BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 090505-EI

REVIEW OF REPLACEMENT FUEL COSTS ASSOCIATED WITH THE FEBRUARY 26, 2008 OUTAGE ON FLORIDA POWER & LIGHT'S ELECTRICAL SYSTEM.
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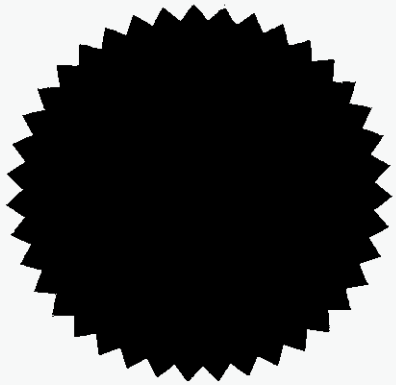

PROCEEDINGS:	AGENDA CONFERENCE ITEM NO. 4
COMMISSIONERS PARTICIPATING:	CHAIRMAN NANCY ARGENZIANO COMMISSIONER LISA POLAK EDGAR COMMISSIONER NATHAN A. SKOP
DATE:	Tuesday, June 1, 2010
TIME:	Commenced at 1:37 p.m. Concluded at 2:20 p.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	LORI DEZELL, RPR

P R O C E E D I N G S

CHAIRMAN ARGENZIANO: Okay. Now we're going to move to Item 4.

MR. GRAVES: Good afternoon, Commissioners. Robert Graves from Commission staff.

At the January 26, 2010 agenda conference, the Commission approved a stipulation which stated that FPL would bear the replacement power costs attributable to an outage which occurred on February 26, 2008.

Item 4 of today's agenda conference addresses the amount of the replacement cost and the manner in which FPL should refund those costs.

For Issue 1, staff recommends that FPL refund $13.8 million of replacement power cost to its customers. Staff's recommended refund is based on the incremental cost of replacing the generation loss over the full duration of the outage less mitigating actions taken with regard to central repairs required by the Nuclear Regulatory Commission.

For Issue 2, staff recommends that the refund of these costs be issued through the 2010 net true-up in Docket No. 100001-EI. Staff believes that this is the most efficient method for the

refund.

And Commissioners, staff has requested an oral modification. The modification is on page 16 in the first sentence of the first full paragraph. And I can read that if you'd like.

CHAIRMAN ARGENZIANO: Please do.

MR. GRAVES: Currently the sentence reads, "Based on staff's recommended refund amount of $13,853,392," and that value should be replaced with $13,854,054.

CHAIRMAN ARGENZIANO: All right.

MR. GRAVES: Yes, ma'am. Staff is prepared for any questions at this time.

CHAIRPERSON ARGENZIANO: Any questions? Discussion? Hang on one minute. That's okay. Take your time.

COMMISSIONER EDGAR: I knew I had one. I just couldn't remember what it was for a moment. Thank you for giving me a moment to collect my thoughts.

This is nonsubstantive. But I noticed that in the case background, it does not at all mention that we had a hearing on this. And if indeed the case background will be incorporated in the order, I would ask that that be added.

CHAIRMAN ARGENZIANO: Good point,

commissioner. Commissioner Skop?

COMMISSIONER SKOP: Thank you, Madam Chair. I think in this instance I do have a few questions for staff that I'd like to try and get addressed with respect to some of the staff recommendation.

And I guess just some -- some background to better refresh my memory from hearing, and some of this I think is incorporated in the staff recommendation.

But Public Counsel's witness Dr. Dismukes in his analysis for the refund amount did not include the -- having to take down the unit for -- or take down the Turkey Point 3 unit to address the rod indicator position problem that was pursuant to the NRC settlement agreement and the operating license requirements; is that correct?

MR. GRAVES: No, sir. Witness Dismukes did include that time that the unit was offline for those repairs. That was included in his replacement power cost.

COMMISSIONER SKOP: It was or was not?

MR. GRAVES: It was.

COMMISSIONER SKOP: The entire time it was off. But he did not consider the repair to be an intervening event, he just said bill them for

everything until the intervening --

MR. GRAVES: Yes.

COMMISSIONER SKOP: That's what I was trying to flush out there.

I've looked at the various arguments. I guess FPL's argument, staff discusses Public Counsel's, FIPUG's as one of causation as staff has recognized. Is it also correct to understand that staff had made an adjustment to address or at least that Public Counsel's calculations had overstated the net replacement cost based on the capacity, the actual capacity of the Turkey Point 3 and 4 units as opposed to the calculations that Dr. Dismukes performed?

MR. GRAVES: Yes, sir. We made an adjustment for that.

COMMISSIONER SKOP: Okay. and approximately how much was that adjustment?

MR. GRAVES: I believe it was in the neighborhood of $500,000.

COMMISSIONER SKOP: Okay. And the calculations -- I guess subsequent to that FPL performed a simulation at the respect -- at the request of staff and recommended a refund amount as a result of that simulation; is that correct?

MR. GRAVES: Yes, sir. And that's on page 8 of the recommendation.

COMMISSIONER SKOP: Okay. And those calculations from FPL and the ones from Public Counsel did not consider the power section of the two nuclear units to restore them to 100 percent rated power; is that correct?

MR. GRAVES: FPL's production cost in simulation did consider the ascension. OPC's calculation did not. Staff went back and included an adjustment for that power ascension.

COMMISSIONER SKOP: Okay. And on page 9 of the staff recommendation, staff notes that FPL contends that the company's operation of its generating resources in response to the Flagami substation was prudent and proper. Staff does not believe there's any evidence in the record to suggest otherwise.

Can staff briefly explain that to the extent that the staff believes that all operations to restore FPL's generating units to service were not imprudent.

MR. GRAVES: Yes, sir. And this was not a prudence review. FPL accepted responsibility for the outage, and from that, staff considered the

full duration of the outage. And the basic philosophy behind that was if not for the actions taken at the substation, the plants would have never been off to begin with. So staff considered the full duration as the starting point.

COMMISSIONER SKOP: Okay. At the top of page 9, it discusses witness Stall's testimony about the time that would be necessary to restore a single nuclear unit online after unexpected plant shut down. I believe he indicated or testified it would be approximately 48 hours to recover the unit; is that correct?

MR. GRAVES: Yes, sir.

COMMISSIONER SKOP: And then for a dual unit trip which was the one experienced on Turkey Point 3 and 4, that for that type of outage it would typically take three to five days, 72 to 120 hours to restore it but when you consider additional time for power accession -- or ascension, the time to restore the units would be approximately 84 to 134 hours; is that correct?

MR. GRAVES: Yes, sir.

COMMISSIONER SKOP: Okay. I did have some additional questions with respect to staff's analysis on Turkey Point 3 and 4. Again, just

looking at it from the testimony and the record evidence.

The calculation of the cost I think that staff used a -- hold on real quick. Let me find it. Okay. Staff rejected the average system cost basis that FPL suggested and used a methodology that was consistent with the approach that the Commission previously used in the whole drilling docket; is that correct?

MR. GRAVES: Yes, sir.

COMMISSIONER SKOP: Okay. All right. In terms of the amount for the replacement of power, I really don't have concerns. I think the staff methodology was reasonable.

With respect to Turkey Point 3, I just want to ask staff some questions regarding that. In staff's analysis, it took the total hours that the unit was offline, which was approximately 158 hours for Turkey Point 3, and essentially subtracted 27 hours attributable to the repair of the rod position indicators; is that correct.

MR. GRAVES: Yes, sir, that's correct.

COMMISSIONER SKOP: Okay. And on page 10 of the staff recommendation it speaks to that a little bit. The top of page 10 states seven hours after

the initiating event FPL began repair of the rod position indicator system.

I guess I'm trying to gain a better understanding of -- of how staff arrived at the 27 hours. It seems as if after the event there was a delay, and obviously staff looked at a document provided by FPL that showed that the actual time for the repair itself was 27 hours. But can staff elaborate a little bit more on that?

MR. GRAVES: Yes, sir. When calculating the cost, there's basically three different, I guess, zones. One was the first eight hours in which the replacement of power cost were around $170 per megawatt hour. Then you have the rest of February which I believe was $77 per megawatt hour, and then March which was $79 per megawatt hour.

We went back and just included the hours that we took out for the repairs. We took them out subject to the month or the time that they were in. So one hour was taken out from that first eight-hour time frame. And I forget exactly how the rest of it broke down, but we went back and subtracted it from the time specific that it came out.

COMMISSIONER SKOP: Okay. Again with the --

just to facilitate I guess my question. If -- if the unit were coming out of service for a scheduled outage, and obviously for Turkey Point 3 the control rod indicator would have to be repaired consistent with the operating license revision that FPL and NRC entered into, who would pay for replacement power in a scheduled outage?

MR. GRAVES: I believe the customers would.

COMMISSIONER SKOP: And if during the scheduled outage there were additional delays either with the repair or during the power ascension process and a scheduled shutdown, assuming that the actions of the utility were not imprudent, who would pay for those additional delayed hours?

MR. GRAVES: I believe the customers would.

COMMISSIONER SKOP: Okay. In this instance, staff noted the testimony of witness Stall that looked at an individual unit and then a dual unit trip and then the power ascension and factored in the expected time frame that it would reasonably take the utility to restore units to service. But then in the analysis staff discussed those units individually. Obviously the initiating event tripped the units with the dual unit trip, but then

staff analyzed the outage time separately and distinctly within the recommendation. Can staff elaborate a little bit on that?

MR. GRAVES: I believe we did that because there were two unique situations going on at each, at each unit. At Turkey Point Unit 3 they had the repairs which they knew they had to do as soon as the unit came down. At Turkey Point 4 they didn't have those repairs so they can focus on bringing the unit back online immediately.

COMMISSIONER SKOP: Okay. With respect to Turkey Point 3, the revision to the NRC operating agreement however mandated that FPL effect repairs to the rod position indicators on unit 3 at the next outage, irrespective of whether it was scheduled or unscheduled; is that correct?

MR. GRAVES: Yes, sir.

COMMISSIONER SKOP: Okay. And in doing those repairs, does State -- I guess from the document that FPL provided with the record evidence, do you just walk in to containment, do the repairs, walk out and does the reactor come back up automatically or is there additional time within that 27 hours that would be required that's not included?

MR. GRAVES: I'm not sure I understand your

question.

COMMISSIONER SKOP: All right. I guess there's many different ways to view the outage and the effect, and I think what's important is to be fair and stay within the bounds consistent with the record evidence.

In the instant case, staff has made some assumptions, and at least on Turkey Point 3 they've assigned a reduction of 27 hours to fully cover the repair of the rod position indicator that was governed by the revision to the operating license for the units.

And I'm wondering on that 27 hours whether that's an appropriate assumption to the extent that you had to deal with a unit trip which I don't think anyone denies, and Mr. Stall has commented on the time frame that it would be necessary to restore those units. But because of the problem with the rod position indicator, there was a proceeding agreement with the NRC and it's but for that agreement, you know, FPL would obviously have to address the matter as it's accepted responsibility for. I'm not so sure whether the agreement for the NRC to repair the rod position indicator is not like an interceding event there.

And again with respect to the 27 hours, you know, the time that was utilized for staff as a simplifying assumption to come up with the refund amount which again I don't agree or disagree with I'm just trying to talk this through, this looks at the total lapsed time to do that repair. I'm not so sure that the 27 hours embodies the startup of the unit or the testing and maybe the rod position indicator. But on Turkey Point 4, obviously there was some additional delays at startup that staff speaks to.

But is that 27 hours indicative of power ascension? I mean, the way staff is viewing it is it's carving out 27 hours of the total outage time and saying this is an appropriate adjustment to make. And I'm trying to gain a better appreciation and understanding because effectively if the NRC says you can't operate this unit until repairs are made, then, you know, yes, the event in question was FPL's fault and I think they've admitted liability to that. But is that not an intervening or interceding event or a -- I'm trying to think of the word I was trying to use.

MR. GRAVES: Mitigating.

COMMISSIONER SKOP: Mitigating event, if you

will, to look at unit 3 separately as staff has done. Because staff broke them out. I mean, you know, you can look at a dual trip and say, okay, they're both out and, you know, the customer is not going to pay until they both come in service. But with respect to Turkey Point 3 in particular, there was a proceeding agreement between the NRC regarding the operating license that said you have to fix this at the next shutdown.

And so at the point of the fault, was it then, you know, out of FPL's control to some degree to the extent that this repair needed to be made to be in accordance with operating license until such time as the unit could be brought back online. I mean, there may be other things in there that warrant, you know, consideration, but I just wanted to look to staff.

MR. GRAVES: Yes, sir. And the basis of our recommendation was on the prior order, Commission order No. 23232 which we reference on page 10. In that one, the unit was down due to imprudence of the company because the operators weren't licensed or they needed to re-qualify.

However, I believe it was five days into the outage they began essential repairs that they had

planned. And from that point, the Commission said you -- you can be credited back this time. You won't be required to refund that amount of money.

COMMISSIONER SKOP: Okay. So let's assume for the sake of discussion that the units tripped and it was a single unit trip on Turkey Point 3 for whatever reason. It could be the substation outage.

So these rod position indicators I guess based on my reading of the record obviously located on the reactor head. So is it as simple as just walking into containment, fixing the rod position indicators, walking out, flipping the switch and the reactor is back on line or do you have to go through additional steps, wait before entering containment?

MR. GRAVES: I believe they did have to wait for it to cool down.

COMMISSIONER SKOP: Okay. So is any of that identified within the 27 hours?

MR. GRAVES: No, sir.

COMMISSIONER SKOP: Okay. And Commissioners, just -- I'm going about this in a roundabout way. I guess what I'm trying to discern is, you know, certainly when you make assumptions to calculate

the refund, you know, obviously you have to put some thought into that. But in this case I'm a little concerned that there may be oversimplification to the extent that just by looking at a document and saying from point A to point B we had to fix the rod indicator whereas the operating license revision basically said you have to -- at the next shutdown you have to fix this. I'm not trying to excuse FPL's performance, but I do see this as a -- as a -- somewhat of a mitigating event on Turkey Point 3 because they had agreement with the NRC that says you have to do this, it's a safety issue, and as soon as the unit tripped, and it was a dual unit trip, but then in some instances one could argue it became a singular event to the extent that there was a specific requirement to do repairs on Turkey Point 3 at the next shutdown. It didn't say at the next scheduled or unscheduled. It was -- you know, they couldn't go operate this unit until it was fixed.

So I'm trying to discern what additionally took -- you know, I could see witness Stall said 84 hours for a dual unit trip. You know, I'm trying to do some math to back in. I'm looking at, you know, 158, I believe, for Turkey Point 3 minus 27

but I'm not so sure that 27 embodies the entire corpus of what would be required in a different sense to go in and make the repairs if the unit were shut down. If you were coming for a scheduled shutdown just to repair the rod position indicators, you know, coming out with 100 percent full power, I'm not so sure that you can go in and do that and at the end of 27 hours be back at full power. That's -- that's my concern.

MR. GRAVES: That's correct. But there is another variable in this particular case that we had to take into account, and that was the events that were happening at Turkey Point Unit 4 had some impact on Turkey Point Unit 3, and that's why I think it was appropriate that we took these specific hours as opposed to a start time and an end time. Because we don't know how the events at Turkey Point Unit 3 -- or Turkey Point Unit 4 affected those repairs on Turkey Point Unit 3.

COMMISSIONER SKOP: But I think witness Stall provided a general view of what would be required to restore both units to full power in a dual unit trip. And I think he indicated there would be approximately 84 to 134 hours; is that correct?

MR. GRAVES: Yes, sir. And our recommendation

falls within that time frame.

COMMISSIONER SKOP: Okay.

MR. BALLINGER: Commissioner Skop, if I may, the hard thing, I understand what you're saying, is did this really encompass everything. The fact is we asked -- we tried to identify the hours with the specific events that were brought up through the case: The rod position indicator, the steam water level on unit 4 and the broken relay in unit 4. We tried to isolate those hours in case there was going to be an adjustment.

So we asked FPL to identify the hours associated with the control rod positioning indicators. That's where we came up with the 27 hours.

Did that capture everything? I can't say for sure. We were responding to the interrogatory responses to try to isolate that. As Robert said, this does fall within the three to five-day window that we had as far as for a dual unit trip so we thought it was reasonable.

COMMISSIONER SKOP: Again I was going to try and address this separately. On 4 I know there were two events. There was the relay for the protective circuit which caused the automatic

shutdown and they ahd to repair that and that seems to be equipment failure so probably not anyone's fault, assuming they're operating the unit prudently.

And then they had the manual reactor trip due to the water level of one of the steam generators. And again we discussed that extensively at hearing as to, you know, some coordination concerns. But and staff in the recommendation has indicated that there was nothing -- although I may be -- may disagree, there was nothing in staff's view to indicate that the units were operated imprudent not only in the recovery but in the startup of the units. Is that generally correct?

MR. BALLINGER: I think that's correct. And the hours for unit 4 was 107 hours which is well within the three to five days. Again as Robert stated earlier, the initiating event was the transmission event. So basically the units then went through a normal start-up procedure when you trip a nuclear unit, three to five days.

And so I think what we're finding here is nothing punitive. It's reflecting what a normal trip would be for a transmission event. We didn't see anything nor was the purpose of the hearing to

look at the prudence of the generating operation. Came out either to the negative.

COMMISSIONER SKOP: Certainly on unit 4 it was delayed longer than probably it should have been, probably by about 30 hours because of -- my contacts are sticking -- the reactor trip for the water levels obviously. I think they testified that it -- FPL testified it would be 30 additional hours to resolve that and get the unit back online.

But I guess what -- what concerns me -- you know, and that's debatable one way or another whether that was excused performance because it's in the normal startup mode. But I think what gives me pause, Commissioners, and again I'm in favor of a substantial refund to the customers as they should be entitled to in this case.

I do have a little consternation over the 27 hours on Turkey Point 3 because again I think FPL was required by the NRC, it was a mitigating event, that they really had to go make these repairs. And I'm not so sure that 27 hours effectively encompasses the scope of the repair from the time you can enter containment to effect the repair to the time you can close containment and restart the unit through power ascension. I don't know what

the right number would be, but again if it's the will of the Commission to approve the refund per the staff recommendation, I'm fine with that. But I just thought --

CHAIRMAN ARGENZIANO: Well let me ask you this, Commissioner Skop. Did the company have a different number or have a different take on that? Because I didn't see that.

COMMISSIONER SKOP: I think the company's take, which I did not agree with, is that the scope of the event should be limited to eight hours until transmission was stable. And that to me is an idealistic assumption.

I think witness Stall's testimony was far more credible to the extent in a dual unit trip he testified and was very candid that the time to restore a dual unit would be 84 to 134 hours. And I think that, you know, if you have a dual unit trip, obviously that was resulting from the fault at the substation. But once that trip occurred and once you're past the eight hours, then I think you need to start looking at are there mitigating events.

And in this instance there was a mitigating event as it pertained to Turkey Point 3 which I

feel the 27 hours is somewhat idealistic to the extent that it ignores I think some reality of the fact that you just -- you know, I don't think that -- I don't think it's as simple as the unit trips, 27 hours later after you've made the repair you just walk out and flip the switch. That's what's giving me some pause here.

MR. BALLINGER: And maybe this will help. The repair of the control rod indicators were done in parallel with other activities going on with normal startup. So you're right. You can't just go in, do it in 27 hours, flip the switch back on. Once the unit tripped because of the transmission event, it was going to take three to five days to get it back up per the testimony at the hearing.

COMMISSIONER SKOP: Right.

MR. BALLINGER: That 27 hours was within that window. We felt it was appropriate to make that adjustment.

COMMISSIONER SKOP: Okay. But in terms of the 27 hours, is staff aware in the record evidence were there any additional reasons -- I know that staff explains on Turkey Point 4 there are some very specific reasons that cause the delay. But on Turkey Point 3, it seems that the -- pursuant to

the NRC, operating license amendment, they had to go fix this. And I don't know whether it was trying to bring both up together or separately. But there's nothing there at least to me to explain the remainder of the 158 hours other than the unit didn't come in service.

I know there may be some things that have to be done. But if the unit were going to schedule outage solely for the rod position indicator, I don't think you're back on line in 27 hours at full power.

CHAIRMAN ARGENZIANO: Okay. Let's --

MR. BALLINGER: No, you're not. And I agree with that. I don't think there was any other mitigating circumstances but I'll double-check with Robert.

MR. GRAVES: No, sir, there wasn't.

COMMISSIONER EDGAR: Okay. Where are we at? Do you want to make a motion?

COMMISSIONER SKOP: Well, I guess I'd look to the bench to see if -- I mean, if there's any merit in the 27 hours in terms of making additional adjustment on Turkey Point 3. I do think there is a mitigating event there. I'm trying to be fair to FPL but recognizing that there will be a

substantial refund to the customers.

If the will of the bench is to vote the staff recommendation, I'm prepared to make a motion for that. But if we want to discuss this further and get a revised number from staff, you know, I can ask staff to run a revised calculation based on a slightly smaller number.

CHAIRMAN ARGENZIANO: Any other questions? Commissioner Edgar, do you have any? I have no other questions at this point.

COMMISSIONER SKOP: Okay.

CHAIRPERSON ARGENZIANO: Do you want to -- Commissioner Edgar, are you --

COMMISSIONER EDGAR: I guess, Commissioner Skop, if you could, you're saying you're potentially considering asking staff to do a revised calculation based on a somewhat different time period. I'm not clear on what time period it is that you're putting out there as an alternative.

COMMISSIONER SKOP: I think with respect to Turkey Point 3, what staff did was take the total outage time, the 158 hours, and subtracted 27, which I think if my math is correct, I think it leaves you with 131.

I guess looking at witness Stall's testimony

with respect to a dual trip, he said 84 to 134 hours. You know, I think perhaps somewhere in the midpoint between that number may be a more appropriate number, 100 hours versus 131. I think that would probably be consistent with looking at the time to bring a single unit back on line by witness Stall was 48 hours, and that's with, you know, trouble shooting or what have you. But I think that there's something to be said for looking at the intervening event on Turkey Point 3 in the interest of fairness.

COMMISSIONER EDGAR: And again I'm just trying to be clear. Looking at a slightly different time period as far as the intervening event, I think you gave me a range but all I heard was 100. Is that the number? I'm just not clear what number you're proposing.

COMMISSIONER SKOP: I thought 100, somewhere between the midpoint, whatever the midpoint is between 84 and 134 I feel would probably be a more appropriate number. And I think that in terms of total impact of the refund, it would not be very great. I think the refund would be the majority of what staff is recommending, although it would reduce it slightly.

CHAIRMAN ARGENZIANO: I'm just not comfortable with doing that so quickly at this time because I don't know all of the ramifications of that or the justifications of that. So if somebody could --

MR. BALLINGER: We can quickly calculate the number. That's not the hard part. The hard part to me is picking that number from the record.

CHAIRMAN ARGENZIANO: That's what I'm having -- that's why I say justification. And that -- I don't think you could do that in five minutes here.

COMMISSIONER EDGAR: Or rationale. And -- I mean, that's what I want to be -- and I know we've discussed this for a while and I'm sure everybody is hungry, but you want to say a range, midpoint between 134 and 84, is that what you said, which would bring us to about 114, I think?

COMMISSIONER SKOP: I believe so.

COMMISSIONER EDGAR: Okay. And so let me try it this way. If 114 is the number that you are -- are putting out there for discussion at this point, how would you explain the rationale for 114 versus the other number, the larger number?

COMMISSIONER SKOP: I think if my math is right, it would be 109, 109 hours is the midpoint

or the average between those two numbers. But again, I'm pretty tired so I'll trust your math over mine.

COMMISSIONER EDGAR: Don't necessarily trust my math. That -- we'll look to staff for the math. It's the rationale that I'm trying to --

COMMISSIONER SKOP: Right. The rationale I think, Commissioner Edgar, is very simple. In terms of Turkey Point 3, there was a mitigating event that I think somewhat excuses FPL to the extent that the NRC specifically required FPL to effect repairs on the Turkey Point 3 unit at the next shutdown, and those repairs had to be made.

I don't know if there were other events that caused Turkey Point 3 not to enter service at 100 percent power quicker than it did. But the 27 hours to me is somewhat of an over-simplified assumption that does -- I don't feel embodies the entire scope of the time that it would take to, you know, trip the unit, make the repairs, have the unit come back into service. It's got to be more than 27 hours. I think Mr. Ballinger --

CHAIRPERSON ARGENZIANO: Okay. Let's do this. Ask staff. You came to the conclusion of 27 hours. And if there were this mitigating circumstance, how

would you suddenly, or now how do you come to the -- I can't even think of the word I'm trying to say -- come to the -- the number that Commissioner Skop is indicating that there could have been or should have been more time because of this mitigating circumstance. And could you again tell me, did you take into consideration the mitigating circumstance of them having to do this rod --

MR. BALLINGER: The 27 hours in staff's mind was the mitigating circumstance. It was a pre-required outage by the NRC to do these repairs. We specifically asked the company to identify the hours associated with the repairs. That's where we came up with the 27 hours.

I understand Commissioner Skop's concern about that number. And maybe it didn't encompass everything.

Another way to look at it is unit 4 was down for 107 hours. One could logically perhaps think that unit 3 should have been down for that long as well. Absent these mitigating things, you can have the same number of hours there.

What's a little troubling I'd like to discuss with legal staff is record evidence to that effect.

Can the Commission make that adjustment just based on the numbers in the record or are our hands tied? I don't -- I don't know that answer yet.

CHAIRMAN ARGENZIANO: Commissioner Skop?

COMMISSIONER SKOP: Thank you, Madam Chair. And I'll make this brief. To Mr. Ballinger, I think my concern is if there were a trip on Turkey Point 3 under the circumstances where pursuant to the NRC amendment to the operating license FPL had to make repairs, how soon could FPL enter containment after the trip?

MR. BALLINGER: I think they started in hour seven.

MR. GRAVES: It was 7 hours that they entered.

COMMISSIONER SKOP: Okay. And the -- is it your understanding that the rod position indicator is located on the reactor head?

MR. BALLINGER: Yes.

COMMISSIONER SKOP: So after they enter seven hours plus seven hours into the event and make the repairs 27 hours later, do they just walk out of the reactor and flip the switch?

MR. BALLINGER: No. At hour 34 they had other things they had to do as a result of the trip to get the unit to full power. That's why I said

these were done in parallel with other events going on.

COMMISSIONER SKOP: But again, let's look at this as an unscheduled -- as a scheduled shutdown solely for the purpose of the rod position indicator repair.

So the unit trips, you wait seven hours, you go into containment, you're working on the reactor head, you finish your repairs, you close containment. Does the reactor start right back up?

MR. BALLINGER: Not to my knowledge, no.

COMMISSIONER SKOP: So would not -- that 27 hours does not include the startup time for a scheduled outage?

MR. BALLINGER: That's correct. And this event we're trying to -- I think of it this way. Had there been no NRC requirement to do these repairs, these specific repairs, it's staff's belief that it would have taken 131 hours from the tip to get Unit 3 back on line just as a normal course of restarting a nuclear unit after a trip. That's -- that's our recommendation to you from where we identify the 27 hours. We tried to isolate the hours associated with that repair knowing that there's other things going on as a

result of a trip to get a unit started.

COMMISSIONER SKOP: Okay. Fair enough. But again I think what -- what -- what's missing here, Commissioners, is that, you know, that analogy works and it's a simplifying assumption. But if the unit were coming down in a scheduled outage solely for the rod position indicator, unit trips, boom, you have to wait to enter containment, you effect repairs, you know, seven hours plus 27 hours you close containment, you don't just start right back up. There's this incremental start up time and power ascension to get back to 100 percent full power that I don't think is being recognized within the 27 hours because you had to wait seven hours to get in there to begin with.

And again you don't just walk into containment. You know, you have to do procedures and set things up. But again I'm thinking the 27 hours with all due respect doesn't give full credit to the time that it would take absent this event to trip, repair, exit containment and restart. I don't think 27 hours --

CHAIRPERSON ARGENZIANO: Okay. Let's do this because we've gone over this ten times. Give me your final answer on this and I'm ready to approve

staff's recommendation, I believe, unless you say something that just doesn't jive with me.

MR. BALLINGER: I -- I understand, and there are some gray areas in this so I can understand where Commissioner Skop is coming from. But unfortunately we dealt with the record. I've got to deal with what's in there.

And we tried to, knowing as the case was progressing, seeing these three areas that the company was saying were mitigating circumstances, if you will. The control rod indicators for unit 3, the high water level and the broken relay in unit 4. So staff tried to identify those hours if there was going to be an adjustment through discovery. That's where we came up with the 27 hours and I think that would be our final one right now.

COMMISSIONER EDGAR: Let me ask one more question and then --

CHAIRPERSON ARGENZIANO: Commissioner Edgar.

COMMISSIONER EDGAR: -- I'm ready to see where it takes us.

Trying to hearken back to the hearing, can you advise me as to this. The -- obviously and from the information in front of us and of course from

our recollection from hearing and the record, the company proposed a much smaller amount as what they should be required to refund based on a shorter time period. The point that Commissioner Skop has raised as to perhaps giving a greater amount of time or allowance than the 27 hours, was that point raised or proposed by the company or discussed by one of their witnesses?

MR. GRAVES: No, ma'am, it wasn't.

CHAIRPERSON ARGENZIANO: Okay. That particular -- I'm sorry, that particular concern that he raised, is that the --

COMMISSIONER EDGAR: That's what I was trying to ask.

CHAIRPERSON ARGENZIANO: Okay. Okay. Go ahead. Continue.

MR. GRAVES: I didn't hear. Did you ask a question?

CHAIRMAN ARGENZIANO: No. I was trying to make sure I got the question was to the specific point that Commissioner Skop had raised about if the company had brought up that point.

MR. GRAVES: Oh, no, ma'am.

CHAIRMAN ARGENZIANO: Okay, Commissioners. Commissioner Skop.

COMMISSIONER SKOP: Thank you, Madam Chair. I have just one quick question on Issue 2.

To staff, Public Counsel and FIPUG supported a one-time refund and I believe that on the bottom of page 14 of the staff recommendation staff noted the company indicated it would be $70,000 in 60 days to implement but staff further agrees on page 16 that the refund amount should not be borne by the ratepayers.

I guess why, why did staff look towards the 2010 fuel cost recovery net true-up which, you know, pushes the refund out because it lowers the fuel rates. It's an offset to fuel cost in the future as opposed to, you know, what the position that the attorney general and FIPUG took.

MS. ROBERTS: Good afternoon, Commissioners. Arlisha Roberts with staff. The reason why staff decided -- the reason why staff concluded to put it within the 2010 fuel factors, I've been looking at everything in the record, looking at the amount that it was going to cost the company to implement a one-time refund, looking at where we were within the year. We decided -- I decided that it was -- it was the most efficient means of getting this money back to the customers, trying to be as

neutral as possible with the information there, looking out for the customers, looking out for the company, and just making the best decision with the information that was there, that this was the best method to refund this money back to the customers.

COMMISSIONER SKOP: Madam Chair, as a follow-up to that, doing under staff's option is to recognize the refund amount including interest during the 2010 fuel proceeding. I guess my question is staff's articulated an interest amount, and that interest amount for today would be consistent with the one-time refund made in the near future. If we wait, does interest continue to accrue?

MS. ROBERTS: Yes, it continues to accrue.

COMMISSIONER SKOP: So that brings me to my point on the one-time credit consistent with Public Counsel and FIPUG they indicated a cost which really isn't material to my consideration in deciding the $70,000. My question is if we wait, the interest that accrues on the principle is probably going to be higher than the $70,000 to do it now. Is that reasonable based on a couple -- a $14 million refund?

MS. ROBERTS: Well, Daniel Lee could speak

regarding the interest.

COMMISSIONER SKOP: Which would probably cost the company more to wait than it would to refund it now to the ratepayers.

MR. LEE: Commissioners, Daniel Lee with staff. The interest for 2010 this year is about $2 -- the whole year is about $2 per thousand dollar refund. It's very small.

And with our recommendation, our current practice, this will -- we will just ask -- the practice is that the company will, as we address in the page 12, we said these -- at the bottom of the table we said consistent with Commission practice, the company should make an adjustment to its year-end 2009 true-up to reflect the Commission decision. The practice ensured that the amount will continue to have interest effect based on actual interest rate until the full recovery under the true-up process. So to answer your question, really the interest amount is much smaller than the --

COMMISSIONER SKOP: Well, I understand the interest amount is much smaller, and I don't want to belabor the point, Commissioners, because I know it's getting late. The interest amount shown on

page 12 is 360 -- almost $361,000.

The one-time refund obviously cost FPL some money but that's, you know, not OPC's concern, it's not FIPUG's concern. It should be the Commission's concern.

My concern is is it more cost-effective for the company's perspective to refund now than it would be to let this interest continue to accrue for 12 months. And if -- if it's a cost benefit to the company, it seems that the company would credit the customers now rather than accruing additional interest, because the additional interest cost might exceed the interest of -- of the cost of doing it now with the interest that's accrued today, if that makes sense. It makes sense to me.

MR. LEE: Well, everybody's situation is probably differently.

COMMISSIONER SKOP: Okay. All right. I've had enough. Madam Chair, at the appropriate time I'd like to make a motion to approve staff recommendation for Issues 1 and 2.

CHAIRPERSON ARGENZIANO: Commissioner Edgar?

COMMISSIONER EDGAR: I'll be glad to second that motion.

CHAIRPERSON ARGENZIANO: All right. Did you

make a motion?

COMMISSIONER SKOP: I did. Let me recite it for the record.

Madam Chair, with respect to the disposition of Item 4 before the Commission, I move to approve staff recommendation on Issues 1 and 2.

COMMISSIONER EDGAR: And 3.

COMMISSIONER SKOP: And 3.

CHAIRPERSON ARGENZIANO: And we have a second?

COMMISSIONER EDGAR: Second.

CHAIRMAN ARGENZIANO: All those in favor say aye.

(Unanimous.)

CHAIRMAN ARGENZIANO: Opposed same sign.

Thank you very much.

(Discussion concluded.)

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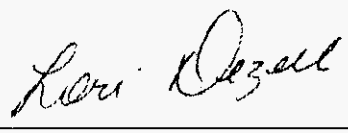
CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, LORI DEZELL, RPR, CCR, certify that I was authorized to and did stenographically report the proceedings herein, and that the transcript is a true and complete record of my stenographic notes.

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' attorney or counsel connected with the action, nor am I financially interested in the action.

WITNESS my hand and official seal this 3rd day of June, 2010.



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