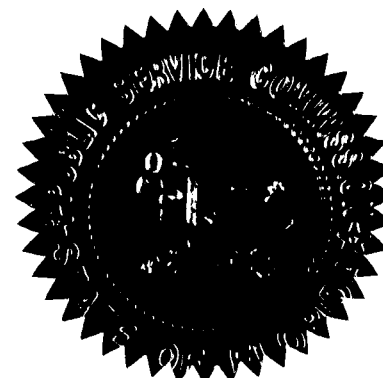


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 070650-EI

In the Matter of:

PETITION TO DETERMINE NEED FOR TURKEY
POINT NUCLEAR UNITS 6 AND 7 ELECTRICAL
POWER PLANT, BY FLORIDA POWER & LIGHT
COMPANY.



VOLUME 4

Pages 391 through 448

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PROCEEDINGS: HEARING

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

DATE: Thursday, January 31, 2008

TIME: Commenced at 9:32 a.m.

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

REPORTED BY: LINDA BOLES, RPR, CRR
Official FPSC Reporter
(850) 413-6734

APPEARANCES: (As heretofore noted.)

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P R O C E E D I N G S

(Transcript follows in sequence from Volume 3.)

CHAIRMAN CARTER: Good morning. I want to call the meeting to order. We've got a couple of technical glitches here. One, we're trying to make sure that we're doing our digital streaming at the same time that we're taping the program, our process here. Also we'll be trying to connect in with Commissioner Argenziano. So what we want to do is give our staff the appropriate amount of time. I'm looking at -- the time now is 9:32. Let's come back at nine -- actually it's 9:33. I guess if I stare at it longer, it'll keep changing. We'll come back at 9:43 to kick off. We're on recess.

(Recess taken.)

COMMISSIONER EDGAR: We will go ahead and go back on the record and get started. Chairman Carter had to step away for a few minutes, but we all know that he likes us to be precise about time and so he asked if I would go ahead and get us started and he will join us very, very shortly.

And so with that, staff, are there any preliminary matters before we move back into cross?

MS. FLEMING: I'm not aware of any preliminary matters.

COMMISSIONER EDGAR: Thank you. And my understanding is that Commissioner Argenziano will be joining us by phone shortly, and so we will look forward to that as well.

1 I believe, Mr. Krasowski, when we ended yesterday
2 that you had some questions for this witness on cross.

3 MR. KRASOWSKI: Yes, Commissioner Edgar, that's
4 correct. Should we, should we get going now or proceed?

5 CROSS EXAMINATION

6 BY MR. KRASOWSKI:

7 Q Good morning, Mr. Scroggs.

8 A Good morning, sir.

9 Q I'm -- my name is Bob Krasowski. I'm here with my
10 wife Jan. We're intervenors, we're ratepayers, customers of
11 FP&L and are very interested in this project and your work, and
12 so we have a number of questions that we hope you can help, you
13 can answer to help us.

14 CHAIRMAN CARTER: Mr. Krasowski, just before you
15 start your questions -- Commissioner Argenziano, were you able
16 to --

17 COMMISSIONER ARGENZIANO: Yes, Mr. Chair. I'm here.

18 CHAIRMAN CARTER: Okay. Good. Good. The wonders of
19 technology.

20 COMMISSIONER ARGENZIANO: Thank God.

21 CHAIRMAN CARTER: All right. Mr. Krasowski, you're
22 recognized, sir.

23 MR. KRASOWSKI: Amazing. Thank you, sir.

24 BY MR. KRASOWSKI:

25 Q Okay. So, so we have an interest in this project and

1 would -- a great interest in your work. I'd like to say, I'd
2 like to compliment you on what you've laid out here before us.
3 We understand it's a very complicated project, and the way this
4 is presented is, is very interesting, fascinating.

5 I'd like to ask you did you, did you write this
6 yourself or is there a technical team of writers that helps you
7 assemble your presentation, your, the documents you present?

8 A I wrote my own testimony so my direct testimony --

9 CHAIRMAN CARTER: I'm sorry. We're having trouble
10 hearing you.

11 THE WITNESS: Can you hear me?

12 CHAIRMAN CARTER: I can hear you now.

13 THE WITNESS: I did write my own direct testimony and
14 prepared all of my exhibits, but the information associated
15 with that testimony and with those exhibits were provided by a
16 large number of people.

17 BY MR. KRASOWSKI:

18 Q Okay. Thank you. Thank you. And then one other
19 matter, if I -- the -- I noticed at the beginning of your
20 statement you identify the fact that you were, I believe, for
21 ten years an officer in the United States Navy Submarine Corps?

22 A That's correct, sir.

23 Q Okay. My wife -- Jan's father was in the submarine
24 corps as well as a heavy helmet deep sea diver, so we have a
25 lot, a lot that we share here. We certainly respect what

1 you've done in the past.

2 Okay. Also I notice at the beginning there that you,
3 you were a consultant, energy consultant from the years 1996 to
4 2004 before you joined FP&L?

5 A Partially correct. I was an energy consultant from
6 1996 to the year 2002, and in that period I worked for an
7 independent power company from 2002 to 2004 prior to coming to
8 Florida Power & Light.

9 Q So, so I can understand it, you were an employee of
10 an independent power company, not necessarily a free agent
11 consultant at that time?

12 A For that period 2002 to 2004, that's correct, sir.

13 Q Okay. Thank you. Was that company involved in, in
14 the energy policy discussions in 2000 that were held at the
15 White House with the Vice President? Are you aware of those,
16 those discussions at all?

17 A I'm not personally aware of those discussions. And
18 my time period for being involved with that company was beyond
19 2000. It was in the year 2002 to 2004.

20 Q So what were you doing in 2000?

21 A I was an energy, energy consultant for the industry.

22 Q Okay. At large. But so back to my question. I
23 apologize if you -- if I hadn't, didn't understand you
24 correctly. But in 2000 were you involved at all in developing
25 energy policy for the United States as a consultant through the

1 projects coming out of the White House under the guise of Vice
2 President Cheney?

3 A No, sir.

4 Q Thank you, sir. Okay. In regards to Issue Number 9,
5 I'd like to start there. Mr. Scroggs, does FP&L need to have
6 approval from the PSC or a determination in this docket to act
7 in making a payment to reserve a queue in line to secure the
8 forging work you desire with the identified steel works?

9 A If I understand your question, our request is that
10 the -- we're looking to make sure the Commission is
11 understanding of the situations in the market and the need for
12 these long-lead payments. We've asked whether the Commission
13 agrees that FPL should commit to making these payments. So
14 that's our request.

15 Q So I'll, I'll, I'll ask the question again. Does
16 FP&L require the approval from the PSC or, or any -- well, does
17 FP&L require any kind of approval within this docket to move
18 forward on making the payment to reserve a place in the queue
19 for the forging of the materials you identified as, as the
20 reactor vessels?

21 A I believe, as my testimony states, from the
22 perspective as the project developer I feel it's very important
23 that we do so. But in the broader decision-making process
24 within the company there will be a business decision that
25 incorporates all the risks and market situation at the time.

1 So I can't speak to a specific need for such a decision out of
2 this docket.

3 Q Okay. Well, I'm here as a ratepayer, so it's very
4 interesting, it's important for me to understand in terms of
5 how this impacts the company, the economics of this situation.
6 So I'd like to know if, if you believe, personally believe that
7 FP&L requires a determination from the PSC, approval from the
8 PSC. Do they require an approval from the PSC to make the down
9 payment for the queue in the manufacturing, in line for the
10 manufacturing of these, these vessels?

11 MR. BUTLER: I'm going to object to that question as
12 asked and answered. That's the exact question he asked before
13 and Mr. Scroggs gave his answer to the question, you know, as
14 well as he can. From his perspective, you know, he thinks it's
15 required. The company management obviously has to take a lot
16 of other factors into consideration. I don't know what else he
17 could answer to that question.

18 CHAIRMAN CARTER: I think that he couched it from the
19 standpoint of a ratepayer this time. I think initially it was
20 a global question. But I think in this perspective he asked
21 him in the context of a ratepayer how this -- and I think the
22 witness can answer the question.

23 THE WITNESS: Could I ask for a rephrase of the
24 question then, please?

25

1 BY MR. KRASOWSKI:

2 Q Sure. Is any type of determination of need or any
3 type of approval from the PSC required?

4 MR. BUTLER: That is the question that was asked and
5 answered.

6 CHAIRMAN CARTER: That was answered. That was
7 answered.

8 MR. KRASOWSKI: Excuse me, Mr. Chair, if I may in
9 relation to this objection to my question respond. Because I
10 don't feel I got an answer. I did not get an answer and it's a
11 very simple question, and this -- and I didn't get an answer in
12 my opinion.

13 CHAIRMAN CARTER: You may not have gotten the one
14 that you like, but he did answer the question. Move on, Mr.
15 Krasowski.

16 MR. KRASOWSKI: Yes, sir.

17 BY MR. KRASOWSKI:

18 Q Okay. Okay. Mr. Scroggs, is --

19 CHAIRMAN CARTER: Just take a moment. Just take a
20 moment.

21 MR. KRASOWSKI: Can I? Thank you very much.

22 CHAIRMAN CARTER: Yeah. Let's, everybody, let's kind
23 of take five minutes to breathe. Commissioner Argenziano,
24 we're just going to take five minutes to give Mr. Krasowski a
25 chance to look over his notes.

1 COMMISSIONER ARGENZIANO: Thank you, Mr. Chairman.

2 CHAIRMAN CARTER: Okay. Let's everybody just kind of
3 take a break in place or out of place. That means don't leave
4 the building.

5 (Pause.)

6 Commissioner Argenziano?

7 COMMISSIONER ARGENZIANO: Yes, Mr. Chair, I'm here.

8 CHAIRMAN CARTER: We just wanted to give
9 Mr. Krasowski a couple of minutes to straighten out his notes
10 over there. Fortunately today he has adult supervision, so
11 we'll be fine. Mrs. Krasowski is with us.

12 COMMISSIONER ARGENZIANO: Okay.

13 CHAIRMAN CARTER: Mr. Krasowski, you're recognized.

14 MR. KRASOWSKI: Thank you. I appreciate it. I do.

15 BY MR. KRASOWSKI:

16 Q Okay. Mr. Scroggs, could you tell me why, why
17 couldn't Westinghouse or General Electric, those are the two
18 main companies you're considering working with, pay for the
19 queue, purchase a place in the queue for the -- and recoup the
20 investment later when FP&L, from FP&L through the construction
21 cost recovery process?

22 A The reservation forging is, assigns -- the
23 reservation forging fee would assign rights to a certain party
24 to that reservation. It would be in our interest to secure
25 those rights and our intention to secure those rights for FPL's

1 use and FPL's benefit. So to ask a second party to obtain
2 those reservation forging under their rights, that would not
3 achieve the goal of reserving that forging fee for FPL and its
4 customers' benefits.

5 Q Are you telling me that you cannot arrange under a
6 contractual agreement with the vendor of choice that, for
7 conditions that would allow you to maintain control over this
8 situation?

9 A Contractual arrangements are made but generally
10 contractual arrangements and the rights associated with that
11 are associated with payment. Any, any reasonable business
12 person would expect to be paid for some rights that were
13 provided, and that's our understanding or my understanding of
14 the commercial arrangements that would surround this
15 reservation forging fee.

16 Q By -- thank you. By procuring a place in the queue
17 using the methodology suggested by you in Issue 9, why isn't
18 this -- why shouldn't we as ratepayers consider this a transfer
19 of risk from the FP&L stockholders or, or the company that you
20 would choose to work with on to we, the ratepayers?

21 A I think hopefully my testimony has pointed out that
22 this is a significant risk mitigant. The impacts of project
23 delay would defer the benefits that this project can
24 economically provide our customers and would incur potential
25 escalation cost increases and other things.

1 So, again, I would look at it from a perspective of
2 an option payment where you're paying a small up-front amount
3 to secure and maintain a production schedule that will allow us
4 to deliver the benefits that we've identified for this project
5 on time for our customers. I don't see it as a shifting of
6 risk. I see it as a mitigation of a larger future risk.

7 Q If, if you make this deposit on the queue, is it
8 going to be reclaimed in any way if the project does not move
9 forward or is that money lost to just reserving a place if not
10 used?

11 A As with any option payment, you're paying for the
12 option for a future commodity or product. We enter into this
13 reservation fee with the assumption that we will go forward and
14 use it. However, as with any option in a commodity market
15 that's in demand, we expect and would expect that there would
16 be some remarket opportunity if we were to decide to either
17 defer the project or not proceed with the project. So the
18 ability of us to estimate the amount of that is, is difficult,
19 but we are confident there would be some potential remarket
20 value in the future should we make a decision with the
21 Commission not to proceed with the project.

22 Q Thank you, Mr. Scroggs.

23 Mr. Scroggs, do you recall in your deposition the
24 statement you made that if FP&L was not awarded what they've
25 requested in Issue Number 9 through the PSC, that you would

1 recommend FP&L proceed with securing a place in the queue on
2 their own?

3 (Inaudible.)

4 CHAIRMAN CARTER: Mr. Butler, we can't hear you.

5 MR. BUTLER: Sorry. Would you please point
6 Mr. Scroggs to where you're referring in his deposition?

7 MR. KRASOWSKI: Mr. Chair, can I go on with other
8 questions as we look for that specific place in the, in his
9 deposition document?

10 CHAIRMAN CARTER: Okay. We'll come back to that. Go
11 ahead.

12 MR. KRASOWSKI: Okay. Thank you, sir.

13 BY MR. KRASOWSKI:

14 Q Okay. Moving along, Mr. Scroggs, and we'll come back
15 to that.

16 On Page 7, Lines 1 through 13 --

17 A Which document, sir?

18 Q I'm sorry, sir. It's in your testimony, prefiled
19 testimony, Page 7.

20 A I'm there.

21 Q Okay. Can I -- would you think a change in
22 leadership at the federal level, and that would be at the, you
23 know, the presidency with the election coming up, change the
24 current policies on risk insurance and loan guarantees as
25 they're associated with this project?

1 A I'm not sure I understood the question, sir.

2 Q Okay. Let me rephrase it then. Do you believe that
3 a new administration would change current policies as they
4 relate to nuclear plants in general and their, and their risk
5 insurance?

6 A I can tell you that -- you know, certainly I can't
7 tell you what a future administration may or may not do in the
8 energy policy arena, but I can identify that the economic
9 analysis that supports the Turkey Point 6 and 7 project does
10 not rely on any of the economic benefits that have been
11 identified in the Energy Policy Act of 2005 to ensure the
12 cost-effectiveness of the program.

13 Q Okay. On Page 12, Lines 5 through 17, how were the
14 post-construction costs such as waste handling paid for?

15 A In our analysis we estimated a certain amount of
16 fixed O&M cost, and that fixed O&M cost includes a
17 decommissioning cost for the facility. We accrue an amount
18 during the operation of the facility in account to pay for
19 decommissioning of the facility. As far as spent fuel
20 handling, there is a fuel surcharge associated with the
21 purchase of all fuel that is accrued over time to pay for the
22 DOE disposition of spent fuel.

23 Q And how far out into the future does that disposition
24 cover as far as the handling of the, the used fuel?

25 MR. BUTLER: I'm sorry. Could you rephrase the

1 question? Are you referring to storing it onsite or are you
2 talking about the ultimate disposition of it by DOE? Could you
3 clarify, please?

4 MR. KRASOWSKI: Yes.

5 BY MR. KRASOWSKI:

6 Q Let me first ask then about the economics of storing
7 it onsite. Okay? Is that included in your construction costs?

8 A No. The construction costs do not include the cost
9 of dry cask storage. That cost is included as a capital
10 replacement charge that is an annually occurring cost during
11 operation to build and maintain dry cask storage onsite if it's
12 needed.

13 Q And how, and how far into the future is the dry cask
14 storage projected to be necessary?

15 A Again, I don't have a projection of how far that
16 would be necessary. The engineering design capability for
17 these dry storage casks are over 100 years. Beyond 100 years
18 there's no specific estimate of the life cycle of those units.

19 Q And so, so the complete cost of storing, the
20 potential of storing those dry cask units onsite is included in
21 your budgetary considerations?

22 A The costs for dry cask storage construction and
23 maintenance are included in capital replacement. And beyond
24 that there is an accrual for the long-term disposition of the
25 spent fuel through the Department of Energy.

1 Q So any questions I would have in terms of long-term
2 storage beyond when the material leaves your possession would
3 be, have to be answered by the NRC, Nuclear Regulatory
4 Commission, or who's managing that?

5 A I can, I can tell you that, you know, the energy
6 policy in the United States has been that long-term disposition
7 is the responsibility of the DOE. The industry has
8 participated in funding those activities and that's, that's the
9 long-term disposition.

10 The industry has also developed a very safe and
11 licensed short-term opportunity in the dry cask storage for
12 storage of waste, spent fuel onsite, and that that's licensed
13 and is in operation in several places in the United States.

14 Q Okay. So the portion of the waste issue here that
15 comes under capital replacement costs, could you, could you
16 explain exactly what that covers?

17 A The portion of cost under capital replacement pays
18 for the construction and storage and maintenance of dry cask
19 units, you know, out into 100 years plus.

20 Q Okay. And does that include the, the, the pool
21 storage for the waste at that phase of it?

22 A That capital replacement charge that you asked me
23 about is specific to the dry cask storage.

24 Q Okay.

25 A The design of the facility and the initial capital

1 cost to the facility will include spent fuel, water storage,
2 pool storage for up to 18 years of operation before dry cask
3 storage would be required.

4 Q Is dry cask storage a relatively new technology?

5 A Dry cask storage has been reviewed by the NRC, it's
6 licensed, it's in operation in the United States. It is very
7 well-understood and well-accepted technology that I believe is
8 being adopted internationally as well.

9 Q Now is -- excuse me just for a second.

10 Is the capital, Mr. Scroggs, is the capital
11 replacement costs with the dry cask storage included in the
12 price of Turkey Point 6 and 7?

13 A Again, let me make very clear, there are ongoing
14 costs and then there are capital costs. The capital cost
15 estimate range that I provide and describe in my Exhibit
16 SDS-6 only includes those costs associated with building the
17 original plant. That would include wet storage as a part of
18 the design of the original plant.

19 The ongoing costs for the development of dry cask
20 storage and the maintenance and operation of dry cask storage
21 into the future is a part of capital replacement costs, a
22 charge that's accrued every year as a part of the operating
23 cost. So, again -- and there's overlap. We're building the
24 dry cask storage well in advance of when the wet storage would
25 be filled up. There's, you know, the DOE costs that we're

1 paying for long-term storage overlap with the time period that
2 dry cask storage would cover. So there's a great deal of
3 conservative estimate built into the issues related to spent
4 fuel.

5 Q Okay. So as far as storage onsite, dry cask storage
6 onsite, the economics of providing for that reach out to -- as
7 far as 100 years? You have factored that cost of that for the
8 next 100 years into this project?

9 A The costs of that are incurred in the operational
10 costs during the -- the ability to maintain that is a part of
11 the design feature of the dry cask storage. You buy it, it's
12 good for quite some time. All right? Then there's the
13 decommissioning costs that we spoke of. That decommissioning
14 cost handles the dismantlement of the plant after its useful
15 life. That would be, I would assume, before 100 years, so.

16 Q Okay. Now if the federal government which ultimately
17 has the responsibility for providing a place to move the waste
18 to and that's what you're paying into as part of the fuel cost,
19 if they do not provide a place, is there a provision for
20 storing the waste inside the old units after they're, they're
21 retired and leaving all the waste onsite at Turkey Point? Is
22 there any strategy that considers that as an option?

23 A Our long-term strategy for waste management is based
24 on energy policy and the commitments of the Department of
25 Energy. That is not planned for, although the costs of which

1 would be very miniscule to maintain dry cask storage that is a
2 safe and stable storage repository.

3 Q Okay. So am I correct in my understanding that the,
4 much of the waste has a life of up to 10,000 years in terms of
5 it being problematic or requiring attention and storage; is
6 that correct?

7 A The high level radioactive waste would need to be
8 monitored for many years into the future. Yes, sir.

9 Q Okay. I've heard 10,000. Is that in the ball park?

10 A I don't know where that number might have come from,
11 so.

12 Q Well, okay. Now I understand that with, if we were
13 to reprocess this fuel, the spent fuel, we might be able, might
14 be able to reduce that time frame to 3,000 years, where it
15 requires storage and attention and monitoring for 3,000 years.

16 MR. BUTLER: I object to the lack of foundation.

17 CHAIRMAN CARTER: Sustained.

18 BY MR. KRASOWSKI:

19 Q Okay. Okay. So how, how long have you considered
20 the, within this project the period that you'd be responsible
21 for, for managing this by-product of this project?

22 A Again, our design assumes a 40-year license, which
23 would run from 2018 to 2058 for the first unit. There may or
24 may not be a license extension. That would be an economic
25 decision and a revisiting of the license at that point in time.

1 Our economics and analysis assume a decommissioning
2 at the end of 40 years, and the cost for that is, is all
3 included in our economic analysis, including the contributions
4 to the DOE fund that would be responsible for the long-term
5 disposition of high level waste.

6 Q Okay. Thank you. Okay. I'd like to ask you a
7 couple of questions about the water, on the water issue. Okay.
8 Before I get to that, let me just go along the way we have this
9 organized. On Page 18, Line 5 --

10 A Is that of my testimony, sir?

11 Q Yes, sir. Yes, sir.

12 A Yes.

13 Q You state that -- my question is am I correct in
14 understanding that there has been no reactor design officially
15 chosen to date?

16 A That's correct. No final technology selection has
17 been made.

18 Q Okay. Is FP&L leaning toward one or the other of the
19 two you've identified?

20 A FPL has taken steps to, in due diligence to pursue a
21 further understanding of the Westinghouse AP1000 design, steps
22 that we have not taken with the GE design. So we have moved
23 down the path a bit farther with Westinghouse than we have with
24 GE.

25 Q Are you -- could you comment as to whether or not the

1 AP1000 has ever been tested with live nuclear fuel?

2 A The AP1000 is an advanced design and, as with all
3 advanced designs, has not been constructed or built, that
4 nonetheless is based in an expansion or evolution of
5 pressurized water reactor technology that is well-known,
6 well-understood. Fuel assemblies and many of the design
7 components in the AP1000 are very similar in design and
8 operation to the technologies that we enjoy in our existing
9 nuclear facilities today.

10 Q Can you confirm that the AP1000 has not been tested
11 using nuclear fuel but yet was just tested -- was tested only
12 by using electrical coils for heat to this point?

13 MR. BUTLER: Object to the --

14 MR. KRASOWSKI: To this date.

15 CHAIRMAN CARTER: Sustained. It's been asked and
16 answered.

17 MR. KRASOWSKI: Okay. Thank you. I'm sorry. I
18 apologize.

19 BY MR. KRASOWSKI:

20 Q Do you know if the General Electric ESBWR technology
21 you're looking at as well, do you know if it uses more water
22 than the Westinghouse AP1000?

23 A The GE ESBWR design, economic simplified boiling
24 water reactor, is a larger capacity. It's on the order of
25 1,520 megawatts net versus 1,100 megawatts net. On a per

1 megawatt basis it uses approximately the same water
2 requirements as the AP1000. But because it's 420 megawatts
3 larger, it uses a larger total amount of water.

4 Q What is your basis for consideration in evaluating
5 these two when you've identified a need of 8,000 megawatts?
6 The AP1000s would apply, would, would provide 2,200 megawatts
7 and the GE facilities are, are up to 3,040 megawatts. So why
8 aren't you just going for the bigger project to satisfy the
9 most need?

10 A Well, bigger may not always be better. The factors
11 that I identified in my testimony would be, you know, the
12 estimated capital costs and total costs of construction, the
13 ability to manage costs and schedule risks throughout the
14 project, and then the execution capabilities of the design
15 vendor, the contractor that would build the plant and the
16 architect engineer. Those things are more can the project --
17 you know, what's our confidence and risk management tools
18 around accomplishing the project? So it's more than just which
19 is the biggest megawatt. It's a combination of making the
20 right, smart decision on a design versus just being, just
21 following a certain edict for larger capacity.

22 Q Wouldn't, wouldn't you think that -- well, let's see.
23 Would it have not -- would it have not have been a better idea
24 to figure all this out before you came before the Public
25 Service Commission looking for approval for a project where you

1 don't even have the technology selected that you might move
2 forward to, with? Okay. Let me rephrase that.

3 A I'm sorry.

4 Q Okay. I'm sorry. Let me rephrase it.

5 You're here now in front of the Public Service
6 Commission looking for a need determination approval for a
7 nuclear power plant at the Turkey Point site. Okay? Why
8 didn't you wait until you determined exactly which technology
9 you wanted to use before coming here looking for approval?

10 A Well, I think as we've described, hopefully I've made
11 clear, the nuclear design, construction and operation process
12 has a much longer lead time. It's very complex and very
13 long-legged. We wanted to make sure that we got the process
14 moving down the path towards a successful end to bring on these
15 benefits to our customers as soon as possible. In doing so, we
16 narrowed the field to two capable designs. The Westinghouse
17 design is certified and we are taking steps in due diligence to
18 flesh that out. But in terms of making a need determination,
19 we have identified that there is a need. We've identified that
20 either of these technologies will fill the role of capably
21 providing for that need, providing fuel diversity, green -- low
22 or no greenhouse gas emissions, helping to reduce the total
23 system emissions. So the benefits and the economics that we've
24 identified are not dependent on a specific design.

25 So, again, in an effort to move the project forward

1 in the interest of getting this for our customers as soon as
2 possible, it wouldn't have been prudent for us to continue to
3 wait and wait and wait before we bring a complete, fully
4 understood situation and experience the impact of that delay.

5 Q Don't you understand how it might have been easier
6 for the public, interested public to relate to your proposal if
7 it was more specific?

8 MR. BUTLER: Object to the form of the question as
9 argumentative.

10 MR. KRASOWSKI: I'll rephrase that, Mr. Commissioner.

11 CHAIRMAN CARTER: Good deal.

12 BY MR. KRASOWSKI:

13 Q I'll just move on from that. Thank you.

14 Mr. Scroggs, I, in reading the, the documents I
15 believe I've read that the cost of this project would range
16 between \$12 and \$24 billion or between \$12 and \$18 billion.
17 Could you give me the correct cost assessment on that? I think
18 the first figure identified \$12 to \$24 was --

19 CHAIRMAN CARTER: Give him a chance to answer your
20 question. You're almost testifying.

21 MR. KRASOWSKI: I'm sorry.

22 CHAIRMAN CARTER: I've given you a lot of leeway,
23 Mr. Krasowski.

24 MR. KRASOWSKI: You are, and we appreciate you
25 accommodating the public, Commissioner.

1 CHAIRMAN CARTER: Let him answer. He's thumbing
2 through the pages.

3 THE WITNESS: Yes, sir. On Exhibit SDS-8 in my
4 direct testimony there's a table that provides a description of
5 the range of total project costs for either of the two designs
6 that are under consideration.

7 BY MR. KRASOWSKI:

8 Q Okay. And I don't have that right in front of me.
9 Could you, could you tell me what the range of cost is, 12 to
10 --

11 A Certainly. The, for the 2,200 megawatt project which
12 would be associated with the AP1000 the range would be
13 \$12.1 billion to \$17.8 billion. And for the 3,040 megawatt
14 project which would be associated with the GE ESBWR the range
15 would be \$16.5 billion to \$24.3 billion.

16 Q Okay. Thank you. Okay. On Page 19, Line 12 through
17 20 in your prefiled testimony.

18 A I'm there.

19 Q Have you met the conditions given in Miami -- excuse
20 me. Let me rephrase that.

21 Have you met the conditions identified by the
22 Miami-Dade Commission during their hearing on the water
23 portions of your application for the unusual land use permit?

24 A The Miami-Dade County Commission on December 20th
25 heard our request for zoning variances and associated with

1 granting those zoning variances in an 11 to 1 vote for us
2 identified that there would be 22 conditions of approval.
3 Those conditions of approval range from plans for wetland
4 mitigation, plans for threatened and endangered species, and
5 several that spoke to our plans for the water resource and
6 wastewater associated with the project. Those are conditions
7 that identify things that they want us to consider, information
8 that they want us to provide as we go through the application
9 process at the state site certification application to the
10 Department of Environmental Protection. So those, complying
11 with those conditions will occur as we develop the application
12 and as we submit our application to the DEP.

13 Q So that's still in process then?

14 A That is still in process. Yes, sir.

15 Q Okay. Thank you. And then what are the limitations
16 on this project as far as access to water sources according to
17 that same, same Miami-Dade County Commission meeting?

18 Let me rephrase that so maybe it's -- at that
19 meeting, the Miami-Dade meeting, there were restrictions placed
20 on some of the resource, your use of some of the resources.
21 Could you identify what those are?

22 MR. BUTLER: Object to the question. Lack of
23 foundation. If he has specific restrictions in mind, he needs
24 to identify them and, you know, have some sort of documentary
25 basis for them.

1 CHAIRMAN CARTER: Sustained.

2 Kind of narrow down your issues, Mr. Krasowski.

3 MR. KRASOWSKI: Okay. We'll move on. Let's see.

4 BY MR. KRASOWSKI:

5 Q On Pages, Page 22, seven to nine --

6 A Yes.

7 Q -- could the drought become an insurmountable
8 obstacle because of the, of a shortage of water in terms of
9 moving forward with this project?

10 A No. We do not believe that -- in the summary of
11 water issues that I submitted with my deposition I think we
12 fully identify there's a broad range of resources available to
13 the project that are not affected by the drought.

14 Q Is the Floridan Aquifer still under consideration for
15 use?

16 A Yes, sir.

17 Q Okay. And then what's the additional cost associated
18 with using ocean water?

19 A Again, our cost estimate range includes a range of
20 \$250 to \$300 million in capital costs, and then obviously our
21 operational costs include some operational. We believe that
22 marine water, whether it be taken in through a surface intake
23 or through a subsurface intake, that that cost estimate range
24 more than covers the cost estimates for using that type of
25 water.

1 Q Can FP&L receive -- now shifting, okay, Page 23 to
2 Line 16.

3 A Yes, sir.

4 Q In terms of the COL, can FP&L receive a COL if the
5 Westinghouse AP1000 hasn't been tested under normal operating
6 conditions using, actually using nuclear fuel?

7 A The licensing process at the federal level involves
8 two significant steps. There's a design certification step
9 that has already been achieved for the Westinghouse design
10 wherein the NRC has reviewed the design specifically and
11 approved it for use in the United States as a commercial
12 nuclear reactor.

13 The second process is the combined operating license,
14 which is specific to a site and a project. That's the process
15 that we as the utility would go through with the NRC to file
16 for that, the timing of which would not be dependent on the
17 specifics of, of -- you know, there will be a first AP1000
18 reactor in the United States and that first AP1000 reactor will
19 be the first fully designed and built configuration of that
20 reactor in the United States. There are also AP1000 reactors
21 being built in China that should come online in advance of any
22 U.S. reactor.

23 Q Are you suggesting the first one built in the United
24 States may be this, in association with this project?

25 A No, sir, that is not my suggestion.

1 Q The first AP1000, where, then where might it be
2 built?

3 A The Tennessee Valley Authority at their Bellefonte,
4 Alabama, site has submitted the first combined operating
5 license application for an AP1000. They're -- in the schedule
6 they would appear to be in the front.

7 Q How much further are they ahead of this project?

8 A Approximately two to three years.

9 Q Okay. Thank you. On Page 26, Line 3, you're asked
10 what risks are presented to the project in the licensing,
11 licensing phase.

12 A I'm there.

13 Q Are you there? Okay. Are you identifying public
14 involvement as a risk in this process?

15 A No, sir, I'm not identifying that as a specific risk.

16 Q On Line 11, Page 26, you say that "Although FP&L's
17 schedule accommodates reasonable time spans based on input from
18 industry groups and reviewing agencies, the overall project
19 costs and schedule will be affected by the level of
20 intervention and pace of the license review process at the
21 state and federal levels. Additionally, there is an overall
22 risk of failing to obtain the necessary state and federal
23 approvals." And that's in relation to the first sentence of
24 the paragraph. If you'll give me a second, I'd like to look at
25 that.

1 (Pause.)

2 Okay. On Line 9 prior to that, and maybe I'll have
3 to redo this, but on Line 9, you see where it says,
4 "Additionally, the licensing phase provides opportunities for
5 public interaction and ends in the hearing process that is open
6 to interested parties." So the accommodation for industry
7 groups and reviewing agencies does not exclude an accommodation
8 for the public participation in that process; is that correct?

9 A Absolutely. And the process is designed and has been
10 redesigned in mind both at the state and federal levels for
11 numerous opportunities for public interaction, numerous
12 opportunities for the public, to make sure that the concerns of
13 the public are included in the scoping for the reviews, and we
14 certainly welcome that and we think that that's a helpful
15 aspect of the licensing process so that the public is a part of
16 the process and participates in.

17 Q And you're ready to stand down and withdraw this
18 proposal if through that process and the public's involvement
19 in that process that factors are brought to light that make
20 this a not -- make this project -- that show this project to be
21 not the best thing to do at this time?

22 A We'll abide by --

23 MR. BUTLER: I would object to that as well beyond
24 the scope of Mr. Scroggs' testimony, as well as the position
25 within the company to stand down on the project. And it sounds

1 like it's a question not because the licensing would be
2 disallowed or something but just to voluntarily withdraw the
3 project. I don't think that's a decision he can make and it's
4 way too speculative.

5 MR. KRASOWSKI: Mr. Chair, I specifically relate to
6 his statement and his testimony, and I'm just asking for a
7 clarification as to whether he perceives public involvement as
8 a risk.

9 CHAIRMAN CARTER: You asked him that, he answered
10 that. But this is beyond the perspective and I'm going to have
11 to sustain the objection. You asked him about the public
12 involvement. He said that's true and said the process is
13 designed in all phases, both state and federal, for public
14 involvement. I heard that.

15 MR. KRASOWSKI: Okay.

16 CHAIRMAN CARTER: And so we've been going about an
17 hour. Can you tell me about how much more you've got? Because
18 I'm sure the Commissioners have some questions as well as staff
19 and all, but can you give me some kind of idea where you are,
20 Mr. Krasowski, time wise?

21 MR. KRASOWSKI: Yes. I have maybe another page,
22 another 20 minutes maybe. I'm not exactly sure. But we --
23 there are -- I'll try to get through it quickly.

24 CHAIRMAN CARTER: Just, just narrow your focus. And
25 I think that if you, if you, as you go to these pages, if you

1 want to use it as a reference, you don't have to read it. Just
2 ask the question and that will probably help a little too.
3 Okay?

4 MR. KRASOWSKI: Yes.

5 BY MR. KRASOWSKI:

6 Q Mr., Mr. Scroggs, how long, exactly how long is the
7 authorization to build a plant valid for?

8 A My understanding is that there's no specific time
9 limit once a COLA is, or a combined license is granted. But
10 the common thought is that's about 20 years from the time that
11 a license would be granted, that the construction and operation
12 of that plant would need to commence within approximately 20
13 years from the time that the license is granted. Witness Diaz
14 would probably be able to more precisely answer that question.

15 Q Okay. Well, okay. In the interest of trying to move
16 this along, let me see if I can appropriately ask questions on
17 the, on, on this, this issue.

18 Are you aware of the -- now you've previously
19 identified that the overall expenditure in relation to this
20 project is in the range from \$12 billion to \$24 billion
21 depending on what you decide to, which way you decide to go?

22 A That's correct.

23 Q Okay. Now we're aware of an FP&L project that would
24 provide 300 megawatts of power through thermal, thermal solar.
25 Are you aware of that?

1 MR. BUTLER: Object to lack of foundation.

2 MR. KRASOWSKI: What's that?

3 MR. BUTLER: Object to lack of foundation. Describe
4 the project, if you have something specific you want him to
5 comment on.

6 MR. KRASOWSKI: Well, I'm asking Mr. Scroggs if he's
7 aware of that project so as to avoid elongating my --

8 CHAIRMAN CARTER: If you know the name of the
9 project, just ask him, and that'll help move it along and zero
10 in more precisely on what you really want to ask him.

11 BY MR. KRASOWSKI:

12 Q Are you familiar with the Ausra project, A-U-S-R-A?

13 A I'm familiar with our efforts in Martin County to
14 develop solar thermal, and I understand that Ausra is a
15 technology that's being considered for that project.

16 Q Are you aware that that project is, is supposed to
17 produce 3,000 megawatts of power -- excuse me -- 300 megawatts
18 of power?

19 A I understand there's phases of the project where
20 we're going to start with a smaller amount, 10 megawatts. And
21 if that proves viable, we can move forward to potentially
22 300 megawatts.

23 Q Okay. Do you know the cost of that project?

24 A No, sir, I don't.

25 Q Okay. Now in your testimony you identify the

1 alternatives that you compared this project to; is that
2 correct?

3 A I believe in my testimony I don't go into specifics.
4 Witness Sim in the Resource Planning Department would be one
5 that would be able to identify through our integrated resource
6 planning process how we go look at different technologies.

7 Q So you wouldn't be the person to ask? Okay. Fine.
8 I'll save those questions for Mr. Sim.

9 Okay. We asked these questions of Mr. Silva and he
10 referred us to you. Doesn't, doesn't a nuclear power plant
11 depend on an uninterrupted flow hour by hour of water?

12 A The operation of any steam plant requires water for
13 cooling water purposes. It would depend on the design of the
14 water systems for the plant, in particular to the designs that
15 are being com, com -- excuse me. The designs that we're
16 contemplating for Turkey Point 6 and 7 include a large
17 reservoir of water in a cooling tower basin which would provide
18 a four- to five-day supply of water. So, again, that would not
19 require a continuous supply of water for consistent and
20 reliable operation.

21 Q Does, does the operation of a nuclear power plant
22 require external power provided to it constantly by fossil fuel
23 plants or other external electric generating plants in order to
24 assure the nuclear power plant's operation?

25 A One of the really good features of the new passive

1 design technologies that are a part of either the AP1000 or the
2 GE plant is a much lower reliance on any external activities to
3 provide cooling water in the event of a reactor accident to
4 keep the water, the cooling water or the reactor safe. So the
5 need for emergency diesel generators, operator action has been
6 greatly reduced and removed for some hours after an accident.
7 So for these new passive designs that is not a requirement.

8 Q And what about the spent fuel cooling pools?

9 A Again, once, once the water -- you know, those
10 aren't, do not require a continuous feed of electricity to
11 remain safe. They can respond for some period of time without
12 circulation to remain safe.

13 Q And if you choose the Virginia Key reused water,
14 wouldn't it be, wouldn't you have to build a pipeline under
15 Biscayne Bay to provide the water to the plant?

16 A Absolutely not. The Virginia Key water treatment
17 facility is one of three water treatment facilities in
18 Miami-Dade County. It is -- there is area at the site to
19 expand their treatment and provide treated water. We think the
20 most logical option for bringing that treated water from
21 Virginia Key to the Turkey Point site would be to come back
22 down existing transmission right-of-ways that are already in
23 use by both the county and Florida Power & Light so we would
24 not need to go under Virginia Key.

25 But the other options that are being explored would

1 be to utilize the existing wastewater system in Miami-Dade to
2 deliver that water to a plant closer to Turkey Point and,
3 therefore, reduce the amount of pipeline that would be
4 necessary to deliver the finished water product to the plant.

5 Q How far is the Virginia Key wastewater plant from the
6 proposed site for 6 and 7?

7 A It's approximately 32 miles.

8 Q If I could have just one second to go back to our
9 earlier question, find the documentation.

10 (Pause.)

11 CHAIRMAN CARTER: Commissioners, just by way of
12 information while Mr. Krasowski is looking for his notes for
13 the final few questions, what my plans are is once
14 Mr. Krasowski is finished, I want to go to staff and then come
15 back to Commissioners, if in case we have any questions. And I
16 think that way it will give us an opportunity to hear as well
17 as ask any questions that we have. So we'll do it from that
18 perspective just from the FYI department. Also always
19 continuing to look just for the parties that are here as well
20 as -- I know Commissioner Argenziano is, is not feeling well
21 but she's on the line. Just, Commissioner, and as well as for
22 those that are here that are gathered, our plans for lunch will
23 probably be, we'll probably break around noonish.

24 MR. KRASOWSKI: Commissioner --

25 CHAIRMAN CARTER: Excuse me for one second. I'm

1 sorry. Just trying to get some affirmation from my fellow
2 Commissioners. We'll break around noon for lunch.

3 Mr. Krasowski, you're recognized.

4 MR. KRASOWSKI: My apologies, but I have now found
5 it. It took me forever.

6 BY MR. KRASOWSKI:

7 Q Okay. This is in a deposition, Mr. Scroggs'
8 deposition, Page 41 and 42.

9 A Yes, sir.

10 Q Starting on Page 41, and I believe this is a question
11 to you from Ms. Brubaker. The question is, the bottom, Line
12 24, Page 41, it says, "Okay. Hypothetically, if the Commission
13 were to defer making a decision on the need for FP&L to make
14 the reservation commitments," and now I jumped over to Page 42,
15 "to defer that determination to the cost recovery proceeding
16 rather than the need determination, in your opinion would FP&L
17 still pursue making those commitments with Japan Steel Works?"
18 And your answer was, "I can't speak for the final business
19 decision of FP&L's executives, but I would recommend that they
20 would."

21 So back to my original question was is there a need,
22 any need that would come out of a decision made by the PSC that
23 would control your making a deposit for a queue in the, to the
24 Japan Steel Works for the founding, foundry work that you seek?

25 MR. BUTLER: I'm going to object to the question.

1 CHAIRMAN CARTER: That was -- you've asked that --
2 you had a whole line or series of questions on that.
3 Mr. Butler is right on that. And so he's already answered that
4 one several times in several different iterations. So let's
5 move on. You asked him about that.

6 MR. KRASOWSKI: Yeah. Okay. I just, I thought by,
7 by citing --

8 CHAIRMAN CARTER: You asked him about it several
9 times.

10 MR. KRASOWSKI: Yeah. Okay. I have one other
11 question, if I may.

12 CHAIRMAN CARTER: That's fine. I was just --

13 MR. KRASOWSKI: Okay.

14 CHAIRMAN CARTER: He's probably not going to change
15 his answer.

16 MR. KRASOWSKI: Yeah. Okay. Whatever that was.

17 MR. BUTLER: I would object to that characterization
18 and ask that it be stricken.

19 CHAIRMAN CARTER: Yes. Mr. Krasowski --

20 MR. KRASOWSKI: That just reflected my own confusion
21 of whatever it was.

22 CHAIRMAN CARTER: Mr. Krasowski, Mr. Krasowski, you
23 really have -- this is still a tribunal, it's still an entity
24 of the government. It's -- we're not like hanging out on the
25 back porch shooting the breeze. This is a very important case

1 and we have given you great leeway.

2 MR. KRASOWSKI: Yes, sir.

3 CHAIRMAN CARTER: And but all lawyers and all parties
4 represented here have to adhere to a certain level of
5 standards, ethics and conduct.

6 MR. KRASOWSKI: Yes, sir.

7 CHAIRMAN CARTER: And that was inappropriate.

8 MR. KRASOWSKI: Well, I apologize for that then.

9 CHAIRMAN CARTER: Okay. You may continue.

10 BY MR. KRASOWSKI:

11 Q Let me, let me try to approach this question from a
12 different direction, and stop me dead in my tracks, please.
13 I'm sure you will.

14 CHAIRMAN CARTER: No. The thing about a question
15 that's been asked and answered, you don't get to go, you don't
16 get multiple bites at the apple. So if you've got other
17 questions you want to ask, go right ahead.

18 MR. KRASOWSKI: Okay. So -- okay. Well, we'll just
19 leave it, leave it there. Just trying to get a satisfactory
20 answer. We've asked and --

21 CHAIRMAN CARTER: You probably won't ever get a
22 satisfactory answer.

23 MR. KRASOWSKI: Okay. Yeah. Thank you very much.

24 CHAIRMAN CARTER: He's, he's not your witness, so
25 he's not going to give you a satisfactory answer.

1 MR. KRASOWSKI: Okay. Well, thank you very much.
2 That concludes the questions we have for Mr. Scroggs. And
3 apologies, you know, for whatever.

4 CHAIRMAN CARTER: Duly noted. And as I say, because
5 you are pro se we have given you great latitude.

6 MR. KRASOWSKI: Yes, sir.

7 CHAIRMAN CARTER: However, however, there is a
8 boundary beyond which none of us can.

9 Go. Let's do this. We've been at this for well over
10 an hour now, and I know the staff has some questions, and let's
11 take a -- I'm looking at 10:54. We'll come back at 11:00 and
12 then we'll recognize staff for their questions. Let's take a
13 stretch break.

14 (Recess taken.)

15 We are back on the record with our hearing. And last
16 time when we took our break we said that we'd, our staff had
17 some questions for the witness and we'd recognize staff. And
18 at this point in time, staff, you are recognized.

19 MS. FLEMING: Thank you, Chairman.

20 CROSS EXAMINATION

21 BY MS. FLEMING:

22 Q Good morning, Mr. Scroggs. I'm Katherine Fleming.

23 A Good morning.

24 Q Earlier Mr. Krasowski asked you a question regarding
25 the specific design technology, and in response to that,

1 Mr. Krasowski's question, you stated that FPL has not made a
2 final decision on its design technology; correct?

3 A That's correct.

4 Q Does this uncertainty affect the site certification
5 process at DEP?

6 A No. That decision will be made in advance of the
7 full development of the site certification application and will
8 be resolved well in advance of submitting that application.

9 Q When does FPL anticipate making a decision on the
10 final design selection?

11 A In the summer of this year.

12 Q And when does FPL anticipate filing its site
13 certification at DEP?

14 A Early in the year 2009.

15 Q Okay. Is it correct that FPL must make its initial
16 payment to Japan Steel Works in June 2008 to secure the 2018
17 in-service dates?

18 A I'm sorry. Are you asking me if we have made such
19 payment?

20 Q No. Is it correct that FPL must make its initial
21 payments to Japan Steel Works in June of 2008 in order to
22 secure the 2018 in-service dates?

23 A I understand your question. Thank you.

24 As I've said, the best information we have right now
25 indicates it is the most prudent decision for us to go ahead

1 and make that reservation in the summer of 2008 to maintain the
2 project schedule, but those market issues can change.

3 Q Has FPL studied the larger technology in terms of the
4 transmission impacts it could have on the Florida grid?

5 A Yes, ma'am.

6 Q And what have those studies shown?

7 A Those studies have shown that the larger capacity
8 units would require additional transmission integration
9 investment, that it would be technically feasible to do so, but
10 it would require additional equipment probably on the FPL
11 system as well as on other systems.

12 Q Now could that larger technology type impact other
13 utilities' operating reserve requirements?

14 A I'm not sure if I understand the question.

15 Q You're stating that the 1,500 megawatt is obviously
16 greater than the 1,100 megawatt and you have conducted studies.
17 In your studies have you made a determination whether that
18 larger transmission or larger unit could affect the impact of
19 the other utilities that may be impacted in the Florida grid?

20 A The design standard for the transmission system
21 requires that the reliability standard be met. And what we're
22 describing is that in order to meet that reliability standard
23 with the larger unit, there would be additional equipment
24 necessary to meet that same reliability standard. The standard
25 would be the same. You'd have the same system capabilities in

1 the end. So we would not impact others by our choice. It
2 would just determine the additional transmission integration
3 equipment necessary to achieve the design standard for the
4 system.

5 Q Thank you. Has FPL had direct negotiations with
6 Japan Steel Works related to the forgings that are needed for
7 Turkey Point 6 and 7?

8 A No. And let me amplify a bit that our relationship
9 would be with the reactor design vendor, either Westinghouse or
10 GE, who would then in turn contract with Japan Steel Works
11 directly. So there's two phases there. We would not directly
12 contract with Japan Steel Works.

13 Q And on that same point then would FPL remit payments
14 for these forging reservations to Japan Steel Works or would
15 they remit payments to GE or Westinghouse?

16 A The terms, the specific terms are not negotiated.
17 But it's my understanding that we would enter into a
18 contractual agreement with either Westinghouse or General
19 Electric and the payment, therefore, would go to Westinghouse
20 or General Electric.

21 Q And the \$16 million estimate that is addressed in
22 Issue 9, is that based on, the forgings reservation fee based
23 on the estimates arrived between negotiations between
24 Westinghouse and Japan Steel Works?

25 A The estimate that we provided was based on an

1 estimate provided to us from Westinghouse. That estimate, I
2 can assume, is based on a long-standing relationship between
3 Westinghouse Electric and Japan Steel Works and their
4 understanding of the market value of such reservation.

5 Q Would the estimate be \$16 --

6 CHAIRMAN CARTER: Excuse me, Ms. Fleming. I think
7 that, I may have misheard you, but I think that when
8 Mr. Krasowski asked that question, you said that you had to
9 reserve the place with Japan Steel and you'd have to do that
10 notwithstanding whichever vendor you chose.

11 THE WITNESS: That's correct. The end result would
12 be the reservation would be with Japan Steel Works, but it
13 would be through a contractual arrangement with either of the
14 final technology vendor that we would select.

15 CHAIRMAN CARTER: Well, I guess I must have
16 misunderstood that. Because what I heard you say to
17 Mr. Krasowski's question was that it would be tantamount to a
18 contractual relationship, a payment from FPL directly to Japan
19 Steel Works.

20 THE WITNESS: I apologize if that was -- if I
21 misrepresented that. The proper way to represent that is that
22 we will enter into a contractual agreement with either
23 Westinghouse or General Electric, who then will subcontract to
24 Japan Steel Works for this purpose.

25 CHAIRMAN CARTER: Okay.

1 THE WITNESS: In effect, it's FPL reserving a forging
2 reservation at Japan Steel Works. But I probably did an
3 inadequate job of describing the commercial arrangement that
4 would arrive at that result.

5 CHAIRMAN CARTER: Okay. Ms. Fleming, you may
6 continue.

7 BY MS. FLEMING:

8 Q And to that --

9 CHAIRMAN CARTER: Wait a minute. Commissioners, on
10 this same point, any other questions on that?

11 Commissioner Edgar, you're recognized.

12 COMMISSIONER EDGAR: Just very brief and just
13 technical -- well, to me technical, not you technical.

14 I'm looking at the language of the issue and it does
15 say, "Should FPL commit to make payments to Japan Steel Works?"
16 And it's a fine point and I'm not trying to split hairs. But
17 so if -- would the -- would FPL be making those reserve
18 payments to Japan Steel Works or to whatever is the vendor that
19 is ultimately the major contractor?

20 THE WITNESS: Again, the commercial arrangements are
21 still in the process of being negotiated. There may be an
22 arrangement by which we enter into a commercial arrangement
23 with a reactor designer, either Westinghouse or General
24 Electric, but the payment would be remitted directly to Japan
25 Steel Works, or the payment could be remitted to Westinghouse

1 and General Electric, who then on our behalf remits it to Japan
2 Steel Works. It's just a matter of how those contract terms
3 become negotiated and what we see as the best interest of
4 protecting our customers, which, which option would be in the
5 best interest for risk mitigation purposes, and we just haven't
6 gone through that process yet.

7 COMMISSIONER EDGAR: Thank you.

8 CHAIRMAN CARTER: Okay. Thank you.

9 Ms. Fleming, you may continue.

10 BY MS. FLEMING:

11 Q You previously stated that the \$16 million is based
12 on estimates between Westinghouse and Japan Steel Works;
13 correct?

14 A The \$16 million is based on the estimates
15 Westinghouse provided to us. I am assuming that they consulted
16 Japan Steel Works in developing that estimate.

17 Q Okay. Fair enough. Then does FPL know what the
18 reservation fee would be for GE?

19 A We assume that because the component sizes and number
20 of components are approximately the same that \$16 million would
21 be a representative number for either the GE technology or the
22 Westinghouse technology.

23 Q Is it correct that the proposed unit reactor pressure
24 vessels and steam generators are components which require
25 forging by Japan Steel Works?

1 A That is correct.

2 Q With respect to the Westinghouse and GE designs, are
3 the quantity and magnitude of the equipment which must be
4 forged for the two alternatives similar in nature?

5 A Yes, they're similar.

6 Q So can you explain to me how is it possible that the
7 magnitude of equipment is the same for two alternative reactor
8 vessels, yet the megawatt capacity is, is substantially
9 different?

10 A The reservation fee provides us a manufacturing
11 capacity and capability. That reservation fee is not specific
12 to the material or the fabrication. All right. It's a reserve
13 spot, so we're paying for a spot. We're not paying for the
14 block of metal and all the machining.

15 So when we would move, say, in the year 2010 to
16 actually issuing a purchasing order for those pieces of
17 equipment, that's when the differences of the component count,
18 the size of the components would manifest themselves in a
19 difference in the purchase order for the components. But we
20 believe the reservation fee would be about the same for either
21 technology.

22 Q And earlier there was discussion as to which vendor
23 FPL would be making the \$16 million reservation fee. And I
24 believe you stated that, that it's still currently under
25 negotiation but FPL may make those payments directly to GE or

1 Westinghouse. Is that correct?

2 A That may be one of the options. Yes, ma'am.

3 Q Okay. If GE opted to make advanced payments for the
4 Westinghouse design but later chose the GE design, would the
5 payment from Westinghouse be valid for the GE design?

6 MR. BUTLER: I'm sorry. I was confused by the
7 question. It sounded like that the first entity you referred
8 to was GE. I think it would be FPL. Could you just restate
9 the question, please?

10 BY MS. FLEMING:

11 Q Oh, okay. If FPL -- you've stated that FPL is going
12 to be making the payments directly to Westinghouse or GE;
13 correct?

14 A Correct. One option.

15 Q And you stated numerous times that this is a
16 reservation fee and it's not related to the materials; correct?

17 A Correct.

18 Q If at some point -- if FPL makes a determination to
19 make, choose the Westinghouse design or make advance payments
20 to Westinghouse but later determines to go with the GE design,
21 can the payments made to Westinghouse be applied to the GE
22 design?

23 A That would depend upon the commercial terms specific
24 to the arrangement. So at this point in time I can, I cannot
25 speak to whether or not that would actually come to pass. It

1 is a potential alternative.

2 CHAIRMAN CARTER: This is -- excuse me, Ms. Fleming.
3 I think this is the confusion that the Commissioners as well as
4 maybe, maybe some of the parties are having is that you say
5 it's necessary to hold your place in line. But based upon your
6 answer to Ms. Fleming's question, you may not necessarily be
7 holding your place in line because if you decide -- if you make
8 the payment to GE, you decide that you're not going to go with
9 GE, you're going to go with Westinghouse, do you lose the
10 \$16 million? Do you lose your proverbial place in line? I
11 mean, and it seemed like to me is that you may very well lose
12 this coveted place in line from your answer.

13 And, Ms. Fleming, would you ask your question again?
14 This time I'm going to listen more precisely than ever before.
15 But it seems like to me you're saying that, yes, you'd lose
16 your place in line. Commissioners, am I reading too much into
17 this?

18 COMMISSIONER EDGAR: As I have probably shown oh too
19 clearly, I have some confusion as to exactly some of the
20 language and what it would mean. So any clarification is
21 helpful.

22 CHAIRMAN CARTER: Thank you. Ms. Fleming.

23 BY MS. FLEMING:

24 Q And I'll try to remember what I asked. And staff is,
25 as well, we're just trying to understand the \$16 million

1 reservation fee, how that puts your place in line for this
2 construction. And I believe I had asked if FPL were to put a
3 reservation fee, a \$16 million reservation fee for the
4 Westinghouse design but later opted to use the GE design, what
5 happens to those payments? Can you use the payments from
6 Westinghouse for GE?

7 A Again, let me, let me go through some examples and
8 hopefully that will help.

9 The commercial terms, as I said, are not yet
10 resolved. So I can't tell you, I can't read from a draft
11 contract as to how these things would happen. Likely, if we
12 were to make a final technology decision and then determine to
13 make a long-lead payment, we would make it to the design
14 vendor, either Westinghouse or General Electric, and we will be
15 very certain that we'll stick with that project and that that
16 project would not be overly exposed to that.

17 However, if we got down the path and some fatal flaw
18 was uncovered with the design that we chose, we would then have
19 the onus to move to a different design and show why that is
20 appropriate. If there is remarket value to the option payment
21 that we've made, we might be able to recover some or all of
22 that. If there -- if we can negotiate contract languages that
23 allow us to retain the rights and assignability rights to that
24 option, then perhaps that option can travel with us to the
25 other vendor. Again, it's a matter of contract law for

1 contracts that have yet to be negotiated as to the full
2 flexibility that we'll be able to achieve there.

3 Obviously, it's in our interest and in the customer's
4 interest to make sure that we have really made a good decision
5 before we make those advanced payments so that there, this
6 issue doesn't even come up.

7 Q If, if FPL were to make a payment to Westinghouse and
8 opted for GE, then are you saying there would be a double
9 payment so you would have \$16 million to Westinghouse and then
10 a \$16 million reservation fee to GE?

11 A In the worst case and there is no remarket value for
12 the payment made to Westinghouse and there's no contract
13 language that would allow us to move that reservation over, in
14 the worst case that might occur. But, again, I think that
15 would be a very low probability and unlikely case.

16 Q If FPL had to make a double payment, would any of the
17 portions of those payments be refundable?

18 A Again, the very likely -- we've identified in my
19 testimony our understanding that this is a highly sought after
20 commodity, a large number of reactor clients in the queue, and
21 we would fully expect that some of those monies would be
22 potentially recoverable, but there's no certainty to that.

23 Q Now earlier you testified that there will be some
24 remarket opportunity.

25 CHAIRMAN CARTER: Just one moment, Ms. Fleming.

1 MS. FLEMING: Okay.

2 CHAIRMAN CARTER: You say in the worst-case scenario
3 it could be \$32 million. Yesterday I think Commissioner Edgar
4 asked a question and the answer to it was that whether we
5 approve the \$16 million or not, it's a sound business decision
6 and FPL would do it any -- did I hear that right? Is that --

7 COMMISSIONER EDGAR: I think that was one of the
8 questions I asked.

9 CHAIRMAN CARTER: This, this has got a bee in my
10 bonnet on this one right here though. And I'm saying is that
11 then that gets to that whole line of questions, Commissioner
12 Edgar, that you asked about prudence, advance prudence and the
13 determination of that, and, and it kind of gave me a little
14 chill on that. While I'm formulating my question, Commissioner
15 Skop, you're recognized.

16 COMMISSIONER SKOP: Thank you, Mr. Chairman. Again,
17 let me probably jump in here too because, again, I think it's
18 important to kind of point out something.

19 Initially at the Prehearing Conference the issue was
20 formulated on January 14th. Subsequent to that, looking at the
21 deposition testimony of Mr. Scroggs, that was conducted
22 January 18th. Again, I relied on representations that were
23 made to me by FPL that the payment would be made in accordance
24 with the language that we discussed at the Prehearing
25 Conference.

1 Again, I think part of the issue -- and, again, I
2 don't want to put words in Mr. Scroggs' mouth; however, they
3 are leveraging two vendors. However, by their own admission,
4 they're in further depth of discussions with one particular
5 vendor and they're using that as the basis for a lot of the
6 things that have come before us. Again, I don't want to read
7 inferences into that, but if I were a betting man, I think I
8 could make a judgment call on which technology they may go
9 with. But, again, it's not fair to bind them consistent with
10 some of the other direct testimony that we've heard.

11 However, again, I think we need to get to the bottom
12 of this particular issue. Because, again, I am supportive of
13 going forward with doing the right thing when it's properly
14 definitized, but, again, I do have concerns subsequent to
15 direct deposition testimony that was taken subsequent to the
16 issue that was framed at the prehearing with respect to how we
17 may need to address this.

18 So, again, I took representations at face. It seems
19 like the story was not perhaps as fully developed as it might
20 have been. And, again, I don't regret the decision I made. It
21 was made on the information I had at the time. But if there's
22 no basis to support the issue as it was framed based on the
23 information I had, then, again, some of the concerns that are
24 being expressed I fully appreciate. And, again, if this was a
25 matter of going forward and doing the right thing to protect

1 the public interest and avoid cost escalation risk and what
2 have you, but it seems to me as -- it seems to me it's been, as
3 fleshed out here, that we need to get to the bottom of what
4 we're being asked to do. So thank you, Chairman Carter.

5 CHAIRMAN CARTER: Thank you, Commissioner. I was
6 just wearing -- that worst-case scenario is what threw me off
7 the bus is that, you know -- not that I was on the bus, on the
8 bus for \$16 million, but \$32 million really got my attention.
9 I mean, you know, my wife is a prolific shopper, but I don't
10 think she's ever spent that much; not at one time anyway.

11 So I think what we're trying to do is just kind of
12 get a feel for this. Because if it does go to issues of
13 prudence or prudency and if we are asked to make an advanced
14 determination of that -- this place in line is beginning to
15 take different iterations. And, again, I go back to -- I
16 thought from, from yesterday's discussion and today's
17 discussion, particularly a question that was asked specifically
18 by Mr. Krasowski, I think you said that the payment would be
19 made by FPL to Japan Steel Works since you had not made a
20 decision on which technology to take -- there's going to be a
21 question eventually, just hear me for right now -- that it
22 would be made by FPL to Japan Steel Works to secure their place
23 in line because you had not made a determination on the
24 technologies that you would employ either to GE or to
25 Westinghouse. And that way whichever one you decided to do,

1 you'd have your place in line. And in response to
2 Ms. Fleming's question, the questions by staff rather, it seems
3 that you're saying that the payment would be made directly to
4 the vendor and that vendor would then pay Japan Steel Works to
5 hold your place in line.

6 Is that -- you're recognized, Commissioner Skop.

7 COMMISSIONER SKOP: Thank you, Mr. Chairman. And
8 that's exactly to your point. I think two things have been
9 said, again, under the auspice of commercial terms and what
10 have you. I heard Mr. Scroggs recently say in the line of
11 questioning that depending upon what terms there may be a
12 payment directly in a contractual relationship with Japan Steel
13 Works, which is more consistent with how the question was
14 framed subject to it being able to go one of two ways with
15 whichever design. It is a traditional placeholder much
16 analogous to reserving a slot in an aircraft manufacturing
17 pipeline. Like an airline customer would go to Boeing and
18 approach and say, hey, I want a slot here. And then if
19 something changes, you know, they do what they need to do.

20 But long story short is I'm hearing two things, like
21 you have astutely and Commissioner Edgar has astutely pointed
22 out, that, you know, this may be going through the vendor,
23 either Westinghouse or GE, or it may be going directly to Japan
24 Steel Works.

25 But, again, I'm going on the representations as I

1 understood them prior to your deposition being taken. And,
2 again, we need to straighten this issue out.

3 CHAIRMAN CARTER: Thank you, Commissioner. And this
4 is --

5 COMMISSIONER ARGENZIANO: Mr. Chair.

6 CHAIRMAN CARTER: Commissioner Argenziano, you're
7 recognized.

8 COMMISSIONER ARGENZIANO: Yes. I just want to
9 clarify so I'm in the proper position here because we all had
10 some concerns yesterday and were listening to different
11 information.

12 Commissioner Skop, are you saying that the
13 representations that you heard were different than what you're
14 hearing today?

15 COMMISSIONER SKOP: I guess it's unclear. Because,
16 again, if they were to go forward with a direct payment to
17 Japan Steel Works to reserve a place in the queue, which
18 certainly that's how the issue is framed and that's what
19 Mr. Scroggs has represented, I believe, as one of the distinct
20 possibilities, then nothing has changed from how the issue is
21 framed.

22 However, if it is exclusionary subject to perhaps his
23 deposition testimony that, you know, you may have a payment in
24 to, through a vendor to Japan Steel Works for the benefit of,
25 which I think his testimony also reflected, but then if there's

1 a change in position and they go with the other vendor, then
2 the disposition of that payment becomes in question. And that
3 is perhaps a legitimate concern and a change from what was
4 reflected or represented when the issue was framed.

5 So, again, if we're reserving a spot in the queue
6 that can be used in either instance, again, I don't think I
7 have a real problem with that in terms of the how the issue was
8 framed. But if it becomes exclusionary to the extent that you
9 have a \$32 million, you know, two payments in play, then,
10 again, I think that's a little bit different story than I had
11 accurate visibility of, subject to the deposition being taken
12 four days after we had the prehearing.

13 (Transcript continues in sequence with Volume 5.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

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I, LINDA BOLES, RPR, CRR, 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 1st day of February, 2008.

Linda Boles
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