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August 21, 2008

-VIA HAND DELIVERY -

Ms. Ann Cole, Director
 Division of the Commission Clerk and Administrative Services
 Florida Public Service Commission
 2540 Shumard Oak Blvd.
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Re: Docket No. 080009-EI

Dear Ms. Cole:

I am enclosing for filing in the above docket the original and fifteen (15) copies of Florida Power & Light Company's prefiled rebuttal testimony of witnesses William P. Labbe, Jr., Steven D. Scroggs and John J. Reed

If there are any questions regarding this transmittal, please contact me at 561-304-5253.

Sincerely,

Bryan S. Anderson
 Fla. Authorized House Counsel No. 219511

Enclosure
 cc: Counsel for Parties of Record (w/encl.)

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CERTIFICATE OF SERVICE

Docket No. 080009-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery (*) or U.S. Mail on this 21st day of August, 2008 to the following:

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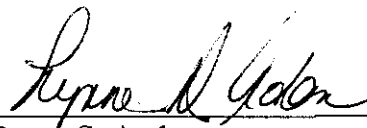
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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **FLORIDA POWER & LIGHT COMPANY**

3 **REBUTTAL TESTIMONY OF WILLIAM P. LABBE, JR.**

4 **DOCKET NO. 080009-EI**

5 **August 21, 2008**

6
7 **Q. Please state your name and business address.**

8 A. My name is William P. Labbe, Jr., and my business address is 700 Universe
9 Boulevard, Juno Beach, FL 33408.

10 **Q. By whom are you employed and what position do you hold?**

11 A. I am employed by Florida Power & Light Company ("FPL") as Director of
12 the Extended Power Uprate projects in the Nuclear Division.

13 **Q. Please briefly summarize your professional experience and qualifications.**

14 A. I received a Bachelor of Science degree in Mechanical Engineering from the
15 Maritime Academy in 1985. I worked in the maritime industry for
16 approximately 18 months before joining the Maine Yankee Atomic Power
17 Company as an Operator at the Maine Yankee nuclear power plant. While
18 working at the Maine Yankee plant, I received a Reactor Operator's license
19 from the Nuclear Regulatory Commission ("NRC"). In 1993, I left the
20 Operations Department, holding various other positions in the Maintenance
21 and Engineering Departments at the station—mostly working on various
22 projects. During the period of 1997 through 2001, I worked as a Project
23 Manager at two other nuclear power plants. Specifically, I managed refueling
24 outage support services at the San Onofre Nuclear Generation Station

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1 (“SONGS”), owned by Southern California Edison, and the separation of
2 systems and components at Northeast Utilities’ Millstone Units 1 and 2.

3
4 In 2001, I accepted a position as the Assistant Outage Manager at the
5 Seabrook nuclear power station. At the time I was hired, Seabrook station
6 was owned by NAESCO, but it was bought by FPL Energy shortly thereafter.
7 In 2002, I was promoted to the position of Work Controls Manager with
8 responsibility for scheduling and coordinating all online and outage
9 preventative and corrective maintenance activities. In 2004, my
10 responsibilities were increased to include major station project activities as
11 well. In 2006, I was promoted to the position of Director of Projects, with
12 responsibility for both of the FPL Energy nuclear units, Seabrook and Duane
13 Arnold. In 2007, I was assigned to the FPL Juno Beach office to support a
14 study of the feasibility of potential power uprate projects at the FPL St. Lucie
15 and Turkey Point nuclear power plants which led to my current position of
16 Director of Extended Power Uprate projects.

17 **Q. What is the purpose of your testimony?**

18 A. My testimony rebuts certain statements made in the Revised Direct Testimony
19 and Exhibits of William R. Jacobs, Jr., filed by the Office of Public Counsel.
20 Specifically, I address Dr. Jacobs’ interpretation of the appropriate accounting
21 practice regarding required equipment replacement, and the various
22 characterizations made in his testimony regarding FPL’s business case
23 justifications for certain single and sole source contracts that support the

1 Extended Power Uprate (“EPU”) projects at the Turkey Point and St. Lucie
2 nuclear power plants.

3
4 **EQUIPMENT REPLACEMENT RECOVERY**

5 **Q. Do you agree with Dr. Jacobs’ interpretation of the appropriate method**
6 **to determine when the costs of replacement equipment are recoverable**
7 **through the Nuclear Cost Recovery Clause (“NCRC”)?**

8 A. No, Dr. Jacobs’ suggestion that the appropriate recovery for the EPU projects
9 should be limited to the so-called “incremental costs” (the difference between
10 the cost of like-kind replacement components alleged to be at or near their end
11 of life and the cost of the new component capable of handling the post-EPU
12 output) is neither realistic nor supported by the NCRC Rule.

13
14 Even if it were as simple to segregate “end of life” components from the
15 “required to upgrade” components as Dr. Jacobs suggests (and it is not), his
16 analysis fails to consider that the entire cost of an upgraded component is
17 necessary to support the EPU. In situations in which component upgrade is
18 required, the failure to replace the component with a more capable item either
19 severely limits or entirely prevents FPL from achieving the anticipated
20 increase in electrical generation from the facilities. In other words, when an
21 entire component must be replaced with a more robust design, it must be
22 replaced in its entirety—regardless of its present capability. It is important to

1 note that FPL is only performing work and installing equipment needed for
2 the EPU Projects.

3

4 **Q. Has the EPU project performed evaluations to ensure that only**
5 **equipment that is required to support the intended improvement in unit**
6 **electrical output is being replaced?**

7 A. Yes. The EPU project recognizes that certain pieces of equipment can be
8 upgraded without completely replacing them. The engineering processes used
9 by FPL as part of its EPU project development have looked extensively at
10 opportunities to reduce the overall project costs by refurbishing and/or
11 enhancing existing components, when feasible, rather than replacing them.
12 The success of this approach can be demonstrated using one of Dr. Jacobs'
13 examples. While it is true that the main output transformer for the St. Lucie
14 Unit 2 EPU project is being replaced, the main output transformer (which has
15 a slightly different design) for the St. Lucie Unit 1 EPU project is simply
16 having additional cooling capacity installed. This shows that FPL has
17 carefully evaluated the extent of upgrades and replacements needed to
18 implement the EPU Projects and is taking the most cost-effective approach in
19 each instance.

20 **Q. Are any components being replaced as part of the EPU projects intended**
21 **to extend the life of the plant?**

22 A. No. While it is true that replacing certain major components will likely result
23 in an increase in overall plant reliability, this rationale played no part

1 whatsoever in the evaluation of component replacement for the EPU projects.
2 Every component that is being either upgraded or replaced as part of the EPU
3 project is—on a stand-alone basis—necessary to support the increase in unit
4 electrical output.

5 **Q. Are the cost projections presented in FPL’s direct testimony regarding**
6 **the EPU both necessary and reasonable?**

7 A. Yes, they are. All of the 2008 actual/estimated and 2009 projected costs are
8 for activities that are necessary to the EPU projects and are appropriately
9 undertaken in 2008 and 2009 in order to maintain the project schedule.

10
11 **SOLE / SINGLE SOURCE CONTRACT JUSTIFICATIONS**

12 **Q. Do you agree with Dr. Jacobs’ contention that FPL’s single and sole**
13 **source contract justifications were inadequate or incomplete?**

14 A. No. Although Dr. Jacobs acknowledges that FPL prepared a justification in
15 each and every case a single or sole source contract was utilized by the EPU
16 project, his testimony incorrectly characterizes the qualitative analyses for
17 certain contracts as inadequate. Dr. Jacobs’ testimony also seems to suggest
18 that quantitative analyses used to support a single or sole source contract must
19 be complex and detailed in order to be valid. This is simply not realistic given
20 the commercial reality of limited suppliers, proprietary commercial and
21 technical data, and reasonable schedule considerations.

22

1 In every example cited by Dr. Jacobs, FPL reasonably utilized both its
2 business and commercial judgment in reaching the decision to award a sole or
3 single source contract, the judgment was documented by supporting evidence,
4 and the conclusion independently approved—all as required by approved FPL
5 procedures.

6 **Q. Do you agree with Dr. Jacobs' assertion that FPL should be required to**
7 **provide a detailed spreadsheet-styled analysis to establish the commercial**
8 **reasonableness of each and every single or sole source contract?**

9 A. No. Although many smaller, fungible product contracts easily lend
10 themselves to an exhaustive quantitative analysis, other contracts for relatively
11 unique products and/or services do not. The reality of large power generation
12 projects such as the EPU is that there is a very small number of qualified
13 suppliers for major engineering and manufacturing and many (if not all) of
14 these suppliers carefully guard both their technical data and commercial
15 terms. In fact, in the case of performing revisions to a nuclear reactor safety
16 analysis for a specific fuel vendor (which, coincidentally, Dr. Jacobs cited in
17 two of his examples), there may literally be only a single company in the
18 entire world that can do the work. Furthermore, given the limited world-wide
19 production capability for critical manufactured components, there are very
20 real time constraints placed upon the EPU project if FPL is to successfully
21 accomplish all of the required tasks in the timeframe necessary to meet the
22 expected demand growth while also minimizing potential impacts on its
23 existing generation and ultimately costs to customers.

1 **Q. Why is the ability of a vendor to meet the EPU project schedule a**
2 **reasonable consideration to make a prudent contract decision?**

3 A. Although it is not repeated in every contract/vendor analysis performed by
4 FPL in support of the EPU project, the ability to meet established project
5 milestones is critically important. This is because there are certain, key
6 assumptions contained in every EPU project decision: 1) the only available
7 time to perform the majority of the physical construction activities involved in
8 the EPU project are during scheduled unit outages, and; 2) the timing of the
9 unit outages have already been optimized in terms of system reliability
10 (during off-season peak demands), nuclear fuel production and utilization, and
11 temporary craft personnel availability. Delays can be expected to increase
12 overall costs based on escalation and forego system benefits such as reduced
13 fuel consumption or reduced emissions. Any deviation in EPU project
14 schedule that would likely impact the corresponding unit outage schedule or
15 duration is therefore unacceptable. Likewise, any deviation in the overall
16 EPU schedule (extending the project into further nuclear unit outages) could
17 potentially adversely affect overall system reliability and is also unacceptable.

18 **Q. Are all of the single or sole source justifications for the EPU contracts**
19 **mentioned in Dr. Jacobs' testimony both commercially reasonable and**
20 **consistent with FPL policies and procedures?**

21 A. Yes. In each case that the EPU project awarded a single/sole source contract,
22 the award was fully justified. While it is true that the justification sometimes
23 contained reference to the project schedule within it, as I explained above,

1 reference to the schedule was clearly understood by everyone involved to
2 embed the substantial commercial analysis that originally went into creating
3 and optimizing that schedule.

4 **Q. Can you explain how this rationale applies to the specific examples of**
5 **single/sole source contracts mentioned in Dr. Jacobs testimony?**

6 A. Yes, but I will limit my testimony to the examples Dr. Jacobs' used that
7 pertain to the EPU project. The testimony of Steven Scroggs will address the
8 other contract justifications mentioned in Dr. Jacobs' testimony.

9

10 Westinghouse

11 Although the justification involving the Westinghouse contract for the nuclear
12 site engineering, licensing, and design activities does mention schedule
13 constraints, it is important to place that statement in context. There are very
14 few (perhaps three) nuclear fuel vendors in the global nuclear market that are
15 capable of performing the necessary work, and each of these vendors' safety
16 analyses (and to a lesser extent their methodologies) are entirely dependent on
17 their unique fuel design. Thus, it is not simply a matter of finding a company
18 that can perform the mathematics—it is a matter of finding a company that
19 has the proprietary design data with which to start the work. Any delay in
20 getting the data would result in a (at least) day-for-day slippage in the project
21 schedule—and thus potentially increased costs.

22

1 While it might not be “impossible” to negotiate a contract with the existing
2 fuel vendor to provide support for another vendor to perform the required
3 analysis (assuming the second vendor’s bid were less expensive to begin
4 with), the need to negotiate a second contract with the existing fuel vendor
5 under which they would share their intellectual property (the current nuclear
6 fuel analysis) with their competitor would be prohibitively expensive.
7 Realistically though, it is not in the realm of commercial likelihood that any of
8 these vendors with extraordinarily specialized nuclear fuel design analyses
9 would ever be willing to share their most closely guarded intellectual property
10 with a competitor.

11
12 Areva

13 Mr. Jacobs’ example involving Areva is essentially identical to the one
14 involving Westinghouse in which work was being done that required access to
15 a nuclear fuel vendor’s proprietary design data. The only difference here is
16 that the specific vendor is different because it involves a different nuclear
17 plant (with different fuel). Whereas the Turkey Point plant uses nuclear fuel
18 designed by Westinghouse, the St. Lucie plant uses fuel designed by Areva.
19 The analyses required to support the EPU project at both plants is virtually the
20 same, and for exactly the same reasons that Westinghouse is unquestionably
21 the best (only) available vendor for this work at Turkey Point, Areva is the
22 best (only) vendor available to perform the identical work at St. Lucie.

23

1 Shaw Stone & Webster

2 The justification in the example cited by Dr. Jacobs involving balance of plant
3 engineering evaluations to be performed by Shaw Stone & Webster clearly
4 states that “Shaw Stone & Webster is considered the only Architect
5 Engineering firm ... that could perform the scope of work in the required time
6 frame.” FPL does not operate in a vacuum. We are well aware that many of
7 our peers are experiencing problems with vendors that simply cannot attract or
8 retain the level of experience and expertise necessary to successfully complete
9 projects as large and complex as an EPU at a nuclear facility. Furthermore, it
10 is not enough to simply find a company that can “do the math.” The work to
11 be done under this contract is a cornerstone on which later elements of the
12 project would be built. And, unless FPL were willing to bear the very real
13 risk of that additional work needing to be re-done, it was extremely important
14 that it had a justifiable expectation that the engineering analysis and its
15 supporting documentation would be approved by the NRC. There is a very
16 real benefit to having access to an experienced, capable vendor with a proven
17 track record at the very project you are asking them to perform. The fact that
18 they are also the only firm that meets your desired schedule is an additional
19 benefit as well—even if that benefit doesn’t easily lend itself to spreadsheet
20 analysis either.

1 **Q. Is Dr. Jacobs' assertion that "[t]he use of sole or single source contract**
2 **appears to be routine" correct?**

3 A. No, it is not. Although it is true that single and/or sole contracts are
4 sometimes awarded, in each and every example cited by Dr. Jacobs there were
5 specific, unusual circumstances that justified the deviation from FPL's
6 preference for competitive bidding.

7
8 These early contracts are highly specialized in that they require information
9 that is generally only available from the original equipment manufacturer,
10 require unique knowledge of the nuclear regulatory approval process, or are
11 the only available vendor who can perform essential heavy equipment
12 manufacturing in an acceptable time period. In other words, these specific
13 contracts are the foundation upon which the remainder of the EPU project will
14 rest. Now that it is approaching the more routine aspects of power plant
15 engineering and construction, FPL expects that it will be possible to
16 competitively bid the vast majority of the remaining EPU project contracts. In
17 fact, FPL is currently reviewing proposals for engineering and construction
18 support at both St. Lucie and Turkey Point.

19
20 Finally, I would like to point out that it is telling that every one of the
21 contracts called into question by Mr. Jacobs was awarded to a different vendor
22 (even when the work to be performed under the contract was essentially
23 identical to another contract). This further supports FPL's contention that,

1 consistent with the requirements of NP-1100, it fully and carefully evaluates
2 the unique circumstances, including commercial reasonableness, involved in
3 justifying and potentially awarding any single or sole source contract.

4 **Q. Does this conclude your testimony?**

5 **A. Yes, it does.**