BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 020001-EI

In the Matter of

FUEL AND PURCHASED POWER COST RECOVERY CLAUSE WITH GENERATING PERFORMANCE INCENTIVE FACTOR.
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VOLUME 3

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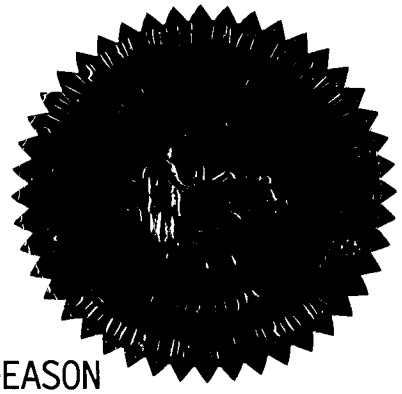

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BEFORE:	CHAIRMAN LILA A. JABER COMMISSIONER J. TERRY DEASON COMMISSIONER BRAULIO L. BAEZ COMMISSIONER MICHAEL A. PALECKI COMMISSIONER RUDOLPH "RUDY" BRADLEY
DATE:	Wednesday, November 20, 2002
TIME:	Commenced at 9:30 a.m. Adjourned at 4:20 p.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	TRICIA DeMARTE Official FPSC Reporter (850) 413-6736
APPEARANCES:	(As heretofore noted.)

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JAVIER PORTUONDO

continues his testimony under oath from Volume 2:

CONTINUED CROSS EXAMINATION

BY MR. VANDIVER:

Q And I have that in front of me, but unfortunately, I didn't make enough copies for the benefit of the Commissioners. And I'd just like to walk down this list very briefly with you and briefly give you a rationale for what's in and what's out, and maybe we can put into English what some of these things are. And I know that I visited the plant very recently, and the nuclear access control point, that's the guard shack, isn't it?

A That's the new facility, yes.

Q And where does that fall on the O&M versus capital continuum?

A Under normal circumstances where the likelihood of that facility being used and useful till the end of the license of the plant, that would be considered capital.

Q Very well. The passive vehicle barrier, is that the gate that comes down?

A That's -- pardon me, that's -- those are cable systems around the perimeter. There's a -- the cross arm system at the gate, yes.

Q And you classified that as --
A O&M.
Q O&M. The next one is closed circuit TV cameras, capital or O&M?
A Capital.
Q The concrete barriers and speed bumps?
A O&M.
Q Security equipment?
A Capital.
Q Relocation of the security computer?
A O&M.
Q Project management and engineering?
A Capital.
Q The elevated boat resistance security, I think that was a sniper tower, wasn't it?
A Yes.
Q Okay. What was that one?
A Capital.
Q Okay. Very well. And then we have them totaled there, and I think I have them totaled somewhere. What's the total on those two? Do you have that in front of you?
A Adjusted -- oh, no, pardon me, that's not it. The total for '02 is 1.7 million, total for '03 is about 2.4.
Q My math, that comes to $5,074,000. I see Commissioner Deason up there figuring it out. I'd probably

trust his math more than I would mine. But that would be 5 million of capital at normal times. Is that your testimony?

A Subject to adding it up because I think it's about 4.

Q Again, I trust Commissioner Deason's math. Now --

CHAIRMAN JABER: No, but -- we appreciate that, but that's not in the record. So let me make sure that we know what the total amount -- Mr. Portuondo, let me ask you, what is the total amount of capital expenditures for '02 and '03?

THE WITNESS: For '02 under normal circumstances the capital costs would be 1,719,000. For 2003, 2,350,000.

CHAIRMAN JABER: Okay. Thank you.

BY MR. VANDIVER:

Q And, of course, the vehicle gates, the concrete barriers, the relocation of the security things, I guess the accountants could argue about till the cows come home as to what was in or what was out, but that was your professional opinion as to the O&M versus the capital; correct?

A Yes.

Q Now, each one of these expenditures, as I understand it, were required by the Nuclear Regulatory Commission's order of February 2002; is that correct?

A Yes.

Q And each of these things that were required by the Nuclear Regulatory Commission's order of February of 2002 were required to be completed by the NRC no later than August of

2002; is that correct?

A Subject to check, I believe that's correct.

Q So when you signed the stipulation with the Office of Public Counsel, FIPUG and all the other parties to settle your rate case in May, many of these improvements were well underway at the plant, weren't they?

A Yes, they were.

Q And so you were well aware that many of these improvements would require the expenditure of capital items?

A Like I indicated earlier, in our view, these were current period O&M expenses given the nature of the circumstances that brought about the expenditure.

Q And when were your MFRs filed for the rate case that you undertook?

A September of 2001.

Q September 14th, I believe, 2001; is that correct?

A Correct.

Q And all of these type expenditures that you filed September 14th, 2001 were located in base rates, weren't they?

A No, not all of these costs were in base rates.

Q Where --

A We identified 900,000 as the level of O&M that was included in the MFRs, and it has been adjusted such that only the incremental cost is being asked for recovery in this proceeding.

Q Were they in the September 14th MFRs?

A They were in an amendment to Mr. Myers' testimony.

Q They were an amendment. Were they in the MFRs filed September 14th?

A The original MFRs did not include any of the September 11th events. That was originally filed after the initial MFR package was submitted as an amendment to Mr. Myers' testimony.

Q I guess it kind of turns on when you start traditionally and historically, wouldn't it?

A No. I think it's in the way you account for the costs. And what we're saying is that given the nature of these costs, their temporary nature, we aren't sure that they will have a useful life as if we had been in other times where we were making a conscious decision to increase permanently the nature of our security forces at the power plants where we knew that it would last the remaining life of each of these facilities.

In this case, the useful life is unclear. It's unknown. The degree of future security requirements is unknown, and ultimately, given their temporary nature, if they were to be capitalized, then the net book value at the time they were abandoned in place would go to expense. So that is the rationale and the thought process that we went through before submitting our request, knowing that we had an

obligation to meet the settlement requirements.

MR. VANDIVER: That's all the questions I have. Thank you very much.

CHAIRMAN JABER: Thank you, Mr. Vandiver.

COMMISSIONER DEASON: May I follow up on that?

CHAIRMAN JABER: Commission Deason, go ahead.

COMMISSIONER DEASON: I apologize, I was distracted momentarily. Your last answer to the last question, could you repeat that? The basic --

THE WITNESS: The --

COMMISSIONER DEASON: I'm trying to understand your rationale for your assumption, as I understood your answer, that these expenditures would be classified as O&M as opposed to capital.

THE WITNESS: Yes. When reviewing the requirements to take these measures and the temporary nature of the measures that have been ordered, we couldn't feel comfortable that these assets would live out their normal useful lives because of the potential that given the temporary nature we would retreat back to our original perimeter and be required to abandon these facilities in place because we couldn't continue the level of guard force that would be required to man such a larger perimeter as we have today.

COMMISSIONER DEASON: So it was your opinion that the NRC ordered these things but that they were just temporary and

that you would not have to maintain them longer than one year?

THE WITNESS: The language of the NRC order is -- has indicated that these were temporary measures, and that's kind of all I had to go by. There's always a potential, and you know, I'd hope that they are truly temporary measures, and we don't have to continue under this level of threat for a long --

COMMISSIONER DEASON: Is the term "temporary" in any way, in your opinion, a legality in the sense that they had to get these things ordered quickly, and they couldn't give you due process to make -- I'm just trying to understand the NRC process.

THE WITNESS: I don't believe so. I think the NRC for safeguard purposes can pretty much -- pretty much demands anything they want. I'm not an expert on the legal side of the NRC powers, but based on how every document that I was shown was phrased in the terms of temporary, I had to go on that basis to make my determination.

COMMISSIONER DEASON: Has the NRC eased any of these requirements?

THE WITNESS: No, and there's speculation that they may get worse.

CHAIRMAN JABER: Ms. Kaufman.

MS. KAUFMAN: Thank you, Chairman Jaber.

CROSS EXAMINATION

BY MS. KAUFMAN:

Q Hello, Mr. Portuondo. I just want to follow up on this rationale that you gave for these measures, in your view, being temporary, and just help me with this. For example, just looking on Mr. Vandiver's exhibit, the closed circuit TV, that's an item that -- is what you're telling us, if next year security requirements of the NRC are eased, that equipment is going to be ripped out and not utilized any longer?

A Not necessarily ripped out because that costs money to do, but there is a definite potential that it would be abandoned in place, because for every camera system that you put into the facility, you have to have a human body monitoring it, and that's demonstrated in the additional guard force that we've had to acquire. So if the guard force is reduced, therefore, there won't be enough eyes to monitor all the cameras, additional cameras that have been put in place as a result of these measures.

Q So what you're saying is, if I'm understanding you, that that equipment would be there, but it's your opinion it would not be used at all by Florida Power Corporation?

A The potential is it would not be used at all, not used and useful because we would retreat to the original system that has been in place and used and useful for many years.

Q And you're asking to recover all of these costs that you have identified as capital costs because it's your best estimate that next year you are going to essentially abandon

all of these capital items?

A I have to go on the assumption that given the language of the orders requiring us to implement these measures, the phraseology that they used is that it is a temporary measure, and at some point, maybe it won't be one year, maybe it will be a year and a half, but given that they're phrased as temporary, I wouldn't want to burden the customer as far as having a capital cost in which they're paying a return that eventually will be expensed because it will be abandoned in place. Given the fact that today's customers are the primary beneficiary of these systems and again the circumstances I have indicated, I felt it was the proper accounting and the proper cost recovery to take them as a current period expenditure.

Q And as I said, take them all in the one-year period, it's you're view that, and I think you've told or responded to Commissioner Deason that, in your view, security is going to perhaps tighten rather than decrease?

A These are volatile costs. I don't know whether the NRC will come up with new measures that may have to be implemented if -- I mean, 2003 could be the pivotal year given the Iraqi situation. There may be additional temporary measures if there were to be an invasion throughout the duration of that invasion, and once everything is resolved, we may be able to get back to normal. But again, it's volatile,

we're unsure, it's unclear. Everything that I've looked at points to a great deal of uncertainty on the longevity of these particular assets.

Q If I can interpret what you're saying, and if you disagree, obviously you will say, you don't really know what the security requirements are going to be. You don't know whether you're going to abandon this capital equipment or whether it is going to be in place for the useful life of the plant; right?

A That is correct. I can only go based on what I read in the NRC order and my accounting judgment.

Q Would you agree with me, Mr. Portuondo, that traditionally, putting aside the events of September 11th for the moment, that security costs have historically been recovered through base rates? They have never been recovered through any of the adjustment clauses.

A That is correct. And --

Q And -- excuse me.

A I was going to elaborate that in this situation, given the rationale for the security measures to protect fuel savings, that the Commission has seen to approve the recovery of items that traditionally would have been recovered through base rates through the fuel adjustment clause to the degree that it does protect or produce fuel savings.

Q I understand. The expenses that you're seeking to

recover that are detailed in Exhibit 13, am I correct that these relate solely to your nuclear plant?

A No, ma'am, they do not solely --

Q Okay. Can you identify which of these relate to nonnuclear plants?

A The only one at the moment that has got a component of fossil generation would be the security guards. We have had to place some additional security guards at some of our other facilities. Again, it's a minor amount.

Q Was that required by the NRC?

A Not by the NRC but just kind of good judgment.

Q Well, let me ask you this. I'm looking at Exhibit 13 and your response -- well, the question is related to your Crystal River nuclear unit, and your response is, you have calculated the incremental security costs due to the uncertainty of future NRC requirements. Are you saying, however, there are costs in here that are not related to these NRC requirements?

A There is a small amount in security guard that is related to the fossil plants. We had one figure.

Q Do you know what the amount is?

A I believe it's less than $100,000.

Q Did you increase security or take any heighten security measures at your nonnuclear plants after September 11th?

A Yes. That's the additional guards that we were just speaking about.

Q Is that the only additional security that you implemented at your nonnuclear plants?

A At this point, yes.

MS. KAUFMAN: That's all I have. Thank you.

CHAIRMAN JABER: Thank you, Ms. Kaufman. Staff. Commissioner Palecki, did you want to ask now or when staff --

COMMISSIONER PALECKI: I'll wait for staff.

CHAIRMAN JABER: Okay. Staff.

CROSS EXAMINATION

BY MR. KEATING:

Q Mr. Portuondo, staff is going to hand out an exhibit that consists of interrogatories -- or Florida Power Corporation's responses to staff interrogatories 28, 30, 31, and 36. I'm not going to go through Number 28 since Public Counsel has gone through that one already, but before you get a chance to look at those, let me follow up on some of the discussion that was had regarding the temporary nature of the NRC mandate. And it's correct that you have characterized that NRC mandate as temporary in nature; is that right?

A Based on the language in the order, yes.

Q Isn't the NRC's mandate essentially a change to the terms of Florida Power's operating license?

A I don't believe so. I'm not sure.

Q I've got the order in front of me, and I'm just looking at the title and going by that, but it says, "Order Modifying Licenses."

A I would agree with you then that it is a modification, but it appears to be of a temporary nature. I didn't focus on that part of it.

Q There's no specific time period that's set forth in that order for the security measures that are required to be taken at Crystal River 3; is that correct?

A That's correct.

Q Okay. So essentially until the NRC modifies or changes the terms of -- changes the mandate in that order or rescinds that mandate, Florida Power must continue to abide by those terms; correct?

A That is correct.

Q Isn't it more accurate to describe the NRC mandate instead of temporary as indefinite in nature then?

A Those aren't the words they used.

Q Do you have the order with you?

A No, I do not. I believe they did use the word "temporary."

Q But there is no time period associated with that temporary --

A Not that I recollect, no.

Q -- mandate?

Okay. Let me have you take a look at the staff exhibit that was handed out.

MR. KEATING: And if I can get that marked for identification.

CHAIRMAN JABER: Sure. Composite exhibit responses to staff's interrogatory Numbers 28, 30, 31, and 36 will be identified as Exhibit 14.

(Exhibit 14 marked for identification.)

BY MR. KEATING:

Q And actually, for this exhibit, I just want to confirm a few things for the record of the proceeding. I don't have any probing questions on this exhibit. I did for Number 28, but Mr. Vandiver has addressed those.

Looking at your response to Interrogatory Number 30, you indicate there that the NRC's order requires each nuclear site to provide sufficient defensive capability to withstand a design basis threat, and the details of that design basis threat are safeguards information; is that correct?

A That is correct.

Q And that safeguards information is protected from public disclosure; correct?

A That is correct.

Q Looking at your response to Interrogatory 31, you indicate that Florida Power by letter dated August 29th, 2002 informed the NRC that it had complied with the requirements of

the NRC's order; is that correct?

A That is correct.

Q Has Florida Power received any feedback from the NRC concerning its compliance with this order?

A I am not aware of any. That doesn't mean that it hasn't been received at the nuclear plant.

Q And let me have you take a look at the response to Interrogatory Number 36, which is the fourth page. That interrogatory asked Florida Power to provide a breakdown of the incremental hedging expenses that it seeks to recover through the fuel clause in this proceeding; is that correct?

A Yes, it does.

Q Okay. Are the numbers that are presented there in that interrogatory response still accurate, to the best of your knowledge?

A Yes, they are.

Q And just a few more questions. Florida Power has requested recovery through the fuel clause for the amounts identified in your response to Interrogatory 28; correct?

A That is correct.

Q And those are the security costs?

A Yes.

Q Is Florida Power & Light -- is Florida Power willing, for the sake of providing a consistent allocation method for those security costs and security costs recovered through base

rates, to recover those costs through the capacity cost recovery clause?

A Yes, we are.

Q And they would be allocated on a demand basis through the capacity clause?

A Yes.

Q As they are through base rates?

A Correct.

MR. KEATING: Thank you. That's all the questions I have.

CHAIRMAN JABER: Thank you, Mr. Keating. Commissioners. Commissioner Palecki.

COMMISSIONER PALECKI: Just one -- well, two questions. The first is Exhibit 12 which was the stipulation that Florida Power & Light entered into in its rate case. What was the date of the signature on the stipulation?

THE WITNESS: I don't recollect the exact date. It was in May of 2002, I believe.

COMMISSIONER PALECKI: I think that's good enough. The question I have is, in May 2002 when you entered into this stipulation and you put in this provision about not using the various cost recovery clauses to recover new capital items, did you bring any of these security capital expenditures to the attention of the parties at that time?

THE WITNESS: I don't believe that they came up in

discussions. What I recollect the focus of this particular sentence was to assure that projects such as Hines 2 would not also be requested in the future through the fuel clause since that is the exception that is referred to in that sentence.

COMMISSIONER PALECKI: But at that time, you would have been putting plans in place and would have had cost numbers for some of these capital security measures, would you not?

THE WITNESS: We had preliminary estimates which we used in our amended -- our exhibit to the amendment to Mark Myers' testimony. That's the 900,000 figure that we are adjusting, because it was in agreement that if we had included it in the MFRs, we should adjust it out as not being incremental. But they were very preliminary estimates. We tried to assess the situation as quickly as we could, but by this time frame, the order had come out in February from the NRC, not a whole lot of time had passed for us to assess everything that would be required.

COMMISSIONER PALECKI: What I'm trying to figure out is whether this is something that would have been foreseeable in May as an area that would be perhaps fraught with dispute that should have been brought forward at the time of the stipulation so that we didn't have this dispute here today.

THE WITNESS: I don't think any of the parties were thinking about the security costs at that time as it relates to

the settlement.

COMMISSIONER PALECKI: Thank you.

CHAIRMAN JABER: Commissioners, any other questions? Okay. Redirect, Mr. McGee.

MR. McGEE: Just a couple of quick questions; one for clarification purposes.

REDIRECT EXAMINATION

BY MR. McGEE:

Q Mr. Portuondo, you were asked some questions by Mr. Vandiver concerning Exhibit 13 and breaking down the total amount of dollars that are reflected on that exhibit into the component that represents what would have otherwise been capital costs. I seem to recall hearing those amounts totaled as -- in the vicinity of $5 million. And my addition of those two numbers didn't come up to that amount. Could you confirm for the record what the total amount of the costs that would otherwise have been capital are on that Exhibit 13?

A Well, if my math is correct, it's about 4,069,000.

Q Fine. Thank you. Just one other question. Ms. Kaufman asked you a question that you concurred with indicating that security costs traditionally are recovered through base rates. And what I wanted to ask you is whether you considered the particular security costs that are before us now to be traditional?

A No.

MR. McGEE: That's all I have.

CHAIRMAN JABER: Thank you, Mr. McGee.

MR. McGEE: We would move the admission of Exhibit 11.

CHAIRMAN JABER: Without objection -- is there an objection to Exhibit 11? Okay. Without objection, Exhibit 11 is admitted into the record.

(Exhibit 11 admitted into the record.)

CHAIRMAN JABER: Public Counsel, you have Exhibits 12 and 13.

MR. VANDIVER: Yes, move those.

CHAIRMAN JABER: Without objection, Exhibits 12 and 13 are admitted into the record.

(Exhibits 12 and 13 admitted into the record.)

CHAIRMAN JABER: Staff, Exhibit 14. Without objection, Exhibit 14 is admitted into the record.

(Exhibit 14 admitted into the record.)

CHAIRMAN JABER: Thank you, Mr. -- pronounce your name for me.

THE WITNESS: Portuondo.

CHAIRMAN JABER: Thank you. Portuondo. Thank you.

(Witness excused.)

CHAIRMAN JABER: Next witness.

MR. BUTLER: I believe that would be Mr. Yupp.

GERARD YUPP

was called as a witness on behalf of Florida Power & Light Company and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BUTLER:

Q Would you please state your name and address for the record.

A My name is Gerard Yupp. My business address is 11770 U.S. Highway One, North Palm Beach, Florida 33408.

Q And by whom are you employed and in what capacity?

A I'm employed by Florida Power & Light as the manager of regulated wholesale power trading in the energy marketing and trading division.

Q Do you have before you the following two prefiled direct testimonies: Projections January 2003 through December 2003, dated September 20, 2002, consisting of 23 pages and attached exhibit designated GY-1; and projections January 2003 through December 2003 supplemental, dated November 4, 2002, consisting of 6 pages and attached exhibit designated GY-2?

A I currently only have the second one in front of me, but the first one is at my chair.

Q Will you acknowledge that you prepared the first one?

A Yes, I did.

Q Were those testimonies and exhibits prepared under your direction, supervision, or control?

A Yes, they were.

Q Do you have any corrections to make to them?

A No, I do not.

MR. BUTLER: I'd ask that Mr. Yupp's prefiled direct testimony be inserted into the record as though read.

CHAIRMAN JABER: Prefiled testimony of Gerard Yupp shall be inserted into the record as though read.

MR. BUTLER: And I ask that you assign Exhibit 15 as a composite exhibit to his Exhibits GY-1 and GY-2.

CHAIRMAN JABER: GY-1 and GY-2 are identified as composite Exhibit 15.

(Exhibit 15 marked for identification.)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

FLORIDA POWER & LIGHT COMPANY

TESTIMONY OF GERARD YUPP

DOCKET NO. 020001-EI

SEPTEMBER 20, 2002

Q. Please state your name and address.

A. My name is Gerard Yupp. My business address is 11770 U. S. Highway One, North Palm Beach, Florida, 33408.

Q. By whom are you employed and what is your position?

A. I am employed by Florida Power & Light Company (FPL) as Manager of Regulated Wholesale Power Trading in the Energy Marketing and Trading Division.

Q. Have you previously testified in this docket?

A. Yes.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to present and explain FPL's projections for (1) the dispatch costs of heavy fuel oil, light fuel oil, coal, petroleum coke, and natural gas, (2) the availability of natural gas to FPL, (3) generating unit heat rates and availabilities, (4) the

quantities and costs of wholesale (off-system) power and purchased power transactions, and (5) FPL's Risk Management Plan for fuel procurement for 2003. The projected values for items (1) through (4) were used as input values to the POWRSYM model that FPL uses to calculate the fuel costs to be included in the proposed fuel cost recovery factors for the period of January through December, 2003.

Q. How is your testimony organized?

A. My testimony first describes the basis for the "Base Case" fuel price forecast for oil, coal and petroleum coke, and natural gas, as well as, the projection for natural gas availability. The second part of the testimony describes the "Low" and "High" price forecasts for fuel oil and natural gas. Next, my testimony addresses plant heat rates, outage factors, planned outages, and changes in generation capacity followed by projected wholesale (off-system) power and purchased power transactions. The testimony concludes with a presentation of FPL's Risk Management Plan for fuel procurement for 2003, as outlined in Component No. 2 of Staff's Resolution of Issues in Docket No. 011605-EI, as approved by the Commission at the August 12, 2002 Hearing. This presentation also includes a description of FPL's fuel hedging objectives and an itemization of projected, prudently-incurred, incremental operating and maintenance expenses for enhancing and maintaining FPL's non-

speculative financial and physical hedging program for the projected period.

Q. Are you sponsoring and/or co-sponsoring any portion of the appendices for this proceeding?

A. Yes. I sponsor all exhibits in Appendix I and Schedules E7, E8 and E9 of Appendix II. Additionally, I co-sponsor Schedules E2, E3, E4 E5 and E6 of Appendix II.

"BASE CASE" FUEL PRICE FORECAST

Q. What are the key factors that could affect FPL's price for heavy fuel oil during the January through December, 2003 period?

A. The key factors are (1) demand for crude oil and petroleum products (including heavy fuel oil), (2) non-OPEC crude oil production, (3) the extent to which OPEC production matches actual demand for OPEC crude oil, (4) the price relationship between heavy fuel oil and crude oil, and (5) the terms of FPL's heavy fuel oil supply and transportation contracts.

In the "Base Case", world demand for crude oil and petroleum products is projected to be somewhat stronger in 2003 than in 2002 due to an assumed economic recovery starting in early 2003, especially in Asia, and continued strong petroleum product demand

in the United States and Europe. Although crude oil production capacity will be more than adequate to meet the projected strong crude oil and petroleum product demand, general adherence by OPEC members to its most recent production accord should prevent significant overproduction, and keep the supply of crude oil and petroleum products somewhat tight during most of 2003.

Q. What is the projected relationship between heavy fuel oil and crude oil prices during the January through December, 2003 period?

A. The price of heavy fuel oil on the U. S. Gulf Coast (1.0% sulfur) is projected to be approximately 86% of the price of West Texas Intermediate (WTI) crude oil during this period.

Q. Please provide FPL's projection for the dispatch cost of heavy fuel oil for the January through December, 2003 period.

A. FPL's "Base Case" projection for the system average dispatch cost of heavy fuel oil, by sulfur grade, by month, is provided on page 3 of Appendix I.

Q. What are the key factors that could affect the price of light fuel oil?

A. The key factors that affect the price of light fuel oil are similar to

those described above for heavy fuel oil.

Q. Please provide FPL's projection for the dispatch cost of light fuel oil for the period from January through December, 2003.

A. FPL's "Base" Case projection for the system average dispatch cost of light oil, by sulfur grade, by month, is shown on page 4 of Appendix I.

Q. What is the basis for FPL's projections of the dispatch cost for St. Johns' River Power Park (SJRPP) and Scherer Plant?

A. FPL's projected dispatch cost for SJRPP is based on FPL's price projection for spot coal and petroleum coke delivered to SJRPP. The dispatch cost for Scherer is based on FPL's price projection for spot coal delivered to Scherer Plant.

For SJRPP, annual coal volumes delivered under long-term contracts are fixed on October 1st of the previous year. For Scherer Plant, the annual volume of coal delivered under long-term contracts is set by the terms of the contracts. Therefore, the price of coal delivered under long-term contracts does not affect the daily dispatch decision.

In the case of SJRPP, FPL will continue to blend petroleum coke

with coal in order to reduce fuel costs. It is anticipated that petroleum coke will represent 19% of the fuel blend at SJRPP during 2003. The lower price of petroleum coke is reflected in the projected dispatch cost for SJRPP, which is based on this projected fuel blend.

Q. Please provide FPL's projection for the dispatch cost of SJRPP and Scherer Plant for the January through December, 2003 period.

A. FPL's projected system weighted average dispatch cost of "solid fuel" for this period, by month, is shown on page 5 of Appendix I.

Q. What are the factors that can affect FPL's natural gas supply prices during the January through December, 2003 period?

A. In general, the key factors are (1) North American natural gas demand and domestic production, (2) LNG and Canadian natural gas imports, (3) heavy fuel oil prices, and (4) the terms of FPL's natural gas supply and transportation contracts. The dominant factors influencing the projected price of natural gas in 2003 are: (1) projected natural gas demand in North America will continue to grow moderately in 2003, primarily in the electric generation sector; and (2) while domestic natural gas production in 2003 is projected to be essentially unchanged from average 2002 levels, increased imports

of natural gas from Canada, as well as, imports of LNG on the U.S. Gulf and East coasts will be available to meet these projected modest increases in demand.

Q. What are the factors that affect the availability of natural gas to FPL during the January through December, 2003 period?

A. The key factors are (1) the existing capacity of the Florida Gas Transmission (FGT) pipeline system into Florida, (2) the existing capacity of the Gulfstream natural gas pipeline system into Florida, (3) the portion of FGT capacity that is contractually allocated to FPL on a firm, "guaranteed" basis each month, (4) the assumed volume of natural gas which can move from the Gulfstream pipeline into FGT at the Hardee and Osceola interconnects, and (5) the natural gas demand in the State of Florida.

The current capacity of FGT into the State of Florida is about 2,030,000 million BTU per day and the current capacity of Gulfstream is about 1,100,000 million BTU per day. FPL currently only has firm natural gas transportation capacity on FGT ranging from 750,000 to 874,000 million BTU per day, depending on the month. Total demand for natural gas in the state during the January through December, 2003 period (including FPL's firm allocation) is projected to be between 700,000 and 900,000 million BTU per day

below the total pipeline capacity into the state. FPL estimates that based on the capability of the two interconnections between Gulfstream and FGT pipeline systems, and the availability of capacity on each pipeline, FPL could acquire, if economic, about 425,000 to 650,000 million BTU per day of natural gas transportation capability beyond FPL's 750,000 to 874,000 million BTU per day of firm, "guaranteed" allocation.

Q. Please provide FPL's projections for the dispatch cost and availability (to FPL) of natural gas for the January through December, 2003 period.

A. FPL's "Base Case" projections of the system average dispatch cost and availability of natural gas, by month, are provided on page 6 of Appendix I.

"LOW" and "HIGH" PRICE FORECASTS FOR FUEL OIL AND NATURAL GAS SUPPLY

Q. In addition to the "Base Case" fuel price forecast, has FPL prepared alternative fuel price forecasts?

A. Yes. In addition to the "Base Case" fuel price forecast, FPL has prepared a "Low" and a "High" price forecast for fuel oil and natural gas supply.

Q. Why does FPL prepare "Low" and "High" price forecasts for fuel oil and natural gas supply?

A. The factors that impact fuel oil and natural gas prices can change significantly between the time the forecast is developed and the date of the filing in September. While FPL revises its short-term fuel price forecast monthly, and more often if needed, in order to support fuel purchase decisions, it is not possible to wait until the early August or early September fuel price forecast update to rerun the POWRSYM model and meet the September filing date. Furthermore, while FPL has, in the past, rerun its projections and re-filed its fuel cost recovery factor after its initial filing, to reflect late changes in fuel market conditions, this approach does not provide the same flexibility as the use of a banded forecast. Trying to incorporate such "last minute" changes puts FPL at risk of not having adequate time to produce new computer simulations and all of the associated documentation required for filing.

Therefore, in addition to the "Base Case" forecast of fuel prices, FPL prepared "Low" and "High" fuel price forecasts to define a reasonable range of fuel oil and natural gas prices for the upcoming recovery period. FPL then used these alternate forecasts as inputs to the POWRSYM model to determine a Fuel Factor at each end of the range. This gives flexibility to propose the Fuel Factor that most

appropriately reflects FPL's view of future fuel oil and natural gas prices at the time of the projection filing.

Q. Why are alternate price forecasts prepared for fuel oil and natural gas supply only?

A. FPL only prepares a "Low" and "High" price forecast for fuel oil and natural gas supply because coal and petroleum coke prices have been, and are expected to continue to be steady, and natural gas transportation costs are well defined.

Q. What is the basis for the "Low" price forecast for fuel oil and natural gas supply?

A. The "Low" price forecasts for fuel oil and natural gas supply were set such that based on the consensus among FPL's fuel traders and energy market analysts, there is less than a 5% likelihood that the actual monthly average price of each fuel for each month in the January through December, 2003 period will be below the "Low" price forecast.

Q. Please provide the "Low" price forecasts for fuel oil and natural gas supply.

A. FPL's projection for the average dispatch cost of heavy fuel oil, by sulfur grade, by month, based on the "Low" price forecast is

provided on page 7 of Appendix I. FPL's projection for the average dispatch cost of light fuel oil, by sulfur grade, by month, based on the "Low" price forecast is shown on page 8 of Appendix I. FPL's projection of the system average dispatch cost of natural gas, by month, based on the "Low" price forecast is provided on page 9 of Appendix I.

Q. What is the basis for the "High" price forecast for fuel oil and natural gas supply?

A. The "High" price forecasts for fuel oil and natural gas supply were set such that based on the consensus among FPL's fuel traders and energy market analysts, there is less than a 5% likelihood that the actual average monthly price of each fuel for each month in the January through December, 2003 period will be above the "High" price forecast.

Q. Please provide the "High" price forecasts for fuel oil and natural gas.

A. FPL's projection for the average dispatch cost of heavy fuel oil, by sulfur grade, by month, based on the "High" price forecast is provided on page 10 of Appendix I. FPL's projection for the average dispatch cost of light fuel oil, by sulfur grade, by month, based on the "High" price forecast is shown on page 11 of Appendix I. FPL's

projection of the system average dispatch cost of natural gas, by month, based on the "High" price forecast is provided on page 12 of Appendix I.

Q. Based on FPL's current (September, 2002) view of the fuel oil and natural gas markets, at what level do you now project prices will be during the January through December, 2003 period?

A. Based on current market conditions, and consistent with our September, 2002 forecast update, FPL now projects that actual fuel oil and natural gas prices during the January through December, 2003 period will be closest to those projected in the "Base Case" price forecast. Therefore, the projected fuel costs calculated by the POWRSYM model using the "Base Case" fuel oil and natural gas supply price forecast are the most appropriate projected costs for the January through December, 2003 period. As stated in the testimony of Korel M. Dubin, the "Base Case" fuel oil and natural gas supply price forecast was used to calculate the proposed Fuel Factor for the period January through December, 2003.

PLANT HEAT RATES, OUTAGE FACTORS, PLANNED OUTAGES, and CHANGES IN GENERATING CAPACITY

Q. Please describe how FPL developed the projected Average Net

Operating Heat Rates shown on Schedule E4 of Appendix II.

A. The projected Average Net Operating Heat Rates were calculated by the POWRSYM model. The current heat rate equations and efficiency factors for FPL's generating units, which present heat rate as a function of unit power level, were used as inputs to POWRSYM for this calculation. The heat rate equations and efficiency factors are updated as appropriate, based on historical unit performance and projected changes due to plant upgrades, fuel grade changes, and/or from the results of performance tests.

Q. Are you providing the outage factors projected for the period January through December, 2003?

A. Yes. This data is shown on page 13 of Appendix I.

Q. How were the outage factors for this period developed?

A. The unplanned outage factors were developed using the actual historical full and partial outage event data for each of the units. The historical unplanned outage factor of each generating unit was adjusted, as necessary, to eliminate non-recurring events and recognize the effect of planned outages to arrive at the projected factor for the January through December, 2003 period.

Q. Please describe significant planned outages for the January

through December, 2003 period.

A. Planned outages at our nuclear units are the most significant in relation to Fuel Cost Recovery. Turkey Point Unit No. 3 is scheduled to be out of service for refueling from March 3, 2003, until April 2, 2003, or thirty days during the projected period. Turkey Point Unit No. 4 is scheduled to be out of service for refueling from October 6, 2003, until November 5, 2003, or thirty days during the projected period. St. Lucie Unit No. 2 will be out of service for refueling from April 21, 2003, until May 21, 2003, or thirty days during the projected period. There are no other significant planned outages during the projected period.

Q. Please list any changes to FPL's generation capacity projected to take place during the January through December, 2003 period.

A. The repowering of Sanford Unit No. 4 will increase both the Net Winter Continuous Capability (NWCC) and the Net Summer Continuous Capability (NSCC) by 612 MW and 586 MW respectively. Also, the addition of two combustion turbines at the Ft. Myers plant will increase both the Net Winter Continuous Capability (NWCC) and the Net Summer Continuous Capability (NSCC) by 326 MW and 314 MW respectively.

WHOLESALE (OFF-SYSTEM) POWER AND PURCHASED POWER TRANSACTIONS

Q. Are you providing the projected wholesale (off-system) power and purchased power transactions forecasted for January through December, 2003?

A. Yes. This data is shown on Schedules E6, E7, E8, and E9 of Appendix II of this filing.

Q. What fuel price forecast for fuel oil and natural gas supply was used to project wholesale (off-system) power and purchased power transactions?

A. The wholesale (off-system) power and purchased power transactions presented on Schedules E6, E7, E8 and E9 of Appendix II of this filing were developed using the "Base Case" fuel price forecast for fuel oil and natural gas supply.

Q. In what types of wholesale (off-system) power transactions does FPL engage?

A. FPL purchases power from the wholesale market when it can displace higher cost generation with lower cost power from the market. FPL will also sell excess power into the market when its cost of generation is lower than the market. Purchasing and selling power in the wholesale market allows FPL to lower fuel costs for its

customers as all savings and gains are flowed back to the customer through the Fuel Cost Recovery Clause. Power purchases and sales are executed under specific tariffs that allow FPL to transact with a given entity. Although FPL primarily transacts on a short-term basis, hourly and daily transactions, FPL continuously searches for all opportunities to lower fuel costs through purchasing and selling wholesale power, regardless of the duration of the transaction. FPL can also purchase and sell power during emergency conditions under several types of Emergency Interchange agreements that are in place with other utilities within Florida.

Q. Does FPL have additional agreements for the purchase of electric power and energy that are included in your projections?

A. Yes. FPL purchases coal-by-wire electrical energy under the 1988 Unit Power Sales Agreement (UPS) with the Southern Companies. FPL has contracts to purchase nuclear energy under the St. Lucie Plant Nuclear Reliability Exchange Agreements with Orlando Utilities Commission (OUC) and Florida Municipal Power Agency (FMPA). FPL also purchases energy from JEA's portion of the SJRPP Units. Additionally, FPL has a 50 MW purchase of firm capacity and energy from Florida Power Corporation for 2003. FPL has also purchased exclusive dispatch rights for the output from

seven combustion turbines (this is reduced to six beginning on May 1, 2003) totaling approximately 1,000 MW. The agreements for the combustion turbines are with Progress Energy Ventures, Reliant Energy Services, and Oleander Power Project L.P. FPL provides fuel for the operation of each of these facilities. Lastly, FPL purchases energy and capacity from Qualifying Facilities under existing tariffs and contracts.

Q. Please provide the projected energy costs to be recovered through the Fuel Cost Recovery Clause for the power purchases referred to above during the January through December, 2003 period.

A. Under the UPS agreement, FPL's capacity entitlement during the projected period is 929 MW from January through December, 2003. Based upon the alternate and supplemental energy provisions of UPS, an availability factor of 100% is applied to these capacity entitlements to project energy purchases. The projected UPS energy (unit) cost for this period, used as an input to POWRSYM, is based on data provided by the Southern Companies. For the period, FPL projects the purchase of 7,325,154 MWH of UPS Energy at a cost of $121,594,000. The total UPS Energy projections are presented on Schedule E7 of Appendix II.

Energy purchases from the JEA-owned portion of the St. Johns River Power Park generation are projected to be 3,015,542 MWH for the period at an energy cost of $40,629,000. FPL's cost for energy purchases under the St. Lucie Plant Reliability Exchange Agreements is a function of the operation of St. Lucie Unit 2 and the fuel costs to the owners. For the period, FPL projects purchases of 493,511 MWH at a cost of $1,615,843. These projections are shown on Schedule E7 of Appendix II.

Energy purchases from Florida Power Corporation, under the 50 MW purchase agreement, are projected to be 438,000 MWH at a cost of $8,599,800. These projections are shown on Schedule E7 of Appendix II.

FPL projects to dispatch 96,487 MWH from its combustion turbine agreements at a cost of $5,609,892. These projections are shown on Schedule E7 of Appendix II.

In addition, as shown on Schedule E8 of Appendix II, FPL projects that purchases from Qualifying Facilities for the period will provide 6,394,616 MWH at a cost to FPL of $118,177,160.

Q. How were energy costs related to purchases from Qualifying Facilities developed?

A. For those contracts that entitle FPL to purchase "as-available" energy, FPL used its fuel price forecasts as inputs to the POWRSYM model to project FPL's avoided energy cost that is used to set the price of these energy purchases each month. For those contracts that enable FPL to purchase firm capacity and energy, the applicable Unit Energy Cost mechanism prescribed in the contract is used to project monthly energy costs.

Q. Please describe the method used to forecast wholesale (off-system) power purchases and sales.

A. The quantity of wholesale (off-system) power purchases and sales are projected based upon estimated generation costs and expected market conditions.

Q. What are the forecasted amounts and costs of wholesale (off-system) power sales?

A. FPL has projected 1,250,000 MWH of wholesale (off-system) power sales for the period of January through December, 2003. The projected fuel cost related to these sales is $44,788,550. The projected transaction revenue from these sales is $54,867,500. The projected gain for these sales is $6,014,524 and is credited to our customers.

Q. In what document are the fuel costs for wholesale (off-system) power sales transactions reported?

A. Schedule E6 of Appendix II provides the total MWH of energy, total dollars for fuel adjustment, total cost and total gain for wholesale (off-system) power sales.

Q. What are the forecasted amounts and cost of energy being sold under the St. Lucie Plant Reliability Exchange Agreement?

A. FPL projects the sale of 537,378 MWH of energy at a cost of $1,038,192. These projections are shown on Schedule E6 of Appendix II.

Q. What are the forecasted amounts and costs of wholesale (off-system) power purchases for the January to December, 2003 period?

A. The costs of these purchases are shown on Schedule E9 of Appendix II. For the period, FPL projects it will purchase a total of 1,550,000 MWH at a cost of $51,036,250. If generated, FPL estimates that this energy would cost $55,890,250. Therefore, these purchases are projected to result in savings of $4,854,000.

2003 RISK MANAGEMENT PLAN

Q. Has FPL completed its risk management plan as outlined in

Component No. 2 of Staff's Resolution of Issues in Docket No. 011605-EI, as approved by the Commission at the August 12, 2002 Hearing?

A. Yes. FPL's 2003 Risk Management Plan is provided on pages 14 and 15 of Appendix I.

Q. Please describe FPL's hedging objectives.

A. FPL's fuel hedging objectives are to effectively execute a well-disciplined and independently controlled fuel procurement strategy to manage fuel price stability (volatility minimization), to potentially achieve fuel cost minimization and to achieve asset optimization. FPL's fuel procurement strategy aims to mitigate fuel price increases and reduce fuel price volatility, while maintaining the opportunity to benefit from price decreases in the marketplace for FPL's customers.

Q. Does FPL project to have prudently-incurred, incremental operating and maintenance expenses with respect to maintaining and/or initiating a non-speculative financial and/or physical hedging program for which it is seeking recovery for the projected period, January through December, 2003?

A. Yes. As outlined in Component No. 4 of Staff's Resolution of Issues in Docket No. 011605-EI, which was approved by the Commission

at the August 12, 2002 Hearing, FPL projects it will incur $1,000,000 of incremental operating and maintenance expenses as a result of enhancing and maintaining a non-speculative financial and physical hedging program for the 2003 recovery period. FPL projects to incur incremental expenses of $500,000 for its Trading and Operations group, $100,000 for its Accounting group, $150,000 for its Risk Management group and $250,000 for the enhancement and maintenance of its trading and reporting systems. The expenses projected for the Trading and Operations, Accounting and Risk Management groups are for the addition of personnel. The expense projected for systems is for modifications and upgrades to make deal capture, reporting and evaluation more comprehensive.

SUMMARY

Q. Would you please summarize your testimony?

A. Yes. In my testimony I have presented FPL's fuel price projections for the fuel cost recovery period of January through December, 2003, including FPL's "Base Case" and "Low" and "High" price forecasts for fuel oil and natural gas supply. I have explained why the projected fuel costs developed using the "Base Case" fuel price forecast are the most appropriate for the January through December, 2003 period. In addition, I have presented FPL's projections for generating unit heat rates and availabilities, the

quantities and costs of wholesale (off-system) power and other power transactions for the same period. These projections were based on the best information available to FPL and they were used as inputs to the POWRSYM model in developing the projected Fuel Cost Recovery Factors for the January through December, 2003 period. I have also presented FPL's Risk Management Plan for fuel procurement for 2003. As part of this presentation, I have provided a description of FPL's hedging objectives, as well as, an itemization of projected, prudently-incurred operating and maintenance expenses for enhancing and maintaining FPL's non-speculative financial and physical hedging program for the projected period.

Q. Does this conclude your testimony?

A. Yes, it does.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

FLORIDA POWER & LIGHT COMPANY

SUPPLEMENTAL TESTIMONY OF GERARD YUPP

DOCKET NO. 020001-EI

NOVEMBER 4, 2002

Q. Please state your name and address.

A. My name is Gerard Yupp. My business address is 11770 U. S. Highway One, North Palm Beach, Florida, 33408.

Q. By whom are you employed and what is your position?

A. I am employed by Florida Power & Light Company (FPL) as Manager of Regulated Wholesale Power Trading in the Energy Marketing and Trading Division.

Q. Have you previously testified in this docket?

A. Yes.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to present and explain FPL's revised projections for the dispatch costs of heavy fuel oil, light fuel oil and natural gas from those included in my testimony filed on September 20, 2002 filing in this Docket. These updated projections

were used as input values to the POWRSYM model that FPL used to calculate the fuel costs to be included in the proposed revised fuel cost recovery factors for the period of January through December, 2003.

Q. Have you prepared or caused to be prepared under your supervision, direction and control an Exhibit in this proceeding?

A. Yes, I have. It consists of pages 1 through 5 of Appendix I of this supplemental filing.

Q. Why has the dispatch cost of heavy oil changed since the September 20, 2002 filing for the January through December, 2003 period?

A. Worldwide concerns about a potential war in the Middle East have become much more pronounced since FPL prepared the fuel forecasts (July 2002) that are reflected in the September 20, 2002 filing. FPL currently expects that the concerns over a potential Middle East war will continue to impact, the price of oil through the first half of 2003. FPL has updated its projection of the dispatch cost of heavy oil to reflect two impacts in the marketplace resulting from these concerns.

First, the projection of the dispatch cost of heavy oil has changed to reflect both (i) a higher "war premium" in the marketplace, since the middle of the third quarter of 2002, than FPL assumed in the September 20, 2002 filing, and (ii) an assumption that the "war premium" will now continue through the second quarter of 2003. FPL has now assumed that the "war premium" will range from $1.00 per barrel to $3.00 per barrel. The "war premium" represents the market's view on the potential price impact of a disruption in crude oil supply should a war occur in the Middle East and the uncertainty of how soon the supply would be made up from the excess production capacity of other producing countries.

Second, in order to ensure adequate supplies of heavy fuel oil to meet the projected needs of FPL's customers, FPL has decided to carry a higher than normal level of heavy fuel oil in inventory during the fourth quarter of 2002 through the second quarter of 2003. On average, FPL will now be carrying an additional 15 to 25 days of projected burn in inventory. This increased inventory will serve as insurance for FPL's customers against any potential supply disruption from a war in the Middle East. The projected increase in heavy fuel oil purchases to meet these target inventory levels affects the unit cost of heavy oil in two ways. The increased purchases are expected to increase the dispatch cost of heavy oil for this period.

Moreover, buying more heavy oil at higher prices increases the weighted average cost of the oil in inventory, which is used to determine the burn cost.

Q. Please provide FPL's revised projection for the dispatch cost of heavy fuel oil for the January through December, 2003 period.

A. FPL's revised Base Case projection for the system average dispatch cost of heavy fuel oil, by sulfur grade, by month, is provided on page 3 of Appendix I. This projection results in a revised 2003 average heavy oil unit cost of $3.85 per MMBtu as shown on Schedule E3, line 35, page 15 of Appendix II, a 4.9% increase from the 2003 average unit cost for heavy oil of $3.67 per MMBtu included in our September 20, 2002 filing.

Q. Why has the dispatch cost for light oil changed since the September 20, 2002 filing for the January through December, 2003 period?

A. The projection of the dispatch cost of light oil has changed for the same reasons as the dispatch price of heavy fuel oil.

Q. Please provide FPL's revised projection for the dispatch cost of light fuel oil for the period from January through December, 2003.

A. FPL's revised Base projection for the system average dispatch cost of light oil, by sulfur grade, by month, is shown on page 4 of Appendix I. This projection results in a revised 2003 average light oil unit cost of $6.00 per MMBtu as shown on Schedule E3, line 36, page 15 of Appendix II, a 10.3% increase from the 2003 average unit cost of light oil of $5.44 per MMBtu included in our September 20, 2002 filing.

Q. Why has the dispatch cost of natural gas changed since the September 20, 2002 filing for the January through December, 2003 period?

A. The projection for the dispatch cost of natural gas has increased slightly primarily due to a slower than previously expected rebound in domestic natural gas production since April of 2002. Although there has been about a 20% increase in the number of active domestic natural gas directed rigs following the dramatic decline from July of 2001 through March of 2002, the impact to date of this increase in the number of rigs on the level of production has not been as positive as anticipated when the September 20, 2002 filing was made.

Q. Please provide FPL's revised projection for the dispatch cost of natural gas for the period from January through December,

2003.

A. FPL's revised Base Case projection for the system average dispatch cost of natural gas, by month, is shown on page 4 of Appendix I. This projection results in a revised 2003 average natural gas unit cost of $4.81 per MMBtu as shown on Schedule E3, line 38, page 15 of Appendix II, a 0.2% decrease from the 2003 average unit cost of natural gas of $4.82 per MMBtu included in our September 20, 2002 filing. Although the commodity cost of natural gas has increased, the total fixed transportation charges have remained unchanged. When coupled with higher projected natural gas purchases than assumed in the September 20, 2002 filing, the system average cost of natural gas has declined slightly.

Q. Does this conclude your supplemental testimony?

A. Yes, it does.

BY MR. BUTLER:

Q Mr. Yupp, would you please summarize your testimony.

A My testimony in these proceedings addresses FPL's fuel price forecast, natural gas availability, generation unit parameters, wholesale power transactions, and FPL's 2003 risk management plan for fuel procurement. In brief, that is a summary of what my testimony covers, and I would be happy to answer any questions anyone may have on that testimony.

MR. BUTLER: Thank you. I tender Mr. Yupp for cross-examination.

COMMISSIONER DEASON: Mr. Vandiver.

MR. VANDIVER: No questions.

COMMISSIONER DEASON: Do you know if Ms. Kaufman has questions? You have no idea.

MR. VANDIVER: I have no idea.

COMMISSIONER DEASON: Okay. We will proceed with staff, and then if Ms. Kaufman has questions, we will give her that opportunity.

MR. KEATING: Staff just has a few questions for Mr. Yupp.

CROSS EXAMINATION

BY MR. KEATING:

Q Mr. Yupp, in your supplemental direct testimony that was filed on November 4th, you indicate that FPL expects a war premium of $1 to $3 per barrel of oil to continue through the

second quarter of 2003; is that correct?

A Yes, that is correct.

Q And in that supplemental direct testimony, you provided a forecast of heavy and light oil prices that are on average about 5 or 10 percent higher than the forecast that was included in FPL's September 20th testimony filing in this docket?

A Yes, I believe 5 percent for heavy oil and 10 percent for light oil.

Q What is your basis for determining that that war premium exists?

A At the time of our revised filing, the war premium -- I'll give you two reasons. We were seeing it in the market in relation to what our original filing was back in July when we forecasted fuel prices back in July. As we moved into the fall, we began to see significant war premium as was -- as we viewed it and as most industry experts viewed it and other energy consultants. So we actually did see that premium in prices.

Q And what's the basis for determining that that war premium will continue through the second quarter of 2003?

A The basis for that right now is the high degree of uncertainty in what is happening in the Middle East. Fuel oil prices have trended downward in the last couple of weeks; obviously, due to UN inspectors or Iraq agreeing to let UN

inspectors into the country, some perceived overproduction, if you will, against OPEC's latest production quarter or production quota. So we have seen prices begin to trend downward. However, I think it's safe to say in this case by no means given the recent developments is this over, so to speak.

It's a very tense situation in the Middle East. It's a high degree of uncertainty. We have seen prices trend down, but yet tomorrow they could trend back up, and that uncertainty is creating a highly volatile fuel oil market. And so again, I think that we will see for an extended period of time here while this is still going on in the Middle East prices move in -- prices may move up, down, back up again depending on what type of information comes out on a day-to-day basis.

Q Staff has handed out a copy of a Platts Oilgram Price Report dated Thursday, November 14th, 2002. Have you seen that report?

A Yes, I have.

MR. KEATING: And if we could get that marked for identification. I believe the next number is 16.

CHAIRMAN JABER: Platts Oilgram Price Report is identified as Exhibit 16.

(Exhibit 16 marked for identification.)

BY MR. KEATING:

Q And have you had a chance to review the article in that report that starts on the first page titled, "Iraq Accepts

UN Resolution; Crude Takes A Dive"?

A Yes, I have.

Q Okay. Is there any information or analysis in that article that you believe casts uncertainty over the forecast that you've included in your supplemental direct testimony?

A No, I do not. And solely for this reason: Again, I go back to the uncertainty that exists in the Middle East is not going away even given the UN resolution, and that is going to create volatile fuel markets. Yes, prices have trended downward as this article points out.

I will point out that just seven days before this article was released, November 7th, I believe, roughly thereabouts, I read another article that said oil prices in -- or crude oil prices given a war situation could reach $100 a barrel. So there's a lot of information out there, a lot of different information being published each day as information changes on what's going on in the Middle East, but again, the degree of uncertainty that exists around that entire situation is going -- or has created a very volatile fuel market. And prices can be down today but may be up tomorrow. And so, ultimately, I would say FPL is still very comfortable with its fuel price forecast. It's conservative. We feel good about it in light of the uncertainty that exists, and we think that in the end it will end up having a high degree of accuracy.

MR. KEATING: Thank you. That's all the questions I

have.

CHAIRMAN JABER: Commissioners. Okay. Redirect.

MR. BUTLER: I have no redirect.

CHAIRMAN JABER: Thank you.

THE WITNESS: Thank you.

(Witness excused.)

CHAIRMAN JABER: FPL, Exhibit 15.

MR. BUTLER: Yes, we'd move admission of Exhibit 15.

CHAIRMAN JABER: Without objection, Exhibit 15 is admitted into the record.

(Exhibit 15 admitted into the record.)

CHAIRMAN JABER: Staff, Exhibit 16.

MR. KEATING: I don't think we need to 16. Thank you.

CHAIRMAN JABER: Thank you. And that takes us to the next witness.

MR. BUTLER: It should be Mr. Hartzog.

CHAIRMAN JABER: Go ahead, Mr. Butler.

JOHN HARTZOG

was called as a witness on behalf of Florida Power & Light Company and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BUTLER:

Q Mr. Hartzog, would you please state your name and address for the record.

A John Hartzog, 700 Universe Boulevard, Juno Beach, Florida 33408.

Q By whom are you employed and in what capacity?

A I'm the manager of nuclear financial and information services at Florida Power & Light.

Q Do you have before you prefiled direct testimony entitled, "Projections January 2003 through December 2003," dated September 20, 2002, consisting of 15 pages?

A Yes, I do.

Q Was this testimony prepared under your direction, supervision, or control?

A Yes, it was.

Q Do you have any corrections to make to it?

A No, I do not.

MR. BUTLER: I'd ask that Mr. Hartzog's prefiled direct testimony be inserted into the record as though read.

CHAIRMAN JABER: The prefiled testimony of J.R. Hartzog shall be inserted into the record as though read.

MR. BUTLER: And there is no exhibit with his testimony.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

FLORIDA POWER & LIGHT COMPANY

TESTIMONY OF J. R. HARTZOG

DOCKET NO. 020001-EI

SEPTEMBER 20, 2002

Q. Please state your name and address.

A. My name is John R. Hartzog. My business address is 700 Universe Boulevard, Juno Beach, Florida 33408.

Q. By whom are you employed and what is your position?

A. I am employed by Florida Power & Light Company (FPL) as Manager, Nuclear Financial & Information Services in the Nuclear Business Unit.

Q. Have you previously testified in this docket?

A. Yes, I have.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to present and explain FPL's projections of nuclear fuel costs for the thermal energy (MMBTU) to be produced by our nuclear units, costs of disposal of spent nuclear fuel, costs of decontamination and decommissioning (D&D), additional plant security costs resulting from the events on 9/11, and costs for repairs to the

reactor pressure vessel head in light of NRC Bulletin (IEB) 2002-02. Both nuclear fuel and disposal of spent nuclear fuel costs were input values to POWERSYM used to calculate the costs to be included in the proposed fuel cost recovery factors for the period January 2003 through December 2003.

Q. What is the basis for FPL's projections of nuclear fuel costs?

A. FPL's nuclear fuel cost projections are developed using energy production at our nuclear units and their operating schedules, for the period January 2003 through December 2003.

Q. Please provide FPL's projection for nuclear fuel unit costs and energy for the period January 2003 through December 2003.

A. FPL projects the nuclear units will produce 250,846,392 MMBTU of energy at a cost of $0.3053 per MMBTU, excluding spent fuel disposal costs for the period January 2003 through December 2003. Projections by nuclear unit and by month are in Appendix II, on Schedule E-3, starting on page 12.

Q. Please provide FPL's projections for spent nuclear fuel disposal costs for the period January 2003 through December 2003 and explain the basis for FPL's projections.

A. FPL's projections for spent nuclear fuel disposal costs of approximately $22.2 million are provided in Appendix II, on Schedule E-2, starting on page 10. These projections are based on FPL's contract with the U.S. Department of Energy (DOE), which sets the spent fuel disposal fee at 0.9291 mills per net Kwh generated, which includes transmission and distribution line losses.

Q. Please provide FPL's projection for Decontamination and Decommissioning (D&D) costs to be paid in the period January 2003 through December 2003 explain the basis for FPL's projection.

A. FPL's projection of $6.48 million for D&D costs is based on the amount to be paid during the Period January 2003 through December 2003 and is included in Appendix II, on Schedule E-2 starting on page 10.

Q. Please provide FPL's projection for heightened security costs to be paid in the period January 2003 through December 2003 and explain the basis for FPL's projection.

A. FPL's projection of $4.7 million for heightened security costs is based on the amount to be paid during the period January 2003 through December 2003. These costs are necessary to ensure FPL is in compliance with NRC Order No. EA-02-26 dated February 25, 2002. They relate to additional security personnel and equipment. Detail on

these security measures cannot be disclosed due to the security safeguards imposed by the NRC.

Q. Please describe the background and issue regarding the Reactor Pressure Vessel Head (RPVH) penetration cracking.

A. Pressurized Water Reactor (PWR) control rod drive mechanism (CRDM) nozzles and other vessel head penetration nozzles fabricated from Alloy 600 are susceptible to primary water stress corrosion cracking (PWSCC). French plants of the early Westinghouse design had discovered Control Rod Drive Mechanism head penetrations cracking since the early 1990s. Prior to 2001, all the cracking had been axial in orientation and, as such, did not present a significant safety issue, because the crack would leak and be detected prior to a complete failure. The NRC issued General Letter (GL) 97-01, "Degradation of Control Rod Drive Mechanism Nozzle and other Vessel Closure Head Penetrations (VHP)", and the industry responded with a ranking matrix of plant susceptibility and an integrated industry wide inspection program. FPL's units were ranked relatively low in the susceptibility matrix, and therefore, FPL was not required to perform inspections as a result of GL 97-01.

In early 2001, inspections of the reactor nozzles at Duke Power's Oconee Nuclear Station identified circumferential cracking of the

nozzles. This type of cracking is considered a safety concern because of the possibility of a failure and nozzle ejection, should the cracking not be detected and corrected. Additionally, boron deposits were found on the Reactor Pressure Vessel Head (RPVH) of Oconee Unit 3. After investigation, it was found that nine head penetrations were leaking, which required weld repair. Duke expended approximately $20 million in repairs in order to restart the reactor. Duke has ordered replacement RPVHs for Oconee.

In response, the NRC issued Bulletin (IEB) 2001-01 on August 3, 2001, requesting that utilities inspect RPVH penetrations for potential cracking and leakage.

FPL was required by IEB 2001-01 to perform visual inspections of the top of the reactor head to look for boric acid deposits. The presence of boric acid could indicate a leak, which would require additional actions by FPL. FPL committed to perform these inspections during the next refueling outage at each unit. Visual inspections of both Turkey Point Units and St. Lucie Unit 2 have been completed with no boric acid leakage detected. The St. Lucie Unit 1 visual inspection was planned for the October 2002 outage.

In early March 2002, while conducting RPVH nozzle inspections that were prompted by NRC Bulletin 2001-01, the Davis-Besse Nuclear Power Station identified a large cavity in the RPVH near the top of the dome. The cavity was adjacent to a nozzle which was leaking as a result of through-wall cracking, and was located in an area of the RPVH that First Energy Nuclear operations personnel had left covered with boric acid deposits. As a result, the NRC lost confidence in the susceptibility - determination process that was being utilized and the ability of visual inspections to identify all RPVH damage mechanisms. The NRC issued IEB 2002-02 on August 9, 2002 to address its concerns.

IEB 2002-02 has resulted in all four FPL units being categorized as high susceptibility. This will require FPL to perform 100% Non Destructive Examination (NDE) including Ultrasonic (UT) and Penetrant Dye Testing (PT) of the penetrations in addition to the visual inspections. FPL's RPVHs have never been examined utilizing UT or PT. In addition, repair crews and equipment will be staged and ready for repairs should volumetric results identify flaws or cracking. Repair crews will be deployed since, of the 11 units with higher susceptibility than Turkey Point Units 3 and 4, nine have performed volumetric examinations and all nine required repairs. Based on this prior industry experience, there is clearly a high probability that the units will

have NDE indicators and require repairs to correct the problem. It should be noted that, if code-rejectable indications were found and not eliminated or reduced to code-acceptable levels at a unit, FPL would not be permitted to restart the unit without prior NRC approval. The 100% NDE must be performed during every outage until the RPVHs are replaced.

Q. When does FPL anticipate that it will be able to replace the RPVHs?

A. The RPVH replacement is planned for Turkey Point Units 3 & 4 in 2004 and 2005 and St. Lucie Units 1 & 2 in 2005 and 2006. FPL cannot schedule the RPVH replacements earlier than these dates because of the long lead-time for procuring the new RPVHs and associated equipment and services. Therefore, in the meantime it is essential to the continued operation of FPL's nuclear plants that FPL perform the inspections required by IEB 2002-02 and make whatever repairs are indicated by those inspections.

Q. How much does FPL anticipate that it will have to spend in order to comply with IEB 2002-02 and keep its nuclear units in service?

A. FPL currently projects that it will spend the following amounts in 2002, 2003, and 2004 for inspections and repairs in compliance with IEB 2002-02: approximately $13.5 million in 2002, $39.1 million in 2003,

and $14.7 million in 2004. Of course, due to the uncertainty of the inspection findings, costs may be higher than these estimates.

Q. Is FPL presently recovering these expenses in its base rates?

A. FPL is recovering only a small fraction of these expenses through base rates, based on completely different assumptions about the inspection and repair work that might be required. FPL's 2002 MFRs in Docket No. 001148-EI included $5 million per outage for visual inspections and for possible additional inspections and/or repairs that might have been necessitated by the visual inspections. FPL originally planned for 2 outages in 2002, therefore a total of $10 million was included in the 2002 MFRs ($5 million per outage times 2 outages). This was the anticipated scope of work to comply with the NRC's IEB 2001-01. As I just explained, the scope of work required under the NRC's IEB 2002-02 is completely different. FPL currently projects $13.5 million per outage for work required under the NRC's IEB 2002-02, almost three times the cost of the scope of work originally projected to comply with NRC's IEB 2001-01.

Q. Would it be fair to FPL not to allow recovery of the costs it will spend complying with IEB 2002-02 based on the fact that FPL's 2002 MFRs included costs to comply with IEB 2001-01?

A. No, it would not. The event at Davis-Besse was an extraordinary discovery that prompted the NRC to take extreme measures. It is an unprecedented event that FPL could not anticipate or plan for. As such, FPL believes it is appropriate to recover the costs through the fuel cost recovery clause on the basis described in the testimony of Korel M. Dubin.

Q. Is it possible that the NRC will require even further actions to be taken in the future concerning the problem with the RPVHs?

A. Yes. NRC IEB 82-02 states that additional regulatory action will be taken on this issue when appropriate.

Q. Are there currently any unresolved disputes under FPL's nuclear fuel contracts?

A. Yes.

1. Spent Fuel Disposal Dispute. The first dispute is under FPL's contract with the Department of Energy (DOE) for final disposal of spent nuclear fuel. In 1995, FPL along with a number of electric utilities, states, and state regulatory agencies filed suit against DOE over DOE's denial of its obligation to accept spent nuclear fuel beginning in 1998. On July 23, 1996, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) held that DOE is required by the Nuclear Waste Policy Act

(NWPA) to take title and dispose of spent nuclear fuel from nuclear power plants beginning on January 31, 1998.

Since our last testimony filed with the Commission, the following events related to spent fuel have occurred: On January 11, 2002, based on the Federal Circuit's ruling, the Court of Federal Claims granted FPL's motion for partial summary judgement in favor of FPL on contract liability.

All of the spent fuel damages cases have been referred to a judge for administration of discovery. The case is currently in discovery and there is no trial date scheduled at this time for the FPL damages claim.

2(a). Uranium Enrichment Pricing Disputes – FY 1993 Overcharges. FPL is currently seeking to resolve a pricing dispute concerning uranium enrichment services purchased from the United States (U.S.) Government, prior to July 1, 1993.

Since our last testimony filed with the Commission, the following events related to Uranium Enrichment pricing have occurred: On August 20, 2001, the Court entered judgment for FPL for $6.075 million. DOE has appealed the judgement to the Federal Circuit. FPL and the other utility plaintiffs have cross-appealed, arguing that the Court erred in not ruling

for the utilities on all of their claims (the additional claims are discussed in further detail below) and in not awarding prejudgment interest on the amount awarded. Briefing in the appeal has been completed, and the case was argued to the Court on August 7, 2002. A decision is expected by the end of 2002.

2(b). Uranium Enrichment Pricing Disputes – Challenge to D&D Assessment. Yankee Atomic Electric Company had challenged the authority of the United States to impose the D&D fees. On May 6, 1997, a panel of the U.S. Court of Appeals for the Federal Circuit held that the D&D special assessment was lawful under the Energy Policy Act. Since our last testimony filed with the Commission, the following events related to D&D Assessment have occurred: On November 21, 2001, a panel of the Federal Circuit held that such claims filed by Commonwealth Edison Company were properly dismissed by the Court of Federal Claims. On May 28, 2002, the U.S. Supreme Court denied review of that decision.

Since FPL's protective complaint filed in the Court of Federal Claims is virtually identical to the complaint filed by Commonwealth Edison Company and complaints filed by more than 20 other utilities, it is certain that the Court of Federal Claims would follow the law of the Federal Circuit set forth in the Commonwealth Edison and Yankee Atomic cases

and dismiss FPL's challenge to the D&D assessment as well as the challenges filed by the other utilities. Given the inevitability of this result, and in order to conserve further resources, FPL filed a notice of voluntary dismissal of its protective complaint with the Court of Federal Claims on August 2, 2002, thus bringing FPL's challenge to the D&D assessment to a close.

Q. Is there a new dispute involving FPL's fuel contracts?

A. Yes. DOE was required under FPL's uranium enrichment services contract with DOE to establish a price for enrichment services pursuant to DOE's established pricing policy, based on recovery of DOE's appropriate costs over a reasonable period of time. In the course of discovery in the FY1993 overcharge case discussed above, FPL and the other utility plaintiffs uncovered two other cost components that DOE improperly included in its cost recovery calculation. At trial in the FY1993 case, FPL and the other plaintiffs asserted that these additional costs had been improperly included in DOE's cost recovery calculation for its FY1993 SWU price. The Court denied recovery on these issues, concluding that ruling on the merits of these issues would prejudice DOE in the particular chronology of the FY1993 litigation.

On October 10, 2001, FPL and 21 other U.S. and foreign utility plaintiffs filed new lawsuits in the U.S. Court of Federal Claims alleging that DOE

breached the uranium enrichment services contract by inappropriately including two amounts in its cost recovery calculation in violation of the pricing provisions of the contracts: Imputed interest on the Gas Centrifuge Enrichment Project (GCEP) for FY1986 through FY1993, and costs relating to the production of high assay uranium (i.e., uranium produced primarily for military customers) (High Assay Costs) for FY1992 through FY1993.

GCEP Claim. In 1976, Congress first authorized the construction of GCEP as additional Government uranium enrichment capacity to meet the then-projected future demand. This future demand never materialized and, by 1985, DOE found itself in a plant over capacity position and the highest cost worldwide producer of enrichment services. In 1985, DOE cancelled the GCEP and wrote-off the entire $3.6 billion from the DOE Uranium Enrichment Activity's 1986 financial statements relating to accumulated costs of plant construction, termination costs, and imputed interest associated with GCEP. DOE failed to exclude the entire $3.6 billion from its calculation in setting the uranium enrichment services price. Beginning in FY1986, DOE improperly left approximately $773 million of imputed interest in its cost recovery calculations and price determination. This amount is reflected in the calculation of the Contract's SWU price for FY1986 through FY1993. DOE determined that none of the capital costs of GCEP were used to provide enrichment

services to customers. Additionally, Under well-recognized economic and accounting principles, imputed interest should have been treated as inseparable from the underlying GCEP costs. Therefore, none of the capital investment in GCEP – neither the underlying principal nor the imputed interest - should have been included in the cost recovery calculation for the contract prices.

High Assay Costs. In 1991, DOE adjusted the financial statements of the Uranium Enrichment Activity by removing approximately $1.14 billion in accumulated losses and other costs relating to the production of High Assay uranium. DOE made this adjustment based on its conclusion that the Uranium Enrichment Activity no longer had any responsibility for the High Assay program, which produced uranium for military purposes. Despite removing such costs from the financial statements, DOE improperly included approximately $394 million of High Assay costs in calculating the price for uranium enrichment services for FY1992 through FY1993.

FPL's lawsuit alleges that DOE breached the contract by including these costs in the uranium enrichment services price changed to FPL. FPL is claiming that it is owed a refund of $16,086,328.91 plus interest. FPL's lawsuit has been stayed by the Court of Federal Claims pending the

outcome of the appeal of the judgment concerning the FY93 uranium enrichment claims, discussed in item 2(a) above.

Q. Does this conclude your testimony?

A. Yes, it does.

BY MR. BUTLER:

Q Would you please summarize your testimony, Mr. Hartzog.

A The purpose of my testimony is to present and explain FPL's projection of nuclear fuel costs for the thermal energy to be produced for our nuclear units, the cost of disposal of spent nuclear fuel, the cost of decontamination and decommissioning, certain legal matters associated with the Department of Energy relating to nuclear fuel, and additional plant security costs resulting from the events of 9/11.

FPL's projection of $13.5 million for heightened security costs is based on actual and forecast incremental plant security costs for 2002 and 2003. The increase in plant security costs are attributable to additional security requirements for nuclear plants issued by the Nuclear Regulatory Commission in February of 2002.

Q Does that conclude your summary?

A That concludes my summary.

MR. BUTLER: Thank you. I tender Mr. Hartzog for cross-examination.

MR. VANDIVER: No questions.

CHAIRMAN JABER: Ms. Kaufman.

CROSS EXAMINATION

BY MS. KAUFMAN:

Q Mr. Hartzog, I just have a couple of questions for

you. All of the security costs that you are seeking recovery for, are they all related to security at your nuclear facilities?

A There is a small portion that is attributable to fossil units. The majority of that is attributable to the Turkey Point fossil units which are physically adjacent to the Turkey Point nuclear units.

CHAIRMAN JABER: Mr. Hartzog, I need you to speak right into that microphone for me.

Q Other than those costs that you've just identified, did you take any additional security measures or heighten security at your nonnuclear plants?

A Not that I'm aware of.

MS. KAUFMAN: Thank you. That's all I have.

CHAIRMAN JABER: Staff.

CROSS EXAMINATION

BY MR. KEATING:

Q Mr. Hartzog, in your direct testimony that was filed September 20th in this docket, you provide information about the incremental costs that FPL has incurred or will incur to comply with the NRC's February 25th order; is that correct?

A That is correct.

Q And is it correct that FPL is requesting $13.5 million for incremental plant security costs for 2002 and 2003 to comply with the NRC order?

A That is correct.

Q Staff is handing out an exhibit that's comprised of FPL's responses to staff Interrogatories 21 and 99. And did you prepare those responses or have them prepared under your supervision or control?

A Yes, I did.

Q Interrogatory Number 21 asks for a breakdown of the total amount that Florida Power & Light is seeking for security costs in this docket; is that correct?

A That is correct.

Q And to the best of your knowledge, are those estimates and amounts included in that response still accurate?

A There was an exhibit to my deposition which updated the values of some of these numbers.

Q I'm sorry, could you repeat that?

A No. The numbers for 2002 were updated as a portion of a late-filed exhibit as a result of deposition. There were some changes to these numbers.

Q And do you recall what that update was?

A It was primarily the relocation of the -- or the security system physical modifications for Turkey Point.

Q And how much was that amount modified by?

A The security system modifications for Turkey Point were reestimated at $2.871 million.

Q With that modification, is it correct still that

Florida Power & Light is requesting 13.5 million in security costs?

A That is correct.

Q Okay. Thank you. In the NRC's February 25th order, it prescribes certain interim compensatory measures to address a generalized high-level threat environment in Attachment 2 to that order which is not made public; is that correct?

A That is correct.

Q And in its order, the NRC required FPL to implement those measures by August 31st, 2002; correct?

A Yes, that is correct.

Q And has FPL complied with that requirement?

A Yes, FPL did comply.

Q Has the NRC notified Florida Power & Light that its measures comply with the requirements set forth by its order?

A No. The NRC has an ongoing inspection process that will be ongoing. The first inspection -- there was an inspection at Turkey Point, and no issues were raised, but that's an ongoing process. The NRC doesn't simply say, okay, you did everything you said you were going to.

Q Is it correct that each of the items that are identified in response to staff's Interrogatory Number 21 were required to comply with the NRC's February 25th order?

A Yes.

Q Do you believe it's fair to characterize the NRC's

requirement as a modification to Florida Power & Light's operating license for Turkey Point and St. Lucie?

A Yes, it is.

Q And do you believe it's fair to characterize those requirements as interim in nature?

A Yes, they are considered interim in nature.

Q Would you agree that there is no fixed point set by that order at which those requirements will cease?

A Yes, that is correct. The order contemplates additional regulatory action. And the NRC has -- the Commission has announced that the design basis threat, which is the basis of the entire security program for nuclear plants, essentially the threat against which we have to be able to protect, will be revised. And in addition to the design basis threat revision, they have also announced that a final order or additional interim compensatory orders will be forthcoming. So we know there will be additional requirements imposed on us. We do not know what those requirements are or will be.

Q To the best of your knowledge, do you expect those additional requirements to supersede any of the existing requirements or to essentially be supplemental to the existing requirements?

A We hope that the work we have done to meet the interim compensatory measures will be useful to meet the final, if there is such thing as a final, set of requirements. We

have no way of knowing that since the NRC has not provided us any information regarding what those final requirements would be. And so we really have no way of directly answering the question of whether any or all of what we have done will continue to be useful in the future.

Q I have a few questions regarding the Attachment 2 to the NRC's order. That's the attachment that is not made public; correct?

A That is correct.

Q And obviously that's something that I don't know what's in it, and if you know what's in it, I don't want you to reveal it inappropriately, but is it fair to say that that attachment sets forth what the interim compensatory measures that FPL is required to take are?

A The attachment describes changes to the threat that nuclear facilities have to be able to protect themself against and, in some cases, some very specific but generally speaking fairly general requirements of what we have to be able to protect the plant against.

Q And what individuals are permitted to review that Attachment 2?

A Attachment 2 is very limited in terms of the distribution or who can view that under the NRC safeguards rule. Essentially you have to have a need to know which basically means members of senior management, members of

security management, and then also people who have to know specific pieces in order to implement their specific parts. For instance, an engineer who is working on a barrier would have to understand what the requirements were in the order in order to engineer that barrier. But generally speaking, information is limited as much as possible to who can see it since obviously the availability of that information is in and of and by itself a potential weakness in the security barriers.

Q And even within Florida Power & Light's security personnel and management, is it correct that only certain people can see certain portions of that order as depending on whether they have a need to know that information?

A Yes, only a very limited number of people at FPL can see that information.

Q And would you expect that the -- that a Commission staff member of the Commission could prove that it had a need to know that information?

A The Code of Federal Regulations has a provision that allows members of commissions to get access to safeguards information. And I'm not an expert on that piece, but I believe it requires the Governor to petition the Nuclear Regulatory Commission and enters a process to follow for doing that.

Q And it's my understanding of that rule, and I don't want to get too much into legal discussions here, but it's my

understanding of the rule that it requires a need to know -- it requires that a person who wishes to review that information have a need to know and fall within a certain class of persons?

A Yes, that is correct.

Q And a Governor of a state is a person that would fall within that class of persons if it was shown that he or she had a need to know?

A I would have to have to actually read what the rule says. Again, that's not really my area of expertise, but I know there is a provision that requires the Governor to petition the NRC.

Q Is it fair to say that the NRC's primary concern is safety in and around nuclear power plants rather than cost-effectiveness of any safety measures it might require?

A The NRC's charter is clearly the health and safety of the public, and economics is by definition excluded from their charter.

Q So to the best of your knowledge, the NRC doesn't -- would you agree that the NRC doesn't consider cost issues when it mandates particular security measures?

A Yes. To the extent something would be considered a safety issue, the NRC is not by their charter allowed to consider safety -- or not allowed to consider cost or economics.

Q Would you agree that the Public Service Commission as

an economic regulator is responsible for determining the reasonableness of costs for purposes of cost recovery and for setting fair rates?

A Yes.

Q Given that the Commission is not privy to the specific requirements of Attachment 2 to the NRC's order, how can the Commission assure itself that in this instance the measures taken by Florida Power & Light in response to the NRC order were the most cost-effective measures available?

A Well, we at FPL have attempted to take whatever measures we could within the restrictions that are imposed on us as well through the NRC's safeguards rule, including a tour for members of the staff and other interested parties where we could show them within what was allowable by the safeguards rule the physical modifications that have been made to the plant, the additional security officers that we've had to hire and what they're doing, the additional equipment the security officers have to have as a result of the rule changes, and also where there are facilities and equipment that we have to relocate because of the changes in requirements for the proximity of how close we allow a vehicle to a given facility.

And the change is rather dramatic for anybody who'd previously been to the nuclear plant and saw what it looks like today because of the magnitude of the changes we've had to make. But beyond that, the only other solution I would see

would be having access to the safeguards information to be able to go into more detail.

Q Are you aware if any authority has made a determination that Florida Power & Light's measures taken in response to the NRC's order were the most cost-effective available?

A Could you repeat the question, please.

Q Sure. Do you know if any authority has made the determination that the measures taken by Florida Power & Light to comply with the NRC's order, the NRC's February 25th order were the most cost-effective measures available?

A No. There's -- other than the Nuclear Regulatory Commission and Public Service Commission, I don't believe there's any other governmental authority. We will make those decisions internally.

Q I had asked you to turn to FPL's response to Interrogatory 99 that's provided in the staff exhibit. Was that response prepared by you or under your supervision or control?

A Yes, it was.

Q And are the responses provided here accurate, to the best of your knowledge?

A Yes, they are.

Q Or still accurate?

A Yes. The -- again, with the exception of the

15.5 versus the 11.6.

MR. BUTLER: 13.5.

Q I'm referring to staff's Interrogatory 99.

A Yes.

Q Oh, I see, you're referring back to the question --

A Yes.

Q -- the dollar amount.

A In the question, right.

MR. KEATING: Thank you. That's all the questions I have.

CHAIRMAN JABER: Commissioners. Redirect.

REDIRECT EXAMINATION

BY MR. BUTLER:

Q Mr. Hartzog, does FPL have any processes as part of its budgeting system for evaluating and attempting to control the cost of complying with the NRC security requirements?

A Yes, we do. We have a process whereby as requirements come out and we start getting far enough into the analysis phase to determine what actions we will have to take, we roll that into a business case which also examines the various alternatives that were examined at a nonsafeguards level. We keep it at a high enough level.

At which point, once that business case goes through a review process, which goes through the site vice president at each of the sites, it then comes to myself, and I go over those

business cases with our chief nuclear officer to verify that we've examined all the alternatives and that what we're doing is actually required by the requirement that's been imposed by the NRC and also that we're doing the right thing.

I mean, it's very important to us that we're doing the right thing at a security area, not just because the NRC says so, but because it's the right thing to do in terms of protecting the health and safety of the public and our employees.

CHAIRMAN JABER: Mr. Butler, before you finish your redirect, staff, we didn't identify the exhibit you passed out last, the responses to staff's Interrogatory Numbers 21 and 99. Did you want that identified?

MR. KEATING: We did want to have that marked for identification, yes.

CHAIRMAN JABER: That will be marked as Exhibit 17.

(Exhibit 17 marked for identification.)

CHAIRMAN JABER: Mr. Butler, I just wanted to do that before you completed redirect in case you wanted to refer to this.

MR. BUTLER: Thank you.

CHAIRMAN JABER: Go ahead.

BY MR. BUTLER:

Q Mr. Hartzog, as part of the budget process you just described, would FPL attempt to identify alternatives and to

pick among those a least-cost alternative for meeting particular security requirements?

A Yes, we do. And I'll give you an example. When the order first came out, one of the requirements was that certain pieces of equipment were located in facilities that due to their geographical location did not meet the requirements anymore, and so we had to relocate that equipment. The initial attempt was to make sure that we could use an existing facility. So we did an exhaustive evaluation of available facilities to figure out where we could move this equipment, and it's only after we did that and all the engineering came back saying that none of our existing facilities met the new requirements, we then concluded that we would have to build a new facility. But we went through a several month process before we really came to the conclusion that the only alternative was to build a new building. So we put a great deal of time and effort into minimizing the costs associated with this.

MR. BUTLER: Thank you, Mr. Hartzog. That's all the redirect that I have.

CHAIRMAN JABER: Okay. Without objection, staff's Exhibit 17 is admitted into the record.

(Exhibit 17 admitted into the record.)

CHAIRMAN JABER: And, Mr. Hartzog, thank you for your testimony.

(Witness excused.)

CHAIRMAN JABER: Okay, Folks. We're going to stop right here for today. We've got two witnesses for tomorrow, correct, Ms. Dubin and Ms. Jordan and the resolution of the issues that remain outstanding? Okay.

Thank you for a good day, and we'll see you tomorrow at -- my preference is to start early. Commissioners, what -- is there any objections to starting at 8:30 tomorrow morning? Okay. See you tomorrow morning at 8:30.

(The hearing adjourned at 4:20 p.m. to reconvene at 8:30 a.m. on November 21, 2002, at the same address.)

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(Transcript continues in sequence with Volume 4.)

STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, TRICIA DeMARTE, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

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

DATED THIS 27th DAY OF NOVEMBER, 2002.

TRICIA DeMARTE
FPSC Official Commission Reporter
(850) 413-6736