</b> 105:7 <b>hanging</b> 64:13 64:16 <b>happen</b> 161:11 175:11,23 <b>happened</b> 52:15 110:11 116:21 147:18 <b>happens</b> 90:18 90:19 115:20 115:25 152:20 153:11 176:2 <b>happy</b> 80:18 111:20 120:15 <b>Harbors</b> 39:8,17 <b>hard</b> 89:18,24 91:10 92:12,16 93:2,8,9 148:13,14 174:19 175:23 <b>harder</b> 116:3 <b>hardware</b> 35:15 <b>Harmon</b> 59:16 169:7 <b>hazardous</b> 39:25 <b>head</b> 87:24 102:11 136:22 157:3				
			<b>I</b> <b>idea</b> 55:2 115:5 138:21,24 139:22 176:4 <b>identification</b> 11:16 <b>identified</b> 8:15	

79:24 122:8 <b>inconsistency</b> 140:5 <b>inconsistent</b> 139:25 <b>incorporated</b> 86:1 <b>incorrect</b> 95:3 101:20 160:1 <b>incorrectly</b> 65:3 <b>increase</b> 161:16 161:17 <b>increased</b> 69:14 162:7 <b>increases</b> 138:12 138:17 144:18 <b>increasing</b> 101:8 135:21 <b>incremental</b> 104:3 115:24 132:12 <b>incurred</b> 48:16 53:7,16 160:9 <b>incurring</b> 55:4 <b>indebtedness</b> 173:7 <b>indefinitely</b> 124:2 <b>independent</b> 17:8,9 61:11 123:4,11,22 124:6 137:5,8 138:23 144:22 145:5,12 148:22,24 157:4 179:7,11 179:17,25 180:3 <b>index</b> 114:2 <b>indicate</b> 4:11 <b>indicated</b> 70:5 137:11 139:15 184:20 <b>indicates</b> 49:19 <b>indicating</b> 115:2 <b>indicative</b>	106:10 107:24 <b>Indirectly</b> 75:4 <b>individual</b> 60:7 61:18 169:6,7 179:18 <b>individually</b> 92:23 93:4 <b>individuals</b> 17:2 17:3,6 60:19 61:14,22 93:24 <b>industrial</b> 4:18 15:21 36:24 37:6 39:13 85:11,17 86:10 87:6 141:8 <b>industries</b> 37:4,9 <b>industry</b> 15:21 27:13 31:1,12 36:25 38:18 85:12 86:6,20 87:16 <b>industry-wide</b> 85:25 <b>inefficiencies</b> 160:23 <b>information</b> 5:20,25 6:5 7:13,22 18:2 26:24 66:7 83:22 95:20,23 131:2 136:15 144:24 147:10 179:25 <b>inherent</b> 46:14 <b>initial</b> 10:18 <b>initially</b> 24:3 <b>Inside</b> 113:1 <b>insight</b> 176:21 <b>installation</b> 123:4,11,23 124:7 <b>instance</b> 18:19 <b>institution</b> 84:14 <b>integral</b> 150:8 <b>integrated</b> 128:23 136:24	<b>integration</b> 129:10 <b>intended</b> 50:2 63:7 85:20 132:25 <b>intent</b> 38:8 <b>intentionally</b> 106:17 <b>intercompany</b> 82:19 <b>interest</b> 17:13 38:24 61:23 62:21 143:16 168:17 173:9 173:25 <b>interested</b> 27:16 59:13 112:12 183:15 <b>interests</b> 42:4,11 142:4,7 145:8 177:18 <b>interfere</b> 94:11 <b>interim</b> 29:17,18 29:25 33:20 125:17 153:24 154:1,11 <b>interlocking</b> 168:16 <b>internal</b> 15:14 82:10 <b>interplay</b> 129:10 164:16 <b>interpret</b> 115:1 <b>interpreted</b> 138:18 158:6 <b>interrupted</b> 21:12 <b>interview</b> 27:25 <b>introduce</b> 95:18 <b>introduced</b> 27:13 <b>inventory</b> 151:17 <b>invest</b> 62:21 64:6 <b>investing</b> 60:18	170:9 <b>investment</b> 16:12 18:1 29:12,23 38:3 60:7 61:1,21 61:23 62:12 63:24 64:11,17 86:5,7,19 175:21 178:2,6 178:8 <b>investments</b> 60:10 62:24,25 <b>investor</b> 17:10 17:15 28:18 29:9,11 38:1,2 59:12 60:22 61:4,8,10,12 63:12 64:6 75:7,10 76:6 168:19,22 176:18 <b>investors</b> 17:7 17:12 28:23 43:5 59:6,10 59:20,21 60:2 60:13,13,17,17 60:20,22,23 61:15,18 62:18 63:1,4 64:10 96:15 175:15 175:22 <b>invoice</b> 82:4,5 105:6 <b>involved</b> 18:21 22:24 26:11 29:14,15 86:19 93:24 119:7 126:20 127:14 145:6 148:7 154:9 180:14 <b>involvement</b> 23:3 41:5 <b>involves</b> 69:17 179:17 <b>Iowa</b> 169:19 <b>irradiated</b> 35:15	<b>irrelevant</b> 56:3 <b>isolated</b> 46:22 47:1 126:15 128:10 129:6 <b>isolation</b> 129:14 <b>issuance</b> 69:7 <b>issue</b> 8:1 10:2 34:9 79:20 81:11 90:10 97:24 110:3 135:16 <b>issued</b> 12:1 91:23 155:1 <b>issues</b> 94:25 136:11 151:1 <b>item</b> 15:10 51:23 118:22 147:8 <b>itemization</b> 117:3 <b>items</b> 92:4 <b>IV</b> 59:20,20,21 59:21 60:13,23
<b>J</b>				
<b>J</b> 2:2				
<b>J-E-F-F-R-E-Y</b> 10:17				
<b>J.F</b> 17:17 29:10 60:6 168:25 177:17				
<b>JA-1</b> 22:12 40:5				
<b>JA-2</b> 100:16,19				
<b>James</b> 2:22 7:21 9:14				
<b>January</b> 22:6 56:13				
<b>Jay</b> 4:22 5:4 120:13,15,17 121:1,2				
<b>Jeff</b> 8:24 11:24				
<b>Jefferson</b> 2:23				
<b>Jeffrey</b> 1:10 5:13 10:17 182:7 184:1,22				
<b>jeopardy</b> 80:23				
<b>JFL</b> 59:19,20,21				



60:13,20,23 61:11 62:11 <b>JFL-NGS</b> 17:21 <b>job</b> 50:23 52:7 52:16 93:14 104:18 <b>jobs</b> 94:14 <b>John</b> 59:15 <b>Johnson</b> 23:10 23:12 <b>joined</b> 24:2 29:1 <b>joining</b> 28:17 <b>joint</b> 29:18 30:12 <b>Jon</b> 2:12 4:17 9:8,9 120:17 127:25 140:21 141:7 178:19 <b>JR</b> 2:12 <b>jump</b> 140:18 <b>June</b> 1:3,12 11:22,24 182:9 183:16 184:1 <b>justify</b> 118:21	158:18 164:11 170:2 178:10 <b>kinds</b> 86:13 <b>knew</b> 25:5,5 <b>know</b> 5:7 8:15 10:4,11,12,14 11:18 16:23 19:21 27:20 28:4,9 30:23 31:3 32:13 33:6 34:9,21 35:8,9,25 37:7 38:7,9 41:9,13 43:20 51:12 52:24 55:3 59:4,9 60:24 62:19,24 63:15 63:22,25 64:7 70:23 78:10 81:1 88:1 89:21 90:11 93:22 97:2 99:19 101:25 103:17,19 104:5,14,16 105:24 106:3,8 106:11,16 109:5,6,9 110:6,25 111:9 111:23 113:12 117:25 119:4 120:13 131:18 133:4,11 134:25 135:14 136:8,10 137:3 137:4 138:12 139:11 140:4 141:6 142:9 147:9 149:16 149:22 152:5 152:10,12 153:17 155:24 156:23 157:9 163:5,15 164:11,13 166:2,21 167:2	169:15 175:12 175:22,24 176:22 177:3,6 177:7 <b>knowing</b> 103:14 176:12 <b>knowledge</b> 26:6 32:4 37:24 40:1 63:21 64:3,17 85:7 86:16 119:20 122:3 127:2 143:23 144:2 161:18 175:13 <b>known</b> 25:6 32:19 44:22 59:24 <b>knows</b> 20:16,17	103:16,16 132:11 167:14 <b>layered</b> 129:2 <b>layers</b> 51:1 <b>layman</b> 173:11 176:18 <b>layman's</b> 173:11 <b>lead</b> 25:7 120:15 <b>leader</b> 22:19 <b>leaders</b> 26:25 <b>leadership</b> 28:5 <b>leading</b> 26:23 <b>leave</b> 64:12,15 143:8 <b>leaving</b> 23:8 25:3,18 <b>left</b> 24:17 26:1 26:15 27:9,21 50:20 52:4,5 52:20,20 67:3 87:14 108:22 133:9 171:20 <b>legal</b> 21:17,25 32:11 63:15 <b>Legislature</b> 2:3 <b>Lehman</b> 17:17 29:10 59:16 60:6,11 62:8,8 62:9 168:25 177:17 <b>lender</b> 14:25 71:16,23 82:8 163:23 175:1 <b>lenders</b> 96:12,20 172:18 174:14 <b>length</b> 135:1 <b>lengthy</b> 46:24 48:20 49:3 126:13 <b>let's</b> 37:13,25 40:5,6 50:8,9 56:25 57:1 64:20 71:9 77:14 84:22,22 88:15 90:7 105:25 110:17	116:4 117:5 119:9 120:17 134:4 140:23 140:24 <b>letter</b> 116:18 <b>level</b> 28:8,9 34:18 45:17 85:23 104:20 118:11,14 119:5 122:14 141:19 144:3 153:10 158:19 159:4 166:22 169:8 174:20 <b>levels</b> 104:24 124:24 <b>leverage</b> 71:25 72:17,24 175:8 <b>leveraged</b> 173:2 <b>LHERRISON</b> 2:9 <b>liabilities</b> 78:12 114:14 <b>liability</b> 77:16 79:2 106:20 173:24 <b>liaison</b> 23:22 <b>license</b> 1:6 <b>licensed</b> 33:18 119:21 169:17 <b>licenses</b> 31:25 <b>licensing</b> 16:8 32:5 <b>lieu</b> 69:16 <b>life</b> 108:1 166:24 175:15 <b>limit</b> 172:22 173:15,18,19 174:10 <b>limited</b> 36:4 60:17 61:5 63:3,4 64:10 <b>limiting</b> 75:15 <b>line</b> 6:7 17:20 18:3 36:22 42:16 44:11
<b>K</b>		<b>L</b>		
<b>keep</b> 82:11 132:6 144:13 147:16 170:2 <b>keeping</b> 133:17 <b>keeps</b> 128:9 <b>kept</b> 23:1 170:1 <b>key</b> 40:3 75:14 75:15 103:12 123:17 <b>kind</b> 23:14 50:11 60:1 63:24 79:2 80:15,20 81:3 81:20 86:1,17 86:23 88:1 104:7 112:12 114:3 117:5 119:2 136:21 139:4 141:11 148:4 151:17		<b>L-E-H-M-A-N</b> 17:18 <b>L.P</b> 59:21,21 <b>labeled</b> 88:8 <b>labor</b> 162:11,11 <b>landfill</b> 31:1,2,4 31:12 166:24 <b>landfills</b> 39:25 <b>language</b> 68:5 68:24 70:12 72:10 <b>large</b> 1:19 91:13 115:25 166:5 <b>larger</b> 28:3 89:2 92:23 <b>lasted</b> 27:10 <b>late</b> 19:2,2 <b>late-filed</b> 3:15 3:16 20:10,21 20:23 80:19 99:6,11 137:11 <b>launched</b> 25:14 <b>law</b> 2:13,22 7:2 9:10 12:17 169:9 <b>layer</b> 51:5,7		

45:16 64:24 65:2 66:17 71:12,13,15 75:23 82:22 84:23 88:15 100:1,17,22 103:5 116:2 126:12 129:17 147:8 171:25 172:20 184:4 <b>lines</b> 15:13 16:4 46:21 47:19,20 53:24 77:19 81:22 88:16 100:20 105:13 110:21 112:3 130:8 131:9 <b>link</b> 21:2 71:10 <b>liquidate</b> 43:16 <b>liquidating</b> 42:25 <b>liquidation</b> 42:18,23 131:13,15 132:6,20,23 <b>list</b> 11:9 15:2 35:9 36:15 39:20 71:5 84:16 137:22 138:5 165:6 <b>listed</b> 12:5,21 60:21 78:4 87:13 124:19 137:16,19 139:9 <b>listen</b> 176:9 <b>listing</b> 58:14 <b>lists</b> 59:15 <b>literature</b> 67:23 86:1 <b>litigation</b> 18:21 <b>little</b> 24:6,9,10 29:15 34:8 36:2 39:5,7,8 57:1 69:23 79:9 83:2 99:4	102:17 121:17 126:10 127:8 132:14 134:20 158:2 161:10 174:8,21 176:21 <b>live</b> 20:4,7 160:15 162:14 <b>LLC</b> 1:8 10:23 60:13,23 61:16 <b>LLP</b> 2:19 <b>loans</b> 75:3 <b>locate</b> 20:20 21:6,8 57:17 <b>located</b> 58:25 <b>locating</b> 20:20 <b>location</b> 30:14 152:25 153:14 154:19,20 <b>locked-in</b> 167:19 <b>lodged</b> 94:18 <b>long</b> 27:23 88:7 88:9 157:4 175:2 <b>long-term</b> 88:8 125:15 <b>longer</b> 10:12 81:10 112:25 155:21 177:2 <b>look</b> 20:19 27:12 43:5 47:18 57:12 66:5 72:7 75:12 76:23 86:25 88:2 93:8 112:11,14 131:5 138:13 163:22 164:10 176:23 <b>looked</b> 23:11 34:10,21 37:12 57:6 87:10 151:12 <b>looking</b> 25:1,4 27:6,14,25 37:8 51:8	53:15 68:15,17 74:22 75:9 81:19 112:20 113:10 151:16 160:17 163:10 163:24 <b>looks</b> 24:15 58:16 66:5 85:13 164:12 <b>loosely</b> 37:23 77:8 <b>lose</b> 10:13 <b>lot</b> 128:23 138:9 161:22 163:16 163:17 166:13 <b>low-level</b> 26:5,7 29:22 31:16,23 32:2,8,16 39:9 40:1 104:5 105:4 109:14 109:21 110:8 124:23 <b>LP</b> 59:20 61:7 <hr/> <b>M</b> <hr/> <b>M</b> 2:6 <b>M-I-N-T-Z</b> 59:16 <b>Madam</b> 7:11 11:12 <b>Madison</b> 2:3 <b>main</b> 176:18 <b>maintain</b> 23:2 73:18 77:10 135:1 <b>maintained</b> 69:14 169:18 <b>maintenance</b> 122:10 155:22 <b>major</b> 84:6 90:9 90:9 142:24 <b>majority</b> 29:20 <b>making</b> 85:8 161:24,25 174:6 <b>manage</b> 117:15	152:24 155:21 156:20 162:19 171:5,5 <b>managed</b> 162:17 176:15 <b>management</b> 24:1 39:25 123:17 156:10 156:13,14,25 <b>manager</b> 22:18 <b>managing</b> 59:17 60:14,15,15,19 62:6 162:16 <b>mandate</b> 138:19 <b>manner</b> 4:10 <b>Manpower</b> 24:8 24:18 <b>manufacturing</b> 30:19 <b>March</b> 24:12,13 <b>mark</b> 52:14 158:2 <b>marked</b> 11:16 <b>market</b> 16:2 65:5 67:4,14 84:25 172:13 <b>marketplace</b> 44:4 <b>markup</b> 159:12 160:6,10 <b>match</b> 37:7 85:13 <b>matches</b> 51:21 <b>material</b> 104:2 115:10 149:10 152:15 153:24 159:9 166:8 <b>materials</b> 35:14 86:11 90:7,13 90:19 122:9 124:2,19 158:16,21,23 158:24 159:13 160:6,8,19 165:19 <b>math</b> 157:3,23	158:2,3,7 159:19,24 <b>matter</b> 21:25 121:23 138:4 <b>matters</b> 18:22 19:4 21:17 <b>maturities</b> 88:10 <b>McLean</b> 91:20 <b>mean</b> 30:22 46:12 47:11 50:2 62:20 67:25 69:9 73:15 78:23 80:19 81:21 87:11 100:25 101:13,15 103:10 105:24 110:6 142:11 151:12 154:16 155:10 164:21 170:20 175:12 <b>meaning</b> 46:5 124:24 <b>meaningful</b> 79:25 115:13 133:4 <b>meaningfully</b> 53:17 <b>means</b> 44:12 46:7 68:10 73:2 89:16 101:23 128:16 <b>meant</b> 68:8 101:21,22,25 102:2 146:22 <b>measure</b> 104:8 166:8,10 <b>measured</b> 31:11 <b>measurement</b> 84:24 <b>mechanical</b> 120:4 <b>mechanically</b> 116:6 <b>Medley</b> 61:6,7 62:13,15
---	---	---	--	---

<b>meetings</b> 17:5	107:11,15,15	28:14 39:21	125:21	78:10 105:3
<b>megawatt</b>	114:9,17	40:9 54:23	<b>moves</b> 46:20	119:16 136:24
156:24	122:20 133:5	79:16 112:14	<b>moving</b> 55:4	138:6 162:15
<b>members</b> 17:11	135:2 139:16	112:18	<b>Moyle</b> 2:12,13	169:13
59:17 60:15	140:4 149:13	<b>momentum</b> 77:3	3:7,8 4:17,17	<b>NDA</b> 6:19
<b>Memorandum</b>	149:19 157:12	<b>monetary</b> 161:4	5:8 7:17 8:11	<b>NDT</b> 116:8
144:25 145:3	157:13,19	<b>monetized</b>	9:9,9,10 21:6	<b>near</b> 113:18
145:17 147:21	159:17 165:16	101:18,23	120:11,18	<b>nearby</b> 100:7
148:10	167:13,14,21	<b>money</b> 50:20	127:23 128:2	<b>nearly</b> 84:25
<b>memory</b> 57:11	167:25 171:21	52:3,5,6,8,13	140:15,23	<b>necessarily</b>
166:6	173:14,16,22	52:20 53:8	141:5,7 142:16	104:11 131:21
<b>mentioned</b>	173:22 174:10	80:8,11 103:20	143:18 144:10	132:7 165:23
19:24 29:10	174:10,11,12	146:7,10,14,16	144:21 145:19	<b>necessary</b> 55:15
34:24 39:17	174:23 175:6	147:2 174:15	146:6,13 148:1	55:19 125:16
87:15 96:11	<b>millions</b> 144:6	<b>monitor</b> 137:6,8	150:10 151:5	<b>need</b> 7:12 10:10
103:18 115:8	<b>mind</b> 41:12	138:23 144:22	152:1,19 153:1	10:14 31:25
<b>merchant</b> 111:6	47:25 72:9	145:12 147:17	153:15 154:15	34:9 36:20
<b>mergers</b> 84:13	89:15	148:24 157:4	155:3,17	40:9 57:11
<b>met</b> 12:20	<b>mine</b> 37:14	179:7,11,17,25	157:18,24	88:8 131:2
<b>methodology</b>	<b>minimal</b> 115:15	<b>monitoring</b>	159:22 164:6	162:18
98:21	<b>minimum</b> 81:1	144:14 145:25	165:13 166:1	<b>needed</b> 56:6
<b>middle</b> 10:17	116:19 125:17	146:15,18,24	167:17 168:24	<b>needs</b> 10:8 34:2
<b>midst</b> 84:5	128:25 167:3	147:3 148:6	169:14 170:19	121:5
<b>milestone</b> 48:11	<b>minor</b> 142:22,23	180:3	171:18 175:10	<b>negative</b> 92:9
49:8 130:1	<b>minority</b> 29:19	<b>monolithic</b>	178:15,22	119:22
<b>milestones</b> 48:5	61:9,11	163:5	179:10 180:10	<b>negotiate</b> 78:25
48:7,14,17	<b>Mintz</b> 59:16	<b>month</b> 55:10,11	180:13 181:2	129:21 132:19
51:5 53:19	60:12	90:24 91:1	<b>multiple</b> 17:2	132:20
54:24 117:9,11	<b>minute</b> 57:14	117:6	38:11 51:1	<b>negotiated</b> 53:14
164:20	<b>minutes</b> 56:23	<b>monthly</b> 53:18	73:19 84:16	53:22 54:25
<b>million</b> 51:6,9	113:1	118:1,25 119:5	86:16,16 114:3	55:12 93:21
51:11,16 67:6	<b>misalignment</b>	119:7 136:15	150:18 153:20	107:14 125:11
67:6 79:18	55:10	136:16 138:14	167:7 177:2	129:11 131:23
80:7 81:17	<b>miscalculated</b>	164:19	<b>multiples</b> 38:18	133:1,7,12,15
84:24 88:6,9	49:9	<b>months</b> 25:13	85:18 86:8	138:7,15
88:10,11 89:10	<b>missing</b> 137:18	28:25 87:2	<b>municipal</b> 31:3	143:13 148:9
89:11,23,24,25	<b>mix</b> 23:16 61:4	91:4 162:9		160:13
90:1 91:14,20	75:17 151:23	<b>mound</b> 31:4	<b>N</b>	<b>negotiating</b> 91:8
92:10 93:2,4	<b>mixes</b> 60:22	<b>mountain</b>	<b>N</b> 3:4 72:8,9,11	132:18 148:2
96:6,15 101:10	<b>model</b> 151:24	153:18	<b>name</b> 4:11 9:24	180:15
101:14 103:7	<b>modeling</b> 116:1	<b>move</b> 33:10	10:16 17:4	<b>negotiation</b>
103:14 104:2	<b>models</b> 158:10	34:11 40:5	168:7 169:6,7	46:24 48:20
104:14 105:14	<b>modestly</b> 162:7	114:22 143:17	172:13	126:13,20
105:19,21,24	<b>modification</b>	147:22 152:24	<b>named</b> 178:3	147:20 161:3
106:1,2,4,14	128:19	153:3	<b>national</b> 162:15	<b>negotiations</b>
106:21,24	<b>moment</b> 19:24	<b>moved</b> 91:9	<b>nature</b> 45:8	45:9 49:3

52:11 106:18 124:12 126:21 126:23,25 127:2 147:24 <b>neither</b> 39:8 <b>net</b> 66:20 67:3 67:13,19 71:25 72:17,24 73:4 73:18 172:7 173:6,11 <b>never</b> 116:21 144:7 <b>new</b> 2:17 27:15 28:18,18,22,22 28:23 75:6 80:11 95:19,23 <b>non-compete</b> 27:10,11 <b>non-fixed-price</b> 92:3 <b>Nondisclosure</b> 6:3 <b>nonprofit</b> 41:21 41:24 <b>normal</b> 51:2 105:1,11 133:2 <b>north</b> 2:7,13 24:4,19,22 25:3 86:9 <b>NorthStar</b> 2:16 2:18,21 3:2 8:19 9:4 10:20 11:2 14:25 16:22 17:7 20:18 21:19,21 21:22 22:3,5 27:4,14,18 28:2,10,16 29:7,8,11,14 37:6 38:18 40:23 41:16 42:4 45:3 54:9 56:16 59:9 61:2,10,12,16 62:21 63:3 66:5 75:10,10	75:13 81:23 85:14 86:11 87:19 93:25 105:2 112:4 114:24 115:2 115:11,23 116:13,13 126:25 127:16 129:19 131:12 131:20 132:4 133:14 134:4,8 134:25 135:1,4 135:7,23 168:13,20,20 172:14 175:21 176:13,14,15 179:13,18 180:22 <b>NorthStar's</b> 83:24 114:23 128:17,21 136:3 177:22 <b>Notary</b> 1:18 182:15 <b>note</b> 11:9 53:5 76:10 171:25 <b>noted</b> 60:14 87:9 91:17 <b>notes</b> 141:10 <b>notice</b> 1:14 3:14 11:6,13,23 116:18,23 117:20,20 118:2 134:22 <b>notices</b> 11:18 <b>notion</b> 98:8 <b>notwithstandi...</b> 144:12 <b>November</b> 24:2 24:13 <b>NRC</b> 1:6 54:16 54:17 55:20 58:1 97:16 116:9 117:16 117:24 135:11 135:15,18	136:9,10 137:2 139:12 <b>nuance</b> 109:11 <b>nuances</b> 35:4,13 60:6 <b>nuclear</b> 1:7 19:5 21:18,25 55:19 56:16 84:6,15 97:12 98:4 114:18 116:8 116:18,23 120:3 123:5,12 134:13 152:15 153:3 154:11 154:18 155:10 155:25 156:2,8 156:15,25 163:14 171:13 <b>number</b> 14:14 15:1,9,10,16 15:17,22,25 18:11 20:23 36:14 37:14 58:15,15 87:23 89:5 95:3,6 99:11 105:23 106:6,12 117:25 132:3 135:21 137:11 139:25 140:4,5 140:5,10 149:10 157:19 159:5,9 160:14 160:15 161:4,4 163:5,10,11 164:11,13 166:4,6 167:9 167:12 174:16 176:10 177:4 <b>numbered</b> 74:16 74:18 100:14 <b>numbering</b> 65:19 <b>numbers</b> 14:10 14:16 38:14 65:18 85:16	88:1,2,6 90:16 90:24 92:3 167:5 <b>numeral</b> 59:20 <b>numerical</b> 78:17 <b>numerous</b> 61:22 <b>NW</b> 2:23 <b>NY</b> 2:17 <hr/> <b>O</b> <hr/> <b>O-R-A-N-O</b> 59:8 <b>Oak</b> 2:10 <b>oath</b> 3:9 4:5 5:12,14 18:7 18:12,20 20:4 20:7 182:1 <b>object</b> 28:12 31:17 32:12 33:12 34:5 35:21 41:1,8 42:5,21 43:10 44:7 45:6 48:18 49:22 50:24 53:3 60:3 62:1,22 63:14 68:3 70:25 77:7 78:6 82:6 86:3 94:24 95:16 97:22 98:17 102:4 104:19 106:7 110:5 111:2,14,22 116:20 118:15 119:3 122:12 123:6 124:9 127:12 132:24 134:18 135:13 142:14 143:11 144:8,17 145:15 146:2,9 147:19 150:6 151:2,21 152:17,21 153:12 154:12	154:24 155:15 157:17,22 159:11 164:2 165:8,22 167:11 168:18 170:17 171:10 175:4 <b>objected</b> 31:20 <b>objections</b> 4:10 8:2 94:20 95:13 <b>obligated</b> 46:12 <b>obligation</b> 77:21 142:4 156:19 <b>obligations</b> 88:8 138:8 141:20 141:21 <b>observer</b> 17:5 <b>obstacle</b> 79:14 80:17 <b>obtain</b> 102:15 <b>obtained</b> 32:1 <b>obvious</b> 69:12 <b>obviously</b> 31:9 80:6 91:13 116:3 163:14 <b>occur</b> 34:2 49:16 79:1 82:18 83:23 174:1 <b>occurred</b> 50:19 72:15 84:8 143:25 <b>occurring</b> 114:14 <b>occurs</b> 123:15 <b>offer</b> 27:19 <b>offered</b> 41:4 150:20 <b>offering</b> 41:10 41:10 176:10 <b>office</b> 2:2,10 4:16 5:23 9:6 9:24 12:1 23:23 163:21 <b>officer</b> 9:4 10:21 10:23 16:22
--	---	--	--	---

19:19 21:19 24:23 26:23 27:15,17 28:1 169:4 <b>official</b> 182:8 <b>offloading</b> 166:14 <b>offset</b> 103:22 <b>oftentimes</b> 90:9 165:1 <b>oh</b> 9:9 14:22 40:12 57:16 94:18 146:25 174:22 <b>okay</b> 4:23,25 5:11 6:10 7:15 7:16,25 8:6 9:16,23 10:10 10:16 11:6,9 11:12 12:7,12 12:19,23 13:5 13:16,19,25 14:16,22,22 15:4,16,19 16:5,8,14,18 16:23 17:7,14 17:19,23 18:6 18:23 19:1,8 19:11,18,21 20:3,6,9,25 21:5,12 22:3,7 22:11,15,22 23:5,10,25 25:20 26:11,15 26:18 27:3 28:8 29:2,17 29:21,24 30:7 30:15,21 31:14 31:20,25 32:7 33:8,17,25 34:13,24 35:17 36:6,9 37:3,12 38:21 39:11 40:4,11,18 41:6,16 42:2 42:15 44:2,11	44:16 45:11,16 46:4,16,21 47:10,18,25 49:25 50:17 52:1 54:2,15 54:19 56:12,20 57:12,16 58:4 58:24 59:2,6 59:14 60:11,20 61:6,13 63:6 63:19,22 64:4 64:12,19 66:4 66:13,16,22 67:2,5,25 68:8 68:24 69:8,23 70:16 71:3,8 71:15 72:9,19 73:8,14,22 74:6,21 75:22 75:25 76:9 77:3,14,17 78:23 79:8 80:14 81:19 82:17 84:20 85:3 87:5,18 88:13,15,24 89:3,7 93:13 94:5,8,18 95:24 96:25 97:5 98:2 99:14,22,25 100:15 101:17 102:8 103:5,9 104:5 105:8 109:3,12 110:16 111:12 111:18 112:14 112:16,17,19 112:22 113:14 113:17,19 114:1,3 115:8 116:4,15 119:9 119:12,24 120:7,18,25 121:8,17,21,25 122:6,16,23	123:3,10,18,21 124:4,15,17,22 125:3,7,19 126:2,9,19 127:1,6,19 130:5,11,18,21 131:8,15 133:20 134:1 134:10 135:6 135:10 136:1,8 136:13,21 137:2,10,15 138:21 139:8 139:11,14,19 139:21 141:20 146:18 148:2 148:12 150:11 151:6 154:9 155:4 157:2 158:7,9,21 160:11 161:8 162:25 163:24 168:16 170:6 171:19 172:1 173:4,17 178:8 178:15,22 179:6,16 181:2 181:5 <b>old</b> 82:23 83:4 <b>once</b> 77:8 108:10,20 <b>one-off</b> 43:1 <b>one-tenth</b> 157:11,14 <b>ones</b> 39:16 95:9 <b>ongoing</b> 54:25 76:6,21 103:3 144:25 157:21 <b>online</b> 5:21,21 13:2 <b>OPC</b> 129:18 157:9 <b>open</b> 143:4 <b>opened</b> 37:12 47:11 <b>operate</b> 102:18	102:19 <b>operating</b> 25:10 30:1,10,14 42:24 144:7 <b>operation</b> 44:6 155:22 167:3 <b>operational</b> 53:10 110:2 <b>operations</b> 1:5 30:18 31:23 133:3 <b>operator</b> 111:4 <b>opinion</b> 55:13 66:9 68:23 69:6 70:17 87:18 95:7 129:23 131:4 137:1 139:8 143:6,12 <b>opportunities</b> 89:2 <b>opportunity</b> 10:7 25:9 27:7 61:7 <b>opposed</b> 38:7 <b>opposition</b> 41:13 <b>option</b> 68:11 69:9 154:5 155:20,23 <b>options</b> 27:12 <b>Orano</b> 29:20 54:9,9 59:7 105:2 <b>order</b> 4:7 28:21 32:1 34:11 78:7 79:24 81:5 93:2 161:11 174:24 181:7 <b>ordering</b> 6:11 <b>orderly</b> 43:19 <b>orders</b> 90:21 91:22 92:14,16 92:18,19,19,24 161:10,10,14 <b>org</b> 57:6,24 59:2	<b>organization</b> 41:19 57:8 59:3 <b>organizations</b> 28:3 <b>origin</b> 98:18 99:1 <b>original</b> 76:17 76:25 77:5 140:2,11 142:25 146:5 150:19 162:8 <b>originally</b> 24:2 76:19 <b>out-of-date</b> 68:1 <b>out-of-pocket</b> 103:25 <b>outbreak</b> 172:16 <b>outcome</b> 129:11 132:4,7 154:21 <b>outdated</b> 131:2 <b>outside</b> 78:2 <b>over-reliance</b> 43:13 <b>overall</b> 11:3 43:14 48:23 60:16 78:20 80:12 93:17 95:7 123:8 138:18 151:23 157:11,12 167:19 <b>overextended</b> 112:4,8 115:2 115:6 <b>overhead</b> 147:7 159:6,8 166:15 <b>overlap</b> 36:2,4 37:5 39:6 60:24 61:4 93:23 94:10 128:24 129:10 <b>overpaid</b> 67:7 <b>overrun</b> 103:19 <b>overruns</b> 114:12 114:19
---	---	--	---	--

<p><b>oversee</b> 137:6</p> <p><b>oversimplifying</b> 31:9</p> <p><b>owned</b> 30:5</p> <p>50:14 85:7</p> <p>111:7 118:18</p> <p>176:16 178:1</p> <p>180:19</p> <p><b>owner</b> 164:22,23</p> <p>177:21,24</p> <p><b>owners</b> 61:14</p> <p><b>ownership</b> 45:19</p> <p>46:1 50:5</p> <p>59:11 60:1</p> <p>123:15,22</p> <p>124:1 168:12</p> <p>168:16 177:14</p> <p>177:20</p> <p><b>owning</b> 30:10</p> <p>180:23,23</p> <p><b>owns</b> 81:24</p> <hr/> <p><b>P</b></p> <p><b>P</b> 1:10 10:18</p> <p>182:7 184:1,22</p> <p><b>P.A</b> 2:13</p> <p><b>p.m</b> 1:13,13</p> <p>11:24 57:4,4</p> <p>110:19,19</p> <p>113:16 141:3,3</p> <p>181:12</p> <p><b>packaging</b></p> <p>166:16</p> <p><b>page</b> 3:5,13</p> <p>15:13 16:4</p> <p>36:16,20,21</p> <p>37:18 39:1,15</p> <p>40:6 42:15</p> <p>44:11 46:21</p> <p>47:18,20 53:23</p> <p>58:6,16 64:20</p> <p>64:22 65:12,16</p> <p>65:20,21 66:5</p> <p>68:10 71:10</p> <p>72:4,7,19</p> <p>73:24 74:7,18</p>	<p>75:22 77:14,19</p> <p>79:8,11 81:21</p> <p>81:21 82:22</p> <p>84:22 87:1,9</p> <p>87:25 88:15,16</p> <p>89:11,11 92:13</p> <p>93:8,9 95:25</p> <p>96:1,16,25</p> <p>98:2 99:25</p> <p>100:6,10,18,19</p> <p>102:21 103:5</p> <p>110:21 112:3</p> <p>116:4 119:9</p> <p>126:9 128:8</p> <p>130:5 131:7</p> <p>171:24 184:4</p> <p><b>pages</b> 1:24 66:8</p> <p>133:20,23</p> <p>184:20</p> <p><b>paginated</b></p> <p>113:11</p> <p><b>paid</b> 7:6 44:22</p> <p>48:4,25 49:15</p> <p>50:21 51:3</p> <p>53:6 54:24</p> <p>55:3 67:6</p> <p>96:18 103:20</p> <p>117:8 129:25</p> <p>170:8 173:21</p> <p>174:20</p> <p><b>painless</b> 121:20</p> <p><b>pandemic</b></p> <p>162:12,17</p> <p><b>paragraph</b></p> <p>69:23,24 70:14</p> <p><b>parallel</b> 59:21</p> <p>93:22 94:1</p> <p><b>paraphrased</b></p> <p>72:3 83:2</p> <p><b>parent</b> 54:2,6</p> <p>55:14 77:15</p> <p><b>parental</b> 3:16</p> <p>54:12,16 97:2</p> <p>97:6,8,8,11,15</p> <p>98:2 99:7,12</p> <p>134:5,16</p>	<p><b>parentheses</b></p> <p>73:3</p> <p><b>Park</b> 92:21</p> <p><b>part</b> 13:8 18:14</p> <p>18:20 23:21</p> <p>25:1,18 26:13</p> <p>43:16,19,19</p> <p>49:2,3,17</p> <p>51:17 61:23</p> <p>68:22 69:6</p> <p>72:8,9,11</p> <p>75:13 77:2</p> <p>83:11,12 90:18</p> <p>93:17 96:17</p> <p>103:15 106:17</p> <p>114:14 115:6</p> <p>115:10,19,22</p> <p>118:16,24</p> <p>120:11 123:7</p> <p>123:13,14</p> <p>124:18 129:8</p> <p>138:1,7 140:22</p> <p>144:25 145:2</p> <p>147:6,17 150:8</p> <p>150:9 152:23</p> <p>153:7 154:6</p> <p>167:15,18</p> <p>173:2 180:2,18</p> <p>180:19</p> <p><b>partial</b> 44:3</p> <p>132:22</p> <p><b>partially</b> 85:5</p> <p><b>participant</b></p> <p>40:19</p> <p><b>participants</b></p> <p>5:21</p> <p><b>participating</b></p> <p>4:2</p> <p><b>particular</b> 32:21</p> <p>49:7 100:17</p> <p>119:22</p> <p><b>particularly</b></p> <p>39:9 133:17</p> <p>166:18</p> <p><b>parties</b> 4:8 6:18</p> <p>7:6 12:16 14:5</p>	<p>21:7 60:8</p> <p>105:11 143:14</p> <p>160:25 163:25</p> <p>183:12</p> <p><b>parties'</b> 183:13</p> <p><b>partner</b> 29:19</p> <p>29:20 30:12</p> <p>54:10 60:17</p> <p><b>partners</b> 17:21</p> <p>29:17,18,25</p> <p>33:21 60:15,19</p> <p>62:6 64:11</p> <p><b>partnership</b></p> <p>63:4</p> <p><b>partnerships</b></p> <p>61:5</p> <p><b>parts</b> 47:2 85:5</p> <p>93:24,25</p> <p>126:16 128:11</p> <p>129:7 150:15</p> <p>163:10</p> <p><b>party</b> 44:22</p> <p>105:6 107:20</p> <p>145:5,10</p> <p>164:12 180:23</p> <p><b>passage</b> 114:1</p> <p><b>passed</b> 119:1</p> <p><b>patience</b> 120:8</p> <p><b>patient</b> 177:5</p> <p><b>pattern</b> 92:24</p> <p><b>pause</b> 112:24</p> <p><b>pay</b> 51:12,22</p> <p>52:6 55:8 76:7</p> <p>82:12 95:5</p> <p>96:14,14</p> <p>114:25 118:22</p> <p>156:9 163:23</p> <p>164:19 165:3</p> <p>173:20 174:15</p> <p>174:17,19,23</p> <p>174:24 175:1,2</p> <p>175:17 176:6</p> <p><b>payer</b> 132:16</p> <p><b>payers</b> 124:5</p> <p>127:10 131:17</p> <p>131:21 132:7,8</p>	<p>133:6,14,16</p> <p>142:5 143:15</p> <p>144:5 168:2</p> <p>171:16</p> <p><b>paying</b> 44:22</p> <p><b>payment</b> 50:6</p> <p>55:7,11,23</p> <p>72:14 81:24</p> <p>82:4 96:23</p> <p>105:12 117:13</p> <p>118:18,21,25</p> <p>132:1 161:16</p> <p>165:7 173:3</p> <p>174:5</p> <p><b>payments</b> 48:15</p> <p>49:11 50:6</p> <p>51:15 53:11,16</p> <p>55:25 71:24</p> <p>72:12 98:22,23</p> <p>172:20,21</p> <p><b>PBC</b> 69:1</p> <p><b>PCS</b> 2:24 9:15</p> <p>121:1</p> <p><b>pending</b> 82:14</p> <p><b>Penn</b> 2:16</p> <p><b>people</b> 10:12</p> <p>25:7 59:25</p> <p>62:17,20</p> <p>141:22 153:7</p> <p>159:6 176:16</p> <p><b>perceived</b> 51:13</p> <p><b>percent</b> 50:9,12</p> <p>50:15,21 52:2</p> <p>52:3,4,5,14,19</p> <p>52:21 89:23,25</p> <p>93:1 101:8</p> <p>103:19,20</p> <p>104:15 106:23</p> <p>117:10 135:22</p> <p>135:23 157:10</p> <p>157:11,15,19</p> <p>157:20 159:6,7</p> <p>159:17,18</p> <p>162:25 163:1</p> <p>163:12 164:1,1</p> <p>164:1,9 165:11</p>
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CONFIDENTIAL

Page 22

165:14,18 166:23,23 <b>percentage</b> 89:19,20 <b>perfectly</b> 56:5,7 102:1 <b>perform</b> 68:11 69:9,16,18 78:2,3 83:24 90:25 105:12 105:15 136:3,5 167:24 <b>performance</b> 55:8 56:3 69:13,14 98:22 103:3 136:6 <b>performed</b> 48:25 90:3,6 105:3 152:6 <b>performing</b> 70:2 83:17 85:23 103:23 169:23 <b>period</b> 55:11,11 73:5,13,16 82:14 102:3 106:1,5 116:20 126:19 177:2 <b>periodic</b> 117:18 <b>periodically</b> 117:17 177:11 <b>periods</b> 177:1 <b>permanent</b> 33:9 152:25 <b>permit</b> 155:4,6 <b>permits</b> 32:23 154:10 155:1,4 <b>permitted</b> 1:16 31:2,5 36:5 153:17 155:20 167:3 <b>permitting</b> 30:3 32:6 33:14,23 33:25 34:2 153:22 <b>person</b> 17:16 <b>personal</b> 64:9	85:6 86:16 <b>personally</b> 119:7 <b>personnel</b> 164:17 <b>perspective</b> 55:20 77:20 132:17 138:13 <b>Petersburg</b> 2:7 <b>petition</b> 1:2 121:22 184:1 <b>petitioners</b> 147:14 <b>Pfizer</b> 26:16,21 27:4 <b>phase</b> 53:8 163:6,7 <b>phases</b> 163:4 <b>phenomenon</b> 86:25 <b>Phosphate</b> 2:24 9:15 121:1 <b>phrase</b> 45:12 46:21 49:18,25 50:2,4 103:11 170:21 <b>physically</b> 164:17 <b>pick</b> 14:8 165:5 <b>piece</b> 75:18 152:6,7 180:25 <b>pieces</b> 19:22 117:25 144:3 150:21 <b>pipeline</b> 89:2 <b>place</b> 23:7 33:9 80:8 86:24 87:9,16 105:15 125:8 143:23 149:17,20 150:8 153:19 155:6 <b>plain</b> 46:8 <b>plan</b> 26:14 33:8 95:18 162:8 <b>planned</b> 56:2 125:1 168:4	<b>planning</b> 27:1 <b>plans</b> 28:1 95:13 124:24 <b>plant</b> 84:6,9 111:4,6,10 144:1,7 152:15 171:13 180:17 180:18,19,23 <b>plants</b> 94:15 163:15 <b>play</b> 54:12 56:9 <b>plays</b> 165:11 <b>Plaza</b> 2:16 <b>please</b> 4:10 10:3 10:5,10,14 47:19 72:8 133:21 156:5 163:1,21 184:1 <b>Pledge</b> 74:1,6 <b>plus</b> 114:9 132:9 160:9 <b>point</b> 15:25 33:19 37:10 38:16 48:20 51:19 52:11 53:14 67:10 68:5 76:22 79:22 80:4 83:18 84:17 85:13,14 89:21 101:11 107:9 107:25 115:12 125:10 129:5,9 129:14 131:1 135:18,21 138:3 149:8,9 149:22 155:1,5 155:7 158:4 159:15,16,17 159:19,20 180:22 <b>pointed</b> 79:10 <b>pointing</b> 83:16 <b>points</b> 19:14 21:17 157:2 <b>Polich</b> 3:2 51:10	57:7 65:3 66:23 68:4 79:15 82:23 83:8 94:19 96:6 97:14 99:25 100:2 101:1,25 102:5 112:4 113:10 119:12 120:3 139:5 150:17 179:8,12,19 <b>Polich's</b> 13:10 13:16,19 65:14 76:10 80:9 87:25 112:21 120:6 133:23 137:10 138:2 139:14 <b>pool</b> 93:4 <b>poor</b> 145:4 <b>popular</b> 161:23 <b>portfolio</b> 177:1 <b>portion</b> 6:23 35:20 43:24 90:2,6 <b>position</b> 22:18 28:19 52:13 83:10 114:7,13 123:16 128:17 128:21 129:4 131:19,21 136:10 143:9 149:2 <b>positions</b> 178:6 <b>positive</b> 132:22 <b>possibilities</b> 45:13 <b>possibility</b> 33:13 33:15 45:3 148:22 153:25 176:17 <b>possible</b> 20:9 43:20 44:3,8,8 49:6,20 78:13 110:9 142:9 152:18 154:3	154:21 <b>potential</b> 28:2 76:24 136:11 136:17 154:18 167:4,5 <b>potentially</b> 30:2 43:18 125:18 144:19 162:6 <b>pounds</b> 105:24 106:1 <b>power</b> 4:18 75:12 76:21 84:6 141:8 142:12 152:15 171:13 <b>practicing</b> 169:20,21,24 <b>pre-committed</b> 103:14 <b>preamble</b> 96:1 <b>precise</b> 85:20 <b>predecessor</b> 27:21 <b>predefined</b> 51:4 <b>predict</b> 116:3 <b>preference</b> 127:23 <b>preferred</b> 154:5 <b>prefiled</b> 57:23 95:15 <b>premise</b> 101:20 139:4 <b>premised</b> 33:17 <b>preparation</b> 152:7 <b>prepare</b> 68:20 <b>prepared</b> 15:14 68:18 69:1 80:3 82:9,16 117:6 <b>prepares</b> 68:21 <b>preparing</b> 28:6 <b>present</b> 3:1 4:3 <b>presented</b> 77:24 143:8 <b>President</b> 10:21
---	---	---	--	--

CONFIDENTIAL

Page 23

10:22 24:3 26:20 29:4 <b>press</b> 161:23 <b>presume</b> 129:12 <b>pretty</b> 34:14 58:7 <b>prevented</b> 50:11 168:3 <b>prevents</b> 172:21 <b>previous</b> 51:14 75:16 79:5 92:13 131:24 140:1 158:25 159:17 <b>previously</b> 29:11 33:21 96:12 109:7 143:2 173:8 178:7 179:20 <b>price</b> 65:4 66:9 89:22 107:25 108:2,5,6,9,18 110:13 122:19 122:23 139:2,3 139:6,15 149:18 160:24 160:24 161:1,5 167:20,22 <b>pricing</b> 104:21 104:24 105:9 106:10 107:24 108:19 154:6 167:13 <b>primarily</b> 23:2 37:24 41:3 <b>primary</b> 30:14 35:22 36:1 39:9 95:9 126:22 132:11 164:15 166:10 171:11 <b>prime</b> 168:11,11 <b>principal</b> 62:6 73:25 <b>principles</b> 77:9 <b>printed</b> 13:1,3	57:15 <b>prior</b> 21:15,20 35:16 38:2,3 101:7 153:24 178:1 <b>private</b> 38:1,2 60:5 62:25 85:7 169:22,22 175:22 178:10 <b>probability</b> 77:22 78:5,16 <b>probable</b> 78:4 <b>probably</b> 21:16 36:3 63:5 114:2 140:16 157:25 176:9 <b>problem</b> 73:21 81:15 104:4 125:21 133:13 133:14,15,16 168:3 <b>problematic</b> 80:6 <b>problems</b> 143:22 <b>procedural</b> 41:12 <b>procedure</b> 1:17 78:1 <b>procedures</b> 70:19 <b>proceed</b> 5:10 149:2 <b>proceeding</b> 18:24,25 40:14 40:20 <b>proceedings</b> 4:5 18:14 41:4 <b>proceeds</b> 114:16 175:6 <b>process</b> 7:3 11:4 11:4 19:14,16 23:19 27:25 28:24 30:3 32:1,2 33:23 46:24 77:2 91:7,8,23 92:4	92:5 94:7 126:13 145:24 145:25 147:20 149:1 154:25 <b>processed</b> 161:12 <b>processes</b> 18:13 138:15 <b>processing</b> 30:18 <b>produce</b> 16:1 20:21 38:5,8 <b>product</b> 147:24 <b>professional</b> 67:15 183:5 <b>professionals</b> 69:18 <b>profile</b> 151:22 <b>profiles</b> 16:3 36:23 37:8,21 <b>profit</b> 41:16,22 41:25 159:8 <b>profitability</b> 43:4 <b>proforma</b> 72:13 <b>progress</b> 48:4 51:4,4 53:6,7 53:16 54:24 55:3 117:8 164:20 <b>progresses</b> 56:2 <b>progressing</b> 94:4 <b>prohibit</b> 63:24 97:20 <b>prohibiting</b> 72:3 <b>prohibitions</b> 63:16 <b>prohibits</b> 71:24 <b>project</b> 51:3,15 56:4,17 81:18 91:19 92:21 98:4 103:13 106:18 107:4,7 107:12,16 108:1,10,21 110:14 112:1 114:6,7,8,9,10	114:15,17 115:3,18 116:14 117:11 133:3 135:8 138:10,11,18 143:20 144:5 144:14,15,19 144:20 145:1 145:22 147:7 147:22 148:17 152:6 155:2 157:4,12 158:12 161:20 162:23 163:6 163:11 164:9 164:16 166:18 167:23 168:10 <b>projected</b> 114:9 175:15 <b>projections</b> 114:23 116:1 162:6 <b>projects</b> 23:19 56:18 92:23 93:4 98:25 114:19,22 <b>pronounce</b> 9:21 <b>proper</b> 48:22 <b>propose</b> 6:11 <b>proposed</b> 138:5 <b>proposition</b> 144:16 <b>proprietary</b> 118:11 <b>prospects</b> 82:25 83:5 176:4 <b>protected</b> 48:3 <b>protecting</b> 55:22 55:22 <b>protection</b> 48:22 51:7 53:14,24 54:4,19,20,21 54:22 55:1,7 79:6,7,25 81:6 103:16,21 107:16 132:13	167:12,14 <b>protections</b> 51:1 52:12 53:1 131:22,25 132:2,5,19,21 132:25 133:7 133:11 138:7 143:15 <b>prove</b> 70:17 77:5 <b>provide</b> 81:13 86:4,6 138:13 <b>provided</b> 12:16 14:5 15:25 61:1 68:25 71:4 72:13 85:11,12 96:22 105:22 117:14 118:4,23 144:24 159:2 165:6 168:6 <b>provides</b> 103:24 <b>providing</b> 18:1,2 168:5 179:25 <b>provision</b> 46:25 72:6 79:22 81:4 99:7 105:20 126:5 126:14 135:24 144:18 161:13 175:5 <b>provisional</b> 51:17 55:9 132:2,10 133:10 135:22 165:11 167:15 <b>provisions</b> 79:12 79:13 80:22 81:12 128:18 128:24 148:3,4 148:5 <b>proxy</b> 84:24 86:10 <b>prudently</b> 171:5 <b>PSA</b> 77:20 111:9 <b>PSC</b> 4:21 136:16 <b>public</b> 1:1,18 2:2
---	--	--	--	--



4:16 5:22,23 6:11,21,25 9:6 9:6,12,25 12:1 37:19 40:15,15 40:19 111:1,12 111:18 118:6,8 118:12 127:3 141:13 144:25 145:9,14 148:7 148:23 155:18 182:15 <b>publications</b> 86:6 <b>publicly</b> 20:12 93:19 172:10 <b>publicly-anno...</b> 172:9 <b>publicly-avail...</b> 62:24 148:10 <b>publicly-traded</b> 161:24 <b>pull</b> 58:3 <b>punch</b> 165:6 <b>purchase</b> 65:4,5 67:4,14 91:22 <b>purchased</b> 66:20 67:16 <b>purely</b> 29:6 <b>purpose</b> 79:24 99:8,17 101:16 171:11 180:18 <b>purposes</b> 1:15 1:16 70:16 82:15 85:8 98:15 104:10 104:11 125:19 <b>pursuant</b> 1:6,14 4:6 46:13 <b>pursued</b> 136:7 <b>pushing</b> 133:13 <b>put</b> 51:20 76:19 78:21 79:21 95:14 96:13 97:15 99:22 102:11 105:15 106:3 114:7,12	114:24 123:15 125:8 136:25 143:9 152:2 167:22 177:24 <b>puts</b> 153:19 <b>putting</b> 56:15 80:8 151:16 <b>PWC</b> 66:9 67:25 68:19,20,22 69:6 <b>PWC's</b> 69:1 <hr/> <b>Q</b> <hr/> <b>qualifications</b> 120:6 <b>qualified</b> 63:1,3 171:7 <b>qualifies</b> 91:15 <b>qualify</b> 64:6 <b>qualitative</b> 68:11 69:10,16 69:19 119:16 <b>qualitatively</b> 78:17 <b>quality</b> 64:17 <b>quantifiable</b> 137:1 <b>quantified</b> 134:3 136:17,19 <b>quantify</b> 134:7 135:3 137:7 <b>quarterly</b> 82:8 136:14,16 <b>question</b> 8:3 10:7 26:2 30:9 31:21 33:17 40:9 41:12,23 43:11 45:11 50:18 51:23 52:1 59:2 62:2 63:6,25 64:15 68:18 71:3 77:11 80:4,15 80:19 94:19 95:12 99:5 100:25 116:22	121:5 134:3 139:3 141:12 145:4 153:25 154:14 158:2 159:16 166:20 170:18 172:15 174:16 175:25 <b>questioned</b> 140:3 <b>questioning</b> 83:22 113:13 <b>questions</b> 9:25 101:7 110:17 119:10 120:13 120:14,14 128:14 138:10 140:15 141:7,9 142:18 158:9 169:2 172:19 179:2,7 180:9 180:11 <b>quick</b> 57:12 58:3 121:20 140:25 <b>quickly</b> 22:12 79:8 95:25 114:12,25 157:3 <b>quite</b> 22:14 135:1 153:3 162:16 <b>quote</b> 65:4 66:23 98:5,6 166:4 <b>quoted</b> 139:2 <b>quoting</b> 140:10 <hr/> <b>R</b> <hr/> <b>rack</b> 134:4 <b>radioactive</b> 26:5 26:7 31:16,23 32:2,8,16 33:3 33:10,19 34:4 35:20 39:3,10 40:1 104:6 105:4 110:8 166:8 <b>radiological</b>	151:13 176:5 180:25 <b>rail</b> 166:13,14 166:17,19 <b>raise</b> 42:24 71:24 95:13 108:17 110:13 136:5 172:7 <b>raised</b> 51:11 60:5 94:25 95:8 151:1 172:15 <b>raises</b> 60:16 138:11 144:19 <b>raising</b> 138:17 <b>ran</b> 53:9 93:25 <b>range</b> 37:24 38:8 38:15 85:9,15 85:24 138:22 <b>RAP-3</b> 57:8 58:8 58:10,11,25 <b>RAP-6</b> 65:20 76:11 87:25 <b>rate</b> 124:5 127:10 131:17 131:21 132:7,8 132:16 133:6 133:14,16 142:5 143:15 144:5 168:2 171:16 <b>ratio</b> 71:25 72:17,25 73:2 73:9,11 79:11 87:3,19,23 88:3,13 172:23 173:20 174:2 175:3 <b>re-opened</b> 128:22 <b>reach</b> 48:17 <b>reaching</b> 49:8 68:22 69:6 <b>react</b> 116:20 <b>reacted</b> 69:5 <b>reactor</b> 84:17	<b>reactors</b> 84:15 <b>read</b> 8:8 45:20 47:3 66:17 67:5,15 70:8 73:7 88:22 114:1 119:25 181:4 184:20 <b>reading</b> 8:7 46:8 47:25 72:10 73:22 95:9 119:20,23 <b>reads</b> 46:23 <b>ready</b> 5:3,9 <b>reaffirmed</b> 162:6 <b>real</b> 22:11 58:3 79:8 95:24 <b>realistic</b> 49:16 53:20 85:22 <b>reality</b> 48:12 51:15 81:22 102:17 <b>really</b> 25:24 26:25 27:6 28:14,21 41:2 52:20 55:15 75:5,19 79:17 90:24 94:17 102:12 103:25 107:10 115:14 133:12 136:23 137:1 149:22 176:24 177:6,8 180:16 <b>reason</b> 27:20 32:7 48:2 52:16 53:20 58:12 98:14 107:9 110:2 113:11 123:15 128:23 148:21 148:25 167:25 177:5 184:4 <b>reasonable</b> 38:17 42:13 74:5 117:4,14
--	---	--	---	---

132:5 138:23 139:9 <b>reasonably</b> 78:13 <b>rebut</b> 41:3 107:9 115:5 <b>rebuttal</b> 13:12 13:13 19:22 41:10 51:19 94:19,22 130:25 150:15 150:23 <b>rebutting</b> 150:19 <b>recall</b> 17:4 19:14 19:24 21:14 22:1 57:10 93:19 98:18 99:1 108:25 117:18,19 137:22 148:14 152:5 179:8,14 <b>recapitalization</b> 83:11 <b>recapitalized</b> 83:9 177:20 <b>receivable</b> 81:23 82:2,7 <b>receive</b> 6:4 11:6 16:11 45:3 92:19 117:18 117:19 <b>received</b> 12:13 15:20 161:16 161:16 <b>receiving</b> 46:10 <b>recess</b> 57:4 110:19 113:16 141:3 <b>recipient</b> 7:1 29:22 <b>recognition</b> 76:25 90:15 <b>recognize</b> 77:23 79:2 82:3,10 <b>recognized</b> 83:8	85:25 86:7,19 <b>recognizing</b> 83:14 98:13 <b>recollection</b> 148:14 <b>recommendati...</b> 79:17 97:18 101:9 134:12 136:20 <b>recommendati...</b> 81:14 97:14 101:11 133:24 134:2 140:6 <b>recommended</b> 179:7,11 <b>recommending</b> 179:19 <b>recommends</b> 79:15 <b>reconciliation</b> 53:18 <b>record</b> 4:12 5:18 10:16 11:20 37:14 53:6 58:21,22,24 62:10 63:8 81:3 113:5,8,9 137:20,24 139:7 150:22 157:25 159:15 159:20 160:2 168:13 176:19 178:17,18,23 183:9 <b>recorded</b> 82:2 <b>recourse</b> 124:5 127:10 <b>recovery</b> 123:16 160:9 <b>RECROSS-E...</b> 3:8 180:12 <b>recruited</b> 28:24 <b>recruiter</b> 27:14 <b>recruiting</b> 28:13 28:14 <b>recurring</b> 43:2,3	43:4 90:16,19 90:23 91:11 92:2 115:19 <b>redacted</b> 58:17 <b>redlining</b> 138:5 <b>reduces</b> 103:25 <b>redundant</b> 138:6,16 141:11 <b>refer</b> 44:12 76:10 <b>reference</b> 67:3 92:7,8,10 98:9 99:25 100:6 112:15 131:5 173:1 <b>referenced</b> 92:21 96:16,19 109:9,10 <b>references</b> 95:4 115:3 174:16 <b>referencing</b> 130:12 <b>referred</b> 20:1 56:1,10 <b>referring</b> 11:19 11:25 14:19 37:4,22 45:21 54:13 65:14 67:15 82:23 122:19 <b>refers</b> 67:4 71:15 73:25 <b>refinancing</b> 96:17,19,21 175:7 <b>refined</b> 106:11 163:13 <b>reflect</b> 157:25 <b>refresh</b> 57:11 <b>regard</b> 162:4 164:9 <b>regarding</b> 130:9 130:24 <b>regardless</b> 105:18	<b>Registered</b> 183:5 <b>regular</b> 16:12 18:1 <b>regulate</b> 179:22 <b>regulated</b> 110:25 111:9 111:25,25 <b>regulator</b> 141:15 <b>regulatory</b> 11:4 18:13,14,23 30:2 32:11 33:5 55:19 91:18 111:13 111:16 116:18 116:23 134:13 134:20 148:20 149:1 <b>Rehwinkel</b> 2:2 3:6 4:15,15,23 5:2,6,11,16 6:10 7:8,16,25 8:6,9,16,20 9:5 9:5,16,19,24 11:12,22 12:2 12:4,7,11 13:11,15,25 14:1 20:9,22 21:5,10,11 31:19 33:1,16 34:12 36:9,12 36:13,22 37:3 37:11 41:15 42:7 43:15 44:10 45:10 47:21 49:5,24 56:22,25 57:5 57:16,23 58:4 58:7,13,19,23 62:4 63:18 64:23 65:1,11 65:15,23 66:1 68:7,16 71:2 74:12,19 77:13 78:22 95:11,21 98:1 99:3,10	99:15 100:11 100:15,19,24 102:7 107:18 110:10,16,20 111:5,17 112:2 112:22 113:1,6 113:17,19,20 120:7 121:2,4 126:10 127:6 132:22 140:21 169:2 181:5 <b>reimbursement</b> 156:21 <b>related</b> 36:6 37:6 44:3 123:17 124:4 138:6 156:22 <b>relates</b> 88:23 99:18 101:13 112:1 <b>relationship</b> 3:16 16:19 18:4 99:13 107:21 168:14 179:17 <b>relative</b> 67:7 104:18 145:16 183:11,13 <b>relatively</b> 87:14 121:20 <b>release</b> 53:11 <b>relevance</b> 140:10 <b>relevant</b> 70:13 83:18,24 90:22 91:13,21 93:6 105:6,20 117:11 130:13 131:5 141:15 <b>relied</b> 115:22 <b>relying</b> 37:9 <b>remain</b> 43:17 155:19 <b>remained</b> 22:24 126:23 <b>remaining</b> 39:24
--	---	---	---	---

CONFIDENTIAL

Page 26

50:21 89:24 107:6 166:23 171:15 <b>remains</b> 90:1 124:1 <b>remember</b> 106:13 139:16 <b>remote</b> 56:10 77:21 78:5,13 78:16 <b>remotely</b> 4:5 121:10 182:7 <b>removal</b> 122:9 124:18 168:8 <b>removed</b> 127:16 166:14 <b>removing</b> 124:23 <b>renegotiation</b> 47:12 <b>reopen</b> 142:25 <b>reopening</b> 47:8 <b>reorganized</b> 26:16 <b>repeat</b> 10:3 30:9 40:10 41:23 62:2 <b>repeated</b> 95:4 <b>repeats</b> 101:4 <b>rephrase</b> 48:9 <b>replace</b> 107:13 <b>replaced</b> 106:14 <b>replacing</b> 106:24 107:6 <b>report</b> 16:20,21 69:7 118:5 183:7 <b>reported</b> 1:18 86:7 89:1 116:9 136:15 <b>reporter</b> 3:9 4:1 4:3 5:1 7:7,12 7:15,18,20,24 11:12,15 12:6 12:8 36:12 38:21 121:5,9	121:13 125:22 140:24 181:8 183:1,6 <b>reporting</b> 4:4,10 15:14 17:20,23 18:4,4 70:6 73:13 77:2 82:8,10,15,19 89:17 91:16,17 91:23 117:1,2 118:1,13,14,21 118:23 119:5,8 136:13,16 138:14 145:2 145:16 146:20 147:2 179:12 179:24 180:4 <b>reports</b> 16:23,24 117:19 119:1 148:7 <b>repository</b> 33:9 <b>represent</b> 121:1 131:16 141:8 141:23 142:4 <b>representation</b> 75:20 <b>representative</b> 126:23 <b>representatives</b> 17:10,25 <b>representing</b> 4:17 126:24 145:8 152:9 <b>represents</b> 46:23 66:19 75:5 126:13 141:22 141:23 <b>request</b> 1:6 7:11 7:22 15:11,11 16:1 81:16 85:10 148:23 <b>requested</b> 11:10 16:1 38:5 <b>require</b> 73:18 77:15 127:3 129:2 134:13	135:11,14 136:9 137:2 139:12 147:18 <b>required</b> 7:2 28:23 32:21 34:11 52:23 76:22 97:12 135:4 136:1 152:24 <b>requirement</b> 51:12 81:1 134:19,22 136:9 <b>requirements</b> 34:7 55:20 136:14 179:12 <b>requiring</b> 136:15 <b>research</b> 99:4 <b>researched</b> 64:2 84:19 <b>resembling</b> 86:13 <b>Reservation</b> 149:13 <b>reserved</b> 8:3 183:8 <b>residual</b> 93:3 <b>resource</b> 103:24 <b>respect</b> 6:19 30:23 34:1 39:11 44:5 71:9 111:20,24 126:4 141:20 143:22 148:6 151:13 153:23 155:5,7,24 161:9 164:8 170:7,15,15,24 170:25 176:12 179:13 <b>respond</b> 11:3 15:25 <b>responding</b> 15:10 <b>responds</b> 15:9	<b>response</b> 90:8 129:16 <b>responsibilities</b> 24:5 27:18 141:22 142:1 180:21 <b>responsibility</b> 17:20,24 27:2 28:4 42:10 123:3 127:17 155:21 171:4 <b>responsible</b> 6:16 26:23 42:3,9 124:1 125:7 170:11 180:24 <b>rest</b> 6:17 <b>restoration</b> 180:21,25 <b>restrict</b> 16:10 <b>restricted</b> 72:11 72:12,14 80:10 100:2 101:2,10 101:12,13 174:5 <b>restricting</b> 81:8 <b>restriction</b> 95:4 <b>restrictions</b> 32:11 55:25 81:7 96:13 <b>restructuring</b> 24:21 25:14,19 84:7 96:22 <b>result</b> 32:18 46:24 69:24 70:2 72:16 126:13 <b>results</b> 82:23 83:4 88:25 <b>resume</b> 119:20 119:23,25 <b>retain</b> 76:11 <b>retainage</b> 165:2 165:4 <b>retainers</b> 165:20 <b>retaining</b> 48:5 49:25	<b>retains</b> 50:5 <b>retrospective</b> 169:16 <b>return</b> 27:13 <b>returning</b> 25:13 25:14 <b>revealed</b> 70:20 <b>revenue</b> 15:6,12 15:15 28:5 43:3 76:5 89:1 90:17 91:3 115:10,14,19 <b>review</b> 11:7 69:1 136:12 141:10 145:16,24 179:23 183:8 <b>reviewed</b> 68:22 69:5 121:22 <b>revisit</b> 129:9 <b>revisited</b> 161:21 <b>revisiting</b> 129:3 <b>RICHARD</b> 3:2 <b>right</b> 5:2 8:9 9:16 12:1 13:4 15:4 16:6,18 18:16 22:4,7,8 22:16 24:8,14 33:25 35:2 40:5 41:22,25 47:3 52:8 54:4 54:10,17 56:6 56:24 58:7,21 59:17,19 60:21 62:13 64:20 65:23 70:8 71:19 72:9,23 73:7 74:2 77:6 77:24 81:21 84:1,3,15 87:20 94:7 96:7 101:24 102:9 107:20 110:18 112:21 120:4 121:15 122:17 124:16 124:20,25
---	--	---	---	---

125:9,14,21 140:8,22 141:2 144:16 145:22 146:14 148:18 148:21 149:5 149:25 151:14 153:8,8 154:2 154:20 157:12 158:13 160:5 160:23 170:8 172:4 174:2 175:12 <b>right-hand</b> 59:8 <b>rights</b> 111:23 112:1 141:16 143:1 <b>rise</b> 115:5 146:5 147:21 <b>risk</b> 51:13 115:2 131:17 132:16 136:5 138:11 138:17 144:18 160:17 <b>River</b> 91:15 92:8 92:20 93:11,15 93:18 114:16 144:12 155:12 171:13 <b>rod</b> 156:25 <b>rods</b> 153:3,11 154:11,19 155:10,19 156:2,4,15 <b>role</b> 23:18,21 25:10 127:7 138:19 141:13 145:7 165:12 <b>roles</b> 26:23 <b>roll</b> 91:2 <b>Roman</b> 59:20 <b>room</b> 2:3 8:21 <b>round</b> 88:6 <b>rounded</b> 89:10 89:10 <b>routine</b> 92:25 <b>RPR</b> 1:18	182:14 183:21 <b>rule</b> 1:7 45:12 85:25 86:2 <b>rules</b> 1:16 5:24 69:11 78:11 130:16 131:6 <b>run</b> 78:17 90:23 175:16 <b>running</b> 25:2 117:9 <b>runs</b> 92:3 <b>rush</b> 10:4  <b>S</b> <b>S</b> 1:18 2:9 3:11 130:18 182:14 183:5,21 <b>S-A-F-S-T-O-R</b> 50:23 <b>Safe</b> 181:11 <b>safeguard</b> 129:24 <b>SAFSTOR</b> 50:23 <b>salvage</b> 131:13 131:15 <b>Sam</b> 130:18 <b>sat</b> 105:25 <b>saw</b> 119:25 145:20 <b>saying</b> 19:5 54:2 56:5 66:23 67:5 70:10 71:22 77:4 78:23 79:23 92:15 94:13 108:12,17 109:8 110:12 113:21 118:20 142:11,17 149:25 163:11 163:24 167:24 <b>says</b> 15:20 22:18 37:18 45:23 51:9 58:10 59:3 65:21	69:15,19 70:2 72:5,24 73:2 83:3 85:4 92:9 96:2 98:4 100:2 108:11 150:2 161:4 162:24 174:23 176:3 <b>SC</b> 23:10,11 <b>scale</b> 28:6 <b>scenario</b> 42:23 43:13,21,23 44:9 45:14 49:14,16,21 50:19,22,23 51:9 53:21 56:9 103:17 131:16 132:6 132:20 133:1,8 133:12 154:3 161:15,19 173:25 174:9 <b>scenarios</b> 42:20 44:2 50:9 103:18 153:21 <b>schedule</b> 51:2 98:23 118:22 130:2 162:20 162:24 163:20 163:23 164:14 <b>scheduled</b> 56:2 132:1 <b>schedules</b> 14:24 165:3 <b>scope</b> 27:1 28:3 90:12 91:20 123:7 139:6 152:23 159:3 160:25 161:20 162:25 163:7,7 163:20 164:18 <b>scotch</b> 129:20 <b>Scott</b> 3:2 9:3 16:21 <b>Scout</b> 2:20 <b>screen</b> 40:8	<b>seal</b> 182:8 <b>second</b> 27:9 36:19 100:8 178:11 <b>section</b> 71:12 72:8 92:11,13 97:10 136:14 172:25 <b>sections</b> 89:12 <b>sector</b> 36:25 37:15 87:10 <b>securitized</b> 101:23 <b>security</b> 74:1,1,6 75:1,2 122:10 <b>see</b> 8:13,13 31:4 38:18 39:17 42:19 46:2 53:20,24 58:17 59:19,22 65:6 66:11 69:24 70:10 72:22 82:1,25 85:1 86:25 87:5,9 88:20 91:4 98:6 103:7 110:23 112:5 115:18 119:2 119:13 126:17 130:9 138:16 163:16,18 178:25 <b>seeing</b> 57:10 98:24 161:23 <b>seek</b> 28:18 123:16 156:21 <b>seeking</b> 166:21 <b>seen</b> 26:3 38:10 57:6 137:14 149:25 150:13 <b>segment</b> 22:19 <b>segments</b> 26:25 <b>self-defeating</b> 79:3 <b>sell</b> 43:19 175:17 175:22 177:10	<b>selling</b> 86:20 176:19 <b>semi-trailers</b> 166:12 <b>send</b> 7:12 32:18 104:1 105:5,5 107:5 163:1 173:24 <b>sending</b> 105:13 108:15 <b>senior</b> 14:25 26:20 <b>sense</b> 10:9 20:1 21:3 31:14 41:25 42:8 52:17 101:19 175:18 <b>sent</b> 21:7 105:16 106:23 108:6 116:18 166:12 <b>sentence</b> 45:20 46:23 47:22 49:17,23 88:17 119:16,22 128:8,9 <b>separate</b> 61:9,11 147:8 <b>separately</b> 7:11 147:11 <b>September</b> 71:18 <b>series</b> 179:6 <b>serious</b> 114:21 <b>served</b> 166:17 <b>serves</b> 172:12 <b>service</b> 1:1 5:22 6:21,25 9:12 40:15,19 79:24 80:2,9 81:10 111:12,18 127:3 141:13 145:9,14 148:7 148:23 155:18 <b>services</b> 1:3 2:16 2:18,21 3:2 10:20 11:2
--	--	---	---	--

15:21 24:20	<b>shorter</b> 176:25	173:13	<b>six-and-a-half...</b>	146:23 148:4
25:6,15 27:8	<b>shortly</b> 25:13	<b>simply</b> 38:7	163:6	163:18 174:8
36:24,25 37:13	<b>shoulder</b> 138:13	60:25 67:3,14	<b>six-year-old</b>	<b>sort</b> 24:1 44:4
38:10 39:13	<b>show</b> 15:11 72:4	82:10 85:14,21	83:22	52:8 62:20
44:15 66:6	77:16 86:6,22	87:1 131:1	<b>Sixty</b> 89:25	70:14 72:3
85:11,12,18	89:7	146:4 167:24	<b>size</b> 28:7 31:9	78:4 84:23
86:22 87:7,11	<b>showing</b> 16:2	<b>single</b> 17:4 37:9	51:24	97:9 115:17,18
105:22 169:23	74:12 90:24	37:10 154:19	<b>skill</b> 23:2	116:25 117:2
169:23 184:2	<b>shown</b> 29:2	155:4 177:21	<b>skills</b> 159:24	128:15 160:10
<b>set</b> 23:2 39:14	<b>shows</b> 58:18	<b>sir</b> 7:24 11:15	170:2	<b>sorts</b> 144:3
49:7 61:21	66:8 90:8	43:25 45:23	<b>slowed</b> 145:25	<b>sought</b> 148:3
79:18,23 81:16	<b>Shumard</b> 2:10	96:4 113:3	<b>small</b> 84:14	<b>sounded</b> 149:15
82:3 85:22	<b>shut</b> 144:2	120:20 128:5	90:23	<b>sounds</b> 57:2
87:17 101:9	<b>Shutts</b> 2:19 9:1	130:9 134:17	<b>smaller</b> 91:19,24	74:3,4
102:14 130:2	12:17 14:5	140:13 158:5	92:25 93:4	<b>source</b> 61:8
175:14	<b>side</b> 23:2 59:8,9	171:2 178:23	<b>soft</b> 89:16 90:5	76:17 81:24
<b>setups</b> 166:15	59:9 79:18	<b>sit</b> 61:16 80:3	90:15 91:3,5	85:4,9 128:25
<b>seven</b> 2:16 22:23	124:16,16	166:3	91:11,16	130:16 131:4
177:3,11	154:23	<b>site</b> 30:1,4,13	148:13,14,17	146:3 168:9
<b>severals</b> 11:18	<b>sign</b> 90:10 104:8	31:5,13 32:3,5	148:21,25	<b>sources</b> 61:1
<b>SF</b> 123:18	163:22	32:9,10,20	<b>sold</b> 24:21 26:1	<b>South</b> 23:23
<b>SF-1</b> 123:20,21	<b>signatories</b> 6:2	33:9 34:16	26:1 38:1	<b>space</b> 27:8 30:22
124:4 125:4	6:19	36:5 93:20	<b>solely</b> 42:9	30:25 31:9
<b>SF-I</b> 45:25	<b>SIGNATURE</b>	104:2,6,21	<b>solicited</b> 7:6	38:10 85:17,18
<b>shape</b> 127:15	184:24	105:17 109:13	<b>solid</b> 24:4,22	86:10,13 166:3
<b>share</b> 37:5	<b>signatures</b> 150:2	109:25 110:1,4	31:3 166:25	<b>spaces</b> 87:13
173:24	<b>signed</b> 89:18	124:20,24	169:9	<b>speak</b> 10:8 34:22
<b>shared</b> 119:4	91:6 129:1	125:12 152:25	<b>solution</b> 154:18	60:8 112:1
<b>ShareFile</b> 12:14	175:1	166:15,16	<b>Solutions</b> 35:23	119:6 135:18
12:17,23 14:4	<b>significant</b> 24:20	167:7 168:1,6	36:4,6 109:19	152:13
14:6	128:25 143:15	168:12 180:20	109:24	<b>speaker</b> 121:18
<b>shareholders</b>	151:13	180:24	<b>somebody</b>	<b>speaking</b> 11:21
59:24 172:22	<b>significantly</b>	<b>site's</b> 32:23	151:19 163:24	50:8 76:16
<b>shareholders'</b>	138:9	<b>sites</b> 32:15 34:25	176:3,10,14	<b>speaks</b> 97:11
42:3,11	<b>signing</b> 8:7	35:23 109:12	<b>somewhat</b> 38:13	<b>special</b> 6:22
<b>shares</b> 62:20	<b>similar</b> 15:24	109:21,22	<b>Sons</b> 23:10,12	23:19 180:18
63:2 169:6	16:3 36:18,23	168:22	<b>soon</b> 46:19 81:8	<b>Specialists</b> 10:23
176:11	37:8,21 82:17	<b>situation</b> 6:22	154:3	<b>specific</b> 34:22
<b>sheet</b> 3:10 76:12	82:21 91:24	43:9,21 131:20	<b>sophisticated</b>	44:5 48:5
76:18,19 77:16	92:24 117:6	152:14 172:3	64:5 80:6	51:19,23 53:13
82:12 83:10	118:14	177:7,8	102:19 143:14	54:13 59:12
88:4,5	<b>simple</b> 90:2	<b>situations</b> 80:23	<b>sorry</b> 9:9 14:19	67:13 78:11
<b>ship</b> 32:9	128:16 129:14	<b>six</b> 17:3,6 28:25	24:13 30:9	79:21,22 83:12
<b>shipped</b> 32:10	<b>simplified</b> 57:8	83:17 157:6	40:8 41:23	86:18 98:18
<b>short</b> 26:2	59:3 67:12	165:11,18	45:20 65:13	99:1 101:6
140:16	<b>simplistically</b>	177:3	125:23 126:2	107:6 129:25

130:11 175:21 176:24 <b>specifically</b> 35:23 81:14 83:8 96:11 97:11 107:10 114:20 132:16 135:17 147:10 152:6 156:11 177:6 <b>specifics</b> 81:12 110:7 <b>spectrum</b> 133:2 <b>speculate</b> 99:20 142:23 <b>spent</b> 1:4 33:10 45:19 46:1 53:8 123:4,5 123:11,11,17 123:22,23 124:6,7 153:11 154:11,18 155:10 156:2,4 156:10,13,15 156:24 171:6,7 <b>spinoff</b> 25:2,3 <b>spinoffs</b> 25:8 <b>spirit</b> 138:9 175:25 <b>spoke</b> 27:15 49:2 54:23 85:5 <b>spoken</b> 95:19 <b>sponsor</b> 60:5 <b>spot</b> 99:23 <b>Springs</b> 2:24 9:15 <b>St</b> 2:3,7,23 <b>staff</b> 2:11 4:21 6:21 9:13 68:25 <b>stage</b> 21:13 <b>stages</b> 84:1 <b>stand</b> 155:9 <b>stand-alone</b> 25:16 27:17 71:1 116:14	<b>standard</b> 70:14 91:11 104:20 116:23,25 130:14 <b>standards</b> 70:13 130:9,12,15,24 <b>standpoint</b> 154:23 156:18 <b>stands</b> 38:23 <b>start</b> 9:17 16:18 18:7 22:19 81:8 92:12 114:11,11 134:4 140:6 141:11 163:11 <b>started</b> 22:3,5,8 22:15 27:12 56:12 74:13 121:4 144:7 <b>starting</b> 64:24 65:2 103:5 107:5 <b>starts</b> 37:14 47:22 49:17 69:24 74:7 88:18 100:22 106:23 <b>state</b> 1:15,19 2:5 3:2,13 9:3,3 10:16 16:21 17:24 18:5 27:14,24 97:15 97:20,21 110:23 111:1 134:6,17 142:5 143:15 144:24 145:3,12,18 147:24 148:2 171:16 179:21 180:1,14,20 182:2,15 183:2 <b>State's</b> 145:8 <b>stated</b> 95:2 108:23 175:24 <b>statement</b> 5:17 46:19 70:15	71:22 82:16 142:3 160:2 <b>statements</b> 66:6 66:13 69:22 77:23 95:3,6 <b>States</b> 35:1 <b>stating</b> 4:11 38:7 <b>status</b> 34:7 137:7 153:22 179:23 <b>statute</b> 5:24 <b>stay</b> 153:13 155:12 <b>steady</b> 177:24 <b>stenographica...</b> 183:7 <b>steps</b> 55:5 125:16 <b>sticking</b> 162:7 <b>Stone</b> 2:22 <b>stop</b> 18:16 <b>stops</b> 42:24 <b>storage</b> 29:17,18 29:25 30:1 33:20 122:10 122:10 123:4 123:11,22 124:7 152:25 <b>stored</b> 125:14,20 <b>storms</b> 115:14 <b>strategy</b> 28:21 83:13 <b>stream</b> 32:21 34:7 75:21 <b>streams</b> 35:6,10 39:6 <b>street</b> 2:13 62:18 63:1 <b>strength</b> 115:23 <b>strengthen</b> 28:19 <b>stress</b> 28:10 <b>stretch</b> 140:25 <b>stretched</b> 115:6 <b>string</b> 37:15 <b>strong</b> 52:11	<b>struck</b> 46:9 <b>structure</b> 25:17 28:22 46:14 48:23 49:1 50:6 53:5,21 54:4,23 55:7,7 55:11,24 59:12 78:15,21,24 79:21 83:15,19 103:15 107:3 117:7 118:17 123:8,14 124:12 156:10 180:6,16 <b>structured</b> 49:13 106:15 107:16 132:11 133:15 135:17 167:16 <b>structuring</b> 79:19 98:21 <b>struggle</b> 140:9 <b>studies</b> 152:4 <b>study</b> 1:8 <b>stuff</b> 58:9 181:7 <b>sub</b> 72:8,9,11 122:20 170:9 <b>subject</b> 47:11 91:18 136:12 138:3 148:19 150:3 175:8 <b>submarine</b> 80:15 <b>submittal</b> 82:4 <b>SUBSCRIBE</b> 184:21 <b>subsection</b> 80:4 98:3 <b>subsequent</b> 23:6 150:4 <b>subsidiaries</b> 72:13 <b>subsidiary</b> 23:24 54:10 <b>substituted</b> 101:18 <b>subtle</b> 67:2,9,20	<b>successful</b> 46:17 136:5 <b>sudden</b> 140:7 162:11 <b>sufficient</b> 50:22 122:23 156:1 <b>suggest</b> 78:19 165:10 <b>suggested</b> 112:4 129:18 <b>suggesting</b> 120:2 <b>suggestions</b> 129:2 <b>suit</b> 8:14 <b>Suite</b> 2:17,20,23 <b>summarize</b> 141:18 <b>summary</b> 117:14 161:7 <b>Summer</b> 15:21 <b>sunset</b> 175:24 <b>supplemental</b> 14:24 54:3 55:14,17,21,23 56:1,11 66:7 79:6 167:12,14 <b>supplier</b> 168:11 168:14 <b>supply</b> 110:12 <b>support</b> 3:16 23:18 26:24 30:18 48:6 50:1 54:16 77:15 81:3 85:14 86:6 97:2,6,8,11,12 97:15 98:3 99:7,12 103:2 105:9 107:7 115:21 117:12 118:3,4,5 134:5,16 167:23 179:22 <b>supported</b> 61:2 69:21,22 77:12 149:11
---	---	--	---	---

<b>supporting</b> 118:16	112:23 116:2 120:15 140:17	<b>tasks</b> 48:10 49:7 52:24	<b>termination</b> 73:3	83:20 88:25 94:19,23 95:2
<b>supports</b> 117:23 118:6	140:25 143:8 145:24 150:25	<b>tax</b> 169:23 <b>taxes</b> 38:24 173:9	<b>terms</b> 55:22 60:6 105:22 114:21 128:16 129:18	95:8,10,15 96:7 100:5,11 100:12,16
<b>supposed</b> 122:7 122:20 140:6 155:13 157:5	152:14 154:1 154:10,13,18 155:20 157:5 173:20 174:11	<b>team</b> 11:23 23:22 26:24 164:16	132:3 164:13 164:21 166:22 173:11,11	101:5 107:10 110:21 112:10 112:21 113:15 113:22,24
<b>Supreme</b> 4:6 <b>sure</b> 8:18 32:20 34:6 39:22 48:14 62:2 106:3 128:2,15 137:25 145:10 148:13 149:15 152:9,10 159:15 170:20	<b>taken</b> 32:10,24 70:13 143:23 181:6 184:1 <b>takes</b> 43:2 <b>talk</b> 5:4 54:6 67:13 75:25 77:14 82:22 84:23 102:21 103:6,9,17 110:22 114:16 172:2 174:14	<b>tease</b> 171:1 <b>technology</b> 10:5 <b>tecum</b> 3:14 15:2 36:15 71:5 <b>tell</b> 14:8,9 15:8 15:22 16:19 17:14,15 18:10 19:11 20:14 23:25 24:17 27:3 34:10 35:18,23 36:4 42:15,19 44:12 46:6 58:5 60:1 61:5 62:23 63:10,11 64:1 66:22 68:8,10 69:8 83:3 99:16 101:12 116:6 129:4,12 130:11 141:12 153:10 172:20 175:15 179:16	<b>test</b> 73:5 76:11 78:1,18 <b>testified</b> 18:6,7 18:12,20 20:4 21:22 28:14 29:3 40:14 84:2 101:1,1 109:7,23 135:15 139:5 143:2 146:11 179:20 <b>testify</b> 19:12,18 109:2 <b>testifying</b> 18:19 21:19 40:22,24 41:3,6,13 83:7 112:7 139:3 150:7 <b>testimony</b> 3:15 11:3,4 13:5,12 13:14,17 15:13 16:4 19:17,22 20:1,3,7,25 21:13 30:22 36:16,20 37:22 37:23 38:15 41:3,9 42:16 47:5,7,15 49:2 50:3 51:10 54:5,22 55:6 56:11 57:7,11 57:22,23 58:8 58:15 64:21,23 65:9,14 66:24 67:1,11,21 71:10,11 75:16 75:22 76:11 79:6 83:7,9,12	114:21 115:4 116:5 122:16 126:9 129:6,8 130:5,25 131:24 132:5 133:21 138:10 139:7 140:1,3 140:11 142:15 142:21 150:5 150:16,16,19 150:20,22 158:25 160:7 168:23 171:24 174:17,22 183:9 <b>tests</b> 70:19 <b>Texas</b> 30:1,14 124:25 125:12 154:1,16,20 166:2 <b>text</b> 85:3 <b>thank</b> 5:16 10:9 10:15 12:3 13:25 16:14 21:10 31:14 40:4 57:2 62:10 81:20 92:7 113:3 116:15 120:9 120:10 121:13 126:3 127:20 127:22 128:6 130:23 134:24 135:20 140:12 140:14 160:3 178:15,16,24 179:3 181:2,3
<b>surplus</b> 133:4 <b>surprise</b> 98:24 <b>surprised</b> 159:25 <b>Susan</b> 142:18 <b>suspect</b> 109:1 <b>sustained</b> 88:25 <b>Suzanne</b> 2:9 4:20 9:11 120:14,18 127:23 <b>swore</b> 121:10 <b>sworn</b> 5:14 19:13,17,17 182:7 <b>synergies</b> 94:13	<b>talked</b> 37:23 61:25 67:21 79:8 101:7 126:10 127:6 148:12 155:25 161:10 172:23 <b>talking</b> 27:24 30:24 54:7 57:21 71:17 86:24 98:10 100:1 101:21 103:6 113:23 115:9 128:9 146:23,25 148:5 149:12 153:25 172:3 175:20 <b>talks</b> 114:5,20 128:10 <b>Tallahassee</b> 2:4 2:11,14 <b>Tampa</b> 2:20 93:11 <b>tangible</b> 67:13 75:19 76:7 86:23 <b>tasked</b> 90:10	<b>ten</b> 38:15 113:1 157:5 165:15 165:16 <b>tend</b> 10:12,12 116:2 <b>tenth</b> 159:18 <b>tenure</b> 56:16 <b>term</b> 30:22,25 37:8 49:10 51:15 53:23 54:11,15 55:17 88:9 90:5 118:22 135:2,6 162:20 <b>terminated</b> 27:22		
<b>T</b>				
<b>T</b> 3:11 <b>table</b> 154:23 <b>take</b> 8:16 10:5,6 10:11 11:9 22:11 25:10 26:4 35:1,20 35:24 37:13 45:18,25 46:8 56:23 57:12 86:21 104:15 105:17,18,19 109:22 110:17				

181:5,10 <b>thanks</b> 159:23 <b>theirs</b> 35:24 <b>theme</b> 95:1 101:5 <b>THEREFOR</b> 184:4 <b>therefrom</b> 72:16 <b>they'd</b> 176:14 <b>thing</b> 8:11 87:5 106:16 <b>things</b> 45:15 56:7 91:19 95:3 105:7 114:10 131:2 141:18 145:25 160:20 162:10 164:24 165:5,6 <b>think</b> 6:14 12:8 12:14 21:12 30:21 31:1 34:20 36:9,15 42:13 45:2 46:6 49:19 52:10 53:5,15 58:1 63:25 65:17,17,18 76:16 77:8 79:10,16 80:20 84:2 88:23 89:4 101:17,21 101:22 102:11 106:15 109:15 112:13 114:10 115:8 117:13 120:4,14 121:7 129:15 131:11 131:18 132:14 132:15 133:11 136:2,4 137:18 139:2 143:6,9 144:15 145:20 154:17 158:24 159:24 176:8 178:11 180:10 <b>thinking</b> 113:21	<b>third</b> 77:19 145:5 164:12 164:13 <b>third-party</b> 69:17 <b>Thomas</b> 2:23 <b>thought</b> 41:2 107:2 109:5 123:21 133:12 138:1 139:15 139:25 <b>thoughtfully</b> 106:17 <b>Thousand</b> 24:12 <b>three</b> 21:16 23:12 24:9,9 24:10,11 52:24 66:8 83:16 177:24 <b>thresholds</b> 78:14 <b>thumb</b> 86:1,2 <b>tie</b> 8:13 <b>tied</b> 90:17 <b>ties</b> 83:4 <b>time</b> 1:13 10:5 10:13 18:18 21:17 23:4 24:6 27:9,9,24 28:10 40:14 73:16 84:7 90:7,13,19 93:18 94:3,3 95:17 99:23 102:3 106:1,5 106:14,20,22 107:13 112:25 115:12 120:8 130:2 139:23 145:21 158:15 158:21,22,24 159:1,9,12 160:5,8,19 165:19 177:1,2 178:16,24 179:1 <b>timeline</b> 93:22	<b>timeliness</b> 138:11 <b>timely</b> 144:19 <b>times</b> 18:11 19:16,25 38:11 101:5 167:7 176:6,6 <b>timing</b> 51:22 55:10,24 82:3 92:4 93:25 <b>title</b> 1:4 24:5 99:13 155:11 <b>today</b> 10:1,24 11:10 12:14 14:6 31:16,24 32:9,10,24 34:16 106:1 136:21 166:3 <b>tomorrow</b> 109:2 <b>ton</b> 166:8 <b>tons</b> 105:24 166:22 <b>top</b> 59:15 65:21 65:23 87:24 96:3 136:22 158:22 <b>topic</b> 157:1 <b>total</b> 15:15 72:17,24 73:3 75:12 88:5,6,9 89:10,11,13 92:1,6,12 161:20 173:6 <b>totally</b> 125:7 <b>trace</b> 74:3 <b>track</b> 10:13 15:15 82:14 117:1 142:20 176:19 <b>tracked</b> 31:12 116:9 <b>tracking</b> 117:10 <b>trade</b> 38:11 85:8 85:18 86:14 <b>trains</b> 166:12 <b>transaction</b> 1:3	18:15 26:12 37:25 43:14 46:20 47:2 48:23 51:25 54:4,13 61:21 78:9,20,24 83:19,25 84:10 93:17 96:18 98:22 99:20 103:15 107:19 107:20 122:8 122:25 123:2,8 125:11 126:16 127:4,15 128:12 129:3,8 129:9,15 132:11,13 135:3 136:24 138:15 140:2 141:16 142:10 142:12,24 143:8,13,14,17 146:5 148:11 149:21,24 150:4 151:4,23 152:23 153:7 156:11 165:12 172:16 176:7,8 177:17 180:2 180:17 181:1 184:2 <b>transactional</b> 122:1,5,7 <b>transactions</b> 49:4 82:20 97:13 142:6 176:25 <b>transcribed</b> 20:6 <b>transcript</b> 7:23 13:23 21:1 57:14,18 100:14 113:10 183:8,9 184:21 <b>transcriptions</b> 20:11 <b>transfer</b> 1:4	82:11 123:15 <b>transferred</b> 116:7,12,12 133:5 <b>travel</b> 181:11 <b>Treasurer</b> 10:22 <b>treated</b> 78:12 <b>treatise</b> 85:3 <b>trial</b> 1:15 <b>tried</b> 86:4 <b>trigger</b> 53:11 <b>triggered</b> 80:22 105:20 <b>Triplett</b> 2:6 8:22 8:22 20:15 57:20 100:9,13 113:18 <b>trouble</b> 114:24 121:17 <b>trucks</b> 75:11 <b>true</b> 95:6 183:9 <b>trust</b> 48:6 50:1,5 50:14 51:17,21 52:5 53:12 55:9 82:11,12 82:13 100:2 101:2 102:22 104:3 116:8,17 116:17,24 117:23 118:4 118:18,25 132:2,10 133:18 135:22 155:24,25 156:3,9,13 165:11,17 167:15,22 170:7,8,10,12 170:16,24,25 171:1,5,7,9,12 180:23 <b>try</b> 23:1 48:9 57:17 75:4 141:10 153:3 <b>trying</b> 5:4 10:4,6 28:11 38:16
--	--	--	--	--



42:25 43:12	138:19 153:18	111:24 113:22	<b>unlimited</b>	69:18 85:21,24
61:19 64:15	164:3 165:2	119:15,17	173:23 174:17	<b>valuations</b> 86:8
75:17 80:14	173:25 176:10	128:15 136:8	174:18	<b>value</b> 16:2 38:19
99:22 102:10	<b>types</b> 35:3,13,15	137:25 141:14	<b>unqualified</b> 66:9	42:3,11 43:5
102:12 104:11	36:3 91:2	147:1 153:6	70:17	65:5 66:20
104:13,18	119:1 137:16	155:10 156:4	<b>unrealistic</b> 85:15	67:4,8,14
124:15 136:25	139:15	161:12,14	<b>unreasonable</b>	69:21 70:6
138:12 143:3	<b>typical</b> 37:25	166:7 175:13	144:15	75:14 76:7
158:5 171:1	<b>typically</b> 158:21	<b>understanding</b>	<b>unredacted</b>	81:6 84:25
<b>turbulence</b> 44:4	164:23 165:4	7:5 47:14 48:7	58:20	86:8 87:3
<b>turn</b> 4:24 37:18	165:20 173:2	48:19 60:8	<b>unrelated</b> 18:21	91:14 103:9,11
42:15 65:12		87:19 116:10	19:4 21:18,25	104:14,17
66:16 72:19	<b>U</b>	122:6,13	61:10 62:10	131:13,15
73:23 74:8,10	<b>ultimate</b> 30:20	123:25 124:10	<b>unsupported</b>	132:10 157:20
77:14 80:1	56:3 145:10	124:13,15	139:25	<b>values</b> 37:25
95:25 100:6	156:15 159:3	127:1,9,13	<b>unusual</b> 38:10	86:17 162:20
130:6 131:7	<b>ultimately</b> 27:22	141:12 145:1,3	<b>up-front</b> 160:14	162:24 163:20
133:20	61:2 108:6	145:17 147:21	175:5	163:23 164:14
<b>turned</b> 52:19	117:13 128:21	148:10 154:17	<b>update</b> 15:21	165:3
<b>two</b> 15:16,19	145:11 170:7	156:6,7,8,14	36:25,25 37:15	<b>variable</b> 103:13
19:13,16,21,25	<b>umbrella</b> 97:9	161:9 170:6,14	138:14	108:21 159:5
20:11 21:16	<b>unable</b> 48:1	171:11,13,17	<b>updates</b> 18:2	<b>variations</b> 164:4
23:20 24:12	114:25 139:22	171:22 174:24	<b>upfront</b> 106:24	<b>varies</b> 165:23
26:19,21,22	139:24	175:25	<b>upgrade</b> 144:4,6	<b>various</b> 19:14
27:10 29:10	<b>unauthoritative</b>	<b>understood</b>	<b>upper</b> 60:21	21:17 26:25
37:4 42:20	68:1	10:15 28:16	<b>upstream</b>	61:5 63:4
54:7 66:8	<b>unavailable</b>	52:18 64:19	173:24	64:11
71:25 76:17	79:23 102:13	116:22	<b>use</b> 1:15 14:11	<b>vary</b> 87:15
79:11 85:5,10	<b>undercut</b> 95:7	<b>underway</b> 5:17	16:10 46:4	159:13
86:4,18 87:23	<b>underlying</b>	33:25	48:8 53:23	<b>vehicles</b> 63:5
88:1,3 89:12	117:12 118:3,5	<b>unforeseen</b> 56:9	55:17,21 68:1	<b>venture</b> 29:18
89:13 90:4	122:1 139:4	<b>unfortunately</b>	90:5 114:4	30:12
91:12 92:1	149:11 151:23	111:16	118:22 158:10	<b>Veolia</b> 23:25
94:14 143:14	<b>underneath</b>	<b>unheard</b> 43:22	175:6	24:6,14,17,18
160:17 168:22	69:25	44:1	<b>Users</b> 4:18 141:8	25:14,21 26:15
173:2,5,16	<b>undersigned</b>	<b>unique</b> 25:8	<b>uses</b> 60:17	27:9,9 151:7
<b>two-page</b> 15:5	182:6	<b>unit</b> 25:11 26:25	<b>usually</b> 159:12	<b>verified</b> 48:4
<b>two-to-one</b>	<b>understand</b> 10:2	70:6 104:7,9	160:8	<b>verifying</b> 164:18
172:22 175:8	10:8 14:3,6	108:2,18,18,21	<b>utility</b> 40:15	<b>Vermont</b> 3:15
<b>tying</b> 98:22	21:3 31:21	166:10	111:1 179:21	18:14 19:9
<b>type</b> 25:9 28:15	42:16 48:9	<b>United</b> 35:1	<b>utilize</b> 102:16	20:13,24,24
28:15 32:23	50:17 61:20	<b>units</b> 27:2 92:9		21:13,23 40:13
37:5 60:2	63:9 64:16	93:16 94:2	<b>V</b>	56:15,19 81:22
84:10 85:16	67:10 80:16	<b>university</b> 84:19	<b>validation</b> 77:1	84:3,9 92:17
107:6 115:17	87:24 97:17	<b>unknowns</b>	<b>valuation</b> 23:18	97:21 98:21
115:21 132:6	99:16 104:13	114:21	37:19 38:12	102:21 110:23

111:1,9 114:6 114:8 115:7 116:7,17 117:7 119:2 127:7,7 127:10,14 144:23 145:3,6 145:14,22,25 146:15,24,25 147:3,13,24 148:2,7 165:14 179:13,16 180:4,5,15 <b>verse</b> 109:25 142:2 <b>version</b> 58:18 67:12 74:15 113:11 <b>versus</b> 37:9 54:13 55:23 79:6 131:3 145:12 163:10 <b>Vice</b> 10:21,22 24:3 26:20 29:3 <b>Videoconfere...</b> 1:11 <b>view</b> 5:25 6:4 67:10 76:22 <b>Viola's</b> 24:19 <b>violated</b> 174:6 <b>virtually</b> 102:18 <b>visibility</b> 61:13 64:9,10 <b>volume</b> 31:2,6 31:10 104:8 106:4,23 108:2 108:7,15,18,21 166:9,17 <b>volumes</b> 167:6 <b>VY</b> 112:5  <hr/> <b>W</b> <hr/> <b>W</b> 2:20,22 <b>waive</b> 4:9 8:6 <b>waiver</b> 1:6 <b>walk</b> 52:16 63:2	<b>want</b> 6:22 10:13 14:6 16:18 20:25 40:6 42:16 57:24 64:21 65:16,20 66:4 71:8,21 74:10 75:23 81:2 88:1,17 88:22 89:15 99:16 102:11 119:15,17 128:8,15 134:1 140:17 142:10 147:15,16,16 160:1 174:11 <b>wanted</b> 5:17 7:10 80:16 107:9 126:11 137:23 159:20 174:18 178:12 <b>wanting</b> 64:16 115:5 131:1 <b>warmer</b> 112:17 <b>Washington</b> 2:23 <b>wasn't</b> 80:14 93:13 144:9 158:4 166:21 <b>waste</b> 10:23 24:1 24:4,22,24 25:4 26:5,7 29:22 30:4,19 31:3,10,16,23 32:2,5,8,14,16 32:17,19,19,21 32:23 33:3,5,6 33:7,10,19 34:1,4,7,11,15 34:19 35:1,3,4 35:6,10,12,20 35:24 36:3 39:3,6,10,18 39:24,25 40:1 104:6,21,22,25 105:4,10,16,18 105:18,19	106:2 107:5 108:2,6,9 109:12,13,14 109:21,23 110:3,7,8,14 124:23 125:2,4 125:5,13,20 151:6,18,22,22 152:3,24 166:13,16,25 169:10 176:6 <b>Waterhouse</b> 66:9 <b>way</b> 5:19 10:4 16:8 25:21 28:11 36:6 39:14 41:2,5,7 41:11 43:19 49:13 55:8 61:20 63:5,7 64:8 65:19 67:10 70:21 80:21 89:17,23 94:2,11,15 103:1 105:7 106:2 107:16 110:13 112:8 119:18,24 120:5 127:15 132:1,15,15 133:16 143:2 143:21 158:1 158:16 160:12 160:24 162:23 163:13 164:21 <b>WCS</b> 22:7 25:21 25:23 26:3,8 26:10 29:4,7,8 29:12,15,19,19 29:21,23 30:5 30:7,11,14,23 31:7,15,15,22 32:1,14 33:9 35:7,22 36:1 39:3,19,24 105:5,5,14,17	107:19 108:15 108:16,17 109:24 110:4,9 110:13 168:6 168:13 <b>we'll</b> 10:11 14:11 20:21,23 20:24 82:14 140:25 162:18 176:6 178:25 181:7 <b>we're</b> 5:9 6:12 50:8 76:16 89:23 91:8 92:15,15,16,17 92:20,22 93:1 93:5 102:13,14 106:24 112:17 115:6 118:17 120:11 140:7 146:4,23 148:5 149:2 161:5 162:16 175:16 175:17 179:24 <b>we've</b> 11:18 91:7 98:10 114:17 162:5,16 172:15 <b>website</b> 20:13,18 <b>Wednesday</b> 6:13 181:9 <b>week</b> 6:14 172:9 172:14 <b>weight</b> 104:7 <b>went</b> 23:7,10 24:8,14,18,18 25:17 26:16 121:6 <b>weren't</b> 121:6 149:15 <b>West</b> 2:3,23 <b>White</b> 2:24 9:14 <b>widely</b> 16:13 <b>wish</b> 7:11 <b>withdrawn</b> 116:16	<b>witness</b> 4:4 5:14 8:13,24 12:9 13:8,13,22 36:11 68:14 74:17 100:22 113:4,13 120:10,22 121:10 122:4 127:22 137:21 140:14,19 141:2 179:3 181:3 182:8 183:10 184:24 <b>won</b> 91:9 <b>wondering</b> 166:22 <b>word</b> 45:16 46:4 46:6,8,18 48:8 72:3 88:18 114:5 <b>words</b> 75:2 76:15 105:23 106:3 131:16 <b>work</b> 17:25 23:1 23:15 28:11 33:23 37:5,7 46:10 48:24,25 50:7,10,11,13 50:16,22 51:22 51:22 52:3,4 52:20 55:16,24 56:2,8 82:13 89:19 90:2,6 90:12,19,21,22 90:23 91:2,5,9 92:2,3,4,14,16 92:25 93:20 94:3,9 103:4 103:21 105:3 106:22 112:5 115:7,9,21 132:9 133:8,9 136:7 139:2,3 139:6 149:3 151:7 152:11 153:9 159:2,3
--	--	--	---	--

159:4 160:9,11 160:15,22 162:25 163:7,7 163:20,22 164:18 169:21 169:25 <b>worked</b> 21:20 23:9,9,11 29:13 <b>working</b> 23:17 28:3 122:3 136:6 170:5 <b>works</b> 104:6 160:25 164:21 <b>world</b> 25:16 <b>worst</b> 131:16 133:13 <b>worth</b> 38:19 67:6 75:11,11 114:18 <b>wouldn't</b> 38:10 41:21 53:4 56:6 62:19 63:25 64:7 68:4 78:24 89:15 131:15 131:21 143:23 174:12 <b>wrap</b> 110:16 <b>Wrecking</b> 172:14 <b>writing</b> 150:11 <b>written</b> 20:3 46:25 70:21 126:14 <b>wrong</b> 137:18	<b>Yankee</b> 18:15 19:9 20:24 21:13,23 40:13 56:15,19 81:22 84:3,9 92:17 102:22 114:6,8 115:7 116:7,17 127:7,14 179:13,17 180:5 <b>yeah</b> 24:10 27:6 57:1 108:14 109:6 120:18 142:8 144:4,11 145:13,20 146:22 150:24 151:9 152:2,8 152:12,14 153:10,22 154:6,22 156:23 157:14 157:25 159:6 159:23 160:3 160:16 162:3 162:10,14 163:14 164:3,7 165:1,19 166:2 166:7,9,20 169:2 170:1,6 170:11,14 172:17 174:8 174:21 175:11 176:2,12,17 177:10 178:22 181:2 <b>year</b> 24:15 29:15 84:2 137:12 157:8 162:9 <b>years</b> 22:1,22,23 23:12,20 24:7 24:9,11 26:19 27:10 52:24 83:16,17 86:17 115:13 157:5 167:3 175:16 177:3,3,24	<b>York</b> 2:17 <b>you-all</b> 151:12 153:17,23 162:3 <b>Yucca</b> 153:18 <b>YVA</b> 2:9 <hr/> <b>Z</b> <hr/> <b>Z</b> 80:4 <b>zero</b> 73:8,8,14 73:20 <hr/> <b>0</b> <hr/> <b>0001</b> 71:18 <b>037843</b> 182:16 <hr/> <b>1</b> <hr/> <b>1</b> 1:24 3:14 11:14,16 12:21 14:15,20 89:11 92:9,20 93:15 96:1 123:19,20 <b>1.00</b> 72:18 <b>1.4</b> 89:1,3,8,14 <b>1:00</b> 11:24 <b>1:03</b> 1:13 <b>10</b> 39:15 65:2 82:22 86:9 87:9 89:23,25 100:1,20 101:8 105:24 106:1 135:23 137:11 139:16 140:4 157:19 159:6,7 159:17 166:23 <b>10.9</b> 87:14 <b>10/31/2020</b> 182:16 <b>100</b> 67:6 80:7 81:17 93:4 101:10 171:21 173:22 174:10 <b>100,000</b> 157:8 <b>10001</b> 2:17 <b>1025</b> 2:23 <b>105</b> 101:14 135:2	<b>10X</b> 85:9,15 <b>11</b> 3:14 15:13 16:4 36:16,20 36:21 38:11 71:13 84:22 85:16 87:15 88:15,16 131:7 171:25 <b>111</b> 2:3 <b>112</b> 84:24 <b>118</b> 2:13 <b>11X</b> 87:4 <b>12</b> 16:4 47:19,20 84:23 87:2 91:4 133:20 171:24 <b>120</b> 3:6 <b>120,000</b> 137:12 138:23 <b>128</b> 3:7 <b>128,973,000</b> 88:6 <b>129</b> 88:6,13 <b>13</b> 16:4 36:22 75:23 81:21,22 84:23 <b>130</b> 72:7 79:11 <b>13X</b> 85:16 87:12 <b>14</b> 81:22 99:25 100:20 102:21 103:5 <b>141</b> 3:7 <b>15</b> 110:21 133:20 176:6 <b>150</b> 66:5 67:6 <b>152</b> 87:25 <b>16</b> 112:3 <b>160</b> 88:9 <b>162</b> 65:16,20,22 66:16 68:10 76:10 <b>165</b> 88:11,13 <b>166</b> 65:18 <b>17</b> 103:5 <b>179</b> 3:8 <b>18</b> 15:13 72:19	88:15,16 110:21 <b>180</b> 3:8 <b>1803</b> 2:17 <b>182</b> 3:9 <b>183</b> 3:9 <b>184</b> 1:24 3:10 <b>19</b> 15:13 44:11 88:17 130:8 <b>1990s</b> 170:4 <hr/> <b>2</b> <hr/> <b>2</b> 3:15 20:23 58:15 74:18 89:11 92:9,20 93:15 94:5 <b>2.00</b> 72:18 <b>2:23</b> 113:16 <b>2:25</b> 57:4 <b>2:30</b> 57:1 <b>2:32</b> 113:16 <b>2:34</b> 57:4 <b>20</b> 3:15 45:16 51:11,16 88:16 110:22 164:1 176:6 <b>200</b> 173:22 174:10 <b>2000</b> 24:3 <b>20007</b> 2:23 <b>2009</b> 24:13 <b>2012</b> 24:13,15 <b>2014</b> 82:23 83:21 <b>2016</b> 22:6 56:12 84:11 87:2 <b>2017</b> 83:9,15 115:14 177:14 <b>2018</b> 22:4,8,10 66:7 70:3 115:14 <b>2019</b> 15:21 19:3 66:7 70:3 71:18 88:4,12 96:5 115:15 <b>20190140-EI</b> 1:2
---	--	---	---	---

CONFIDENTIAL

Page 35

<p><b>2020</b> 1:3,12  11:22,24 37:15  89:1 162:6,8  182:9 183:16  184:1  <b>21</b> 82:22  <b>22</b> 1:3 53:24  77:19  <b>22nd</b> 11:22  <b>23</b> 53:25 77:19  <b>23rd</b> 11:24  <b>24</b> 1:12 184:1  <b>25-6.04365</b> 1:7  <b>250</b> 174:12  <b>2540</b> 2:10  <b>270</b> 92:21  <b>273</b> 74:7,10  <b>277</b> 74:8,11,12  <b>28.6</b> 92:10  <b>299</b> 2:7  <b>29th</b> 182:8  183:16</p> <hr/> <p style="text-align: center;"><b>3</b></p> <p><b>3</b> 3:16 58:15  93:18 94:9  99:11 100:19  126:12 135:21  144:12  <b>30</b> 103:7,14  104:2,14,15  105:14,19,21  106:2,4,14,21  106:24 107:11  116:19 149:13  149:19 164:1  167:14,18,24  167:25  <b>30-day</b> 116:23  118:2  <b>300</b> 2:20  <b>31</b> 66:7 70:3  <b>32</b> 93:1  <b>32301</b> 2:14  <b>32399</b> 2:4,11  <b>33607</b> 2:20</p>	<p><b>33701</b> 2:7  <b>343</b> 15:20 39:12  <b>357</b> 37:15  <b>370</b> 2:17</p> <hr/> <p style="text-align: center;"><b>4</b></p> <p><b>4</b> 39:1 42:15  44:11 46:21  87:1 89:24  <b>4.5</b> 88:10  <b>4:06</b> 110:19  <b>4:16</b> 110:19  <b>40</b> 96:25 167:2  <b>41</b> 96:25 98:2  <b>4301</b> 2:20</p> <hr/> <p style="text-align: center;"><b>5</b></p> <p><b>5</b> 42:16 46:21,21  47:18,20 51:9  53:23 126:9  128:8  <b>5:05</b> 141:3  <b>5:11</b> 141:3  <b>50</b> 50:9,12,15  51:6 52:2,3,4,5  52:14,19 96:6  96:15 103:19  107:15,15  164:1 167:3  174:11,23  175:6  <b>50/50</b> 166:24  <b>500</b> 114:9,17  157:12  <b>500,000</b> 157:14  <b>540</b> 91:14  122:20 133:5  157:13 167:13  167:19,21</p> <hr/> <p style="text-align: center;"><b>6</b></p> <p><b>6</b> 15:1,17 42:17  71:18 73:3  101:8 106:23  112:3 116:4  119:9 135:22  <b>6.4</b> 72:8</p>	<p><b>6.4N</b> 172:25  <b>6:09</b> 1:13 181:12  <b>60</b> 89:23  <b>600,000</b> 157:9  <b>61</b> 100:6  <b>62</b> 100:18  <b>648</b> 89:11</p> <hr/> <p style="text-align: center;"><b>7</b></p> <p><b>7</b> 15:25 36:14  64:20,22 75:22  112:3 130:5  131:9  <b>75</b> 52:21 103:20  <b>783</b> 92:12  <b>784</b> 89:10 92:12  <b>785</b> 89:10 93:2  <b>7th</b> 2:17</p> <hr/> <p style="text-align: center;"><b>8</b></p> <p><b>8</b> 12:21 15:10,17  47:19,20 64:24  71:12 77:14,19  89:5 91:20  130:8 131:9  <b>800</b> 2:23  <b>805</b> 130:15,21  131:4  <b>812</b> 2:3  <b>8X</b> 85:9,15</p> <hr/> <p style="text-align: center;"><b>9</b></p> <p><b>9</b> 3:6 71:10,15  73:24 79:8  81:21 100:1  136:14  <b>90</b> 166:23  <b>90,000</b> 137:12  138:22  <b>99</b> 3:16</p>		
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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition to approve transaction for accelerated decommissioning services at CR3 facility, transfer of title to spent fuel and associated assets, and assumption of operations of CR3 facility pursuant to the NRC license, and request for waiver from future application of Rule 25-6.04365, F.A.C. for nuclear decommissioning study, by Duke Energy Florida, LLC.

DOCKET NO.: 20190140-EI

FILED: June 22, 2020

**NOTICE OF DEPOSITION DUCES TECUM**

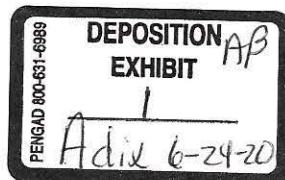
TO: Dianne M. Triplett  
Duke Energy Florida  
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NOTICE is hereby given that pursuant to Rule 28-106.206, Florida Administrative Code and Florida Rule of Civil Procedure 1.310, the Office of Public Counsel will take the deposition of the following named individuals at the location and time indicated below:

NAME	DATE and TIME	LOCATION
Jeff Adix Terry Hobbs	June 24, 2020 at 1:00 p.m. June 25, 2020 at 9:00 a.m.	Via Zoom Link (Link will be circulated to witness and counsel by Court Reporter prior to deposition)

Terry Hobbs is requested to have with him:

1. All documents containing the analyses, notes, report(s) and other work product of the TRC scrub Team as discussed on pages 7-9 of your direct testimony.
2. All communications between the TRC Scrub Team and the TRC related to the analysis and recommendations contained on pages 8, Line 14 through Page 9, Line 7 of your Rebuttal Testimony.



3. All documents relied upon by the TRC in its deliberations and decisions reflected in the March 2019 recommendation that the DSA should be approved as described on Page 9, Lines 8-9 of your rebuttal testimony.
4. All workpapers, analysis, memoranda, notes, and supporting documents (including documents relied upon, consulted and referenced) in the development of his testimony in this matter.
5. All documents the deponent reviewed and/or considered in preparing his testimony in this matter.
6. All drafts of any supplemental testimony the deponent has provided or prepared in this matter.
7. All workpapers, analysis, memoranda, notes, and supporting documents (including documents relied upon, consulted and referenced) the deponent reviewed and/or considered in preparing or providing his supplemental testimony in this matter.
8. All notes the deponent prepared concerning or related to your supplemental testimony in this matter.

Jeff Adix is requested to have with him:

1. All workpapers, analysis, memoranda, notes, and supporting documents (including documents relied upon, consulted and referenced) in the development of his testimony in this matter.
2. All documents the deponent reviewed and/or considered in preparing his testimony in this matter.
3. All drafts of any supplemental testimony the deponent has provided or prepared in this matter.
4. All workpapers, analysis, memoranda, notes, and supporting documents (including documents relied upon, consulted and referenced) the deponent reviewed and/or considered in preparing or providing his supplemental testimony in this matter.
5. All notes the deponent prepared concerning or related to your supplemental testimony in this matter.
6. The agreement referred to on page Page 9, lines 8-11
7. The documents showing the calculation of the market value of the companies with similar profiles discussed on Page 11, lines 12-13.
8. The documents showing the calculation of the dollar amount of revenue backlog shown on page 11, lines 18-19

A telephonic conference line will be made available if a party wishes to participate telephonically and has made arrangements to view confidential information. This deposition shall be taken upon oral examination before an official court reporter or other officer authorized by law to take depositions. The deposition is being taken for purposes of discovery, for use at trial, and



for any other purposes allowed under the Florida Rules of Civil Procedure and the Rules of the Florida Public Service Commission.

Please govern yourselves accordingly.

Respectfully Submitted,

J.R. Kelly  
Public Counsel

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Deputy Public Counsel  
Florida Bar No. 0527599

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Attorneys for the Citizens  
of the State of Florida

**CERTIFICATE OF SERVICE**  
**Docket No. 20190140-EI**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing Citizens' Notice of Deposition to Duke Energy Florida has been furnished by electronic mail on this 22nd day of June, 2020, to the following:

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