

BEFORE THE STATE OF CALIFORNIA
OFFICE OF TAX APPEALS
COUNTY OF SACRAMENTO

IN THE MATTER OF THE APPEAL OF:)
)
NEXTERA ENERGY CAPITAL) CASE NO. 20096580
HOLDINGS, INC., AND)
AFFILIATES,)
)
)
APPELLANT.)
)
)
_____)

CERTIFIED COPY

TRANSCRIPT OF PROCEEDINGS
Sacramento, California
Tuesday, February 21, 2023

Reported by:

Maria Esquivel-Parkinson,
CSR No. 10621

Job No.:
40408 OTA(B)

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5

COUNTY OF SACRAMENTO

IN THE MATTER OF THE APPEAL OF:)
)
NEXTERA ENERGY CAPITAL) CASE NO. 20096580
HOLDINGS, INC., AND)
AFFILIATES,)
)
APPELLANT.)
)

)

TRANSCRIPT OF PROCEEDINGS, taken at
Office of Tax Appeals, 400 R Street, Sacramento,
California, commencing at 1:04 p.m. and
concluding at 4:16 p.m. on Tuesday,
February 21, 2023, reported by
Maria Esquivel-Parkinson, CSR No. 10621, RPR,
a Certified Shorthand Reporter in and for
the State of California.

1 APPEARANCES:

2
3 PANEL MEMBERS:

4 Asaf Kletter, Lead ALJ

5 Kenny Gast

6 Joshua Lambert

7
8
9 FOR THE APPELLANT:

10 Derick J. Brannan, Representative

11 Ronald A. Cox, Representative

12
13
14 FOR THE RESPONDENT:

15 STATE OF CALIFORNIA

16 FRANCHISE TAX BOARD

17 P.O. Box 1720, Legal Division

Rancho Cordova, California

By: Rafael Zaychenko, Tax Counsel

18 Delinda R. Tamagni, Tax Counsel

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

E X H I B I T S

(Appellant's Exhibit 1 through 20 were received at page 7)

(Respondent's Exhibits A through T and Exhibit U were received at page 7)

P R E S E N T A T I O N

	PAGE
By Mr. Brannan	8
By Mr. Brannan (resumed)	42
By Mr. Zaychenko	92

W I T N E S S T E S T I M O N Y

APPELLANTS ' WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
Scott Bores	20	35	39	

C L O S I N G S T A T E M E N T

	PAGE
By Mr. Brannan	125

1 SACRAMENTO, CALIFORNIA

2 TUESDAY, FEBRUARY 21, 2023

3 1:04 p.m.

4
5 ALJ KLETTER: This is the Appeal of NextEra
6 Energy Capital Holdings, Inc., and Affiliates, OTA Case
7 Number 20096580. Today is Tuesday, February 21st, 2023,
8 and the time is approximately 1:04 p.m. We are holding
9 this hearing today in Sacramento, California.

10 My name is Judge Kletter. I will be the lead
11 administrative law judge for this appeal. With me are
12 administrative law judges Kenny Gast and Josh Lambert.
13 If the parties could please each identify yourself by
14 stating your name for the record, beginning with
15 Appellant. Thank you.

16 MR. BRANNAN: Derick Brannan with
17 PricewaterhouseCoopers on behalf of Appellant NextEra
18 Energy.

19 MR. COX: Ron Cox with PWC on behalf of
20 Appellant.

21 MR. BORES: Scott Bores with NextEra Energy.

22 ALJ KLETTER: This is Judge Kletter. I just
23 had a quick question, which I know -- and all of your
24 party is at the table, so if you could please mention
25 who else is with you.

1 MR. BRANNAN: Certainly. Also Ligia Machado
2 with PWC on behalf of Appellant and Mr. Jay Beaupre.

3 I'm going to get your title wrong, Jay.

4 MR. BEAUPRE: Senior director of state tax.

5 MR. BRANNAN: Senior director of state tax with
6 the Appellant.

7 ALJ KLETTER: Thank you. This is
8 Judge Kletter. And just a confirmation, Mr. Bores said
9 that he was with NextEra. Is he with Florida Power &
10 Light Company or also with --

11 MR. BORES: Oh, I will clarify. I'm the vice
12 president of finance for Florida Power & Light, which is
13 a subsidiary of NextEra Energy.

14 ALJ KLETTER: This is Judge Kletter. Thank
15 you.

16 And then if the Franchise Tax Board could
17 please mention who will be appearing for them as well.

18 MR. ZAYCHENKO: Certainly. This is Rafael
19 Zaychenko for Respondent Franchise Tax Board. And with
20 me is Delinda Tamagni as co-counsel for Franchise Tax
21 Board.

22 ALJ KLETTER: This is Judge Kletter. Thank
23 you. So for today, the issues are whether Florida
24 Power & Light Company and Appellant were engaged in a
25 unitary business for the 2009 through 2015 tax years;

1 and a second issue is if it, Florida Power & Light
2 Company and Appellant were engaged in a unitary
3 business, whether the allocation and apportionment
4 provisions of Revenue and Taxation Code Section 25120
5 through 25141 do not fairly represent the extent of
6 Appellant's business activity in California.

7 With respect to the evidentiary issue -- sorry,
8 the evidentiary record, Franchise Tax Board has provided
9 Exhibits A through S during briefing and additional
10 Exhibits T and U. Appellant does not have any -- does
11 not object to the admissibility of these exhibits;
12 therefore, these exhibits are entered into the record.

13 (Respondent's Exhibits A through T and Exhibit
14 U received into evidence.)

15 ALJ KLETTER: Appellant has provided Exhibits 1
16 through 17 and following the prehearing conference
17 provided additional Exhibits 18 through 20. There were
18 no -- FTB did not object to the admissibility of these
19 exhibits; therefore, these exhibits are entered into the
20 record.

21 (Appellant's Exhibits 1 through 20 were
22 received into evidence.)

23 ALJ KLETTER: And no additional exhibits were
24 presented today.

25 So, Mr. Brannan, are you ready to begin your

1 presentation?

2 MR. BRANNAN: Yes. As a point of
3 clarification, Judge Kletter, during the prehearing
4 conference, there was a question about the propriety or
5 the timeliness of the 2009 and '10 refund claims. And I
6 don't know if it's appropriate or not, but I think my
7 question is are those concerns resolved at this point or
8 should I address them.

9 ALJ KLETTER: This is Judge Kletter. Those
10 concerns are resolved. Thank you.

11 MR. BRANNAN: Thank you. And I'm ready to
12 proceed when necessary.

13 ALJ KLETTER: Please begin.

14
15 PRESENTATION

16 BY MR. BRANNAN, Attorney on behalf of the Appellant:

17 Thank you very much, Judge Lambert,
18 Judge Kletter and Judge Gast for your time this
19 afternoon.

20 On a fundamental basis, you know, as described
21 by the issue statements, this case is about fairness.
22 And fairness is not a concept that we see very often in
23 the tax world, quite frankly, because it is generally
24 driven by the statutes.

25 This case is driven by the facts, and all of

1 the facts make the difference here. And the question
2 really is whether it is fair for the State of California
3 to impose tax on income earned by a Florida-based,
4 rate-regulated public utility zealously regulated by the
5 Florida Public Service Commission -- we'll call them
6 "FPSC" or "the Commission" throughout -- and the
7 activities of FPL, Florida Power & Light, which really
8 have no rational relationship to the State of
9 California.

10 Appellant is engaged in two distinct
11 businesses. One is a Florida-based, rate-regulated
12 public utility, and the other is a wholesale power
13 business which sells power to commercial buyers outside
14 of Florida. The two businesses have no material
15 operational ties and should not be part of the same
16 unitary business.

17 To compound matters in this case, Appellant
18 loses money on its wholesale operations in California
19 through its wholesale business but makes money on its
20 rate-regulated utility in Florida. As a result, and
21 regardless of whether or not the businesses are part of
22 the same unitary group, the standard formula brings in
23 taxable gain from Florida that has no reasonable
24 connection to Appellant's business activities in
25 California.

1 The FTB's approach to the instant matter
2 reveals honestly a startling lack of depth. The FTB
3 ignores the facts and relies on labels, unsupported
4 factual statements, and conclusory legal statements to
5 make its case. Empty assertions are insufficient to
6 sustain the Respondent's determination. It's not true
7 simply because the FTB says it's true.

8 And we embrace our burden on appeal, and we do
9 ask and encourage the panel members to ask questions
10 about the facts and to look at whether those facts, as
11 articulated on both sides, are material to the overall
12 operation into a unitary determination in this case.

13 The facts and law in this case overwhelmingly
14 support Appellant's position on appeal. I'm not sure
15 how or why, but Respondent seems to have lost
16 perspective over the years on what it means to be a
17 unitary business and what distortion is all about. And
18 with that in mind, I'm going to start the presentation
19 with some historical references here to make sure that
20 we're all starting on the same page.

21 So Slide 2 has the issues. I'll move to
22 Slide 4. "The Unitary Method: Why do we have it and
23 what does it do?" And these are the things that
24 generally we assume that we understand, but sometimes we
25 don't.

1 The unitary method evolved from a series of
2 property tax cases that involve railroads and the
3 challenges associated with valuing in-state property
4 which was part of a larger interstate railway system.
5 When considered on a state-by-state basis, the tangible
6 property in any given state -- could be the track in one
7 state, the track and switches in another state, ticket
8 offices in another state -- and are a very limited value
9 on their own without reference to the entire interstate
10 railroad.

11 The unit rule of assessment was born to remedy
12 that problem. So the first quote there on the page of
13 Slide 4 is, "Where interstate operations are carried on
14 and that portion of the corporation's business done
15 within the state cannot clearly be segregated from that
16 done outside the state, the unit rule of assessment
17 employed is employed as a device for allocating to the
18 state for taxation its fair share of the taxable values
19 of the taxpayer." And that's from the Butler Brothers
20 case and actually goes back to the Adams Express case
21 from 1897. So there's history here as to what this rule
22 is supposed to mean and how it's supposed to work.

23 California and other states expanded this unit
24 rule of assessment to multi-state franchise tax matters
25 in response to the increased complexity of a

1 multi-jurisdictional business and developed the unitary
2 method in order to better reference those activities
3 creating taxable value in a specific state. The goal of
4 both the unit rule of assessment and the unitary method
5 is to achieve fair apportionment of the income or the
6 property values fair to the state and, in this case,
7 fair to the taxpayer.

8 Case authorities are rife with examples of the
9 businesses traditionally targeted by this unitary
10 method, and it's where the profits of the corporation
11 are largely earned by a series of transactions across
12 state boundaries such as acquire raw materials in one
13 state, manufacture in another state, sell in a third
14 state. And we appreciate that when transactions occur
15 across state boundaries that the unitary method is, in
16 fact, an ideal way theoretically and legally to come up
17 with an answer for that dilemma.

18 The soundness of the method though is
19 demonstrated by reference to how the taxpayer conducts
20 its business, and that's what matters here. We need to
21 look at the taxpayers and the two different trades or
22 businesses that they are conducting. And they are not
23 unitary.

24 Continuing with the material in front of you on
25 Slide 4, once determined that a certain set of

1 activities constitute a unitary business, the State must
2 then apply a formula apportioning the income or loss of
3 that business within and without the state. Such an
4 apportionment formula must under both the due process
5 and commerce clauses be fair.

6 Moving to Slide 5, there's a couple of case
7 authorities that also help us understand what the goal
8 of a standard apportionment formula should be. The
9 apportionment formula should strive to give weight to
10 the various factors which are responsible for earning
11 the income subject to tax. The formula must actually
12 reflect a reasonable sense of how income is generated in
13 the state.

14 While California has a right to fairly
15 apportion income from an interstate business, that's not
16 what's at issue here in spite of the some of the
17 briefing that's taken place. California is still
18 prohibited from taxing value earned outside of its
19 borders. And that's what's going on in this case.

20 Revenue and Taxation Code Section 25137 echos
21 these considerations by requiring that the apportionment
22 formula fairly represent the extent of the taxpayer's
23 business activity in the state.

24 Slide 6. What happens when the apportionment
25 formula isn't fair? We can run it through the ringer.

1 We can reach our determination. What do we do then if
2 there's still something that's not right? And that's
3 the second part of the presentation that has to do with
4 distortion.

5 The unitary determination is about how the
6 pieces of the business do or do not work together to
7 earn income subject to tax. By comparison, the
8 apportionment factors are intended to reflect those
9 activities giving rise to the income in a particular tax
10 jurisdiction. Distortion assumes the existence of a
11 unitary business, which, as you well know, is at issue
12 in this case. But it assumes that there is a unitary
13 business when you get to that inquiry and asks the
14 further question as to whether the factors or the
15 apportionment formula accomplish a fair result.

16 Fair apportionment requires both some minimal
17 connection between California and the out-of-state
18 activities which California seeks to tax and a rational
19 relationship between the income attributed to the State
20 and the intrastate values of the enterprise.

21 Similarly, a state may not tax a unitary
22 business unless some part of it is conducted in the
23 state and the out-of-state activities are related in
24 some concrete way to the in-state activities. All of
25 these describe situations that we're going to talk about

1 factually in just a moment.

2 Lastly, consistent with these authorities, if
3 the business within the state is truly separate and
4 distinct from the business without the state so that the
5 segregation of income may be made clearly and
6 accurately, separate accounting method may be properly
7 used or may properly be used. That's a statement from
8 Butler Brothers reiterated in California Edison Stores,
9 repeated yet again in the Container Corp. decision at
10 the appellate court level. That's nothing new. It's
11 just something that very rarely does the FTB want to
12 acknowledge or accept.

13 Slide 7. I'd like to take you to an example
14 that's in the materials. It's an article by Keesling
15 and Warren. And hopefully those gentlemen do not need
16 any introduction. They are considered kind of deans in
17 this area. They're cited routinely by the California
18 and U.S. Supreme Courts. Mr. Warren at least was one of
19 the coauthors of UDITPA.

20 And we'd like to turn to what's in one of their
21 articles. And they set up a hypothetical, and the
22 hypothetical starts with a profitable cotton farm
23 operating exclusively in California who then acquires a
24 copper mine in Arizona that operates at a loss. The
25 cotton farm furnishes capital, closely manages,

1 supervises and controls the copper mining operations.

2 The cotton farm and copper mine have many
3 shared functions, such as accounting, handling of
4 insurance, and purchasing of supplies. And all of those
5 are performed in California. The authors acknowledge
6 that the cotton farm and the copper mine are unitary due
7 to common ownership and shared administrative functions,
8 but then they raise the question, and it's the very
9 question we deal with here today.

10 And the question is whether it is right to
11 apportion income from the cotton business in California
12 to Arizona and apportion loss from the copper business
13 in California by application of the standard
14 three-factor formula, and three-factor was obviously the
15 standard at that time. The authors conclude that such a
16 result is not only wrong but absurdly wrong.

17 In continuing, we go on to Slide 8.
18 Notwithstanding the features of common ownership, common
19 management, and common use of property and personnel,
20 there are two separate series of income-producing
21 activities. The income from the sale of cotton can
22 clearly be identified as being attributable to the
23 activities carried on wholly within the state of
24 California. The mining operations in Arizona in no way
25 contributed to the production and sale of cotton and

1 should not be credited with any of the net income
2 derived therefrom.

3 That's the situation we have today. And to the
4 extent there's any question about the similarity or
5 differences of the businesses in Arizona and California,
6 the authors actually go further in the article and they
7 say even if the taxpayer conducted a cotton farm in
8 Arizona instead of a copper mine, the authors would
9 reach the same conclusion.

10 So there's a key consideration here. The
11 example is presented by the authors as an obvious
12 example of when distortion ought to apply, even with a
13 unitary business. This example is not just a little
14 wrong, it's absurdly wrong. And these are the people
15 that put the system together that we're here to apply
16 today.

17 Unfortunately, for purposes of briefing and for
18 purposes of this proceeding, the FTB has yet to even
19 address the example. It was in our opening brief. It
20 was in our reply brief. And we invited the FTB to
21 respond to it, and they have yet to do that. This in
22 spite of the fact that the FTB cited another article by
23 Keesling and Warren in their own materials.

24 So we're acknowledging them as an authority,
25 and yet we don't want to talk about it. Unfortunately,

1 that's part of a continuing trend here in this matter
2 before the panel. And we ask you again, please look at
3 the cases, please look at the facts.

4 So next moving to Slide 10. There's a very,
5 very simple organization chart. And we offer this for a
6 few reasons. One, it provides a very high level
7 overview of Appellant's corporate structure.

8 Two, throughout this presentation, we'll
9 generally refer to the rate-regulated retail business as
10 Florida Power & Light, or FPL. The business is
11 generally conducted by FPL. So for purposes of this
12 discussion, factually they are the same. Similarly,
13 we'll refer to NextEra Energy Resources, or NEER, as the
14 business that conducts the wholesale business outside of
15 the state of Florida.

16 But third, and this is important, when we refer
17 to those boxes as I like to call them on the org chart,
18 we don't mean to limit the discussion to the corporate
19 entity. As we know historically from the Edison
20 California Stores, boxes don't matter to the unitary
21 analysis. What matters is the trade or business.

22 If boxes mattered, and this is the point of
23 Edison, then I could routinely adjust the content of my
24 unitary business simply by creating a new entity, and
25 that's not the goal. So the chart is there. The

1 references are there. It's generally how the business
2 works. But the boxes themselves are not critical or not
3 really remotely relevant to the unitary determination
4 for us today.

5 So at this point what I'd like to do is ask
6 Mr. Scott Bores -- to put him under oath and ask him
7 some questions. I'm sure you'd rather hear from him on
8 the facts of this case than listen to me continue. So
9 I'm not quite sure what the process is for that. I'm
10 not sure, Judge Kletter, if it's you or if it's the
11 court reporter.

12 ALJ KLETTER: Yeah. So this is Judge Kletter.
13 Just want to ask Mr. Bores to be sworn in for his
14 testimony so we can accept his statements as evidence.
15 If you could please raise your right hand, I'll swear
16 you in.

17 Do you solemnly swear or affirm that the
18 testimony you are about to give is the truth, the whole
19 truth and nothing but the truth?

20 THE WITNESS: I do.

21 THE COURT: You may please begin whenever
22 you're ready then. Thank you.

23 MR. BRANNAN: So I will kind of frame the
24 structure for Mr. Bores through some, you know, open
25 questions here and would encourage, certainly, the panel

1 at any point in time if they want to follow up. But I
2 also understand that the panel and Respondent will be
3 given an opportunity to question Mr. Bores when we're
4 done.

5
6 SCOTT BORES,
7 having been called as a witness on behalf of the Appellant
8 and previously sworn by the Administrative Law Judge, was
9 examined and testified as follows:

10
11 DIRECT EXAMINATION

12 BY MR. BRANNAN, Attorney on behalf of the Appellant:

13 Q. But, Mr. Bores, for the record, would you just state
14 your name. You just did that, I guess, but tell the
15 panel a little bit about yourself and your background.

16 A. Sure. My name is Scott Bores. I'm the vice
17 president of finance for Florida Power & Light. I've
18 been employed by Florida Power & Light for approximately
19 12 years, all of my career in finance. Today
20 I'm responsible for the profit and loss of Florida
21 Power & Light, which includes all the accounting,
22 budgeting, forecasting, economic projections, and
23 generation resource planning or essentially the new
24 generation we need to add at the utility to serve our
25 customers.

1 Q. Mr. Bores, would you please tell the panel a little
2 bit about NextEra Energy, keeping in mind that the focus
3 of the appeal is on the 2009 through 2015 tax years.

4 A. Yeah. NextEra Energy today is the largest rate
5 regulator or largest electric utility in terms of market
6 cap. For the years under appeal, roughly 20- to
7 \$35 billion of revenue a year. Approximately 15,000
8 employees.

9 As Mr. Brannan talked about, comprised of two
10 separate businesses. There's NextEra Energy Resources,
11 the wholesale business that sells power or essentially
12 helps other utilities, municipalities across 27 other
13 states at the time to ultimately decarbonize through
14 selling them low-cost renewable power.

15 Florida Power & Light is a separate rate-regulated
16 utility heavily regulated by the Florida Public Service
17 Commission that ultimately at the end of the day serves
18 the retail consumer, at that time probably about
19 \$20 billion of revenue a year, roughly 9,000 employees,
20 serving today about 5.8 million customers or 12,000
21 residents across the state of Florida.

22 Q. So, Mr. Bores, if you would, kind of describe for
23 the panel a little bit more about NextEra Energy
24 Resources, you know, what it is that they are, if you
25 will, selling throughout the country and where

1 they sell.

2 A. Yeah. So for the years under appeal, NextEra Energy
3 Resources I believe was roughly 27 states, and a lot of
4 those states were states that had what we call renewable
5 portfolio standards, or a requirement that a certain
6 amount of power be consumed or procured from renewable
7 assets, I would say. Back at that time, a renewable
8 asset -- wind, solar -- would not be the most economical
9 choice and, hence, why you probably wouldn't see any of
10 that at Florida Power & Light under the years under
11 appeal.

12 But given certain state mandates and tax credits
13 that were available, that was the strategy of NextEra
14 Energy Resources, to go build wind and solar for other
15 utilities and municipalities to help them meet their
16 renewable portfolio standards and ensure that adequate
17 amounts of power were being delivered in these states
18 from renewable assets.

19 Q. Who are the NEER customers, you know, generally
20 speaking?

21 A. They are going to be your large municipalities. I
22 mean, here in California, I know PG&E is a customer.
23 Southern Cal. Edison is a customer. Up in Oregon where
24 I was this last weekend, Portland General Electric is a
25 customer. So a lot of those big other utilities are

1 municipalities across the United States.

2 Q. Did NEER during these years do any business in
3 Florida?

4 A. No, they did not.

5 Q. So let's talk a little bit more about your current
6 employer, Florida Power & Light. Tell us a little bit
7 more about FPL, what they do, how they do it. And I'll
8 let you just take it from there.

9 A. So as I eluded to earlier, Florida Power & Light is
10 a rate-regulated utility. We are governed by the
11 Florida Public Service Commission. I like to view them
12 as a -- another set of board of directors who
13 essentially oversees our business and makes sure that we
14 are providing low-cost, reliable electricity to our
15 consumers and having happy consumers at the end of
16 they day.

17 And we'll talk a little bit about the regulation.
18 But, ultimately, we build generation to serve the end
19 consumer. More than 50 percent of our business or
20 assets are poles and wires, transmission and
21 distribution assets. Roughly 50 percent is just on the
22 distribution side to ultimately deliver the electrons to
23 the end consumer. We bill them, collect the revenues
24 from them, and ultimately service them through all their
25 electrical needs.

1 Q. So talk about the geographic limitations on where
2 FPL operates.

3 A. So we are -- we are limited in our service
4 territory, and that is regulated by the Florida Public
5 Service Commission, who ultimately sets up I'll call it
6 service territory boundary limits for utilities.

7 In the state of Florida, there are three big I'll
8 say regulated utilities: Florida Power & Light, Duke
9 Energy Florida, and Tampa Electric Co., who each have
10 over, you know, half a million customers. And so we
11 have service territories where we are allowed to
12 practice, and ultimately the Commission determines that.

13 Q. Does FPL ever buy power from NEER?

14 A. No, we do not. Never have.

15 Q. Why not?

16 A. There's no need to. We have done a very good job of
17 putting up a wall to ensure that NEER is not in Florida.
18 There is no need for them to be in Florida during the
19 years under appeal. Florida Power & Light ultimately
20 serves the end consumer, as do the other utilities and
21 municipalities in Florida serve their end consumers. So
22 there's just really no need for them to be there.

23 Q. Does FPL sell power to NEER?

24 A. It does not.

25 Q. So you've spoken a little bit about the commission

1 and its regulatory oversight, but also in the materials
2 is reference to the Federal Energy Regulatory
3 Commission. Does FERC regulate in any way the FPL
4 retail operations?

5 A. No. I will say all electric and gas utilities
6 across the United States are to file a, quote/unquote,
7 annual report, a FERC Form 1 with FERC. That
8 essentially lays out income statement, balance sheet at
9 a very detailed level and then has some of the SEC
10 footnotes from their 10-K, 10-Q, whatever SEC
11 requirement.

12 The commissions -- or I should say all commissions
13 that I am aware of across the United States adopt what
14 we call the "FERC Chart of Accounts" or the set of
15 detailed accounting, very much more detailed than what
16 the SEC would require in an SEC document, to put all of
17 your assets and liabilities on your balance sheet as
18 well as accounts to put all your revenues and expenses
19 on your income statement.

20 I think they do that for comparability and
21 benchmarking purposes. This way all utilities can
22 benchmark across each other across the United States.
23 Commissions like to see that data. That is really where
24 the FERC regulation stops. It's just a simple annual
25 report that every other utility.

1 Everything else is heavily regulated by the Florida
2 Public Service Commission. And there is a lot of annual
3 reporting, monthly reporting, in-depth rate case reviews
4 that we have to go through to ultimately set our rates
5 and have our rates approved as just and reasonable.

6 Q. So you've seen -- I mean, we call them FERC reports
7 I guess affectionately that are submitted to the state.
8 It's -- the state is who is kind of requiring the global
9 report that we're referring to as the FERC report.
10 Let's talk about the, you know, the multiple reports
11 that are required by the Commission at this point. You
12 started to address them, and maybe we could break them
13 out in a little bit of detail.

14 A. Sure. So I'll say the first one that we file is
15 every month we are required to file an "Earning
16 Surveillance Report." And it is exactly as it is. It's
17 a way for them to surveil our business and making sure
18 we are operating within the parameters of the last rate
19 agreement that they have approved or ultimately a
20 settlement agreement that we may have entered into.

21 Rates are set through a litigated process, a very
22 detailed litigated process that ultimately allows the
23 Commission as well as many intervening parties -- our
24 big intervenor is the Office of Public Counsel, a
25 legislative group that is established to protect the

1 consumer.

2 That is a monthly report where they are allowed
3 to -- we provide our income statement, balance sheet,
4 cost of capital, and ultimately what is our return,
5 allowed return on equity and how do we perform compared
6 to that so they can monitor our business.

7 On an annual basis, we do file what we call an
8 "Annual Status Report" with the Commission. It is their
9 own way of them wanting to look at our income statement,
10 balance sheet, and results. And attached to that is the
11 FERC Form 1 for a more detailed review. But our
12 commission has their own oversight.

13 In addition, we have an annual clause or rider
14 process for things such as our fuel expense, which is a
15 passthrough, any environmental costs that we can incur.
16 In Florida we now have something called a "storm
17 protection plan clause" as a result of all the
18 hurricanes and us hardening our system. We're starting
19 to bring power lines underground, so we have to file a
20 projection of cost and an actual cost and they come in
21 and do detailed audits on all of that stuff each year.

22 Q. Just to back up for a moment, I got a little ahead,
23 but, you know, you observe these reports, but can you
24 give a little more background about your personal
25 interaction with the Commission.

1 A. Yeah. So I am usually in front of the Commission a
2 couple times a year testifying, whether it be through a
3 rate case docket. I was up there a few months ago
4 talking about fuel, fuel costs, and ultimately what has
5 happened with fuel costs given all the volatility we saw
6 in the natural gas market.

7 I spent time testifying before the Commission on
8 hurricane costs and restoration. Any investments we
9 want to make or retirement of an asset early to provide
10 a benefit to customers we have to bring forth to the
11 Commission to get their approval to retire it and
12 establish what we call a "regulatory asset" so we can
13 continue to recover that investment after it's retired.

14 So numerous avenues that we're in front of the
15 Commission, as I talked about. There's also all the
16 rider or clause proceedings that happen throughout the
17 year. So there are lots of touch points for the
18 Commission to oversee our business and ensuring that we
19 are protecting the -- or they are protecting the end
20 consumer at the end of the day.

21 Q. So you just referenced what it is that the
22 Commission does. I mean, what would you describe their
23 role in the state of Florida?

24 A. I think that they have an oversight function of our
25 business. Right? I alluded to a third board of

1 directors or a second set of board of directors for
2 Florida Power & Light. Anything we want to do
3 ultimately has to be approved by them at the end of the
4 day. They have final prudence review on any dollar we
5 spend. And that's a very important thing to us that we
6 take very seriously at Florida Power & Light is ensuring
7 that we spend our dollars prudently. We have an
8 obligation to our customers and to our shareholders to
9 make sure that any dollar we spend we can recover.

10 And I think probably the best example I can give is
11 a rate proceeding at FPL. If we want to change base
12 rates, it is a nine-month, in-depth process that starts
13 usually in January with us filing a letter that we're
14 going to indicate we are going to come in for a rate
15 case.

16 Usually in March we will file thousands of pages of
17 documents. In Florida we use a projected test year. So
18 if I want to set rates for '24, I would file in '23 with
19 a projection of: Here's my income statement and balance
20 sheet for 2024.

21 But the commission lays out certain minimum filing
22 requirements or schedules that they make you file, and
23 at the end of the day, those are thousands of pages of
24 documents going through. Revenues on one document.
25 Operating expenses on another document. Cost of

1 capital, debt, interest rates, economic conditions,
2 return on equity, et cetera, et cetera.

3 Along with that, we will usually file the testimony
4 of 15-plus expert the witnesses who support their
5 different areas, whether it be cost of capital,
6 budgeting and forecasting, rates, tariffs, et cetera.
7 Once we file that case in March, you have a four-month
8 discovery process.

9 So you've got the Commission staff who do their own
10 audit as well as start to pull apart the case and ask
11 questions. You have all the intervenors. So I talked
12 about the Office of Public Counsel. We'll usually have
13 some environmental groups. We'll have the industrial
14 power users. We'll have the Retail Federation intervene
15 in the case. So ten-plus intervenors that are asking us
16 questions over a four-month period to build their own
17 testimony to support what they view side of the case.
18 We will then go through usually a two-week hearing
19 process where all the witnesses come up, direct and then
20 rebuttal.

21 And ultimately, that will culminate in a staff
22 recommendation and finally a Commission vote so we can
23 implement rates for the 1st of the following year. So
24 very in-depth process that touches every aspect of our
25 business when we go to reset rates.

1 Q. So is this just a formality from year to year, or
2 has the Commission ever pushed back on some of these
3 proposals?

4 A. No, the Commission constantly pushes back. There
5 has -- there has yet to be a rate case where we've
6 gotten everything we asked for. And probably the best
7 example would be our 2009/2010 rate case. We asked for
8 just under a billion dollars of rate increases to allows
9 us to earn a fair return and they essentially blanked us
10 out and gave us zero.

11 And so we had to quickly come and file a rate case
12 again the next year, but it was a bad day at Florida
13 Power & Light. We were downgraded by all the credit
14 rating agencies in New York. Our stock I think lost
15 over 15 percent of its value in that one day. And so it
16 just shows you how important kind of that regulatory
17 relationship is and ensuring that you do good by the
18 customer and are prudent in what you do so you can have
19 a fair regulatory outcome.

20 Q. So quick question for the panel. I mean, can you
21 maybe draw a comparison between the financial accounting
22 records and the regulatory recordkeeping requirements
23 that you have to deal with?

24 A. So I think they're vastly different. I would view
25 the regulatory accounting records as much, much more

1 detailed and a lot more reporting than anything we need
2 to do from a SEC or FERC standpoint. It is a much more
3 in-depth process and a much more regular touchpoint than
4 what we do with the SEC or FERC.

5 MR. BRANNAN: I think that's all I have. I
6 don't know, members of the panel, if you have questions.
7 Obviously, Mr. Bores will be available and can certainly
8 invite the FTB -- excuse me -- Respondent to ask
9 questions of Mr. Bores at this time as well.

10 ALJ KLETTER: This is Judge Kletter. I'm not
11 sure if some of the questions, you know, might be best
12 suited for following the remainder of the presentation.
13 But -- so forgive if this question -- feel free to
14 indicate. You know, that's afterwards. But I just had
15 a question in general about the relationship between,
16 you know, the Florida Power & Light business and the
17 NextEra, you know, that energy -- competitive energy
18 business.

19 Does the relationship between those businesses
20 affect the rate-setting process with the FPSC?

21 MR. BORES: So I'm going to say no. In
22 general, no. They're two vastly different businesses.
23 And so what we do at FPL has no bearing on NextEra
24 Energy Resources and vice versa. It is fully -- FPL has
25 its own CEO, has its own management team. All of that

1 is included in the rates that ultimately get charged to
2 the Florida consumer and are part of that rate process.
3 There's nothing of the wholesale business that comes
4 into that rate case whatsoever as part of that process.

5 ALJ KLETTER: Thank you. This is Judge
6 Kletter. And just one other question. You mentioned
7 that, you know, there were some efforts made to put up a
8 wall between the FPL business and the NextEra
9 competitive energy business. Could you explain a little
10 bit more what you meant by that, you know, that a good
11 effort was made to put up a wall between those
12 businesses.

13 MR. BORES: Yes. And a lot of that I'll say
14 started with the Florida Public Service Commission when
15 they saw this NextEra Energy Resources business or the
16 wholesale business start to grow. It was quickly
17 determined that we needed to put protections in to
18 ensure that the retail consumer was ultimately protected
19 at the end of the day. So one of the reports we file
20 with the Commission every year is something that's
21 called the "Diversification Report." It essentially
22 lists out all of the affiliates of NextEra, FPL, NextEra
23 Energy Resources and shows any intercompany transactions
24 between those affiliates.

25 And the rule that was established was quickly

1 put in place that if FPL is buying something from one of
2 those affiliates, it needs to either get it at the lower
3 of cost or market to ensure it's getting the lowest
4 possible price and ultimately protecting the retail
5 consumer.

6 Likewise, if we're selling something, it's got
7 to be at the higher of cost or market. Right? So it's
8 got this protection put in to ensure that the retail
9 consumer is always getting the deal at the end of the
10 day and protecting them. And so that's always lasted
11 and kind of been put in place, and an agreement was made
12 that NextEra Energy Resources, or the wholesale business
13 at that time, would not compete in Florida as a result.

14 ALJ KLETTER: This is Judge Kletter. Thank you
15 for those explanations. I want to turn it over to the
16 FTB and ask.

17 FTB, do you have any questions for the witness?

18 MR. ZAYCHENKO: I'd like to confer with
19 co-counsel first, if I may.

20 ALJ KLETTER: Sure. Thank you.

21 This is Judge Kletter. I just wanted to ask
22 the FTB. Do you want a five-minute break to confer with
23 your co-counsel?

24 MR. ZAYCHENKO: I think we're fine. We're
25 almost done, Judge.

1 ALJ KLETTER: Okay. Thank you.

2 MR. ZAYCHENKO: I'm sorry. I'm trying to find
3 the specific quote that I'd like to read out.
4

5 CROSS-EXAMINATION

6 BY MR. ZAYCHENKO, Attorney for the Respondent:

7 Q. So this is -- this comes from the 2009 NextEra
8 annual report. Actually, sorry, FPL's annual report
9 before it rebranded to NextEra. So its chairman and CEO
10 stated that the group would change its name in order to
11 underscore the evolution that the company had been
12 undergoing for over the past decade. So I guess my
13 first question is, is this an accurate statement
14 contained in NextEra's annual report?

15 MR. BRANNAN: For accurate -- I guess -- well,
16 go ahead, Mr. Bores.

17 A. So I'm going to preface the answer with I wasn't
18 there in 2009, but from what I understand, yes, we had
19 started to grow the wholesale business starting I think
20 in 2000/2001 is when we really launched that NEER
21 business. And so I think as it started to grow, they
22 wanted to distinguish and rebrand.

23 Q. (By Ms. Zaychenko) Thank you. So I think my
24 follow-up question would be was that name change the
25 product of a decade of evolution. I believe that's what

1 the annual report says.

2 A. Subject to check, I'm going to say I would think
3 what's in the SEC document is factual.

4 Q. Okay. Thank you.

5 MR. ZAYCHENKO: So that's all for my questions.
6 And I'd like to begin my opening statement.

7 ALJ KLETTER: This is Judge Kletter. I just
8 want to check with my panel if they have any questions
9 of Mr. Bores before we move on to FTB, beginning with
10 Judge Gast.

11 ALJ GAST: Thank you. This is Judge Gast. I
12 have a few questions, but I'll probably reserve most of
13 them for the end. One question I have is can you kind
14 of explain a little bit of the history of FPL, NextEra,
15 and, you know, I know the -- it sounds like the group
16 started in Florida and then branched out into other
17 states. So this isn't like an acquisition of another
18 entity type -- type thing. Can you kind of discuss what
19 happened briefly during that history. I know you
20 weren't there, but that would be pretty helpful for kind
21 of the history of the company.

22 MS. BORES: Yeah. So I'll give you my best
23 understanding. So Florida Power & Light has been around
24 from -- since sometime I'm going to say the 1920s. We
25 started off with selling ice and then owned donkeys and

1 orange citrus groves at one time and ultimately started
2 serving electricity to the end consumer. And so that
3 has always been the core of the business, the Florida
4 rate-regulated utility.

5 In the 2000 time frame I will say, what is now
6 the wholesale business NextEra Energy Resources started
7 to grow in other states or look for how can this
8 business grow or what can we do outside of the state of
9 Florida, completely different business from what's in
10 the state of Florida. And so I think it started with
11 buying a few discrete assets. But then as we saw
12 renewables start to take off, it started developing
13 renewables for other utilities. It found that market
14 and that strategy that it wanted to capitalize on.

15 And so it was just a -- I'm going to say this
16 evolution that we've been talking about is that business
17 or wholesale business grew from almost nothing and
18 started getting a little bigger each year that really
19 wanted to rebrand and give it its new name such that it
20 was no way, shape, or form affiliated to Florida Power &
21 Light is probably the best way to say that.

22 ALJ GAST: Okay. And who made that decision to
23 rebrand? Was that the Florida company? Was it a wholly
24 separate kind of, you know -- the wholesale business
25 now?

1 MR. BORES: I think it was probably I'm going
2 to call it the executive team who sits at the top at
3 NextEra Energy. It was probably just to avoid any
4 confusion that this new business that was being created
5 and they saw a path to growth would any way, shape, or
6 form be associated with Florida Power & Light. Just
7 didn't want to confuse the Florida consumer,
8 politicians, you name it of this is a whole separate
9 business that now has nothing to do with FPL because
10 it's getting big enough where people are going to start
11 noticing it in annual reports and other things as it's
12 starting to generate revenue.

13 ALJ GAST: Okay. Thank you. I'll probably
14 have more questions later, so I'll let FTB go.

15 MR. BRANNAN: Judge --

16 ALJ KLETTER: Sorry. This is Judge Kletter,
17 but, Mr. Brannan, did you have a question?

18 MR. BRANNAN: I had not really begun any of the
19 legal presentation. Mr. Bores was intended as a fact
20 witness to set up kind of the rest of my presentation.
21 So however -- I mean, obviously, it's your hearing, but
22 however you want to present it. I'm not sure it would
23 be tradition for them to automatically go to the FTB for
24 their presentation, but, obviously, up to you.

25 ALJ KLETTER: Yeah. So this is Judge Kletter.

1 I believe you were 12 minutes into your presentation.
2 You presented the witness. FTB asked questions of the
3 witness. I just want to allow my other panel member the
4 opportunity to ask any questions.

5 MR. BRANNAN: Of course.

6 THE COURT: And then we'll proceed with the
7 remainder of your presentation, Mr. Brannan. Thank you.

8 MR. BRANNAN: Thank you.

9 ALJ KLETTER: Judge Lambert, do you have any
10 questions?

11 ALJ LAMBERT: Not at this time. Thanks.

12 ALJ KLETTER: Okay. Great.

13 So, Mr. Brannan, you can please continue your
14 presentation.

15 MR. BRANNAN: Sure. And if I may, a couple of
16 follow-up questions for Mr. Bores.

17
18 REDIRECT EXAMINATION

19 BY MR. BRANNAN, Attorney on behalf of Appellant:

20 Q. You know, one of the questions was asked about
21 the -- you know, I call it the lower of cost or market
22 rule, which he described, and how there's a built-in
23 protection, if you will, for the Florida consumers.

24 My question is, you know, Mr. Bores, how does that
25 rule in other protections of the Commission, I mean, how

1 does that impact performance or the relationship, if you
2 will, between the wholesale business and the retail
3 rate-regulated business.

4 A. I would say it discourages us to do business.
5 Ultimately, you know, if FPL is always getting a deal,
6 they're not going to want to buy anything from us. It
7 kind of helps keep us separate. Right? Ultimately, if
8 we have to do something at higher cost or market, it's
9 the shareholder who's going to take the hit because it's
10 not the customer. And so it kind of helps divide and
11 ensure that we do minimal transactions between each
12 other.

13 Q. So also a question from the FTB about, you know, a
14 bold new frontier -- and I apologize, I'm not really
15 deliberately misstating, but the idea of moving into the
16 renewable business. Could you clarify I think, one, the
17 difference between clean energy and renewable energy;
18 and then, two, how there may be differences as between
19 the energy sold by the wholesale side versus the retail
20 side.

21 A. Yes. So at Florida Power & Light, we pride
22 ourselves on having clean generation. But that
23 generation today is approximately 70 percent natural
24 gas, 25 percent-ish nuclear, and today less than
25 4 percent solar, so very small. Back in the years under

1 appeal here, we were less than 1 percent solar at
2 Florida Power & Light. And so we call it clean, but
3 it's clean natural gas because we were burning more oil
4 in America than anybody else in 2001.

5 NextEra Energy Resources, or the wholesale business,
6 is focused on renewables: Purely wind, solar, battery.
7 And as I talked about, for the years under appeals it
8 wasn't economics. It was renewable portfolio standards
9 and other things that were helping drive that demand,
10 and nobody had the expertise to do it because it was so
11 new. And that's where NEER found and capitalized on
12 this strategy.

13 As far as how we sell it to the end consumer, I
14 think I talked about it at FPL earlier. We generate,
15 put it through our own poles and wires, and ultimately
16 get it to the end consumer that we bill.

17 For the wholesale business, they will build the wind
18 farm, they will build their solar site and then sell
19 that electricity to the utility or the municipality who
20 then ultimately transmit that through their own poles
21 and wires to their own consumer who then bills their own
22 consumer. So the wholesale business vastly, vastly
23 different than how we do things at Florida Power &
24 Light.

25 Q. One last question. The rebranding that's been

1 discussed and is referenced from the 2009 annual report,
2 I mean, when you talk about avoiding confusion with the
3 end users, does that impact on the Commission side as
4 well? I mean, is it just another way to make sure the
5 businesses stay separate?

6 A. Absolutely. I think it was to make sure all
7 stakeholders clearly understood that there were two
8 separate businesses and this new business that was
9 starting to grow was in no way, shape, or form
10 affiliated with Florida Power & Light or going to impact
11 the end consumer of Florida Power & Light.

12 MR. BRANNAN: And that's all I have for
13 Mr. Bores.

14 ALJ KLETTER: This is Judge Kletter. So,
15 Mr. Brannan, if you could now move to the remainder of
16 your presentation.

17 MR. BRANNAN: Great.

18 ALJ KLETTER: Thank you.

19 MR. BRANNAN: Thank you very much.

20
21 PRESENTATION (Resumed)

22 BY MR. BRANNAN, Attorney on behalf of Appellant:

23 There are a few slides, basically through
24 Slide 14, that cover some factual points. I believe
25 they've been covered by Mr. Bores' testimony so we don't

1 need to walk through those. Certainly, if there are any
2 questions about what's in them we're happy to respond.

3 Beginning more with, you know, if you will, the
4 traditional legal argument at this point, as I indicated
5 at the beginning, this is a question about fairness and
6 whether the State of California can fairly tax revenue
7 or taxable income that's generated from Florida
8 activities.

9 So we start with, as we must I guess, with the
10 various tests for a unitary business, specifically the
11 three unities, the contribution and dependency test, and
12 then also the constitutional standard. All of them are
13 essentially blessed by the U.S. Supreme Court in the
14 Barclays decision and, notably, all require some form of
15 operational interdependence across state lines, be it
16 the unity of use, contribution and dependency, or the
17 functional integration.

18 The focus in this case is really about the lack
19 of operational integration. And we'll talk a bit about
20 strong, centralized management. I appreciate that the
21 FTB is pushing that. It just doesn't exist, and we'll
22 explain why when we get to that point. But again, it's
23 the unitary method and what it is intended to
24 accomplish.

25 To demonstrate the existence of a single

1 unitary business -- this is on Slide 17 -- it is
2 necessary to do more than simply list circumstances
3 which are labeled unitary factors. So when the FTB
4 suggests things like intercompany finance, transfer of
5 personnel, again and again, there are these references
6 to these unitary buzz words.

7 It's like playing bingo. And you hear them
8 come out and you're like, oh, we got another point. But
9 what I'm asking the panel to do is to look at the
10 details. When those labels come out, they are not
11 material to the operations of these two very separate
12 businesses. So it's necessary to do more than simply
13 list the circumstances. Such factors are distinguishing
14 features of a unitary business only when they establish
15 functional integration between the activities involved.

16 So Slide 18, you'll see a brief summary of the
17 Woolworth case. And Woolworth is intriguing. The court
18 considered whether the U.S. retail operations and
19 Canadian retail operations were part of the same unitary
20 business. And in the end, despite almost complete
21 overlap of officers in control, officers and directors,
22 the court concluded that the two nearly identical retail
23 operations were not part of the same unitary business.

24 And the rational is helpful here. Because the
25 businesses had separate operational functions, there

1 were no centralized purchasing, manufacturing or
2 warehousing or intercompany sales of merchandise.
3 Woolworth is a very, very important case here today. We
4 don't even think that our businesses are separate. We
5 focus on Woolworth, but I want to point out that I think
6 our facts are far better than what's in Woolworth.

7 The businesses are different. Not just from a
8 customer standpoint but because we're selling at
9 wholesale, generating and dumping it onto the grid, if
10 you will, versus what happens in Florida when the
11 primary concern because of the regulatory oversight are
12 the individual retail consumers in Florida. Very, very
13 different businesses.

14 Another point. I mentioned earlier that
15 Respondent has ignored authority that we have tried to
16 put together and tried to get them to consider. We've
17 mentioned Woolworth in both our opening and reply
18 briefs, and the FTB has ignored it. They've failed to
19 respond. Please ask the FTB to explain why Woolworth
20 doesn't apply to the instant case.

21 Also referenced Tenneco West at Slide 19. In
22 that case the taxpayer sought to combine oil and gas --
23 its oil and gas business with other lines of business:
24 Packaging, shipbuilding, automotive parts manufacturing,
25 and heavy equipment businesses.

1 All of the businesses had centralized activity
2 such as intercompany transactions, intercompany
3 financing, corporate approval of large expenditures,
4 human resources, accounting, on and on. Nonetheless,
5 the court concluded that the businesses were not unitary
6 because such ties, meaning the administrative ties that
7 we just referenced, represented corporate level
8 activities that exist in most parent-subsidary
9 relationships.

10 Again, disturbing trend. We mentioned Tenneco.
11 They don't address it. Please ask the FTB to address
12 these very, very critical case authorities for this
13 case. They make a difference here.

14 Slide 20, additional unitary authorities from
15 the Board of Equalization including Quaker State Oil.
16 Quaker State gets to the similar line of business. And
17 our position is that they're very different lines of
18 businesses between the retail and the wholesale
19 businesses.

20 In Quaker State, in spite of the fact that both
21 a coal mining business and an oil refining business were
22 engaged in fossil fuel energy and had centralized
23 administrative services, the board found that the
24 businesses were not unitary based on lack of
25 intercompany transactions and the different manner in

1 which the businesses acquired their raw materials.

2 Those same factors apply here.

3 Another case that's not referenced is A. M.
4 Castle and they talk about the distinction between or
5 how to distinguish between two businesses and whether
6 they are in the same line of business or not. On page
7 1808 and 1809 of the A. M. Castle case they talk about,
8 look, it's not enough that businesses be similar.
9 There's a second requirement, and that requirement is
10 that after the businesses are combined that the
11 management can make better use of the resources in the
12 combined business.

13 Again, looking to the oversight provided by or
14 demanded by the Florida Public Service Commission, that
15 can't happen in this business. That's what we just
16 talked about. That's why the businesses are separate,
17 so that the Commission can protect the individual
18 consumers.

19 So Slide 21, there's a list of factors that
20 we'd ask you to consider. First, why FPL and NEER are
21 not unitary from our perspective. Very simply, as we've
22 already described, there's different regulatory
23 oversight and constraints. The wholesale business is
24 primarily going to be regulated by FERC, the Federal
25 Energy Regulatory Commission, because they do stuff

1 across state lines.

2 The retail rate-regulated business is
3 primarily, if not almost exclusively, regulated by the
4 Florida Public Service Commission. And it's important
5 because the FTB throughout its brief says, Hey, they're
6 all regulated so it's all the same. And the fact is,
7 it's not all the same. The Florida Public Service
8 Commission is the single most important player in this
9 case and in the state of Florida when it comes to the
10 provision of power to its residents.

11 What's not addressed in the FTB's brief or not
12 recognized is the impact of the regulatory agency on the
13 business. It's not enough to just say the FPSC
14 regulates the business and we're done here. As you
15 heard from Mr. Bores, the FPSC acts as a second board of
16 directors reviewing nearly every aspect of the business
17 as it goes forward and provides power to the residents
18 of the state of Florida.

19 I'm listening and I have a list here of things
20 that I'm hoping he covers in his testimony, and I didn't
21 see anything that he missed. But I think the better
22 question for him is, "Is there anything that they don't
23 regulate and that they don't look at with their
24 comprehensive financial reports?" And the answer has to
25 be, "No, they look at everything." That's what he said.

1 That's his testimony. And that is, in fact, what
2 happens.

3 The Commission has significant oversight and
4 regulatory control, retail rates, profit margin, service
5 territory, debt, any sort of financing. They cover
6 everything and they monitor it. They have motive to
7 protect the residents of the state. They have their own
8 Florida state council that gets involved in the rate
9 hearings, these intervenors actively pursuing their own
10 agendas.

11 Then you have this, the Florida Public Service
12 Commission. They have access. They have access to all
13 of the information, be it financial or logistics when it
14 comes to how we're going to provide power. And they
15 have the authority. So as a third-party nonshareholders
16 in this business, they can make the right decisions for
17 their people who, by the way, aren't necessarily going
18 to be shareholders in this business.

19 So there is vastly different regulatory
20 oversight. And more important, the impact of that
21 oversight is -- it basically reaches to every aspect of
22 the business. Similarly, they have different business
23 models. You have a retail model versus a wholesale
24 model. We've talked about that.

25 Pricing. FPSC sets the pricing. They set the

1 parameters for the pricing for the individual consumers.
2 The wholesale market is very different. They have to
3 negotiate each contract that they have. Their pricing
4 is subject to traditional market forces. This is a
5 government-sanctioned monopoly that is granted to FPL in
6 Florida, and with that comes the obligation to basically
7 answer to that Commission as to how they do business and
8 how they provide power to the individuals in the state.

9 Different customers. We just talked about
10 that. Individual small businesses in Florida versus
11 wholesale other utilities outside the state. And again,
12 there's a very clear boundary here. This isn't a case
13 about internal accounting records showing we make this
14 money here, we make this money there. This isn't a --
15 this description is not separate accounting. This
16 description is separate business operations that happen
17 to coincide with geographic boundaries, boundaries that
18 are preserved by both sides of the business in order to
19 keep the regulators happy.

20 They have different trading operations,
21 different generation facilities and energy sources. You
22 just heard from Mr. Bores about the difference between
23 the renewable focus on the wholesale side and the focus
24 on the retail side within Florida about what the cost
25 benefit is. Can they provide energy at a fair price?

1 Historically, we didn't do renewables in
2 Florida under FPL because it wasn't economical. It's
3 getting there today. The business is changing, not
4 necessarily through any integrated strategy adopted by
5 management. The business is changing because economics
6 allow it to change. And that, again, is out of
7 deference to the regulatory authorities.

8 You heard Mr. Bores mention that 50 percent of
9 the assets of FPL are dedicated to the distribution side
10 of the business. The wholesale business doesn't have
11 any of that. They don't need to worry about getting it
12 to individuals. That's half of the assets of a business
13 that are dedicated to something that the wholesale
14 business doesn't even touch on.

15 So we have different infrastructure, different
16 networks. And also at the end of the day, we have
17 different employees and management teams. FPL has its
18 own CEO. NEER has its own CEO. And they have very
19 different functions because they run very different
20 businesses.

21 We'll talk in a little bit about overlapping
22 executives or management that the FTB has spent a little
23 bit of time on in their briefs, but at the end of the
24 day, what you have is you have separate businesses with
25 their own infrastructure, and at the end of the day

1 there are some shared services that are allocated out at
2 cost pursuant to regulatory requirements.

3 But they're different employees, different
4 management teams. They run their own businesses. And
5 the biggest difference of all is that the FPL business
6 is answerable to the Florida Public Service Commission
7 and the NEER business, the wholesale business, is not.

8 Last thing, geography. It's very easy in a
9 unitary discussion to look at the taxpayer and say, Hey,
10 the whole reason for the unitary method is to avoid
11 geographic boundaries and to find a different way to
12 identify the income-earning activities that take place
13 in a different state. That's how the unitary method
14 works. I get that. That's why I started this
15 presentation when and where I started the presentation.
16 But what's important about the geography in this case is
17 that it does, in fact, draw a line around the two
18 businesses.

19 On one hand you have FPL, which is limited to
20 Florida. We have a convenient geographic boundary.
21 There are a couple plants across the border in Florida
22 that generate electricity. 100 percent of their
23 customers are in the state of Florida. On the flip
24 side, the wholesale business NEER, they don't do
25 business in Florida. And that's important. This isn't

1 an accounting exercise. This is the way they do
2 business because of the regulatory oversight.

3 So let's talk about what Respondent objects to
4 here. And I think the first and the obvious one is
5 Respondent says, Hey, they're both in the same line of
6 business. They both sell energy and they both are
7 subject to regulatory oversight. Hopefully, I've beat
8 that one to death. I don't have anything more to say.
9 They're not in the same line of business. Electricity
10 is the end result, but that's not enough. It's why the
11 cases that I referenced earlier include Mohasco,
12 Woolworth, Skoal. I mean, what you're looking at here
13 is even if you think they're the same, they're really
14 not. And the support for that is in everything that
15 Mr. Bores just said.

16 The other key point here that we need to
17 realize is we're dealing with a very unique creature
18 under the law, and that unique creature is a
19 government-regulated public utility. So we need to
20 think about and recognize that there is a reason that
21 it's different. It's okay that it's different.

22 We need to understand how it operates, which is
23 what Mr. Bores tried to do, and we need to understand
24 that it operates that way in order to keep it separate
25 from the rest of the business. And for my purposes here

1 today, it just happens to coincide with the case I want
2 to make that says that they're not unitary. You know,
3 that's a happy coincidence on my side, but it doesn't
4 change the facts that we're dealing with that Mr. Bores
5 has talked about.

6 The FTB talks a lot in their briefs about
7 overlapping management. In support of their case, they
8 offer a 79-page list and they say, Hey, look at my
9 papers. They don't tell us where the information is in
10 those 79 pages. So we went through it. And it's in the
11 briefs. It's in our -- I think it's our second reply
12 brief.

13 In the 79-page list, there are 44 possible
14 overlapping positions between executive and upper
15 management for FPL. Of those positions, there are at
16 best 18 overlapping positions. Of the 18 overlapping
17 positions, if you read the titles, 12 of those positions
18 are basically administrative or financial in nature,
19 such as treasurer, vice president of tax -- no
20 disrespect to Jay -- executive vice president in human
21 resources, in corporate services, vice president of
22 compliance, and the corporate secretary.

23 Now, I don't really mean to diminish the
24 importance of those roles in the business, but those
25 roles are administrative. Those roles are not

1 operational. So what you're left with at this point is
2 six potentially operational roles out of 44 seats that
3 could become and as between FPL and the other
4 businesses. The short answer, that's not material. The
5 short answer is when you have six operational overlaps
6 at the executive or at the management level in a
7 15,000-person business, those people are not going to
8 drive that car. That's not what happens.

9 And the last thing, I think most important, the
10 whole purpose of the overlapping personnel discussion is
11 that there is going to be some transfer of value that
12 takes place during the breaks or when they have their
13 board meetings and we share expertise between the
14 businesses to help one another.

15 So one, I don't think that's a realistic
16 problem given that we're talking about six operational
17 possible overlaps here. But I think the part that's
18 left out entirely of the FTB's analysis and the
19 Respondent's analysis the role of the Public Service
20 Commission in Florida. Very candidly, it doesn't matter
21 much what those people talk about because everything's
22 got to be run through the Commission.

23 So all of the rationals and all of the analysis
24 for why overlapping management, overlapping directors
25 are important, candidly, they get thrown out of the

1 window in this case. The Commission tells them what
2 they can do and what they cannot do. They may not like
3 it. They are given parameters for rates. They've got
4 to hit their number. If they do, they get to do it
5 again next year. But there's not a lot of strategy
6 business planning that goes on that helps change the
7 direction of the business when you have this independent
8 third party, this Commission, telling them how they need
9 to run their business.

10 Asserted intercompany transactions. So the FTB
11 in Table 3 of their opening brief, they put up a big
12 number. Billions. Those are big numbers. I saw those
13 numbers. I'm like, "Oh, my gosh. What is that?" And
14 if you look at that, you say, "Well, that's kind of
15 material." Well, once again, instead of putting a label
16 out there with no real legal or factual support, let's
17 talk about what those numbers represent.

18 Over the seven years, 84 percent of those
19 numbers represent dividends or transfers of cash between
20 the businesses. That is not a unitary tie. That's an
21 investment. That is how they -- parents are recouping
22 the investment in the support of the subsidiary
23 businesses. Lakeside Village makes it very clear. Just
24 the transfer, the payment of a dividend is not a unitary
25 tie. So just like that, 84 percent of that money is

1 irrelevant for the discussion.

2 Second, 13 percent of it has to do with back
3 office or administrative functions. Three percent has
4 to do with basically operational functions. That
5 3 percent, that dollar value of intercompany
6 transactions for nonpower services, that 3 percent
7 represents less than a quarter of one percent of the
8 receipts for this business.

9 Second, we can look at the 13 percent. We can
10 look at those shared services. And the FTB spends a lot
11 of time on that. Shared services are allocated amongst
12 the businesses' purely back office administrative
13 functions and they're allocated at cost. There is no
14 profit. And that 13 percent, even if we were to give
15 the benefit of the doubt on the value that's transferred
16 back and forth, total along with the 3 percent of the
17 operational, we're still talking about 1 percent of the
18 gross receipts of this business. And this is the point,
19 materiality matters.

20 The other point here is that all of this
21 evidence that's being provided by the FTB to show
22 substantial intercompany transactions, all of it is
23 generated for the sole purpose of convincing the Florida
24 Public Service Commission that we are not sharing value
25 between the two businesses. That's why the data is

1 here. That's why they follow this chart of accounts.
2 That's why they submit the diversity report. Shared
3 services, the dollar value is immaterial. The dollar
4 value -- or excuse me -- the services themselves are
5 administrative in nature. I mean, we cover that in our
6 brief, our reply brief at page 17.

7 The other thing that happens here, and it's a
8 little more subtle point and it's what Mr. Bores
9 mentioned earlier, which is, you know, when you are --
10 when you have to deal with a financial transaction in a
11 certain way, this lower cost or market thing, when you
12 have to do that, it creates a disincentive to do
13 business together.

14 You've got this -- what they actually call it,
15 and it's my words but -- well, actually, it's their
16 words, I'll just say them, but it's a push-pull.
17 There's a healthy tension as between the two sides of
18 the business where on one side you've got the Commission
19 saying we've got to take care of the individual users in
20 the state of Florida, and on the other side you have the
21 shareholders that are saying, "I just want you to make
22 money."

23 But the same thing happens with these shared
24 services. There may or may not be a better way for them
25 to allocate the costs out, but the regulators require

1 them to do it at cost. It's in the -- it's done on a
2 methodology that's approved by the IRS. It is not
3 subject to question how they do that. It is,
4 nonetheless, something they look at to make sure that
5 we're not leaking value from the Florida state business
6 to the wholesale business.

7 I talked a bit about the sales of tangible
8 property. Mr. Bores again referenced this lower cost or
9 market -- lower of cost or market idea. The value is
10 set forth in the FTB's brief. And it's not so much to
11 recognize. We're talking at most like \$8 million in any
12 given year of total of the property that transferred.
13 And again, we are talking about businesses that have 8,
14 10, \$15 billion worth of assets, I think 50 billion
15 currently. But it's a huge number. Eight million a
16 year? It's not material.

17 And you can't look at something and say, Well,
18 it happened and, therefore, it is important. Because
19 when you're in a business's side and the goal of the
20 reporting is to make sure that you're not sharing value,
21 when you look at these numbers, you have to say, yeah,
22 that's no big deal. We're talking about a total
23 benefit, if you will. Because this is one of those rare
24 areas where you can actually quantify the benefit that
25 goes from one side of the business to the other. It's

1 \$2 and a half million a year. Those are the numbers in
2 the FTB's brief. That's not material.

3 Transfer of personnel, it's the same thing.
4 The FTB labels it as significant transfers of employees.
5 On average, we're talking 171 employees. I think
6 it's 181 employees by year. Again, roughly 1 percent of
7 the total employees of the business. It's not material.

8 Interesting point. These folks are not located
9 in a big city. And so if you want a new job where you
10 live, it's one of the only or major employers in the
11 area in Juno, Florida. What's going on here is that
12 people are just looking for another job. This is not a
13 deliberate plan of the business, to move people around
14 to share expertise. One percent. That 1 percent number
15 seems to show up an awful lot. And I will tell you,
16 there is no metric in the world where 1 percent is a
17 material number. It's just not. And it doesn't impact
18 their operations.

19 Intercompany financing. The FTB suggests -- I
20 want to make sure I get the words right -- significant
21 and numerous instances of intercompany financing.
22 That's great. It's another label. So I'm going to keep
23 going. I'm going to keep talking about this stuff
24 because it's important that we focus on the facts.

25 If you look at actual instances of intercompany

1 financing, at the end of the day the FTB refers to 164
2 pages of board of directors' minutes. It's one of their
3 exhibits. And it says, hey, the evidence is in here.
4 The evidence is in that 164 pages. Well, if you really
5 look at it, there are exactly two viable instances of
6 intercompany financing.

7 One instance is a line of credit that started
8 at \$36 million in 2008, and it was subsequently
9 increased to \$63 million in 2009. And then the
10 investment was transferred out of the FPL business in
11 2010. So we have a two-year open letter of credit, and
12 it was moved out of the business. It's not in the
13 materials. The reason it was moved out is because they
14 wanted to keep the business separate.

15 So you can look at that and you can say, Well
16 there is an example of intercompany financing. Or you
17 can look at it and say, Well, they didn't do that right
18 so they fixed it to keep the businesses separate. And
19 the other example is a separate guarantee of up to --
20 it's \$28 million and it happened in 2012. It's no
21 longer active. Two examples of intercompany financing.
22 Those are not numerous instances, nor are the amounts
23 material to a business of this scope on either side.

24 Mr. Bores talked about the idea of this
25 commitment to clean energy that is referenced in the

1 2009 annual report. What's important is to understand
2 that that commitment on a global level to clean energy,
3 that's great. All politics aside, that's what we all
4 ought to be doing right now.

5 And at the time, what you had is you have a
6 company who's leading the league. This is a wholesale
7 business on renewables. That's solar and wind. And at
8 the time, what you had was a -- FPL sitting in Florida
9 that may or may not have been interested in this, but
10 their portfolio didn't recognize that at all. Less than
11 1 percent solar, zero wind power.

12 And the reason they couldn't is because it
13 didn't make economic sense to do that, and the
14 Commission knew that. They're worried about what am
15 I -- what's that bill? When that bill shows up in your
16 mailbox every month, what's that bill going to say? Is
17 it going to be a big number or is it going to be a small
18 number? And what they want, they want that number to be
19 small for their consumers, for their voters. And so you
20 didn't have this activity. You didn't have the solar or
21 wind emphasis on that side of the business. It was for
22 economics.

23 So the last point I think is fascinating
24 because the FTB also at the end of its discussion in the
25 briefs on the unitary business talks about how the

1 businesses are, in fact, different. And that's an odd
2 approach to take at the end of the briefs. And they
3 label it it's diversified business where they complement
4 each other.

5 Well, it's an interesting point, but it's a
6 stark departure from what they've been arguing
7 throughout the entire briefs about how similar the
8 businesses are. So we look at it and we say diversified
9 business. Well, that's great. They are, in fact,
10 different businesses. We'll agree with that.

11 As far as it being a unitary tie, again,
12 Lakeside Village. When you have complementary
13 businesses that generate different cash flows, that's
14 not a unitary tie. That's just good investment
15 strategy. So we have a position that's inconsistent
16 with everything else in the briefs, and then second we
17 have a position that doesn't have any legal support.

18 So the unitary argument, you have two separate
19 businesses, you have dramatically different regulatory
20 climates, you have case authority by way of Woolworth
21 and Tenneco, and so you have examples of where these
22 businesses are conducting separate businesses. We can
23 talk for a long time about, "Well, yeah, they all sell
24 energy," but that ignores the fundamentals of how they
25 do business, of their geographic limitations, of who

1 their customers are, of what energy it is that they are
2 generating, of who they answer to when it comes to
3 price-setting or any other economic measure within the
4 business.

5 Again, the Florida Public Service Commission is
6 the single most important actor in this whole story
7 because they are not answerable to anybody in this room
8 and they control every meaningful aspect of how that
9 business goes. And for those reasons, the wholesale
10 business conducted outside of Florida, the
11 rate-regulated retail business conducted inside of
12 Florida, are separate businesses. They cannot and
13 should not be a unitary business.

14 So there's a natural stop. I do have a
15 meaningful presentation on the distortion issue. I'm
16 happy to respond to any questions on the legal issue or
17 any other comments that the panel may want to raise at
18 this point.

19 ALJ KLETTER: This is Judge Kletter. Thank you
20 for that opportunity. I just want to turn it over to my
21 panel members first to see if they have any additional
22 questions at this time.

23 Judge Gast, do you have any questions?

24 ALJ GAST: I have one question for Mr. Brannan.
25 You make much of the fact of the Florida business, you

1 know, is highly regulated and then the other side of the
2 business, NextEra, is not as regulated. What are your
3 thoughts on, you know, other industries like the banking
4 and financial industry, how they can be combined with
5 nonfinancial and banking entities? I think it's safe to
6 say the banking industry is heavily regulated as well.
7 So how is that any different from this?

8 MR. BRANNAN: I think that the difference is --
9 may be multi-fold, but the one that immediately jumps to
10 my mind is the impact of the regulatory commission.
11 What you've heard from Mr. Bores is that the Florida
12 Public Service Commission operates much like a second
13 board of directors. It's not just a piece of it, it's
14 every aspect of the business.

15 FERC regulates interstate commerce, interstate
16 transfer of utilities. There's a case that is
17 referenced in the materials. It's General Motors vs.
18 Tracy. I have the citation here someplace. But at the
19 end of the day, what the U.S. Supreme Court does in that
20 case is it says there is a difference between a local
21 distribution company, which is basically a retail
22 company that historically had been regulated by the
23 states, and a wholesale business. And then they
24 conclude, they -- (a), they are not the same business;
25 and (b), therefore, they will be subject to different

1 regulatory constraints.

2 So what I would say is that, one, there are
3 different regulators, not the same regulators across,
4 you know, different banks in different states. So
5 different regulators, different regulatory authority,
6 different regulatory interest.

7 FERC, for example, when they regulate across
8 state lines, they're looking to preserve markets.
9 They're looking to make sure that there's no holdups in
10 the markets, that everybody has equal access. What the
11 Florida Public Service Commission is doing is they are
12 regulating to make sure that their constituents are
13 taken care of. And so they're very different.

14 And really what's missing from the discussion
15 is there can be situations where different regulatory
16 bodies -- I mean, let's take a public utility here in
17 California. I have no doubt that they are heavily
18 regulated as well. And if you were to put a business
19 regulator by the State of California or the State of
20 Georgia or the State of Florida together, all of the
21 sudden the impacts would probably be quite similar. But
22 when you put a business that is national in nature and
23 doesn't work inside the state of Florida and you have
24 one that is exclusively inside the state of Florida,
25 you're going to have different regulatory impacts, and

1 that's what's important here.

2 ALJ GAST: Thank you. Sorry. One other
3 question here. The parent company NEE, NextEra Energy,
4 Inc. --

5 MR. BRANNAN: Um-hum.

6 ALJ GAST: -- you know, we're talking about
7 Florida Power & Light and then NEER on the other side,
8 but the parent at the top, what is the parent's
9 relationship to both of those entities and how does
10 that -- how does the parent -- what does the parent do
11 basically?

12 MR. BRANNAN: Great question. I think there's
13 two aspects, and the first aspect of it is factually
14 what do they do. And if it's acceptable, I'll certainly
15 ask Mr. Bores to address that question.

16 ALJ KLETTER: This is Judge Kletter. That's
17 fine.

18 MR. BRANNAN: Thank you.

19 MR. BORES: Certainly. So the way I would
20 characterize NextEra Energy, Inc., the parent company,
21 is it is simply your traditional Delaware limited
22 liability holding company, and it is the SEC
23 equity-issuer, or stock-issuer. That is really the sole
24 purpose of NextEra Energy, Inc., is to serve as kind of
25 the limited liability company that ultimately issues the

1 equity on the stock exchange that is used to fund the
2 business of FPL and NEER, hence some of the dividend
3 payments and intercompany funding that Mr. Brannan was
4 talking about.

5 MR. BRANNAN: So I think that's the first --

6 Any questions in response to what Mr. Bores
7 said, Judge Gast?

8 ALJ GAST: Just a follow-up, just so I
9 understand it a little bit more. Why hold -- maybe this
10 is, you know, you don't know the answer, but why hold
11 these entities as brother-sister entities and not, you
12 know -- what's the word -- you know, siphon off the
13 assets of the wholesale business or the highly regulated
14 business such that they're not under common ownership?
15 Why common ownership in this instance?

16 MR. BORES: So I'm going to honestly say I
17 don't know the answer. I would assume it has to do
18 something legal-wise or tax-wise, but I'm not the expert
19 on that.

20 ALJ GAST: Okay. No problem. Thank you.

21 MR. BRANNAN: I won't pretend to know the
22 answer to that one either.

23 I think the second part of the question is more
24 the legal question. And what you have is you have a
25 common parent which is kind of the evidence, the common

1 ownership and the unitary discussion. But I think what
2 you also have in that parent, the box, you know, again,
3 we need -- what I'm focusing on in the presentation is
4 the trade or business and what I would say the separate
5 trades or businesses that represent the wholesale and
6 the retail businesses.

7 Based on the description from Mr. Bores, what
8 you have is you have the investor. You have somebody
9 who's just providing oversight as to the finances. The
10 economics. They're doing -- it's the standard oversight
11 provided, and I'm going to get the words from the case
12 wrong, but it's the oversight provided that any investor
13 would do under similar circumstances.

14 So why have a holding company? I don't know.
15 What they do? They're looking after the money. And I
16 don't mean to diminish that as importance for the
17 overall financial success of the business, but I will
18 say it doesn't have anything to do with the operations
19 of the business.

20 You know, I'm aware of, you know, the legal
21 authority that's out there. And it's like, well, when
22 you have a holding company, they don't do anything but
23 watch the money, then that has to be really important.
24 And you can sense a little cynical tone here coming from
25 me. Because that's important if there's really nothing

1 else going on. And in this case when we look at the
2 trade or businesses that we have, there's a lot going
3 on.

4 There's a lot going on outside the state, and
5 there's a lot going on inside the state, meaning the
6 state of Florida in this case. And the fact that
7 somebody's sitting on the top looking over it, that
8 can't be a factor of unitary significance when all of
9 the cases say, Hey, if it's just an investment function,
10 if they're just monitoring the dividends that flow up,
11 that's not a unitary tie that really ought to have any
12 merit -- merit any consideration in this case.

13 ALJ GAST: Thank you. That's all the questions
14 I have for now.

15 ALJ KLETTER: This is Judge Kletter. I just
16 want to turn it over to Judge Lambert. Do you have any
17 questions?

18 ALJ LAMBERT: I have no questions. Thanks.

19 ALJ KLETTER: This is Judge Kletter. I have
20 just a couple hopefully short clarifying questions. My
21 first question is, is NEER treated in California as a
22 public utility?

23 MR. BRANNAN: No. I can have Mr. Bores confirm
24 that, but it's not a public utility that I'm aware of.

25 MR. BORES: My shrug says I have no idea,

1 sorry.

2 ALJ KLETTER: Thank you. And then just a
3 follow-up question. If you happen to know it, do you
4 know if the Florida Power & Light and NEER use the same
5 Industry Classification Code, like the Department of
6 Commerce NAICS code?

7 MR. BRANNAN: I do not know. We can certainly
8 get an answer to that. Maybe at the break.

9 ALJ KLETTER: And then just a couple questions
10 about the general overview on the corporate structure
11 and oversight. So was there a particular point in time
12 at which the FPSC started regulating Florida Power &
13 Light that its operations became basically
14 inter-Florida, solely inter-Florida? Was there a
15 discrete point in time in which, you know, those
16 regulations made it -- you know, for example, context
17 for this question. In 2009 they divested the Seabrook
18 Nuclear Plant in New Hampshire, but Florida Power &
19 Light owned that.

20 So, you know, was there a point in time at
21 which, you know, like the -- I think in the briefing it
22 says that the FPSC regulation is why they divested it.
23 But is there a discrete point in time in which the FPSC
24 regulation started or became more intense?

25 MR. BRANNAN: I -- I might speculate that they

1 have been subject to regulatory control since as early
2 as 1925 when they were formed and provided services to
3 the residents of the state of Florida, but I --

4 Mr. Bores, I don't know if you have anything
5 further on that.

6 MR. BORES: No. That was going to be my same
7 answer. I can note from dealing with some of the
8 consultants who we deal with who are former
9 commissioners, they were commissioners in the 1970s and
10 oversaw rate regulation on Florida Power & Light at that
11 point in time. So it's existed for quite some time.

12 ALJ KLETTER: Thank you for that. This is
13 Judge Kletter. Just one other question. So the
14 briefing mentions that the -- that New Hampshire
15 Seabrook property was divested out of Florida Power &
16 Light. I just want to confirm that the ownership was
17 transferred to NEER.

18 MR. BRANNAN: That is correct. That is no
19 longer a Florida Power & Light asset. When it was, it
20 was I'm going to call it walled off such that no Florida
21 Power & Light customer was paying anything associated
22 with Seabrook or any of those operating costs. That was
23 all pushed to I'll say whatever other affiliate existed
24 at that point in time.

25 ALJ KLETTER: Thank you. This is Judge

1 Kletter. And then just, sorry, one last question is
2 that -- it's maybe obvious -- but where is NEER
3 headquarters? Like where are their headquarters?

4 MR. BORES: NEER is headquartered in Juno
5 Beach, Florida, as well. But again, many locations
6 throughout the United States now.

7 ALJ KLETTER: This is Judge Kletter. Thank you
8 for answering those questions. It looks like the time
9 is almost 2:30, so just a suggestion that we take a
10 five-minute break and then we'll resume with the FTB's
11 presentation.

12 Unless, Mr. Brannan, did you --

13 MR. BRANNAN: No, I do have some discussion on
14 the distortion matter.

15 ALJ KLETTER: Oh, I'm so sorry. I didn't mean
16 to preempt that.

17 MR. BRANNAN: No, I've -- if --

18 ALJ KLETTER: So please feel free to use your
19 time. Yeah.

20 MR. BRANNAN: Again -- great. Thank you very
21 much.

22 ALJ KLETTER: If you want to do that, and then
23 we'll --

24 MR. BRANNAN: I'll do that before we take the
25 break? Okay. It's going to take about 15 minutes.

1 ALJ KLETTER: That's fine. I just want to make
2 sure that we get a break before two hours have gone by,
3 so...

4 MR. BRANNAN: Understood.

5 ALJ KLETTER: Thank you.

6 MR. BRANNAN: Thank you very much.

7 So we will move on to the distortion side of
8 the position. You know, as you can see, we feel very
9 strongly as to the position that the businesses are not
10 unitary. However, if the panel determines that the
11 businesses are unitary, then we would assert that the
12 standard apportionment formula does not fairly reflect
13 the business in the state and, therefore, there ought to
14 be some alternative remedy available for apportionment
15 purposes. And the remedy we propose is separate
16 accounting. It's specifically allowed under 25137(a).

17 So it's -- this I think is a really important
18 time to mention that in 1966 when the state adopted
19 UDITPA, their -- the true form UDITPA, obviously the
20 Uniform Distribution of Income for Tax Purposes Act as
21 enacted in California, but the original form of UDITPA
22 specifically excluded utilities from the combined
23 reporting group. Oddly, they also excluded banks and
24 financial corporations, maybe going back to Judge Gast's
25 question. But the -- California decided not to exclude

1 utilities.

2 And at the time, there was some discussion
3 about why they would do that and there was the
4 suggestion that there may be some constitutional issues
5 if we arbitrarily exclude them from this unitary concept
6 and the combined reporting idea. But there were
7 questions about it because it was part of the original
8 version of UDITPA to keep utilities out. And maybe --
9 you know, I don't know. Honestly, I tried to chase it
10 down. I couldn't. But maybe a lot of the discussion
11 topics here are why UDITPA said we're going to exclude
12 that.

13 For example, Florida, the FPL is not subject to
14 franchise tax in Florida. They're subject to a gross
15 receipts tax. It's a different animal. I think Oregon
16 and Kansas are a couple of the states that
17 adopted UDITPA as written so utilities are not part of a
18 unitary group in those states.

19 So why does it matter here? Why does it matter
20 as I introduce the distortion discussion? Well, it
21 matters because in Exhibit 19 that was submitted, you
22 know, roughly 15 days ago, you have a letter from
23 Crawford Thomas, at the time the chief counsel of the
24 FTB. And in 1966 he writes to the Chief Counsel,
25 Special Subcommittee on State Taxation in the U.S. House

1 of Representatives.

2 And the question is asked. You know,
3 essentially what he's responding to is a series of
4 questions. And it's in the materials, but I'll read it
5 because it's extremely helpful here. "We really,"
6 referring to the State of California, "did not exclude
7 utilities in financial corporations from the operation
8 of the Act. Our Attorney General felt that if we
9 exclude these corporations, some constitutional
10 objections might be raised." And then he says what's
11 really important for this case. "Any adjustments in the
12 formula for these businesses can be handled through
13 Section 25137."

14 So what's the point? Well, the point is I'm
15 fine if the legislature can do whatever they want to do
16 when it comes to adopting all or some portion or pieces
17 of UDITPA. That's fine. That's certainly their
18 prerogative. But when you have the chief counsel for
19 the FTB at the time say, Hey, don't worry about it. If
20 a problem comes up, we have distortion. We can deal
21 with this.

22 And so I think that's going to be tested here
23 in this case. Because what does that letter mean? Is
24 this just a huge bait and switch for taxpayers or for
25 policymakers or for congress, representatives from

1 congress? We didn't really mean what we said? Or are
2 we going to say, "Hey, they might be unitary. But if
3 they are and we don't think it's fairly apportioned,
4 then we are going to look to distortion. And we're not
5 going to give taxpayers an absolute no, distortion will
6 never lie in this situation. We acknowledge it."
7 That's from the chief counsel. And so that really is my
8 question.

9 So let's talk a little bit about distortion.
10 And, you know, we start on Slide 24 with some distortion
11 slides. What happens when the unitary method isn't
12 fair? I guess one last point. So really what's going
13 on when we talk about utilities, we are also talking
14 about, again, a very unique creature in the corporate
15 framework. We're talking about somebody with different
16 considerations than your typical C corporation, than the
17 typical corporate taxpayer in the state. And that is
18 also part of the reason why they merit separate
19 consideration.

20 And again, I have outlined the impacts and why
21 these people are different, why FPL is different. And
22 they all go hand-in-hand with the idea that they are a
23 separate legal entity with additional kind of regulatory
24 authority. So they're different.

25 Slide 24. Even if a business is part of a

1 unitary group, the apportionment formula still cannot
2 attribute to California an unfair amount of income in
3 relation to the value transferred in state. We know
4 based on the net income numbers that are required by the
5 state for us to prepare that when we have this business
6 in Florida that they make a lot of money. What we also
7 know is that the business represented by the wholesale
8 power business, the renewable business primarily, they
9 do not make any taxable income. They operate at a loss.
10 And those numbers are generally presented in Exhibit 1
11 to Appellant's brief.

12 And so you have this situation where everybody
13 looks at and they say, Well, you know, you have a loss
14 here and you have a gain there, and all of a sudden we
15 see what's happening. And we appreciate that
16 traditionally the case authority is like, Yeah, well, we
17 don't care about that. But what I'm telling you and
18 what our case is about is that you should care in this
19 case because the facts prove something different.

20 And what they do is that, you know, looking at
21 the next quote, If application of the standard formula
22 results in an arbitrary or unreasonable tax levy in
23 relation to local business activity, the taxpayer may
24 obtain relief. The Uniform Act expressly recognized
25 that this possibility may occur in some instances by

1 providing alternative methods of allocation and
2 apportionment. And then you see the Restatement of
3 Section 25137 and how it allows for separate accountings
4 and alternative remedy.

5 You know, I don't know when this happened. It
6 happened over history. And I don't know how it
7 happened. But it seems that the tax agency in this
8 state has erased that from the lexicon and kind of
9 ignored the fact that separate accounting is out there.
10 It's an allowed remedy, and it's allowed and appropriate
11 in cases like this one.

12 So let's talk about Microsoft and General
13 Mills. Microsoft is the leading, if not the only,
14 California Supreme Court case that really cares much
15 about distortion, and they get into the nitty gritty.
16 The Microsoft Corp concluded that alternative remedies
17 recognized by UDITPA are designed to ameliorate
18 situations where businesses have operations with
19 significantly different margins. The standard
20 apportionment operates under this assumption that profit
21 margins, which the apportionment factors represent, do
22 not vary significantly from states to state. That's why
23 the apportionment formula works is because there's --
24 they expect, because of the way the business
25 transactions are supposed to be related, they expect --

1 across state lines, they expect the profit margins to be
2 relatively constant.

3 NextEra's apportionment -- or NextEra's
4 operations, they upset that fundamental preference -- or
5 premise, excuse me. Its Florida-based operations make
6 money. And they are actually -- it's kind of
7 interesting because they are subject to external
8 constraints as to how much money they make and how they
9 determine the rate and how much they're supposed to
10 charge. But in this situation, the tax numbers that are
11 required to be prepared by the FTB's own rules show no
12 taxable income for the wholesale business.

13 So continuing. From Microsoft, when there are
14 variations in state-to-state margins, negative versus
15 positive in this case, rote application of the standard
16 formula does not fairly represent the extent of a
17 taxpayer's activity in the state and cannot properly
18 estimate the amount of income attributable to every
19 state in which the taxpayer has a presence.

20 More from Microsoft. The court concluded that
21 rote application of the standard formula to high-volume,
22 low-profit treasury activities would result in severely
23 underestimating the amount of income attributable to
24 every state except the state hosting the treasury
25 department. In other words, it's going to

1 under-attribute income in every state except the one
2 that's hosting the low-margin activities. We have a
3 little bit of the flip side here, and we'll get into the
4 numbers in a second.

5 Again, the details matter here. Looking at
6 Microsoft, as further evidence of their concern with
7 rote application of the standard formula, the court
8 cited to an example from Keesling and Warren wherein a
9 taxpayer earned \$1 million of income from two states but
10 sold a \$1 million building in one state at no gain.

11 And the court recognized that receipts from the
12 sale of the building resulting in no gain and
13 acknowledged that the standard formula would distort the
14 proper attribution of income to the location of the
15 office building. What you have is the California
16 Supreme Court recognizing that, Hey, we can recognize
17 through distortion when unprofitable activities are
18 being inappropriately mixed with profitable activities.
19 Now, I'm reading a lot into that example, and I know it,
20 but if you go back and you read it again, that's exactly
21 what they're doing. They're just reducing the scale.

22 In order to determine whether or not the
23 standard formula resulted in distortion so as to justify
24 an alternative method of apportionment, the Microsoft
25 court considered both the qualitative and quantitative

1 factors. And so now we're going to walk through some of
2 those considerations, starting with General Mills. And
3 we're on Slide 27.

4 General Mills was supplying the qualitative
5 analysis articulated by Microsoft and found that the
6 hedging receipts were qualitatively different from the
7 General Mills business because the activity was not
8 conducted for its own profit but as a risk management
9 tool to support General Mills' main line of business.

10 I think we're familiar with that general
11 holding, but there's some application here. Because
12 what you have is you have a business that is driven by
13 different profit considerations. Again, it's the
14 oversight of the Florida Public Service Commission.
15 They're telling you how to do it. They are not driven
16 by profit concerns to go maximize profit. They are
17 driven by different consideration than those that apply
18 to the normal trade or business, much like the hedging
19 activities. Because the hedging, the perfect answer at
20 the end of year is zero. That means we have hedged
21 perfectly.

22 It's the same thing. The right answer for
23 Florida Power & Light is to come up with a number, plus
24 or minus a hundred basis point and hit the target that's
25 set for them by the regulatory authorities. That's not

1 what happens in the wholesale business. They're out
2 there trying to make money, unencumbered, unhindered if
3 you will, by the rate-setting process. And so there's
4 some similarity there between what these businesses do
5 and the comparison of the hedging business versus
6 General Mills' primary trade or business.

7 So the qualitative considerations we have
8 talked about at length, but I need to bring them up
9 again because it's a separate discussion now. It's the
10 factors that we're talking about. And when the -- we
11 try and decide whether the factors work, we look at
12 these qualitative comparisons of the asserted two
13 different lines of businesses.

14 Different profit motives? Different business
15 models? You betcha. We've got that here. Rate
16 regulated is different from wholesale. Different
17 customers? Yep. Different geographic locations? Yep.
18 Different capital requirements? Yep, we got that too.
19 Different equipment? Yes. Again, half of the Florida
20 Power & Light assets, distribution networks. Whole
21 business? Got none of that. Different employees? Yes.
22 We have any -- a tremendous number of those qualitative
23 differentiators that the General Mills court talked
24 about. And I would just recycle and repeat the same
25 discussion that we've been having here today and the

1 testimony from Mr. Bores. The businesses are different.

2 So let's talk about the quantitative analysis
3 from Microsoft and General Mills. There's a number of
4 charts beginning on Slide 29, and I'll try to move
5 through them briskly. But what General Mills and
6 Microsoft were concerned about, or Microsoft in
7 particular, with these quantitative metrics was trying
8 to determine whether the standard apportionment formula
9 attributed an unreasonable amount of activity inside or
10 outside the state.

11 And it's important because, I get it, it's not
12 just about income at this point. It's about how the
13 factors are working. So the question is what's
14 happening with the activity that's taking place inside
15 or outside the state. In Microsoft, the court found
16 that it was distortive because 24 percent of Microsoft's
17 unitary business activities were attributed to
18 Washington because that's where the treasury operations
19 were. That's where the low-margin operations were.

20 In General Mills, it was an average of
21 9 percent of the business activity was assigned to
22 Minnesota. Again, its headquarters. It's where the
23 hedging activities took place. So the math, what
24 they're looking at is: Okay. When we do this
25 apportionment formula, how are the numbers moving? How

1 are the business activities being reflected?

2 So we look at the chart on Slide 29. And the
3 comparable number is the portion of wholesale
4 nonregulated activity that's attributable to Florida.
5 And that's an odd number to think of, but if you want to
6 draw the apples-to-apples comparison as to what's going
7 on at General Mills and Microsoft, that's the number
8 that we're looking at.

9 And the comparable percentage, it moves on
10 average, actively attributed to Florida by operation of
11 the formula on average 45 percent of the wholesale
12 business. The wholesale activities end up being
13 attributable to Florida because of the presence and the
14 impact actually of what's going on with FPL. And this
15 is even though the wholesale business has no meaningful
16 operations or profit-generating activities in Florida.
17 There's something wrong with the way the formula is
18 working here.

19 Similarly, on the flip side, if you focus -- if
20 you focus on what happens to the Florida-based
21 rate-regulated business, the standard formula operates
22 to attribute on average 55 percent of its activities
23 outside of Florida. And that result just can't be. And
24 the reason it can't be is because we know that every
25 nickel of retail business is from the state of Florida.

1 This is not -- again, this is not an accounting trick.
2 This is how the business works.

3 And when you compare the results of the
4 standard apportionment formula to how the business
5 works, there's a disconnect and it doesn't work. By
6 focusing on the formula and the factors, we can see that
7 the formula does not fairly reflect the business
8 activities in California, or in Florida for that matter.
9 And it really is supposed to be a two-way street. Just
10 because the General Mills and Microsoft cases only deal
11 with situations where income is being moved outside the
12 state, we have to look at it the other way too. We have
13 to be fair. There has to be consistency in the manner
14 in which we look at these quantitative measures.

15 Again, by reference to the same ratios
16 discussed in Microsoft and General Mills, Microsoft's
17 short-term investment produced less than 2 percent of
18 the company's income but 73 percent of the gross
19 receipts. General Mills' hedging activities produced at
20 most 2 percent of the company's income but between 8 and
21 30 percent of the company's gross receipts.

22 So let me make a couple of points here real
23 quick. First, the FTB has suggested that Appellant
24 should not focus on income for purposes of the
25 quantitative analysis, says that's not the purpose of a

1 distortion analysis. In the abstract I agree, but the
2 factors move the income and so the courts, not just us,
3 the courts consider the impact of the factors on income
4 when they do the quantitative analysis. We're just
5 repeating the numbers that are in the cases. The fact
6 that they happen to consider what happens to the income
7 is just part of the quantitative analysis.

8 Second, the courts compare taxable income.
9 Because, at the end of the day, that's how the
10 apportionment formula works. You use the factors to
11 apportion taxable income. The factors reflect
12 activities. It's supposed to be a surrogate for how
13 that income is earned. But when you have that
14 apportionment formula, you're moving the income. So
15 that's the other reason why we get to look at the income
16 when we're doing the proper quantitative analysis.

17 So Slide 31, NEER, or the wholesale business,
18 is responsible for none of the combined report's group
19 income, but it generates on average 59 percent of the
20 gross receipts. Okay. That's the Microsoft comparison.
21 That's the General Mills comparison, when they talk
22 about income and the, you know, apportionment factors
23 and the receipts. It's exactly the same numbers. And
24 you can see how the numbers are presented there on the
25 chart.

1 The wholesale business generated losses for
2 state tax purposes in each of the years, so it had zero
3 percent of the group income. And while the
4 Florida-based, rate-regulated retail business generated
5 substantial income, on average 143 percent of the group
6 income. That's the difference between the negative
7 number and the positive number that they end up at.

8 The problem with the negative numbers is that
9 you really can't do the math with a negative number.
10 But, in part, this exercise about how you can never
11 divide by a negative, it really proves the point. It
12 proves that the ratios don't work. It proves that the
13 apportionment formula is unfair.

14 Slide 32. Compare the profit margins. Again,
15 it's a similar exercise. You look at the profit margins
16 attributable to the rate-regulated retail business and
17 you compare them to what's going on. You have a
18 meaningful profit margin and you have a negative profit
19 margin.

20 So what the Microsoft court did is they
21 recognize, again, that distortion should be used to
22 moderate disparate profit margins. So the Court
23 considered the relative difference between the profit
24 margins of treasury and the nontreasury operations. And
25 on Microsoft, it revealed the nontreasury margin was

1 some 170 times that of the treasury activities.

2 Applying the same math to the instant case,
3 there's an even higher degree of relative difference
4 between the negative profit margin and -- of the
5 wholesale activity. In fact, it's infinite distortion.
6 Because again, you can't do the math when there's no
7 profit on the other side to measure against.

8 Slide 33. The inclusion of FPL's receipts and
9 the standard apportionment factor reduces the combined
10 groups' apportionment factor by an average of 90
11 percent. Microsoft and General Mills also compared the
12 relative change in the standard apportionment formula
13 when excluding the treasury or hedging activities. In
14 both cases the numbers were sufficient to show
15 distortion.

16 The numbers compel the same result in this
17 case. Inclusion of the distortive activity reduced
18 apportionment at Microsoft by roughly 100 percent, while
19 General Mills reduced it by 8 percent. When you apply
20 that same math, it's a reduction of 90 percent in this
21 case, much closer to the more dramatic case at
22 Microsoft, but all three of these situations identify a
23 distortive situation. And again, you can see the math
24 there as part of Slide 33.

25 If there is distortion, then the question is

1 what is it the remedy. And the remedy in this case that
2 we propose is separate accounting. And the reason for
3 separate accounting is because you look at the way the
4 businesses are conducted. For purposes of this
5 discussion, I'll say, sure, they're part of the same
6 unitary business. And that's okay. Don't agree with
7 it, but if that's where we are when we're talking about
8 distortion, then that's okay. But the thing I know,
9 even if they are part of the same unitary business for
10 these years is you know that all of the revenue for
11 Florida Power & Light came out of Florida and you know
12 that all of the revenue or non-revenue for the wholesale
13 business came out of basically anyplace other than the
14 state of Florida.

15 And that, again, is not me sitting in the back
16 room coming up with the accounting numbers. That is a
17 simple, practical recognition of how these companies do
18 business and where they make their money or where they
19 spend their time or where their activities are, which is
20 the goal of the apportionment formula.

21 And to combine them when they're so different
22 and to combine them when they have such different
23 oversight and to combine them when they have such
24 disparate goals, to combine them when they have such
25 different sources for their power be it renewable versus

1 nonrenewable, at the end of the day, even if they are
2 unitary, we go back to the Keesling and Warren example,
3 that obvious example that says even if they're unitary
4 it would be wrong to combine them for apportionment
5 purposes. And not just wrong, it would be absurdly
6 wrong given the circumstances of this case.

7 So that's my presentation on distortion. If
8 there are any questions, certainly happy to respond.

9 ALJ KLETTER: This is Judge Kletter. Thank you
10 for your presentation. I just want to turn it over to
11 my panel.

12 Judge Gast, do you have any follow-up
13 questions?

14 ALJ GAST: No follow-up questions. Thank you.

15 ALJ KLETTER: And I just want to turn it over
16 to Judge Lambert.

17 Do you have any follow-up questions?

18 ALJ LAMBERT: No, thanks.

19 THE COURT: Okay. This is Judge Kletter. I
20 don't have any follow-up questions, so let's go ahead
21 and -- the time now is 2:50. We'll take a short recess
22 of ten minutes to, you know, take a break. And we'll
23 return at 3:00 p.m. And just make sure that, you know,
24 you mute your microphones when you're on the break, that
25 it's not working or anything like that.

1 But, Mr. Brannan, did you have a question?

2 MR. BRANNAN: No. I was about to say thank you
3 very much.

4 ALJ KLETTER: Okay. Thank you.

5 Sorry. This is Judge Kletter. Just wanted to
6 let you know also that the stream continues so they can
7 visually see you.

8 (Recess)

9 ALJ KLETTER: Hello, everyone. This is Judge
10 Kletter. The time is 3:01, and we're on the record.
11 We've returned from a ten-minute recess. I just want to
12 turn it over to FTB. You have 45 minutes to make your
13 presentation. And, Mr. Zaychenko, are you ready to
14 begin?

15 MR. ZAYCHENKO: Yes, I am. Thank you.

16 ALJ KLETTER: Uh-huh. Please begin. Thank
17 you.

18 MR. ZAYCHENKO: Thank you.

19
20 PRESENTATION

21 BY RAFAEL ZAYCHENKO, Attorney for Respondent:

22 So Rafael Zaychenko for Respondent Franchise
23 Tax Board. Recent events have made it clear that FPL --
24 sorry. Recent events have made it clear that FPL has
25 substantially benefited from NEER's expertise in

1 Florida. Hurricane Ian left a trail of destruction in
2 its wake with many homes in Florida losing power;
3 however, the community of Babcock Ranch remained
4 unscathed and didn't lose power as other communities
5 were left devastated and without basic necessities like
6 electricity and running water.

7 Babcock Ranch remained unscathed because it was
8 designed to weather hurricanes. Part of its
9 hurricane-resistant design was a solar electrical
10 generation system operated by Florida Power & Light,
11 notably not NEER.

12 Babcock Ranch is emblematic of the benefits of
13 green energy in our modern world and indicative of FPL's
14 recent dependency on NEER as well as during the appeal
15 years before you today. The NextEra group is an
16 integrated economic enterprise which is characterized by
17 contribution and dependency between its various
18 affiliates and purportedly separate businesses. NEER's
19 operations in California unquestionably benefited FPL's
20 operations in Florida. As Appellant's name suggests,
21 Appellant's activities in California helped shepherd
22 FPL's operations in Florida into the next era of the
23 group's public utility business. Appellant's request
24 for separate accounting is therefore properly rejected.

25 This appeal involves two issues: First,

1 whether NextEra and its affiliates comprised a unitary
2 group during the taxable years at issue. And second,
3 whether Appellant is entitled to relief under Rev and
4 Tax Code Section 25137.

5 And now to the first issue in this appeal. FPL
6 and NEER were unitary because both substantially
7 contributed to and benefitted from each other.
8 Appellant's arguments are erroneous for four reasons.
9 First, as NEER and FPL were engaged in the same line of
10 business, unity between them is presumed. Second, the
11 group's very business model highlights contribution and
12 dependency between FPL and NEER. Third, extensive
13 overlap between FPL and NEER's officers, directors, and
14 employees further establishes that the two were unitary.
15 And fourth, intercompany transactions between FPL and
16 NEER are a substantial indicator of unity.

17 In terms of burden of proof, a taxpayer has the
18 burden of proof in an action for a tax refund and must
19 affirmatively establish the right to a refund by a
20 preponderance of the evidence. Each appeal must be
21 decided on its own facts, and no one factor's
22 controlling.

23 Respondent's unitary determination is presumed
24 correct. Whereas here the FTB has determined that a
25 unitary relationship exists, a taxpayer contesting

1 Respondent's determination of unity must prove by a
2 preponderance of the evidence that in the aggregate the
3 unitary connections relied on by Respondent are so
4 lacking in substance as to compel the conclusion that a
5 single integrated economic enterprise did not exist.

6 Appellant has not met its burden to show by a
7 preponderance of the evidence that the unitary
8 connections relied on by Respondent are so lacking in
9 substance as to compel the conclusion that a single
10 integrated economic enterprise did not exist.

11 Respondent's unitary determination, therefore, is
12 properly sustained.

13 So unity between FPL and NEER -- or NextEra --

14 ALJ KLETTER: This is Judge Kletter. I'm
15 sorry. I just want to ask you to maybe move your mic a
16 little closer because you're --

17 MR. ZAYCHENKO: Okay.

18 THE COURT: -- cutting in and out. Thanks.

19 MR. ZAYCHENKO: There we go.

20 The existence of a unitary business may be
21 established under either of two alternative tests. The
22 three unities or the contribution or dependency test.
23 When either test is met, unitary combination is
24 required. The goal of both tests is to ascertain
25 whether there was a unitary flow of value between the

1 various group members.

2 This discussion focuses primarily on the
3 contribution or dependency test consistent with the
4 opinion of influential commentators that the
5 contribution or dependency test is the vast improvement
6 upon the three unities test. Here both NEER and FPL
7 contributed to and depended on each other in numerous
8 ways satisfying the contribution or dependency test
9 which only requires contribution or dependency for a
10 unitary determination.

11 And first, as FPL and NEER were engaged in the
12 same line of business, unity between them is presumed.
13 A presumption of unity arises when businesses are in the
14 same line of business. FPL and NEER were engaged in the
15 same line of business as both were energy companies.
16 California Regulation Section 25120(b) provides in part
17 that the activities of a taxpayer will be considered a
18 single business if there is evidence to indicate that
19 the segments under consideration are integrated with,
20 dependent upon, or contribute to each other and the
21 operation of a taxpayer as a whole.

22 A taxpayer is generally engaged in a single
23 trade or business when all of its activities are in the
24 same general line. In such circumstances, a strong
25 presumption of unity is created. The presumption is

1 entirely reasonable because when companies are in the
2 same line of business it becomes more much likely that
3 their existing business-related resources are better put
4 to use, either through economies of scale or operational
5 integration or a sharing of expertise.

6 It's important to know that businesses need not
7 be identical. Instead, it's sufficient that they be in
8 the same general line. FPL and NEER were both in the
9 same energy line of business. Their slight operational
10 differences, that is fuel type, customers, or regulatory
11 authorities, do not change the fact that their lines of
12 business were the same. Both FPL and NEER generated and
13 transmitted electricity for profit. Appellant must,
14 therefore, overcome the strong regulatory presumption
15 that NEER and FPL were non-unitary, and Appellant is
16 unable to carry this burden.

17 Appellant cites the appeal of Quaker State
18 where taxpayer argued that its oil refining and coal
19 mining companies were in the same line of business
20 because both were engaged in the fossil fuel industry.
21 Clearly, oil refining and coal mining are completely
22 distinct businesses. Unsurprisingly, the State Board of
23 Equalization did not find that coal mining and oil
24 refining were in the same line of business.

25 By contrast, in this instance both NEER and FPL

1 are in the same electricity generation and distribution
2 business. Appellant's attempt to analogize oil refining
3 and coal mining to FPL's rate-regulated and NEER's
4 rate-unregulated operations highlights the weakness of
5 its position.

6 Second, their group's very business model
7 highlights contribution and dependency between FPL and
8 NEER. The NextEra group has emphasized the benefits
9 inherent in the relationship between NEER and FPL.
10 According to Appellant, the diversification and balance
11 represented by FPL and NEER was a valuable
12 characteristic of the business. This valuable
13 characteristic of the business highlights the flows of
14 value between NEER and FPL as NEER contributed to the
15 NextEra group's evolution to clean and renewable energy.

16 The NextEra group has consistently placed great
17 emphasis on transitioning to clean energy. In 2009, its
18 chairman and CEO emphasized that the group would change
19 its name in order to underscore the evolution that the
20 company had been undergoing over the past decade.
21 Important to the overall strategy and success of
22 Appellant's overall business, NEER was extensively
23 involved in clean energy production.

24 The fact that the FPL group had been undergoing
25 an evolution to clean energy for a decade highlights the

1 importance of NEER and clean energy to NextEra for a
2 substantial period of time. The importance of NEER to
3 the NextEra group's increased reliance on clean energy
4 highlights the contribution of NEER to NextEra's
5 business as well as the NextEra group's dependency on
6 NEER for its expertise in clean energy.

7 Although Appellant goes to great lengths to
8 emphasize that NEER operated at a tax loss, Appellant's
9 arguments are irrelevant. NEER had substantial net
10 income during the years at issue. In 2009, for example,
11 despite having half the employees of FPL, NEER generated
12 almost as much in net income as FPL. NEER's tax losses
13 are indicative of Appellant's tax strategy, not of its
14 profitability.

15 In addition, the NextEra group's net income was
16 substantially reduced by tax credits claimed primarily
17 by NEER. The fact that NEER generated tax credits
18 reduced the overall taxable income for the group,
19 including FPL's taxable income, further supports
20 Respondent's argument that there was contribution and
21 dependency between FPL and NEER.

22 Appellant emphasizes that NEER generated
23 electricity from clean energy with the implication being
24 that FPL does not generate electricity from clean
25 energy. However, during the years at issue, FPL, with

1 approximately 95 percent of its power generation coming
2 from natural gas, nuclear, and solar, was also one of
3 the environmentally cleanest utilities in the nation.
4 And Appellant states three times in its opening brief
5 that NEER also generated clean energy. Thus it's
6 apparent that both FPL and NEER generated electricity
7 from clean energy.

8 Appellant's attempts at trivializing the
9 connections between FPL and NEER carry little substance
10 and don't support a lack of unity. Rather, Appellant's
11 business model and efficiencies directly substantiate
12 that NEER and FPL were part of Appellant's unitary
13 group.

14 Appellant's attempt to distinguish power
15 sources used by FPL and NEER in order to prove the two
16 were non-unitary also lacks substance. Both NEER and
17 FPL relied on the same power sources -- natural gas and
18 nuclear energy -- to a similar extent. The fact that
19 FPL and NEER utilized slightly different types of fuels
20 for generating electricity does not demonstrate that
21 they were not unitary.

22 Appellant places considerable emphasis on the
23 fact that NEER and FPL operated in different geographic
24 areas. However, Appellant emphasizes a distinction that
25 does not reflect any real difference between NEER and

1 FPL. In appeal of Kikkoman, the California State Board
2 of Equalization held that foreign and U.S. affiliates
3 were unitary despite that they operated in different
4 countries.

5 The SBE rejected Appellant's attempts to
6 denigrate the unitary connections between the foreign
7 and U.S. affiliates holding that the experience of
8 foreign executives was indicative of unity even if the
9 executives were unfamiliar with U.S. marketing. As
10 such, operating in distinct regions or serving distinct
11 customers does not refute a finding of unity. And here,
12 FPL and NEER both operated in the same line of business
13 within the same country, in contrast with the Appellant
14 Kikkoman. Therefore, the unitary connections between
15 FPL and NEER are more pronounced here than in Kikkoman.
16 And Appellant's reliance on geography, therefore, does
17 not disprove the existence of a unitary relationship
18 between FPL and NEER.

19 Lastly, Appellant places substantial emphasis
20 on the fact that FPL was a highly regulated utility
21 while NEER was presumably less regulated. However,
22 according to Appellant's annual report, NEER and FPL's
23 business, financial condition, results of operations and
24 prospects may be adversely affected by the extensive
25 regulation of their business.

1 Both FPL and NEER were highly regulated. The
2 fact that different sets of regulations apply does not
3 refute their unitary relationship. Though FPL is
4 regulated by FPSC, both FPL and NEER were highly
5 regulated energy companies. In addition, the SBE has
6 held the two corporations were unitary despite that they
7 were subject to different banking regulatory schemes.
8 And this is Appeal of Bank of Tokyo and Union Bank.
9 Therefore, FPL being a publicly related utility has no
10 bearing on the lack of unity between the FPL and NEER,
11 and Appellant's attempt to separate the unitary business
12 is futile.

13 Third, extensive overlap between FPL and NEER's
14 officers, directors, and employees further establishes
15 that the two were unitary. NEER and FPL shared numerous
16 officers and directors, though Appellant attempts to
17 discount the importance of shared officers and
18 directors. In particular, their shared officers is
19 evidenced on pages 23 of NextEra's annual reports
20 contained in Appellant's Exhibit 13.

21 Shared officers and directors are dominant
22 indicators of unity. Here as in Appeal of Coachmen
23 Industries, although Appellant minimizes the importance
24 of common officers and directors, it seems inevitable
25 that this situation would lead to a mutually beneficial

1 exchange of information and know-how. Similarly in
2 Kikkoman, the SBE stated that, "We cannot imagine that
3 Appellant did not benefit from the expertise and
4 experience of these executives. The Japanese executives
5 may not have been experts in U.S. marketing, but they
6 certainly knew about the product Appellant sold."

7 None of the claims Appellants makes -- sorry,
8 Appellant makes in order to discount the presence of a
9 flow of value between NEER and FPL refutes a strong
10 indication of the unitary relationship between the two.
11 As the Appellant Kikkoman, Appellant attempts to
12 minimize the flow of value between FPL and NEER by
13 asserting that one was highly regulated, a monopoly
14 utility company, while the other operated on the open
15 market. However, both FPL and NEER were energy
16 companies in the same line of business. The fact that
17 both were energy companies in the same line of business
18 with similar operations and with overlapping officers
19 and directors highlights the flow of value between FPL
20 and NEER as a result of the shared expertise of the
21 shared officers and directors.

22 In Kikkoman Japanese executives might not have
23 been familiar with the U.S. market, but the SBE looked
24 past that difference. Similarly in this case, despite
25 the differences between the FPL and NEER, the overlap of

1 officers and directors is highly indicative of a unitary
2 relationship.

3 One should presume -- sorry -- that NEER and
4 FPL shared executives for a reason. The expertise of
5 highly paid high-level executives who served in both FPL
6 and NEER undoubtedly benefited both and demonstrates
7 contribution and dependency between NEER and FPL.

8 Appellant attempts to downplay the significance
9 of officer overlap by asserting the shared officer
10 positions were administrative, oversight in nature.
11 However, the U.S. Supreme Court in Container Corporation
12 found unity, though subsidiaries themselves were
13 relatively autonomous and fully integrated. Moreover,
14 according to Chase Brass, major policy matters are what
15 count in our estimation of integration.

16 In addition, the fact that Mr. Bores, who was
17 not the VP of operations but instead a VP of finance,
18 his testimony shows that administrative positions offer
19 value to FPL and NextEra. Moreover, Mr. Bores
20 introducing himself as being from NextEra is -- instead
21 of FPL is evidence of the close ties between FPL and
22 NextEra.

23 And lastly, testimony about operations -- or,
24 sorry, Appellant's lack of testimony about operations is
25 also telling. It should be presumed that the testimony

1 when -- would be unfavorable to the Appellant, which is
2 why they haven't had this sort of testimony before the
3 Office of Tax Appeals. Thus, though Appellant labels
4 executive positions as performing NEER oversight, this
5 does not diminish the overlap of officers and directors
6 as a substantial indicator of unity. And lastly,
7 significant transfers of employees here is also
8 indicative of unity.

9 And then intercompany transactions between FPL
10 and NEER are a substantial indicator of unity. The
11 Appellant emphasizes that NEER and FPL had a
12 disincentive to have intercompany transactions between
13 them. But then the question is: Despite the
14 disincentive, why did they have millions of dollars of
15 intercompany transactions? Clearly they were providing
16 some sort of value. Though intercompany sales are not
17 required in order to find unity, substantial
18 intercompany transactions between the FPL and NEER
19 further support the existence of contribution and
20 dependency between the two businesses.

21 The U.S. Supreme Court in Container Corporation
22 found a unitary enterprise to exist even though sales of
23 materials from Appellant to its subsidiaries accounted
24 for only about 1 percent of the subsidiary's total
25 purchases and the subsidiaries themselves were

1 relatively autonomous and fully integrated. The court
2 explained that a prerequisite to a constitutionally
3 acceptable finding of a unitary business is a flow of
4 value, not a flow of goods.

5 ALJ KLETTER: Mr. Zaychenko, this is
6 Judge Kletter. Just when you're reading, if you could
7 slow down a little --

8 MR. ZAYCHENKO: Okay.

9 ALJ KLETTER: -- so it can be transcribed.
10 Just pace yourself. Thank you.

11 MR. ZAYCHENKO: Nevertheless, presence of
12 intercompany flows of goods and services between NEER
13 and FPL further supports that the two were unitary
14 during the years at issue. In Appeal of Cotrin
15 (phonetic), the SBE has held this to be the case, even
16 when intercompany transactions were made on arm's length
17 terms. The SBE in the Appeal of Saga Corporation has
18 also recognized that an intercompany flow of services is
19 just as significant a unitary indicator.

20 Here FPL provided millions of dollars of
21 services to NEER, FPL and NEER were in the same line of
22 business, and there were numerous and substantial
23 intercompany transactions, including intercompany
24 financing, nuclear support, common pension plan,
25 information technology and management, corporate

1 communication systems, engineering and construction,
2 finance and accounting, legal, human resources,
3 auditing, environmental risk services, and risk
4 management services. The level of intercompany
5 transactions in Appellant's case is highly indicative of
6 considerable flows of value and evidence of contribution
7 and dependency.

8 In addition, the intercompany transactions
9 between FPL and NEER here are more indicative of unity
10 than arm's length intercompany transactions. Though
11 Appellant asserts that the transactions between the FPL
12 and NEER were at arm's length, this is not accurate. An
13 arm's length price is determined by arm's length
14 bargaining in the open market. Arm's length
15 transactions thus relate to the market price of a good
16 or service, not on cost. However, in this instance,
17 transactions and prices were based on cost and cost
18 drivers. Transactions between FPL and NEER, in many
19 instances priced either below or above fair market
20 value, were, therefore, not an arm's length. And
21 non-arm's length transactions are especially indicative
22 of a unitary relationship.

23 In addition, even if NEER and FPL's
24 transactions were at arm's length, the transactions
25 would have resulted in economies of scale. These

1 economies of scale and cost savings are evidence of
2 contribution and dependency between FPL and NEER and
3 significant evidence of unity.

4 Moreover, transactions between FPL and NEER
5 actually benefited FPL at the expense of NEER.
6 According to Appellant, to protect customers there
7 existed a tremendous bias in favor of FPL. For example,
8 when the FPL sold products or services to NEER or its
9 subsidiaries, those items were charged at the higher of
10 cost or market price. However, when FPL purchased
11 products or services from its subsidiaries, it was
12 charged a lesser of cost or market price. The fact that
13 FPL was benefited to the detriment of NEER not only
14 demonstrates that the two did not deal at arm's length
15 but also illustrates that NEER transferred its profit
16 potential to FPL making FPL's operations significantly
17 cheaper and profits higher.

18 So given the same line of business presumption,
19 NextEra's business model, the overlap of officers and
20 directors, and substantial intercompany transactions,
21 ample evidence supports the conclusion that FPL and
22 NEER's operations contributed to and supported each
23 other as separate components of a unitary business.
24 Appellant, therefore, has not sustained its burden of
25 demonstrating that the unitary connections relied on by

1 Respondent are so lacking in substance as to compel the
2 conclusion that a single integrated economic enterprise
3 did not exist.

4 Now, we'll discuss the second principle issue
5 in this appeal. Appellant's request for Section 25137
6 relief is properly denied because Appellant has not
7 established that proper grounds for Rev and Tax Code
8 Section 25137 relief exists. Appellant's request is
9 properly denied for two reasons. First, Appellant is
10 not entitled to Rev and Tax Code Section 25137 relief
11 because it has not demonstrated the unitary combination
12 unfairly reflects its business activities in California.
13 And second, Appellant is not entitled to Rev and Tax
14 Code Section 25137 relief because its proposed
15 alternative is unreasonable.

16 Under Rev and Tax Code Section 25137, if the
17 standard allocation and apportionment provisions do not
18 fairly represent the extent of a taxpayer's
19 business activity in this state, taxpayer may petition
20 for or Franchise Tax Board may require if reasonable the
21 employment of any other method to effectuate an
22 equitable allocation and apportionment of the taxpayer's
23 income.

24 The party attempting to employ another method
25 of apportionment has the burden to prove by clear and

1 convincing evidence that, first, the approximation
2 provided by the standard formula is not a fair
3 representation of the taxpayer's business activity in
4 California; and second, that its proposed alternative is
5 reasonable.

6 Rev and Tax Code Section 25137 applies when
7 California's standard apportionment provisions produce
8 an equitable result. A comparison of the very levels of
9 taxation from differing apportionment methods by itself,
10 however, does not demonstrate that the standard
11 apportionment formula unfairly reflects the extent of a
12 taxpayer's activity in this state.

13 The central question under Rev and Tax Code
14 Section 25137 is not whether some quantitative
15 comparison has produced a large enough distortive
16 figure. Rather, the question is whether there's an
17 unfair reflection of business activity under the
18 standard apportionment formula. Rev and Tax Code
19 Section 25137 does not authorize deviation merely
20 because a purportedly better approach exists.

21 Allegations that the normal apportionment
22 formula is not precise also do not justify proposed
23 deviations. Rough approximation is sufficient in the
24 form apportionment of income from a unitary business.
25 As long as the normal apportionment methods fairly

1 represent the extent of a taxpayer's business activity
2 in this state their use will be upheld. In addition, an
3 Appellant's mere allegations of distortion based on
4 separate accounting principles is insufficient.

5 So first, Appellant is not entitled to Rev and
6 Tax Code Section 25137 relief because it has not
7 demonstrated that unitary combination unfairly reflects
8 its business activities in California. Appellant has
9 asserted that California's standard apportionment
10 formula unfairly reflects its activities in California.
11 Appellant has the burden in showing then by clear and
12 convincing evidence that California's apportionment
13 methodology unfairly reflects NEER's activities in
14 California. Appellant, however, has not sustained this
15 burden.

16 Appellant asserts that there is no rational
17 relationship between California's apportionment
18 methodology and Appellant's activities in California.
19 However, Appellant is erroneous on numerous counts.
20 First, Appellant had substantial presence in California.
21 Appellant had numerous power plants located in
22 California, millions of dollars of payroll, and hundreds
23 of millions of dollars of property and sales within the
24 state.

25 California has provided a significant market

1 and opportunities for Appellant to generate and sell
2 electricity. Appellant fails to note its significant
3 physical market presence in California. However,
4 Appellant's substantial presence in California supports
5 the conclusion that Appellant's activities in California
6 are substantial. Given those rather substantial
7 activities, California may fairly impose a tax on
8 Appellant.

9 Moreover, contrary to Appellant's assertions,
10 FPL and NEER contributed to and depended on each other
11 in a myriad of ways, as discussed in my
12 statement earlier. The extensive indicia of unity
13 demonstrates that the businesses were not substantially
14 qualitatively different despite Appellant's allegations
15 to the contrary. NEER's activities in California both
16 contributed to and depended upon FPL's activities as
17 well as income in Florida. Therefore, Appellant's
18 assertions to the contrary are demonstrably false.

19 In addition, Appellant's repeated portrayal of
20 NEER as unprofitable is erroneous. As discussed
21 earlier, NEER generated nearly as much in net income as
22 FPL, despite having significantly less employees.
23 Though NEER appeared to operate at a tax loss, this loss
24 was largely a function of Appellant's tax strategies,
25 which also substantially lowered FPL's tax liability.

1 Appellant's description of NEER and its unprofitable
2 business activities is, therefore, false.

3 Lastly, the fact that FPL's benefited at the
4 expense of NEER in transactions that exhibited a
5 tremendous bias in favor of FPL unquestionably
6 demonstrates a flow of value to FPL from NEER.
7 Appellant's assertion there was no flow of value is,
8 therefore, clearly and demonstrably erroneous.

9 Given this flow of value between FPL and NEER,
10 California can rationally and reasonably apportion
11 NextEra group's income on the basis of a combined
12 report, which includes both NEER and FPL. Therefore,
13 California's standard apportionment methodology does not
14 unfairly reflect Appellant's activities within the
15 state.

16 And second, Appellant is not entitled to Rev
17 and Tax Code Section 25137 relief because its proposed
18 alternative is unreasonable. To be granted its
19 requested relief, Appellant's proposed alternative must
20 be reasonable. Here Appellant's proposed alternative,
21 which is separate accounting, is founded on unsupported
22 allegations, is unreasonable, and is properly denied.

23 Courts have roundly criticized Appellant's
24 requested relief, which is geographic-based separate
25 accounting, as flawed. A state does not tax extra

1 territorial income when it levies a tax on a business
2 that, under separate accounting, is attributed no net
3 income. Separate accounting though useful may not fit
4 the different requirements of a state which seeks to tax
5 values created by a business within its borders.

6 While it purports to isolate portions of income
7 received in various states, separate accounting often
8 fails to consider contributions to income resulting from
9 functional integration, centralization of management,
10 and economies of scale. Therefore, it is misleading to
11 characterize the income of a business as having a single
12 identifiable source because these factors of
13 profitability arise from the operation of a business as
14 a whole.

15 In addition, separate accounting is problematic
16 because it is subject to manipulation and imprecision
17 and often ignores or captures inadequately the many
18 subtle and largely unquantifiable transfers of value
19 that take place among the components of a
20 single enterprise.

21 In the present case and as discussed earlier,
22 Appellant makes numerous unfounded allegations and it
23 further suggests that separate accounting is the proper
24 alternative to the standard unitary apportionment
25 methodology. However, Appellant's alternative of

1 separate accounting is problematic for the same reason
2 the courts have soundly rejected separate accounting.

3 According to Appellant under its version of
4 separate accounting, FPL's quite profitable while NEER
5 is unprofitable. Even if NEER were, indeed,
6 unprofitable -- and it is not -- FPL and NEER are still
7 unitary. In Butler Brothers, the court held that a
8 state may properly impose an income tax even when
9 separate accounting would have a taxpayer show losses.
10 This is because, as has been noted earlier, separate
11 accounting does not consider the contributions to income
12 resulting from functional integration, centralization of
13 management, and economies of scale inherent in the
14 unitary relationship which unquestionably is present
15 between NEER and FPL.

16 As discussed in Mobile Oil, Appellant's
17 attempts at characterizing Florida as the sole
18 identifiable source of FPL's income are misleading
19 because of the factors of profitability which arise from
20 the operation of the NextEra group as a whole.

21 As discussed in Container Corporation,
22 Appellant's request for separate accounting is
23 problematic because it results in manipulation and
24 imprecision and ignores and captures inadequately the
25 many subtle and largely unquantifiable transfers of

1 value that took place among the components of the
2 NextEra group, a single unitary enterprise. For these
3 reasons, Appellant's request for separate accounting is
4 unreasonable and should be rejected.

5 In conclusion, NEER and FPL are unitary under
6 the contribution or dependency test, and Appellant has
7 not met its burden of showing otherwise. Unity is
8 evidenced by factors such as NEER and FPL's same line of
9 business, Appellant's business model, shared officers
10 and directors, and substantial intercompany
11 transactions.

12 In addition, Rev and Tax Code Section 25137
13 relief is not appropriate because Appellant has not
14 shown that unitary combination unfairly reflects
15 Appellant's business activities in California. And
16 Appellant's proposed alternative is unreasonable.
17 Respondent, therefore, respectfully requests that its
18 actions be sustained. Thank you.

19 ALJ KLETTER: This is Judge Kletter. Thank you
20 for your presentation, Mr. Zaychenko. I want to just
21 turn it over to my panel members.

22 Judge Gast, do you have any questions for FTB?

23 ALJ GAST: Yeah. I have one question for
24 Mr. Zaychenko. I thought I saw in the FTB's brief that
25 a taxpayer cannot request 25137 relief for separate

1 accounting, or is that not your position at this point?

2 MR. ZAYCHENKO: I think each appeal stands on
3 its own. And in this instance, separate accounting
4 would be inappropriate just because of how similar the
5 businesses are and the flows of value inherent between
6 the two as opposed -- you know, in -- when considering
7 other appeals, I might do it in a different case, but in
8 this appeal, that's our current position.

9 ALJ GAST: Okay. Thank you. And sorry, I said
10 one question, but I actually have one more.

11 MR. ZAYCHENKO: That's fine.

12 ALJ GAST: In terms of your position on the
13 same trade or business, A. M. Castle, you know, kind of
14 almost expands that, even though it says it doesn't.
15 What are your thoughts on how that applies here with
16 whether these two businesses were using, you know,
17 existing resources to help their business?

18 MR. ZAYCHENKO: So I think that's, you know,
19 that's an excellent point. I think the -- Mr. Bores
20 kind of emphasizes how the parent company kind of set up
21 investment in both these entities, and so I'm not
22 exactly sure as to the, you know, the details of this
23 investment, but he appeared to say that, you know, this
24 investment benefited both businesses and the parent
25 company is holding these kind of allowed funds for both

1 these entities.

2 So I think in this case these funds would
3 definitely benefit both entities. And that was kind of
4 this better existing use of resources, the parent
5 company that allows financing for the lower-tier
6 operating entities. And another thing that he touched
7 upon was how, you know, NextEra kind of came to be and
8 how FPL wanted to leverage -- what he appeared to be
9 saying was leverage -- kind of leverage its kind of
10 knowledge base operating in Florida and expand it
11 elsewhere.

12 So I think that's an excellent point is that,
13 you know, you could potentially have an expansion of,
14 you know, what it means to be in the same line of
15 business potentially and the fact that in this instance
16 you clearly are leveraging the business to benefit both
17 these two operating subsidiaries, FPL and NextEra.

18 ALJ GAST: Thank you.

19 ALJ KLETTER: This is Judge Kletter. I just
20 want to turn it over to Judge Lambert. Do you have any
21 questions for FTB?

22 ALJ LAMBERT: Yeah. I was wondering, FTB,
23 Appellant was talking about the admin costs being, you
24 know, immaterial and they were saying it's just admin
25 and then also it's like a low percentage overall of, you

1 know, these transactions. And I was wondering if you
2 could respond to that and, you know, provide some
3 information as to why it would be significant in your
4 eyes.

5 MR. ZAYCHENKO: So I think in my eyes what kind
6 of colors this case is the fact that this is the same
7 line of business. So if you have, you know, completely
8 different businesses, different lines of business with
9 no real possibility of sharing expertise, when you have
10 administrative services, there's not really a flow of
11 value.

12 In this instance, when they're in the same line
13 of business -- and that's kind of the issue first, with
14 kind of separate accounting considering just the
15 numbers, you have to look also the quality of what's
16 being provided. Here, for example, like nuclear
17 support, both these entities essentially had the same
18 nuclear department.

19 So there's definitely -- it's hard to qualify
20 and quantify. It's like slicing at shadows, as the
21 Supreme Court said. But there's definitely flows of
22 value -- sorry. There's flows of value when you -- when
23 you operate in the same line of business and when you
24 provide administrative services from one entity to the
25 other. So like I said, two points. It's hard to

1 quantify. And two, given the same line of business
2 presumption, there's added value in these transactions
3 that seem kind of in the aggregate a little minor.

4 And also, you know, Appellant points out, you
5 know, it's so difficult to have intercompany
6 transactions. It was such a pain. And then the
7 question, the follow-up question is, you know, why have
8 these transactions if it's such a bear to kind of, you
9 know, account for all of this and keep them separate,
10 et cetera? Obviously, there's unquantifiable flows of
11 value. Like I said, it's like slicing a shadow. It's
12 why FTB has this presumption that's inherent in these
13 administrative functions.

14 And I think Mr. Bores's testimony also kind of
15 reflects the fact that, you know, the fact that, you
16 know, his title isn't VP of Operations. The fact that
17 he's able to testify for Appellant about both these
18 businesses shows that there's flows of value even though
19 the position is merely administrative. And as
20 Appellant's representative himself has discounted kind
21 of, you know, in a way Mr. Bores's experience in
22 testimony, I think still it's a pretty significant
23 indicator of unity in this case.

24 ALJ LAMBERT: Okay. Thanks. So FTB agrees
25 that there is, like, separation because of FERC, but

1 some of the value is inherent you're saying?

2 MR. ZAYCHENKO: Correct. So there is a
3 separation, but that's the point of, you know, having
4 the unitary business concept is you're separating
5 something that inherently you can't quantify, you can't
6 separate. So that's why you have this concept you
7 combine, and that's just the presumption that, you know,
8 the FTB, when you're in the same line of business, is
9 allowed to utilize. And that's what we're doing here.

10 Just because -- you know, if you look at it
11 from our perspective, you know, we don't really know how
12 the business works. That's why we're allowed this
13 presumption. And taxpayer has the opportunity to rebut
14 it, and they haven't rebutted it in this instance.

15 ALJ LAMBERT: Okay. Thank you.

16 MR. ZAYCHENKO: You're welcome.

17 ALJ KLETTER: And this is Judge Kletter. I
18 just have two confirming questions, one about
19 intercompany transactions and one about intercompany
20 financing.

21 During Appellant's opening presentation, they
22 mentioned just that there were those two evidences of
23 loans or guarantee. One was the 36 million letter of
24 credit increased to 63 million in 2008, and then also a
25 \$28 million loan. I just want to confirm. Were there

1 any other intercompany transactions that were not
2 included in those?

3 MR. ZAYCHENKO: I -- it's my understanding that
4 there was. The trouble with -- and, you know, Mr. Bores
5 is kind of mixed up, you know, with what entity he
6 works, but basically the point is that it's hard to know
7 which entity because the -- the board minutes list
8 entities. It's hard to know which entity actually
9 belongs to the FPL and which belongs to NEER.

10 So some of the other two, I think Respondent
11 found a couple more, but the Appellant has said, Well,
12 these entities, even though they had FPL in the name or
13 something, belonged to NextEra or vice versa. So
14 basically it might be otherwise. You would just need an
15 org chart and you would need to compare all the entities
16 and see, you know, which side they fall. And the names
17 might be mixed up so, you know, I did a search as best
18 that I could, but, you know, we only have limited access
19 to information. And I was able to, you know, glean as
20 much as I could.

21 And then I think my brief also touched on
22 another guarantee. I don't recall exactly what it was.

23 There was another instance of intercompany transactions
24 that was discussed in the annual reports that wasn't
25 necessarily reflected in the -- in the board minutes.

1 And that was in the -- I believe in the response brief,
2 the supplemental brief in response to the OTA's
3 questioning.

4 ALJ KLETTER: This is Judge Kletter. Thank
5 you. And then just one more question about the
6 intercompany transactions. Again, in Appellant's
7 opening presentation, they mentioned that there were
8 virtually no intercompany product sales, e.g., you know,
9 maybe similar or the same, that there were no
10 electricity sales between FPL and NEER. And I just am
11 wondering like does FTB dispute that or not?

12 MR. ZAYCHENKO: I don't think we've seen
13 evidence to the contrary in that regard.

14 ALJ KLETTER: Thank you. So I'd like to turn
15 it over now to -- oh, I'm sorry. I wanted to turn it
16 over to Judge Gast for another question. Oh, I'm sorry,
17 to Judge Lambert.

18 ALJ LAMBERT: Oh, yeah. I just had a follow-up
19 question for Appellant. I was wondering, in terms of
20 these nuclear operations that FTB was talking about, so
21 NextEra and FPL both have nuclear plants and, you know,
22 were using these nuclear operation supports. So what
23 would you say is the difference between those
24 operations? Is it the retail/wholesale
25 regulated/nonregulated thing?

1 MR. BRANNAN: I think there are a number of
2 differences, and I think first is the one you went to,
3 which is the difference between retail operations in
4 Florida and wholesale operations outside the state.

5 I think second, you know, all nuclear plants,
6 they're operated on their own. And what you have is you
7 have a complete set of kind of operators and managers
8 that operate at the plant level. And then they do --
9 there is, you know, at the top of that pyramid,
10 certainly, for these companies. There is a single
11 representative who reports to the Nuclear Regulatory
12 Commission.

13 I think what's missed in that description is
14 the two nuclear plants that are in Florida are also
15 regulated by the Florida Public Service Commission. And
16 so all of their activities, all of their transactions
17 fall under the auspices of the FPSC. And that is -- and
18 I'll ask Mr. Bores about it here in just a minute, but,
19 I mean, it's -- it's kind of the same deal. The nuclear
20 plants that are not in Florida are not subject to those
21 restraints. So all nuclear plants subject to Nuclear
22 Regulatory Commission, so everybody's regulated somehow
23 some way. But what you have -- you know, they're going
24 to look to safety of those -- of the operation of those
25 plants. But when you get into Florida and they're

1 talking about the pricing of the power that goes to the
2 residents of the state, once again, you're under the
3 auspices of the FPSC and, if you will, kind of that
4 invasive authority where they're looking to protect
5 their constituents.

6 And so similar? There are some similarities.
7 There are some same regulatory constraints as between
8 all the nuclear plants. But then the ones in Florida,
9 they are subject to a different level on top of that
10 when it comes to the regulatory oversight.

11 So I hope that responds to your question.

12 ALJ LAMBERT: Yeah. Thanks. That's helpful.

13 ALJ KLETTER: This is Judge Kletter. You know,
14 Mr. Brannan, would you like to make a final statement
15 rebuttal to what Mr. Zaychenko said?

16 MR. BRANNAN: Very much so.

17 ALJ KLETTER: So I believe you have 15 minutes,
18 and you may begin.

19
20 CLOSING STATEMENT

21 BY MR. BRANNAN, Attorney for Appellant:

22 So I guess if I may, I'd like to take a couple
23 of minutes and ask Mr. Bores a couple more questions.
24 And I really kind of resent the idea that he's mixed up
25 as to who he works for. The question was, you know, who

1 do you represent. Well, he's representing the
2 Appellant, and that's NextEra Energy. And there's no
3 dispute over that.

4 There's also no dispute over to what his title
5 is. And so that sort of personal commentary is not
6 appropriate here, and I don't like it and it shouldn't
7 happen. I'll refer to Respondent for what's happened in
8 some of the briefs, but don't take on my witness.
9 That's crummy.

10 So, Mr. Bores, if you will, can I ask you a
11 couple of questions? So you've heard about the history
12 of the agency and kind of what prompted, if you will,
13 the creation of NextEra Energy. Do you have a little
14 further background on that that might be helpful to
15 respond to some of the comments that were made during
16 the FTB's presentation?

17 MR. BORES: Yes. I think FTB's a little
18 misconstrued with maybe how the businesses are vastly
19 different. FPL has always been I call it the mother
20 ship or the bread and butter. Right? We started in
21 1925 as the rate-regulated utility and have grown over
22 that.

23 As the business continued to grow at FPL, there
24 was an opportunity to say should we create a side
25 business or something else that is vastly, vastly

1 different from FPL, and that is where the wholesale
2 business, or NextEra Energy Resources, was born in the
3 early 2000s. That business model is going out and
4 working with other utilities who have, as we talked
5 about, renewable portfolio standards to help them bring
6 renewables. That is not FPL's business model at all.
7 FPL's business model is do what's the best and most
8 economic for the retail customer.

9 And yes, it was quote/unquote clean energy, but
10 again, that's because we burn more foreign oil than
11 anybody and we made a business decision to move to
12 natural gas, which turned out to be clean, affordable,
13 and led us to a great emissions profile. That is the
14 vastly different strategy than the wholesale business,
15 which is again, building wind, solar, for other
16 utilities to help them achieve renewable portfolio
17 standards.

18 And so I think we're trying to say that they
19 have a similar business, they operate similarly, but the
20 exact opposite couldn't be true. At FPL -- and I don't
21 want to belittle my job, but we are given a guaranteed
22 return or an allowed return on equity, which means we,
23 quote/unquote, have a guaranteed profit unless we screw
24 things up. Right? We have our rate base, the return
25 we're allowed on that. And unless we really screw

1 things up or don't do well by the customer, we have a
2 guaranteed profit.

3 That is not the business model of NextEra
4 Energy Resources or the wholesale business. They have
5 to go out, fight and scrap against other developers,
6 compete on price. And ultimately their profit margin is
7 variable, depending on the contracts they enter and the
8 customers they win with. And so I think trying to say
9 we operate as one, it can't be further from the truth.

10 MR. BRANNAN: Mr. Bores, I believe you're also
11 familiar with the Babcock Ranch story. As an aside,
12 taken from a 2022 article. Again, by reference to the
13 years that we're considering here, '09 to '15, why don't
14 you talk a little bit about Babcock Ranch and how FPL
15 came to be cited in the article provided by the
16 Respondent.

17 MR. BORES: Yeah. So I'm chuckling a little
18 bit because I can tell FTB watched 60 minutes and read
19 the article. So Babcock Ranch, great community. Built
20 by Syd Kitson, who's a wonderful man doing great things.
21 And the article kind of highlights that the solar was
22 available to power Babcock Ranch.

23 Unfortunately, when Hurricane Ian hit, if
24 you've ever gone through a hurricane, there was a lot of
25 cloud cover that comes in with that hurricane. And so

1 at the time Hurricane Ian hit, 3:00 p.m. in the
2 afternoon, there was significant cloud cover and less
3 than 1 percent of that solar was producing power.

4 By the time Hurricane Ian rolled over Babcock
5 Ranch, it was nighttime where the sun does not shine and
6 there was zero solar power being produced for Babcock
7 Ranch. What kept Babcock Ranch's lights on was the
8 transmission infrastructure as well as two natural gas
9 power plants -- one in Fort Myers, one up in Manatee
10 above Tampa -- that supplied power that ultimately
11 flowed across our transmission lines to keep the lights
12 on for Babcock Ranch.

13 So it had nothing to do with renewable or solar
14 energy or anything that the wholesale business is doing.
15 It is all part of Florida Power & Light's core strategy
16 of producing and delivering reliable electricity and
17 really hardening our transmission and distribution
18 infrastructure to protect and make sure customers can
19 get power as quickly as possible following a hurricane.

20 MR. BRANNAN: So I think that's the segue into
21 that's the problem with presumptions and assumptions and
22 implicits and, you know, global statements about flows
23 of value where really none has been demonstrated.
24 Because if you know the background for the story, what
25 you realize is that the example of how FPL is taking

1 advantage of fill-in-the-blank NEER in their solar
2 expertise for purposes of this article, it's just not
3 true. And you can't just make up stuff and continue
4 making up stuff in order to prove a case. And that's
5 why we have focused the best we can on the details
6 underlying.

7 Let's talk about intercompany financing. So
8 the question is asked, "Are there additional examples?"
9 And the answer is, "No, there's not. There are two, and
10 we described them." And the FTB's saying, "Oh, well, we
11 tried as hard as we could." That's not a good answer
12 here. There are two.

13 And as far as the example in the briefs, it was
14 talked about the FTB pulled an agency by label which had
15 been part of FPL but then it was rolled into the other
16 part of the business, it was put on the other side of
17 the fence, and that's when the financing happened. So
18 that's not intercompany financing. The financing that
19 was talked about in the briefs is between entities that
20 are on the wholesale side of the business.

21 The other two examples that are cited in the
22 brief simply weren't intercompany. They were entirely
23 on the side -- on one side of the fence or the other.
24 So there are two examples, one of which was lasted three
25 years, the other one which I don't know how long it

1 lasted but I know that it's gone.

2 So, Mr. Bores, one quick question for you.
3 Who's responsible for the financing for the
4 rate-regulated retail activities?

5 MR. BORES: Ultimately, that resides with the
6 treasurer who does the overall financing of the
7 business, but any of those decisions need to kind of be
8 worked through me as well as the president and CEO of
9 Florida Power & Light, who ultimately have profit and
10 loss responsibility for the business.

11 MR. BRANNAN: Do the regulators -- do the
12 regulators allow Florida Power & Light to go to NEER for
13 financing?

14 MR. BORES: No. Again, as part of our
15 oversight process every year, we are required to file a
16 financing application with our regulator letting them
17 know here's how much debt and capital we plan to raise
18 in the markets in order to fund the business for the
19 upcoming year. And they need to approve that before we
20 move forward with our financing plan for the year.

21 MR. BRANNAN: So let me address a couple of
22 questions on intercompany transactions. And I'm just
23 going to say 1 percent under any conceivable measure is
24 not numerous, substantial, material or helpful to
25 just -- to concluding that there might be a unitary

1 business. They're just not. Personnel, 1 percent;
2 intercompany sales of assets, 1 percent; zero
3 intercompany product sales. One percent, 1 percent,
4 1 percent.

5 I'm not making up those numbers. The data is
6 in the briefs. So we need to recognize that there is
7 some things that are out there and they just happen.
8 And the question is: Are they deliberately working
9 together? No. In fact, the opposite is true. They are
10 deliberately working apart from each other.

11 Let me make a couple more points. There's a
12 reference again, you know, to somehow we're creating a
13 loss company where one doesn't exist. I didn't make the
14 rules for how to determine taxable income or loss that
15 goes into the combined report. The FTB did. And you
16 follow those rules, and the wholesale business has a
17 loss. It's pretty much that simple.

18 Now, we can talk about what's reflected in the
19 financial reports, but I can't tell you how many times
20 I've heard -- I mean, we look at Thor Power Tools, it's
21 a U.S. Supreme Court case. I think there's a Board of
22 Equalization appeal by the same name. And what they
23 talk about is why those reports are different.

24 Financial reports for -- financial reports for
25 SEC purposes, they focus on different things. We talk

1 about conservatism where they always want to understate
2 for purposes of informing the investor. They are
3 different. It's the reason they're not used for tax
4 purposes.

5 Instead of bringing out financial reports in
6 this context when the numbers that we're talking about
7 apportioning are the ones that the FTB tells us to
8 compute, and by the way that have never been questioned
9 at audit, is really mixing apples and oranges and
10 bringing that whole discussion to, you know, a whole
11 different level. Because we don't get to use book
12 numbers for pretty much anything. We have to go by the
13 FTB's rules for tax purposes.

14 So to suggest that we're -- there's a tax
15 strategy -- the government says you get to take
16 depreciation on assets. You take depreciation. It's an
17 expense. It reduces your income. And in this case, it
18 makes the income into a loss for the wholesale business.
19 And that's the number that's subject to apportionment.
20 There are no games here. There are no tricks. We are
21 not trying to fool anybody.

22 Let's talk about tax credits. Tax credits are
23 federal credits after tax. The idea that there's some
24 sort of unitary connection here, no. That's the
25 equivalent of pushing money around based on dividends.

1 We know that such activities or cases cited it in the
2 briefs where when you move money from one entity to
3 another, that's an investment decision. That's a money
4 decision. Federal tax credits after the fact are not
5 indicators of unity.

6 There's a couple of cases cited by the FTB, and
7 I have to say, okay, one of them is Hugo Neu-Proler, and
8 they talk about the reason that the entities were set
9 up. And thereafter, they never talk about tax benefits
10 again. It's not part of the decision.

11 Let's move to PBS. PBS is a decision, I think
12 you all are very familiar with it. There is a statement
13 in there that talks about, hey, you know, these are
14 things that may be indicators of unity, and they mention
15 tax benefits. Okay. One, there's not a single case
16 authority underlying that. The author kind of made it
17 up.

18 Two, there was some discussion of flows of
19 value coming from its net operating loss carried
20 forwards. It was not part of the decision in the case.
21 That's just irrelevant to the decision in that case.

22 And last, and I always think this is kind of
23 fun, the entire decision in PBS was offered as an
24 advisory opinion. The parties had already stipulated to
25 the outcome in that case. So if we were looking at that

1 as a judicial opinion, there would be no merit to it at
2 all. It would never have been published. So why it was
3 published I don't know. But if you look at the
4 decision, it's a point that was never contested by the
5 parties, it didn't matter to the decision, and the
6 parties agreed to a different result. I'm not sure what
7 authority there is in that case that says tax benefits
8 are somehow helpful to the parties.

9 So now we've dealt with created losses in
10 accordance with the OTA's -- or excuse me, the FTB's own
11 methodology. We've dealt with tax credits that are a
12 matter of federal law. And there's no real meaningful
13 authority that suggests that they're a unitary
14 indicator.

15 Let's talk a little bit about a couple of other
16 things. Same line of business. You've heard our piece
17 and you've heard my reference to the legal standard as
18 to what is a same line of business or what is not. We
19 say they're different. Okay. For purposes of this
20 discussion, let's say they're in the same line of
21 business. That doesn't automatically make 1 percent
22 numbers and intercompany transactions meaningful from a
23 unitary standpoint. It just doesn't.

24 We can raise all of the assumptions we want
25 about, Hey, if they're in the same line of business,

1 then they should be sharing this or they could be
2 sharing that or we're going to assume that when they
3 have a board meeting that the board members are going to
4 sit and talk to each other about all this other stuff.
5 Well, our witness tells you that they don't do that
6 because they're different businesses.

7 And as far as Mr. Bores' qualifications, he's
8 not an operational guy. What he's here to tell you in
9 quite a credible fashion is that the impact that the
10 Florida Public Service -- excuse me, the FPSC has on his
11 business. And he knows that because he goes over there
12 and he deals with those folks. He deals with the
13 regulators. He testifies before those panels. He
14 understands what they're asking for. He's responsible
15 for the regulatory reports. That's why he's here.

16 Does he have a general understanding of the
17 business? Of course he does. That's his job. But to
18 belittle his qualifications as somebody who's not an
19 operational guy, that's not why he's here, for one. And
20 two, it doesn't have anything to do with his testimony.

21 Let's talk about the unitary test when we talk
22 about contribution or dependency. And because this --
23 this is of critical importance. And I hate lawyers that
24 sit down and they get into parsing of the words, but
25 sometimes it's just what you've got to do.

1 The contribution or dependency test talks about
2 whether the activities in the state -- and those
3 activities we know and we don't dispute. They are
4 substantial with regard to wind and solar power,
5 something that during these years, the activities in
6 Florida, they had no wind power and they had a miniscule
7 amount of solar power at their disposal during those
8 years.

9 So if the test is how does the in-state
10 activities in California contribute or depend on the
11 activities that are sitting in Florida, I still don't
12 know the answer to that from the FTB's position. What
13 they want to do is they want to assume, Hey, we have a
14 presumption. I don't care about the presumption right
15 now. I don't think it applies. That should be clear
16 from everything I've said, everything my witness has
17 said. But if you look at that presumption, it's like,
18 Wait a minute. Okay. I can presume away a lot of
19 questions, a lot of factual inquiries. We can have a
20 little digression here about the how the rules of
21 evidence work. A presumption does a couple of things.
22 It gets you over the hill. It means that we, the
23 Appellants in this case, have the burden of proof.

24 Now, what does that mean? It means we have a
25 burden of coming forward with evidence and a burden of

1 persuasion. What I would sit here and tell you is that
2 we have come forward with evidence piled up to the roof
3 in this building right now. And I would also suggest to
4 you that we met that initial burden of coming forward,
5 and I will tell you that we should have met the burden
6 of persuasion because the FTB hasn't responded in 90
7 percent of the information that we're putting out here.
8 All they're offering is global references and global
9 labels about how these things exist.

10 The 1 percent question from Judge Lambert, "How
11 are those things material?" They're just not. And they
12 don't impact -- most important point, they don't impact
13 their operations. They're just separate, and they're
14 separate because they have to be. So look at the
15 verbiage of the contribution or dependency.

16 The functional integration, if you read
17 background around on that label as set forth in the
18 Mobile Oil case and the constitutional cases, what
19 they're talking about there is operational integration:
20 How are they working together to earn money? How does
21 this company make money? Well, they make money in two
22 ways. They have a wholesale market outside of Florida
23 and they have a retail market inside of Florida.

24 Let's talk about Container Corp. and the idea
25 that a flow of value is all that's required. Well, of

1 course, we can't disagree with that. It's a flow of
2 value. That's fine. I know what Container says. But
3 go read Container again, and what it does say at the end
4 of it, toward the end of the unitary discussion, it
5 says: Yeah, you don't need flow of product.

6 And in this case, by the way, there's two
7 really important things that the appellate court called
8 out. One, intercompany financing. Substantial
9 intercompany financing. And we can throw that label
10 around in our case, and I'll tell you it doesn't exist.
11 But I'm not going to disagree with the U.S. Supreme
12 Court as to how much substantial intercompany financing
13 was worth.

14 The second point that they call out from the
15 appellate court decision is how much the overlapping
16 board of directors really matters and how active they
17 were when it came to creating strategy on a go-forward
18 basis and how much they were involved in the decisions
19 to expand on the international market. That didn't
20 happen here. It doesn't happen here. And even if it
21 did, with the six people or the 13 people that were
22 remaining on the overlapping executives in management,
23 we still have not accounted for the influence and the
24 ultimate decisionmaking authority of the Florida Public
25 Service Commission.

1 We can't have that conversation about
2 overlapping management without acknowledging that
3 there's an 800-pound gorilla in the room and they get to
4 make the rules. And they do make the rules. You heard,
5 they push back when we suggest things to them. They
6 don't rubber stamp. They protect their constituents.
7 Which, by gosh, that's what they're supposed to do. But
8 when they do it, we can't sit there and say it doesn't
9 have any impact at all on Florida -- on FPL.

10 A couple more things.

11 ALJ KLETTER: I just -- sorry to --

12 MR. BRANNAN: Yes.

13 THE COURT: -- interrupt you, Mr. Brannan. I
14 just want to let you know, five minutes left in your
15 rebuttal.

16 MR. BRANNAN: Thank you. So let's talk about a
17 couple more things quickly. The cases that are
18 referenced on intercompany transactions and whether they
19 matter or they don't -- I've got to find the right one.
20 I don't have it. Never mind. Let's talk about the
21 different regulatory oversight and the -- specifically
22 the case of the Bank of Tokyo and Union Bank. There's,
23 indeed, a sentence in the case that says, "Appellant
24 claims that they are subject to different regulatory
25 constraints, one from the Japanese regulators and one

1 from the U.S. regulators," and that's it.

2 There's no discussion at all in that case about
3 the impact that the regulators have on the case.
4 There's nothing like what you've just heard about FPSC.
5 So to take a single sentence in a case and make it an
6 absolute dead stop on that regulatory discussion is not
7 reflective of really what the case is talking about.

8 What the case really talks about at the end of
9 the day is we don't think that's an important factor in
10 this case. What they really care about was the transfer
11 of personnel, transfer of management, transfer of
12 expertise. That's what that case is about.

13 As far as the intercompany transactions,
14 intercompany -- Respondent cites to three cases:
15 Coachmen Industries, Nippondenso and also Saga
16 Corporation. What's fascinating is that the flow of
17 product, while not required under the Container
18 decision, it is still a very, very meaningful
19 consideration, and there is none in this case.

20 In Coachmen there was -- between 23 and 38
21 percent of the taxpayer total purchases were
22 intercompany. In the Nippondenso case the SBE -- they
23 looked at it, and between 77 and 89 percent of the
24 products were intercompany. In the Saga Corporation,
25 100 percent of certain services were billed

1 intercompany.

2 Those situations, we can talk all we want about
3 shared services, we can talk all we want about
4 back-office functions, administrative functions is
5 1 percent, but the one that matters most is these
6 economies of scale on the product. What is it that they
7 sell? How do they make money? Not how do they manage
8 it. Not how do they watch over it. It's how they make
9 money.

10 So let me get to one last point on the
11 distortion side. So we talk about whether separate
12 accounting is appropriate or not. It's in the statute.
13 And the fact that the FTB doesn't like it or the fact
14 that it was a reason that we have the unitary method, it
15 doesn't matter. It's in the statute. And so we can
16 look at it and we can say, "Okay. Have we proven
17 distortion?" And I submit that we have using the
18 qualitative and quantitative considerations that are in
19 the brief, none of which were specifically addressed by
20 Respondent by the way.

21 We're making a case here. We're putting facts
22 and details and law in front of this panel. We're not
23 just giving you labels. Please read those charts.
24 Please read the detail before you decide to render a
25 decision in this case. It's important.

1 So the last thing that just gets lost in this
2 presentation -- really two things. But we talk about
3 separate accounting and all of the ills and woes of
4 separate accounting that are identified by every court
5 that looks at this. And they say, "We don't like
6 separate accounting. It's subject to manipulation.
7 We're going to lose track of the factors of
8 profitability. This functional integration economies of
9 scale, centralized management, separate accounting can't
10 do that. It's subject to manipulation."

11 Okay. So again, what's missing in this
12 discussion? It's the uniqueness of the public utility.
13 It's the role, it's the rigor of the review of the
14 Florida Public Service Commission. They go to
15 sub-account levels. They go to details in review that
16 the SEC never even dreams about. And if their review's
17 not enough, when they go in for a rate regulatory
18 process, they get intervenors that come in and testify.
19 Not just the Commission, but the public counsel for the
20 State of Florida and any third party that wants to show
21 up and do that.

22 And they all get to look at the numbers. They
23 all get to ask questions about the numbers. These
24 numbers easily survive whatever concerns there might be
25 as to the imprecision. We can't lose track of the fact

1 that there's a third-party regulator that crawls all
2 over these things. It's important. Because all of the
3 ills that people suggest in connection with separate
4 accounting, they're just off the table here.

5 I think one last point, and it's really on the
6 last slide of the distortion presentation -- if I can
7 find it. Apologies. It's the problem with paper. So
8 there's a couple of comments, and I think this one is
9 Container. And this really is my last comment. It
10 continually makes the point when they talk about
11 distortion, and it says, "Even if the records are skewed
12 to resolve all doubts in favor of the State so as to
13 attribute imputed profit from intercompany asset sales,"
14 et cetera, "then there would still be a problem with the
15 apportionment formula."

16 And in this case, if you skew everything to
17 resolve all doubts in favor of the State, NEER's
18 operations would still show taxable loss. And the
19 example that they use in their -- in the case is they
20 talk about imputed profit on intercompany sales. Well,
21 in this case, we actually have that number because we
22 have to track it for regulatory purpose. And that
23 number for intercompany asset sales -- okay, so we know
24 intercompany product sales is zero. And that number for
25 intercompany asset sales is an average of \$2.5 million a

1 year. This is a billion-dollar business. You find that
2 money in the couches in the offices at the staff.
3 There's just -- you know, I'm sorry. I don't mean to
4 minimize the role of people in this, but \$2 and a half
5 million? That's just dust. That's why it's not
6 material.

7 They are so concerned about separating the two
8 businesses that they track down to that level. They
9 track transfers of employees that make more than \$30,000
10 a year. They track transactions that are worth more
11 than \$300 per transaction. That is the level of detail
12 that's available. And the reason they do it is to
13 keep the businesses separate.

14 And the last point. You know, if we take a
15 step back, what are we talking about? And it's based on
16 the separate taxable income or loss of FPL and NEER as
17 reflected in Exhibit 1 to Appellant's brief, the
18 transfer of value from FPL to NEER. We can't quantify
19 it. We understand that. I understand that's part of
20 the purpose of the -- of the unitary business concept
21 is: We don't see it, we're pretty sure it's there, and
22 so we're going to assume it's there until the taxpayer
23 comes and tells that it's not.

24 But just to get to the break-even point for
25 NEER, the transfer of value from FPL to NEER for NEER to

1 show a single dollar of taxable income in the State of
2 California would have to be more than \$431 million per
3 year, or roughly 37 percent of the average net income
4 that's attribute able to FPL.

5 So the tax number that we're -- has been
6 suggested that we're somehow contriving or creating into
7 a net tax loss, in order to get to zero, we have to take
8 37 percent of the income of FPL and we have to give it
9 or transfer it through imputed income or through these
10 shared transactions, \$431 million per year just to get
11 the wholesale business or just to get California to a
12 neutral number, not an income and not a loss. That is
13 the scale of the disparity between the two businesses.

14 And I'm going to start here with something I
15 started with. This case is about fairness. And
16 fairness is an odd concept in the tax world, but it is a
17 very real one. It's one that's referenced by all of the
18 cases. It's one that's referenced by the statute. And
19 beyond all of the material that we've provided, beyond
20 all of the qualitative and quantitative discussion and
21 analysis that we're talking about, at the end of the day
22 it just ain't fair.

23 It's not fair when you have a business that
24 clearly by any stretch of accounting or operational
25 considerations has earned all of its money in Florida,

1 and it's not fair for California to reach out and grab a
2 piece of that for tax purposes. And that's what this is
3 about. It's about fairness.

4 And this is a situation that's unique because
5 you have a public utility, because of the aggressive
6 nature of the regulatory oversight of the FPSC, because
7 they are making money in Florida and they are not making
8 tax money anywhere else in the country. This is a
9 unique situation, and it is exactly -- if they're not
10 unitary. If they are unitary, it's exactly the sort of
11 situation that distortion is intended to cover, and we
12 go back again to the example cited by Keesling and
13 Warren. Thank you very much.

14 ALJ KLETTER: This is Judge Kletter. Thank you
15 for your rebuttal. I just want to turn it over to my
16 panel members.

17 Judge Gast, do you have any final questions for
18 either of the parties?

19 ALJ GAST: Yeah. I have a few final questions
20 for Appellant.

21 So just so I understand, there is no common
22 management on both sides of the work structure, the FPL
23 and the NextEra? Even though it flows up to an ultimate
24 parent, they're run autonomously like in the Woolworth
25 case at the U.S. Supreme Court and California.

1 MR. BRANNAN: I hear a couple of questions in
2 there, and if I may?

3 ALJ GAST: Yes.

4 MR. BRANNAN: If I don't respond, please get me
5 again. One, in Woolworth they had near perfect overlap
6 of all upper management, and in spite of that they
7 determined that they were not unitary.

8 In our case, and we've detailed it and I'm
9 going to -- I've got so many numbers kicking in my head
10 right now, but I think there are, if you look at FPL
11 alone and we draw the line as reflected in the
12 diversification reports, there are 44 possibilities of
13 people that are sitting in executive management --
14 executive or management roles at FPL.

15 Of those 44, we're down to 17 that are, in
16 fact, common. Maybe it's a little lower than that. I
17 apologize. That's the range. Of that number, six of
18 them are in operational roles, such as the nuclear or
19 the site building, you know, in those titles. And
20 again, they're in the briefs. So there is some overlap.

21 I -- we would say it's not material on its own
22 because we are still talking at that point of six
23 people, and it is on its own -- FPL I think is 8700
24 employees. And on top of that, if you go to the purpose
25 of that overlapping management, the idea is just some

1 horde of grand strategy discussions that can take place.
2 That whole discussion can't be had unless we acknowledge
3 the role that the Public Service Commission has in
4 connection with that business.

5 ALJ GAST: Okay. Thank you. And in terms of
6 savings from shared services, were there any significant
7 savings? I understand that it was 1 percent of
8 transactions involved, but what were the savings?

9 MR. BRANNAN: The problem, honestly, is that
10 you have to assume that there are savings based on
11 economies of scale, which is a point that Respondent
12 makes. And so the problem we have is that all of the
13 services are booked at cost. And so to the extent that
14 there are benefits from these economies of scale, you
15 can't really put a number on it the way that they're
16 accounted for. But when you look at the big number,
17 that's your 13 percent of intercompany non-power,
18 non-dividend transactions. And that number is still --
19 it's right at -- it's like 1.01. It's just over
20 1 percent of the total receipts of the business.

21 So when I look at that, fine, we can add a
22 20 percent profit figure on that, add a 30 percent
23 number that moves the value to one side or the other of
24 the equation. And it's still not material to the
25 overall operations of the business. So I can't say

1 none. I want to be honest and practical here. I can't
2 say none. I can say that we don't know, and I can come
3 up with a number that says, okay, but it's still not
4 material to the operations.

5 ALJ GAST: Okay. And then a final question.
6 Just a big picture for me because I'm a big picture guy.
7 Why 2009 are they not unitary and not in prior years?
8 What changed, other than maybe a statute of limitations,
9 you know, for asserting a refund claim in prior years?

10 MR. BRANNAN: I think there's -- I think the --
11 the most direct answer is statute of limitations. I
12 think that's the easiest answer. I mean, there's a
13 comment that came up on Seabrook, and it was interesting
14 because there's a couple things about it. Just to
15 clarify for the record, Seabrook is a substation. It's
16 not a nuclear power plant. It's worth about
17 \$10 million.

18 So admittedly, it was on the wrong side of the
19 line when it came to the regulatory side. So they moved
20 it. It's an imperfect world that we live in. But that
21 happened in 2008 or 2009 I believe is the -- is the
22 correct time frame. The it's not like Seabrook drove
23 it. But you always have these little -- you know, the
24 fluff that's out there that we need to diligently watch.
25 And then if it's on the wrong side of the line, we need

1 to move it to keep the businesses separate.

2 So that's a longwinded explanation or response
3 to your question, but I think there's no -- there's no
4 magic. I think as the businesses are constructed,
5 they're still not unitary.

6 ALJ GAST: Okay. Thank you.

7 ALJ KLETTER: This is Judge Kletter. I want to
8 turn it over to Judge Lambert.

9 Do you have any follow-up questions for either
10 of the parties?

11 ALJ LAMBERT: No, thanks.

12 ALJ KLETTER: Thank you. And this is Judge
13 Kletter. I just have one -- a couple questions for
14 Appellant.

15 So there was some discussion about, you know,
16 which entities were -- or which employees were shared,
17 and there was the 17 and the 44.

18 MR. BRANNAN: Um-hum.

19 ALJ KLETTER: I just want to confirm. So like
20 a lot of the discussion we've been talking about the
21 FPSC. And with respect to the board of directors, were
22 the board of directors interlocking and, you know,
23 what -- what operational role did the board of directors
24 of NextEra Energy play between the two operating
25 businesses?

1 MR. BRANNAN: I think the best answer that I
2 could provide to that is the answer that Mr. Bores gave
3 when we asked what the holding company did. Because I
4 think that's where that -- where that activity -- and I
5 have to be cautious. I mean no disrespect to those
6 folks. But what drives the unitary discussion is really
7 operations. And what the board of directors does at
8 that level is monitor the activities. They look at
9 rates of return. They look at -- they follow the money.
10 And they want to do what's right for their shareholders
11 on that side.

12 But again, you know, I'm a broken record here,
13 and I'm not going to apologize for it. That's --
14 they're up there, but they still have to answer at some
15 day at some -- you know, in some way they have to answer
16 to the FPSC.

17 ALJ KLETTER: This is Judge Kletter. Thank
18 you. I have no further questions.

19 So this concludes our hearing. I'd like to
20 thank the parties for their presentations. The judges
21 will meet and decide the case based on the
22 documentations and the testimony presented here today.
23 We will issue our written decision no later than 100
24 days from today. This case is submitted, and the record
25 is now closed. This concludes this hearing session.

1 Thank you.

2 MR. BRANNAN: Thank you all for your time.

3 MR. ZAYCHENKO: Thank you.

4 (Conclusion of the proceedings at 4:16 p.m.)

5 ---o0o---

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)

COUNTY OF SACRAMENTO) ss.

I, MARIA ESQUIVEL-PARKINSON, do hereby certify that I am a Certified Shorthand Reporter, and that at the times and places shown I recorded verbatim in shorthand writing all the proceedings in the following described action completely and correctly to the best of my ability:

LOCATION: OFFICE OF TAX APPEALS
400 R Street

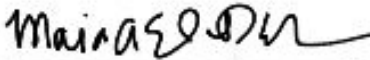
CASE: In the Matter of the Appeal of
NextEra Energy Capital Holdings, Inc.

DATE: Tuesday, February 21, 2023

I further certify that my said shorthand notes have been transcribed into typewriting, and that the foregoing pages 1 through 153 constitute an accurate and complete transcript of all my shorthand writing for the dates and matter specified.

I further certify that I have complied with CCP 237(a)(2) in that all personal juror identifying information has been redacted if applicable.

IN WITNESS WHEREOF, I have subscribed this certificate at Sacramento, California, on this 15th day of March, 2023.



Maria Esquivel-Parkinson
CSR No. 10621, RPR

<hr/>	1.01 149:19	1966 74:18 75:24	25137 13:20 76:13 79:3 94:4 109:5,8, 10,14,16 110:6, 14,19 111:6 113:17 116:12,25
<hr/> \$ <hr/>	10 8:5 18:4 59:14	1970s 72:9	25137(a) 74:16
\$1 81:9,10	10-K 25:10	1:04 2:17 5:3,8	25141 7:5
\$10 150:17	10-Q 25:10	1st 30:23	27 21:12 22:3 82:3
\$15 59:14	100 52:22 89:18 141:25 152:23	<hr/> 2 <hr/>	29 84:4 85:2
\$2 60:1 145:4	10621 2:20	2 10:21 86:17,20	2:30 73:9
\$2.5 144:25	12 20:19 39:1 54:17	20 4:5,18 7:17,21 46:14 149:22	2:50 91:21
\$20 21:19	12,000 21:20	20- 21:6	<hr/> 3 <hr/>
\$28 61:20 121:25	125 4:24	2000 37:5	3 56:11 57:5,6,16
\$30,000 145:9	13 57:2,9,14 102:20 139:21 149:17	2000/2001 35:20	30 86:21 149:22
\$300 145:11	14 42:24	2000s 127:3	31 87:17
\$35 21:7	143 88:5	2001 41:4	32 88:14
\$36 61:8	15 31:15 73:25 75:22 125:17 128:13	2008 61:8 121:24 150:21	33 89:8,24
\$431 146:2,10	15,000 21:7	2009 6:25 8:5 21:3 35:7,18 42:1 61:9 62:1 71:17 98:17 99:10 150:7,21	35 4:18
\$63 61:9	15,000-person 55:7	2009/2010 31:7	36 121:23
\$8 59:11	15-plus 30:4	20096580 2:7 5:7	37 146:3,8
<hr/> (<hr/>	164 61:1,4	2010 61:11	38 141:20
(a) 65:24	17 7:16 44:1 58:6 148:15 151:17	2012 61:20	39 4:18
(b) 65:25	170 89:1	2015 6:25 21:3	3:00 91:23 129:1
<hr/> - <hr/>	171 60:5	2022 128:12	3:01 92:10
--- o0o --- 153:5	1720 3:16	2023 2:19 5:2,7	<hr/> 4 <hr/>
<hr/> 0 <hr/>	18 7:17 44:16 54:16	2024 29:20	4 10:22 11:13 12:25 40:25
09 128:13	1808 47:7	21 2:19 5:2 47:19	400 2:16
<hr/> 1 <hr/>	1809 47:7	21st 5:7	42 4:13
1 4:5 7:15,21 25:7 27:11 41:1 57:17 60:6,14,16 62:11 78:10 105:24 129:3 131:23 132:1,2,3,4 135:21 138:10 142:5 145:17 149:7,20	181 60:6	23 29:18 102:19 141:20	44 54:13 55:2 148:12,15 151:17
	1897 11:21	24 29:18 77:10,25 84:16	45 85:11 92:12
	19 45:21 75:21	25 40:24	4:16 2:18 153:4
	1920s 36:24	25120 7:4	
	1925 72:2 126:21	25120(b) 96:16	

<hr/> 5 <hr/>	95 100:1	achieve 12:5 127:16	acts 48:15
5 13:6	<hr/> A <hr/>	acknowledge 15:12 16:5 77:6 149:2	actual 27:20 60:25
5.8 21:20	absolute 77:5 141:6	acknowledged 81:13	Adams 11:20
50 23:19,21 51:8 59:14	Absolutely 42:6	acknowledging 17:24 140:2	add 20:24 149:21, 22
55 85:22	abstract 87:1	acquire 12:12	added 120:2
59 87:19	absurdly 16:16 17:14 91:5	acquired 47:1	addition 27:13 99:15 102:5 104:16 107:8,23 111:2 112:19 114:15 116:12
<hr/> 6 <hr/>	accept 15:12 19:14	acquires 15:23	additional 7:9,17, 23 46:14 64:21 77:23 130:8
6 13:24	acceptable 67:14 106:3	acquisition 36:17	address 8:8 17:19 26:12 46:11 67:15 131:21
60 128:18	access 49:12 66:10 122:18	Act 74:20 76:8 78:24	addressed 48:11 142:19
63 121:24	accomplish 14:15 43:24	action 94:18	adequate 22:16
<hr/> 7 <hr/>	accordance 135:10	actions 116:18	adjust 18:23
7 4:5,7 15:13	account 120:9	active 61:21 139:16	adjustments 76:11
70 40:23	accounted 105:23 139:23 149:16	actively 49:9 85:10	admin 118:23,24
73 86:18	accounting 15:6 16:3 20:21 25:15 31:21,25 46:4 50:13,15 53:1 74:16 79:9 86:1 90:2,3,16 93:24 107:2 111:4 113:21,25 114:2, 3,7,15,23 115:1,2, 4,9,11,22 116:3 117:1,3 119:14 142:12 143:3,4,6, 9 144:4 146:24	activities 9:7,24 12:2 13:1 14:9,18, 23,24 16:21,23 43:8 44:15 46:8 52:12 80:22 81:2, 17,18 82:19 84:17,23 85:1,12, 16,22 86:8,19 87:12 89:1,13 90:19 93:21 96:17,23 109:12 111:8,10,13,18 112:5,7,15,16 113:2,14 116:15 124:16 131:4 134:1 137:2,3,5, 10,11 152:8	administrative 5:11,12 16:7 20:8 46:6,23 54:18,25 57:3,12 58:5 104:10,18 119:10, 24 120:13,19 142:4
<hr/> 79-page 54:8,13	accountings 79:3	activity 7:6 13:23 46:1 62:20 78:23 80:17 82:7 84:9, 14,21 85:4 89:5, 17 109:19 110:3, 12,17 111:1 152:4	admissibility 7:11,18
<hr/> 8 <hr/>	accounts 25:14, 18 58:1	actor 64:6	admittedly 150:18
8 4:12 16:17 59:13 86:20 89:19	accurate 35:13, 15 107:12		adopt 25:13
800-pound 140:3	accurately 15:6		adopted 51:4 74:18 75:17
84 56:18,25			adopting 76:16
8700 148:23			advantage 130:1
89 141:23			adversely 101:24
<hr/> 9 <hr/>			
9 84:21			
9,000 21:19			
90 89:10,20 138:6			
92 4:14			

- advisory** 134:24
- affect** 32:20
- affected** 101:24
- affectionately**
26:7
- affiliate** 72:23
- affiliated** 37:20
42:10
- affiliates** 2:8 5:6
33:22,24 34:2
93:18 94:1 101:2,
7
- affirm** 19:17
- affirmatively**
94:19
- affordable**
127:12
- afternoon** 8:19
129:2
- agencies** 31:14
- agency** 48:12
79:7 126:12
130:14
- agendas** 49:10
- aggregate** 95:2
120:3
- aggressive** 147:5
- agree** 63:10 87:1
90:6
- agreed** 135:6
- agreement** 26:19,
20 34:11
- agrees** 120:24
- ahead** 27:22
35:16 91:20
- ALJ** 3:4 5:5,22
6:7,14,22 7:15,23
8:9,13 19:12
32:10 33:5 34:14,
20 35:1 36:7,11
37:22 38:13,16,25
39:9,11,12 42:14,
18 64:19,24 67:2,
6,16 68:8,20
70:13,15,18,19
71:2,9 72:12,25
73:7,15,18,22
74:1,5 91:9,14,15,
18 92:4,9,16
95:14 106:5,9
116:19,23 117:9,
12 118:18,19,22
120:24 121:15,17
123:4,14,18
125:12,13,17
140:11 147:14,19
148:3 149:5 150:5
151:6,7,11,12,19
152:17
- allegations**
110:21 111:3
112:14 113:22
114:22
- allocate** 58:25
- allocated** 52:1
57:11,13
- allocating** 11:17
- allocation** 7:3
79:1 109:17,22
- allowed** 24:11
27:2,5 74:16
79:10 117:25
121:9,12 127:22,
25
- alluded** 28:25
- alternative** 74:14
79:1,4,16 81:24
95:21 109:15
110:4 113:18,19,
20 114:24,25
116:16
- ameliorate** 79:17
- America** 41:4
- amount** 22:6 78:2
80:18,23 84:9
137:7
- amounts** 22:17
61:22
- ample** 108:21
- analogize** 98:2
- analysis** 18:21
55:18,19,23 82:5
84:2 86:25 87:1,4,
7,16 146:21
- animal** 75:15
- annual** 25:7,24
26:2 27:7,8,13
35:8,14 36:1
38:11 42:1 62:1
101:22 102:19
122:24
- answerable** 52:6
64:7
- answering** 73:8
- anyplace** 90:13
- Apologies** 144:7
- apologize** 40:14
148:17 152:13
- apparent** 100:6
- appeal** 2:6 5:5,11
10:8,14 21:3,6
22:2,11 24:19
41:1 93:14,25
94:5,20 97:17
101:1 102:8,22
106:14,17 109:5
117:2,8 132:22
- appeals** 2:2,16
41:7 105:3 117:7
- APPEARANCES**
3:1
- appeared** 112:23
117:23 118:8
- appearing** 6:17
- Appellant** 2:9 3:9
5:15,17,20 6:2,6,
24 7:2,10,15 8:16
9:10,17 20:7,12
39:19 42:22 86:23
94:3 95:6 97:13,
15,17 98:10 99:7,
22 100:4,22,24
101:13,19 102:16,
23 103:3,6,8,11
104:8 105:1,3,11,
23 107:11 108:6,
24 109:6,9,13
111:5,8,11,14,16,
19,20,21 112:1,2,
8 113:16 114:22
115:3 116:6,13
118:23 120:4,17
122:11 123:19
125:21 126:2
140:23 147:20
151:14
- appellant's** 4:5
7:6,21 9:24 10:14
18:7 78:11 93:20,
21,23 94:8 98:2,
22 99:8,13 100:8,
10,12,14 101:5,
16,22 102:11,20
104:24 107:5
109:5,8 111:3,18
112:4,5,9,14,17,
19,24 113:1,7,14,
19,20,23 114:25
115:16,22 116:3,
9,15,16 120:20
121:21 123:6
145:17
- Appellants** 103:7
137:23
- APPELLANTS'**
4:17
- appellate** 15:10
139:7,15
- apples** 133:9
- apples-to-apples**
85:6
- application** 16:13
78:21 80:15,21
81:7 82:11 131:16
- applies** 110:6
117:15 137:15
- apply** 13:2 17:12,
15 45:20 47:2
82:17 89:19 102:2
- Applying** 89:2

apportion 13:15 16:11,12 87:11 113:10	arise 114:13 115:19	assume 10:24 68:17 136:2 137:13 145:22 149:10	authority 17:24 45:15 49:15 63:20 66:5 69:21 77:24 78:16 125:4 134:16 135:7,13 139:24
apportioned 77:3	arises 96:13	assumes 14:10, 12	authorize 110:19
apportioning 13:2 133:7	Arizona 15:24 16:12,24 17:5,8	assumption 79:20	authors 16:5,15 17:6,8,11
apportionment 7:3 12:5 13:4,8,9, 21,24 14:8,15,16 74:12,14 78:1 79:2,20,21,23 80:3 81:24 84:8, 25 86:4 87:10,14, 22 88:13 89:9,10, 12,18 90:20 91:4 109:17,22,25 110:7,9,11,18,21, 24,25 111:9,12,17 113:13 114:24 133:19 144:15	arm's 106:16 107:10,12,13,14, 20,24 108:14	assumptions 129:21 135:24	automatically 38:23 135:21
approach 10:1 63:2 110:20	article 15:14 17:6, 22 128:12,15,19, 21 130:2	attached 27:10	automotive 45:24
approval 28:11 46:3	articles 15:21	attempt 98:2 100:14 102:11	autonomous 104:13 106:1
approve 131:19	articulated 10:11 82:5	attempting 109:24	autonomously 147:24
approved 26:5,19 29:3 59:2	Asaf 3:4	attempts 100:8 101:5 102:16 103:11 104:8 115:17	avenues 28:14
approximately 5:8 20:18 21:7 40:23 100:1	ascertain 95:24	Attorney 8:16 20:12 35:6 39:19 42:22 76:8 92:21 125:21	average 60:5 84:20 85:10,11,22 87:19 88:5 89:10 144:25 146:3
approximation 110:1,23	asks 14:13	attributable 16:22 80:18,23 85:4,13 88:16	avoid 38:3 52:10
arbitrarily 75:5	aspect 30:24 48:16 49:21 64:8 65:14 67:13	attribute 78:2 85:22 144:13 146:4	avoiding 42:2
arbitrary 78:22	aspects 67:13	attributed 14:19 84:9,17 85:10 114:2	aware 25:13 69:20 70:24
area 15:17 60:11	assert 74:11	attribution 81:14	awful 60:15
areas 30:5 59:24 100:24	asserted 56:10 83:12 111:9	audit 30:10 133:9	
argued 97:18	asserting 103:13 104:9 150:9	auditing 107:3	B
arguing 63:6	assertion 113:7	audits 27:21	Babcock 93:3,7, 12 128:11,14,19, 22 129:4,6,7,12
argument 43:4 63:18 99:20	assertions 10:5 112:9,18	auspices 124:17 125:3	back 11:20 22:7 27:22 31:2,4 40:25 57:2,12,16 74:24 81:20 90:15 91:2 140:5 145:15 147:12
arguments 94:8 99:9	asserts 107:11 111:16	author 134:16	back-office 142:4
	assessment 11:11,16,24 12:4	authorities 12:8 13:7 15:2 46:12, 14 51:7 82:25 97:11	background 20:15 27:24 126:14 129:24 138:17
	asset 22:8 28:9,12 72:19 144:13,23, 25		
	assets 22:7,18 23:20,21 25:17 37:11 51:9,12 59:14 68:13 83:20 132:2 133:16		
	assigned 84:21		

bad 31:12	behalf 5:17,19 6:2 8:16 20:7,12 39:19 42:22	bingo 44:7	Bores's 120:14, 21
bait 76:24		bit 20:15 21:2,23 23:5,6,17 24:25 26:13 33:10 36:14 43:19 51:21,23 59:7 68:9 77:9 81:3 128:14,18 135:15	born 11:11 127:2
balance 25:8,17 27:3,10 29:19 98:10	belittle 127:21 136:18		boundaries 12:12,15 50:17 52:11
Bank 102:8 140:22	belonged 122:13		boundary 24:6 50:12 52:20
banking 65:3,5,6 102:7	belongs 122:9	blanked 31:9	box 3:16 69:2
banks 66:4 74:23	benchmark 25:22	blessed 43:13	boxes 18:17,20, 22 19:2
Barclays 43:14	benchmarking 25:21	board 3:15 6:16, 19,21 7:8 23:12 28:25 29:1 46:15, 23 48:15 55:13 61:2 65:13 92:23 97:22 101:1 109:20 122:7,25 132:21 136:3 139:16 151:21,22, 23 152:7	branched 36:16
bargaining 107:14	beneficial 102:25		Brannan 3:10 4:12,13,24 5:16 6:1,5 7:25 8:2,11, 16 19:23 20:12 21:9 32:5 35:15 38:15,17,18 39:5, 7,8,13,15,19 42:12,15,17,19,22 64:24 65:8 67:5, 12,18 68:3,5,21 70:23 71:7,25 72:18 73:12,13, 17,20,24 74:4,6 92:1,2 124:1 125:14,16,21 128:10 129:20 131:11,21 140:12, 13,16 148:1,4 149:9 150:10 151:18 152:1 153:2
base 29:11 118:10 127:24	benefit 28:10 50:25 57:15 59:23,24 103:3 118:3,16	bodies 66:16	
based 46:24 69:7 78:4 107:17 111:3 133:25 145:15 149:10 152:21	benefited 92:25 93:19 104:6 108:5,13 113:3 117:24	bold 40:14	
basic 93:5	benefits 93:12 98:8 134:9,15 135:7 149:14	book 133:11	
basically 42:23 49:21 50:6 54:18 57:4 65:21 67:11 71:13 90:13 122:6,14	benefitted 94:7	booked 149:13	
basis 8:20 11:5 27:7 82:24 113:11 139:18	betcha 83:15	border 52:21	
battery 41:6	bias 108:7 113:5	borders 13:19 114:5	
Beach 73:5	big 22:25 24:7 26:24 38:10 56:11,12 59:22 60:9 62:17 149:16 150:6	Bores 4:18 5:21 6:8,11 19:6,13,24 20:3,6,13,16 21:1, 22 32:7,9,21 33:13 35:16 36:9, 22 38:1,19 39:16, 24 42:13 48:15 50:22 51:8 53:15, 23 54:4 58:8 59:8 61:24 65:11 67:15,19 68:6,16 69:7 70:23,25 72:4,6 73:4 84:1 104:16,19 117:19 122:4 124:18 125:23 126:10,17 128:10,17 131:2, 5,14 152:2	
bear 120:8	bigger 37:18		Brass 104:14
bearing 32:23 102:10	biggest 52:5		bread 126:20
beat 53:7	bill 23:23 41:16 62:15,16		break 26:12 34:22 71:8 73:10,25 74:2 91:22,24
Beaupre 6:2,4	billed 141:25		break-even 145:24
begin 7:25 8:13 19:21 36:6 92:14, 16 125:18	billion 21:7,19 31:8 59:14		breaks 55:12
beginning 5:14 36:9 43:3,5 84:4	billion-dollar 145:1		briefing 7:9 13:17 17:17 71:21 72:14
begun 38:18	Billions 56:12	Bores' 42:25 136:7	briefly 36:19
	bills 41:21		briefs 45:18 51:23

54:6,11 62:25
63:2,7,16 126:8
130:13,19 132:6
134:2 148:20
bring 27:19 28:10
83:8 127:5
bringing 133:5,10
brings 9:22
briskly 84:5
broken 152:12
brother-sister
68:11
Brothers 11:19
15:8 115:7
budgeting 20:22
30:6
build 22:14 23:18
30:16 41:17,18
building 81:10,
12,15 127:15
138:3 148:19
Built 128:19
built-in 39:22
burden 10:8
94:17,18 95:6
97:16 108:24
109:25 111:11,15
116:7 137:23,25
138:4,5
burn 127:10
burning 41:3
business 6:25
7:3,6 9:13,16,19,
24 10:17 11:14
12:1,20 13:1,3,15,
23 14:6,11,13,22
15:3,4 16:11,12
17:13 18:9,10,14,
21,24 19:1 21:11
23:2,13,19 26:17
27:6 28:18,25
30:25 32:16,18
33:3,8,9,15,16
34:12 35:19,21
37:3,6,8,9,16,17,

24 38:4,9 40:2,3,
4,16 41:5,17,22
42:8 43:10 44:1,
14,20,23 45:23
46:16,21 47:6,12,
15,23 48:2,13,14,
16 49:16,18,22
50:7,16,18 51:3,5,
10,12,14 52:5,7,
24,25 53:2,6,9,25
54:24 55:7 56:6,7,
9 57:8,18 58:13,
18 59:5,6,25 60:7,
13 61:10,12,14,23
62:7,21,25 63:3,9,
25 64:4,9,10,11,
13,25 65:2,14,23,
24 66:18,22 68:2,
13,14 69:4,17,19
74:13 77:25 78:5,
7,8,23 79:24
80:12 82:7,9,12,
18 83:1,5,6,14,21
84:17,21 85:1,12,
15,21,25 86:2,4,7
87:17 88:1,4,16
90:6,9,13,18
93:23 94:10,11
95:20 96:12,14,
15,18,23 97:2,9,
12,19,24 98:2,6,
12,13,22 99:5
100:11 101:12,23,
25 102:11 103:16,
17 106:3,22
108:18,19,23
109:12,19 110:3,
17,24 111:1,8
113:2 114:1,5,11,
13 116:9,15
117:13,17 118:15,
16 119:7,8,13,23
120:1 121:4,8,12
126:23,25 127:2,
3,6,7,11,14,19
128:3,4 129:14
130:16,20 131:7,
10,18 132:1,16
133:18 135:16,18,
21,25 136:11,17
145:1,20 146:11,
23 149:4,20,25

business's 59:19
business-related
97:3
businesses 9:11,
14,21 12:9,22
17:5 21:10 32:19,
22 33:12 42:5,8
44:12,25 45:4,7,
13,25 46:1,5,18,
19,24 47:1,5,8,10,
16 50:10 51:20,24
52:4,18 55:4,14
56:20,23 57:25
59:13 61:18 63:1,
8,10,13,19,22
64:12 69:5,6 70:2
74:9,11 76:12
79:18 83:4,13
84:1 90:4 93:18
96:13 97:6,22
105:20 112:13
117:5,16,24 119:8
120:18 126:18
136:6 145:8,13
146:13 151:1,4,25

businesses'
57:12

Butler 11:19 15:8
115:7

butter 126:20

buy 24:13 40:6

buyers 9:13

buying 34:1 37:11

buzz 44:6

C

Cal 22:23

California 2:1,17,
22 3:15,16 5:1,9
7:6 9:2,9,18,25
11:23 13:14,17
14:17,18 15:8,17,
23 16:5,11,13,24
17:5 18:20 22:22
43:6 66:17,19
70:21 74:21,25

76:6 78:2 79:14
81:15 86:8 93:19,
21 96:16 101:1
109:12 110:4
111:8,10,14,18,
20,22,25 112:3,4,
5,7,15 113:10
116:15 137:10
146:2,11 147:1,25

California's

110:7 111:9,12,17
113:13

call 9:5 18:17 22:4
24:5 25:14 26:6
27:7 28:12 38:2
39:21 41:2 58:14
72:20 126:19
139:14

called 20:7 27:16
33:21 139:7

Canadian 44:19

candidly 55:20,25

cap 21:6

capital 2:7 5:6
15:25 27:4 30:1,5
83:18 131:17

capitalize 37:14

capitalized 41:11

captures 114:17
115:24

car 55:8

care 58:19 66:13
78:17,18 137:14
141:10

career 20:19

cares 79:14

carried 11:13
16:23 134:19

carry 97:16 100:9

case 2:7 5:6 8:21,
25 9:17 10:5,12,
13 11:20 12:6,8
13:6,19 14:12
19:8 26:3 28:3

- 29:15 30:7,10,15,
17 31:5,7,11 33:4
43:18 44:17 45:3,
20,22 46:12,13
47:3,7 48:9 50:12
52:16 54:1,7 56:1
63:20 65:16,20
69:11 70:1,6,12
76:11,23 78:16,
18,19 79:14 80:15
89:2,17,21 90:1
91:6 103:24
106:15 107:5
114:21 117:7
118:2 119:6
120:23 130:4
132:21 133:17
134:15,20,21,25
135:7 137:23
138:18 139:6,10
140:22,23 141:2,
3,5,7,8,10,12,19,
22 142:21,25
144:16,19,21
146:15 147:25
148:8 152:21,24
- cases** 11:2 18:3
53:11 70:9 79:11
86:10 87:5 89:14
134:1,6 138:18
140:17 141:14
146:18
- cash** 56:19 63:13
- Castle** 47:4,7
117:13
- cautious** 152:5
- central** 110:13
- centralization**
114:9 115:12
- centralized** 43:20
45:1 46:1,22
143:9
- CEO** 32:25 35:9
51:18 98:18 131:8
- Certified** 2:21
- cetera** 30:2,6
120:10 144:14
- chairman** 35:9
98:18
- challenges** 11:3
- change** 29:11
35:10,24 51:6
54:4 56:6 89:12
97:11 98:18
- changed** 150:8
- changing** 51:3,5
- characteristic**
98:12,13
- characterize**
67:20 114:11
- characterized**
93:16
- characterizing**
115:17
- charge** 80:10
- charged** 33:1
108:9,12
- chart** 18:5,17,25
25:14 58:1 85:2
87:25 122:15
- charts** 84:4
142:23
- chase** 75:9
104:14
- cheaper** 108:17
- check** 36:2,8
- chief** 75:23,24
76:18 77:7
- choice** 22:9
- chuckling** 128:17
- circumstances**
44:2,13 69:13
91:6 96:24
- citation** 65:18
- cited** 15:17 17:22
81:8 128:15
130:21 134:1,6
147:12
- cites** 97:17 141:14
- citrus** 37:1
- city** 60:9
- claim** 150:9
- claimed** 99:16
- claims** 8:5 103:7
140:24
- clarification** 8:3
- clarify** 6:11 40:16
150:15
- clarifying** 70:20
- Classification**
71:5
- clause** 27:13,17
28:16
- clauses** 13:5
- clean** 40:17,22
41:2,3 61:25 62:2
98:15,17,23,25
99:1,3,6,23,24
100:5,7 127:9,12
- cleanest** 100:3
- clear** 50:12 56:23
92:23,24 109:25
111:11 137:15
- climates** 63:20
- close** 104:21
- closed** 152:25
- closely** 15:25
- closer** 89:21
95:16
- CLOSING** 4:22
125:20
- cloud** 128:25
129:2
- co-counsel** 6:20
34:19,23
- Coachmen**
102:22 141:15,20
- coal** 46:21 97:18,
21,23 98:3
- coauthors** 15:19
- code** 7:4 13:20
71:5,6 94:4 109:7,
10,14,16 110:6,
13,18 111:6
113:17 116:12
- coincide** 50:17
54:1
- coincidence** 54:3
- collect** 23:23
- colors** 119:6
- combination**
95:23 109:11
111:7 116:14
- combine** 45:22
90:21,22,23,24
91:4 121:7
- combined** 47:10,
12 65:4 74:22
75:6 87:18 89:9
113:11 132:15
- commencing**
2:17
- comment** 144:9
150:13
- commentary**
126:5
- commentators**
96:4
- comments** 64:17
126:15 144:8
- commerce** 13:5
65:15 71:6
- commercial** 9:13
- commission** 9:5,
6 21:17 23:11
24:5,12,25 25:3
26:2,11,23 27:8,
12,25 28:1,7,11,
15,18,22 29:21
30:9,22 31:2,4
33:14,20 39:25
42:3 47:14,17,25
48:4,8 49:3,12
50:7 52:6 55:20,

- 22 56:1,8 57:24
58:18 62:14 64:5
65:10,12 66:11
82:14 124:12,15,
22 139:25 143:14,
19 149:3
- commissioners**
72:9
- commissions**
25:12,23
- commitment**
61:25 62:2
- common** 16:7,18,
19 68:14,15,25
102:24 106:24
147:21 148:16
- communication**
107:1
- communities**
93:4
- community** 93:3
128:19
- companies** 90:17
96:15 97:1,19
102:5 103:16,17
124:10
- company** 6:10,24
7:2 35:11 36:21
37:23 62:6 65:21,
22 67:3,20,22,25
69:14,22 98:20
103:14 117:20,25
118:5 132:13
138:21 152:3
- company's**
86:18,20,21
- comparability**
25:20
- comparable**
85:3,9
- compare** 86:3
87:8 88:14,17
122:15
- compared** 27:5
89:11
- comparison** 14:7
31:21 83:5 85:6
87:20,21 110:8,15
- comparisons**
83:12
- compel** 89:16
95:4,9 109:1
- compete** 34:13
128:6
- competitive**
32:17 33:9
- complement**
63:3
- complementary**
63:12
- complete** 44:20
124:7
- completely** 37:9
97:21 119:7
- complexity** 11:25
- compliance**
54:22
- components**
108:23 114:19
116:1
- compound** 9:17
- comprehensive**
48:24
- comprised** 21:9
94:1
- compute** 133:8
- conceivable**
131:23
- concept** 8:22
75:5 121:4,6
145:20 146:16
- concern** 45:11
81:6
- concerned** 84:6
145:7
- concerns** 8:7,10
82:16 143:24
- conclude** 16:15
65:24
- concluded** 44:22
46:5 79:16 80:20
- concludes**
152:19,25
- concluding** 2:18
131:25
- conclusion** 17:9
95:4,9 108:21
109:2 112:5 116:5
153:4
- conclusory** 10:4
- concrete** 14:24
- condition** 101:23
- conditions** 30:1
- conducted** 14:22
17:7 18:11 64:10,
11 82:8 90:4
- conducting**
12:22 63:22
- conducts** 12:19
18:14
- confer** 34:18,22
- conference** 7:16
8:4
- confirm** 70:23
72:16 121:25
151:19
- confirmation** 6:8
- confirming**
121:18
- confuse** 38:7
- confusion** 38:4
42:2
- congress** 76:25
77:1
- connection** 9:24
14:17 133:24
144:3 149:4
- connections**
95:3,8 100:9
- 101:6,14 108:25
- conservatism**
133:1
- considerable**
100:22 107:6
- consideration**
17:10 70:12 77:19
82:17 96:19
141:19
- considerations**
13:21 77:16 82:2,
13 83:7 142:18
146:25
- considered** 11:5
15:16 44:18 81:25
88:23 96:17
- consistency**
86:13
- consistent** 15:2
96:3
- consistently**
98:16
- constant** 80:2
- constantly** 31:4
- constituents**
66:12 125:5 140:6
- constitute** 13:1
- constitutional**
43:12 75:4 76:9
138:18
- constitutionally**
106:2
- constraints**
47:23 66:1 80:8
125:7 140:25
- constructed**
151:4
- construction**
107:1
- consultants** 72:8
- consumed** 22:6
- consumer** 21:18
23:19,23 24:20

- 27:1 28:20 33:2,
18 34:5,9 37:2
38:7 41:13,16,21,
22 42:11
- consumers**
23:15 24:21 39:23
45:12 47:18 50:1
62:19
- contained** 35:14
102:20
- Container** 15:9
104:11 105:21
115:21 138:24
139:2,3 141:17
144:9
- content** 18:23
- contested** 135:4
- contesting** 94:25
- context** 71:16
133:6
- continually**
144:10
- continue** 19:8
28:13 39:13 130:3
- continued** 126:23
- continues** 92:6
- continuing** 12:24
16:17 18:1 80:13
- contract** 50:3
- contracts** 128:7
- contrary** 112:9,
15,18 123:13
- contrast** 97:25
101:13
- contribute** 96:20
137:10
- contributed**
16:25 94:7 96:7
98:14 108:22
112:10,16
- contribution**
43:11,16 93:17
94:11 95:22 96:3,
- 5,8,9 98:7 99:4,20
104:7 105:19
107:6 108:2 116:6
136:22 137:1
138:15
- contributions**
114:8 115:11
- contriving** 146:6
- control** 44:21
49:4 64:8 72:1
- controlling** 94:22
- controls** 16:1
- convenient** 52:20
- conversation**
140:1
- convincing** 57:23
110:1 111:12
- copper** 15:24
16:1,2,6,12 17:8
- Cordova** 3:16
- core** 37:3 129:15
- Corp** 15:9 79:16
138:24
- corporate** 18:7,
18 46:3,7 54:21,
22 71:10 77:14,17
106:25
- corporation**
12:10 77:16
104:11 105:21
106:17 115:21
141:16,24
- corporation's**
11:14
- corporations**
74:24 76:7,9
102:6
- correct** 72:18
94:24 121:2
150:22
- cost** 27:4,20 29:25
30:5 34:3,7 39:21
40:8 50:24 52:2
57:13 58:11 59:1,
- 8,9 107:16,17
108:1,10,12
149:13
- costs** 27:15 28:4,
5,8 58:25 72:22
118:23
- Cotrin** 106:14
- cotton** 15:22,25
16:2,6,11,21,25
17:7
- couches** 145:2
- council** 49:8
- counsel** 3:17,18
26:24 30:12
75:23,24 76:18
77:7 143:19
- count** 104:15
- countries** 101:4
- country** 21:25
101:13 147:8
- counts** 111:19
- COUNTY** 2:3
- couple** 13:6 28:2
39:15 52:21 70:20
71:9 75:16 86:22
122:11 125:22,23
126:11 131:21
132:11 134:6
135:15 137:21
140:10,17 144:8
148:1 150:14
151:13
- court** 15:10 19:11,
21 39:6 43:13
44:17,22 46:5
65:19 79:14 80:20
81:7,11,16,25
83:23 84:15
88:20,22 91:19
95:18 104:11
105:21 106:1
115:7 119:21
132:21 139:7,12,
15 140:13 143:4
147:25
- courts** 15:18 87:2,
3,8 113:23 115:2
- cover** 42:24 49:5
58:5 128:25 129:2
147:11
- covered** 42:25
- covers** 48:20
- Cox** 3:11 5:19
- Crawford** 75:23
- crawls** 144:1
- create** 126:24
- created** 38:4
96:25 114:5 135:9
- creates** 58:12
- creating** 12:3
18:24 132:12
139:17 146:6
- creation** 126:13
- creature** 53:17,18
77:14
- credible** 136:9
- credit** 31:13 61:7,
11 121:24
- credited** 17:1
- credits** 22:12
99:16,17 133:22,
23 134:4 135:11
- critical** 19:2 46:12
136:23
- criticized** 113:23
- CROSS** 4:17
- CROSS-
EXAMINATION**
35:5
- crummy** 126:9
- CSR** 2:20
- culminate** 30:21
- current** 23:5
117:8
- customer** 22:22,

23:25 31:18 40:10 45:8 72:21 127:8 128:1	142:24 152:21	denied 109:6,9 113:22	10:6,12 14:1,5 19:3 94:23 95:1, 11 96:10
customers 20:25 21:20 22:19 24:10 28:10 29:8 50:9 52:23 64:1 83:17 97:10 101:11 108:6 128:8 129:18	decided 74:25 94:21	denigrate 101:6	determine 80:9 81:22 84:8 132:14
cutting 95:18	decision 15:9 37:22 43:14 127:11 134:3,4, 10,11,20,21,23 135:4,5 139:15 141:18 142:25 152:23	department 71:5 80:25 119:18	determined 12:25 33:17 94:24 107:13 148:7
cynical 69:24	decisionmaking 139:24	departure 63:6	determines 24:12 74:10
<hr/> D <hr/>	decisions 49:16 131:7 139:18	depend 137:10	detriment 108:13
data 25:23 57:25 132:5	dedicated 51:9, 13	depended 96:7 112:10,16	devastated 93:5
day 21:17 23:16 28:20 29:4,23 31:12,15 33:19 34:10 51:16,24,25 61:1 65:19 87:9 91:1 141:9 146:21 152:15	deference 51:7	dependency 43:11,16 93:14,17 94:12 95:22 96:3, 5,8,9 98:7 99:5,21 104:7 105:20 107:7 108:2 116:6 136:22 137:1 138:15	developed 12:1
days 75:22 152:24	degree 89:3	dependent 96:20	developers 128:5
dead 141:6	Delaware 67:21	depending 128:7	developing 37:12
deal 16:9 31:23 34:9 40:5 58:10 59:22 72:8 76:20 86:10 108:14 124:19	deliberate 60:13	depreciation 133:16	deviation 110:19
dealing 53:17 54:4 72:7	deliberately 40:15 132:8,10	depth 10:2	deviations 110:23
deals 136:12	Delinda 3:18 6:20	Derick 3:10 5:16	device 11:17
dealt 135:9,11	deliver 23:22	derived 17:2	difference 9:1 40:17 46:13 50:22 52:5 65:8,20 88:6, 23 89:3 100:25 103:24 123:23 124:3
deans 15:16	delivered 22:17	describe 14:25 21:22 28:22	differences 17:5 40:18 97:10 103:25 124:2
death 53:8	delivering 129:16	description 50:15,16 69:7 113:1 124:13	differentiators 83:23
debt 30:1 49:5 131:17	demand 41:9	design 93:9	differing 110:9
decade 35:12,25 98:20,25	demanded 47:14	designed 79:17 93:8	difficult 120:5
decarbonize 21:13	demonstrably 112:18 113:8	destruction 93:1	digression 137:20
decide 83:11	demonstrate 43:25 100:20 110:10	detail 26:13 142:24 145:11	dilemma 12:17
	demonstrated 12:19 109:11 111:7 129:23	detailed 25:9,15 26:22 27:11,21 32:1 148:8	diligently 150:24
	demonstrates 104:6 108:14 112:13 113:6	details 44:10 81:5 117:22 130:5 142:22 143:15	diminish 54:23 69:16 105:5
	demonstrating 108:25	determination	direct 4:17 20:11 30:19 150:11
			direction 56:7

directly 100:11
director 6:4,5
directors 23:12
 29:1 44:21 48:16
 55:24 65:13 94:13
 102:14,16,18,21,
 24 103:19,21
 104:1 105:5
 108:20 116:10
 139:16 151:21,22,
 23 152:7
directors' 61:2
disagree 139:1,
 11
disconnect 86:5
discount 102:17
 103:8
discounted
 120:20
discourages
 40:4
discovery 30:8
discrete 37:11
 71:15,23
discuss 36:18
 109:4
discussed 42:1
 86:16 112:11,20
 114:21 115:16,21
 122:24
discussion
 18:12,18 52:9
 55:10 57:1 62:24
 66:14 69:1 73:13
 75:2,10,20 83:9,
 25 90:5 96:2
 133:10 134:18
 135:20 139:4
 141:2,6 143:12
 146:20 149:2
 151:15,20 152:6
discussions
 149:1
disincentive
 58:12 105:12,14

disparate 88:22
 90:24
disparity 146:13
disposal 137:7
disprove 101:17
dispute 123:11
 126:3,4 137:3
disrespect 54:20
 152:5
distinct 9:10 15:4
 97:22 101:10
distinction 47:4
 100:24
distinguish
 35:22 47:5 100:14
distinguishing
 44:13
distort 81:13
distortion 10:17
 14:4,10 17:12
 64:15 73:14 74:7
 75:20 76:20 77:4,
 5,9,10 79:15
 81:17,23 87:1
 88:21 89:5,15,25
 90:8 91:7 111:3
 142:11,17 144:6,
 11 147:11
distortive 84:16
 89:17,23 110:15
distribution
 23:21,22 51:9
 65:21 74:20 83:20
 98:1 129:17
disturbing 46:10
diversification
 33:21 98:10
 148:12
diversified 63:3,8
diversity 58:2
divested 71:17,22
 72:15
divide 40:10

88:11
dividend 56:24
 68:2
dividends 56:19
 70:10 133:25
Division 3:16
docket 28:3
document 25:16
 29:24,25 36:3
documentations
 152:22
documents
 29:17,24
dollar 29:4,9 57:5
 58:3 146:1
dollars 29:7 31:8
 105:14 106:20
 111:22,23
dominant 102:21
donkeys 36:25
doubt 57:15 66:17
doubts 144:12,17
downgraded
 31:13
downplay 104:8
dramatic 89:21
dramatically
 63:19
draw 31:21 52:17
 85:6 148:11
dreams 143:16
drive 41:9 55:8
driven 8:24,25
 82:12,15,17
drivers 107:18
drives 152:6
drove 150:22
due 13:4 16:6
Duke 24:8

dumping 45:9
dust 145:5

E

e.g. 123:8
earlier 23:9 41:14
 45:14 53:11 58:9
 112:12,21 114:21
 115:10
early 28:9 72:1
 127:3
earn 14:7 31:9
 138:20
earned 9:3 12:11
 13:18 81:9 87:13
 146:25
earning 13:10
 26:15
easiest 150:12
easily 143:24
easy 52:8
echos 13:20
economic 20:22
 30:1 62:13 64:3
 93:16 95:5,10
 109:2 127:8
economical 22:8
 51:2
economics 41:8
 51:5 62:22 69:10
economies 97:4
 107:25 108:1
 114:10 115:13
 142:6 143:8
 149:11,14
Edison 15:8
 18:19,23 22:23
effectuate 109:21
efficiencies
 100:11
effort 33:11

- efforts** 33:7
- electric** 21:5
22:24 24:9 25:5
- electrical** 23:25
93:9
- electricity** 23:14
37:2 41:19 52:22
53:9 93:6 97:13
98:1 99:23,24
100:6,20 112:2
123:10 129:16
- electrons** 23:22
- eluded** 23:9
- emblematic**
93:12
- embrace** 10:8
- emissions**
127:13
- emphasis** 62:21
98:17 100:22
101:19
- emphasize** 99:8
- emphasized**
98:8,18
- emphasizes**
99:22 100:24
105:11 117:20
- employ** 109:24
- employed** 11:17
20:18
- employees** 21:8,
19 51:17 52:3
60:4,5,6,7 83:21
94:14 99:11
102:14 105:7
112:22 145:9
148:24 151:16
- employer** 23:6
- employers** 60:10
- employment**
109:21
- Empty** 10:5
- enacted** 74:21
- encourage** 10:9
19:25
- end** 21:17 23:15,
18,23 24:20,21
28:19,20 29:3,23
33:19 34:9 36:13
37:2 41:13,16
42:3,11 44:20
51:16,23,25 53:10
61:1 62:24 63:2
65:19 82:20 85:12
87:9 88:7 91:1
139:3,4 141:8
146:21
- energy** 2:7 5:6,18,
21 6:13 18:13
21:2,4,10,23 22:2,
14 24:9 25:2
32:17,24 33:9,15,
23 34:12 37:6
38:3 40:17,19
41:5 46:22 47:25
50:21,25 53:6
61:25 62:2 63:24
64:1 67:3,20,24
93:13 96:15 97:9
98:15,17,23,25
99:1,3,6,23,25
100:5,7,18 102:5
103:15,17 126:2,
13 127:2,9 128:4
129:14 151:24
- engaged** 6:24 7:2
9:10 46:22 94:9
96:11,14,22 97:20
- engineering**
107:1
- ensure** 22:16
24:17 33:18 34:3,
8 40:11
- ensuring** 28:18
29:6 31:17
- enter** 128:7
- entered** 7:12,19
26:20
- enterprise** 14:20
93:16 95:5,10
105:22 109:2
114:20 116:2
- entire** 11:9 63:7
134:23
- entities** 65:5 67:9
68:11 117:21
118:1,3,6 119:17
122:8,12,15
130:19 134:8
151:16
- entitled** 94:3
109:10,13 111:5
113:16
- entity** 18:19,24
36:18 77:23
119:24 122:5,7,8
134:2
- environmental**
27:15 30:13 107:3
- environmentally**
100:3
- equal** 66:10
- Equalization**
46:15 97:23 101:2
132:22
- equation** 149:24
- equipment** 45:25
83:19
- equitable** 109:22
110:8
- equity** 27:5 30:2
68:1 127:22
- equity-issuer**
67:23
- equivalent**
133:25
- era** 93:22
- erased** 79:8
- erroneous** 94:8
111:19 112:20
113:8
- Esquivel-
parkinson** 2:20
- essentially** 20:23
21:11 23:13 25:8
31:9 33:21 43:13
76:3 119:17
- establish** 28:12
44:14 94:19
- established**
26:25 33:25 95:21
109:7
- establishes**
94:14 102:14
- estimate** 80:18
- estimation**
104:15
- events** 92:23,24
- everybody's**
124:22
- everything's**
55:21
- evidence** 7:14,22
19:14 57:21 61:3,
4 68:25 81:6
94:20 95:2,7
96:18 104:21
107:6 108:1,3,21
110:1 111:12
123:13 137:21,25
138:2
- evidenced**
102:19 116:8
- evidences**
121:22
- evidentiary** 7:7,8
- evolution** 35:11,
25 37:16 98:15,
19,25
- evolved** 11:1
- exact** 127:20
- EXAMINATION**
20:11 39:18
- examined** 20:9
- examples** 12:8
61:21 63:21
130:8,21,24

excellent 117:19
118:12
exchange 68:1
103:1
exclude 74:25
75:5,11 76:6,9
excluded 74:22,
23
excluding 89:13
exclusively
15:23 48:3 66:24
excuse 32:8 58:4
80:5 135:10
136:10
executive 38:2
54:14,20 55:6
105:4 148:13,14
executives 51:22
101:8,9 103:4,22
104:4,5 139:22
exercise 53:1
88:10,15
Exhibit 4:5,6 7:13
75:21 78:10
102:20 145:17
exhibited 113:4
exhibits 4:6 7:9,
10,11,12,13,15,
17,19,21,23 61:3
exist 43:21 46:8
95:5,10 105:22
109:3 132:13
138:9 139:10
existed 72:11,23
108:7
existence 14:10
43:25 95:20
101:17 105:19
existing 97:3
117:17 118:4
exists 94:25
109:8 110:20
expand 118:10
139:19

expanded 11:23
expands 117:14
expansion
118:13
expect 79:24,25
80:1
expenditures
46:3
expense 27:14
108:5 113:4
133:17
expenses 25:18
29:25
experience 101:7
103:4 120:21
expert 30:4 68:18
expertise 41:10
55:13 60:14 92:25
97:5 99:6 103:3,
20 104:4 119:9
130:2 141:12
experts 103:5
explain 33:9
36:14 43:22 45:19
explained 106:2
explanation
151:2
explanations
34:15
Express 11:20
expressly 78:24
extensive 94:12
101:24 102:13
112:12
extensively
98:22
extent 7:5 13:22
17:4 80:16 100:18
109:18 110:11
111:1 149:13
external 80:7
extra 113:25

extremely 76:5
eyes 119:4,5

F

facilities 50:21
fact 12:16 17:22
38:19 46:20 48:6
49:1 52:17 63:1,9
64:25 70:6 79:9
87:5 89:5 97:11
98:24 99:17
100:18,23 101:20
102:2 103:16
104:16 108:12
113:3 118:15
119:6 120:15,16
132:9 134:4
142:13 143:25
148:16
factor 70:8 89:9,
10 141:9
factor's 94:21
factors 13:10
14:8,14 44:3,13
47:2,19 79:21
82:1 83:10,11
84:13 86:6 87:2,3,
10,11,22 114:12
115:19 116:8
143:7
facts 8:25 9:1
10:3,10,13 18:3
19:8 45:6 54:4
60:24 78:19 94:21
142:21
factual 10:4 36:3
42:24 56:16
137:19
factually 15:1
18:12 67:13
failed 45:18
fails 112:2 114:8
fair 9:2 11:18 12:5,
6,7 13:5,25 14:15,
16 31:9,19 50:25
77:12 86:13

107:19 110:2
146:22,23 147:1
fairly 7:5 13:14,22
43:6 74:12 77:3
80:16 86:7 109:18
110:25 112:7
fairness 8:21,22
43:5 146:15,16
147:3
fall 122:16 124:17
false 112:18 113:2
familiar 82:10
103:23 128:11
134:12
farm 15:22,25
16:2,6 17:7 41:18
fascinating 62:23
141:16
fashion 136:9
favor 108:7 113:5
144:12,17
features 16:18
44:14
February 2:19
5:2,7
federal 25:2 47:24
133:23 134:4
135:12
Federation 30:14
feel 32:13 73:18
74:8
felt 76:8
fence 130:17,23
FERC 25:3,7,14,
24 26:6,9 27:11
32:2,4 47:24
65:15 66:7 120:25
fight 128:5
figure 110:16
149:22
file 25:6 26:14,15
27:7,19 29:16,18,
22 30:3,7 31:11

33:19 131:15
filing 29:13,21
fill-in-the-blank 130:1
final 29:4 125:14 147:17,19 150:5
finally 30:22
finance 6:12 20:17,19 44:4 104:17 107:2
finances 69:9
financial 31:21 48:24 49:13 54:18 58:10 65:4 69:17 74:24 76:7 101:23 132:19,24 133:5
financing 46:3 49:5 60:19,21 61:1,6,16,21 106:24 118:5 121:20 130:7,17, 18 131:3,6,13,16, 20 139:8,9,12
find 35:2 52:11 97:23 105:17 140:19 144:7 145:1
finding 101:11 106:3
fine 34:24 67:17 74:1 76:15,17 117:11 139:2 149:21
fit 114:3
five-minute 34:22 73:10
fixed 61:18
flawed 113:25
flip 52:23 81:3 85:19
Florida 6:9,12,23 7:1 9:5,7,14,20,23 18:10,15 20:17, 18,20 21:15,16,21

22:10 23:3,6,9,11 24:4,7,8,9,17,18, 19,21 26:1 27:16 28:23 29:2,6,17 31:12 32:16 33:2, 14 34:13 36:16,23 37:3,9,10,20,23 38:6,7 39:23 40:21 41:2,23 42:10,11 43:7 45:10,12 47:14 48:4,7,9,18 49:8, 11 50:6,10,24 51:2 52:6,20,21, 23,25 55:20 57:23 58:20 59:5 60:11 62:8 64:5,10,12, 25 65:11 66:11, 20,23,24 67:7 70:6 71:4,12,18 72:3,10,15,19,20 73:5 75:13,14 78:6 82:14,23 83:19 85:4,10,13, 16,23,25 86:8 90:11,14 93:1,2, 10,20,22 112:17 115:17 118:10 124:4,14,15,20,25 125:8 129:15 131:9,12 136:10 137:6,11 138:22, 23 139:24 140:9 143:14,20 146:25 147:7
Florida-based 9:3,11 80:5 85:20 88:4
flow 70:10 95:25 103:9,12,19 106:3,4,18 113:6, 7,9 119:10 138:25 139:1,5 141:16
flowed 129:11
flows 63:13 98:13 106:12 107:6 117:5 119:21,22 120:10,18 129:22 134:18 147:23
fluff 150:24

focus 21:2 43:18 45:5 50:23 60:24 85:19,20 86:24 132:25
focused 41:6 130:5
focuses 96:2
focusing 69:3 86:6
folks 60:8 136:12 152:6
follow 20:1 58:1 132:16 152:9
follow-up 35:24 39:16 68:8 71:3 91:12,14,17,20 120:7 123:18 151:9
fool 133:21
footnotes 25:10
forces 50:4
forecasting 20:22 30:6
foreign 101:2,6,8 127:10
forgive 32:13
form 25:7 27:11 37:20 38:6 42:9 43:14 74:19,21 110:24
formality 31:1
formed 72:2
formula 9:22 13:2,4,8,9,11,22, 25 14:15 16:14 74:12 76:12 78:1, 21 79:23 80:16,21 81:7,13,23 84:8, 25 85:11,17,21 86:4,6,7 87:10,14 88:13 89:12 90:20 110:2,11,18,22 111:10 144:15
Fort 129:9

forward 48:17 131:20 137:25 138:2,4
forwards 134:20
fossil 46:22 97:20
found 37:13 41:11 46:23 82:5 84:15 104:12 105:22 122:11
founded 113:21
four-month 30:7, 16
fourth 94:15
FPL 9:7 18:10,11 23:7 24:2,13,23 25:3 29:11 32:23, 24 33:8,22 34:1 36:14 38:9 40:5 41:14 47:20 50:5 51:2,9,17 52:5,19 54:15 55:3 61:10 62:8 68:2 75:13 77:21 85:14 92:23,24 94:5,9, 12,13,15 95:13 96:6,11,14 97:8, 12,15,25 98:7,9, 11,14,24 99:11, 12,21,24,25 100:6,9,12,15,17, 19,23 101:1,12, 15,18,20 102:1,3, 4,9,10,13,15 103:9,12,15,19,25 104:4,5,7,19,21 105:9,11,18 106:13,20,21 107:9,11,18 108:2,4,5,7,8,10, 13,16,21 112:10, 22 113:5,6,9,12 115:6,15 116:5 118:8,17 122:9,12 123:10,21 126:19, 23 127:1,20 128:14 129:25 130:15 140:9 145:16,18,25 146:4,8 147:22 148:10,14,23

FPL's 35:8 89:8
93:13,19,22 98:3
99:19 101:22
107:23 108:16
112:16,25 113:3
115:4,18 116:8
127:6,7

FPSC 9:6 32:20
48:13,15 49:25
71:12,22,23 102:4
124:17 125:3
136:10 141:4
147:6 151:21
152:16

frame 19:23 37:5
150:22

framework 77:15

franchise 3:15
6:16,19,20 7:8
11:24 75:14 92:22
109:20

frankly 8:23

free 32:13 73:18

front 12:24 28:1,
14 142:22

frontier 40:14

FTB 7:18 10:2,7
15:11 17:18,20,22
32:8 34:16,17,22
36:9 38:14,23
39:2 40:13 43:21
44:3 45:18,19
46:11 48:5 51:22
54:6 56:10 57:10,
21 60:4,19 61:1
62:24 75:24 76:19
86:23 92:12 94:24
116:22 118:21,22
120:12,24 121:8
123:11,20 128:18
130:14 132:15
133:7 134:6 138:6
142:13

FTB's 10:1 48:11
55:18 59:10 60:2
73:10 80:11
116:24 126:16,17
130:10 133:13

135:10 137:12

fuel 27:14 28:4,5
46:22 97:10,20

fuels 100:19

fully 32:24 104:13
106:1

fun 134:23

function 28:24
70:9 112:24

functional 43:17
44:15 114:9
115:12 138:16
143:8

functions 16:3,7
44:25 51:19 57:3,
4,13 120:13 142:4

fund 68:1 131:18

fundamental
8:20 80:4

fundamentals
63:24

funding 68:3

funds 117:25
118:2

furnishes 15:25

futile 102:12

G

gain 9:23 78:14
81:10,12

games 133:20

gas 25:5 28:6
40:24 41:3 45:22,
23 100:2,17
127:12 129:8

Gast 3:5 5:12 8:18
36:10,11 37:22
38:13 64:23,24
67:2,6 68:7,8,20
70:13 91:12,14
116:22,23 117:9,
12 118:18 123:16
147:17,19 148:3

149:5 150:5 151:6

Gast's 74:24

gave 31:10 152:2

general 22:24
32:15,22 65:17
71:10 76:8 79:12
82:2,4,7,9,10
83:6,23 84:3,5,20
85:7 86:10,16,19
87:21 89:11,19
96:24 97:8 136:16

generally 8:23
10:24 18:9,11
19:1 22:19 78:10
96:22

generate 38:12
41:14 52:22 63:13
99:24 112:1

generated 13:12
43:7 57:23 88:1,4
97:12 99:11,17,22
100:5,6 112:21

generates 87:19

generating 45:9
64:2 100:20

generation
20:23,24 23:18
40:22,23 50:21
93:10 98:1 100:1

gentlemen 15:15

geographic 24:1
50:17 52:11,20
63:25 83:17
100:23

**geographic-
based** 113:24

geography 52:8,
16 101:16

Georgia 66:20

give 13:9 19:18
27:24 29:10 36:22
37:19 57:14 77:5
146:8

giving 14:9
142:23

glean 122:19

global 26:8 62:2
129:22 138:8

go-forward
139:17

goal 12:3 13:7
18:25 59:19 90:20
95:24

goals 90:24

good 24:16 31:17
33:10 63:14
107:15 130:11

goods 106:4,12

gorilla 140:3

gosh 56:13 140:7

governed 23:10

government
133:15

**government-
regulated** 53:19

**government-
sanctioned** 50:5

grab 147:1

grand 149:1

granted 50:5
113:18

great 39:12 42:17
60:22 62:3 63:9
67:12 73:20 98:16
99:7 127:13
128:19,20

green 93:13

grew 37:17

grid 45:9

gritty 79:15

gross 57:18 75:14
86:18,21 87:20

grounds 109:7

group 9:22 26:25
35:10 36:15 74:23
75:18 78:1 87:18

88:3,5 93:15 94:2
96:1 98:8,16,18,
24 99:18 100:13
115:20 116:2

group's 93:23
94:11 98:6,15
99:3,5,15 113:11

groups 30:13

groups' 89:10

groves 37:1

grow 33:16 35:19,
21 37:7,8 42:9
126:23

grown 126:21

growth 38:5

guarantee 61:19
121:23 122:22

guaranteed
127:21,23 128:2

guess 20:14 26:7
35:12,15 43:9
77:12 125:22

guy 136:8,19
150:6

H

half 24:10 51:12
60:1 83:19 99:11
145:4

Hampshire 71:18
72:14

hand 19:15 52:19

hand-in-hand
77:22

handled 76:12

handling 16:3

happen 28:16
47:15 50:16 71:3
87:6 126:7 132:7
139:20

happened 28:5
36:19 59:18 61:20

79:5,6,7 126:7
130:17 150:21

happening 78:15
84:14

happy 23:15 43:2
50:19 54:3 64:16
91:8

hard 119:19,25
122:6,8 130:11

hardening 27:18
129:17

hate 136:23

head 148:9

headquartered
73:4

headquarters
73:3 84:22

healthy 58:17

hear 19:7 44:7
148:1

heard 48:15 50:22
51:8 65:11 126:11
132:20 135:16,17
140:4 141:4

hearing 5:9 30:18
38:21 152:19,25

hearings 49:9

heavily 21:16
26:1 65:6 66:17

heavy 45:25

hedged 82:20

hedging 82:6,18,
19 83:5 84:23
86:19 89:13

held 101:2 102:6
106:15 115:7

helped 93:21

helpful 36:20
44:24 76:5 125:12
126:14 131:24
135:8

helping 41:9

helps 21:12 40:7,
10 56:6

hey 48:5 52:9 53:5
54:8 61:3 70:9
76:19 77:2 81:16
134:13 135:25
137:13

high 18:6

high-level 104:5

high-volume
80:21

higher 34:7 40:8
89:3 108:9,17

highlights 94:11
98:4,7,13,25 99:4
103:19 128:21

highly 65:1 68:13
101:20 102:1,4
103:13 104:1,5
107:5

hill 137:22

historical 10:19

historically 18:19
51:1 65:22

history 11:21
36:14,19,21 79:6
126:11

hit 40:9 56:4 82:24
128:23 129:1

hold 68:9,10

holding 5:8 67:22
69:14,22 82:11
101:7 117:25
152:3

Holdings 2:7 5:6

holdups 66:9

homes 93:2

honest 150:1

honestly 10:2
68:16 75:9 149:9

hope 125:11

hoping 48:20

horde 149:1

hosting 80:24
81:2

hours 74:2

House 75:25

huge 59:15 76:24

Hugo 134:7

human 46:4 54:20
107:2

hundred 82:24

hundreds 111:22

hurricane 28:8
93:1 128:23,24,25
129:1,4,19

hurricane-
resistant 93:9

hurricanes 27:18
93:8

hypothetical
15:21,22

I

Ian 93:1 128:23
129:1,4

ice 36:25

idea 40:15 59:9
61:24 70:25 75:6
77:22 125:24
133:23 138:24
148:25

ideal 12:16

identical 44:22
97:7

identifiable
114:12 115:18

identified 16:22
143:4

identify 5:13
52:12 89:22

ignores 10:3
63:24 114:17

115:24	in-state 11:3 14:24 137:9	independent 56:7	66:23,24 70:5 84:9,14 138:23
ills 143:3 144:3	inadequately 114:17 115:24	indication 103:10	instance 61:7 68:15 97:25 107:16 117:3 118:15 119:12 121:14 122:23
illustrates 108:15	inappropriate 117:4	indicative 93:13 99:13 101:8 104:1 105:8 107:5,9,21	instances 60:21, 25 61:5,22 78:25 107:19
imagine 103:2	inappropriately 81:18	indicator 94:16 105:6,10 106:19 120:23 135:14	instant 10:1 45:20 89:2
immaterial 58:3 118:24	include 53:11	indicators 102:22 134:5,14	insufficient 10:5 111:4
immediately 65:9	included 33:1 122:2	indicia 112:12	insurance 16:4
impact 40:1 42:3, 10 48:12 49:20 60:17 65:10 85:14 87:3 136:9 138:12 140:9 141:3	includes 20:21 113:12	individual 45:12 47:17 50:1,10 58:19	integrated 51:4 93:16 95:5,10 96:19 104:13 106:1 109:2
impacts 66:21,25 77:20	including 46:15 99:19 106:23	individuals 50:8 51:12	integration 43:17,19 44:15 97:5 104:15 114:9 115:12 138:16,19 143:8
imperfect 150:20	inclusion 89:8,17	industrial 30:13	intended 14:8 38:19 43:23 147:11
implement 30:23	income 9:3 12:5 13:2,11,12,15 14:7,9,19 15:5 16:11,21 17:1 25:8,19 27:3,9 29:19 43:7 74:20 78:2,4,9 80:12,18, 23 81:1,9,14 84:12 86:11,18, 20,24 87:2,3,6,8, 11,13,14,15,19,22 88:3,5,6 99:10,12, 15,18,19 109:23 110:24 112:17,21 113:11 114:1,3,6, 8,11 115:8,11,18 132:14 133:17,18 145:16 146:1,3,8, 9,12	industries 65:3 102:23 141:15	intense 71:24
implication 99:23		industry 65:4,6 71:5 97:20	inter-florida 71:14
implicit 129:22		inevitable 102:24	interaction 27:25
importance 54:24 69:16 99:1, 2 102:17,23 136:23		infinite 89:5	intercompany 33:23 44:4 45:2 46:2,25 56:10 57:5,22 60:19,21, 25 61:6,16,21 68:3 94:15 105:9, 12,15,16,18 106:12,16,18,23 107:4,8,10 108:20 116:10 120:5 121:19 122:1,23 123:6,8 130:7,18, 22 131:22 132:2,3 135:22 139:8,9,12 140:18 141:13,14, 22,24 142:1
important 18:16 29:5 31:16 45:3 48:4,8 49:20 52:16,25 55:9,25 59:18 60:24 62:1 64:6 67:1 69:23, 25 74:17 76:11 84:11 97:6 98:21 138:12 139:7 141:9 142:25 144:2		influence 139:23	
impose 9:3 112:7 115:8	income-earning 52:12	influential 96:4	
imprecision 114:16 115:24 143:25	income-producing 16:20	information 49:13 54:9 103:1 106:25 119:3 122:19 138:7	
improvement 96:5	inconsistent 63:15	informing 133:2	
imputed 144:13, 20 146:9	increased 11:25 61:9 99:3 121:24	infrastructure 51:15,25 129:8,18	
in-depth 26:3 29:12 30:24 32:3	increases 31:8	inherent 98:9 115:13 117:5 120:12 121:1	
	incur 27:15	inherently 121:5	
		initial 138:4	
		inquiries 137:19	
		inquiry 14:13	
		inside 64:11	

144:13,20,23,24,
25 149:17

interdependence
43:15

interest 30:1 66:6

interested 62:9

interesting 60:8
63:5 80:7 150:13

interlocking
151:22

internal 50:13

international
139:19

interrupt 140:13

interstate 11:4,9,
13 13:15 65:15

intervene 30:14

intervening
26:23

intervenor 26:24

intervenors
30:11,15 49:9
143:18

intrastate 14:20

intriguing 44:17

introduce 75:20

introducing
104:20

introduction
15:16

invasive 125:4

investment 28:13
56:21,22 61:10
63:14 70:9 86:17
117:21,23,24
134:3

investments
28:8

investor 69:8,12
133:2

invite 32:8

invited 17:20

involve 11:2

involved 44:15
49:8 98:23 139:18
149:8

involves 93:25

irrelevant 57:1
99:9 134:21

IRS 59:2

isolate 114:6

issue 7:1,7 8:21
13:16 14:11
64:15,16 94:2,5
99:10,25 106:14
109:4 119:13
152:23

issues 6:23 10:21
67:25 75:4 93:25

items 108:9

J

January 29:13

Japanese 103:4,
22 140:25

Jay 6:2,3 54:20

job 24:16 60:9,12
127:21 136:17

Josh 5:12

Joshua 3:6

judge 5:10,11,22
6:8,14,22 8:3,9,
17,18 19:10,12
20:8 32:10 33:5
34:14,21,25 36:7,
10,11 38:15,16,25
39:9 42:14 64:19,
23 67:16 68:7
70:15,16,19
72:13,25 73:7
74:24 91:9,12,16,
19 92:5,9 95:14
106:6 116:19,22
118:19,20 121:17
123:4,16,17

125:13 138:10
147:14,17 151:7,
8,12 152:17

judges 5:12
152:20

judicial 135:1

jumps 65:9

Juno 60:11 73:4

jurisdiction
14:10

justify 81:23
110:22

K

Kansas 75:16

keeping 21:2

Keesling 15:14
17:23 81:8 91:2
147:12

Kenny 3:5 5:12

key 17:10 53:16

kicking 148:9

Kikkoman 101:1,
14,15 103:2,11,22

kind 15:16 19:23
21:22 26:8 31:16
34:11 36:13,18,20
37:24 38:20 40:7,
10 56:14 67:24
68:25 77:23 79:8
80:6 117:13,20,25
118:3,7,9 119:5,
13,14 120:3,8,14,
20 122:5 124:7,19
125:3,24 126:12
128:21 131:7
134:16,22

Kitson 128:20

Kletter 3:4 5:5,10,
22 6:7,8,14,22
7:15,23 8:3,9,13,
18 19:10,12 32:10
33:5,6 34:14,20,
21 35:1 36:7

38:16,25 39:9,12
42:14,18 64:19
67:16 70:15,19
71:2,9 72:12,13,
25 73:1,7,15,18,
22 74:1,5 91:9,15,
19 92:4,5,9,10,16
95:14 106:5,6,9
116:19 118:19
121:17 123:4,14
125:13,17 140:11
147:14 151:7,12,
13,19 152:17

knew 62:14 103:6

know-how 103:1

knowledge
118:10

L

label 56:15 60:22
63:3 130:14
138:17 139:9

labeled 44:3

labels 10:3 44:10
60:4 105:3 138:9
142:23

lack 10:2 43:18
46:24 100:10
102:10 104:24

lacking 95:4,8
109:1

lacks 100:16

Lakeside 56:23
63:12

Lambert 3:6 5:12
8:17 39:9,11
70:16,18 91:16,18
118:20,22 120:24
121:15 123:17,18
125:12 138:10
151:8,11

large 22:21 46:3
110:15

largely 12:11
112:24 114:18

115:25	letting 131:16	66:8 80:1 83:13 97:11 119:8 129:11	143:1
larger 11:4	level 15:10 18:6 25:9 46:7 55:6 62:2 107:4 124:8 125:9 133:11 145:8,11 152:8	list 44:2,13 47:19 48:19 54:8,13 122:7	lot 22:3,25 26:2 32:1 33:13 54:6 56:5 57:10 60:15 70:2,4,5 75:10 78:6 81:19 128:24 137:18,19 151:20
largest 21:4,5		listen 19:8	lots 28:17
lasted 34:10 130:24 131:1	levels 110:8 143:15	listening 48:19	low 118:25
lastly 15:2 101:19 104:23 105:6 113:3	leverage 118:8,9	lists 33:22	low-cost 21:14 23:14
launched 35:20	leveraging 118:16	litigated 26:21,22	low-margin 81:2 84:19
law 5:11,12 10:13 20:8 53:18 135:12 142:22	levies 114:1	live 60:10 150:20	low-profit 80:22
lawyers 136:23	levy 78:22	loan 121:25	lower 34:2 39:21 58:11 59:8,9 148:16
lays 25:8 29:21	lexicon 79:8	loans 121:23	lower-tier 118:5
lead 3:4 5:10 102:25	liabilities 25:17	local 65:20 78:23	lowered 112:25
leading 62:6 79:13	liability 67:22,25 112:25	located 60:8 111:21	lowest 34:3
league 62:6	lie 77:6	location 81:14	
leaking 59:5	Light 6:10,12,24 7:1 9:7 18:10 20:17,18,21 21:15 22:10 23:6,9 24:8, 19 29:2,6 31:13 32:16 36:23 37:21 38:6 40:21 41:2, 24 42:10,11 67:7 71:4,13,19 72:10, 16,19,21 82:23 83:20 90:11 93:10 131:9,12	locations 73:5 83:17	<hr/> M <hr/>
led 127:13		logistics 49:13	
left 55:1,18 93:1,5 140:14		long 63:23 110:25 130:25	Machado 6:1
legal 3:16 10:4 38:19 43:4 56:16 63:17 64:16 68:24 69:20 77:23 107:2 135:17	Light's 129:15	longer 61:21 72:19	made 15:5 33:7, 11 34:11 37:22 71:16 92:23,24 106:16 126:15 127:11 134:16
legal-wise 68:18	lights 129:7,11	longwinded 151:2	magic 151:4
legally 12:16	Ligia 6:1	looked 103:23 141:23	mailbox 62:16
legislative 26:25	Likewise 34:6	lose 93:4 143:7,25	main 82:9
legislature 76:15	limit 18:18	loses 9:18	major 60:10 104:14
length 83:8 106:16 107:10,12, 13,14,20,21,24 108:14	limitations 24:1 63:25 150:8,11	losing 93:2	make 9:1 10:5,19 28:9 29:9,22 42:4, 6 46:13 47:11 49:16 50:13,14 54:2 58:21 59:4, 20 60:20 62:13 64:25 66:9,12 74:1 78:6,9 80:5,8 83:2 86:22 90:18 91:23 92:12
lengths 99:7	limited 11:8 24:3 52:19 67:21,25 122:18	loss 13:2 15:24 16:12 20:20 78:9, 13 99:8 112:23 131:10 132:13,14, 17 133:18 134:19 144:18 145:16 146:7,12	
lesser 108:12	limits 24:6	losses 88:1 99:12 115:9 135:9	
letter 29:13 61:11 75:22 76:23 121:23	lines 27:19 43:15 45:23 46:17 48:1	lost 10:15 31:14	

- 125:14 129:18
130:3 132:11,13
135:21 138:21
140:4 141:5
142:7,8 145:9
- makes** 9:19 23:13
56:23 103:7,8
114:22 133:18
144:10 149:12
- making** 26:17
108:16 130:4
132:5 142:21
147:7
- man** 128:20
- manage** 142:7
- management**
16:19 32:25 43:20
47:11 51:5,17,22
52:4 54:7,15 55:6,
24 82:8 106:25
107:4 114:9
115:13 139:22
140:2 141:11
143:9 147:22
148:6,13,14,25
- managers** 124:7
- manages** 15:25
- Manatee** 129:9
- mandates** 22:12
- manipulation**
114:16 115:23
143:6,10
- manner** 46:25
86:13
- manufacture**
12:13
- manufacturing**
45:1,24
- March** 29:16 30:7
- margin** 49:4
88:18,19,25 89:4
128:6
- margins** 79:19,21
80:1,14 88:14,15,
22,24
- Maria** 2:20
- market** 21:5 28:6
34:3,7 37:13
39:21 40:8 50:2,4
58:11 59:9
103:15,23 107:14,
15,19 108:10,12
111:25 112:3
138:22,23 139:19
- marketing** 101:9
103:5
- markets** 66:8,10
131:18
- material** 9:14
10:11 12:24 44:11
55:4 56:15 59:16
60:2,7,17 61:23
131:24 138:11
145:6 146:19
148:21 149:24
150:4
- materiality** 57:19
- materials** 12:12
15:14 17:23 25:1
47:1 61:13 65:17
76:4 105:23
- math** 84:23 88:9
89:2,6,20,23
- matter** 2:6 10:1
18:1,20 55:20
73:14 75:19 81:5
86:8 135:5,12
140:19 142:15
- mattered** 18:22
- matters** 9:17
11:24 12:20 18:21
57:19 75:21
104:14 139:16
142:5
- maximize** 82:16
- meaning** 46:6
70:5
- meaningful** 64:8,
15 85:15 88:18
135:12,22 141:18
- means** 10:16
82:20 118:14
127:22 137:22,24
- meant** 33:10
- measure** 64:3
89:7 131:23
- measures** 86:14
- meet** 22:15
152:21
- meeting** 136:3
- meetings** 55:13
- member** 39:3
- members** 3:3
10:9 32:6 64:21
96:1 116:21 136:3
147:16
- mention** 5:24
6:17 51:8 74:18
134:14
- mentioned** 33:6
45:14,17 46:10
58:9 121:22 123:7
- mentions** 72:14
- merchandise**
45:2
- mere** 111:3
- merit** 70:12 77:18
135:1
- met** 95:6,23 116:7
138:4,5
- method** 10:22
11:1 12:2,4,10,15,
18 15:6 43:23
52:10,13 77:11
81:24 109:21,24
142:14
- methodology**
59:2 111:13,18
113:13 114:25
135:11
- methods** 79:1
110:9,25
- metric** 60:16
- metrics** 84:7
- mic** 95:15
- microphones**
91:24
- Microsoft** 79:12,
13,16 80:13,20
81:6,24 82:5 84:3,
6,15 85:7 86:10,
16 87:20 88:20,25
89:11,18,22
- Microsoft's**
84:16 86:16
- million** 21:20
24:10 59:11,15
60:1 61:8,9,20
81:9,10 121:23,
24,25 144:25
145:5 146:2,10
150:17
- millions** 105:14
106:20 111:22,23
- Mills** 79:13 82:2,4,
7 83:23 84:3,5,20
85:7 86:10,16
87:21 89:11,19
- Mills'** 82:9 83:6
86:19
- mind** 10:18 21:2
65:10 140:20
- mine** 15:24 16:2,6
17:8
- minimal** 14:16
40:11
- minimize** 103:12
145:4
- minimizes**
102:23
- minimum** 29:21
- mining** 16:1,24
46:21 97:19,21,23
98:3
- miniscule** 137:6
- Minnesota** 84:22

minor 120:3
minus 82:24
minute 124:18
 137:18
minutes 39:1
 61:2 73:25 91:22
 92:12 122:7,25
 125:17,23 128:18
 140:14
misconstrued
 126:18
misleading
 114:10 115:18
missed 48:21
 124:13
missing 66:14
 143:11
misstating 40:15
mixed 81:18
 122:5,17 125:24
mixing 133:9
Mobile 115:16
 138:18
model 49:23,24
 94:11 98:6 100:11
 108:19 116:9
 127:3,6,7 128:3
models 49:23
 83:15
moderate 88:22
modern 93:13
Mohasco 53:11
moment 15:1
 27:22
money 9:18,19
 50:14 56:25 58:22
 69:15,23 78:6
 80:6,8 83:2 90:18
 133:25 134:2,3
 138:20,21 142:7,9
 145:2 146:25
 147:7,8 152:9
monitor 27:6 49:6

152:8
monitoring 70:10
monopoly 50:5
 103:13
month 26:15
 62:16
monthly 26:3
 27:2
months 28:3
mother 126:19
motive 49:6
motives 83:14
Motors 65:17
move 10:21 36:9
 42:15 60:13 74:7
 84:4 87:2 95:15
 127:11 131:20
 134:2,11 151:1
moved 61:12,13
 86:11 150:19
moves 85:9
 149:23
moving 13:6 18:4
 40:15 84:25 87:14
multi-fold 65:9
multi-
jurisdictional
 12:1
multi-state 11:24
multiple 26:10
municipalities
 21:12 22:15,21
 23:1 24:21
municipality
 41:19
mute 91:24
mutually 102:25
Myers 129:9
myriad 112:11

N

NAICS 71:6
names 122:16
nation 100:3
national 66:22
natural 28:6
 40:23 41:3 64:14
 100:2,17 127:12
 129:8
nature 54:18 58:5
 66:22 104:10
 147:6
necessarily
 49:17 51:4 122:25
necessities 93:5
NEE 67:3
needed 33:17
NEER 18:13 22:19
 23:2 24:13,17,23
 35:20 41:11 47:20
 51:18 52:7,24
 67:7 68:2 70:21
 71:4 72:17 73:2,4
 87:17 93:11,14
 94:6,9,12,16
 95:13 96:6,11,14
 97:8,12,15,25
 98:8,9,11,14,22
 99:1,2,4,6,8,9,11,
 17,21,22 100:5,6,
 9,12,15,16,19,23,
 25 101:12,15,18,
 21,22 102:1,4,10,
 15 103:9,12,15,
 20,25 104:3,6,7
 105:4,10,11,18
 106:12,21 107:9,
 12,18,23 108:2,4,
 5,8,13,15 112:10,
 20,21,23 113:1,4,
 6,9,12 115:4,5,6,
 15 116:5,8 122:9
 123:10 130:1
 131:12 145:16,18,
 25

NEER's 92:25
 93:18 94:13 98:3
 99:12 102:13
 108:22 111:13
 112:15 144:17
negative 80:14
 88:6,8,9,11,18
 89:4
negotiate 50:3
net 17:1 78:4 99:9,
 12,15 112:21
 114:2 134:19
 146:3,7
networks 51:16
 83:20
Neu-proler 134:7
neutral 146:12
Nextera 2:7 5:5,
 17,21 6:9,13
 18:13 21:2,4,10,
 23 22:2,13 32:17,
 23 33:8,15,22
 34:12 35:7,9
 36:14 37:6 38:3
 41:5 65:2 67:3,20,
 24 93:15 94:1
 95:13 98:8,15,16
 99:1,3,5,15
 104:19,20,22
 113:11 115:20
 116:2 118:7,17
 122:13 123:21
 126:2,13 127:2
 128:3 147:23
 151:24
Nextera's 35:14
 80:3 99:4 102:19
 108:19
nickel 85:25
nighttime 129:5
nine-month
 29:12
Nippondenso
 141:15,22
nitty 79:15

non-arm's 107:21	7 88:7,9 124:1 133:19 144:21,23, 24 146:5,12 148:17 149:15,16, 18,23 150:3	officer 104:9	69:18 71:13 79:18 80:4,5 84:18,19 85:16 88:24 93:19,20,22 98:4 101:23 103:18 104:17,23,24 108:16,22 120:16 123:20,24 124:3,4 138:13 144:18 149:25 150:4 152:7
non-dividend 149:18		officers 44:21 94:13 102:14,16, 17,18,21,24 103:18,21 104:1 105:5 108:19 116:9	
non-power 149:17	numbers 56:12, 13,17,19 59:21 60:1 78:4,10 80:10 81:4 84:25 87:5,23,24 88:8 89:14,16 90:16 119:15 132:5 133:6,12 135:22 143:22,23,24 148:9	offices 11:8 145:2	
non-revenue 90:12		oil 41:3 45:22,23 46:15,21 97:18, 21,23 98:2 115:16 127:10 138:18	
non-unitary 97:15 100:16		open 19:24 61:11 103:14 107:14	operators 124:7
nonetheless 46:4 59:4		opening 17:19 36:6 45:17 56:11 100:4 121:21 123:7	opinion 96:4 134:24 135:1
nonfinancial 65:5	numerous 28:14 60:21 61:22 96:7 102:15 106:22 111:19,21 114:22 131:24	operate 78:9 112:23 119:23 124:8 127:19 128:9	opportunities 112:1
nonpower 57:6		operated 93:10 99:8 100:23 101:3,12 103:14 124:6	opportunity 20:3 39:4 64:20 121:13 126:24
nonregulated 85:4		operates 15:24 24:2 53:22,24 65:12 79:20 85:21	opposed 117:6
nonrenewable 91:1	<hr/> O <hr/>	operating 15:23 26:18 29:25 72:22 101:10 118:6,10, 17 134:19 151:24	opposite 127:20 132:9
nonshareholder s 49:15	oath 19:6	operation 10:12 76:7 85:10 96:21 114:13 115:20 123:22 124:24	orange 37:1
nontreasury 88:24,25	object 7:11,18	operational 9:15 43:15,19 44:25 55:1,2,5,16 57:4, 17 97:4,9 136:8, 19 138:19 146:24 148:18 151:23	oranges 133:9
normal 82:18 110:21,25	objections 76:10	operations 9:18 11:13 16:1,24 25:4 44:11,18,19, 23 50:16,20 60:18	order 12:2 35:10 50:18 53:24 81:22 98:19 100:15 103:8 105:17 130:4 131:18 146:7
normal 82:18 110:21,25	objects 53:3		Oregon 22:23 75:15
notably 43:14 93:11	obligation 29:8 50:6		org 18:17 122:15
note 72:7 112:2	observe 27:23		organization 18:5
noted 115:10	obtain 78:24		original 74:21 75:7
noticing 38:11	obvious 17:11 53:4 73:2 91:3		OTA 5:6
Notwithstanding 16:18	occur 12:14 78:25		OTA's 123:2 135:10
nuclear 40:24 71:18 100:2,18 106:24 119:16,18 123:20,21,22 124:5,11,14,19,21 125:8 148:18 150:16	odd 63:1 85:5 146:16		out-of-state 14:17,23
number 5:7 56:4, 12 59:15 60:14,17 62:17,18 82:23 83:22 84:3 85:3,5,	Oddly 74:23		outcome 31:19 134:25
	offer 18:5 54:8 104:18		
	offered 134:23		
	offering 138:8		
	office 2:2,16 26:24 30:12 57:3, 12 81:15 105:3		

outlined 77:20
overcome 97:14
overlap 44:21
94:13 102:13
103:25 104:9
105:5 108:19
148:5,20
overlapping
51:21 54:7,14,16
55:10,24 103:18
139:15,22 140:2
148:25
overlaps 55:5,17
oversaw 72:10
oversee 28:18
oversees 23:13
oversight 25:1
27:12 28:24 45:11
47:13,23 49:3,20,
21 53:2,7 69:9,10,
12 71:11 82:14
90:23 104:10
105:4 125:10
131:15 140:21
147:6
overview 18:7
71:10
overwhelmingly
10:13
owned 36:25
71:19
ownership 16:7,
18 68:14,15 69:1
72:16

P

p.m. 2:17,18 5:3,8
91:23 129:1 153:4
P.O. 3:16
pace 106:10
Packaging 45:24
pages 29:16,23
54:10 61:2,4

102:19
paid 104:5
pain 120:6
panel 3:3 10:9
18:2 19:25 20:2,
15 21:1,23 31:20
32:6 36:8 39:3
44:9 64:17,21
74:10 91:11
116:21 142:22
147:16
panels 136:13
paper 144:7
papers 54:9
parameters
26:18 50:1 56:3
parent 67:3,8,10,
20 68:25 69:2
117:20,24 118:4
147:24
parent's 67:8
parent-
subsidiary 46:8
parents 56:21
parsing 136:24
part 9:15,21 11:4
14:3,22 18:1 33:2,
4 44:19,23 55:17
68:23 75:7,17
77:18,25 87:7
88:10 89:24 90:5,
9 93:8 96:16
100:12 129:15
130:15,16 131:14
134:10,20 145:19

parties 5:13 26:23
134:24 135:5,6,8
147:18 151:10
152:20

parts 45:24
party 5:24 56:8
109:24 143:20

passthrough
27:15

past 35:12 98:20
103:24
path 38:5
paying 72:21
payment 56:24
payments 68:3
payroll 111:22
PBS 134:11,23
pension 106:24
people 17:14
38:10 49:17 55:7,
21 60:12,13 77:21
139:21 144:3
145:4 148:13,23

percent 23:19,21
31:15 40:23,25
41:1 51:8 52:22
56:18,25 57:2,3,5,
6,7,9,14,16,17
60:6,14,16 62:11
84:16,21 85:11,22
86:17,18,20,21
87:19 88:3,5
89:11,18,19,20
100:1 105:24
129:3 131:23
132:1,2,3,4
135:21 138:7,10
141:21,23,25
142:5 146:3,8
149:7,17,20,22

percent-ish
40:24

percentage 85:9
118:25

perfect 82:19
148:5

perfectly 82:21

perform 27:5

performance
40:1

performed 16:5

performing 105:4

period 30:16 99:2
personal 27:24
126:5

personnel 16:19
44:5 55:10 60:3
132:1 141:11

perspective
10:16 47:21
121:11

persuasion
138:1,6

petition 109:19

PG&E 22:22

phonetic 106:15

physical 112:3

picture 150:6

piece 65:13
135:16 147:2

pieces 14:6 76:16

piled 138:2

place 13:17 34:1,
11 52:12 55:12
84:14,23 114:19
116:1 149:1

places 100:22
101:19

plan 27:17 60:13
106:24 131:17,20

planning 20:23
56:6

plant 71:18 124:8
150:16

plants 52:21
111:21 123:21
124:5,14,20,21,25
125:8 129:9

play 151:24

player 48:8

playing 44:7

point 8:2,7 18:22
19:5 20:1 26:11
43:4,22 44:8 45:5,

- 14 53:16 55:1
57:18,20 58:8
60:8 62:23 63:5
64:18 71:11,15,
20,23 72:11,24
76:14 77:12 82:24
84:12 88:11
117:1,19 118:12
121:3 122:6 135:4
138:12 139:14
142:10 144:5,10
145:14,24 148:22
149:11
- points** 28:17
42:24 86:22
119:25 120:4
132:11
- poles** 23:20
41:15,20
- policy** 104:14
- policymakers**
76:25
- politicians** 38:8
- politics** 62:3
- portfolio** 22:5,16
41:8 62:10 127:5,
16
- portion** 11:14
76:16 85:3
- portions** 114:6
- Portland** 22:24
- portrayal** 112:19
- position** 10:14
46:17 63:15,17
74:8,9 98:5 117:1,
8,12 120:19
137:12
- positions** 54:14,
15,16,17 104:10,
18 105:4
- positive** 80:15
88:7
- possibilities**
148:12
- possibility** 78:25
119:9
- potential** 108:16
- potentially** 55:2
118:13,15
- power** 6:9,12,24
7:1 9:7,12,13
18:10 20:17,18,21
21:11,14,15 22:6,
10,17 23:6,9 24:8,
13,19,23 27:19
29:2,6 30:14
31:13 32:16 36:23
37:20 38:6 40:21
41:2,23 42:10,11
48:10,17 49:14
50:8 62:11 67:7
71:4,12,18 72:10,
15,19,21 78:8
82:23 83:20
90:11,25 93:2,4,
10 100:1,14,17
111:21 125:1
128:22 129:3,6,9,
10,15,19 131:9,12
132:20 137:4,6,7
150:16
- practical** 90:17
150:1
- practice** 24:12
- precise** 110:22
- preempt** 73:16
- preface** 35:17
- preference** 80:4
- prehearing** 7:16
8:3
- premise** 80:5
- prepare** 78:5
- prepared** 80:11
- preponderance**
94:20 95:2,7
- prerequisite**
106:2
- prerogative**
76:18
- presence** 80:19
85:13 103:8
106:11 111:20
112:3,4
- present** 38:22
114:21 115:14
- presentation**
4:10 8:1,15 10:18
14:3 18:8 32:12
38:19,20,24 39:1,
7,14 42:16,21
52:15 64:15 69:3
73:11 91:7,10
92:13,20 116:20
121:21 123:7
126:16 143:2
144:6
- presentations**
152:20
- presented** 7:24
17:11 39:2 78:10
87:24 152:22
- preserve** 66:8
- preserved** 50:18
- president** 6:12
20:17 54:19,20,21
131:8
- presume** 104:3
137:18
- presumed** 94:10,
23 96:12 104:25
- presumption**
96:13,25 97:14
108:18 120:2,12
121:7,13 137:14,
17,21
- presumptions**
129:21
- pretend** 68:21
- pretty** 36:20
120:22 132:17
133:12 145:21
- previously** 20:8
- price** 34:4 50:25
107:13,15 108:10,
12 128:6
- price-setting**
64:3
- priced** 107:19
- prices** 107:17
- Pricewaterhouse
coopers** 5:17
- pricing** 49:25
50:1,3 125:1
- pride** 40:21
- primarily** 47:24
48:3 78:8 96:2
99:16
- primary** 45:11
83:6
- principle** 109:4
- principles** 111:4
- prior** 150:7,9
- problem** 11:12
55:16 68:20 76:20
88:8 129:21
144:7,14 149:9,12
- problematic**
114:15 115:1,23
- proceed** 8:12
39:6
- proceeding**
17:18 29:11
- proceedings**
2:15 28:16 153:4
- process** 13:4
19:9 26:21,22
27:14 29:12 30:8,
19,24 32:3,20
33:2,4 83:3
131:15 143:18
- procured** 22:6
- produce** 110:7
- produced** 86:17,
19 110:15 129:6
- producing** 129:3,
16

product 35:25
103:6 123:8 132:3
139:5 141:17
142:6 144:24

production 16:25
98:23

products 108:8,
11 141:24

profile 127:13

profit 20:20 49:4
57:14 79:20 80:1
82:8,13,16 83:14
88:14,15,18,22,23
89:4,7 97:13
108:15 127:23
128:2,6 131:9
144:13,20 149:22

profit-generating
85:16

profitability
99:14 114:13
115:19 143:8

profitable 15:22
81:18 115:4

profits 12:10
108:17

prohibited 13:18

projected 29:17

projection 27:20
29:19

projections
20:22

prompted 126:12

pronounced
101:15

proof 94:17,18
137:23

proper 81:14
87:16 109:7
114:23

properly 15:6,7
80:17 93:24 95:12
109:6,9 113:22
115:8

property 11:2,3,6
12:6 16:19 59:8,
12 72:15 111:23

proposals 31:3

propose 74:15
90:2

proposed 109:14
110:4,22 113:17,
19,20 116:16

propriety 8:4

prospects 101:24

protect 26:25
47:17 49:7 108:6
125:4 129:18
140:6

protected 33:18

protecting 28:19
34:4,10

protection 27:17
34:8 39:23

protections
33:17 39:25

prove 78:19 95:1
100:15 109:25
130:4

proven 142:16

proves 88:11,12

provide 27:3 28:9
49:14 50:8,25
119:2,24 152:2

provided 7:8,15,
17 47:13 57:21
69:11,12 72:2
106:20 110:2
111:25 119:16
128:15 146:19

providing 23:14
69:9 79:1 105:15

provision 48:10

provisions 7:4
109:17 110:7

prudence 29:4

prudent 31:18

prudently 29:7

public 9:4,5,12
21:16 23:11 24:4
26:2,24 30:12
33:14 47:14 48:4,
7 49:11 52:6
53:19 55:19 57:24
64:5 65:12 66:11,
16 70:22,24 82:14
93:23 124:15
136:10 139:24
143:12,14,19
147:5 149:3

publicly 102:9

published 135:2,
3

pull 30:10

pulled 130:14

purchased
108:10

purchases
105:25 141:21

purchasing 16:4
45:1

purely 41:6 57:12

purportedly
93:18 110:20

purports 114:6

purpose 55:10
57:23 67:24 86:25
144:22 145:20
148:24

purposes 17:17,
18 18:11 25:21
53:25 74:15,20
86:24 88:2 90:4
91:5 130:2 132:25
133:2,4,13 135:19
147:2

pursuant 52:2

pursuing 49:9

push 140:5

push-pull 58:16

pushed 31:2
72:23

pushes 31:4

pushing 43:21
133:25

put 17:15 19:6
25:16,18 33:7,11,
17 34:1,8,11
41:15 45:16 56:11
66:18,22 97:3
130:16 149:15

putting 24:17
56:15 138:7
142:21

PWC 5:19 6:2

pyramid 124:9

Q

Quaker 46:15,16,
20 97:17

qualifications
136:7,18

qualify 119:19

qualitative 81:25
82:4 83:7,12,22
142:18 146:20

qualitatively 82:6
112:14

quality 119:15

quantify 59:24
119:20 120:1
121:5 145:18

quantitative
81:25 84:2,7
86:14,25 87:4,7,
16 110:14 142:18
146:20

quarter 57:7

question 5:23
8:4,7 9:1 14:14
16:8,9,10 17:4
20:3 31:20 32:13,

- 15 33:6 35:13,24
36:13 38:17 39:24
40:13 41:25 43:5
48:22 59:3 64:24
67:3,12,15 68:23,
24 70:21 71:3,17
72:13 73:1 74:25
76:2 77:8 84:13
89:25 92:1 105:13
110:13,16 116:23
117:10 120:7
123:5,16,19
125:11,25 130:8
131:2 132:8
138:10 150:5
151:3
- questioned**
133:8
- questioning**
123:3
- questions** 10:9
19:7,25 30:11,16
32:6,9,11 34:17
36:5,8,12 38:14
39:2,4,10,16,20
43:2 64:16,22,23
68:6 70:13,17,18,
20 71:9 73:8 75:7
76:4 91:8,13,14,
17,20 116:22
118:21 121:18
125:23 126:11
131:22 137:19
143:23 147:17,19
148:1 151:9,13
152:18
- quick** 5:23 31:20
86:23 131:2
- quickly** 31:11
33:16,25 129:19
140:17
- quote** 11:12 35:3
78:21
- quote/unquote**
25:6 127:9,23
-
- R**
-
- Rafael** 3:17 6:18
- 92:21,22
- railroad** 11:10
- railroads** 11:2
- railway** 11:4
- raise** 16:8 19:15
64:17 131:17
135:24
- raised** 76:10
- Ranch** 93:3,7,12
128:11,14,19,22
129:5,7,12
- Ranch's** 129:7
- Rancho** 3:16
- range** 148:17
- rare** 59:23
- rarely** 15:11
- rate** 21:4 26:3,18
28:3 29:11,14
31:5,7,8,11 33:2,4
49:8 72:10 80:9
83:15 127:24
143:17
- rate-regulated**
9:4,11,20 18:9
21:15 23:10 37:4
40:3 48:2 64:11
85:21 88:4,16
98:3 126:21 131:4
- rate-setting**
32:20 83:3
- rate-unregulated**
98:4
- rates** 26:4,5,21
29:12,18 30:1,6,
23,25 33:1 49:4
56:3 152:9
- rating** 31:14
- rational** 9:8 14:18
44:24 111:16
- rationally** 113:10
- rational's** 55:23
- ratios** 86:15 88:12
- raw** 12:12 47:1
- reach** 14:1 17:9
147:1
- reaches** 49:21
- read** 35:3 54:17
76:4 81:20 128:18
138:16 139:3
142:23,24
- reading** 81:19
106:6
- ready** 7:25 8:11
19:22 92:13
- real** 56:16 86:22
100:25 119:9
135:12 146:17
- realistic** 55:15
- realize** 53:17
129:25
- reason** 52:10
53:20 61:13 62:12
77:18 85:24 87:15
90:2 104:4 115:1
133:3 134:8
142:14 145:12
- reasonable** 9:23
13:12 26:5 97:1
109:20 110:5
113:20
- reasons** 18:6
64:9 94:8 109:9
116:3
- rebrand** 35:22
37:19,23
- rebranded** 35:9
- rebranding** 41:25
- rebut** 121:13
- rebuttal** 30:20
125:15 140:15
147:15
- rebutted** 121:14
- recall** 122:22
- receipts** 57:8,18
75:15 81:11 82:6
- 86:19,21 87:20,23
89:8 149:20
- received** 4:5,7
7:14,22 114:7
- recent** 92:23,24
93:14
- recess** 91:21
92:8,11
- recognition**
90:17
- recognize** 53:20
59:11 62:10 81:16
88:21 132:6
- recognized** 48:12
78:24 79:17 81:11
106:18
- recognizing**
81:16
- recommendation**
30:22
- record** 5:14 7:8,
12,20 20:13 92:10
150:15 152:12,24
- recordkeeping**
31:22
- records** 31:22,25
50:13 144:11
- recouping** 56:21
- recover** 28:13
29:9
- RECROSS** 4:17
- recycle** 83:24
- REDIRECT** 4:17
39:18
- reduced** 89:17,19
99:16,18
- reduces** 89:9
133:17
- reducing** 81:21
- reduction** 89:20
- refer** 18:9,13,16
126:7

- reference** 11:9
12:2,19 25:2
86:15 128:12
132:12 135:17
- referenced** 28:21
42:1 45:21 46:7
47:3 53:11 59:8
61:25 65:17
140:18 146:17,18
- references** 10:19
19:1 44:5 138:8
- referring** 26:9
76:6
- refers** 61:1
- refining** 46:21
97:18,21,24 98:2
- reflect** 13:12 14:8
74:12 86:7 87:11
100:25 113:14
- reflected** 85:1
122:25 132:18
145:17 148:11
- reflection** 110:17
- reflective** 141:7
- reflects** 109:12
110:11 111:7,10,
13 116:14 120:15
- refund** 8:5 94:18,
19 150:9
- refute** 101:11
102:3
- refutes** 103:9
- regard** 123:13
137:4
- regions** 101:10
- regular** 32:3
- regulate** 25:3
48:23 66:7
- regulated** 9:4
21:16 24:4,8 26:1
47:24 48:3,6 65:1,
2,6,22 66:18
68:13 83:16
101:20,21 102:1,
4,5 103:13
124:15,22
- regulated/
nonregulated**
123:25
- regulates** 48:14
65:15
- regulating** 66:12
71:12
- regulation** 23:17
25:24 71:22,24
72:10 96:16
101:25
- regulations**
71:16 102:2
- regulator** 21:5
66:19 131:16
144:1
- regulators** 50:19
58:25 66:3,5
131:11,12 136:13
140:25 141:1,3
- regulatory** 25:1,2
28:12 31:16,19,
22,25 45:11
47:22,25 48:12
49:4,19 51:7 52:2
53:2,7 63:19
65:10 66:1,5,6,15,
25 72:1 77:23
82:25 97:10,14
102:7 124:11,22
125:7,10 136:15
140:21,24 141:6
143:17 144:22
147:6 150:19
- reiterated** 15:8
- rejected** 93:24
101:5 115:2 116:4
- relate** 107:15
- related** 14:23
79:25 102:9
- relation** 78:3,23
- relationship** 9:8
14:19 31:17
32:15,19 40:1
67:9 94:25 98:9
101:17 102:3
103:10 104:2
107:22 111:17
115:14
- relationships**
46:9
- relative** 88:23
89:3,12
- relevant** 19:3
- reliable** 23:14
129:16
- reliance** 99:3
101:16
- relied** 95:3,8
100:17 108:25
- relief** 78:24 94:3
109:6,8,10,14
111:6 113:17,19,
24 116:13,25
- relies** 10:3
- remainder** 32:12
39:7 42:15
- remained** 93:3,7
- remaining** 139:22
- remedies** 79:16
- remedy** 11:11
74:14,15 79:4,10
90:1
- remotely** 19:3
- render** 142:24
- renewable** 21:14
22:4,6,7,16,18
40:16,17 41:8
50:23 78:8 90:25
98:15 127:5,16
129:13
- renewables**
37:12,13 41:6
51:1 62:7 127:6
- repeat** 83:24
- repeated** 15:9
112:19
- repeating** 87:5
- reply** 17:20 45:17
54:11 58:6
- report** 25:7,25
26:9,16 27:2,8
33:21 35:8,14
36:1 42:1 58:2
62:1 101:22
113:12 132:15
- report's** 87:18
- reported** 2:19
- reporter** 2:21
19:11
- reporting** 26:3
32:1 59:20 74:23
75:6
- reports** 26:6,10
27:23 33:19 38:11
48:24 102:19
122:24 124:11
132:19,23,24
133:5 136:15
148:12
- represent** 7:5
13:22 56:17,19
69:5 79:21 80:16
109:18 111:1
126:1
- representation**
110:3
- representative**
3:10,11 120:20
124:11
- representatives**
76:1,25
- represented** 46:7
78:7 98:11
- representing**
126:1
- represents** 57:7
- request** 93:23
109:5,8 115:22
116:3,25
- requested**
113:19,24

requests 116:17	Respondent 3:14	25:4 30:14 33:18	role 28:23 55:19
require 25:16	6:19 10:15 20:2	34:4,8 40:2,19	143:13 145:4
43:14 58:25	32:8 35:6 45:15	44:18,19,22 45:12	149:3 151:23
109:20	53:3,5 92:21,22	46:18 48:2 49:4,	roles 54:24,25
required 26:11,15	95:3,8 109:1	23 50:24 64:11	55:2 148:14,18
78:4 80:11 95:24	116:17 122:10	65:21 69:6 85:25	rolled 129:4
105:17 131:15	126:7 128:16	88:4,16 124:3	130:15
138:25 141:17	141:14 142:20	127:8 131:4	Ron 5:19
requirement 22:5	149:11	138:23	Ronald 3:11
25:11 47:9	respondent's 4:6	retail/wholesale	roof 138:2
requirements	7:13 10:6 55:19	123:24	room 64:7 90:16
29:22 31:22 52:2	94:23 95:1,11	retire 28:11	140:3
83:18 114:4	99:20	retired 28:13	rote 80:15,21 81:7
requires 14:16	responding 76:3	retirement 28:9	Rough 110:23
96:9	responds 125:11	return 27:4,5 30:2	roughly 21:6,19
requiring 13:21	response 11:25	31:9 91:23	22:3 23:21 60:6
26:8	68:6 123:1,2	127:22,24 152:9	75:22 89:18 146:3
resent 125:24	151:2	returned 92:11	roundly 113:23
reserve 36:12	responsibility	Rev 94:3 109:7,	routinely 15:17
reset 30:25	131:10	10,13,16 110:6,	18:23
residents 21:21	responsible	13,18 111:5	RPR 2:20
48:10,17 49:7	13:10 20:20 87:18	113:16 116:12	rubber 140:6
72:3 125:2	131:3 136:14	revealed 88:25	rule 11:11,16,21,
resides 131:5	rest 38:20 53:25	reveals 10:2	24 12:4 33:25
resolve 144:12,17	Restatement	revenue 7:4	39:22,25
resolved 8:7,10	79:2	13:20 21:7,19	rules 80:11
resource 20:23	restoration 28:8	38:12 43:6 90:10,	132:14,16 133:13
resources 18:13	restraints 124:21	12	137:20 140:4
21:10,24 22:3,14	result 9:20 14:15	revenues 23:23	run 13:25 51:19
32:24 33:15,23	16:16 27:17 34:13	25:18 29:24	52:4 55:22 56:9
34:12 37:6 41:5	53:10 80:22 85:23	review 27:11 29:4	147:24
46:4 47:11 54:21	89:16 103:20	143:13,15	running 93:6
97:3 107:2 117:17	110:8 135:6	review's 143:16	
118:4 127:2 128:4	resulted 81:23	reviewing 48:16	<hr/>
respect 7:7	107:25	reviews 26:3	S
151:21	resulting 81:12	rider 27:13 28:16	<hr/>
respectfully	114:8 115:12	rife 12:8	Sacramento 2:3,
116:17	results 27:10	rigor 143:13	16 5:1,9
respond 17:21	78:22 86:3 101:23	ringer 13:25	safe 65:5
43:2 45:19 64:16	115:23	rise 14:9	safety 124:24
91:8 119:2 126:15	resume 73:10	risk 82:8 107:3	Saga 106:17
148:4	resumed 4:13		141:15,24
responded 138:6	42:21		
	retail 18:9 21:18		

- sale** 16:21,25
81:12
- sales** 45:2 59:7
105:16,22 111:23
123:8,10 132:2,3
144:13,20,23,24,
25
- satisfying** 96:8
- savings** 108:1
149:6,7,8,10
- SBE** 101:5 102:5
103:2,23 106:15,
17 141:22
- scale** 81:21 97:4
107:25 108:1
114:10 115:13
142:6 143:9
146:13 149:11,14
- schedules** 29:22
- schemes** 102:7
- scope** 61:23
- Scott** 4:18 5:21
19:6 20:6,16
- scrap** 128:5
- screw** 127:23,25
- Seabrook** 71:17
72:15,22 150:13,
15,22
- search** 122:17
- seats** 55:2
- SEC** 25:9,10,16
32:2,4 36:3 67:22
132:25 143:16
- secretary** 54:22
- Section** 7:4 13:20
76:13 79:3 94:4
96:16 109:5,8,10,
14,16 110:6,14,19
111:6 113:17
116:12
- seeks** 14:18 114:4
- segments** 96:19
- segregated**
11:15
- segregation** 15:5
- segue** 129:20
- sell** 12:13 22:1
24:23 41:13,18
53:6 63:23 112:1
142:7
- selling** 21:14,25
34:6 36:25 45:8
- sells** 9:13 21:11
- Senior** 6:4,5
- sense** 13:12
62:13 69:24
- sentence** 140:23
141:5
- separate** 15:3,6
16:20 21:10,15
37:24 38:8 40:7
42:5,8 44:11,25
45:4 47:16 50:15,
16 51:24 53:24
61:14,18,19
63:18,22 64:12
69:4 74:15 77:18,
23 79:3,9 83:9
90:2,3 93:18,24
102:11 108:23
111:4 113:21,24
114:2,3,7,15,23
115:1,2,4,9,10,22
116:3,25 117:3
119:14 120:9
121:6 138:13,14
142:11 143:3,4,6,
9 144:3 145:13,16
151:1
- separating** 121:4
145:7
- separation**
120:25 121:3
- series** 11:1 12:11
16:20 76:3
- serve** 20:24 23:18
24:21 67:24
- served** 104:5
- serves** 21:17
24:20
- service** 9:5 21:16
23:11,24 24:3,5,6,
11 26:2 33:14
47:14 48:4,7 49:4,
11 52:6 55:19
57:24 64:5 65:12
66:11 82:14
107:16 124:15
136:10 139:25
143:14 149:3
- services** 46:23
52:1 54:21 57:6,
10,11 58:3,4,24
72:2 106:12,18,21
107:3,4 108:8,11
119:10,24 141:25
142:3 149:6,13
- serving** 21:20
37:2 101:10
- session** 152:25
- set** 12:25 15:21
23:12 25:14 26:4,
21 29:1,18 38:20
49:25 59:10 82:25
117:20 124:7
134:8 138:17
- sets** 24:5 49:25
102:2
- settlement** 26:20
- severely** 80:22
- shadow** 120:11
- shadows** 119:20
- shape** 37:20 38:5
42:9
- share** 11:18 55:13
60:14
- shared** 16:3,7
52:1 57:10,11
58:2,23 102:15,
17,18,21 103:20,
21 104:4,9 116:9
142:3 146:10
149:6 151:16
- shareholder** 40:9
- shareholders**
29:8 49:18 58:21
152:10
- sharing** 57:24
59:20 97:5 119:9
136:1,2
- sheet** 25:8,17
27:3,10 29:20
- shepherd** 93:21
- shine** 129:5
- ship** 126:20
- shipbuilding**
45:24
- short** 55:4,5 70:20
91:21
- short-term** 86:17
- Shorthand** 2:21
- show** 57:21 60:15
80:11 89:14 95:6
115:9 143:20
144:18 146:1
- showing** 50:13
111:11 116:7
- shown** 116:14
- shows** 31:16
33:23 62:15
104:18 120:18
- shrug** 70:25
- side** 23:22 30:17
40:19,20 42:3
50:23,24 51:9
52:24 54:3 58:18,
20 59:19,25 61:23
62:21 65:1 67:7
74:7 81:3 85:19
89:7 122:16
126:24 130:16,20,
23 142:11 149:23
150:18,19,25
152:11
- sides** 10:11 50:18
58:17 147:22

- significance** 70:8
104:8
- significant** 49:3
60:4,20 105:7
106:19 108:3
111:25 112:2
119:3 120:22
129:2 149:6
- significantly**
79:19,22 108:16
112:22
- similar** 46:16 47:8
63:7 66:21 69:13
88:15 100:18
103:18 117:4
123:9 125:6
127:19
- similarities** 125:6
- similarity** 17:4
83:4
- similarly** 14:21
18:12 49:22 85:19
103:1,24 127:19
- simple** 18:5 25:24
90:17 132:17
- simply** 10:7 18:24
44:2,12 47:21
67:21 130:22
- single** 43:25 48:8
64:6 95:5,9 96:18,
22 109:2 114:11,
20 116:2 124:10
134:15 141:5
146:1
- siphon** 68:12
- sit** 136:4,24 138:1
140:8
- site** 41:18 148:19
- sits** 38:2
- sitting** 62:8 70:7
90:15 137:11
148:13
- situation** 17:3
77:6 78:12 80:10
89:23 102:25
- 147:4,9,11
- situations** 14:25
66:15 79:18 86:11
89:22 142:2
- skew** 144:16
- skewed** 144:11
- Skoal** 53:12
- slicing** 119:20
120:11
- slide** 10:21,22
11:13 12:25 13:6,
24 15:13 16:17
18:4 42:24 44:1,
16 45:21 46:14
47:19 77:10,25
82:3 84:4 85:2
87:17 88:14 89:8,
24 144:6
- slides** 42:23
77:11
- slight** 97:9
- slightly** 100:19
- slow** 106:7
- small** 40:25 50:10
62:17,19
- solar** 22:8,14
40:25 41:1,6,18
62:7,11,20 93:9
100:2 127:15
128:21 129:3,6,13
130:1 137:4,7
- sold** 40:19 81:10
103:6 108:8
- sole** 57:23 67:23
115:17
- solely** 71:14
- solemnly** 19:17
- somebody's**
70:7
- someplace** 65:18
- sort** 49:5 105:2,16
126:5 133:24
147:10
- sought** 45:22
- soundly** 115:2
- soundness** 12:18
- sounds** 36:15
- source** 114:12
115:18
- sources** 50:21
90:25 100:15,17
- Southern** 22:23
- speaking** 22:20
- Special** 75:25
- specific** 12:3 35:3
- specifically**
43:10 74:16,22
140:21 142:19
- speculate** 71:25
- spend** 29:5,7,9
90:19
- spends** 57:10
- spent** 28:7 51:22
- spite** 13:16 17:22
46:20 148:6
- spoken** 24:25
- staff** 30:9,21
145:2
- stakeholders**
42:7
- stamp** 140:6
- standard** 9:22
13:8 16:13,15
43:12 69:10 74:12
78:21 79:19
80:15,21 81:7,13,
23 84:8 85:21
86:4 89:9,12
109:17 110:2,7,
10,18 111:9
113:13 114:24
135:17
- standards** 22:5,
16 41:8 127:5,17
- standpoint** 32:2
45:8 135:23
- stands** 117:2
- stark** 63:6
- start** 10:18 30:10
33:16 37:12 38:10
43:9 77:10 146:14
- started** 26:12
33:14 35:19,21
36:16,25 37:1,6,
10,12,18 52:14,15
61:7 71:12,24
126:20 146:15
- starting** 10:20
27:18 35:19 38:12
42:9 82:2
- startling** 10:2
- starts** 15:22 29:12
- state** 2:1,22 3:15
6:4,5 9:2,8 11:6,7,
8,15,16,18 12:3,6,
12,13,14,15 13:1,
3,13,23 14:19,21,
23 15:3,4 16:23
18:15 20:13 21:21
22:12 24:7 26:7,8
28:23 37:8,10
43:6,15 46:15,16,
20 48:1,9,18 49:7,
8 50:8,11 52:13,
23 58:20 59:5
66:8,19,20,23,24
70:4,5,6 72:3
74:13,18 75:25
76:6 77:17 78:3,5
79:8,22 80:1,17,
19,24 81:1,10
84:10,15 85:25
86:12 88:2 90:14
97:17,22 101:1
109:19 110:12
111:2,24 113:15,
25 114:4 115:8
124:4 125:2 137:2
143:20 144:12,17
146:1
- state-by-state**
11:5

state-to-state
80:14

stated 35:10
103:2

statement 4:22
15:7 25:8,19 27:3,
9 29:19 35:13
36:6 112:12
125:14,20 134:12

statements 8:21
10:4 19:14 129:22

states 11:23
21:13 22:3,4,17
23:1 25:6,13,22
36:17 37:7 65:23
66:4 73:6 75:16,
18 79:22 81:9
100:4 114:7

stating 5:14

Status 27:8

statute 142:12,15
146:18 150:8,11

statutes 8:24

stay 42:5

step 145:15

stipulated 134:24

stock 31:14 68:1

stock-issuer
67:23

stop 64:14 141:6

stops 25:24

Stores 15:8 18:20

storm 27:16

story 64:6 128:11
129:24

strategies 112:24

strategy 22:13
37:14 41:12 51:4
56:5 63:15 98:21
99:13 127:14
129:15 133:15
139:17 149:1

stream 92:6
street 2:16 86:9

stretch 146:24

strive 13:9

strong 43:20
96:24 97:14 103:9

strongly 74:9

structure 18:7
19:24 71:10
147:22

stuff 27:21 47:25
60:23 130:3,4
136:4

sub-account
143:15

Subcommittee
75:25

subject 13:11
14:7 36:2 50:4
53:7 59:3 65:25
72:1 75:13,14
80:7 102:7 114:16
124:20,21 125:9
133:19 140:24
143:6,10

submit 58:2
142:17

submitted 26:7
75:21 152:24

subsequently
61:8

subsidiaries
104:12 105:23,25
108:9,11 118:17

subsidiary 6:13
56:22

subsidiary's
105:24

substance 95:4,9
100:9,16 109:1

substantial 57:22
88:5 94:16 99:2,9
101:19 105:6,10,
17 106:22 108:20

111:20 112:4,6
116:10 131:24
137:4 139:8,12

substantially
92:25 94:6 99:16
112:13,25

substantiate
100:11

substation
150:15

subtle 58:8
114:18 115:25

success 69:17
98:21

sudden 66:21
78:14

sufficient 89:14
97:7 110:23

suggest 133:14
138:3 140:5 144:3

suggested 86:23
146:6

suggestion 73:9
75:4

suggests 44:4
60:19 93:20
114:23 135:13

suited 32:12

summary 44:16

sun 129:5

supervises 16:1

supplemental
123:2

supplied 129:10

supplies 16:4

supplying 82:4

support 10:14
30:4,17 53:14
54:7 56:16,22
63:17 82:9 100:10
105:19 106:24
119:17

supported
108:22

supports 99:19
106:13 108:21
112:4 123:22

supposed 11:22
79:25 80:9 86:9
87:12 140:7

Supreme 15:18
43:13 65:19 79:14
81:16 104:11
105:21 119:21
132:21 139:11
147:25

surrogate 87:12

surveil 26:17

Surveillance
26:16

survive 143:24

sustain 10:6

sustained 95:12
108:24 111:14
116:18

swear 19:15,17

switch 76:24

switches 11:7

sworn 19:13 20:8

Syd 128:20

system 11:4
17:15 27:18 93:10

systems 107:1

T

table 5:24 56:11
144:4

takes 55:12

taking 84:14
129:25

talk 14:25 17:25
23:5,17 24:1
26:10 42:2 43:19

- 47:4,7 51:21 53:3
55:21 56:17 63:23
77:9,13 79:12
84:2 87:21 128:14
130:7 132:18,23,
25 133:22 134:8,9
135:15 136:4,21
138:24 140:16,20
142:2,3,11 143:2
144:10,20
- talked** 21:9 28:15
30:11 41:7,14
47:16 49:24 50:9
54:5 59:7 61:24
83:8,23 127:4
130:14,19
- talking** 28:4 37:16
55:16 57:17
59:11,13,22 60:5,
23 67:6 68:4
77:13,15 83:10
90:7 118:23
123:20 125:1
133:6 138:19
141:7 145:15
146:21 148:22
151:20
- talks** 54:6 62:25
134:13 137:1
141:8
- Tamagni** 3:18
6:20
- Tampa** 24:9
129:10
- tangible** 11:5
59:7
- target** 82:24
- targeted** 12:9
- tariffs** 30:6
- tax** 2:2,16 3:15,17,
18 6:4,5,16,19,20,
25 7:8 8:23 9:3
11:2,24 13:11
14:7,9,18,21 21:3
22:12 43:6 54:19
74:20 75:14,15
78:22 79:7 80:10
88:2 92:23 94:4,
18 99:8,12,13,16,
17 105:3 109:7,
10,13,16,20
110:6,13,18 111:6
112:7,23,24,25
113:17,25 114:1,4
115:8 116:12
133:3,13,14,22,23
134:4,9,15 135:7,
11 146:5,7,16
147:2,8
- tax-wise** 68:18
- taxable** 9:23
11:18 12:3 43:7
78:9 80:12 87:8,
11 94:2 99:18,19
132:14 144:18
145:16 146:1
- taxation** 7:4
11:18 13:20 75:25
110:9
- taxing** 13:18
- taxpayer** 11:19
12:7,19 17:7
45:22 52:9 77:17
78:23 80:19 81:9
94:17,25 96:17,
21,22 97:18
109:19 115:9
116:25 121:13
141:21 145:22
- taxpayer's** 13:22
80:17 109:18,22
110:3,12 111:1
- taxpayers** 12:21
76:24 77:5
- team** 32:25 38:2
- teams** 51:17 52:4
- technology**
106:25
- telling** 56:8 78:17
82:15 104:25
- tells** 56:1 133:7
136:5 145:23
- ten** 91:22
- ten-minute** 92:11
- ten-plus** 30:15
- Tenneco** 45:21
46:10 63:21
- tension** 58:17
- terms** 21:5 94:17
106:17 117:12
123:19 149:5
- territorial** 114:1
- territories** 24:11
- territory** 24:4,6
49:5
- test** 29:17 43:11
95:22,23 96:3,5,6,
8 116:6 136:21
137:1,9
- tested** 76:22
- testified** 20:9
- testifies** 136:13
- testify** 120:17
143:18
- testifying** 28:2,7
- testimony** 4:16
19:14,18 30:3,17
42:25 48:20 49:1
84:1 104:18,23,
24,25 105:2
120:14,22 136:20
152:22
- tests** 43:10 95:21,
24
- theoretically**
12:16
- therefrom** 17:2
- thing** 29:5 36:18
52:8 55:9 58:7,11,
23 60:3 82:22
90:8 118:6 123:25
143:1
- things** 10:23
27:14 38:11 41:9,
23 44:4 48:19
127:24 128:1,20
132:7,25 134:14
135:16 137:21
138:9,11 139:7
140:5,10,17 143:2
144:2 150:14
- third-party** 49:15
144:1
- Thomas** 75:23
- Thor** 132:20
- thought** 116:24
- thoughts** 65:3
117:15
- thousands** 29:16,
23
- three-factor**
16:14
- throw** 139:9
- thrown** 55:25
- ticket** 11:7
- tie** 56:20,25 63:11,
14 70:11
- ties** 9:15 46:6
104:21
- time** 5:8 8:18
16:15 20:1 21:13,
18 22:7 28:7 32:9
34:13 37:1,5
39:11 51:23 57:11
62:5,8 63:23
64:22 71:11,15,
20,23 72:11,24
73:8,19 74:18
75:2,23 76:19
90:19 91:21 92:10
99:2 129:1,4
150:22 153:2
- timeliness** 8:5
- times** 28:2 89:1
100:4 132:19
- title** 6:3 120:16
126:4
- titles** 54:17
148:19

today 5:7,9 6:23
7:24 16:9 17:3,16
19:4 20:19 21:4,
20 40:23,24 45:3
51:3 54:1 83:25
93:15 152:22,24

Tokyo 102:8
140:22

tone 69:24

tool 82:9

Tools 132:20

top 38:2 67:8 70:7
124:9 125:9
148:24

topics 75:11

total 57:16 59:12,
22 60:7 105:24
141:21 149:20

touch 28:17 51:14

touched 118:6
122:21

touches 30:24

touchpoint 32:3

track 11:6,7
143:7,25 144:22
145:8,9,10

Tracy 65:18

trade 18:21 69:4
70:2 82:18 83:6
96:23 117:13

trades 12:21 69:5

trading 50:20

tradition 38:23

traditional 43:4
50:4 67:21

traditionally 12:9
78:16

trail 93:1

transaction
58:10 145:11

transactions
12:11,14 33:23

40:11 46:2,25
56:10 57:6,22
79:25 94:15
105:9,12,15,18
106:16,23 107:5,
8,10,11,15,17,18,
21,24 108:4,20
113:4 116:11
119:1 120:2,6,8
121:19 122:1,23
123:6 124:16
131:22 135:22
140:18 141:13
145:10 146:10
149:8,18

transcribed
106:9

TRANSCRIPT
2:15

transfer 44:4
55:11 56:24 60:3
65:16 141:10,11
145:18,25 146:9

transferred 57:15
59:12 61:10 72:17
78:3 108:15

transfers 56:19
60:4 105:7 114:18
115:25 145:9

transitioning
98:17

transmission
23:20 129:8,11,17

transmit 41:20

transmitted
97:13

treasurer 54:19
131:6

treasury 80:22,24
84:18 88:24 89:1,
13

treated 70:21

tremendous
83:22 108:7 113:5

trend 18:1 46:10

trick 86:1

tricks 133:20

trivializing 100:8

trouble 122:4

true 10:6,7 74:19
127:20 130:3
132:9

truth 19:18,19
128:9

Tuesday 2:18 5:2,
7

turn 15:20 34:15
64:20 70:16
91:10,15 92:12
116:21 118:20
123:14,15 147:15
151:8

turned 127:12

two-way 86:9

two-week 30:18

two-year 61:11

type 36:18 97:10

types 100:19

typical 77:16,17

U

U.S. 15:18 43:13
44:18 65:19 75:25
101:2,7,9 103:5,
23 104:11 105:21
132:21 139:11
141:1 147:25

UDITPA 15:19
74:19,21 75:8,11,
17 76:17 79:17

Uh-huh 92:16

ultimate 139:24
147:23

ultimately 21:13,
17 23:18,22,24
24:5,12,19 26:4,
19,22 27:4 28:4

29:3 30:21 33:1,
18 34:4 37:1 40:5,
7 41:15,20 67:25
128:6 129:10
131:5,9

Um-hum 67:5
151:18

unable 97:16

under-attribute
81:1

underestimating
80:23

undergoing
35:12 98:20,24

underground
27:19

underlying 130:6
134:16

underscore
35:11 98:19

understand
10:24 13:7 20:2
35:18 53:22,23
62:1 68:9 145:19
147:21 149:7

understanding
36:23 122:3
136:16

understands
136:14

understate 133:1

understood 42:7
74:4

undoubtedly
104:6

unencumbered
83:2

unfair 78:2 88:13
110:17

unfairly 109:12
110:11 111:7,10,
13 113:14 116:14

unfamiliar 101:9

unfavorable 105:1
unfounded 114:22
unhindered 83:2
Uniform 74:20
78:24
Union 102:8
140:22
unique 53:17,18
77:14 147:4,9
uniqueness 143:12
unit 11:11,16,23
12:4
unitary 6:25 7:2
9:16,22 10:12,17,
22 11:1 12:1,4,9,
15,23 13:1 14:5,
11,12,21 16:6
17:13 18:20,24
19:3 43:10,23
44:1,3,6,14,19,23
46:5,14,24 47:21
52:9,10,13 54:2
56:20,24 62:25
63:11,14,18 64:13
69:1 70:8,11
74:10,11 75:5,18
77:2,11 78:1
84:17 90:6,9 91:2,
3 94:1,6,14,23,25
95:3,7,11,20,23,
25 96:10 100:12,
21 101:3,6,14,17
102:3,6,11,15
103:10 104:1
105:22 106:3,13,
19 107:22 108:23,
25 109:11 110:24
111:7 114:24
115:7,14 116:2,5,
14 121:4 131:25
133:24 135:13,23
136:21 139:4
142:14 145:20
147:10 148:7
150:7 151:5 152:6

United 23:1 25:6,
13,22 73:6
unities 43:11
95:22 96:6
unity 43:16 94:10,
16 95:1,13 96:12,
13,25 100:10
101:8,11 102:10,
22 104:12 105:6,
8,10,17 107:9
108:3 112:12
116:7 120:23
134:5,14
unprofitable 81:17 112:20
113:1 115:5,6
unquantifiable 114:18 115:25
120:10
unquestionably 93:19 113:5
115:14
unreasonable 78:22 84:9 109:15
113:18,22 116:4,
16
unscathed 93:4,7
unsupported 10:3 113:21
Unsurprisingly 97:22
upcoming 131:19
upheld 111:2
upper 54:14 148:6
upset 80:4
users 30:14 42:3
58:19
utilities 21:12
22:15,25 24:6,8,
20 25:5,21 37:13
50:11 65:16 74:22
75:1,8,17 76:7
77:13 100:3
127:4,16

utility 9:4,12,20
20:24 21:5,16
23:10 25:25 37:4
41:19 53:19 66:16
70:22,24 93:23
101:20 102:9
103:14 126:21
143:12 147:5
utilize 121:9
utilized 100:19

V

valuable 98:11,12
values 11:18 12:6
14:20 114:5
valuing 11:3
variable 128:7
variations 80:14
vary 79:22
vast 96:5
vastly 31:24
32:22 41:22 49:19
126:18,25 127:14
verbiage 138:15
versa 32:24
122:13
version 75:8
115:3
versus 40:19
45:10 49:23 50:10
80:14 83:5 90:25
viable 61:5
vice 6:11 20:16
32:24 54:19,20,21
122:13
view 23:11 30:17
31:24
Village 56:23
63:12
virtually 123:8
visually 92:7

volatility 28:5
vote 30:22
voters 62:19
VP 104:17 120:16

W

Wait 137:18
wake 93:2
walk 43:1 82:1
wall 24:17 33:8,11
walled 72:20
wanted 34:21
35:22 37:14,19
61:14 92:5 118:8
123:15
wanting 27:9
warehousing 45:2
Warren 15:15,18
17:23 81:8 91:2
147:13
Washington 84:18
watch 69:23
142:8 150:24
watched 128:18
water 93:6
ways 96:8 112:11
138:22
weakness 98:4
weather 93:8
weekend 22:24
weight 13:9
West 45:21
whatsoever 33:4
wholesale 9:12,
18,19 18:14 21:11
33:3,16 34:12
35:19 37:6,17,24

40:2,19 41:5,17,
22 45:9 46:18
47:23 49:23 50:2,
11,23 51:10,13
52:7,24 59:6 62:6
64:9 65:23 68:13
69:5 78:7 80:12
83:1,16 85:3,11,
12,15 87:17 88:1
89:5 90:12 124:4
127:1,14 128:4
129:14 130:20
132:16 133:18
138:22 146:11

wholly 16:23
37:23

win 128:8

wind 22:8,14 41:6,
17 62:7,11,21
127:15 137:4,6

window 56:1

wires 23:20 41:15,
21

witnesses 4:17
30:4,19

woes 143:3

wonderful 128:20

wondering
118:22 119:1
123:11,19

Woolworth 44:17
45:3,5,6,17,19
53:12 63:20
147:24 148:5

word 68:12

words 44:6 58:15,
16 60:20 69:11
80:25 136:24

work 11:22 14:6
66:23 83:11 86:5
88:12 137:21
147:22

worked 131:8

working 84:13
85:18 91:25 127:4

132:8,10 138:20

works 19:2 52:14
79:23 86:2,5
87:10 121:12
122:6 125:25

world 8:23 60:16
93:13 146:16
150:20

worried 62:14

worry 51:11 76:19

worth 59:14
139:13 145:10
150:16

writes 75:24

written 75:17
152:23

wrong 6:3 16:16
17:14 69:12 85:17
91:4,5,6 150:18,
25

Y

year 21:7,19 27:21
28:2,17 29:17
30:23 31:1,12
33:20 37:18 56:5
59:12,16 60:1,6
82:20 131:15,19,
20 145:1,10
146:3,10

years 6:25 10:16
20:19 21:3,6 22:2,
10 23:2 24:19
40:25 41:7 56:18
88:2 90:10 93:15
94:2 99:10,25
106:14 128:13
130:25 137:5,8
150:7,9

York 31:14

Z

Zaychenko 3:17
4:14 6:18,19

34:18,24 35:2,6,
23 36:5 92:13,15,
18,21,22 95:17,19
106:5,8,11
116:20,24 117:2,
11,18 119:5
121:2,16 122:3
123:12 125:15
153:3

zealously 9:4