

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **FLORIDA POWER & LIGHT COMPANY**

3 **REBUTTAL TESTIMONY OF STEVEN D. SCROGGS**

4 **DOCKET NO. 080009-EI**

5 **August 21, 2008**

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

8 A. My name is Steven D. Scroggs and my business address is 700 Universe
9 Blvd., Juno Beach, FL 33408

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11 **Q. Have you previously provided testimony in this docket?**

12 A. Yes.

13
14 **Q. What is the purpose of your rebuttal testimony?**

15 A. My rebuttal testimony addresses the direct testimony provided by William R.
16 Jacobs on behalf of the Office of Public Counsel. Contained in Dr. Jacobs
17 testimony are statements or conclusions that indicate he may have overlooked
18 or been unaware of certain facts pertaining to FPL's procurement procedures
19 and processes as they pertain to the Turkey Point 6 & 7 project. My rebuttal
20 testimony seeks to provide this information in response to the issues raised by
21 Dr. Jacobs, and clarify any areas where misperceptions may be possible.

22
23 **Q. In general terms, what issues in Dr. Jacob's testimony will you address?**

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1 A. I will direct my comments to three areas: (1) FPL's procurement process as it
2 applies to Sole/Single Source Justifications for the Turkey Point 6 & 7 project
3 and the specific items mentioned by Dr. Jacobs, and (2) Dr. Jacobs
4 conclusions as to what should be provided to demonstrate reasonableness of
5 the costs in this project and (3) expressed concerns regarding FPL's use of
6 Single or Sole Source Justifications to procure services.
7

8 **I. FPL's Procurement Process**

9 **Q. What statements lead you to be concerned regarding Dr. Jacobs review of**
10 **FPL's Procurement Process?**

11 A. On page 13, line 6, Dr. Jacobs states that he has reviewed NP-1100 Revision
12 15. This is the relevant control procedure for the Extended Power Uprate
13 projects. However because the Turkey Point 6 & 7 project is managed by an
14 organization outside of the Nuclear Division, the relevant control procedure
15 that guides the procurement of equipment and services is General Operating
16 (GO) Procedure 705.3 entitled "Purchasing Goods and Services – Using
17 Purchase Orders and Contracts."
18

19 **Q. What are the differences between NP-1100 and GO Procedure 705.3?**

20 A. The procedures are fundamentally similar in approach and requirements;
21 however, in contrast to NP-1100, the GO Procedure 705.3 does not include
22 the discussion of schedule as a mitigating factor. In pointing out this
23 distinction, I do not mean to imply that adherence to schedule is a justifiable

1 circumstance for a Sole or Single Source procurement in one part of the
2 company, and not in another. The point is that GO procedure 705.3 which
3 governs the preparation of Sole or Single Source Justifications for the Turkey
4 Point 6 & 7 project does not address scheduling and therefore Dr. Jacobs
5 conclusion that documents providing Single Source Justifications for McNabb
6 Hydrogeologic Consulting and the Black & Veatch feasibility study (Bates
7 Numbers 017133 – 017134 and 017140) do not conform to the applicable
8 procedures is incorrect.

9
10 **Q. Is it your opinion that Dr. Jacobs may have misconstrued the discussions**
11 **regarding the fact that time was of the essence in these procurement**
12 **decisions?**

13 A. Yes. On page 14, line 16 – 18, Dr. Jacobs draws a conclusion
14 implying an improper influence of schedule on the procurement process.
15 Specific to the two Turkey Point 6 & 7 Single Source Justifications identified
16 by Dr. Jacobs, the primary factors supporting the decision are specifically
17 described in the documentation. The Single Source Justifications provide
18 solid support for the selection of the vendor based on their unique service
19 capabilities that have been proven to FPL through other similar engagements.
20 Further, both vendors have conducted recent similar scope activities for FPL
21 allowing FPL to assess the reasonableness of their costs relative to recent past
22 experience and those of other similar service providers.

23

1 Certainly, time was and is a consideration, but not as a “primary factor” or a
2 “justifiable circumstance” that rationalizes a Sole or Single Source
3 Justification. Project management must be aware of the impact that all
4 activities have on the overall project schedule, particularly as it pertains to the
5 delay that may be created and the cost of those delays to FPL customers. The
6 applications being developed for the Turkey Point 6 & 7 project require the
7 timely inclusion of a wide range of information in order to meet milestone
8 dates that support delivery of the project on the current schedule. Delays in
9 the project at this stage could have impacts that compound costs in the future.
10 As identified in my testimony in Docket 070650-EI, page 52, beginning at line
11 14, the potential impact of a six month delay could result in the addition of
12 \$400 to \$600 million dollars in interest costs alone. Additionally, delays can
13 be expected to increase overall costs based on escalation and can cause our
14 customers to forego system benefits such as reduced fuel consumption or
15 reduced emissions. Therefore, as prudent project managers, we must be
16 mindful of avoiding unnecessary delays.

17
18 **II. Reasonableness of Costs**

19 **Q. Does Dr. Jacobs draw conclusions regarding the methods by which**
20 **reasonableness of cost may be demonstrated?**

21 **A.** Yes. At page 22, lines 3-4 Dr. Jacobs broadly concludes that “...benchmarks
22 or analyses must be provided to demonstrate the reasonableness of the
23 costs...”.

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Q. Are such analyses required by GO Procedure 705.3?

A. No.

Q. Why would GO Procedure 705.3 not require such benchmarks or analyses?

A. The procedures clearly establish a standard that must be met in order for Single or Sole Source Justifications to be considered; however, they also recognize that an overly prescriptive procedure would not be applicable in all areas. Certainly, all procurement decisions are not presented with the same available market information by which to evaluate reasonableness of costs. Some decisions can and should be supported by quantitative analysis; however, substantive differences in scope, schedule, expertise and other market parameters often preclude the ability to provide an analysis that meets an arbitrarily defined standard. In such cases, the procedures appropriately recognize and rely upon the experience of managers to evaluate each individual situation per the guidelines and use their best business judgment to determine the appropriateness of a Sole or Single Source decision and the reasonableness of cost for such services.

Q. Are there specific considerations relative to the Turkey Point 6 & 7 project that may affect the ability to provide “benchmarks or analyses”?

1 A. Yes. The deployment of new nuclear units has not been conducted in the
2 United States since the 1980's. Accordingly, the number of firms that are
3 experienced and qualified to provide services or equipment to the Nuclear
4 Industry are limited. In some cases there is only one provider of services or
5 equipment.

6

7 **Q. Did FPL use benchmarks or conduct analyses to determine if the costs**
8 **quoted for the McNabb and Black & Veatch services were reasonable?**

9 A. Yes. Both Single Source Justification documents state that cost information
10 for both vendors were analyzed. In the case of McNabb, the costs were
11 compared to other quotes for similar activity on other projects and found to be
12 “below market value”. Regarding Black & Veatch, FPL's experience with
13 consultants in this marketplace were used as benchmarks to ensure that the
14 proposed costs were “reasonable for the services provided”. These analyses
15 are common in the decision making process used by managers, albeit not
16 always formally documented.

17

18 **III. FPL's Use of Single or Sole Source Procurement**

19 **Q. Do you agree with Dr. Jacobs conclusions regarding FPL's use of Single**
20 **or Sole Source Justifications?**

21 A. No. I do not agree that FPL has used or uses Single or Sole Source
22 procurement “extensively”. With regard to the Turkey Point 6 & 7 project, I
23 have identified how project staff conformed to the applicable procedures and

1 analyzed and documented the review for reasonableness of costs. This
2 standard is and will be met when any Single or Sole Source procurement
3 decision is made.

4

5 **Q. Do you foresee the need for future Single or Sole Source procurement**
6 **decisions in regard to the Turkey Point 6 & 7 project?**

7 A. Yes. As I have described, the nature of this project will necessarily require
8 additional Single or Sole Source justification. These decisions will be made
9 in conformance with required procedures and will be based upon, where
10 applicable and feasible, analysis or benchmarks that verify the reasonableness
11 of costs.

12

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

14 A. Yes.