

REDACTED

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: NUCLEAR POWER PLANT
COST RECOVERY CLAUSE

Docket No. 090009-EI

ATTACHMENT B

COM _____
ECR 1
GCL _____
OPC _____
RCP _____
ESC _____
SGA _____
ADM _____
CLK _____

1 risk matrix, you have to come up with a risk
2 mitigation or action plan; correct?

3 A Yes.

4 Q What was that risk mitigation or
5 action plan for the COLA?

6 A [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

13 Q And do you believe that to be a
14 reasonable action plan or mitigation strategy for
15 that risk?

16 A I think that's what most utilities do,
17 yes.

18 Q Would you agree with me that that risk
19 mitigation action plan or strategy would be the
20 same no matter what risk level you assign to the
21 COLA or LWA application?

22 A I don't think I would agree with that.
23 I think if you assigned it a higher risk number
24 further up the matrix, you would develop more
25 resources to making sure that those actions

CONFIDENTIAL TRANSCRIPT

Donovan Reporting & Video Conferencing

770.499.7499

DOCUMENT NUMBER-DATE

08883 AUG 26 8 184b77ae-80e3-4846-9e5d-02b31d087317

Electronically signed by Elizabeth Hollingsworth (601-048-705-3908)

FPSC-COMMISSION CLERK

[REDACTED]

11 MR. REHWINKEL: I'm going to object to

12 the question. I think it mischaracterizes his

13 testimony.

14 You can answer it.

[REDACTED]

CONFIDENTIAL TRANSCRIPT

Donovan Reporting & Video Conferencing

770.499.7499

[REDACTED]

CONFIDENTIAL TRANSCRIPT

Donovan Reporting & Video Conferencing

770.499.7499

[REDACTED]

CONFIDENTIAL TRANSCRIPT

Donovan Reporting & Video Conferencing

770.499.7499

[REDACTED]

18 Q Mr. Jacobs, you expressed several
19 times in your testimony opinion that signing the
20 EPC agreement in December of 2008 placed the
21 company in the posture of renegotiating the EPC
22 contract from a very weak or weak position.

23 A Yes.

24 Q Do you recall that?

25 A Yes.

[REDACTED]

CONFIDENTIAL TRANSCRIPT

Donovan Reporting & Video Conferencing

770.499.7499

● [REDACTED]

● [REDACTED]

3 Q And you have no reason to believe

4 that's an inaccurate statement, do you?

5 A That the consortium told the company

6 that? No, I don't have any reason to believe

7 that that's inaccurate.

8 Q Now, you make the point, I think at

9 least at one place, at page seven, line three of

10 your testimony that the EPC PEF signing included

11 the construction schedule; right?

12 A What did I say? Not exactly. I say

13 the approval of the LWA -- essentially the LWA

14 was needed to construct the project on the

15 schedule included in the EPC contract upon which

16 the contract pricing was based.

17 Q And by the schedule there, you're

18 talking about the construction schedule that was

19 in the EPC; right?

20 A I'm talking about the overall project

21 schedule.

22 Q Did that overall project schedule

23 include the construction schedule for the plans?

24 A Yes.

25 Q And did that construction schedule

CONFIDENTIAL TRANSCRIPT

Donovan Reporting & Video Conferencing

770.499.7499

1 company; correct?

2 A I don't know what the consortium told
3 the company was outstanding.

4 [REDACTED]

8 A If they had to renegotiate all those
9 items, it likely would have delayed the schedule.

10 Q And it would have delayed the schedule
11 no matter what the NRC review schedule would have
12 been; correct?

13 A No.

14 Q Why not?

15 A If the NRC review schedule came out as
16 it did, that the LWA couldn't be granted except
17 within the time frame of the COL being issued,
18 then that would have controlled the delay of the
19 project. Renegotiating of the contract would
20 have been done within that limit.

21 Q How do you know that?

22 A That's my belief. I don't know that.

23 Q Your belief based on what? What do
24 you base that belief on?

25 A On the length of delay. It would not

CONFIDENTIAL TRANSCRIPT

Donovan Reporting & Video Conferencing

770.499.7499

1 have taken them an additional 20 months to
2 finalize those items.

3 Q Oh, really? It took them two years to
4 get to the point of signing the agreement in
5 December 31, 2008; correct?

6 A I believe that's correct.

7 Q So what's your basis to conclude it
8 would have taken a shorter period of time to
9 negotiate all those other terms?

10 A Well, there's thousands of details
11 that have to be negotiated starting at the
12 beginning of the contract. If you have it
13 narrowed down to half a dozen items, it wouldn't
14 take 20 months to negotiate those items. That's
15 my belief.

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 Q Do you know that for sure?

24 [REDACTED]

25 [REDACTED]

[Redacted transcript content]

CONFIDENTIAL TRANSCRIPT

Donovan Reporting & Video Conferencing

770.499.7499

1 particular terms, closely tied and linked?

2 A Well, closely tied is the quote from
3 the LINC minutes I guess or the weekly summary of
4 the LINC reports, and they say closely tied.

5 To me that meant that there was an
6 expectation that joint ownership agreements would
7 be signed -- my interpretation of that was that
8 they would be signed prior to execution of the
9 EPC contract.

10 Q Now, is that what any of those
11 documents actually said?

12 A They don't. They don't say that
13 specifically. I believe there's another -- let
14 me just take a minute here. Beginning on page 63
15 of 233 is the Progress Energy Nuclear Plant
16 Development Performance Report for October 2008.
17 And in that, on page 67, which is page five, it
18 lists a number of key issues.

19 And at the bottom of that page five,
20 one of those key issues is finalizing joint
21 ownership decisions. I don't see it here. So
22 that's another indication that the joint
23 ownership was the support for the project.

■ [REDACTED]

■ [REDACTED]

CONFIDENTIAL TRANSCRIPT

Donovan Reporting & Video Conferencing

770.499.7499

[REDACTED]

17 Q Did you see anything in the documents
18 that you reviewed, any statements by the company,
19 where they said that that condition to proceed
20 with the project required co-ownership agreements
21 prior to the execution of the EPC?

22 A No, other than, again, the LINC
23 documents which just say they're closely linked.
24 It doesn't say they're required.

25 Q And by a joint ownership agreement,

1 A Beginning on line eight on page 12?

2 Q Yes.

3 A Yes.

4 Q And the LWA event had already occurred
5 by the time of this board meeting; correct?

6 A That's correct.

7 Q And, in fact, you highlight a
8 particular term in this letter that doesn't
9 appear highlighted in the letter itself; correct?

10 A That's correct.

11 Q In fact, you highlight the words,
12 quote, "in addition," quote; right?

13 A Yes.

14 Q That's not bolded in the letter;
15 right?

16 A No. It says emphasis added.

17 Q And your point there is you're trying
18 to say that the things that were mentioned before
19 that sentence were things for the suspension in
20 the work, and that this was just an additional
21 reason, the LWA; correct? Is that your point?

22 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CONFIDENTIAL TRANSCRIPT

Donovan Reporting & Video Conferencing

770.499.7499

[REDACTED]

CONFIDENTIAL TRANSCRIPT

Donovan Reporting & Video Conferencing

770.499.7499

[REDACTED]

CONFIDENTIAL TRANSCRIPT

Donovan Reporting & Video Conferencing

770.499.7499

[REDACTED]

CONFIDENTIAL TRANSCRIPT

Donovan Reporting & Video Conferencing

770.499.7499

2 Q And you're aware, right, that the
3 company had discussed with you and you heard that
4 that risk matrix is being updated all the time;
5 right?

6 A Yes.

7 Q And so that risk matrix designation
8 could have been changed?

9 A Oh, sure, it could have changed.

10 Q I want to turn now to your comments
11 about the CR-3 uprate project --

12 A Okay.

13 Q -- which I think begins at page 22 of
14 your testimony.

15 A Yes.

16 Q And by the way, before we do that, I
17 have one final question on the LNP project. In
18 reviewing your testimony, I saw nowhere in there
19 that you questioned the reasonableness of any
20 specific 2009-2010 costs that the company
21 identified. Is that an accurate assessment?

22 A That is accurate, yes. I believe
23 that's accurate.

24 Q And as well when I reviewed the CR-3
25 uprate issues, you do not identify any specific

CONFIDENTIAL TRANSCRIPT

Donovan Reporting & Video Conferencing

770.499.7499

1 about the advantages as well as the disadvantages
2 of the timing of execution of the EPC. Do you
3 recall that?

4 A Yes.

5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 Q You were asked about your testimony
17 regarding -- I think it was on page seven of your
18 testimony, I think on lines eight through ten.

19 A Yes.

20 Q You were asked questions about NRC's
21 decision being nearly two months past the
22 expected 30-day traditional milestone letter
23 delivery date. Do you recall that?

24 A Yes.

25 Q Is the calculation of this two months