



## I N D E X

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## P R O C E E D I N G S

(Transcript continues in sequence from Volume 10.)

**CHAIRMAN GRAHAM:** All right. Are we about ready? We will reconvene.

Progress, your next witness.

**MR. WALLS:** Progress Energy Florida calls John Elnitsky. And Mr. Elnitsky has been sworn.

**CHAIRMAN GRAHAM:** Welcome, sir.

**JOHN ELNITSKY**

was called as a witness on behalf of Progress Energy Florida, and having been duly sworn, testified as follows:

**DIRECT EXAMINATION**

**BY MR. WALLS:**

**Q.** Mr. Elnitsky, will you please introduce yourself to the Commission and provide your business address?

**A.** Yes.

Good afternoon, Commissioners. My name is John Elnitsky. My business address is 299 First Avenue North, St. Petersburg, Florida.

**Q.** And who do you work for and what is your position?

**A.** I work for Progress Energy Florida as the Vice-President for New Generation Programs and Projects.

1 Q. And have you prefiled Direct Testimony on  
2 March 1, 2011, and May 2, 2011, in this proceeding?

3 A. Yes, I have.

4 Q. And do you have that prefiled testimony with  
5 you?

6 A. Yes, I do.

7 Q. Do you have any changes to make to this  
8 prefiled testimony?

9 A. No.

10 Q. If I ask you the same questions asked in your  
11 Prefiled Direct Testimony today, would you give the same  
12 answers that are in your Prefiled Direct Testimony?

13 A. Yes.

14 MR. WALLS: We request that the March 1, 2011  
15 and May 2, 2011 Prefiled Direct Testimony of Mr.  
16 Elnitsky be moved into evidence as if it was read into  
17 the record today.

18 CHAIRMAN GRAHAM: We will move Mr. Elnitsky's  
19 Prefiled Direct Testimony and -- just his direct  
20 testimony into evidence, both dated March 1st and May  
21 2nd as though read today.

**IN RE: NUCLEAR COST RECOVERY CLAUSE****BY PROGRESS ENERGY FLORIDA****FPSC DOCKET NO. 110009****DIRECT TESTIMONY OF JOHN ELNITSKY****I. INTRODUCTION AND QUALIFICATIONS****Q. Please state your name and business address.**

A. My name is John Elnitsky. My business address is 299 1<sup>st</sup> Avenue North, St. Petersburg, Florida.

**Q. By whom are you employed and in what capacity?**

A. I am currently employed by Progress Energy, Inc. as Vice President of New Generation Programs and Projects ("NGPP"). I assumed this position in May, 2010. Previously, my position was Vice President of the Nuclear Plant Development ("NPD") organization. I assumed this position in May, 2009. Prior to this appointment, I was employed by Progress Energy as its Vice President of Generation and Transmission Construction ("G&TC"). I joined Progress Energy in November 2007. Prior to my employment with Progress Energy, I served for more than twenty-seven years in the United States Navy rising to the rank of Rear Admiral. My assignments included responsibility for nuclear submarine construction, operation, and maintenance including holding positions as Director of Undersea Technology and Atlantic Submarine Force Chief Nuclear Power Officer.

1 **Q. What is your role with respect to the development of the nuclear power plants, Levy**  
2 **Units 1 and 2?**

3 A. As the Vice President of NGPP I am responsible for the licensing and construction of the  
4 Levy Nuclear power plant Project ("LNP"), including the direct management of the  
5 Engineering, Procurement, and Construction Agreement ("EPC Agreement") with  
6 Westinghouse and Shaw, Stone & Webster (the "Consortium"). As Vice President of  
7 NGPP I am responsible for overall program management of the LNP including the  
8 associated base load transmission systems projects.

9 With respect to the Levy project I report directly to Jeff Lyash, the LNP's  
10 Executive Sponsor, who has responsibility for LNP governance and execution oversight.  
11 Administrative oversight of the LNP is under the Corporate Development and  
12 Improvement Group under the leadership of Paula Sims, Senior Vice President of  
13 Corporate Development and Improvement. I also report on the LNP to the Senior  
14 Management Committee ("SMC"). The SMC has senior management responsibility for  
15 the LNP and includes Mr. Lyash, as well as Progress Energy's Chief Executive Officer  
16 ("CEO"), Chief Financial Officer and the CEOs of Progress Energy Florida, Inc. ("PEF"  
17 or the "Company") and Progress Energy Carolinas.

18  
19 **Q. Please describe your educational background and professional experience.**

20 A. I earned a Bachelor of Science in Mechanical Engineering degree, with distinction, from  
21 the United States Naval Academy in Annapolis, Maryland and both a Master of Science  
22 degree and the advanced degree of Mechanical Engineer from the Naval Postgraduate  
23 School in Monterey, California. I am also a senior graduate of the Naval Nuclear Power

1 Program and completed Executive Business education at UC Berkley's Hass School of  
2 Business and UNC's Keenan Flagler Business School. I am a Project Management  
3 Institute certified Project Management Professional and a member of the American  
4 Nuclear Society and American Society of Mechanical Engineers.

5 Prior to joining Progress Energy, I served in the United States Navy. While I was  
6 with the United States Navy, I commanded nuclear submarines and oversaw the  
7 construction of two nuclear submarines through reactor plant initial criticality and sea  
8 trials. Prior to commanding a Trident ballistic missile submarine I served as the Atlantic  
9 Submarine Force Chief Nuclear Power Officer responsible for the safe reactor plant  
10 operations and maintenance of 30 submarines and 4 nuclear maintenance activities. My  
11 most recent role in the U.S. Navy was as the commander of the Naval Undersea Warfare  
12 Center in Newport, Rhode Island, and as the Navy's Director of Undersea Technology  
13 where I led a 4,100 member workforce and a \$1.3 billion research, development, and  
14 engineering business. In this capacity I also served as a member of the Warfare Center  
15 Board of Directors responsible for 11 laboratories and 18,500 personnel.  
16

17 **II. PURPOSE AND SUMMARY OF DIRECT TESTIMONY.**

18 **Q. What is the purpose of your direct testimony?**

19 A. I will describe the disposition of the purchase orders ("POs") for fourteen pieces of Long  
20 Lead Equipment ("LLE") under PEF's EPC Agreement with the Consortium as a result  
21 of the Company's decision to amend the EPC Agreement to focus LNP work on  
22 obtaining the Combined Operating License ("COL") for the LNP and defer most other  
23 LNP work until the COL is obtained. This decision was described in detail in my

1 testimony and in Mr. Lyash's testimony last year, in the Nuclear Cost Recovery Clause  
2 ("NCRC") proceedings in Docket No. 100009-EI. I will explain the Company's  
3 disposition decisions regarding the LLE, including the timeline and process by which the  
4 Company made its disposition recommendations and ultimately reached a decision on the  
5 LLE. I will also address the revised estimate for LLE disposition costs.

6  
7 **Q. Do you have any exhibits to your testimony?**

8 **A.** Yes. I am sponsoring the following exhibits:

- 9
- 10 • Exhibit No. \_\_\_ (JE-1), List of the Long Lead Equipment (LLE) for the LNP;
  - 11 • Exhibit No. \_\_\_ (JE-2), May 2010 LLE Timeline; and
  - 12 • Exhibit No. \_\_\_ (JE-3), LLE Disposition Timeline.

13 These exhibits were prepared by the Company under my supervision and direction and they  
14 are true and correct. PEF further proposes the identification of PEF's LLE PO disposition  
15 decision documentation for use at the final hearing, as may be necessary, subject to the  
16 Commission's requirements for the use of confidential exhibits at Florida Public Service  
17 Commission ("FPSC" or the "Commission") hearings. These LLE PO disposition  
18 documents are subject to strict contractual conditions of confidentiality under the EPC  
19 Agreement and amendments, however, they have been made available pursuant to those  
20 contractual conditions to the Commission staff and intervening parties who have requested to  
21 review them.  
22  
23

1 **Q. Please summarize your direct testimony.**

2 A. The Company's decision to continue the LNP on a slower pace focusing near-term work  
3 on obtaining a COL required the Company to address the status and disposition of the  
4 LLE for the LNP. During 2010, PEF developed a long lead material purchase order  
5 disposition methodology that combined quantitative and qualitative criteria to meet the  
6 Company's objectives to minimize near term costs and impact to customers while  
7 maintaining optimal flexibility for the future LNP construction. This methodology was  
8 implemented throughout 2010 in negotiations with the Consortium and the Consortium's  
9 vendor supply chain to make reasonable and prudent decisions with respect to the LNP  
10 LLE POs consistent with the Company's objectives. PEF believes its approach to the  
11 disposition of LNP LLE POs is reasonable and prudent. The Company's negotiations  
12 resulted in internal LLE disposition decisions that reduced the overall estimate of the  
13 LLE disposition costs to an estimated [REDACTED] in 2011, versus [REDACTED] that was originally  
14 planned in 2010 for the disposition of LLE POs. The Company's step-by-step, analytical  
15 decision-making process and negotiation approach has significantly reduced the  
16 estimated LLE PO disposition cost impact to customers.

17  
18 **III. STATUS OF LONG LEAD EQUIPMENT (LLE) DISPOSITION AND**  
19 **ASSOCIATED PURCHASE ORDERS (POs)**

20 **Q. What are the LLE for the LNP?**

21 A. The LLE for the LNP are the fourteen equipment items listed in Exhibit No. \_\_\_\_ (JE-1) to  
22 my testimony [REDACTED]

23 [REDACTED]

1 [REDACTED] Most of these items were originally part of the Company's March  
2 28, 2008 Letter of Intent with the Consortium that were later incorporated into the EPC  
3 Agreement when it was executed on December 31, 2008.

4  
5 **Q. Can you please describe the status of LLE disposition work following the execution**  
6 **of the EPC Agreement?**

7 **A.** Yes. The work on the LLE continued to progress in accordance with the schedules for  
8 the LLE in the EPC Agreement. This work continued until April 30, 2009, when PEF  
9 notified the Consortium of a partial suspension in the work under the EPC Agreement as  
10 a result of the Nuclear Regulatory Commission's ("NRC") determination regarding the  
11 Company's then-pending Limited Work Authorization ("LWA") that impacted the LNP  
12 schedule in the EPC Agreement. As required by the contract terms, the Consortium then  
13 directed its vendors to suspend work on all LLE and to mitigate any additional costs to  
14 the extent practicable pending further instructions from PEF.

15 As discussed in my April 30, 2010 testimony in Docket No. 100009-EI, to  
16 provide PEF the information it needed to make an informed decision on the LNP  
17 schedule shift the Consortium engaged in an extensive analysis of various schedule  
18 scenario impacts on all aspects of the work under the EPC Agreement. This included the  
19 LLE, and [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

1 [REDACTED]  
2 [REDACTED] From July 2009 through August 2009 the Consortium requested and obtained  
3 this information from vendors with respect to the pending schedule shift options.

4 In August – October, 2009, PEF made preliminary decisions on three LLE items  
5 where work had progressed to the initial manufacturing stages to efficiently advance the  
6 work on these LLE items. A summary of our decisions on these items was included in  
7 the LLE timeline that was provided as an exhibit to my April 30, 2010 testimony, which I  
8 have included as Exhibit No. \_\_\_ (JE-2) to my current testimony.

9 As I described in detail in my testimony in the docket last year, PEF received the  
10 confidential schedule shift analyses including cash flow impacts by mid-August 2009 and  
11 evaluated these scenario estimates. This evaluation included developing an  
12 understanding of the impacts of schedule shifts on LLE given the vendor and Consortium  
13 information the Company had at that time. The Company's detailed analysis of this  
14 information occurred between August and October 2009. As a result of the Company's  
15 initial analysis, the Company met with the Consortium on October 23, 2009 to discuss  
16 PEF's initial decision on LLE PO dispositions. At that time, the LLE disposition options  
17 included continue manufacturing and store completed equipment, PO cancellation, and  
18 PO suspension under four schedule shift scenarios, with the longest shift in the first in-  
19 service date being 36 months. Accordingly, in early 2010 the Company requested the  
20 Consortium to obtain information regarding the costs of the cancellation option that was  
21 necessary for the Company to make an informed decision with respect to a longer term  
22 schedule shift.  
23

1 For the reasons described in detail in my testimony and in Mr. Lyash's testimony  
2 in Docket No. 100009-EI, the Company evaluated a longer term schedule shift to  
3 minimize the near term capital investment in the LNP until the COL was obtained. In  
4 October 2009, PEF initiated discussions with the Consortium regarding this longer term  
5 schedule shift option and the necessary contractual amendment to implement it. These  
6 discussions continued into 2010 as the Company evaluated this option against proceeding  
7 with the LNP as quickly as possible or cancelling the project, and culminated with the  
8 Company's decision to implement a longer term schedule shift by extending the partial  
9 suspension until the COL was obtained. As a result of this decision, Amendment 3 to the  
10 EPC Agreement was executed.

11  
12 **Q. How did the process continue into 2010?**

13 A. Through the first quarter of 2010 PEF and the Consortium worked together reviewing  
14 and discussing the potential options for disposition of all remaining LLE items for which  
15 disposition decisions had not yet been made. In January 2010, as I indicated above, PEF  
16 requested that the Consortium quantify the potential costs of cancelling the LLE vendor  
17 orders that had been placed for the LNP pursuant to the terms of the EPC Agreement.  
18 The Consortium worked with its vendors during the first quarter of 2010 to compile this  
19 information, and presented preliminary cost data to PEF related to cancellation fees for  
20 LLE POs on February 26, 2010.

21  
22 **Q. How were the LLE PO disposition costs incorporated into the decision on whether**  
23 **to continue, shift, or cancel the LNP as a whole?**

REDACTED

1 A. LLE PO disposition costs were always one of the factors that PEF and the Consortium  
2 were looking at and analyzing as PEF reviewed the schedule shift scenario options. On  
3 February 15, 2010, I made a presentation to the SMC regarding the Company's options  
4 for the LNP. This presentation included a preliminary overview of PEF's discussions  
5 with the Consortium on potential cost impacts for deciding to continue or cancel specific  
6 pieces of LLE. The cost data we had at that time was still in draft form and preliminary;  
7 however, it was the best data available.

8  
9 **Q. What cost estimate for LLE PO disposition costs was included in the February 15,  
10 2010 presentation?**

11 A. Based on the preliminary information and discussions with the Consortium a  
12 conservative estimate was that PEF would incur [REDACTED] in LLE PO disposition costs in  
13 2010. These costs were attributable to the applicable cancellation fees. This preliminary  
14 cost estimate was based on dialogue with the Consortium regarding most likely LLE  
15 disposition options under a longer-term partial suspension scenario. These LLE  
16 disposition costs were presented to senior management in February as estimated costs  
17 based on best available information at the time.

18  
19 **Q. Did PEF receive additional information related to the LLE PO disposition options  
20 and cost impacts?**

21 A. Yes. Following additional discussions with PEF, the Consortium provided refinements to  
22 the preliminary LLE disposition data on March 15, 2010. This information, however,  
23 was still preliminary; therefore, in order to make a more informed decision regarding the

REDACTED

1 LLE disposition options of continuation or cancellation at that time PEF needed more  
2 information from the Consortium. In April 2010, PEF requested additional supporting  
3 information from the Consortium, and documentation of the cost data that had previously  
4 been presented to PEF.

5 Throughout April 2010, PEF and the Consortium continued discussions between  
6 themselves and with vendors regarding the potential LLE disposition options. These  
7 discussions revealed a third, alternative option involving the suspension of LLE items,  
8 rather than continuation or cancellation. As a result, PEF began verbal inquiries  
9 regarding the types of costs that might be incurred if PEF elected to suspend LLE items  
10 as a potential path forward. Negotiations on suspension of an LLE PO involved several  
11 issues including [REDACTED]

12 [REDACTED]

13 The Consortium responded to PEF's inquiries on May 5, 2010 with preliminary,  
14 estimated values and data on the costs of the cancellation, continuation, and suspension  
15 options for each piece of LLE equipment. PEF used this information to begin its internal  
16 PO disposition analysis.

17  
18 **Q. What was involved in PEF's internal LLE disposition analysis?**

19 **A.** PEF developed a LLE PO disposition methodology that combined quantitative and  
20 qualitative criteria to meet the Company's objectives to minimize the near term costs and  
21 impact to customers while maintaining optimal flexibility for the future LNP  
22 construction. PEF retained an independent third party to work with its internal PO  
23 disposition team to review and refine criteria used to analyze disposition options and to

REDACTED

1 assess PEF's final decisions. In April through mid-June 2010, the PO disposition team  
2 developed a disposition package for each item of equipment using the quantitative and  
3 qualitative criteria outlined above. Each detailed analytics spreadsheet analyzed  
4 estimated cost and schedule impacts for each piece of LLE for the three potential paths,  
5 1) continue and store, 2) suspend and resume, and 3) cancel and re-negotiate.

6  
7 **Q. What did PEF's internal PO disposition team recommend regarding PEF's**  
8 **proposed disposition of the LLE items?**

9 A. At the end of June 2010, PEF completed its LLE disposition evaluation and  
10 recommendations to senior management. Seven (7) items were dispositioned as  
11 "Continue Manufacturing to Completion" and seven (7) items were dispositioned as  
12 "Suspend and Resume." PEF officially notified the Consortium of its preliminary  
13 decisions regarding the disposition of the LLEs and associated POs. Under the EPC  
14 Agreement, this notification triggered the Consortium's contractual obligation [REDACTED]

15 [REDACTED]  
16 [REDACTED] The Consortium sent the RFPs out to its vendors at the end of July  
17 2010. Pursuant to the EPC Agreement [REDACTED]

18 [REDACTED] For the LLE POs that PEF initially decided to "Suspend and Resume," PEF  
19 thereafter continued to work with the Consortium and its vendors to negotiate favorable  
20 suspension terms.

21  
22 **Q. Was PEF's decision on LLE disposition final at this point?**

23 A. No. We provided recommendations to Company management on paths forward based on

REDACTED

1 the best available information at the time the recommendations were made. However, at  
2 that time, formal RFPs had yet to be issued and vendor negotiations, while ongoing, were  
3 not concluded. Thus, PEF's recommendations regarding the disposition of LLE POs  
4 reflected initial decisions that were subject to change based on refined, formalized cost  
5 data from the RFP responses and the conclusion of negotiations with the Consortium and  
6 its vendors on the terms and conditions.

7  
8 **Q. Please describe the information received from the Consortium in response to the**  
9 **RFPs?**

10 A. By mid-September 2010, the Consortium had received a portion of the requested  
11 information in response to the RFPs from its vendors. The Consortium proceeded to  
12 evaluate, review, and package the data prior to PEF's review. On September 29, 2010,  
13 the Consortium provided an update to PEF on the status of the vendor data it had received  
14 and reviewed. [REDACTED]

15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 Thereafter, from mid-September through mid-December 2010, the Consortium  
19 and PEF held discussions regarding analyzing data to try to separate LLEs into similar  
20 categories to facilitate decisions on certain pieces of equipment. These categories were  
21 identified as "Near-term," "Intermediate-term," and "Longer-term." The "Near-term"  
22 designation indicated that the vendor suspension and resume option information was  
23 complete and change orders were finalized for these LLE items. There were three (3)

1 "Near-term" LLE items. The "Intermediate-term" designation indicated that most  
2 information regarding the suspension and resume option from the vendor was available,  
3 but certain, additional follow-up refinement of the information by the Consortium was  
4 necessary. Still, the Company expected to be able to execute change orders to implement  
5 the selected options with these particular vendors. There were five (5) "Intermediate-  
6 term" LLE items. Finally, the "Longer-term" designation indicated that gaps in  
7 Consortium and/or vendor information existed, requiring further negotiations with the  
8 Consortium and their vendors and a more thorough analysis of the option based on  
9 obtaining additional information and the on-going negotiations. As a result, the  
10 execution of change orders to implement the selected option with respect to these  
11 "Longer-term" LLE items was less certain and expected to take longer, to the end of the  
12 first quarter 2011 at least, to execute if the suspend and resume option was determined to  
13 be the reasonable option. There were four (4) "Longer-term" LLE items. Two (2) LLE  
14 items did not require change orders.

15  
16 **Q. What are the next steps in the process for PEF?**

17 A. For the "Intermediate-term" and "Longer-term" LLE items the final response from the  
18 Consortium was provided on February 1, 2011. PEF is in the process of reviewing the  
19 information and will reanalyze the information using the same analytical process as  
20 described earlier. PEF expects to conclude all LLE negotiations by April 2011.

21  
22 **Q. Has the LLE PO disposition cost estimate been updated since 2010?**

23 A. Yes, PEF has refined the estimate based on the additional, more detailed Consortium and

1 vendor information that PEF has received since that estimate was generated in 2010 and  
2 that I have described above. As a result, of this additional information PEF has reduced  
3 the overall estimate of the LLE disposition costs to an estimated [REDACTED] in 2011, versus  
4 [REDACTED] that was originally planned in 2010.

5  
6 **Q. Why is this different from PEF's original estimate to management in February 2010**  
7 **or PEF's April 2010 filing?**

8 A. As I indicated previously, PEF originally included [REDACTED] for the estimated LLE PO  
9 disposition costs in its presentations to senior management in February and March 2010  
10 that were the foundation of the Company's decision to proceed more slowly with the  
11 LNP by extending the partial suspension and deferring substantial capital costs to after  
12 the COL for the LNP was obtained. This was a conservative estimate, as I again  
13 indicated above, based on the estimated costs to continue or cancel the LLE POs for later  
14 re-negotiation. Those were the viable options presented by the Consortium at that time  
15 for the disposition of LLE items, given the Company's decision. The Company included  
16 [REDACTED] of this estimated cost in its actual/estimated 2010 cost estimates in the docket last  
17 year. This decision was made because the Company anticipated obtaining the  
18 information needed and concluding negotiations to a point where it could make LLE  
19 disposition decisions in 2010, thus, leading to the incurrence of LLE disposition costs in  
20 2010.

21 As PEF obtained information regarding the disposition of LLE items and  
22 continued LLE disposition negotiations with the Consortium and vendors in 2010 the  
23 Company's ability to identify suspension and resumption of the work as a third option in

1 these negotiations had the greatest positive impact on the estimation of the LLE  
2 disposition costs and the timing of when they might be incurred. The ability to negotiate  
3 a suspension and resumption of LLE work option with the Consortium provided the  
4 Company the opportunity to minimize the LLE disposition costs estimated as a result of  
5 the cancellation option. PEF successfully pursued this opportunity in 2010, by first  
6 obtaining information to confirm that this was in fact a more cost-effective option to  
7 cancellation with most LLE vendors, and then, by reaching the point in negotiations with  
8 the Consortium and most LLE vendors where this option could be selected and a change  
9 order executed. This process, of course, took time as I have described above, and as a  
10 result the timing of the expected incurrence of any LLE disposition costs was deferred to  
11 2011. The successful negotiations of this option further reduced the estimated cost impact  
12 to PEF and its customers from the originally estimated [REDACTED] for primarily cancellation  
13 to an estimated [REDACTED] for disposition. As mentioned above, the [REDACTED] estimate included  
14 in the 2010 Actual/Estimated NFR's last year was not incurred in 2010. The most up-to-  
15 date estimate (approximately [REDACTED]) will be included in the 2011 Actual/Estimated  
16 NFR's filed later this year. As a result, there is a variance associated with the [REDACTED]  
17 estimated amount in the true-up of actual estimated 2010 costs to 2010 actual costs, as  
18 indicated on Schedule T-6B.2 line 2 in Exhibit No. \_\_\_ (WG-2) to Mr. Garrett's  
19 testimony.

1 **Q. Was this LLE PO disposition evaluation process conducted in a reasonable and**  
2 **prudent manner?**

3 A. Yes, this process was conducted in a reasonable and prudent manner and was directly in  
4 line with the Company's goal to minimize the near term costs and impact to customers  
5 while maintaining optimal flexibility for the future LNP construction. In fact, the step-  
6 by-step analytical decision process and negotiation approach ultimately significantly  
7 reduced the estimated LLE PO disposition costs and thus customer impact.

8  
9 **Q. Does this conclude your testimony?**

10 A. Yes it does.  
11

**IN RE: NUCLEAR COST RECOVERY CLAUSE**

**BY PROGRESS ENERGY FLORIDA**

**FPSC DOCKET NO. 110009-EI**

**DIRECT TESTIMONY OF JOHN ELNITSKY**

1 **I. INTRODUCTION AND QUALIFICATIONS.**

2 **Q. Please state your name and business address.**

3 A. My name is John Elnitsky. My business address is 299 1<sup>st</sup> Avenue North, St.  
4 Petersburg, Florida.

5

6 **Q. Did you file direct testimony in this proceeding in March 2011?**

7 A. Yes.

8

9 **Q. Did you testify to your employment in your March 2011 testimony?**

10 A. Yes, I did. As I testified in my March 2011 direct testimony, I am currently  
11 employed by Progress Energy, Inc. as the Vice President of New Generation  
12 Programs and Projects ("NGPP"). As the Vice President of NGPP, I am  
13 responsible for the licensing and construction of the Levy Nuclear power plant  
14 project ("LNP"), including the direct management of the Engineering,  
15 Procurement, and Construction ("EPC") Agreement with Westinghouse and  
16 Shaw, Stone & Webster (the "Consortium") as well as NGPP base load  
17 transmission, and the program coordination and support teams for the LNP.

1 Representatives from these program coordination and support teams include  
2 project controls, business and financial management services, contract  
3 management and administration, and other support functions that formed a  
4 Program Management Team ("PMT") within NGPP that I head up to manage the  
5 EPC Agreement and the related projects under the LNP.  
6

7 **Q. In your role as Vice President of NGPP, are you involved in the senior**  
8 **management review of the LNP?**

9 A. Yes, as the Vice President of NGPP, I report on the LNP directly to the Senior  
10 Management Committee ("SMC"). The SMC has corporate responsibility for the  
11 LNP and includes Progress Energy's Chief Executive Officer ("CEO"), Chief  
12 Financial Officer, the CEOs of PEF and Progress Energy Carolinas, and the  
13 Executive Vice President – Energy Supply. I update the SMC with respect to the  
14 LNP, the EPC Agreement, and the Consortium discussions and negotiations.  
15

16 **II. PURPOSE AND SUMMARY OF DIRECT TESTIMONY.**

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

18 A. I will explain the Company's implementation of the decision made last year to  
19 proceed with the LNP on a slower pace. This decision focused LNP work on  
20 obtaining the Combined Operating License ("COL") for the LNP from the  
21 Nuclear Regulatory Commission ("NRC") while minimizing near term costs until  
22 after the LNP COL is obtained. This decision was explained in detail in the  
23 Company's April 2010 testimony and exhibits in this proceeding in Docket No.

1 100009-EI. The Commission determined that PEF's decision to continue  
2 pursuing a COL for the LNP was reasonable in its Order No. PSC-11-0095-FOF-  
3 EI in Docket No. 100009-EI.

4 I will further provide and explain the Company's long-term feasibility  
5 analysis consistent with Commission Order No. PSC-09-0783-FOF-EI in Docket  
6 No. 090009-EI. This will include a discussion of the Company's quantitative and  
7 qualitative feasibility analyses for the LNP. Based on the quantitative and  
8 qualitative feasibility analyses, the LNP continues to be feasible at this time.

9  
10 **Q. Do you have any exhibits to your testimony?**

11 **A. Yes. I am sponsoring the following exhibits:**

- 12 ● Exhibit No. \_\_\_ (JE-1), NRC revised review schedule for the LNP Combined  
13 Operating License Application ("COLA");
- 14 ● Exhibit No. \_\_\_ (JE-2), a graphic illustration of the steps and timing of the PEF  
15 LNP COLA review process;
- 16 ● Exhibit No. \_\_\_ (JE-3), a chart of the current long lead equipment ("LLE")  
17 purchase order disposition status;
- 18 ● Exhibit No. \_\_\_ (JE-4), PEF's updated cumulative life-cycle net present value  
19 revenue requirements ("CPVRR") calculation for the LNP compared to the cost-  
20 effectiveness analysis presented in the Need Determination proceedings for Levy  
21 Units 1 and 2;
- 22 ● Exhibit No. \_\_\_ (JE-5), a composite exhibit of PEF's rating agency reports;

- 1 ● Exhibit No. \_\_\_ (JE-6), illustrative example of estimated typical customer bill
- 2 impact of the near-term LNP costs in 2010-2012;
- 3 ● Exhibit No. \_\_\_ (JE-7), compound annual growth rates for PEF retail customers;
- 4 and
- 5 ● Exhibit No. \_\_\_ (JE-8), estimate updates of LNP costs post-COL receipt.

6 These exhibits were prepared by the Company, or they are market reports generally  
7 used and relied on by the public and regularly used by the Company in the regular  
8 course of its business, and they are true and correct.

9  
10 **Q. Please summarize your direct testimony.**

11 A. The Company is implementing its decision made last year to proceed with the  
12 LNP on a slower pace. The Company has focused its efforts on obtaining the  
13 LNP COL from the NRC and obtaining or fulfilling other regulatory permit  
14 requirements for the project. PEF expects to obtain the LNP COL in the second  
15 quarter of 2013 at the earliest. PEF is further performing other work consistent  
16 with its decision to proceed with the LNP on a slower pace. This includes the  
17 disposition of LLE purchase orders and preparations for an updated transmission  
18 study. In summary, PEF is reasonably performing the work necessary to move  
19 the LNP forward on a schedule with the expected in-service dates for Levy Units  
20 1 and 2 in 2021 and 2022, respectively.

21 PEF has performed an updated feasibility analysis for the LNP consistent  
22 with the Commission's rule, Orders, and prior PEF analyses that have been  
23 approved by the Commission. This analysis demonstrates that the LNP continues

1 to be feasible from both a regulatory and technical perspective. The updated  
2 feasibility analysis further demonstrates that the LNP continues to be  
3 economically feasible at this time. The Company's qualitative feasibility analysis  
4 of the enterprise risks facing the LNP reveals some change in the enterprise risks  
5 since last year. There have been no dramatic increases or decreases in the  
6 uncertainty associated with the risks facing the project, and there have been no  
7 fundamental changes in these risks that indicate a need to either accelerate or  
8 cancel the LNP at this time. Essentially, the Company's updated feasibility  
9 analysis confirms the Company's decision last year to proceed with the LNP on a  
10 slower pace.

11  
12 **III. IMPLEMENTATION OF LNP MARCH 2010 DECISION.**

13 **Q. What is the current status of the LNP?**

14 A. The Company continues work on the LNP consistent with the Company's March  
15 2010 decision to proceed with the LNP on a slower pace by extending the partial  
16 suspension and focusing near-term work on obtaining the COL. The Company  
17 implemented this decision with the execution of Amendment 3 to the EPC  
18 Agreement. As we explained in our testimony last year in Docket No. 100009-EI,  
19 Amendment 3 allowed PEF to implement the COL- focused option while  
20 minimizing near term costs and maintaining the favorable terms and levels of risk  
21 of the EPC Agreement during the licensing period. The Commission determined  
22 that the Company's decision was reasonable in Order No. PSC-11-0095-FOF-EI  
23 in Docket No. 100009-EI.

1           As a result, the Company is proceeding with the work necessary to obtain  
2 the LNP COL from the NRC, and engineering support work associated with the  
3 NRC approval of the AP1000 Standard Plant Design and Reference COLA (“R-  
4 COLA”). The Company is also proceeding with work in 2011 and 2012  
5 necessary to meet the current anticipated in-service dates for Levy Units 1 and 2  
6 in 2021 and 2022, which is based on receiving the COL by the second quarter of  
7 2013. This work generally falls within the following broad task descriptions for  
8 the LNP: (1) the performance of work activities needed to support environmental  
9 permitting and implementation of conditions of certification (“CoC”); (2) the  
10 continued disposition of long lead equipment (“LLE”) purchase orders; (3) the  
11 commencement of work on an updated transmission study given the current,  
12 anticipated in-service dates for Levy Units 1 and 2, the commencement of an  
13 updated Transmission Study, and any associated, targeted land acquisitions; (4)  
14 the preparations for, and the negotiations of, the EPC Agreement Amendment(s)  
15 necessary to efficiently end the current partial suspension of the LNP and  
16 continue with the LNP work on the current, anticipated LNP schedule; (5)  
17 continued participation in industry groups to advance the AP1000 design and  
18 operation; (6) active involvement in industry groups such as the Nuclear Energy  
19 Institutes (“NEI”) New Plant Working Group and Nuclear Plant Oversight  
20 Committee in addition to INPO’s New Plant Deployment Executive Working  
21 Group to engage and support industry peers and constructively influence NRC  
22 senior management in the development of regulatory response to emerging issues;

1 and (7) continued joint owner negotiations. PEF will continue to provide for the  
2 project management of these work tasks for the LNP in 2011 and 2012.

3  
4 **Q. What is the status of the LNP COLA?**

5 A. I have attached as Exhibit No. \_\_\_ (JE-1) the current NRC review schedule for  
6 the LNP COLA. The Company filed its COLA with the NRC in July 2008 and it  
7 was docketed with the NRC for acceptance review in October 2008. This  
8 acceptance review initiated a period of NRC Requests for Additional Information  
9 (“RAIs”) to respond to NRC questions about the LNP COLA. This period for  
10 NRC RAIs officially ended in May 2010 with the successful completion of the  
11 NRC RAIs. This does not mean that the NRC will not have any more questions  
12 about the LNP COLA and work on open RAIs is on-going, however, the initial  
13 NRC review of the LNP COLA and the RAIs generated by that review have been  
14 completed.

15 As also indicated in Exhibit No. \_\_\_ (JE-1), the draft environmental  
16 impact statement (“EIS”) for the LNP was issued in August 2010. The  
17 environmental review is one of the three parts to the NRC COLA review. The  
18 environmental review includes the review and issuance of a draft EIS for the  
19 LNP, a period of public comment and review, and the review and issuance of a  
20 final EIS (“FEIS”) for the LNP. The public comment period for the LNP draft  
21 EIS ended on October 27, 2010. The NRC staff responses to the public comments  
22 on the LNP draft EIS are due November 2011. The current NRC milestone for  
23 the FEIS is April 2012.

1           The second part of the NRC COLA review is the review and issuance of a  
2 Final Safety Evaluation Report ("FSER"). This is preceded by NRC review of the  
3 LNP COLA and the NRC's issuance of an Advanced Safety Evaluation Report  
4 ("SER") with no open items. The current NRC milestone for issuance of the  
5 Advanced SER is September 2011. The next step is review of the Advanced SER  
6 with no open items by the Advisory Committee on Reactor Safeguards ("ACRS").  
7 The ACRS is independent of the NRC staff and reports directly to the NRC. The  
8 ACRS is an advisory body that is structured to provide a forum for experts  
9 representing different technical perspectives. The ACRS provides independent  
10 advice to the NRC for consideration by the NRC in its licensing decisions. The  
11 NRC milestone for the ACRS review and report is January 2012. The ACRS  
12 review and report is followed by NRC review and the issuance of a FSER. The  
13 NRC milestone target for issuance of the FSER for the LNP COLA is April 2012.

14           The final part of the NRC COLA review is a formal hearing before the  
15 NRC Atomic Safety and Licensing Board ("ASLB") for any contentions to the  
16 LNP COLA admitted by the ASLB. In April 2009, the ASLB allowed three  
17 private anti-nuclear groups, the Nuclear Information and Resource Service  
18 ("NIRS"), the Ecology Party of Florida ("EPF"), and the Green Party of Florida  
19 ("GPF"), to intervene in PEF's NRC LNP COLA docket. Later, on July 8, 2009,  
20 the ASLB ruled on their contentions and admitted parts of three contentions to the  
21 LNP COL. One of those three admitted contentions has since been dismissed by  
22 the ASLB. A hearing is required for the remaining admitted contentions. The  
23 Company currently anticipates that the ASLB hearings will start in October 2012.

1 All three parts of the NRC COLA review for the LNP COLA must be  
2 complete before the NRC will issue a COL for the LNP. The Company currently  
3 expects the NRC to complete this review and issue the LNP COL in the second  
4 quarter of 2013. Exhibit No. \_\_\_ (JE-2) to my testimony graphically illustrates  
5 the steps and timing of the LNP COLA that I have addressed in my testimony.  
6

7 **Q. Has the expected date for NRC issuance of the LNP COL changed?**

8 A. Yes. At this time last year, based on the NRC's actions with respect to the LNP  
9 COLA and the NRC's review of the AP1000 Standard Plant Design, we  
10 anticipated that the NRC would issue the LNP COL at the end of 2012 or  
11 beginning of 2013 at the latest. We expressed, however, our view last year that  
12 the regulatory schedule uncertainty at the NRC had increased with respect to the  
13 LNP COLA review and the NRC's review of the AP1000 Standard Plant Design  
14 under the AP1000 Design Control Document ("DCD") amendment before the  
15 NRC. Our view that there was heightened regulatory schedule uncertainty at the  
16 NRC proved to be well founded. We expect now that issuance of the LNP COL  
17 has slipped from late 2012 or early 2013 to the second quarter of 2013 at the  
18 earliest.  
19

20 **Q. Did this change in the expected issuance of the LNP COL adversely impact**  
21 **the scheduled in-service dates for the Levy units?**

22 A. No, we do not think it has at this point. Our decision to proceed with the LNP on  
23 a slower pace by focusing work on obtaining the COL resulted in a longer term

1 schedule shift than a schedule shift that only accounted for prior NRC regulatory  
2 schedule uncertainty. I testified last year that the NRC regulatory schedule shifts  
3 at that time resulted in a minimum LNP schedule shift of 36 months, but that this  
4 was aggressive given the continued regulatory uncertainty that existed with the  
5 NRC LNP COLA and AP1000 DCD reviews. A 36-month schedule shift would  
6 have resulted in in-service dates of 2019 and 2020 for Levy Units 1 and 2. Our  
7 decision to proceed on a slower pace with the LNP resulted in a schedule shift  
8 beyond 36 months to the currently anticipated in-service dates of 2021 and 2022  
9 for Levy Units 1 and 2. The current change in the expected issuance of the LNP  
10 COL from late 2012 or early 2013 to the second quarter of 2013 at the earliest  
11 does not appear to adversely impact the expected 2021 and 2022 in-service dates  
12 for the Levy Units at this time. If there are further shifts in the NRC regulatory  
13 review schedules for the LNP COLA or the AP1000 DCD amendments, however,  
14 the currently anticipated in-service dates for the Levy Units may be impacted.

15  
16 **Q. What is the status of the NRC review of the AP1000 Standard Design?**

17 **A.** The NRC is still proceeding with the AP1000 Standard Design review pursuant to  
18 the NRC's revised schedule for the AP1000 DCD review issued June 21, 2010.  
19 According to that schedule, the NRC will complete the AP1000 DCD review and  
20 issue a final rule approving the AP1000 design by September 2011. The NRC  
21 and ACRS have reviewed the AP1000 design and declared that it is safe and  
22 meets all regulatory requirements. Further, on February 11, 2011, the NRC  
23 published for public comment the proposed rule that would amend the certified

1 AP1000 reactor design for use in the United States. This action is consistent with  
2 the current AP1000 DCD review schedule providing for the issuance of a final  
3 rule by September 2011.

4  
5 **Q. Are there other NRC regulatory reviews that have an impact on the LNP**  
6 **COL issuance schedule?**

7 A. Yes. The NRC's issuance of the LNP COL is dependent on the issuance of both  
8 the final rule approving the AP1000 design certification amendment and the R-  
9 COL. The R-COL is the Georgia Power Vogtle AP1000 plant site. The R-COL  
10 for the AP1000 standard plant design is expected in November 2011. This  
11 approval will allow the PEF LNP COL to be issued after completion of NRC  
12 reviews and required hearings. Neither the AP1000 design certification nor the  
13 R-COL is expected to impact the LNP COL schedule.

14  
15 **Q. Are there any other potential impacts to the LNP COL schedule?**

16 A. Yes. Recently, on March 11, 2011, a magnitude 9.0 earthquake occurred near the  
17 east coast of Honshu, Japan. This earthquake and the subsequent tsunami caused  
18 damage to at least four of six nuclear units located at the Fukushima Daiichi  
19 nuclear power station in Japan. These events have led to an increased interest  
20 globally in the safe design and operation of existing nuclear units and those that  
21 will be developed in the future. While it is still too early to fully assess the impact  
22 these recent events may have on the design review for new nuclear generation  
23 units, early indications are that these events will result in a review of the

1 regulatory and design requirements for these new units, which may impact the  
2 AP1000 Design Certification and COLA review schedules. If the AP1000 Design  
3 Certification or COLA review schedules are impacted, then, the current expected  
4 schedule and project cost estimate for the LNP may be impacted.

5           Additionally, these events have raised public concerns regarding nuclear  
6 plant safety, which may reduce public support for new nuclear development.  
7 Reduced public support may lead to the introduction of new contention challenges  
8 to the LNP COLA approval. It may also increase the risk premium for the  
9 financing of new nuclear development and/or reduce the current interest in joint  
10 ownership in the LNP. These additional risks were included in the Company's  
11 qualitative feasibility analysis that is discussed later in my testimony.

12           As I testified above, however, PEF is actively involved in industry groups,  
13 such as the NEI New Plant Working Group, NEI New Plant Oversight  
14 Committee, and INPO New Plant Deployment Executive Working Group, which  
15 are working with the NRC to respond to emerging issues like the issues that have  
16 arisen in Japan. These groups follow and help establish consistent direction  
17 around industry and regulatory issues associated with New Nuclear Projects.  
18 These groups will be directly involved in addressing the implications from Japan  
19 and will help shape potential regulatory outcomes from this event.

20  
21 **Q. What COLA work is being performed in 2011 and 2012?**

22 **A.** PEF will complete the testing and evaluation program that supports the seismic  
23 and structural evaluations for the LNP COLA. This includes completion of the

1 Roller Compacted Concrete ("RCC") mix design and specialty testing programs  
2 and the submission of structural, seismic, and other RAI responses to the NRC for  
3 the NRC review of the LNP COLA. PEF will also complete environmental  
4 surveys for the transmission routes and the work on, and submittal of, the United  
5 States Army Corps of Engineers ("USACE") Section 404 permit for the LNP.  
6 PEF will further provide the NRC with its annual LNP COLA update and begin  
7 preparations for the ASLB hearings and performance of activities required for  
8 conditions of certification and environmental permitting.

9  
10 **Q. What work is being performed in 2011 and 2012 for environmental**  
11 **permitting and the conditions of certification?**

12 **A.** Work supporting the completion of the Environmental Impact Statement by the  
13 NRC and the USACE will continue in 2011 and 2012. The NRC is the lead  
14 agency on the preparation of the FEIS, which is needed to receive the COL. The  
15 NRC has scheduled April 2012 for publication of the FEIS. The USACE is a  
16 cooperating agency for the FEIS and will rely on it as part of their determination  
17 to issue the Clean Water Act Section 404 Permit, which will be needed for  
18 construction. We anticipate receiving the Section 404 Permit later in 2012. Work  
19 supporting the completion of the FEIS and the Section 404 Permit includes  
20 responding to requests for additional information from the agencies based on  
21 comments they received on the Draft Environmental Impact Statement ("DEIS"),  
22 which was published in August 2010, supporting consultations with other federal  
23 agencies regarding cultural resources and threatened and endangered species, and

1 finalizing the Wetland Mitigation Plan to support the Section 404 Permit.  
2 Additionally, work will be conducted in 2011 and 2012 to ensure compliance with  
3 the Site Certification Conditions of Certification with regard to anticipation of site  
4 construction mobilization and initial construction land disturbance activities  
5 including: (i) County Building Permit determinations; (ii) Federal Aviation  
6 Authority ("FAA") lighting compliance; (iii) Avian Protection Plan; (iv)  
7 Threatened and endangered species surveys (e.g., Gopher Tortoise, Red-  
8 Cockaded Woodpecker, and Scrub Jay); (v) Construction site Storm Water  
9 Pollution Prevention Plan; (vi) Surface Water Management System Final Plans;  
10 and (vii) County road crossing and driveway permits.  
11

12 **Q. You also mentioned the disposition of LLE items, can you explain what that**  
13 **work involves?**

14 **A.** Yes. The LLE is a reference to fourteen equipment items most of which were part  
15 of the Company's Letter of Intent ("LOI") with the Consortium that were later  
16 incorporated into the EPC Agreement when it was executed. As a result, the LLE  
17 work progressed in accordance with the schedules for LLE included in the EPC  
18 Agreement. The Company's initial decision to partially suspend, and ultimate  
19 decision to extend the partial suspension period to proceed with the work on a  
20 slower pace until the COL is obtained, necessarily suspended the LLE work in  
21 accordance with the EPC Agreement schedules. This decision required the  
22 Company to work with the Consortium and its vendors on a process to disposition  
23 the LLE purchase orders ("POs") in accordance with the Company's decision.

REDACTED

1 The LLE PO disposition process in 2009 and 2010 is described in my March 1  
2 pre-filed direct testimony in this proceeding.

3 As I testified there, PEF employed a LLE PO disposition methodology  
4 that combined quantitative and qualitative criteria to meet the Company's  
5 objectives to minimize the near term costs and impact to customers while  
6 maintaining optimal flexibility for the future LNP construction. This  
7 methodology was used for each LLE PO item for the three potential paths, (1)  
8 continue and store, (2) suspend and resume, and (3) cancel and re-negotiate. As I  
9 also testified in my March testimony, using our LLE PO disposition methodology  
10 we recommended to senior management to pursue negotiations with the  
11 Consortium and its vendors to continue and store seven (7) LLE items and to  
12 suspend and resume seven (7) LLE items. Some of the "continue and store"  
13 recommendations were based on options limited to continue and store or cancel  
14 and re-negotiate by one vendor. Final LLE PO disposition decisions were made  
15 when negotiations were complete with the Consortium and its vendors.

16 Not all decisions on the disposition of LLE items were made in 2010. The  
17 majority of the outstanding LLE information (excluding the final proposals on the  
18 [REDACTED]), that was needed for final disposition was provided from  
19 the Consortium to PEF on February 1, 2011. Following the receipt of that  
20 information, PEF completed its reviews and made its final determination of  
21 disposition of all outstanding equipment but one.  
22  
23

REDACTED

1 **Q. What were the final LLE PO disposition decisions made by the Company?**

2 **A.** The LLE PO disposition negotiations are now complete for all but one of the LLE  
3 POs. PEF continues to negotiate suspend and resume terms with the Consortium  
4 and vendor for the [REDACTED]. Otherwise, as demonstrated in Exhibit  
5 No. \_\_\_ (JE-3) to my testimony, PEF successfully negotiated the disposition of  
6 LLE PO items with the Consortium and its vendors for thirteen (13) of the  
7 fourteen (14) LLE POs consistent with PEF's recommended decision to senior  
8 management. Change orders have either been executed or soon will be executed  
9 to implement PEF's LLE PO disposition decisions.

10  
11 **Q. Has the Company's LLE PO disposition decisions had an impact on the LLE  
12 PO disposition costs?**

13 **A.** Yes. As I testified in March 2011, the Company initially included [REDACTED] for the  
14 estimated LLE PO disposition costs in senior management presentations in early  
15 March 2010 that served as part of the basis for the Company's decision to proceed  
16 with the LNP on a slower pace. This was a conservative estimate based on the  
17 estimated costs to continue or cancel the LLE POs for later re-negotiation. The  
18 Company included [REDACTED] of this estimated cost in its actual/estimated 2010 cost  
19 estimates. The Company's ability to identify a third option – suspend and resume  
20 – to methodically identify recommended LLE PO dispositions, and to  
21 successfully negotiate the disposition of LLE POs consistent with the  
22 recommended disposition has reduced the estimated LLE PO disposition cost  
23 impact to PEF and its customers.

REDACTED

1           The Company included approximately [REDACTED] in the 2011 actual/estimated  
2 costs for LLE PO disposition (the actual/estimated 2010 LLE PO disposition costs  
3 were not incurred in 2010). This estimate may change with resolution of the final  
4 LLE PO disposition; however, the cost for the ultimate disposition of all LLE POs  
5 will still be well below the Company's initial estimate for the LLE PO disposition  
6 costs. These results depended on the Company implementing its LLE PO  
7 disposition methodology in Consortium and vendor LLE PO disposition  
8 negotiations. The ability to reasonably support the Company's LLE PO  
9 disposition decisions directly contributed to the lower LLE PO disposition cost  
10 impact to PEF and its customers.

11  
12 **Q. You testified that PEF would be moving forward with an updated**  
13 **transmission study, can you also explain why that work is necessary?**

14 **A.** Yes. An updated transmission study is necessary because the state-wide  
15 transmission system that the LNP will connect with is not static, but instead  
16 changes with PEF and other electric utility resource and transmission system  
17 additions. The initial transmission study for the LNP was performed for the Levy  
18 units based on 2016 and 2017 in-service dates. Now that the Levy units are  
19 expected to come on-line in 2021 and 2022, an updated transmission study must  
20 be performed to determine the transmission system impacts of the LNP given the  
21 later than originally planned in-service dates for Levy Units 1 and 2 and the  
22 changes in the state-wide transmission system. PEF will begin preparations for

1 the updated transmission study in 2011. It is expected that a new transmission  
2 study will be completed by late 2012.

3  
4 **Q. Will the updated transmission study have an impact on the LNP project**  
5 **cost?**

6 A. The results of the transmission study are not known at this time. Once the  
7 updated LNP transmission study is completed, the results are analyzed, and a  
8 project work scope based on the study is defined we will be in a better position to  
9 estimate the impact of such changes, if any, on the LNP project cost.

10  
11 **Q. You also testified that you will be preparing for and negotiating an**  
12 **Amendment to the EPC Agreement, can you explain why that work is**  
13 **necessary for the LNP?**

14 A. Yes. The Company's decision to proceed with the LNP on a slower pace was  
15 implemented through Amendment 3 to the EPC Agreement. Amendment 3 to the  
16 EPC Agreement extended the existing partial suspension while primarily  
17 providing for work necessary to support receipt of the LNP COL to continue.  
18 Another Amendment to the EPC Agreement is necessary to terminate the partial  
19 suspension terms and establish the basis for a full notice to proceed ("FNTP") and  
20 a contract schedule for continuation of all work necessary to complete Levy Units  
21 1 and 2. PEF will commence preparations for the negotiation of this Amendment  
22 in 2011 and proceed with the contract negotiations in 2012. These negotiations  
23 will include reviewing the terms and conditions required to implement the FNTP

1 and a new schedule for the LNP work consistent with our current expected  
2 schedule for the in-service dates for Levy Units 1 and 2. These negotiations will  
3 also include additional, potential changes that have developed since the partial  
4 suspension was implemented.

5  
6 **Q. Are there any potential changes that have developed that will need to be**  
7 **addressed during the Amendment negotiations?**

8 A. Yes. One issue to address is the negotiation of existing EPC Agreement design  
9 change proposals. These design change proposals exist because of changes to the  
10 AP1000 design identified during Westinghouse Design Finalization activities.  
11 When PEF executed the EPC Agreement with the Consortium the Agreement  
12 incorporated the known changes specified in the EPC Agreement. Since  
13 execution of the EPC Agreement, the Consortium has identified additional design  
14 changes due to Design Finalization and in response to the NRC AP1000 DCD  
15 review. Currently, the NRC is reviewing AP 1000 DCD Revision 19 for  
16 approval. The Design Change Proposals identified since the execution of the EPC  
17 Agreement will need to be incorporated into the EPC Agreement. These  
18 negotiations will include a determination of financial responsibility for the Design  
19 Change Proposals between the Consortium and the Company. The negotiations  
20 with respect to amending the EPC Agreement to include these Design Change  
21 Proposals, therefore, may impact the LNP schedule and the LNP total project  
22 cost. The impact of the negotiations to incorporate these Design Change

1           Proposals on the LNP schedule and total project cost cannot be determined at this  
2           time.

3  
4           **Q.    Is all of this work necessary for the LNP?**

5           A.    Yes. All of this work is reasonable and necessary in 2011 and 2012 to move the  
6           LNP forward on a schedule with the expected in-service dates for Levy Units 1  
7           and 2 in 2021 and 2022, respectively. PEF is moving forward with this work on  
8           the LNP in 2011 and 2012 with the intent of meeting the current estimated in-  
9           service dates for Levy Units 1 and 2. All of this work in 2011 and 2012 is  
10          reasonable and necessary to meet that schedule.

11  
12          **IV.   TRUE UP TO ORIGINAL COST FILING FOR 2011.**

13          **Q.    Has the Company filed schedules to provide information truing up the**  
14          **original estimates to the actual costs incurred?**

15          A.    Yes. These true up to original cost ("TOR") schedules are attached as Exhibit No.  
16          \_\_\_ (TGF-3) to Mr. Foster's testimony. I am co-sponsoring schedule TOR-6 and  
17          sponsoring schedule TOR-7 attached as Exhibit No. \_\_\_ (TGF-3) to Mr. Foster's  
18          testimony. This updated project baseline estimate is consistent with the estimate  
19          PEF provided in the TOR schedules last year in Docket No. 100009-EI. The total  
20          project cost estimate for the LNP has not changed; however, the estimated annual  
21          expenditures have been revised to reflect our latest projections. It is still premised  
22          on a conservative Class 4/Class 5 estimate consistent with the best practices of the  
23          Association for the Advancement of Cost Engineering ("ACE"), the

1 fundamental terms and conditions of the existing EPC Agreement, as amended,  
2 and the current project schedule for the LNP with the in-service dates for Levy  
3 Units 1 and 2 in 2021 and 2022. As I previously testified, however, the current  
4 total project cost estimate is dependent upon, among other things, Consortium  
5 negotiations.

6  
7 **V. FEASIBILITY.**

8 **Q. Did the Company prepare an updated feasibility analysis for the LNP?**

9 A. Yes. The Company prepared a feasibility analysis consistent with the feasibility  
10 analysis it performed for the LNP in 2010 that was reviewed and approved by the  
11 Commission in Order No. PSC-11-0095-FOF-EI in Docket No. 100009-EI. This  
12 feasibility analysis is a two-step process. The Company employs both a  
13 qualitative and quantitative feasibility analysis. The qualitative analysis is an  
14 analysis of the technical and regulatory capability of completing the plants, the  
15 enterprise risks, and the costs and benefits of completing the Levy nuclear power  
16 plants. The quantitative analysis is an updated CPVRR economic analysis that  
17 includes comparisons to the cost-effectiveness CPVRR analysis in the Company's  
18 need determination proceeding for the LNP described in Order No. PSC-08-0518-  
19 FOF-EI. The Company's updated CPVRR economic analysis for the LNP is  
20 included as Exhibit No. \_\_\_ (JE-4) to my testimony. I explain the results of the  
21 Company's feasibility analysis for the LNP in my testimony and the exhibits to  
22 my testimony.

23

1 **Q. Beginning with the Company's qualitative analysis, is the LNP feasible from**  
2 **a technical standpoint?**

3 A. Yes, it is. The completion of the LNP is technically feasible if the AP1000  
4 nuclear reactor design can be successfully installed at the Levy site. The AP1000  
5 nuclear reactor design remains a viable nuclear reactor technology. Other  
6 utilities, in particular Southern Company and SCANA, are still moving forward  
7 with the licensing and construction of their proposed nuclear units using the  
8 AP1000 design. Southern Company continues with preconstruction site work at  
9 the Vogtle site where it will employ the AP1000 nuclear reactor technology. The  
10 Haiyang and Sanmen AP1000 nuclear reactor projects are under construction in  
11 China. In fact, in February 2011, the Chinese government made a policy decision  
12 to primarily focus on the development of nuclear generation using the AP1000  
13 design due to its passive safety system. The continued development and  
14 construction of nuclear reactors using the AP1000 design demonstrates that the  
15 AP1000 reactor is a viable nuclear technology.

16 The review of the Company's LNP COLA using the AP1000 design  
17 continues at the NRC. There is no indication in this review that the AP1000  
18 design is not viable or that it cannot be used at the Levy site. In fact, as we  
19 indicated last year, the NRC review of the LNP COLA is proceeding with the  
20 understanding that the AP1000 nuclear reactor design will be used at the Levy  
21 site. The Company is continuing with its work on the necessary tests to complete  
22 the NRC's review of the geotechnical aspects of the Levy site in 2011 and expects

1 at this time that the NRC review will be complete in accordance with the current  
2 NRC schedule for the LNP COLA.

3  
4 **Q. Is the LNP feasible from a regulatory perspective?**

5 A. Yes. PEF still believes that all legal and regulatory licenses and permits for the  
6 LNP can be obtained. The NRC has not suspended or terminated its review of the  
7 LNP COLA, the RCOLA, or the AP1000 DCD review and is, in fact, proceeding  
8 with these reviews. The NRC has provided PEF no indication that these reviews  
9 will not be completed and the applicable licenses issued. The NRC and ACRS  
10 have reviewed the AP1000 design and declared that it is safe and meets all  
11 regulatory requirements. As a result, there is no reason to believe that the LNP  
12 COL will not be issued upon completion of the NRC's review of the LNP COLA.

13  
14 **Q. Does the nuclear incident in Japan following the earthquake and tsunami**  
15 **that you discussed previously change your assessment of the feasibility of the**  
16 **LNP from a regulatory perspective?**

17 A. No, not at this time. As I testified earlier, these events may lead to further delays  
18 in the AP1000 DCD review or COLA reviews, including the LNP COLA review,  
19 but that is an expected part of the process, not a reason to believe that the AP1000  
20 design will not be ultimately approved or the COLA reviews successfully  
21 completed and the COLs issued. The United States nuclear industry has a long  
22 history of continuously incorporating lessons learned from the operating  
23 experience of nuclear power plants around the world. The nuclear industry will

1 accordingly carefully analyze the Japanese accident and how reactors, systems,  
2 structures, components, fuel, and operators performed and incorporate lessons  
3 learned into United States reactor designs and operating practices. We fully  
4 expect this process to apply to existing nuclear power plants and those that will be  
5 built in the future. This is the way we operate to ensure the safety at existing and  
6 planned nuclear power plants. The fact that the nuclear industry will incorporate  
7 lessons learned from the recent Japanese experience in the review of new nuclear  
8 power plants does not mean, therefore, that there is any reason to believe the  
9 regulatory approval will not ultimately be granted following that review.

10 All existing and planned nuclear power plants in the United States must be  
11 designed to deal with a wide range of natural disasters, whether they are  
12 earthquakes, tsunamis, tornados, hurricanes, storm surges, floods, or other  
13 extreme seismic or weather events. This includes the AP1000 nuclear reactor  
14 design. Further, the AP1000 is a passive design that does not rely on emergency  
15 diesel generators for safety related power to ensure core cooling. Unlike the  
16 damaged Japanese nuclear units, which depended on electrical power from diesel  
17 generators that were inoperable as a result of the tsunami for safety related  
18 cooling with the loss of power due to the earthquake and tsunami, the AP1000  
19 design will automatically place itself in a safe shutdown state, cooling the reactor  
20 passively without reliance on an external power source for some time until power  
21 is restored to the active coolant systems. This passive system relies on internal  
22 condensation and natural recirculation, natural convection and air discharge, and

1 stored water all contained within the robust structures of the containment and its  
2 shield building to cool the reactor even without electrical power.

3 Additionally, the Japanese reactors at Fukushima were in a high seismic  
4 risk area on the coast and located on the same power plant site. The LNP site is  
5 located in an area of low seismic risk, it is located away from the Crystal River  
6 site therefore avoiding the concentration of generation at one site, and the LNP  
7 site is located approximately eight miles inland at an elevation of fifty feet. In  
8 any event, the application of the AP1000 design to the LNP site will be designed  
9 and built to withstand natural disasters, including earthquakes, tsunamis, and the  
10 more likely hurricanes and storm surges. For example, the tsunami that struck the  
11 Japanese reactors at Fukushima was reported at 14 meters (or 47 feet). Although  
12 a tsunami of this magnitude is considered to be unrealistic in the Gulf of Mexico,  
13 evaluation has determined that a tsunami of this magnitude would not result in  
14 flooding of the LNP. The application of the AP1000 design at the LNP will meet  
15 all requirements to operate safely under extreme seismic and weather conditions.

16 Further, the AP1000 shield building design was revised to increase structural  
17 design to address concerns regarding possible aircraft impact. The Levy COLA also  
18 incorporates actions to address beyond design basis events in response to security  
19 considerations following 9/11. Although these strategies are developed in response  
20 to projected security threats, the strategies also provide additional protection against  
21 any beyond design basis event regardless of the initiating event. Specifically, the  
22 LNP COLA contains Mitigative Strategies Description and Plans that the Levy plant  
23 will implement in the event that a large area of the facility is lost due to beyond

1 design basis events, such as explosions or fire, unlike the specific Japanese nuclear  
2 units located at Fukushima.

3 As a result, we expect the AP1000 design will receive all required  
4 regulatory approvals. These regulatory approvals may take longer as a result of  
5 the assessment of the Japanese nuclear reactor operating experience and  
6 incorporation of lessons learned. A reduction in public support for new nuclear  
7 development as a result of the public reaction to the nuclear operating experience  
8 in Japan following the extreme earthquake and tsunami may also slow the  
9 regulatory approval process for the AP1000 and COLAs, for example, as a result  
10 of potential new contention challenges. These potential risks were taken into  
11 account in our qualitative feasibility analysis for the LNP. However, there is no  
12 reason to believe now that the regulatory approvals for the AP1000 and the  
13 COLAs will not be obtained as a result of recent events in Japan. We are, of  
14 course, closely monitoring international and national responses to the Fukushima  
15 event.

16  
17 **Q. How did the Company evaluate the enterprise risks associated with the LNP?**

18 **A.** As we explained last year, the qualitative analysis of the enterprise risks facing  
19 the LNP is more of a holistic analysis rather than a measurable or computable  
20 analysis. The effects of most enterprise risks cannot be quantified or measured in  
21 mathematical terms, they cannot realistically be weighed against other enterprise  
22 risks, and, therefore, they cannot be compared based on a quantifiable or  
23 measureable standard. The Company must instead evaluate the enterprise risks by  
24 identifying events or circumstances that have changed and then use its judgment

1 to determine if those events or circumstances represent fundamental changes in  
2 the project's enterprise risks. The Company continued to employ this process for  
3 evaluating the LNP enterprise risks as part of its qualitative feasibility analysis  
4 this year.

5  
6 **Q. What conclusions did the Company form from its evaluation of the LNP**  
7 **enterprise risks?**

8 A. As a result of our qualitative analysis of the LNP enterprise risks last year we  
9 concluded that there was a noticeable increase in the amount of uncertainty  
10 associated with the enterprise risks impacting the LNP. Last year, this analysis  
11 confirmed the Company's decision to move forward with the LNP on a slower  
12 pace with a narrowed scope of work that was focused on obtaining the LNP COL.  
13 Our qualitative analysis of the LNP enterprise risks this year confirms that this  
14 decision was the correct one to make last year. While we have noticed a few  
15 favorable or slightly favorable trends in the LNP enterprise risks, most enterprise  
16 risks remain neutral compared to our evaluation last year, and there are a couple  
17 of unfavorable trends that we are watching closely to determine if they represent  
18 fundamental changes in the project enterprise risks. Our updated qualitative  
19 analysis of the LNP enterprise risks, therefore, confirms our decision to take a  
20 more cautious approach to proceeding with the LNP.

1 Q. What were the favorable trends in the enterprise risks facing the project?

2 A. One favorable trend is in the Company's access to capital. The reason for this  
3 favorable trend is the announcement this year of the proposed merger between  
4 Progress Energy, Inc. and Duke Energy, Inc. The rating agencies and equity  
5 analysts have generally responded favorably to the announced merger proposal.  
6 Upon announcement of the proposed merger, Fitch Ratings ("Fitch") affirmed the  
7 ratings of Progress Energy and the Company and indicated the rating outlook was  
8 stable. Moody's Investors Service ("Moody's") also affirmed the Company's  
9 credit ratings and placed them on stable outlook. Standard & Poor's ("S&P")  
10 placed Progress Energy and the Company on CreditWatch with positive  
11 implications in response to the announcement of the proposed merger. Moody's  
12 further commented that the proposed merger better positions the combined  
13 company to undertake the construction of new nuclear generation. These rating  
14 agency reports are included as Exhibit No. \_\_\_ (JE-5) to my testimony.

15 The proposed merger is a positive development for the Company's  
16 position with respect to access to capital for necessary capital projects including  
17 the LNP. This positive development must be tempered, however, because it  
18 depends on the merger of the two companies, which has not yet occurred. The  
19 merger is subject to several regulatory approval processes and will take  
20 approximately one year to close if those regulatory approvals are obtained. As a  
21 result, during 2011 and until the closing, the two companies will continue to  
22 operate as separate entities and the merger has no impact on the Company or the  
23 LNP.

1 **Q. Are there any other reasons to be cautious about drawing the conclusion that**  
2 **there is an improvement in the risk associated with the Company's ability to**  
3 **raise the necessary capital for the LNP?**

4 **A.** Yes. There are other cautionary notes to the positive development in the  
5 Company's potential access to capital for the LNP. That is, first, that the current  
6 positive rating agency and equity analyst comments must be placed in the context  
7 of the prior rating agency actions and comments on the Company's credit and  
8 capital position. As we explained last year, following the adverse base rate  
9 decision by the Commission, Moody's placed PEF's long-term debt ratings and  
10 short term commercial paper rating on review for possible downgrade in January  
11 2010, and S&P placed PEF's long-term ratings on CreditWatch with negative  
12 implications in January 2010. Moody's later downgraded PEF one notch in April  
13 2010. S&P later reaffirmed the Company's credit rating but with a negative  
14 outlook in March 2010. As a result, the recent positive reactions from the rating  
15 agencies due to the announcement of the proposed merger between Progress  
16 Energy and Duke Energy does not change the fact that PEF's current credit  
17 ratings in 2011 are lower than they were prior these adverse rating agency actions  
18 in late 2009 and early 2010.

19 The reason for these adverse rating actions was the perceived decline in  
20 the political, regulatory and economic environments in Florida in 2009 and early  
21 2010. The recent rating agency reports indicate there has been some stabilization  
22 in the political and regulatory environment in Florida, particularly with the  
23 Company's 2010 base rate settlement establishing base rates through 2012.

1 Improvement in the political, regulatory, and economic environments, however,  
2 will be necessary to maintain or improve PEF's current credit ratings. Indeed,  
3 Moody's – who downgraded PEF in early 2010 – made clear that any “[r]ating  
4 upgrades are unlikely given last year's adverse regulatory development in  
5 Florida,” among other factors. See Exhibit No. \_\_\_ (JE-5) to my testimony. PEF  
6 will need to demonstrate to the rating agencies that it can obtain necessary rate  
7 relief for its prudent capital project and operational costs through the cost  
8 recovery mechanisms and future base rate proceedings to improve its credit  
9 ratings and, as a result, regain the ground lost in late 2009 and early 2010 with the  
10 credit agencies.

11 Second, the Company's recent experience with its Crystal River unit 3  
12 (“CR3”) nuclear power plant may impact the Company's credit ratings, and thus,  
13 its ability to raise capital for capital projects including the LNP. CR3 remains off-  
14 line as a result of a further delamination in one section of the exterior concrete to  
15 the CR3 containment building. The rating agencies have not taken any adverse  
16 credit action as a result of this event to date, but they are closely following it.  
17 S&P, for example, publicly announced that its ratings for PEF and Progress  
18 Energy are not immediately affected by this event, however, S&P further  
19 explained that timely and full recovery of remaining and additional repair and  
20 replacement power costs will be very important to S&P in continuing to support  
21 PEF's and Progress Energy's credit profiles. The on-going resolution of the  
22 recent events at CR3, and the ultimate reaction of the rating agencies and capital  
23 markets to that resolution, is another reason to be cautious regarding the

1 Company's future ability to raise capital at a reasonable cost for the Company's  
2 capital projects, including the LNP.

3  
4 **Q. Were there any other favorable trends in the LNP enterprise risks?**

5 A. There was one other enterprise risk that was viewed as slightly favorable this  
6 year, largely as a result of the Company's decision to proceed with the LNP on a  
7 slower pace. This decision reduced the near-term capital costs for the LNP and,  
8 therefore, reduced the near term impact of these costs on customer bills as the  
9 Florida economy slowly rebounds. As we explained last year, the economic  
10 recession affected customer ability to pay for nuclear generation development and  
11 led to an increase in customer complaints in 2009 about any increase in their bills,  
12 including increases for new nuclear generation. The Company took steps in 2008  
13 and again in 2009, in the respective nuclear cost recovery dockets, to mitigate the  
14 impact of nuclear cost recovery on customer bills as a result of the on-going  
15 recession. The Commission approved both of the Company's proposals and, as a  
16 result, the recovery of approved nuclear costs was deferred from 2009 to 2010 and  
17 then amortized over a five year period commencing in 2010. This action lowered  
18 customer bills in 2009 and 2010 due to the LNP costs.

19 The Company's decision last year to extend the partial suspension of the  
20 LNP under the EPC Agreement and proceed with the project work on a slower  
21 pace, focusing on obtaining the LNP COL, also reduced the near term costs of the  
22 project to PEF's customers. As a result of the Company's decision, the customer  
23 bills will be lower in 2011 and 2012. Exhibit No. \_\_\_\_ (JE-6) to my testimony

1 includes a representative chart of the actual and estimated Levy residential bill in  
2 dollars per 1000 kilowatthours ("kWh") for 2010, 2011, and 2012. As the exhibit  
3 shows, PEF was able to reduce the LNP costs to customers on their bills as the  
4 economy slowly recovers from the recession in 2011 and 2012. As a result, PEF  
5 believes the customer ability to pay for and support new nuclear development has  
6 a slightly favorable impact. The customer ability to pay for and support new  
7 nuclear development will, of course, be tested again in future years, however,  
8 beyond the LNP COL when work on the project will increase to meet the current,  
9 estimated in-service dates for Levy Units 1 and 2 in 2021 and 2022.

10  
11 **Q. What risks did the Company determine to be neutral in the Company's**  
12 **analysis of enterprise risks?**

13 **A.** The enterprise risk associated with the economic conditions generally and in  
14 particular in Florida is, at best, neutral at this time. As we explained last year, the  
15 country and, in particular, Florida suffered the worst economic recession in late  
16 2008 and 2009 since the Great Depression. The effects of this recession  
17 continued in this country throughout 2010, especially in Florida, which was  
18 particularly hard hit in the construction and housing industries. Throughout 2010,  
19 Florida continued to be among the leading states in the number of foreclosures,  
20 business failures, and unemployment, even though economic conditions slowly  
21 began to improve in the country in mid- to late 2010. There are signs that  
22 economic conditions are starting to improve in Florida in 2011, but this

1 improvement is slow, and proceeding at a slower pace than the Company  
2 predicted last year.

3 The Florida unemployment rate is higher than the national average and the  
4 Florida housing market continues to decline on nearly every measure. Florida's  
5 year-over-year employment growth did not turn positive until the summer of  
6 2010, but even then the increase remained anemic as employment levels in  
7 construction, manufacturing, and government sectors continued to decline. A  
8 robust construction industry has normally pulled Florida out of prior recessions,  
9 but this cannot be expected given the high vacancies in existing housing and  
10 commercial buildings. The expectations for improvements in the Florida  
11 economy are low. At best, a slow recovery is expected in 2011, but even this  
12 recovery may be potentially hampered by Florida's government budget shortfalls.  
13 If the economic recovery does not stall in 2011, it is expected to continue to grow  
14 slowly in Florida in 2012.

15  
16 **Q. How have these economic conditions affected the Company?**

17 **A.** As we explained last year, PEF was not immune to the recession. Between 2008  
18 and 2009 PEF lost customers in its service area. This loss of customers continued  
19 into 2010. PEF experienced twenty-one straight months of negative year-over-  
20 year retail customer growth that did not end until April 2010. PEF also  
21 experienced dramatic declines in customer energy sales in 2009 and a dramatic  
22 increase in low use accounts due to more vacant but active accounts as a result of  
23 the recession. These effects continued in 2010. On a weather normalized basis,

1 PEF's retail megawatt-hour ("MWh") energy sales and KWH use per customer  
2 both declined in 2010. PEF's residential KWH use per customer in fact reached  
3 levels that were last experienced in 1993. The chart attached as Exhibit No. \_\_\_\_  
4 (JE-7) to my testimony demonstrates the effects of the economic recession on  
5 PEF's residential and retail sales. Between 2000 and 2005, PEF's residential  
6 MWh sales grew at a rate of 2.9 percent and residential KWH use per customer  
7 grew at a rate of .4 percent. Total retail MWh sales grew at a rate of 2.2 percent.  
8 However, between 2005 and 2010, PEF's residential MWh sales declined by 1.6  
9 percent and residential KWh use per customer declined at an even more dramatic  
10 rate of 2.3 percent. Total retail MWh sales declined 1.2 percent. As this exhibit  
11 makes clear, PEF's retail customer energy use and sales declined significantly  
12 during the recession and remains at levels well below energy use and sales levels  
13 prior to the recession.

14 As a result, PEF is digging out of a significant hole. Retail MWh sales are  
15 expected to remain flat and slightly increase over the course of 2011 with slow  
16 growth in 2012. Residential KWh use per customer is expected to remain flat  
17 through 2011 and 2012. Customer growth is expected to continue a slow rebound  
18 that began in mid-2010 with expected growth in both 2011 and 2012. As shown  
19 in Exhibit No. \_\_\_\_ (JE-7), between 2010 and 2015 residential MWh sales are  
20 expected to grow 1.4 percent while residential KWh use per customer is expected  
21 to grow only .2 percent. Retail MWh sales are forecasted to grow 1.9 percent and  
22 retail customer growth is forecasted at 1.3 percent over this period. While this  
23 forecast demonstrates a return to sales and customer growth following the

1 recession, the growth has not returned to the pre-recession growth rates PEF  
2 experienced between 2000 and 2005.

3  
4 **Q. What has been the impact on customer demand for energy on PEF's system?**

5 A. Lower customer growth and lower sales growth during the recession resulted in  
6 lower near term loads on PEF's system. Less generation, therefore, was required  
7 to meet the total energy demands required by PEF's system load during the  
8 recession. The return of slow customer and sales growth means an increase in  
9 retail load because increases in customers and sales drive increases in retail load.  
10 As I described previously, these increases are expected to continue in 2011 and  
11 2012, but this growth is only replacing growth that was lost during the recession.  
12 Retail customer growth and sales growth is not anticipated to reach pre-recession  
13 levels until after 2012. This slow load growth reduces PEF's need for new base  
14 load generation in the short term. This is consistent with our decision last year to  
15 move forward with the LNP on a slower pace.

16  
17 **Q. Did the recessionary impacts you describe affect the Company financially?**

18 A. Yes. Fewer customers, lower customer use, and lower energy sales during the  
19 recession translate into lower revenues. This impact continued into 2010 and led  
20 the Company to request additional non-cash relief in the form of certain  
21 accounting adjustments from the Commission as part of its base rate settlement  
22 that was approved by the Commission in 2010. This settlement provided the  
23 Company non-cash earnings while maintaining existing base rates through 2012

1 for PEF's customers. While this settlement stabilized PEF's earnings through  
2 2012 and provides PEF customers stable base rates as the Florida economy slowly  
3 emerges from the recession, PEF must face the longer term impact of these lower  
4 revenues. Simply put, PEF is not generating sufficient revenues to cover its cost  
5 of service and provide it with cash earnings at a level to ensure the future  
6 investment of capital in the Company to meet its future capital needs.

7 The reasons PEF is in this situation are, first, even though PEF's retail  
8 MWh sales fell during the recession and are forecast to only slowly improve in  
9 2011 and 2012, PEF cannot proportionally reduce its costs in response to these  
10 declining and flat sales revenues. PEF has an obligation to provide electric  
11 service on demand to its customers. PEF cannot shut down power plants and  
12 other assets when faced with declining or flat sales revenues to improve its  
13 financial position as many private companies without an obligation to serve can  
14 do. PEF must continually improve and maintain its capital assets to ensure that its  
15 customer energy needs are met instantaneously. To illustrate this point, even  
16 though retail energy sales declined significantly during 2009 and 2010, demand  
17 for energy at peak times on PEF's system did not decrease, it increased. PEF's  
18 customers set new winter peaks in 2009 and again in 2010. Peak demand drives  
19 capital investment in generation, transmission, and distribution. PEF must invest  
20 this capital to ensure that needed assets are in place to meet customer energy  
21 demands at the peak times. As a result, PEF's cost to meet customer peak  
22 demand for energy increased during the recession. Yet, PEF had less retail sales

1 revenues to cover the costs of meeting the higher peak demands for energy that  
2 our customers require.

3 Second, providing electric service is a capital intensive industry. PEF  
4 must incur costs to build, replace, and maintain the generation, transmission, and  
5 distribution assets required to generate electrical energy for customers and  
6 transmit it from power plants to areas where it can be distributed to customer  
7 homes and businesses. These costs are primarily fixed costs because they are for  
8 existing assets that must be maintained, repaired, or replaced on a regular basis.  
9 PEF generally must finance these capital investments by obtaining funds from the  
10 capital markets. Financial market participants, either in the debt (bond) or equity  
11 markets, expect to be reimbursed for and earn a return on their investment in the  
12 debt and equity of the Company. Their continued willingness to invest the capital  
13 PEF needs to meet its service obligations depends on the Company's financial  
14 condition. The Company must generate sufficient revenues to cover all its costs,  
15 including its capital costs, by generating sufficient revenues to provide the return  
16 on the debt and equity invested in the Company that is expected.

17  
18 **Q. Has the Company's views on the Florida economy changed since last year?**

19 A. No. We explained last year that it was unlikely that we would see significant  
20 improvement in PEF's sales revenues in 2011. We still believe that is the case.  
21 We expect the Florida economy to slowly improve in 2011 and 2012 with retail  
22 sales picking up only in 2012. We do not expect, though, a return to the pre-  
23 recession customer and sales growth. The recession in Florida was severe and it

1 will take time for the Florida economy to recover. The rebound from this  
2 recession is expected to be much slower than the rebound from prior recessions.

3 It is important to remember too, that PEF is starting from a lower point in  
4 customer growth and retail sales, and a much lower point in customer usage than  
5 before the recession. Even with slow growth in customers and retail sales in 2011  
6 and 2012, it will take time for PEF to regain the customers and retail sales levels  
7 lost in the recession. In other words, PEF has a big sales revenue gap to close in  
8 2011 and 2012. This will take time, especially when residential customer usage is  
9 projected to remain flat in 2011 and 2012 and beyond, due to the economy and the  
10 Commission's Demand Side Management ("DSM") goals decision. As we  
11 explained last year, while PEF expects the economic recovery in Florida to  
12 improve in 2011, PEF does not expect this economic recovery will result in a  
13 significant improvement in PEF's near term financial position in 2011 and 2012.

14  
15 **Q. You mentioned the impact of the DSM goals decision on PEF, what is that**  
16 **impact?**

17 **A.** We do not fully know yet. A final decision is expected later this year. What we  
18 do know is that the Commission's decision in Order No. PSC-09-0855-FOF-EG  
19 adopted goals for the Florida investor owned utilities ("IOUs") based on the  
20 enhanced Total Resource Cost ("E-TRC") test and that this test results in higher  
21 estimated energy savings than the other tests because it does not consider utility  
22 lost revenues or customer incentive payments in evaluating the costs and benefits  
23 of a DSM program. The Commission also adopted DSM goals for the IOUs

1 based on historically excluded DSM measures that encouraged free riders because  
2 there was a payback of two years or less without incentives. Both of these  
3 decisions in the Commission's order increased the DSM goals beyond those  
4 proposed by the IOUs and previously approved by prior Commission actions. In  
5 fact, the PSC Order called for more than five times the energy reduction due to  
6 the adopted DSM goals compared to the energy reduction based on the previously  
7 accepted test for determining the DSM goals that PEF proposed. This means  
8 more DSM programs and measures at greater cost to customers and, with the  
9 higher DSM goals, lower energy usage overall. As a result, this decision will  
10 directly increase customer bills and indirectly reduce customer use and sales.  
11 PEF has included an estimate of this impact in its updated load forecast, but the  
12 exact degree and nature of all possible impacts cannot be determined at this time.

13 In November 2010, the Commission required PEF to file two plans for  
14 consideration. One plan corresponded to the DSM goals set for PEF by the  
15 Commission in Order No. PSC-09-0855-FOF-EG. The second plan involved  
16 DSM measures and programs that produced one-half the targeted DSM goals in  
17 Order No. PSC-09-0855-FOF-EG. The consideration of both plans is presently  
18 before the Commission. The ultimate impact of the DSM goals on PEF's load  
19 depends on the Commission's final decision implementing the DSM goals  
20 programs for PEF and the ultimate customer response to the DSM programs and  
21 measures. The estimated impact that PEF included in its updated load forecast,  
22 however, does result in lower customer usage and sales and contributes to the flat

1 usage and slow energy sales growth resulting from the economic impact in 2011  
2 and 2012.

3  
4 **Q. Are there other Florida regulatory or legislative actions that were evaluated**  
5 **in your qualitative analysis of the LNP enterprise risks?**

6 A. Yes. We have continued to follow Florida legislation that may potentially impact  
7 the LNP. This includes recent legislation by the same state legislator who  
8 introduced similar legislation last year to repeal the nuclear cost recovery statute.  
9 This repeated legislative attempt to repeal the nuclear cost recovery statute  
10 contradicts the express State energy policy to increase fuel diversity and reduce  
11 Florida's dependence on fossil fuels subject to supply interruptions and price  
12 volatility that led to the enactment of the nuclear cost recovery statute. As we  
13 explained last year, such legislative actions concern the Company because the  
14 development of new nuclear generation in Florida is a long term project and  
15 continued legislative support -- as evidenced by the existing State energy policy  
16 and nuclear cost recovery statute and rule -- is necessary to successfully complete  
17 the project. The goals of fuel diversity and reduction of Florida's dependence on  
18 fossil fuels for energy generation cannot be met without continued legislative  
19 support. Because attempts to undermine the nuclear cost recovery statute have  
20 been unsuccessful so far we considered the reoccurrence of this proposed  
21 legislation this year to have a neutral impact in the qualitative analysis of LNP  
22 enterprise risks at this time. As the Company moves forward with the LNP,  
23 however, repeated attempts to undermine the current legislative and regulatory

1 support for new nuclear development will raise further concerns with respect to  
2 the successful development of the LNP.

3  
4 **Q. What additional state legislative or regulatory policy decisions may impact  
5 the LNP that you evaluated in your enterprise risk analysis for the LNP?**

6 A. PEF continues to follow the potential development of a renewable portfolio  
7 standard ("RPS") in Florida. As we explained last year, legislation was passed in  
8 2008 instructing the Commission to produce a draft RPS rule for consideration by  
9 the state legislature. The Commission Staff developed a proposed RPS rule and  
10 the Commission, with some modifications to the proposed rule, voted to approve  
11 the proposed RPS rule in early January 2009 for submittal to the Florida  
12 Legislature. The gist of the proposed rule is a 20 percent renewable target by  
13 2020 with a cap on incremental costs at two percent of retail revenue annually.  
14 Through two legislative sessions the Florida Legislature has failed to consider the  
15 Commission's proposed RPS rule. The Commission RPS docket remains open  
16 pending further direction from the Florida Legislature regarding a RPS standard  
17 for Florida.

18 There also is no federal RPS standard for utilities. An RPS that included  
19 energy efficiency was included in the Waxman-Markey proposal that passed the  
20 House. A similar RPS proposal was included in the Bingaman proposal that  
21 passed out of committee in the Senate. No RPS standard was adopted by  
22 Congress, however, as comprehensive energy legislation stalled in Congress in  
23 2010. Recent movements in Congress have been toward a "Clean Energy"

1 standard, which would include new nuclear, clean coal, and other non-traditional  
2 renewable resources. The outcome of energy legislation in Congress, including a  
3 federal RPS or "Clean Energy" standard, however, remains in doubt.

4 As we explained last year, the development of an RPS for Florida utilities  
5 will have an impact on the cost of utility resource decisions to meet the RPS.  
6 RPS resource options and resource alternatives that must be available when RPS  
7 resources are unavailable generally are more costly than conventional generation  
8 resource options. As a result, there will be customer bill impacts if an RPS is  
9 adopted for Florida utilities. The precise effects of the RPS on resource decisions  
10 and costs to customers, however, remain uncertain at this time.

11  
12 **Q. Are there any other federal or state policy issues that you evaluated this year**  
13 **as part of your qualitative feasibility analysis?**

14 A. Yes. State and federal support for new nuclear development is an important  
15 qualitative consideration. Federal support for new nuclear generation remains  
16 unclear. The President has continued to express support for new nuclear  
17 generation similar to his announcement in the 2010 State of the Union address  
18 supporting loan guarantees for new nuclear development, however, little progress  
19 has been made in a year in turning this vocal support into concrete action.  
20 Additionally, the administration still appears to support the abandonment of  
21 Yucca Mountain as the federal nuclear waste storage option despite opposition to  
22 this decision by representatives, senators, state attorneys general, and the National  
23 Association of Regulatory Utility Commissioners ("NARUC"). As a result, while

1 presidential and administrative statements supporting new nuclear development  
2 are welcomed, the current administration's concrete support for the development  
3 of new nuclear generation remains uncertain and ill defined. At best, federal  
4 support for nuclear generation has a neutral impact on our current qualitative  
5 feasibility analysis.

6  
7 **Q. You have testified to favorable and neutral trends in the LNP enterprise**  
8 **risks, were there any identified unfavorable trends?**

9 A. Yes. One of the two unfavorable trends we observed was in the federal and state  
10 energy and environmental policy with respect to climate control and greenhouse  
11 gas ("GHG") legislation and regulation. This fundamental enterprise risk is  
12 important to the LNP from both a qualitative and quantitative perspective.  
13 Quantitatively, the effect of climate control and GHG legislation and regulation is  
14 reflected in an estimated carbon cost impact in the Company's economic, CPVRR  
15 feasibility analysis discussed in more detail below. Qualitatively, climate control  
16 and GHG legislation or regulation promotes nuclear generation because nuclear  
17 energy generation produces no GHG emissions. As we explained last year,  
18 additional clarity regarding federal and/or state climate and environmental policy  
19 provides the Company valuable information regarding the qualitative and  
20 quantitative benefits of nuclear energy generation. Unfortunately, that additional  
21 clarity has not yet been provided at either the federal or state government level.

22 In Washington, Congress did not take action on a climate or energy bill in  
23 2010. With the elections in 2010, action on this legislation either through the

1 form of a cap-and-trade system or carbon tax is not expected in 2011 and remains  
2 unclear for 2012. As we observed last year, debate continues over potential  
3 climate control legislation, but Congress seems no closer to proposed legislation  
4 to regulate GHG emissions now than it did in 2008, and there appears to be no  
5 reason to expect Congressional action this year.

6 There similarly has been no further action on climate control legislation or  
7 regulation at the state level. As we explained previously, the Florida Legislature  
8 directed the Florida Department of Environmental Protection ("FDEP") to delay  
9 the adoption of any carbon emissions rule until after 2009 and to submit any such  
10 rule to the Florida Legislature for approval. The FDEP decided not to ask the  
11 Florida Legislature to approve the adoption of a carbon emissions rule in the 2010  
12 Florida Legislative session and we are not aware that the FDEP has asked or will  
13 ask the Florida Legislature to consider such regulation in 2011. As a result, there  
14 is still no movement toward federal or state climate control legislation that  
15 provides guidance on what the regulation of GHG emissions will look like, when  
16 it will be implemented, and what it will cost.

17 Because the legislation regulating GHG emissions remains uncertain this  
18 year and potentially next year too, we concluded that the lack of clear legislative  
19 direction on climate control at the federal and state government levels was an  
20 unfavorable trend in our qualitative feasibility analysis. Depending on the  
21 structure and levels of GHG emission control standards, such legislation can have  
22 a significant impact on PEF's generation fleet and future generation resource  
23 planning, in particular, the LNP. The lack of certainty regarding what this

1 legislation will be and when it will impact the Company negatively impacts our  
2 evaluation of this risk in our current qualitative feasibility analysis.

3  
4 **Q. Does this assessment mean that the Company does not expect there to be**  
5 **climate control legislation or regulation?**

6 A. No. PEF still expects some form of climate control legislation at the federal  
7 and/or state level. Indeed, much of the debate about climate control legislation or  
8 regulation has concentrated on what that legislation should entail and when it  
9 should be implemented rather than whether it should be implemented at all. No  
10 general movement to abandon climate control legislation or regulation appears to  
11 be gaining significant support at the federal or state government levels. However,  
12 the continued uncertainty about what form this regulation will take and when it  
13 will occur while federal and state climate control and environmental policy with  
14 respect to GHG emissions is determined, is a concern. The fact that a uniform  
15 climate control policy remains unsettled, then, is the reason this enterprise risk is  
16 viewed as an unfavorable trend for the LNP.

17 In fact, although Congress and the Florida Legislature have not acted on  
18 some uniform climate control legislation, the federal Environmental Protection  
19 Agency ("EPA") has aggressively pursued the regulation of GHG emissions  
20 under the Clean Air Act. The EPA moved forward with the Tailoring Rule in  
21 2010, which is the first rule under the stationary provisions of the Clean Air Act  
22 controlling GHG emissions. The Tailoring Rule requires air permits issued for  
23 new, large industrial sources and other major new and modified sources to include

1 limits on GHG emissions. As of January 2, 2011, these sources have to obtain  
2 Prevention of Significant Deterioration ("PSD") permits. These PSD permits will  
3 require regulated sources to comply with GHG emission limits using the "best  
4 available control technology ("BACT")". The EPA issued a guidance document  
5 entitled "PSD and Title V Permitting Guidance for Greenhouse Gases" to address  
6 the PSD applicability to GHG, BACT, and other requirements.

7 Additionally, the EPA will propose new source performance standards  
8 ("NSPS") for GHG emissions standards for power plants by July 2011. The  
9 NSPS standards will set the level of GHG emissions that new power plants may  
10 emit and will also address emissions from existing power plant facilities. Finally,  
11 the EPA has imposed GHG reporting requirements on certain facilities that emit  
12 25,000 metric tons or more of GHGs per year. These reports were due to the EPA  
13 on March 31, 2011 but that deadline has now been extended. While unclear last  
14 year, it is now clear that the EPA has no intention of waiting on federal legislation  
15 before implementing GHG emissions regulations. Further, congressional  
16 legislation and litigation to delay the EPA's efforts to regulate GHG emissions  
17 have stalled.

18 The EPA's regulation of GHG emissions is one indication that GHG  
19 regulation is here to stay. It is still likely that future federal and/or state energy  
20 and environmental policy will include climate control aspects that cover GHG  
21 emissions from sources like power plants. Therefore, there appears to be no  
22 fundamental change in climate control policy that would adversely impact the  
23 LNP. Unfortunately, this policy remains a more long term one and, in the near

1 term, it is still unclear what form climate control policy will take, what the  
2 ultimate regulation of GHG emissions will look like, and when they will be  
3 implemented.

4  
5 **Q. What was the other unfavorable trend that you observed in evaluating the**  
6 **LNP enterprise risks?**

7 A. We observed a trend toward lower natural gas fuel prices. This is also both a  
8 qualitative and quantitative risk factor in the LNP feasibility analysis because the  
9 trend in natural gas prices can be and has been quantified in the Company's  
10 economic CPVRR feasibility analysis. Natural gas prices and carbon costs are  
11 two key drivers in the economic CPVRR analysis. Generally, lower natural gas  
12 price forecasts reduce, and higher natural gas price forecasts increase the cost-  
13 effectiveness of new nuclear generation. Qualitatively, then, we evaluate the  
14 natural gas price forecasts over a broader time period than the annual quantitative  
15 feasibility analysis update to determine if there are any observable trends in the  
16 forecasts and what might be causing those trends. What we have observed is a  
17 downward trend in natural gas prices and, thus, the forecast prices from 2009  
18 through the current updated fuel forecast used in the Company's quantitative  
19 feasibility analysis. This downward trend in fuel forecasts, in particular natural  
20 gas price forecasts, is an unfavorable trend for the LNP.

21 This downward trend in the natural gas price forecasts corresponds with  
22 the recession that is still impacting the economy, particularly in Florida. This  
23 downward trend also corresponds to the discovery and initial development of

1 additional natural gas supplies from shale gas reserves in the United States. Both  
2 of these factors likely are causing or contributing to the downward trend in the  
3 natural gas price forecasts. PEF will continue to closely monitor natural gas price  
4 forecasts throughout 2011 and 2012 to determine if the lower natural gas price  
5 forecasts year-over-year reflect gas prices settling into a long-term low price trend  
6 or reflect the continued effects of the recession. There is insufficient information  
7 at this point to determine if there has been a fundamental shift in fuel prices  
8 reflecting a longer-term trend toward lower natural gas prices.

9  
10 **Q. What conclusions did the Company draw from the qualitative feasibility**  
11 **analysis?**

12 A. As I have explained, some enterprise risk factors exhibit favorable to slightly  
13 favorable trends, some appear to be exhibiting unfavorable trends with respect to  
14 the LNP, and others have an apparent neutral impact on the LNP. All in all, little  
15 has changed in a year. There has been no dramatic increase in or decrease in the  
16 uncertainty associated with the multiple factors that impact the LNP. There also  
17 have been no evident fundamental changes in the project's enterprise risks that  
18 either suggest moving forward more quickly with the LNP or cancelling the  
19 project at this time. This confirms the Company's decision last year to proceed  
20 with the LNP on a slower pace, focusing the near-term work and capital  
21 investment in the project on obtaining the LNP COL. The Company will continue  
22 to monitor the enterprise risks for the LNP, including in particular, the  
23 unfavorable trends for the LNP associated with the uncertainty surrounding

1 climate control and carbon cost regulation and the lower natural gas price  
2 forecasts, as it moves forward with the project in 2011 and 2012.

3  
4 **Q. What was the Company's quantitative feasibility analysis?**

5 A. As I indicated previously, PEF conducted the CPVRR analysis requested in  
6 Commission Order No. PSC-09-0783-FOF-EI and approved in this Order and  
7 Order No. PSC-11-0095-FOF-EI as its required economic analysis. The CPVRR  
8 analysis includes the required updated fuel, environmental, and carbon  
9 compliance cost estimates. The CPVRR analysis also includes a project cost  
10 estimate based on the current, estimated future in-service dates for the Levy  
11 nuclear power plants. This project cost estimate and estimated in-service dates  
12 for the Levy units remains unchanged from the project cost estimate and in-  
13 service date estimates used in the CPVRR analysis last year. The updated  
14 CPVRR economic analysis compares the LNP to an all natural gas-fired base load  
15 generation scenario using a range of fuel forecasts and a range of potential carbon  
16 compliance cost estimates. This is the same approach that the Company used to  
17 prepare the CPVRR cost-effectiveness analysis in the need determination  
18 proceeding for the LNP.

19 Consistent with the CPVRR analysis last year, the Company is providing  
20 CPVRRs for PEF ownership levels of the LNP of 100 percent, 80 percent, and 50  
21 percent. PEF is also providing total LNP project cost sensitivities for cases  
22 ranging from 15 percent less to 25 percent greater than the currently estimated  
23 project cost. See Exhibit No. \_\_ (JE-4) to my testimony.

1 **Q. What were the results of the Company's quantitative feasibility analysis?**

2 A. The updated CPVRR analysis shows that the LNP is more cost effective than the  
3 all natural gas generation resource plan in the mid-fuel forecast at all ownership  
4 levels, provided that future carbon costs are included, except in the lowest carbon  
5 cost scenario at the 50 percent ownership level. Overall, the CPVRR analysis  
6 shows that the LNP is more cost effective in 10 out of 15 cases at the 100 and 80  
7 percent ownership levels and 9 out of 15 cases at the 50 percent ownership level.  
8 See Exhibit No. \_\_ (JE-4), p. 8. Based on this year's CPVRR snapshot, the LNP  
9 does not appear to be cost effective at any ownership level in the low fuel  
10 reference case except in the highest carbon cost estimate case. Conversely, the  
11 LNP appears to be cost effective in the high fuel reference case in any scenario,  
12 including the no carbon cost case. See Exhibit No. \_\_ (JE-4), p. 8. This CPVRR  
13 analysis demonstrates as previous CPVRR analyses did that lower forecasted fuel  
14 prices tend to decrease and higher forecasted fuel prices tend to favor the LNP  
15 resource plan compared to the all natural gas resource plan. Fuel forecasts appear  
16 as before to be a significant driver in this CPVRR analysis.

17  
18 **Q. Did you run more cases in the CPVRR analysis last year?**

19 A. Yes. We included low and high bandwidth fuel cases in our CPVRR analysis last  
20 year. These additional fuel price forecast cases were added because of the  
21 uncertainty in fuel price forecasts, in particular natural gas price forecasts, in the  
22 market. This year, our updated fuel forecast has settled in a range around the low  
23 bandwidth fuel forecast case last year. As a result, we did not see the need to

1 develop bandwidths around our updated fuel forecast this year. Natural gas prices  
2 have fallen and the current mid fuel forecast case recognizes the lower natural gas  
3 prices in the forecast. This updated fuel forecast was developed by the Company  
4 consistent with its fuel forecast practices that incorporate fuel projections from  
5 widely accepted industry sources. See Exhibit No. \_\_\_\_ (JE-4), p. 4. Accordingly,  
6 the number of cases included in the current CPVRR analysis reflects the number  
7 of cases included in previous CPVRR analyses for the LNP, including the  
8 CPVRR analysis in the LNP need case.

9  
10 **Q. How does this updated CPVRR compare to the CPVRR provided in the LNP**  
11 **need case?**

12 **A.** The results in the updated CPVRR analysis are similar to the results of the  
13 CPVRR analysis in the LNP need case. Both CPVRRs show the LNP to be cost  
14 effective compared to an all natural gas resource plan in most cases. The LNP is  
15 more favorable than the all natural gas resource plan in 10 of 15 potential fuel and  
16 carbon cost emission scenarios in the updated CPVRR analysis and in 9 out of 15  
17 potential fuel and carbon cost emission scenarios in the LNP need case. Both  
18 CPVRRs indicate the LNP is more cost effective than the all natural gas resource  
19 plan in all high fuel reference cases and that the natural gas resource plan is more  
20 cost effective in most low fuel reference cases. In both the LNP need case  
21 CPVRR and the updated CPVRR analysis the LNP resource plan is more cost  
22 effective than the all natural gas resource plan in more potential fuel and carbon  
23 cost scenarios at the 100 percent, 80 percent, and 50 percent ownership levels.

1        See Exhibit No. \_\_\_ (JE-4), pp. 7-8. As a result, the updated CPVRR produces  
2 results that are slightly more favorable to the LNP than the CPVRR results in the  
3 LNP need case even though the updated CPVRR analysis assumes later in-service  
4 dates for the Levy units and a corresponding higher total project cost than the  
5 need case CPVRR analysis.

6                The estimated in-service dates for the Levy units and the estimated total  
7 project cost in the updated CPVRR remain unchanged from the CPVRR analysis  
8 last year. They still represent the Company's current best estimates of the LNP  
9 total project cost and Levy unit in-service dates. These estimates, however, will  
10 likely change with the finalization of an EPC Agreement amendment that  
11 establishes schedules, unit in-service dates, and that further refines the LNP cost  
12 estimates through negotiations to implement that amendment to the EPC  
13 Agreement. In addition, these estimates will change pending the results of the  
14 updated transmission system study expected to be completed in mid-2012.

15  
16 **Q.    What conclusions were drawn from the updated CPVRR feasibility analysis?**

17 **A.**    The updated CPVRR analysis continues to indicate that the LNP is economically  
18 viable and has the potential to provide PEF and its customers with billions of  
19 dollars of savings over the life of the project. The Company must note, however,  
20 that the CPVRR analysis should not be considered a litmus test for the LNP. The  
21 Company continues to believe that the long term projections upon which the  
22 CPVRR analysis are based on are necessarily uncertain and subject to change  
23 from year-to-year. Consequently, this type of analysis cannot be considered the

1 sole basis for a decision to proceed or not with the project, especially at the early  
2 stages of the LNP. Instead, the Company continues to view the CPVRR as one  
3 factor among many factors that must be considered in making a decision about  
4 moving forward with the project.

5  
6 **Q. What did the Company conclude with respect to the feasibility of completing**  
7 **the LNP?**

8 A. The Company determined that completion of the LNP remains feasible based  
9 upon its qualitative and quantitative feasibility analyses.

10  
11 **VI. LNP EVALUATION.**

12 **Q. Did the Company evaluate its approach to the LNP?**

13 A. Yes, the Company evaluates the LNP each year and with any major change in the  
14 project enterprise risks or project schedule, scope, or cost as part of its on-going  
15 project management. This evaluation includes the analyses used to determine the  
16 feasibility of completing the Levy nuclear units, but the Company also takes a  
17 broader, more holistic view of the project to determine if completion of the LNP  
18 remains in the best interests of the Company and its customers. In this broader  
19 view, the Company weighs the costs and benefits of completing the LNP,  
20 including the long-term benefits of additional nuclear generation such as fuel  
21 diversity, reduced reliance on foreign fossil fuels, base load capacity needs, and  
22 the reduction in environmental emissions for the Company and the state. These  
23 longer-term, nuclear generation benefits are the same benefits that the Florida

1           Legislature recognized in the 2006 legislation that included adoption of the  
2           nuclear cost recovery statute and that this Commission recognized in the  
3           Company's LNP need determination.  
4

5   **Q.    Can you explain what the Company considered in its evaluation of the LNP**  
6   **this year?**

7   **A.    Yes. The Company evaluated the project status, enterprise and project risks, and**  
8   **costs and benefits of the LNP to determine if its decision to proceed with the LNP**  
9   **on a slower pace by focusing near-term capital and work on obtaining the LNP**  
10   **COL should be changed. The Company included the additional delay in the LNP**  
11   **COLA review, the unfavorable trends in the carbon cost certainty, natural gas**  
12   **price forecasts for the LNP, and the relatively unchanged other enterprise risks**  
13   **that I have discussed above, in its evaluation. This evaluation included project**  
14   **cancellation and project continuation with the current estimated in-service dates**  
15   **for the Levy units in 2021 and 2022. To be consistent with our responses to the**  
16   **Office of Public Counsel's ("OPC's") questioning last year, we again considered**  
17   **and provided details for a scenario where EPC cancellation may be required post-**  
18   **COL receipt. These options were considered and evaluated as part of the**  
19   **Company's on-going evaluation of all options for the LNP to determine the best**  
20   **option for the Company and its customers.**  
21  
22  
23

REDACTED

1 **Q. What were the results of the Company's evaluation of the LNP this year?**

2 A. The Company determined that its current decision to proceed with the LNP on a  
3 slower pace by focusing work on obtaining the LNP COL remains the best  
4 decision for the Company and its customers at this time. An updated Integrated  
5 Project Plan ("IPP") was presented to and approved by senior management on  
6 March 29, 2011. No fundamental change in the project or the LNP enterprise and  
7 project risks at this time compels a decision to accelerate or cancel the project.  
8 The near-term estimated capital costs to proceed with the LNP exceed the cost to  
9 cancel the project after the COL is obtained by approximately [REDACTED]. See  
10 Exhibit No. \_\_\_ (JE-8) to my testimony. This additional cost to proceed with the  
11 LNP at this point, while significant, is not so substantial that it compels a change  
12 in the Company's decision without a fundamental change in the project or project  
13 enterprise risks that adversely affects the LNP. As a result, the Company  
14 determined that the best course at this time for the Company and its customers  
15 with respect to the LNP was to stay the course and proceed consistent with its  
16 decision last year to move forward with the project on a slower pace to reduce  
17 near-term capital costs and focus work on obtaining the LNP COL.

18  
19 **VII. JOINT OWNERSHIP.**

20 **Q. Does PEF continue to believe there are benefits to joint ownership in the**  
21 **LNP?**

22 A. Yes. PEF continues to believe that joint ownership in the LNP provides PEF and  
23 its customers the benefits of sharing the costs and risks of the LNP with other

1 parties. Nothing has changed since last year to lead PEF to believe those benefits  
2 do not exist. As a result, PEF continues to pursue joint ownership opportunities in  
3 the LNP.

4  
5 **Q. What is the current status of joint ownership in the LNP?**

6 A. There is continued interest in joint ownership participation in the LNP. As we  
7 explained last year, that interest exists, but it has not led to joint ownership  
8 commitments because of the effects of the economic recession and the uncertainty  
9 with respect to project cost, timing, and federal and state energy and  
10 environmental policy. The Company has continued joint ownership discussions  
11 and meetings with potential joint owners.

12  
13 **Q. What about recent reports of joint ownership option agreements in other  
14 planned nuclear generation projects, will those agreements affect the interest  
15 in joint ownership in the LNP?**

16 A. No, we do not believe they will, in fact, these joint ownership agreements  
17 demonstrate that there is continued interest among Florida utilities in joint  
18 ownership participation in the development of new nuclear generation. These  
19 agreements, apparently involving Jacksonville Electric ("JEA") and the Orlando  
20 Utilities Commission ("OUC"), reflect the recognition by these municipal electric  
21 utilities in Florida that new nuclear generation is a prudent future generation  
22 option for Florida. We believe this view is generally held by other Florida  
23 utilities who value fuel diversity in a future that includes carbon and other

1 greenhouse gas emission constraints in addition to other fossil fuel environmental  
2 regulations.

3 Additionally, these agreements appear to be non-binding options that  
4 preserve the right of these municipal electric utilities to buy into the new nuclear  
5 power plants years from now, if the development of these new nuclear power  
6 plants continues. They do not reflect firm commitments today to participate in the  
7 equity ownership of these proposed new nuclear power plants. As a result, we do  
8 not believe these agreements represent a constraint on joint ownership  
9 participation in the LNP. Further, there is no indication that these municipal  
10 electric utilities are no longer interested in joint ownership participation in the  
11 LNP at this time.

12  
13 **VIII. CONCLUSION.**

14 **Q. How would you characterize the LNP at this point?**

15 **A.** PEF is proceeding with the LNP on an estimated schedule for completion of the  
16 Levy units in 2021 and 2022. This is the result of the Company's implementation  
17 of its decision last year to proceed with the LNP on a slower pace, focusing near-  
18 term capital expenditures and work on obtaining the LNP COL from the NRC.  
19 The Commission determined that this decision was reasonable in Order No. PSC-  
20 11-0095-FOF-EI. The Company has evaluated that decision this year and  
21 determined that there is no reason to change it at this time. The Company's  
22 qualitative and quantitative feasibility analyses demonstrate that completion of the  
23 LNP is still feasible. There have been no fundamental changes in the project or

1 the LNP enterprise or project risks at this time that require the Company to  
2 reconsider its decision. As a result, the Company is staying the course and  
3 proceeding with the LNP consistent with its decision last year.  
4

5 **Q. Does this conclude your direct testimony?**

6 **A. Yes.**

1 **BY MR. WALLS:**

2 Q. Mr. Elnitsky, do you have a summary of your  
3 prefiled testimony?

4 A. Yes, I do.

5 Q. Will you please provide that to the Commission  
6 at this time?

7 A. Yes.

8 Good afternoon. My name is John Elnitsky. As  
9 Progress Energy's Vice-President for new generation  
10 programs and projects, I'm responsible for the  
11 leadership of the Levy Nuclear Plant Project and the  
12 management of the engineering procurement and  
13 construction contract, or EPC, as you will hear today  
14 for the Levy nuclear plants.

15 By way of background, I joined Progress Energy  
16 in 2007 after being fortunate enough to serve in the  
17 United States Navy for over 30 years. While I was in  
18 the Navy, I commanded an Ohio class nuclear submarine,  
19 and oversaw the construction of two nuclear submarines  
20 through initial criticality and sea trials. I also had  
21 the opportunity to serve as the Atlantic Submarine  
22 Forces Chief Nuclear Power Officer, and in that capacity  
23 I was responsible for the safe reactor plant operations  
24 of over 30 submarines and four nuclear maintenance  
25 activities. My last job in the Navy was as the Admiral

1 in charge of the Navy's Undersea Warfare Center in  
2 Newport, Rhode Island, where I led a 4,100 member  
3 workforce and a 1.3 billion annual budget in nuclear  
4 submarine research, development, and engineering. I'm a  
5 certified Department of Defense acquisition professional  
6 and a Project Management Institute professional.

7 My March 2nd, 2011, Direct Testimony describes  
8 the disposition of purchase orders for 14 pieces of  
9 long-lead equipment that were procured under Progress  
10 Energy Florida's EPC contract with the consortium of  
11 Westinghouse, Shaw, Stone and Webster. I will explain  
12 the detailed decision process that went into  
13 dispositioning that long-lead equipment as well as the  
14 actions that we took to try to reduce cost impact to the  
15 customers.

16 My May 2nd, 2011, Direct Testimony explains  
17 the company's implementation of the decision we made  
18 last year to proceed with the Levy nuclear project on a  
19 slower pace. This decision focused our project work on  
20 obtaining the combined operating license, or COL, from  
21 the Nuclear Regulatory Commission and other permitting  
22 work and actions necessary to begin construction on the  
23 plant after receipt of the combined operating license  
24 and upon issuance of a full notice to proceed to the  
25 consortium. The Commission reviewed that

1 decision-making process last year in the docket and  
2 found it reasonable.

3 My testimony supports the reasonableness of  
4 the company's 2011 actual estimated cost and our 2012  
5 projected cost. PEF continues to work on obtaining the  
6 COL from the Nuclear Regulatory Commission in mid-2013  
7 and in performing other project work that's necessary to  
8 move forward on the current schedule to bring Levy Units  
9 1 and 2 in service in 2021 and 2022 respectively.

10 This work includes the disposition of  
11 long-lead equipment purchase orders, the licensing and  
12 permitting work necessary to begin construction, the  
13 preparations for and updating of a transmission study,  
14 and preparations to negotiate an EPC amendment that will  
15 end the current partial suspension and execute a full  
16 notice to proceed. We have continued to meet all  
17 project milestones in our control.

18 I also provide and explain the company's  
19 long-term feasibility analysis for completing the Levy  
20 Nuclear Plant. This includes the company's quantitative  
21 and qualitative feasibility analyses. The company's  
22 long-term quantitative feasibility analysis demonstrates  
23 that the Levy Nuclear Plant is economically feasible and  
24 strikes the appropriate balance between near-term costs  
25 and long-term benefits.

1           The qualitative feasibility analysis indicates  
2 the Levy Nuclear Plant is feasible from a regulatory and  
3 technical perspective. The qualitative feasibility  
4 analysis also addresses enterprise risks that face the  
5 project, and those risks have changed since last year.  
6 However, there is no fundamental change in these risks  
7 that, in our judgment, would cause us to either  
8 accelerate the project or cancel it. Overall, the  
9 company's updated feasibility analysis confirms the  
10 decision made last year to proceed with the project on a  
11 slower pace.

12           I'm available to answer any questions  
13 regarding my testimony. Thank you.

14           **MR. WALLS:** We tender Mr. Elnitsky for  
15 cross-examination.

16           **CHAIRMAN GRAHAM:** Thank you. Intervenors.  
17 Who is first?

18           **MR. SAYLER:** OPC, Mr. Chairman.

19           As a housekeeping matter, before I get  
20 started, four exhibits were passed out to all parties,  
21 including the Commissioners. I just want to make sure  
22 that you have those handy. And I will also give you the  
23 order in which I will address those to hopefully speed  
24 things along. Once we reach those, if you would prefer,  
25 we can identify and give short titles at this time or we

1 can do that at the time that we get to that in my  
2 cross-examination of Mr. Elnitsky.

3 **CHAIRMAN GRAHAM:** I think right now is fine.

4 **MR. SAYLER:** All right. The first exhibit is  
5 a composite, NRC documents regarding Levy in service  
6 dates.

7 **CHAIRMAN GRAHAM:** Okay. We will label that  
8 as --

9 **MR. SAYLER:** NRC documents?

10 **CHAIRMAN GRAHAM:** -- 205.

11 **MR. SAYLER:** Okay. The second exhibit is a  
12 composite exhibit containing excerpts from Progress  
13 Energy's SEC 10Q and 10K filings for about the last 12  
14 months. I also have for optional completeness a CD-ROM  
15 that contains the entire 10Ks and 10Qs. Those are two  
16 to 300 pages each. So to save a few trees, I just did  
17 the excerpts, and I provided the court reporter a copy  
18 of both, the excerpts, or if Progress Energy would  
19 prefer, the entire 10K filing and 10Q filing. We can  
20 also provide that. And I do have a copy for Progress,  
21 if they would like that on disk, as well. That would  
22 be -- a short title would be Progress Energy SEC  
23 Filings.

24 **CHAIRMAN GRAHAM:** Okay.

25 **MR. SAYLER:** The next exhibit is a

1 confidential exhibit signified by the red cover, and  
2 that would be August 2010, SMC Scenario Analysis.

3 **CHAIRMAN GRAHAM:** August 2010, SMC --

4 **MR. SAYLER:** SMC Scenario Analysis.

5 **CHAIRMAN GRAHAM:** And we will number that one  
6 207.

7 **MR. SAYLER:** And, finally, the last exhibit is  
8 a composite exhibit containing Progress Energy Florida's  
9 CPVRR analyses for the Levy project. It's a composite  
10 containing years 2008 through 2011, so, CPVRR Analysis  
11 '08 to '11.

12 **CHAIRMAN GRAHAM:** And that is 208.

13 (Exhibit Numbers 205 through 208 marked for  
14 identification.)

15 **MR. SAYLER:** Thank you very much,  
16 Mr. Chairman.

17 **MS. HELTON:** Mr. Chairman, I hate to  
18 interrupt, but I'm going to anyway. On Exhibit 206, I  
19 think that we probably need to at some point make the  
20 record clear whether we are going to be taking in just  
21 the excerpts or the complete filing of the SEC 10Q and  
22 10K filings.

23 **CHAIRMAN GRAHAM:** Okay. We'll make sure  
24 before we enter that into the record if we're just  
25 dealing with what's in front of us or the entire thing.

1 MS. HELTON: Okay.

2 CHAIRMAN GRAHAM: OPC.

3 MR. SAYLER: Thank you.

4 CROSS EXAMINATION

5 BY MR. SAYLER:

6 Q. Good afternoon, Mr. Elnitsky. How are you  
7 today?

8 A. Good afternoon, Mr. Sayler.

9 Q. We've had the privilege of discussing your  
10 testimony and rebuttal before. I counted up almost 18  
11 hours worth of deposition. I certainly hope to shorten  
12 that by about a third, and maybe we can get Mr. Foster  
13 to do the math for us on that. But, no, seriously, I'm  
14 going to try to move along on a quick pace for the  
15 benefit of the Commissioners and the parties, because I  
16 know the parties have quite a few questions.

17 According to your May direct testimony,  
18 Mr. Elnitsky, because of the schedule shift in the Levy  
19 project, Progress is currently working on the Levy  
20 project at a slower pace, is that correct?

21 A. Yes, that's correct. And if you'd point me to  
22 the actual pages so I can reference them.

23 Q. Page 10, Line 6; Page 16, Line 16; Page 18,  
24 Line 14.

25 A. Okay.

1 Q. Any one of those -- and there are many other  
2 instances where you reference going at a slower pace.

3 A. Okay.

4 Q. Isn't it true, even with this slower pace, it  
5 is your testimony that you and Progress Energy have  
6 every expectation that the Levy project will be in  
7 service by the 2021 to 2023 time frame, is that right?

8 A. No. What we expect is that, as I testified in  
9 my direct testimony, that Levy Unit 1 would come in  
10 service in 2021, Levy Unit 2 in 2022.

11 Q. Okay. And you have absolutely no reason to  
12 doubt the 2021 or 2022 in service dates, do you?

13 A. Not based on our current project plan, no.

14 Q. Would you agree that there is potentially a  
15 better than 50 percent chance that those in service  
16 dates could slip beyond that time frame?

17 A. No.

18 Q. In your testimony, especially your June  
19 deposition, you mentioned that the Levy project is  
20 proceeding according to its program of record, is that  
21 correct?

22 A. Say again where that's from.

23 Q. In your deposition there were numerous  
24 references to the program of record, is that correct?

25 A. Program of record or plan of record. Program

1 of record is probably an old military term of mine, but  
2 basically that's the plan.

3 Q. Okay. And the integrated -- IPP,  
4 integrated --

5 A. Project plan.

6 Q. -- project plan, that embodies the program of  
7 record, is that correct?

8 A. That's correct.

9 Q. And the current program of record was  
10 established by the most recent IPP, is that correct?

11 A. That's correct. The most recent IPP dated  
12 March of 2011 established our current project plan and  
13 is the authorization under which we are continuing  
14 forward.

15 Q. And you have attached those as an exhibit to  
16 your rebuttal testimony, correct?

17 A. Yes, I have.

18 Q. Isn't it true that you're using the program of  
19 record to mean that your plan for bringing the Levy  
20 plant on line would be a commercial operation date of  
21 2021 for the first unit and 2022 for the second unit,  
22 correct?

23 A. That's correct.

24 Q. And when you refer to the phrase project or  
25 program of record, the "of record" portion means that is

1 a matter of public record?

2 A. That's correct. It is part of what we have  
3 documented. What I was referring to was what we had  
4 documented in our integrated project plan.

5 Q. Okay. And government agencies, such as the  
6 Public Service Commission, the NRC, the Florida DEP, the  
7 Army Corps of Engineers, and other agencies can rely  
8 upon it, correct?

9 A. Yes.

10 Q. In 2010, you participated in developing some  
11 high level strategic scenario plans for the senior  
12 management committee of Progress, correct?

13 A. No.

14 Q. You did not participate in developing those  
15 scenarios?

16 A. No, other than as we discussed in my  
17 deposition, other than providing inputs in terms of  
18 capital costs for projects, I did not develop those  
19 scenarios.

20 Q. So you did not develop the scenarios, but you  
21 participated and provided inputs to that scenario  
22 planning process, correct?

23 A. Yes, I provided inputs to the process specific  
24 to capital costs for projects.

25 Q. And isn't it true that most of those scenarios

1 that the SMC considered last year included alternative  
2 dates for the Levy project?

3 A. No.

4 Q. Well, when we get to that we'll address it,  
5 but there were five scenarios, correct?

6 A. Yes, there were five scenarios evaluated.

7 Q. Okay. One scenario had -- the March 2010  
8 scenario had an in service date on the current program  
9 of record, correct?

10 A. That's correct.

11 Q. And the other four had different in service  
12 dates, correct, and one had no in service date?

13 A. That's correct.

14 Q. Okay; thank you. Besides the Florida Public  
15 Service Commission, isn't it true that Progress Energy  
16 has told the NRC that the in service dates for the Levy  
17 unit will be 2021 and 2022, is that correct?

18 A. That is what we have told them is our current  
19 plan, that's correct.

20 Q. All right. If you will please refer to the  
21 first exhibit identified as the NRC docs, Exhibit Number  
22 205. If you'll take a moment to review that, please.  
23 And for the benefit of those looking at the document, I  
24 do apologize, the first two pages are a letter from Mr.  
25 Elnitsky, and the second two pages actually should be

1 reversed.

2 Have you had an opportunity to review these?

3 A. Just give me a minute and let me just look it  
4 over, so I can remember what these are.

5 Q. Certainly.

6 A. Okay.

7 Q. Just a moment ago was it your testimony that  
8 Progress has told the NRC that the service dates will be  
9 2021 and 2023, is that correct?

10 A. That's correct. That is what we have informed  
11 them in various conversations I have had with the Office  
12 of New Reactor.

13 Q. All right. If you will look to the -- on that  
14 first page, which has the Progress Energy heading at the  
15 top, and the second page, that second page is a letter  
16 from you to the NRC, is that correct?

17 A. That is correct. This is part of an annual  
18 information submission request that the new reactor  
19 office asked us to make to the NRC each year.

20 Q. All right. In that bottom paragraph, there is  
21 a sentence midway through, I'll read it. Current  
22 schedule based on economic needs are to complete the LNP  
23 with commercial in service date in 2021 or later, is  
24 that correct?

25 A. That's correct.

1 Q. All right. So is it your testimony that the  
2 project will come into service in 2021, or 2021 or  
3 later?

4 A. My testimony is that our current plan of  
5 record is to bring -- and the project schedule that I  
6 have shown you in detail is to bring the plant in  
7 service in 2021.

8 Q. Okay.

9 A. I'll just leave it at that.

10 Q. Okay. If you will turn to the third page,  
11 which actually should be the fourth page.

12 A. Okay.

13 Q. At the top of that page is the Levy Nuclear  
14 Plants, Unit 1 and 2, COL Application, Part 2, Final  
15 Safety Analysis Report. And on that page do you see for  
16 LNP 1 it says commence operation second quarter 2021,  
17 parentheses, or later?

18 A. That's correct.

19 Q. All right. So is it still your testimony that  
20 it will come into service in 2021, or will it be 2021 or  
21 later?

22 A. My testimony remains that our project plan  
23 currently is to bring the plant in service in 2021.

24 Q. The same question for LNP 2?

25 A. That's correct.

1           Q.    Thank you.  If the Levy project in service  
2 dates change by five years or more from 2021 to another  
3 date, could that possibly jeopardize the priority that  
4 the NRC staff places on the Progress' Levy COLA, COLA  
5 application?

6           A.    I would have to say it depends.

7           Q.    Okay.  Why does it depend?

8           A.    It depends on, number one, when that change is  
9 made and under what circumstances.

10          Q.    Okay.  Do you have a copy of your August  
11 deposition?

12          A.    Yes, I do.

13               **MR. SAYLER:**  All right.  For the record, I  
14 would need to consult with the attorneys from Progress.  
15 Have you submitted a nonconfidential version of this  
16 deposition yet or, you know, redacted out the parts that  
17 are confidential?

18               **MS. HUHTA:**  Mr. Sayler, this is Blaise.  A  
19 notice of intent has been filed regarding the  
20 deposition.  I believe it was filed today.  We have a  
21 confidential version.  We do not, as yet, have a  
22 nonconfidential version prepared, as that deposition was  
23 very recent.

24               **MR. SAYLER:**  All right.  Well, when I refer to  
25 the August deposition, I will cite to it, and then if

1 you can take a look, or I'll let Mr. Elnitsky take a  
2 look just to make sure. And I'll give you the page and  
3 line number, and then you can tell me if I'm --

4 **MS. HUHTA:** Would you like to utilize one of  
5 our copies that is marked and highlighted for  
6 confidentiality to avoid that issue?

7 **MR. SAYLER:** Yes, that would be great.

8 **MS. HUHTA:** Okay.

9 **BY MR. SAYLER:**

10 Q. For ease of reference, Mr. Elnitsky, we will  
11 be turning to Page 193.

12 A. Okay.

13 Q. On the copy provided I don't see any yellow  
14 highlighting, so we should be safe.

15 A. Yes, it looks fine.

16 **CHAIRMAN GRAHAM:** Mr. Sayler, what document  
17 are we turning to?

18 **MR. SAYLER:** This is a document, a deposition  
19 that I conducted of Mr. Elnitsky on August 3rd at the  
20 Progress headquarters. Currently there is not a copy of  
21 it being proffered to go into the record as an exhibit  
22 at this time.

23 **CHAIRMAN GRAHAM:** Do we have the confidential  
24 version of it?

25 **MR. YOUNG:** We do not have a confidential

1 version in the hearing room, but we can go and get a  
2 copy and make copies for everyone, if possible, but that  
3 might take some time.

4 **MR. SAYLER:** I plan to be very brief. And, if  
5 necessary, I can just read the portion of it. And if we  
6 need to get copies of the deposition, we will do that.

7 **CHAIRMAN GRAHAM:** Let's continue forward. If  
8 one of the Commissioners have a question, they will  
9 light up my board, and we'll go from there.

10 **MR. SAYLER:** Okay.

11 **BY MR. SAYLER:**

12 Q. Mr. Elnitsky, if you will refer to Page 193,  
13 Lines 18 through 25?

14 A. Okay.

15 Q. This is your answer in response to a question,  
16 hypothetically speaking, if you had told the NRC that  
17 the in service dates would have been 2027 and 2029, you  
18 would have needed -- I asked you about a long-lead  
19 equipment, and your response is if your question is  
20 meant to imply does later scheduled mean that you would  
21 have -- would not have to do these activities to get a  
22 license? That is also problematic, because the NRC will  
23 not continue to entertain license applications, nor will  
24 they prioritize the work necessary to achieve those  
25 licenses if the applicant does not have an intent to

1 build and a plan for how to ultimately move forward with  
2 construction.

3 So my question to you is if the dates were  
4 delayed, say, five years, could that possibly jeopardize  
5 the priority that the NRC staff places on processing the  
6 Levy COLA application?

7 A. Again, I would have to say it depends, and the  
8 reason for that is right now we are prioritized behind  
9 SCANA as the next applicant to receive our license.  
10 That prioritization is based on the NRC and how they put  
11 their workload together for the different projects, so  
12 Vogtle being first, SCANA being second, ours being  
13 third. So dependent on when that type of a change was  
14 made, it would depend on the NRC resources at the time  
15 and whether they would move you back in priority or not.  
16 But I think in general my statement here in my  
17 deposition is correct in that that does have the  
18 potential to have the NRC change their prioritization or  
19 where they're applying their resources.

20 Q. All right. So isn't it true if the project  
21 date for Levy slips beyond 2021 to 2023, that might  
22 demonstrate to the NRC that the applicant doesn't have  
23 the requisite intent to build a nuclear plant?

24 CHAIRMAN GRAHAM: Hold on just a second, Mr.  
25 Sayler. Commissioner Brown.

1                   **MS. BROWN:** Thank you, Mr. Chairman.

2                   Mr. Sayler, can you please repeat the

3 question, the first question you asked?

4                   **MR. SAYLER:** Certainly.

5                   **COMMISSIONER BROWN:** Thank you.

6                   **MR. SAYLER:** The one I just asked or the prior

7 question?

8                   **COMMISSIONER BROWN:** The prior question.

9                   **MR. SAYLER:** Certainly.

10                   Commissioner Brown, the prior question was, if

11 I can get right, if the Levy project in service dates

12 change by more than five years from 2021 to 2027 or

13 later, that could possibly jeopardize the priority that

14 the NRC staff places on Levy -- Progress' Levy COLA

15 application?

16                   **MS. BROWN:** And you referenced something about

17 intent in there?

18                   **MR. SAYLER:** Yes. In Mr. Elnitsky's response

19 to my question in his deposition, he said at Lines 23

20 through 25, if the applicant does not have an intent to

21 build -- excuse me, let me back up to Line 20. He says

22 that is also problematic because the NRC will not

23 continue to entertain license applications, the COLA,

24 nor will they prioritize the work necessary to achieve

25 those licenses if the applicant does not have an intent

1 to build and a plan for how to ultimately move forward  
2 with construction.

3 COMMISSIONER BROWN: Thank you.

4 MR. SAYLER: My pleasure.

5 BY MR. SAYLER:

6 Q. Back to my question, Mr. Elnitsky. I'll  
7 repeat it.

8 A. If you would, thanks.

9 Q. Yes. If, hypothetically speaking, a project  
10 slips more than five years, would that potentially  
11 demonstrate to the NRC that that particular applicant  
12 doesn't have the requisite intent to build a nuclear  
13 power plant?

14 A. I would say potentially.

15 Q. Okay. The same question, would that  
16 demonstrate to the NRC that the applicant doesn't have  
17 a, quote, plan for how to ultimately move forward with  
18 construction, end quote, isn't that true?

19 A. Yes, potentially that would demonstrate the  
20 same thing.

21 Q. All right. So to sum it up, isn't it true, if  
22 the NRC -- excuse me. To sum it up, if Progress were to  
23 tell the NRC that there were now later in service dates  
24 for the Levy project, the NRC, hypothetically, has one  
25 of three options: The first option, continue processing

1 the COLA on the current schedule and license priority;  
2 the second option is reprioritize and process other COLA  
3 applications before Progress', in other words, not  
4 prioritize the reviews necessary to proceed; and the  
5 third option would be they might recommend that the  
6 applicant suspend activities associated with those  
7 licenses.

8 Are those all potential three options that the  
9 NRC could entertain if Progress were to tell the NRC --

10 A. Let me just make sure I've got those three  
11 options. They could continue -- what was the second  
12 one?

13 Q. Continue on the same schedule, reprioritize  
14 and move the COLA to the back of the line, or tell the  
15 applicant to suspend activities associated with the  
16 license.

17 A. That's possible, in general. I would say for  
18 our particular project, it would be unlikely since we  
19 are in the final stages of that process now.

20 Q. All right. And would you agree that Option 2  
21 and Option 3 would be extremely detrimental for Progress  
22 to receive its COLA sometime in 2013, correct?

23 A. Yes, if the NRC -- I would agree if the NRC  
24 reprioritized the work to complete our COLA or suspended  
25 their work, that would put in jeopardy receiving the

1 COLA in mid-2013 as currently planned.

2 Q. All right. Did Progress Energy make the NRC  
3 or the NRC staff aware that Progress in 2010 was doing  
4 strategic scenario planning activities which show  
5 various other in service dates for the Levy project?

6 A. No, and I think it would have been  
7 inappropriate, as it was not part of our plan of record.

8 Q. Thank you. Now, with regards to the SEC and  
9 Wall Street, and this is where Exhibit 2 comes into  
10 play, isn't it true that Progress Energy has told  
11 investors on Wall Street and filings before the Security  
12 Exchange Commission that the in service dates for the  
13 Levy project are 2021 and later, or later dates?

14 A. Are you referring to a reference, because I  
15 don't --

16 Q. Sure.

17 A. I don't know off the top of my head exactly  
18 what we said in each different forum.

19 Q. All right. If you will take a look at the  
20 exhibit identified 206, the excerpts?

21 A. Okay.

22 Q. Because these are excerpts from five different  
23 filings, we went ahead and Bate-stamped it at the bottom  
24 right-hand of the page.

25 A. Okay.

1           Q.    And for ease of reference, I will just refer  
2 to the last couple of numbers in the Bates-stamped page  
3 so I don't say 00001.

4                    Isn't it true that your organization within  
5 Progress helped developed some of what went into this  
6 particular filing, is that correct?

7           A.    You would have to show me what you're talking  
8 about in this filing before I could answer that.

9           Q.    Sure.  Let's go ahead and take a look at Page  
10 1 and 2 of the -- Bates Page 1 and 2.  Would you agree  
11 that this is the quarterly report, the 10Q that was  
12 filed on 8/06/2010, and that is for the period ending  
13 6/30/2010?

14          A.    I will agree that's what this document says,  
15 but I don't have that report.  I did not read that  
16 report, so I can't testify as to whether this is, in  
17 fact, an accurate copy or not.

18          Q.    All right.  If you will look at Page 2 for me.

19          A.    Okay.

20          Q.    At the top of the page it says U.S. Securities  
21 and Exchange Commission, Washington, D.C. 20549, the  
22 address.  And it says quarterly report pursuant to  
23 Section 13OR15D of the Security Exchange Act of 1934,  
24 and it's for the quarterly period ending June 30th,  
25 2010.  Would you agree that this appears to be the

1 Progress Energy 10Q for that period?

2 A. Yes, it does.

3 Q. All right. If you will turn to Page 4.

4 A. Okay.

5 Q. And if you will refer to the last paragraph,  
6 the paragraph that starts with "as disclosed in." If  
7 you will please read the last two sentences aloud for  
8 the Commission in that paragraph?

9 A. Can I read the whole paragraph so I have it in  
10 context?

11 Q. Please read it silently to yourself, and then  
12 just the last two sentences?

13 A. Because this is talking about 2010 nuclear  
14 cost-recovery filings.

15 Q. I understand that.

16 A. Okay.

17 Q. If you need a moment to read more of the  
18 document to get more of the context, that's fine.

19 A. Okay. And which sentence is it that you want  
20 me to --

21 Q. Before you read the sentence, would you agree  
22 this would be some language that you may have developed  
23 for this filing?

24 A. It could be. I don't think it is, but I don't  
25 remember now at this point whether this is something

1 that we specifically wrote or had an opportunity to  
2 review.

3 Q. All right. If your organization doesn't  
4 prepare it, who prepares it within Progress Energy?

5 A. Well, the 10Qs are prepared within our  
6 financial organization. We would normally have a chance  
7 to review something like this. I'm going to assume that  
8 we did, but I don't know that for a fact.

9 Q. Okay. If you will read that last sentence in  
10 that last paragraph for me, or those last two sentences,  
11 starting with "if the licensing"?

12 A. Okay. So the last two sentences in this  
13 paragraph that talks about the reasons for the long-term  
14 or slowing down the project?

15 Q. Certainly, sir.

16 A. "If the license schedule remains on track, and  
17 if the decision to build is made, the first of the two  
18 proposed units could be in service in 2021, the second  
19 unit could be in service 18 months later.

20 Q. All right. Would you agree that the phrase,  
21 if remains on track, and if the decision to build is  
22 made are caveats?

23 A. Yes, I would agree.

24 Q. If you will please turn to Page 7.

25 A. Okay.

1 Q. And would you agree that this is the Form 10Q  
2 for the quarterly period ending September 30, 2010?

3 A. It appears to be.

4 Q. If you will turn to Page 9 -- actually, before  
5 we go to Page 9, on Page 8, the subheading says nuclear,  
6 and then the sub-subheading says potential new  
7 construction. Do you see that?

8 A. Yes.

9 Q. All right. Turn to the next page. If you  
10 will look at the -- take a moment to review this page.  
11 And after you have had an opportunity, I will have a  
12 question for you.

13 A. Okay.

14 Q. Mr. Elnitsky, would you agree that in that  
15 third full paragraph that starts with, as disclosed in  
16 the 2010 nuclear cost-recovery filing, the last two  
17 sentences are identical to the sentences in the prior  
18 10Q?

19 A. Yes, I would agree they are the same.

20 Q. All right. And both 10Qs say that the first  
21 of the two proposed units could be in service in 2021,  
22 correct?

23 A. That's correct.

24 Q. If you will please turn to Page 13. At the  
25 top of the page it identifies this as Form 10K for the

1 fiscal year ending December 31st, 2010. Do you see  
2 that?

3 A. Yes, I do.

4 Q. All right. And if you turn to the next page,  
5 Page 14, the title says Part 1, Item 1, business general  
6 organization and recent developments. Do you see those  
7 subheadings?

8 A. Yes, I do.

9 Q. And if you turn to the next page, Page 15 --  
10 and feel free to take a moment to review both pages.  
11 And then when you're ready, I'll have a question for you  
12 about the last two sentences on Paragraph 2.

13 A. Okay.

14 Q. All right. On the last full paragraph of --  
15 excuse me. The last two sentences of Paragraph 3, would  
16 you agree that's identical language to the other two  
17 10Qs?

18 A. That's correct.

19 Q. All right. And would you agree that this  
20 language is consistent with the program of record for  
21 the Levy project?

22 A. That is correct.

23 Q. And consistent with the one that was adopted  
24 in 2010?

25 A. Correct.

1 Q. All right. If you will turn to Page 16 and  
2 17. On Page 16 we see the subheading potential new  
3 construction, Levy, on that page?

4 A. Yes.

5 Q. All right. If you will turn to the next page,  
6 the first full paragraph that starts with as disclosed  
7 in PEF's 2010 nuclear cost-recovery filing?

8 A. Uh-huh.

9 Q. Would you agree that the last two sentences  
10 are also the same as what was previously stated within  
11 the 10K?

12 A. Yes, they are.

13 Q. Okay. If you will please turn to Page 21 and  
14 22.

15 A. Okay. Page 21 I'm on.

16 Q. Page 21 and 22. Twenty-one says nuclear  
17 potential new construction for the subheading, and then  
18 on Page 22 -- if you will just take a moment to look  
19 over both pages, I will have a question or two.

20 A. Is this still the same report, or is this now  
21 some different pages from a different document? Is this  
22 still the annual?

23 Q. Yes, that is still the 10K.

24 A. Okay.

25 Q. And I will make that representation, that we

1 do have the actual full copy on disk if it would be  
2 better to submit that into the record?

3 A. No, that's fine. I just wanted to make sure I  
4 knew what I was looking at. Okay.

5 Q. All right. In the third full paragraph, the  
6 one that says the total escalated cost, if you would  
7 read the last two sentences aloud for us, starting with  
8 many factors.

9 A. Okay, yes. It says -- this paragraph is  
10 talking about costs. It says many factors will affect  
11 total costs of the project, and once PEF receives a  
12 COLA, we'll further refine the project time line and  
13 budget. As previously discussed, we continue to  
14 evaluate the Levy project on an ongoing basis.

15 Q. You would agree that this does not mention  
16 in-service dates, is that correct?

17 A. That is correct, it does not.

18 Q. All right. If you will turn to Page 25 in  
19 this exhibit?

20 A. Okay.

21 Q. Would you agree that this is the Form 10Q for  
22 the quarterly period ending March 31st, 2011?

23 A. Yes, I would.

24 Q. Okay. And this is for the quarter ending just  
25 a few days after the 2011 IPP was adopted by the senior

1 management committee, correct?

2 A. Yes, that's correct. I think the IPP was  
3 maybe a week or two before this. I'll have to check the  
4 date.

5 Q. If you will turn to the previous page, Page  
6 24, do you see where it says this 10Q was filed on  
7 5/9/2011?

8 A. Correct.

9 Q. So that means this report was filed about six  
10 weeks after the last IPP?

11 A. That's correct.

12 Q. And the last IPP, the senior management  
13 committee reaffirmed the program of record, which  
14 included in-service dates for 2021 and 2022, correct?

15 A. That is correct.

16 Q. If you will please turn to Page 26?

17 A. Page 26, got it.

18 Q. Page 26. It still has the heading nuclear,  
19 potential new construction. I would like for you to  
20 focus upon Paragraph 6, or I'll ask you a question about  
21 Paragraph 6 in a moment.

22 A. Is that the second from the bottom?

23 Q. Yes, sir. It starts with we have focused on  
24 Levy?

25 A. Okay.

1           Q. All right. If you would read the last three  
2 sentences aloud, starting with in light of regulatory  
3 schedule shift.

4           A. It says, "In light of regulatory schedule  
5 shift and other factors, we have amended the EPC  
6 agreement and are deferring major construction  
7 activities on Levy until we receive the COL. This  
8 decision will reduce near-term price impact on  
9 customers, and allow time for economic recovery and  
10 greater clarity on federal and state policies. Once we  
11 have received the COL, we will assess the project and  
12 determine the schedule."

13          Q. Do you see any reference to a Levy in-service  
14 date in 2021?

15          A. No, I do not.

16          Q. All right. I know you don't have the --

17          A. Not in that paragraph -- (simultaneous  
18 conversation)

19          Q. Not in that paragraph at least.

20          A. I don't have the rest of the document,  
21 correct.

22          Q. We do have the complete document here, but if  
23 you will take my word, subject to check, that I did a  
24 word search for year 2021. There were two references to  
25 it; one regarding some Progress Energy Carolina things,

1 and another one was regarding tax credits. There was no  
2 reference to in-service dates for the Levy project  
3 anywhere in this 10Q.

4 A. Okay.

5 Q. If you will turn to the next page, or, excuse  
6 me, to Page 28?

7 A. Okay.

8 Q. And 29. Would you agree that that is the 10Q,  
9 and for period ending June 30th, 2011?

10 A. Yes.

11 Q. All right. If you will please look at Page  
12 30, 31, 32, and 33, just kind of skim through it?

13 A. Okay.

14 Q. Actually, excuse me, belay that. Skip 30 and  
15 31. I meant to say 32 and 33. On 32 you see regulatory  
16 environment, energy demand, and nuclear, correct?

17 A. I'm sorry, where are you now?

18 Q. On Page 32.

19 A. Okay.

20 Q. And on Page 33, you see a heading CR-3 outage  
21 and also potential new construction, correct? If you  
22 will take a moment to review that.

23 A. Yes. Let me just -- okay.

24 Q. All right. If you will look in Paragraph 5,  
25 the one starting we have focused. It is the second from

1 the bottom. Would you agree that the last three  
2 sentences are the same as the last three sentences in  
3 the prior 10Q?

4 A. Yes.

5 Q. All right. Would you also agree that there is  
6 no reference to the 2021 in-service dates in this  
7 paragraph, and subject to check?

8 A. Yes. The only other thing I see -- in that  
9 paragraph there is no reference to the in-service date.

10 Q. All right. And would you agree that the last  
11 sentence says, "Once we have received the COL, we will  
12 assess the project to determine the schedule," correct?

13 A. That's correct.

14 Q. Would you agree that that is potentially  
15 telling Wall Street something about the project, the  
16 lack of in-service dates?

17 A. No.

18 Q. All right. Thank you. To a different line of  
19 questioning. It was previously your testimony that the  
20 IPP is the publicly announced program of record to  
21 the -- essentially to the entire world, correct?

22 A. Correct. Although I don't know if the entire  
23 world is interested.

24 Q. I would agree there, too.

25 A. It's public.

1 Q. Okay. Isn't it true that Progress has told  
2 the long-lead equipment manufacturers that the  
3 in-service dates for the Levy project are 2021 and 2022,  
4 correct?

5 A. Ask me that question again. I want to be  
6 sure.

7 Q. Isn't it true that Progress has told the  
8 long-lead equipment manufacturers with whom you were  
9 negotiating complete or suspend and resume options,  
10 isn't it true that you told them that the in-service  
11 dates for the Levy project for Unit 1 is 2021?

12 A. We told them that our target in-service date  
13 based on the current project plan was for the first unit  
14 to come in service in 2021. That was part of the basis  
15 in the negotiations.

16 Q. Wouldn't you agree that if the long-lead  
17 equipment manufacturers had known that there are  
18 alternate later dates two, three, five years later that  
19 may have affected the negotiations with them?

20 A. No, I would not agree.

21 Q. Okay. And it is your testimony today that  
22 Progress Energy Florida, and Progress Energy, the  
23 parent, are publicly committed to the in-service dates  
24 2021 and 2022, correct?

25 A. That is correct.

1 Q. And would you agree that both -- that Progress  
2 Energy and Progress Energy Florida will maintain their  
3 public commitment to those dates until the senior  
4 management committee changes those dates and/or cancels  
5 the Levy project?

6 A. No, I would not agree. I think what we have  
7 said consistently is we will continue to evaluate the  
8 project schedule each year in terms of evaluating  
9 enterprise risk and other factors that face the project.

10 Q. But my question was, will Progress Energy  
11 maintain their public commitment to those dates until  
12 the senior management committee, as approved by the  
13 board of directors, changes those dates or cancels the  
14 project?

15 A. I'm not sure how -- if I can answer that.

16 Q. That's fine. I will move on. Would you agree  
17 that Progress Energy Florida has publicly told the  
18 Public Service Commission in its current NCRC filings  
19 that the in-service dates are 2021 and 2023, is that  
20 correct?

21 A. That's correct. No, no, it's not. 2021 and  
22 2022.

23 Q. Sorry. For sake of the record, if I  
24 referenced 2023 it is a typo.

25 A. It's a big change.

1           Q.    Yes.  And would you agree that Progress Energy  
2 publicly maintains those dates before the Florida Public  
3 Service Commission in order to maintain recovery through  
4 the NCRC process?

5           A.    I would agree that we continue to tell the  
6 Service Commission correctly that our plan of record and  
7 our project right now has a schedule that anticipates  
8 bringing the first unit in service in 2021 and the  
9 second in 2022.

10          Q.    Isn't it true that if alternative in-service  
11 dates were 2027 or beyond, that might jeopardize  
12 Progress' recovery for Levy dollars through the NCRC  
13 process?

14          A.    That would require me to speculate.

15          Q.    Would you agree that Progress Energy Florida  
16 has told the -- publicly told the NRC that those  
17 in-service dates in order for the NRC to continue  
18 prioritizing and processing the Levy COLA application?

19          A.    Yes, we have told the NRC our anticipated  
20 in-service dates.

21          Q.    Thank you.  And if there were true alternate  
22 in-service dates of 2027 or beyond, that may jeopardize  
23 Levy's priority with the NRC for the COL application  
24 review process?

25          A.    It might, but I would have to clarify that,

1 that given the current state of where we are, that would  
2 be unlikely.

3 Q. All right. Thank you. And would you agree  
4 that Progress Energy has previously publicly told Wall  
5 Street investors and the SEC in its 10K and 10Q filings  
6 that it is committed to the 2021 in-service date,  
7 correct?

8 A. That's correct.

9 Q. And that is if the license schedule remains on  
10 track, and if the decision to build is made, correct?

11 A. Correct. And I think also in those documents  
12 you saw pending successful negotiation of the  
13 engineering procurement and construction amendment.

14 Q. And you would agree that the two most recent  
15 10Q filings no longer include in-service dates for the  
16 Levy project, correct?

17 A. That's correct, not specifically.

18 Q. Subject to check. All right. Would you agree  
19 that if the senior management committee of Progress  
20 Energy, the holding company, is actively considering  
21 different in-service dates for the Levy project, as may  
22 be evidenced by the 2010 strategic scenario planning  
23 exercises, which concluded on the eve of the 2010 NCRC  
24 hearing, that Progress Energy Florida, the subsidiary,  
25 must publicly maintain to the Public Service Commission,

1 the NRC, and others, that Progress, including the DEP  
2 and Army Corps of Engineers, that Progress Energy is  
3 committed to bringing the Levy project into service  
4 starting in 2021, correct?

5 A. Well, I don't agree with the opening premise  
6 of your statement because those scenario analyses did  
7 not indicate an intent by the SMC to change the schedule  
8 for the project. So the second part of the question is  
9 hard to answer, because I don't -- the intro part is not  
10 correct.

11 Q. Okay. Let me rephrase it. If the SMC of  
12 Progress Energy was considering alternate in-service  
13 dates for the Levy project or changing them, until that  
14 change is, in fact, made, Progress Energy Florida must  
15 publicly maintain that Progress is actually committed to  
16 the 2021 in-service date?

17 A. I would agree that we, as a company, must  
18 maintain that.

19 Q. All right. Thank you.

20 A. Because that still would be the plan.

21 MR. SAYLER: All right. Commissioners, we  
22 will be pulling out this red confidential one shortly.

23 And also as a reminder, if you will take a  
24 look at this document you will see that there is yellow  
25 highlighting throughout it. That signifies the

1 confidential material which we are all familiar with.  
2 However, the yellow highlighting, unfortunately, does  
3 things to the colors on this color chart. So we also  
4 have, courtesy of Progress, a fully unredacted or a  
5 fully unredacted copy of this that has no yellow  
6 highlighting that would be only for demonstrative  
7 exhibit for purposes of being able to see the true  
8 colors shining through for the Commissioners and for the  
9 parties if they would like to see that. We do have  
10 those, if anyone is interested.

11 **BY MR. SAYLER:**

12 Q. Mr. Elnitsky, you earlier testified that you  
13 helped provide some inputs to the scenario analysis  
14 exercises, is that correct?

15 A. I testified that we provided capital cost  
16 inputs, that's correct.

17 Q. All right. And you worked with Mr. Jeff Lyash  
18 on this, is that correct?

19 A. Mr. Jeff Lyash is one of the members of the  
20 SMC that was involved in the retreats, but not  
21 specifically with him on this, no.

22 Q. Okay.

23 A. Not in terms of providing inputs.

24 Q. Inputs. He didn't provide inputs?

25 A. No.

1 Q. But he was aware of the scenario planning  
2 exercise?

3 A. Yes, sir.

4 Q. And he participated in it along the way prior  
5 to the retreat, correct?

6 A. Yes.

7 Q. Incidentally, was Mr. Foster involved in the  
8 scenario planning exercise process at all, to your  
9 knowledge?

10 A. Mr. Foster?

11 Q. Yes, sir.

12 A. Not that I know.

13 Q. Okay. You would agree that the scenario  
14 planning process was a month long process designed to  
15 evaluate various scenarios, various strategic scenarios  
16 for the company, correct?

17 A. Yes, I would.

18 Q. All right. You would also agree that the  
19 scenario planning process not only included the Levy  
20 project, the plan of record, but it also included  
21 potentially plans of record for other projects, both  
22 present and future, along with environmental  
23 considerations and things of that nature?

24 A. Yes, I would. It was primarily an  
25 environmental scenario analysis.

1           Q.    Okay.  And you would agree that these  
2 scenario analyses were bigger than just the Levy  
3 project, correct?

4           A.    I would agree that Levy was actually a small  
5 part of the analysis.  It was really environmentally  
6 focused in terms of changes that were potentially or  
7 could happen in terms of environmental regulations.

8           Q.    Okay.  That was my next question.  I was going  
9 to ask you if Levy was but one small piece of the  
10 overall strategic scenario planning puzzle, is that  
11 correct?

12          A.    That's correct.

13          Q.    And the senior management committee evaluated  
14 those scenarios, correct?

15          A.    No, I don't think evaluate is the right word.

16          Q.    All right.  Considered those scenarios?

17          A.    I would say they considered those scenarios in  
18 terms of informing how the company should react in terms  
19 of its management of its existing plans of record going  
20 forward.

21          Q.    All right.  Thank you.  I believe you  
22 indicated earlier that Mr. Lyash is a member of the  
23 senior management committee, correct?

24          A.    That's correct.

25          Q.    And coincidentally -- or not coincidentally,

1 but he's also the sponsor of the Levy project to the --  
2 is it to the SMC or to the board of directors?

3 A. He's the senior executive that reports on the  
4 Levy project to the board of directors.

5 Q. All right. So you would agree that the  
6 scenario planning process involved Progress Energy  
7 employees and executives throughout the utility's  
8 business to help develop these?

9 A. Yes.

10 Q. And that included employees and executives  
11 from New Generation, which is your group, treasury,  
12 potentially environmental and other areas, correct?

13 A. Not exactly. Again, the only piece from my  
14 group was to provide an input. We weren't part of doing  
15 any of the analysis or the development in any of those  
16 products. That was mostly done out of strategic  
17 planning.

18 Q. And you would agree that this scenario  
19 planning activity encompassed more than just resource  
20 planning, correct?

21 A. Yes, I would agree that it is part of a  
22 broader look at how you operate the overall business.

23 Q. Would it be a holistic analysis of the  
24 process?

25 A. I don't know that I would call it holistic. I

1 don't think that's accurate.

2 Q. Okay. When resource planning, you evaluate  
3 megawatts additions, subtractions along with potential  
4 financing of those projects, is that correct?

5 A. Can you ask me that again? You are talking  
6 about in the normal resource planning process?

7 Q. Yes. In the normal resource planning  
8 exercise, what do you evaluate besides megawatt  
9 additions and subtractions? Do you evaluate financing?

10 A. No. The specific resource planning, if you  
11 are talking about what goes into the Ten-Year Site Plan,  
12 is very specific as to how to meet load growth  
13 requirements and what generation assets would have to be  
14 brought in service or purchase agreements put in place.

15 Q. All right. So when you're resource planning,  
16 you do not look at the company's earnings or rate impact  
17 as it affects customers, is that correct?

18 A. Not as part of the ten-year site program in  
19 developing that program, that is correct.

20 Q. With regard to the SMC, I understand you are  
21 not a member of it. Would you agree that the SMC must  
22 look at the cold, hard business facts as it relates to  
23 Progress Energy's business as a whole?

24 A. Yes.

25 Q. Would you agree that the 2010 scenario

1 analysis process started in approximately February of  
2 that year?

3 A. Yes, the setup was in February of that year.

4 Q. And the process culminated in the final  
5 analysis presented to the senior management committee in  
6 August of 2010, is that correct?

7 A. Not exactly. I don't know if I would call it  
8 culminated. I think you have to participate in the  
9 overall process to really get the sense of what you  
10 should learn from that in terms of execution of the  
11 program of record. I don't think you can look at just  
12 the last product and say that is everything you needed  
13 to learn.

14 Q. Okay. So you are saying that the exhibit that  
15 you have before you is not the final paper?

16 A. No, I didn't say that. What I said is, I  
17 think we talked about during deposition, you really need  
18 to look at the four documents altogether, going back to  
19 the first one that was June 17th of 2010. That was, I  
20 think, Exhibit 2 to my deposition, to look at the whole  
21 process. Because as an SMC member or as the member of  
22 the broader leadership that participate in that, you  
23 really want to see the whole --

24 Q. Thank you, Mr. Elnitsky. I think my question  
25 was, you know, was this the final project and/or final

1 report and a yes or no would have sufficed.

2 A. Well, I don't think you can qualify it as a  
3 final report, that's my point.

4 Q. Thank you. Would you agree that the scenario  
5 planning exercises that Progress undertook in 2010 were  
6 much more involved than either 2009 or 2011 currently?

7 A. I would agree that they were similar, but I  
8 will also note that we provided similar type documents  
9 to Mr. Rehwinkel in 2010 as part of the production of  
10 documents.

11 Q. You provided this document, too, to OPC in  
12 2010?

13 A. Similar type documents, yes.

14 Q. Similar type documents, but not this actual  
15 scenario planning exercise?

16 A. No, we did not do it at this level of fidelity  
17 in 2010, but we did provide similar documents.

18 Q. I'm confused. You said you did not do this in  
19 2010 or you did do this in 2010?

20 A. We did a similar type of analysis in -- I'm  
21 sorry, I got my years wrong. We did a similar type of  
22 analysis in 2009. Mr. Rehwinkel actually had those  
23 documents as part of the production of documents last  
24 year that we provided.

25 Q. All right. Thank you. But you would agree

1 that 2010 was a much more involved process than 2009?

2 A. It looked at broader factors, yes.

3 Q. All right. Thank you. Would you agree that  
4 the 2010 scenario analysis as it progressed went from  
5 several scenarios to four scenarios, and then it finally  
6 eventually matured into a set of five planning  
7 scenarios, is that correct?

8 A. Yes. It continued to get refined during the  
9 course of the process.

10 Q. And the end number of scenarios were five,  
11 correct?

12 A. In the final report, in this report as I  
13 recall there were five different scenarios that were  
14 evaluated, that's correct.

15 Q. Thank you. And as you had mentioned there  
16 were several other cuts at this document, one of those  
17 cuts you attached to your rebuttal testimony. That is  
18 the July 27th scenario analysis, correct?

19 A. No. I don't think you can qualify them as  
20 cuts of the document. It's an evolution.

21 Q. Okay. An evolution of the document, but the  
22 July one is attached to your rebuttal, correct?

23 A. That's correct.

24 Q. And that one contained four scenarios,  
25 correct?

1           A.    Let me go back and look.  I think that's  
2 right.

3           Q.    And while you are checking, those four  
4 scenarios, were a moderate change scenario --

5           A.    Actually, the July one includes five  
6 scenarios.

7           Q.    I see moderate change, business as usual  
8 technology, driven change scenario, and aggressive  
9 mandate for change.  What was the fifth one?

10          A.    You may be right.  I'm picking up the wrong  
11 one.  Sorry.  Hold on a second.

12                    No, you're right it has four in July.  It  
13 doesn't include the program of record at that point.

14          Q.    Okay.  That was my question.  You would agree  
15 that the March 2010 scenario in the July presentation  
16 wasn't there, correct?

17          A.    That's correct.

18          Q.    Okay.  Also, isn't it true that the moderate  
19 change scenario and the BAU, or the business as usual  
20 scenario, neither of them had in-service dates for the  
21 Levy project, correct?

22          A.    In which report?

23          Q.    In the July report.

24                    **MR. SAYLER:**  Commissioners, for your ease of  
25 reference, I believe that's an exhibit attached to the

1 rebuttal testimony. I'm not trying to get into  
2 rebuttal, it's just more of a comparison between the  
3 change between the first and the second, or between the  
4 July and the August scenario plans. And that is his  
5 Exhibit JE-14.

6 **THE WITNESS:** Would you ask me the question  
7 again, please?

8 **BY MR. SAYLER:**

9 Q. Yes. You would agree that the moderate change  
10 scenario and the business as usual scenario as signified  
11 by -- let me find the slide. I believe it is Slide 9,  
12 or 10 of 14, according to your exhibit. It says Levy  
13 BAU moderate change NA, and that means no in-service  
14 dates, correct?

15 A. That's correct.

16 Q. All right. And there are in-service dates for  
17 the technical and the aggressive, correct?

18 A. That's correct.

19 Q. So your testimony would be that the August  
20 scenario would be a further refinement on the July  
21 scenario, is that correct?

22 A. Yes, but what it really does is look at  
23 different solutions to the same scenario. There's  
24 different resource plans that might meet the needs of  
25 those scenarios. So it's like I said, a further

1 evolution of what is a continuous process.

2 Q. A further evolution. You're not a  
3 creationist, then?

4 A. No.

5 Q. That's a joke.

6 A. It wasn't a good one, though.

7 Q. All right. And you would agree that at the  
8 same time Progress Energy Florida was doing this,  
9 Progress Energy Carolina was also doing a similar  
10 scenario analysis process?

11 A. That's correct.

12 Q. And that both scenarios were evaluated at that  
13 senior management retreat, correct?

14 A. That's correct. If you are talking about at  
15 the August retreat, yes.

16 Q. Yes, at the August retreat.

17 And there was another document, which is not  
18 part of the record, but that was kind of a shuffling of  
19 those two scenarios together for the senior management  
20 committee, correct?

21 A. It was a consolidated view of both the  
22 Carolina and Florida scenarios, that's correct.

23 Q. But you would agree that this August scenario  
24 contains a total of five scenarios, right?

25 A. That's correct.

1           Q.    With regard to this August scenario or any of  
2 the scenarios, would you agree that it is highly  
3 confidential?

4           A.    Yes.

5           Q.    And it is confidential because it would  
6 potentially involve trade secrets or business plans of  
7 Progress Energy?

8           A.    That's correct.

9           Q.    So this document and the documents that were  
10 the prior evolutions of this document, a business  
11 competitor potentially could learn a great deal about  
12 Progress Energy's thinking on these subjects?

13          A.    I would say, yes, a competitor or, maybe more  
14 importantly, different suppliers.

15          Q.    Okay.  Isn't it true that the August scenario  
16 included the four scenarios from the July and then added  
17 the March 2010 scenario, correct?

18          A.    Yes, it includes the March 2010, which was the  
19 plan of record.

20          Q.    And you would agree that the planning  
21 scenarios considered by the senior management committee  
22 focused upon the resource plan, strategic capital,  
23 customer rate impact, and other things which are things  
24 that should remain -- excuse me, and a few other things,  
25 which, according to the redactions, remain confidential,

1 correct?

2 A. Can you ask me that question again, because  
3 you started out -- give me the list again, please.

4 Q. You would agree that the slides in here  
5 concern resource plans, capital expenditures, and  
6 customer rate impact, correct?

7 A. And more.

8 Q. And more, and the more is confidential?

9 A. Yes.

10 Q. If you will turn to Slide 1 of that  
11 presentation, at the top of the page it says key  
12 assumptions and updates.

13 A. Okay.

14 Q. So this means, if it's on this page it was  
15 added to the August scenario analysis, correct, from the  
16 July scenario analysis or changed from the July scenario  
17 analysis?

18 A. Let me make sure I'm on the same page. You're  
19 on Page 1 where it says --

20 Q. March 2010 scenario sensitivity analysis?

21 A. Got it.

22 Q. Okay. Since this is an update, it is updating  
23 the July scenario analysis, correct?

24 A. Correct.

25 Q. So the additions are March 2010 scenario,

1 correct, along with sensitivity analysis to March 2010  
2 scenario, and then underneath it says moderate change  
3 scenario, do you see that?

4 A. Yes, I do.

5 Q. Would you agree that this sensitivity analysis  
6 comparing moderate change to the March 10 scenario is  
7 more of a -- kind of a side-by-side comparison?

8 A. Yes. The focus of this discussion was around  
9 how does that moderate change scenario compare to the  
10 program of record or the project plan of record.

11 Q. Okay. And we see that Levy now has in-service  
12 dates, correct?

13 A. That's correct.

14 Q. If you will turn to Slide 3, please. You  
15 would agree that Slide 3 indicates things that the  
16 senior management committee is, quote, to keep in mind,  
17 quote, during the scenario analysis, and is to take into  
18 account both, quote, near-term decisions, unquote, and  
19 considerations, unquote, do you see that?

20 A. I see the near-term decisions and  
21 considerations. If your question is do I agree that  
22 that is what the slide says, it does.

23 Q. Okay.

24 A. It was also in addition to what they had  
25 already been told in prior briefs.

1 Q. Right. And we will get to what they were told  
2 in prior briefs. And under near-term decisions and  
3 considerations, it provides a list of items to keep in  
4 mind, would you agree with that?

5 A. Yes, it's a list of programs and/or projects.

6 Q. Okay. And the right side are nonconfidential,  
7 but the left side, most of those are confidential,  
8 correct?

9 A. Correct.

10 Q. Now, if I were to ask you the near-term  
11 decisions on the left-hand side, are any of these  
12 unexpected or unlikely to occur in a real world  
13 consideration?

14 MR. WALLS: I'm going to object as vague and  
15 ambiguous.

16 CHAIRMAN GRAHAM: Certainly. Re-ask the  
17 question a little bit more specific.

18 THE WITNESS: I'm not sure I can -- how to  
19 answer.

20 BY MR. SAYLER:

21 Q. Has the term unexpected or unlikely as used in  
22 your rebuttal testimony, are these things unlikely or  
23 unexpected -- unlikely to occur, or if they did occur,  
24 it would be unexpected?

25 MR. WALLS: I'm going to object as vague and

1 ambiguous again unless he defines what these things are.

2 MR. SAYLER: They are confidential.

3 CHAIRMAN GRAHAM: I was going to say part of  
4 the problem you run into is they're confidential, so he  
5 can't.

6 MR. WALLS: Well, if he could reference what  
7 he is referring to the witness, to what things --

8 MR. SAYLER: Okay. We'll skip a little ahead,  
9 and then I'll back up.

10 BY MR. SAYLER:

11 Q. Turn to Slide 20, please?

12 A. Slide 20?

13 Q. Yes, sir. And this appears to be the key --  
14 scenario implications for key planning components.

15 A. Okay.

16 Q. On the far left column you see most of the  
17 same items shown under near-term decisions, do you  
18 agree?

19 A. Hang on a second. I may be on the wrong page.  
20 You're on Page 20?

21 Q. Slide 20.

22 A. Slide 20.

23 Q. At the top of the page it says scenario  
24 implications for key planning components.

25 A. Okay.

1 Q. And would you agree that that left-hand column  
2 appears to track the near-term decisions that Progress  
3 was facing on Slide 3?

4 A. No. What that left-hand column is, there was  
5 a set of projects and/or programs that could be affected  
6 in the unlikely event that some of these scenarios were  
7 to manifest themselves.

8 Q. So it is your testimony that for Item Number 1  
9 on Slide 20, which is confidential, and then there's a  
10 bullet, and then there's four words, do you think that  
11 scenario is unlikely or unexpected?

12 A. Potentially. It depends. What this analysis  
13 was trying to do was inform senior management of if an  
14 environmental regulation such as that was to occur, what  
15 that might mean in terms of the first line item there in  
16 that column.

17 Q. And that would be true in the other four  
18 scenarios, correct?

19 A. Yes.

20 Q. All right. Similarly, the second item has two  
21 bullet points beside it on the next page, and should the  
22 thing happen that's there causing the other thing to  
23 happen under this scenario, you would agree that it  
24 would not be unlikely or unexpected if the first thing  
25 happened, then the other two things would follow,

1 correct?

2 A. Let me try. What the second column is  
3 showing, if I can --

4 Q. Uh-huh, please.

5 A. -- is a list of potential factors that are a  
6 result of going through this scenario analysis process  
7 and saying, okay, so what does that mean in terms of  
8 these different projects and/or programs in the very  
9 left column. So the second column is things that could  
10 specifically affect those particular projects.

11 Q. Okay. Thank you. Again, my question would be  
12 if these things were to happen as shown in all five of  
13 those scenarios, then it wouldn't necessarily be  
14 unexpected or unlikely?

15 A. Again, I don't know how to answer whether they  
16 are unexpected or unlikely. The whole analysis process  
17 was to look at a wide envelope of potential outcomes.  
18 That's why the other scenarios are also listed on the  
19 same page, so it's clear how each of them could  
20 potentially affect these different plans of record for  
21 the different programs and projects that are listed in  
22 the left-hand column.

23 Q. Getting back to Slide 3.

24 A. Slide -- which one again?

25 Q. Slide 3.

1           A.    Okay.

2           Q.    Under near-term decisions, would you agree  
3 that in the summer of 2010 those were things that  
4 Progress Energy was considering as it related to  
5 Progress Energy Florida?

6           A.    No.  What I would agree is those were all  
7 things that had potentially implications as a result of  
8 going through the scenario analysis, which was, in fact,  
9 the focus.

10          Q.    So it is not your testimony that this was a  
11 waste of time for the senior management committee?

12          A.    Not at all.

13          Q.    All right.  Going back to your rebuttal  
14 testimony exhibit, JE-14, this slide and that slide are  
15 nearly identical, is that correct?

16          A.    Let me just get to it.

17          Q.    And specifically what I'd like for you to look  
18 at is under considerations, the last item.

19          A.    Okay.

20          Q.    Isn't it true that these slides are nearly  
21 identical with the exception of we are not picking a  
22 scenario caveat that is in the July presentation?

23          A.    That's correct.

24          Q.    And would you agree that that was dropped from  
25 the August presentation?

1           A.    I would agree it is not in the August  
2 presentation, but it was inferred.

3           Q.    Would you agree that a person who is looking  
4 at this for the first time, if they saw that we're not  
5 picking a scenario was dropped, it would lead them to  
6 think that, in fact, the SMC is actually picking a  
7 scenario?

8           A.    If they were looking at it for the first time,  
9 which is why I said it is important to recognize this  
10 was a continuing process of education, not only for the  
11 SMC, but for the other leadership members that were part  
12 of the process.

13          Q.    Would you agree that in the July scenario if  
14 the SMC was told don't pick a scenario now, because we  
15 are going to give you an August one to pick from, would  
16 you agree that that could also be the same implication  
17 from dropping, we're not picking a scenario?

18          A.    No, I would not, because that is not what was  
19 done.

20          Q.    Now, do you know why it was dropped?

21          A.    I think because we had already briefed it in  
22 July. As we mentioned earlier in my deposition, the  
23 July version of this was the first time the SMC had seen  
24 it, so it was important to explain to them not only what  
25 we were doing, but what was the overall process of how

1 this scenario analysis technique worked.

2 Q. But you just testified that you weren't really  
3 involved in this process beyond providing some inputs  
4 related to capital costs, right?

5 A. I was involved in the meetings and heard the  
6 discussion.

7 Q. But you were not responsible or you did not  
8 order that we are not picking a scenario be dropped, did  
9 you?

10 A. No, I did not.

11 Q. Okay. So it is true that you really do not  
12 know why the SMC dropped that caveat, correct? Yes or  
13 no?

14 A. The SMC didn't drop it. It would be the  
15 preparers of the slide that would have dropped it. No,  
16 I don't know why it wasn't there.

17 Q. All right. Thank you. And would you agree  
18 that the main thrust of this August 2010 scenario was  
19 that side-by-side comparison of the moderate change and  
20 March 2010 scenarios?

21 A. It was the main focus, but not the only focus.

22 Q. If you will please turn to Slide 4?

23 A. Which one are we in now? Are you still in the  
24 August?

25 Q. Yes, August. That scenario is called

1 March 2010, right?

2 A. Okay.

3 Q. And why is it called the March 2010 scenario?

4 A. That was the plan of record as it existed in  
5 March 2010. That was when we had successfully  
6 negotiated an amendment to the engineering procurement  
7 and construction contract for Levy and was the basis of  
8 the plan of record that was presented in the IPP in  
9 April of 2010.

10 Q. But didn't you just testify that the Levy  
11 project was a very small part of the overall scenario  
12 analysis?

13 A. This is part of the Ten-Year Site Plan,  
14 though, as it existed following the work that was done  
15 around Levy, so that was the input into that overall  
16 site plan.

17 Q. Okay. And for my benefit, when do you prepare  
18 the Ten-Year Site Plan and when do you file it?

19 A. It is usually filed in April of each year as I  
20 understand.

21 Q. Okay. So this was something developed in  
22 March of 2010 for this scenario planning exercise,  
23 correct?

24 A. No, this actual slide is from what was in the  
25 basis of what was going in as the Ten-Year Site Plan

1 that was the overall plan of record.

2 Q. Thank you. That was the question I meant to  
3 ask. Now, earlier when you testified regarding plan of  
4 record, plan of record really means the Levy project in  
5 service dates as embodied by the IPP, correct?

6 A. Well, I think it depends on what context you  
7 are in if I can. So --

8 Q. Sure.

9 A. -- when you look at these different resource  
10 plans there are different solutions for different  
11 scenarios in here. The one that is in here as  
12 March 2010 is basically a reflection of what was going  
13 into our Ten-Year Site Plan for all the resources that  
14 were going in as part of that filing. When I talk about  
15 the plan of record for Levy, I am being very specific to  
16 what was approved for the project and what we were doing  
17 with the project for Levy. So it is a little bit of  
18 both. Some of it is very specific just to the Levy  
19 project, other is how is the company managing its  
20 overall generation portfolio.

21 Q. So just so I'm clear, there is a plan of  
22 record Levy, which is the IPP?

23 A. Each project has one of those.

24 Q. And then there is a plan of record for  
25 Progress Energy, which embodies Levy and all the other

1 generational needs and things of that nature, is that  
2 correct?

3 A. That's correct, as filed in the Ten-Year Site  
4 Plan.

5 Q. All right. Would you agree that this Slide 4,  
6 or that left-hand column refers to megawatts even though  
7 it doesn't show that, is that correct?

8 A. That's correct.

9 Q. And those bar graphs above the line means  
10 megawatt additions and below the line means megawatt  
11 reductions, correct?

12 A. That's correct.

13 Q. And some of those additions relate to, among  
14 other things, the Levy project, new units coming into  
15 service, potential repowerings, or purchase of purchased  
16 power agreements, is that correct?

17 A. Yes. In general, that's correct. Anything  
18 above the line is either a new generation asset or some  
19 type of partial -- excuse me, or purchased power  
20 agreement. And then below the line in general is either  
21 retirements or the expiration of different purchased  
22 power agreements or other contracts.

23 Q. All right. And for this March 2010 resource  
24 plan, based upon the Ten-Year Site Plan, that assumes  
25 about a 50 percent ownership for the Levy 1 and 2

1 project, correct?

2 A. That is what was assumed in here, yes, sir.

3 Q. And similarly, all the scenarios that the  
4 senior management committee evaluated assumed 50 percent  
5 ownership for Levy, correct?

6 A. That's correct.

7 Q. Now, earlier we had this question about 2021  
8 and 2022, but this resource plan shows 2021 and 2023.  
9 Which is it? Is it 2021 -- excuse me, 2022 or 2023 for  
10 the second unit?

11 A. They are actually both correct, and the reason  
12 is the first unit in service in 2021 in the current  
13 project plan would be mid-year June or so, 2021. With  
14 the second unit in service 18 months later, so that  
15 would be the end of 2022. What this is showing is when  
16 would that megawatt addition then be on the system. So  
17 from a resource planning perspective that is important  
18 for them in terms of balancing against load  
19 requirements. So effectively it is on the system in  
20 '23, although the current in service would be late '22.

21 Q. Thank you. That's helpful to me. And in your  
22 role as a VP, you are responsible for all new power  
23 generation projects for Progress, correct?

24 A. That's correct.

25 Q. And you have created some actual resource

1 plans for Progress Energy, correct?

2 A. No.

3 Q. No?

4 A. I don't create resource plans.

5 Q. All right. Who creates resource plans?

6 A. That's done by our resource planning group and  
7 that is part of our transmission organization. I don't  
8 build the actual plans of what generation is going to  
9 come in when.

10 Q. So you don't make the Ten-Year Site Plans?

11 A. No.

12 Q. But you provide inputs to that?

13 A. Yes.

14 Q. Okay. Thank you.

15 Would you agree that these illustrations are a  
16 somewhat simplified representation of a resource plan?  
17 I'm not trying to trick you. I'm assuming a real  
18 resource or a Ten-Year Site Plan is a little bit more  
19 in-depth?

20 A. Yes, if you -- well, the Commission has our  
21 Ten-Year Site Plan. It is more specific about each  
22 asset that would come in and out of the system and then  
23 all the basis that goes into the analysis.

24 Q. Uh-huh. And would you agree that this  
25 March 2010 resource plan is based upon realistic

1 resource needs that were facing Progress in 2010?

2 A. Yes.

3 Q. Okay. And you would agree that the Ten-Year  
4 Site Plan for this scenario, that the Levy Units 1 and 2  
5 are actually beyond the Ten-Year Site Plan horizon,  
6 correct?

7 A. Correct. The Ten-Year Site Plan as filed in  
8 April of this year is '11 through '20. So it is just  
9 outside the Ten-Year Site Plan.

10 Q. So for this particular scenario, this plan is  
11 more realistic than, as I'm sure you would say, the  
12 other scenarios, is that correct?

13 A. I would say it is representative of what was  
14 the Ten-Year Site Plan in the plan of record for the  
15 overall generation assets.

16 Q. All right. And just as a general background,  
17 when resource planning -- when determining where to  
18 bring a new unit into service, you would agree that the  
19 company takes into consideration like the company's  
20 reserve margin, possible retirements of other, either  
21 costly or inefficient units, or units for other reasons,  
22 how much capacity the company is currently purchasing or  
23 has the potential to purchase from other generation  
24 sources through like a PPA, and they consider those  
25 things when they are figuring out when to put a new unit

1 into service, correct?

2 A. I would agree, in addition to other things  
3 that we articulate in detail in each Ten-Year Site Plan  
4 filing.

5 Q. All right. Among the other considerations,  
6 would financing the cost of that new plant be something  
7 that's considered?

8 A. In what?

9 Q. In developing a resource plan, like when to  
10 bring the new unit into service?

11 A. Not specifically.

12 Q. Okay. And would you agree in a resource plan  
13 as shown here, there is somewhat of a cause and effect  
14 relationship between the additions and reductions of  
15 megawatt hours, correct? Like if you add megawatts in  
16 one part, you have got to take them off at another, or  
17 if you are going to be retiring a unit or something is  
18 expiring, you need to still add additional megawatts in  
19 order to take its place, correct?

20 A. In general, yes, but it depends, of course, on  
21 load growth requirements and other environmental  
22 requirements.

23 Q. All right. Thank you. And when looking at  
24 these blocks of generation like for the Levy units, when  
25 making this plan, you bring an entire block of megawatts

1 into service in that year. You don't do it incremental,  
2 like 200 one year, 200 the next year, or 200 another.  
3 You would bring the entire unit on-line at the same  
4 time, correct, as part of the resource planning?

5 A. Yes, as part of resource planning it would be  
6 shown in clarity what the in-service date was and when  
7 those megawatts were assumed to be in service in terms  
8 of that plan.

9 Q. Hypothetically speaking, if you were to be  
10 adding large blocks of megawatts hours, say 500 or  
11 1200 megawatts into service before the Levy project on  
12 this particular March scenario, would you agree then  
13 that would push the system need for Levy out several  
14 years?

15 A. Can you ask me that question again, because I  
16 didn't --

17 Q. Sure.

18 A. You're talking about this specific plan, or  
19 are you talking about in general?

20 Q. For this specific plan. Say we were taking it  
21 to the drawing board and said we want to add some more  
22 megawatt hours in 2016 and 2019 ahead of Levy, in  
23 addition to what is already shown here. That would  
24 really push the need for the Levy project out several  
25 years, correct?

1           **MR. WALLS:** I'm going to object. It calls for  
2 speculation.

3           **MR. SAYLER:** We're on a scenario planning  
4 exercise, and it's a hypothetical.

5           **CHAIRMAN GRAHAM:** I'll let you continue.

6           **MR. SAYLER:** Thank you.

7           **A** Yes, I would agree, hypothetically, if you add  
8 generation in advance of some other generation that is  
9 already in the plan, you would have to restack the whole  
10 plan.

11           **Q.** Okay. If you will turn to Slide 5. Would you  
12 agree that Slide 5, the moderate change resource plan,  
13 signifies a potential restacking that pushes the need  
14 for Levy out?

15           **A.** Yes.

16           **Q.** As typified by the units coming into service  
17 in 2023 and 2024, correct?

18           **A.** I would say as typified by the fact that this  
19 is one solution to how to deal with the potential  
20 elements that are part of that moderate change scenario.  
21 It's not necessarily an executable solution, but it is  
22 one solution.

23           **Q.** Okay. Similarly, if you were to go back to  
24 Slide 4, the March resource plan, and to just  
25 arbitrarily move the Levy Units to 2027/2029 that would

1 create some sort of megawatt deficit on the system or  
2 for the system, correct?

3 A. I would say in general that's true. Again, it  
4 depends on the more detailed resource planning in that  
5 time frame. And as we discussed that is just beyond the  
6 current Ten-Year Site Plan development that has been  
7 done.

8 Q. Okay. So if you moved Levy to those later  
9 dates, then you would need to find something to fill  
10 that gap such as those units on 2023/2024, correct?

11 A. Again, I would say it depends on what's  
12 driving the move. I think that is -- you know, if it is  
13 driven by a dramatic reduction in load growth, then  
14 there may not be another generation requirement.

15 Q. Please turn to Page 6. Now, this just gives a  
16 snapshot of all five scenarios, correct?

17 A. Let me get there.

18 Q. It involves the resource plan?

19 A. That's correct.

20 Q. And it shows the various in-service dates.  
21 All right. Turn to Page 7. That shows the various  
22 in-service dates, correct, on page -- excuse me, Page  
23 6 shows the various in-service dates?

24 A. I'm sorry, could we go back? What was the  
25 first question? I think I may have been on the wrong

1 slide when I was answering.

2 Q. Slide 6.

3 A. Slide 6.

4 Q. Resource plan comparison?

5 A. Okay.

6 Q. For Levy it shows various in-service dates for  
7 that, correct?

8 A. Correct. It shows different potential  
9 in-service dates as one solution for the different  
10 scenarios.

11 Q. And under BAU, business as usual, there is  
12 still no in-service dates, correct?

13 A. That is correct.

14 Q. Turn to Slide 7.

15 A. Slide 7.

16 Q. It's entitled scenario March 2010 strategic  
17 capital. You would agree that on the left-hand side  
18 those are shown in millions of dollars, correct?

19 A. That's correct.

20 Q. And that on the bottom you are showing the  
21 years from 2010 to 2025, correct?

22 A. That's correct.

23 Q. And I suspect this is some sort of layer graph  
24 or landscape graph, I don't know what the proper term  
25 is, but would you agree that the different colors on

1 this chart show spending for various different projects  
2 that are shown in that March resource plan shown on  
3 Slide 4, is that correct?

4 A. Yes, that's correct.

5 Q. Just, for example, to meet the in-service  
6 dates for the Levy County project by 2021/2023, there  
7 would need to be continuous spending, green, from 2010  
8 roughly through 2024, correct?

9 A. That's correct. I can't see the '23 to '24.  
10 I'm not sure whether that's green out there or not, but  
11 it looks like it may be.

12 Q. Definitely through 2023?

13 A. Definitely through the plan in service.

14 Q. And the other -- the spending associated with  
15 the other projects are all confidential, correct?

16 A. Correct.

17 Q. And those concern -- strike that question.  
18 Or, excuse me, those are associated with the different  
19 potential megawatt additions shown on that Slide 4,  
20 correct? Or, in other words, in order to achieve the  
21 March resource plan shown on Slide 4, this is the  
22 estimated amount of dollars that Progress Energy would  
23 have to expend in order to achieve that resource plan,  
24 correct?

25 A. Yes. This is showing the capital cash flow

1 requirements for each project, and then layering them on  
2 top of one another.

3 Q. Now, on Slide 7, that green capital mountain  
4 associated with the Levy project, that would be the  
5 capital expenditure associated with the Levy project,  
6 correct?

7 A. Correct. The green represents the cash flow  
8 and capital investment requirements for Levy.

9 Q. All right. And would those be construction as  
10 opposed to preconstruction costs associated with Levy,  
11 do you know?

12 A. I'm going to -- I think they are probably  
13 both. I think it was intended to show the total cash  
14 flow requirements for the project from a project view.

15 Q. But as far as -- but, potentially, most of  
16 that capital expenditure is associated with construction  
17 as opposed to preconstruction, right?

18 A. The majority of the capital requirements for  
19 Levy are associated with construction.

20 Q. And unlike preconstruction costs, Progress  
21 recovers only AFUDC carrying costs associated with  
22 construction, correct?

23 A. Correct. Under the current regulatory rule,  
24 we collect carrying costs on capital investment as part  
25 of construction.

1 Q. And in order to meet this large capital  
2 expenditure mountain, Progress would need to either  
3 raise those monies through debt, equity, potential  
4 additional energy sales, or other sources, is that  
5 correct?

6 A. Correct.

7 Q. Do you see that solid red line?

8 A. Yes.

9 Q. I believe it is confidential, is that correct?

10 A. Yes, I think it is. I think we have got it  
11 labeled as confidential.

12 Q. All right. Is there any kind of -- without  
13 disclosing or breaching confidentiality, can you explain  
14 what that line represents? And if you can't, that's  
15 fine.

16 A. I think I can. You can see the title of it.  
17 It really is designed as a benchmark for other  
18 expenditures for these other capital projects just as  
19 sort of a sense of how does everything else stack up.  
20 The other projects that might have to be done in  
21 addition to the strategic capital requirements that  
22 would be required for a project like Levy.

23 Q. All right. And you would agree that most of  
24 the capital expenditure associated with Levy is above  
25 that red line, correct, for years 2013 through 2021?

1           A.    Only if all the other projects stay in place.

2           Q.    Okay.  Now, from a strategic capital  
3 expenditure planning scenario, would you agree that  
4 staying below the red line in capital expenditures is  
5 optimal for Progress Energy Florida and Progress Energy,  
6 the parent company?

7           A.    No.

8           Q.    So it's not optimal, sorry?

9           A.    No, that wasn't the point.  That wasn't the  
10 purpose of the benchmark.  That wasn't to find an  
11 optimal point.

12          Q.    And, again, this particular capital spend  
13 assumes a 50 percent ownership for Levy, correct?

14          A.    That's correct.

15          Q.    And there are currently no joint owners for  
16 the Levy project at this time, correct?

17          A.    No joint owners are currently committed.

18          Q.    Currently committed.  But you can't have joint  
19 owners unless they are committed, right?

20          A.    Well, apparently in the other utilities you  
21 can.

22          Q.    Okay.  Would you agree that if Progress fails  
23 to secure 50 percent joint ownership for the Levy  
24 project we can safely assume that this capital  
25 expenditure mountain associated with Levy would be much

1 larger, as much as 50 percent larger?

2 A. Yes, the capital requirements will be larger  
3 without joint ownership.

4 Q. Currently under this strategic capital plan,  
5 the CapX mountain peaks at approximately 2.5 billion in  
6 2017, would you agree with that?

7 A. Ask me your question again, because I want to  
8 make sure you are not just talking about Levy. Again,  
9 remember this is one on top of the other, so you have to  
10 integrate just the green to get the capital requirement  
11 as this graph is trying to show. You can't go to 2.5  
12 and say that's the number for Levy.

13 Q. Yes. Thank you for that clarification. I  
14 meant to say that the total capital expenditure for Levy  
15 and the other projects would peak at over 2.5 billion in  
16 2017, correct?

17 A. In this current plan, if the other additions  
18 that you see in the '16 through '17 time frame stayed in  
19 place, that's correct.

20 Q. And as you testified earlier, without joint  
21 ownership the capital expenditure associated with Levy  
22 would potentially be 50 percent higher, correct?

23 A. That's correct.

24 Q. All right. If you were a member of the senior  
25 management team in 2010, and you saw this very large

1 capital expenditure mountain facing you starting in  
2 2013, wouldn't you agree that moving that capital X  
3 expenditure mountain into the future would be very  
4 attractive?

5 A. No.

6 Q. Okay. As a member of the SMC, if you were --  
7 would you agree that if your company was contemplating a  
8 merger with another company, would you agree that  
9 pushing this capital expenditure mountain into the  
10 future would also be very attractive?

11 A. No.

12 Q. If you will turn to Slide 8, the moderate  
13 change strategic capital. According to this graphic it  
14 shows the capital expenditure facing Progress Energy  
15 Florida has shifted significantly, would you agree with  
16 that?

17 A. Yes, but it's a result of looking at the  
18 alternate, an alternate resource plan for this  
19 particular scenario.

20 Q. Correct. And under the March plan the capital  
21 expenditure really started ramping up in 2013, correct?

22 A. That's correct.

23 Q. And under the moderate change plan, that  
24 capital expenditure really started ramping up in 2019,  
25 correct?

1           A.    That's correct.

2           Q.    Now, we do note that there are some capital  
3 expenditures between mid-2013 and 2017 that are above  
4 that red line, correct?

5           A.    That's correct.

6           Q.    And some of that is associated with Levy, but  
7 some of that is associated with other projects being  
8 considered under that resource plan, correct?

9           A.    That's correct.

10          Q.    And similarly, under joint ownership,  
11 50 percent joint ownership, the peak of the mountain --  
12 you would agree that the peak of the capital mountain is  
13 shown as 2022, correct? For all projects that peaks  
14 above 2.5 billion?

15          A.    That's about correct, yes.

16          Q.    And that is a 50 percent joint ownership, so  
17 without any joint owners, that expenditure, that capital  
18 peak would be 50 percent higher just for the Levy  
19 project alone?

20          A.    That is correct, similar to what we saw in the  
21 other slide.

22          Q.    Hypothetically, if you were a member of the  
23 SMC in 2010 and saw a way to shift the capital  
24 expenditure mountain from one scenario to the next,  
25 would you agree that that would be an attractive option?

1           A.    No, but I think that one requires some  
2 explanation because, again, the whole purpose of doing  
3 the scenario analysis is to --

4           Q.    I'm okay with the no.

5           **MR. WALLS:** I'm going to object. Can he  
6 answer the question?

7           **CHAIRMAN GRAHAM:** I agree with the objection.  
8 You have got to give him the latitude to answer your  
9 question.

10          **MR. SAYLER:** Certainly.

11          **THE WITNESS:** And I'll be brief. You know,  
12 the purpose here was to evaluate how you might respond  
13 to these different scenarios. So you asked me,  
14 hypothetically, if I was a member of the SMC would this  
15 look more attractive, and the answer is it really  
16 depends. Since the scenarios are not plans or ways of  
17 looking at the environment, it would depend on what did  
18 we really think the environment was in a particular time  
19 frame, and is that really the best thing to do to move a  
20 project like this later. The problem with moving it  
21 later is it becomes more expensive, especially if there  
22 were drivers that would cause you to need it sooner.

23          **MR. SAYLER:** Thank you for that clarification.

24          **BY MR. SAYLER:**

25          Q.    Earlier I asked you about the 50 percent joint

1 ownership. If it's 50 percent higher that means the  
2 costs associated would also double, is that right? It  
3 would also mean that the costs would double associated  
4 with that?

5 A. That's what I was implying you meant. Fifty  
6 percent would be half of the total number if there was  
7 no joint ownership.

8 Q. Okay. If you will turn to slide number --  
9 actually, why don't we just kind of flip through the  
10 slides. Slide 9 just shows a strategic capital  
11 comparison of all the different scenarios, is that  
12 correct?

13 A. That's correct.

14 Q. Similarly, Slide 10 is the system energy mix?

15 A. Across all five scenarios, that's correct.

16 Q. And Slide 11 pertains to all five scenarios  
17 and is confidential, the same as Slide 12, correct?

18 A. Yes. Slide 11 is a depiction across the  
19 various scenarios for that particular parameter and how  
20 it might be met. The parameter that's in the title.

21 Q. Okay. Thank you. And then Slide 13 is  
22 residential rate impact per 1,000 thousand kWh, correct?

23 A. That's correct.

24 Q. And the same is true for Slide 14, which is  
25 the residential rate impact for moderate change,

1 correct?

2 A. That's correct. These are both potential  
3 residential rate impacts per thousand kW.

4 Q. Uh-huh. I know Mr. Foster was asked some  
5 questions about an exhibit provided to staff -- or,  
6 excuse me, discovery response, but do you know if these  
7 numbers are similar to what was provided in that  
8 exhibit, or in that discovery response to staff, the  
9 order of magnitude? If you don't, that's fine. We can  
10 move on.

11 A. You know, I'd have to go look. I don't know.  
12 These were generated, I think, with a different set of  
13 entering assumptions probably than what Mr. Foster did,  
14 but I would have to put the two side-by-side to really  
15 get you that answer.

16 Q. But this also shows the rate impact at 50  
17 percent ownership for Levy, correct?

18 A. That's correct.

19 Q. And the --

20 A. So the one -- if I could, the one specific  
21 difference is Mr. Foster's work was all at 100 percent.

22 Q. 100 percent rate impact or --

23 A. That's correct. One hundred percent  
24 ownership.

25 Q. Correct. Thank you. You would agree that

1 Slide 15 shows the residential rate impact for a period  
2 of time, and it shows all four scenarios, correct?

3 A. That's correct.

4 Q. Now, turn to Slide 16. Or, excuse me, stay on  
5 Slide 15. Earlier you testified that when you're doing  
6 a resource plan, you don't really consider residential  
7 rate impact, is that correct?

8 A. I think your specific question was as part of  
9 the resource planning is that one of the elements that  
10 goes into the development of the Ten-Year Site Plan, and  
11 my answer was no.

12 Q. Okay. Similarly, when developing a Ten-Year  
13 Site Plan or resource plan, do you consider earnings,  
14 which is shown on Page 16, Slide 16?

15 A. No, not as part of the Ten-Year Site Plan.

16 Q. Turn to unnumbered Page 19. It says  
17 implications, recommendations, and risks.

18 A. Okay.

19 Q. Oh, sorry. Before we do that, would you back  
20 up to Slide 18? This slide is completely redacted and  
21 confidential, but the title of the slide, is that  
22 something that Progress Energy is currently facing or  
23 was facing in 2010 when this slide was developed, these  
24 scenarios?

25 A. You know, I don't know. I don't know the

1 answer to that. I'm not real clear on your question,  
2 though. If you are talking about the title, is that  
3 something we were facing, or maybe you could ask me the  
4 question again.

5 Q. Okay. This shows four different small charts?

6 A. Yes.

7 Q. Each chart has its own title and that's  
8 confidential. And if you look at the bottom left, it  
9 describes which scenario this chart is associated with.  
10 And it's only one scenario, it doesn't compare itself to  
11 any of the other scenarios. But would you agree that  
12 this was some sort of consideration that Progress Energy  
13 was facing in 2010 when they were -- as a real-world  
14 scenario?

15 A. What I would say is this was one element that  
16 was part of the briefing. And it was, I think, as I  
17 recall, very specific to the second subbullet. We have  
18 already talked about moderate change, but the second  
19 bullet right next to it, I think it was just looking at  
20 an excursion specific to how to deal potentially with  
21 that asset in some of these different scenarios. That  
22 is the most I remember about this particular slide.

23 Q. Was that a realistic excursion?

24 A. I would say it was just another element we  
25 were evaluating in the event that something else had to

1 be done with that asset. Again, as a result of looking  
2 at these different future views of the world.

3 Q. Thank you. Number 19, implications,  
4 recommendations, and risks. And before we look at the  
5 next few pages, if you will look at unnumbered page or  
6 Slide 24, just as an appendix.

7 A Okay.

8 Q. And for reference, appendix contains similar  
9 slides to what we saw earlier for the other three  
10 scenarios that weren't directly being compared with the  
11 moderate change or the March 2010 scenarios, right? The  
12 appendix was just for context, would you agree?

13 A. Yes. The appendix has similar materials for  
14 the other scenarios. However, the other scenarios were  
15 included on some of the earlier slides that we just  
16 flipped through.

17 Q. All right. And we have already looked at  
18 Slide 20, but would you agree that this is sort of a  
19 summary page comparison between all the different  
20 scenarios tied to one scenario?

21 A. I would agree it's a comparison of how each of  
22 these different scenarios in the plan of record  
23 effect -- potentially effect each of these programs and  
24 projects in the left-hand most column.

25 Q. And does it appear to emphasize the moderate

1 change scenario?

2 A. I would say no.

3 Q. Isn't it true that the moderate change  
4 scenario is on the far left, and March 2010, BAU, tech,  
5 and aggressive are all kind of slimmed down and seem to  
6 be the key differences with the moderate change  
7 scenario?

8 A. Yes, but that was just one way of presenting  
9 the information. The information would be repeated, so  
10 it was just showing the differences for the other  
11 scenarios compared to that one.

12 Q. And for someone looking at this, whether a  
13 senior management committee person or someone who  
14 prepared it or some nonmember of Progress, would you  
15 agree that it appears that the moderate change is kind  
16 of the plan and everything else is being compared with  
17 that? Would that be a reasonable assumption?

18 A. I would say no. I think that is somewhat of a  
19 hypothetical. You really had to have all the background  
20 that went behind this through the various months of  
21 doing this to understand how this chart was used.

22 Q. So it is not your testimony that the moderate  
23 change scenario is not more important than the  
24 March 2010 scenario, is that correct?

25 A. That's correct.

1           Q.    And earlier we discussed about the items under  
2 the far left column under moderate change, and it was  
3 your testimony earlier that those are, I guess,  
4 environmental factors facing Progress, or did you -- am  
5 I correct that you characterized all of those as  
6 environmental factors or are they something else?

7           A.    They are factors that were part of the  
8 scenarios.  Again, as we went through the scenario  
9 analysis and we sort of draw this to conclusion, and you  
10 say, all right, so what are the different things in each  
11 of these different views of the future world that could  
12 potentially affect these projects.  That was what this  
13 was trying to articulate.

14          Q.    All right.  Regarding the topmost scenario,  
15 that one is driven by a specific potential environmental  
16 regulation, right?

17          A.    The topmost project, yes.

18          Q.    What about the second project, is that driven  
19 by environmental scenario?

20          A.    I think the first subbullet there potentially  
21 depending on either MACT or BART requirements that might  
22 cause us to have to do something different with the  
23 asset that is mentioned in that line.

24          Q.    What about the next the one down, the third  
25 block, is that an environmental scenario?

1           A.    I think this one was based on what might  
2 happen with load growth in the future and some  
3 uncertainty around technology implementation that might  
4 drive a different change in load growth, as least as I  
5 recall.

6           Q.    The same question for the next one, is it  
7 driven by environmental considerations?

8           A.    Yes.  This was given consideration to that  
9 unit which we had just completed retrofits on and  
10 whether we might have to consider dispatching that  
11 differently in some of these different world orders.

12          Q.    The Levy 1 which says preferred policy  
13 resource, but dependent upon robust policy support,  
14 where is the environmental considerations there?

15          A.    I think the only environmental consideration  
16 on that line may be over there in the BAU column.

17          Q.    Not economic due to low gas and no greenhouse  
18 gas emissions legislation, correct?

19          A.    Correct.

20          Q.    For the item underneath Levy?

21          A.    Uh-huh.

22          Q.    How is that driven by environmental  
23 considerations?  And I'm looking at the other ones under  
24 BAU and tech and aggressive?

25          A.    I think this one here is probably, again, more

1 driven by -- and if you go back to the earlier  
2 presentations that lay out all the factors in each of  
3 these scenarios, I think that may be one that was  
4 probably more effected by load agreed changes than it  
5 was by environmental factors or environmental  
6 regulation.

7 Q. So not environmental, but load growth factors?

8 A. Yes, I think so.

9 Q. What about the last one, is that driven by  
10 environmental regulations or things?

11 A. I think it was related. I can't speak to that  
12 one specific specifically. I don't remember.

13 Q. Would that last -- would those last two be  
14 more economically driven?

15 A. No, I think what you are seeing in where that  
16 some of the change shows up is they are probably driven  
17 more by some of the things that are affecting load  
18 requirements, whether that is a technology disruption or  
19 potentially some environmental regulation that drives a  
20 load reduction.

21 Q. All right. But you would agree that under  
22 that last phrase those first two words have nothing to  
23 do with environmental regulation, it's more economic,  
24 correct?

25 A. I'm sorry, go back to where you are pointing?

1 Q. The last line, under moderate change?

2 A. Okay.

3 Q. After the bullet, those first two words. Is  
4 that driven by --

5 A. No, that would be driven, I think, by load  
6 reductions of some sort. Now, what's driving those,  
7 again, is something that the scenarios were trying to  
8 stress.

9 Q. All right. And after the word and, is that  
10 also driven by environmental conditions or some other  
11 thing like an economic condition?

12 A. I think it depends. It can be, it depends on  
13 what is driving the competitiveness of the existing  
14 resource portfolio.

15 Q. Now, you would agree with me that all the  
16 items that are in that left-hand column are more than  
17 just environmental considerations, right?

18 MR. WALLS: Object, mischaracterization.

19 MR. SAYLER: He just testified that some of  
20 them were not related to environmental considerations,  
21 or environmental regulation, so --

22 MR. WALLS: I believe he testified that all  
23 the items in the left-hand column were projects or  
24 programs.

25 THE WITNESS: I think you guys are on

1 different columns.

2 **BY MR. SAYLER:**

3 Q. All right. We may be on the same page but  
4 different columns. Taking these two columns together,  
5 would you agree that some of these scenarios are  
6 potentially likely and some of these scenarios are  
7 potentially expected for Progress Energy Florida?

8 A. You know, I think if I can, I think you are  
9 using the world scenario wrong. So if you are thinking  
10 that each of these rows is a scenario, that's not true.

11 Q. No. I mean, taken as a whole, things within  
12 each individual scenario, like each -- okay, I think  
13 we're on the same page now.

14 A. Yes.

15 Q. Each individual item is not a scenario?

16 A. Correct. Those are projects and/or programs  
17 that we are doing.

18 Q. Right. But each of those individual items,  
19 some are more likely to occur and some are less likely  
20 to occur in any given scenario, correct?

21 **MR. WALLS:** Objection.

22 **CHAIRMAN GRAHAM:** What's the objection?

23 **MR. WALLS:** Objection, vague and ambiguous,  
24 but he may have addressed it with his last -- if the  
25 witness understands.

1           **THE WITNESS:** The leftmost -- can I answer?

2           **CHAIRMAN GRAHAM:** Please.

3           **THE WITNESS:** Sorry. The leftmost column  
4 don't have likelihood or unlikelihood to them. They are  
5 just projects and/or programs that are either ongoing or  
6 were in early planning phases. So you can't really  
7 define are any of these most likely or less likely.  
8 That's not what those were. It's the scenarios going  
9 across that you were trying to do, how would these  
10 things affect those projects or programs of record that  
11 are in that first column.

12           **MR. SAYLER:** All right. Thank you.

13           **THE WITNESS:** I don't know if that is making  
14 it clearer.

15           **MR. SAYLER:** No, that helps.

16 **BY MR. SAYLER:**

17           **Q.** And these were added, would you agree, to add  
18 fidelity to the scenario planning exercise?

19           **A.** Yes, I would agree. That was really the  
20 point.

21           **Q.** And when you mean fidelity, do you mean, like,  
22 realism, or what do you mean by fidelity?

23           **A.** No, it was to take what were rather broad  
24 potential future views of the world, and then apply  
25 those back to specific projects and/or plans within the

1 company. So what does that mean to us potentially, if  
2 this thing was to happen.

3 Q. Earlier you testified that the Levy project  
4 was a small part of this overall scenario planning  
5 process, right?

6 A. Correct.

7 Q. But when you look at those capital expenditure  
8 pages, it seems like Levy was the main cost driver,  
9 would you agree?

10 A. I would agree that Levy is a main cost driver.

11 Q. And all those things in that far left-hand  
12 column along with the scenarios were the reasons why the  
13 scenario planning was undertaken in 2010, correct?

14 A. No.

15 Q. So why was high level scenario planning  
16 exercises undertaken in 2010 if it wasn't done to  
17 evaluate these things along with resource plan, Progress  
18 earnings, the residential rate impact, and capital  
19 expenditures, you know, to see them all as a whole?

20 A. The reason that detailed scenario planning was  
21 done in 2010, as well as the reason that to some extent  
22 it is done each year was because we think as a company  
23 it is important for us to stay informed and aware of  
24 potential changes in our external environment that could  
25 drive how we think about these programs of record. It

1 is really based on a pretty common technique. It is  
2 Peter Sways (phonetic) book on the art of the long view.  
3 That's what lays this out. And he says try to write  
4 down in specific titles different views of the future  
5 world, and then use those to try to stress your thinking  
6 around your different projects. So that's why we  
7 undertook this. It's not that dissimilar to what we  
8 have done each year. I think it's important for us to  
9 do. It informs how we run the business, and I think  
10 it's what the Commission would expect of us.

11 Q. And you would agree that the 2010 scenario  
12 planning is more extensive than the 2009, correct?

13 A. I would agree.

14 Q. And to what you know about the 2011, the 2010  
15 was much more extensive, as well, correct?

16 A. That's correct.

17 Q. And it covered the various things we talked  
18 about, resource planning, capital expenditure  
19 constraints, customer rate impact, Progress earnings,  
20 and other confidential things, correct?

21 A. I'm sorry, would you ask that again? It being  
22 the scenario planning process?

23 Q. Yes, the scenario planning process.

24 A. Yes, that's correct.

25 Q. And that was done for both Progress Florida

1 and Progress Carolina, correct?

2 A. That's correct.

3 Q. And it was also considered by the highest  
4 level of Progress Energy executives, meaning the senior  
5 management committee, correct?

6 A. Yes. In addition, it was also used as a way  
7 to educate the rest of the Progress Energy leadership  
8 team beyond the SMC.

9 Q. All right. Of the things that were considered  
10 on Slide 20 on the left-hand column, are those things  
11 that Progress Energy still takes into account today?  
12 These are still --

13 A. These are still active projects and/or  
14 programs, if that's your question.

15 Q. Yes. When evaluating the current or future  
16 business climate, would you agree that the senior  
17 management committee has to remain agile as it relates  
18 to present and future business decisions?

19 A. I would agree that it is important for the SMC  
20 and the senior management to be informed of things that  
21 may change that could affect their existing plans, and  
22 to then build an organization that has the agility to be  
23 able to respond to those changes.

24 Q. And the scenario planning process in 2010 was  
25 part of that agility building process?

1           A.    Correct.

2           **CHAIRMAN GRAHAM:** Mr. Sayler, if I can get you  
3 to hold that thought. It's about time for us to give  
4 our court reporter about a five-minute break.

5           **MR. SAYLER:** Certainly.

6           **CHAIRMAN GRAHAM:** We will recess until about  
7 3:55.

8           (Recess.)

9           **CHAIRMAN GRAHAM:** All right. Mr. Sayler, I  
10 apologize. You have the floor.

11          **MR. SAYLER:** Thank you, Mr. Chairman.

12 **BY MR. SAYLER:**

13          Q.    Mr. Elnitsky, a moment ago you mentioned  
14 something about prudent utility managers, is that  
15 correct? Well, I will just ask my question. Would you  
16 agree that a prudent utility manager must remain agile  
17 in order to respond to possible future changing  
18 circumstances, is that correct?

19          A.    Yes, as we just discussed.

20          Q.    And would you also agree that a prudent  
21 utility manager must be ready with an alternative plan  
22 before actually being forced to change that plan or  
23 program of record, would you agree to that?

24          A.    Yes, but I think with some qualification.

25          Q.    Okay. So, similarly, if Progress was maybe

1 hypothetically thinking about changing the program of  
2 record with Levy, they wouldn't just one day change it,  
3 they would have spent some time thinking about planning  
4 for that eventual change, correct?

5 A. Yes, and I would say that the detailed process  
6 that we went through last year that we articulated  
7 throughout 2010 and into 2011 is a good example of the  
8 type of analysis that goes on to execute a change like  
9 that.

10 Q. All right. And in summary regarding the  
11 scenario planning exercise document, would you agree to  
12 a layperson that the moderate change scenario appears to  
13 be -- have the most benefits or be the most attractive  
14 scenario in terms of resource planning, capital  
15 investment, and those other things discussed in the  
16 confidential areas?

17 A. I would say no.

18 Q. All right. Just flipping through the  
19 remainder of the exhibit, 21 talks about key decision  
20 timeline. It's interesting to note the Commission is  
21 mentioned on there. Strategic issues and  
22 considerations. For 22, under near-term decisions, are  
23 these potential near-term decisions that Progress is  
24 facing right now?

25 A. Yes. I would say these were as a result of

1 going through this scenario analysis. One of the  
2 conclusions drawn was what are some of the near-term  
3 decisions that we might need to make or need to be  
4 considering.

5 Q. And these near-term decisions are kind of  
6 assumed within the various scenario planning exercises?

7 A. That's correct.

8 Q. Slide 23 has a bunch of if thens. I'm not  
9 going to go through that. And that's the appendix which  
10 contains the summary.

11 Just a few more basic questions regarding the  
12 scenario planning exercise. Whether or not the moderate  
13 change scenario was the leading scenario as shown by  
14 this plan, Progress Energy engaged in this scenario  
15 planning process to remain agile because the senior  
16 management wants to be prudent utility operators and  
17 managers, correct?

18 A. That is correct. In order to look at all the  
19 possible external factors that could affect us in those  
20 various scenarios.

21 Q. And, generally speaking, Progress Energy, like  
22 any other utility, probably does all sorts of behind the  
23 scenes planning for future eventualities, correct?

24 A. Yes. I would say we try to stress ourselves  
25 by asking those what-if questions.

1 Q. And would you agree that almost all of those  
2 behind-the-scene planning activities are never disclosed  
3 to the public, correct?

4 A. I would say it depends.

5 Q. Okay. Isn't it true that Progress Energy  
6 Florida, the senior management committee, never intended  
7 to disclose these scenario planning analyses to this  
8 Commission or the public?

9 A. No, I wouldn't agree.

10 Q. They intended to?

11 A. They were never asked for before.

12 Q. Okay.

13 A. Other than what we provided last year as part  
14 of the production of documents.

15 Q. But for the production of document requests,  
16 Progress Energy would not have disclosed the scenario  
17 planning activity to this Commission, is that correct?

18 A. If they were asked for we would have, yes.

19 Q. And if they weren't, you wouldn't have,  
20 correct?

21 A. No, because they are not part of our official  
22 plans.

23 Q. Similarly, would you agree that unofficial  
24 planning activities are not usually disclosed until  
25 after they are officially adopted as a new program of

1 record?

2 A. Yes, I would agree in general, hypothetical or  
3 what-if scenario analysis is only disclosed when it  
4 becomes the official plan.

5 Q. Okay. And regarding the moderate change  
6 scenario considered by the SMC for Progress, it is your  
7 testimony that the moderate change scenario is not some  
8 shadow plan, hip-pocket plan, or some are sort of  
9 confidential alternative plan for Progress Energy  
10 Florida, is that correct?

11 A. Yes, that's correct.

12 Q. It is also your testimony that the senior  
13 management committee does not have a confidential  
14 alternative plan for the Levy project whether based upon  
15 the moderate change scenario, any of these other  
16 scenarios, or some other scenario that we have discussed  
17 today, is that correct? Have not discussed today, is  
18 that correct?

19 A. That is correct.

20 Q. But you do not deny that the Progress Energy  
21 senior management committee met to consider these  
22 strategic scenario analysis on the eve of the 2010 NCRC  
23 hearing, is that correct?

24 A. I'm just trying to think about the calendar.  
25 I think that's correct.

1           Q.    For the record, if my recollection is correct,  
2 the date on the scenario plan is August 23rd, and I  
3 believe the NCRC hearing in 2010 started August 24th.  
4 That's my recollection from the Commission's calendar.

5           A.    That is probably right.

6           Q.    Okay.  Similarly, you do not deny that  
7 Progress did not disclose these high level  
8 well-developed strategic scenario analysis to the  
9 Commission in 2010, do you?

10          A.    Could you ask that question again?

11          Q.    You do not deny that Progress failed to  
12 disclose these high level well-developed strategic  
13 scenario analysis to the Commission in 2010?

14          A.    There were no similar scenario analysis at  
15 this level of detail in 2010, but what we did provide in  
16 2010 were a similar set of documents that, as I recall,  
17 Mr. Rehwinkel asked us to be ready to speak about at the  
18 hearings last year, and those were provided in  
19 production of documents last year.

20          Q.    Although you and Mr. Lyash were involved in  
21 developing some aspect of the scenario planning analysis  
22 at varying degrees of involvement, neither of you  
23 indicated in your testimony at last year's NCRC  
24 proceeding that the SMC was potentially considering  
25 these scenarios or alternative in-service dates for the

1 Levy project, is that correct?

2 A. Yes, that's correct. Although, as I just  
3 testified, those were items that we were asked to be  
4 ready to speak to at the hearings last year. However,  
5 they were never brought up.

6 Q. You were asked to be ready to discuss the 2010  
7 scenario planning activities at last year's NCRC  
8 proceeding?

9 A. No, we were asked to be ready to discuss the  
10 similar set of documents that were provided from 2009  
11 that Mr. Rehwinkel asked us to have ready to discuss  
12 during the hearings last year.

13 Q. But, also to be fair, no one asked you or Mr.  
14 Lyash about the 2010 scenario planning activities that  
15 the SMC had just recently concluded considering,  
16 correct?

17 A. That's correct.

18 Q. And did you attend the strategic SMC retreat  
19 where these analyses were considered?

20 A. Yes, I did.

21 Q. Were you there the entire time?

22 A. No.

23 Q. Were you are there for any of the sessions  
24 where the SMC discussed these scenarios?

25 A. Yes.

1 Q. Were you there for any closed-door sessions  
2 where the SMC discussed these scenarios?

3 A. I don't know that there were any closed-door  
4 sessions where they discussed these scenarios; there  
5 wouldn't have been a reason to.

6 Q. You are not a member of the SMC?

7 A. No, I'm not.

8 Q. Isn't it true, then, you don't have any  
9 personal knowledge about what the SMC, in fact, did  
10 following the retreat regarding these scenarios?

11 A. Only from what I saw on the agenda, and only  
12 from having concluded most of these discussions during  
13 the time I was there.

14 Q. So your testimony under oath today to the  
15 Commission is that the moderate change scenario is not  
16 the, quote, real plan for the Levy project, correct?

17 A. That is correct.

18 Q. It is also your testimony under oath that the  
19 SMC does not have some sort of confidential alternative  
20 plan, hip-pocket plan for the Levy project based on  
21 these planning scenario exercises, correct?

22 A. Yes. As I previously said in answer to your  
23 previous question, we have a plan of record that is  
24 documented in our March 2011 IPP. That is what my  
25 project team is executing to.

1 Q. And it is also your testimony that you were  
2 not aware of any other potential alternative dates for  
3 the Levy project whatsoever, is that correct?

4 A. You'll have to say that again. Alternative  
5 dates in terms of things that were in scenarios or just  
6 in general?

7 Q. In general. The in-service dates, according  
8 to the IPP, are 2021, 2022, or '23, depending upon when  
9 it comes into service. It is your testimony that you  
10 are not aware of any other potential plans that would  
11 affect the in-service dates for the Progress -- for the  
12 Levy plan, is that correct?

13 A. That's correct. There are no other plans  
14 other than the plan of record that we are executing.

15 Q. The senior management committee is a committee  
16 of Progress executives and they are just right below the  
17 board of directors, is that correct?

18 A. That's correct, with the exception of Bill  
19 Johnson, who is the Chief Executive Officer, and also  
20 the Chairman of the Board of Directors.

21 Q. Okay. Noting that exception for the following  
22 question, the SMC ultimately votes on and approves the  
23 directional path for Progress, and that includes  
24 Progress Florida and Progress Carolina, is that correct?

25 A. That's correct.

1 Q. And then the SMC makes its recommendation to  
2 the board of directors for major projects, correct?

3 A. That's correct. Usually, in general, projects  
4 that are in excess of approximately \$50 million would go  
5 to the board of directors for approval of their project  
6 plan.

7 Q. All right. But it is true that the SMC  
8 doesn't need board of director approval for all  
9 projects, correct?

10 A. That's true.

11 Q. Now, the SMC doesn't need board of director  
12 approval to develop a confidential alternative plan?

13 A. No.

14 Q. Okay.

15 A. Ask me that question again. I may have got a  
16 double negative in there.

17 Q. Okay. And this is not specific to the Levy  
18 project. I'm talking about in general. The SMC  
19 doesn't, for lack of a better word, bother the board of  
20 directors with all the various alternative plans that  
21 the SMC is considering, is that correct?

22 A. That's correct. If you're talking about  
23 something like a scenario analysis, that would not be  
24 something that would go to the board of directors,  
25 normally.

1 Q. Okay. All right. And usually when the SMC is  
2 considering an alternative plan, they don't usually  
3 present that to the board of directors until they are  
4 ready to ask the board to act upon that alternative  
5 plan, is that right?

6 A. I would say it depends. You know, some of  
7 these things, for example, in 2009 when we began the  
8 process of marching through the various steps to  
9 change -- to slow down the project, there were several  
10 pre-events with the board of directors as we went  
11 through that effort. So it's not just wait until you  
12 have a plan that you can execute. As appropriate, we  
13 would take check points into the board of directors for  
14 their review.

15 Q. Okay. You would agree for major plans that it  
16 would probably go to the board of directors, correct?

17 A. Yes, they would.

18 Q. But they wouldn't necessarily take that major  
19 plan to the board of directors until they had matured  
20 the alternatives to be able to present them kind of a  
21 good recommendation, is that correct?

22 A. Yes, that's correct. And a good example of  
23 that is what we did in early 2010 in March when we took  
24 the options around Levy to the board of directors for  
25 approval.

1 Q. To your knowledge, following the August 2010  
2 SMC strategic planning retreat, did SMC bring any  
3 recommendations to the board of directors regarding the  
4 scenario planning activities?

5 A. Not to my knowledge.

6 Q. Okay. If those recommendations were taken to  
7 the board of directors, would you have knowledge of  
8 that?

9 A. Yes.

10 Q. How so?

11 A. It would have probably -- well, my suspicion  
12 is it would have resulted in some other direction back  
13 to the project, of which there was none.

14 Q. To your knowledge, did the SMC bring to the  
15 board of directors attention that the SMC was doing this  
16 strategic scenario planning analysis?

17 A. I don't know.

18 Q. Now, do you attend every senior management  
19 committee meeting?

20 A. No.

21 Q. What about the ones of the board of directors?

22 A. Some.

23 Q. And the ones that are some relate to Levy and  
24 other things?

25 A. Levy or other major projects, yes.

1           Q.    Have you recently attended some board of  
2 directors meeting regarding other major projects?

3           A.    Yes.

4           Q.    And would those other major projects effect  
5 the in-service date for Levy?

6           A.    No, not in general.

7           Q.    Not in general, or --

8           A.    Not to my knowledge.

9           Q.    -- not to your knowledge.  Isn't it true that  
10 you cannot testify with any degree of certainty that the  
11 senior management committee does or does not have a  
12 confidential alternative plan for the Levy project or  
13 its in-service dates, is that correct?

14          A.    Yes, I think I can.  I am integrally involved  
15 with the senior management committee.  Everything  
16 related to the Levy project I'm involved in.  So if  
17 there was an alternate plan within the senior management  
18 committee, I think our company is such that I would know  
19 that, and there is no alternate plan.  There is a plan  
20 that was approved and documented in the March 2011 IPP  
21 that we are executing.

22          Q.    Now, when you were preparing your testimony,  
23 did you go to each member of the SMC to ask them whether  
24 there was some alternative plan for the Levy project?

25          A.    Only as we did as part of the integrated

1 project plan, and that was the basis -- if you go back,  
2 in January 2011 we reviewed the enterprise risks and the  
3 project status with the SMC. In March of 2011 we  
4 approved the integrated project plan with all the senior  
5 management committee, and those two briefs and those  
6 documents really become the basis of my testimony.

7 Q. But if there was some other alternative plan  
8 that they did not want to make you aware of because they  
9 knew you were going to have to present testimony in this  
10 docket, it would be reasonable to assume they wouldn't  
11 tell you about that, correct?

12 A. I would say no, that's not the way we do  
13 business.

14 Q. Well, I'm glad to hear that.

15 Speaking about the Levy project schedule  
16 slippage, hypothetically speaking, if the Levy project  
17 in-service schedule slipped a year, would you agree that  
18 a one-year slippage in that schedule would not affect  
19 the -- would probably not affect the Public Service  
20 Commission's continued approval of the Levy project  
21 under the NCRC process?

22 MR. WALLS: I'm going to object, that it calls  
23 for speculation.

24 CHAIRMAN GRAHAM: I will overrule the  
25 objection. He has asked a hypothetical, and we have

1 asked hypotheticals on and off this entire process.

2           **THE WITNESS:** I'm not exactly sure how the  
3 Commission would respond to that. My expectation is  
4 that we are going to try to execute the project on the  
5 plan and on the schedule. If there was a one-year delay  
6 in the project for some reason, I think it would be for  
7 the Commission as part of its regular process to see  
8 what were the reasons for that delay, were our actions  
9 to deal with that delay reasonable and were we doing all  
10 the things we could from a project management and  
11 execution perspective to prudently reduce the cost  
12 impact on the customer. That is my better answer for  
13 that.

14           **CHAIRMAN GRAHAM:** You did a fine job of  
15 answering that.

16 **BY MR. SAYLER:**

17           **Q.** And assuming there was a reasonable reason for  
18 a year slippage, you would also agree that that would  
19 probably not affect the NCR's review of the Levy  
20 project COLA priority, is that right?

21           **A.** The NRC's, you mean?

22           **Q.** Yes, the NRC. Same question just for the NRC,  
23 assuming everything is reasonable.

24           **A.** I would say in general, no. And, again, the  
25 reason is we are into the final phases now of the

1 license approval, so really without some major  
2 disruption there is no reason to stop that process at  
3 this point.

4 Q. Okay. Hypothetically speaking, if there's a  
5 reasonable reason that the Levy project slipped two  
6 years, would that slippage affect the PSC or the NCRC's  
7 approval or review of the Levy project?

8 **CHAIRMAN GRAHAM:** I'm going to agree with the  
9 objection this time. Is there an end to this? Are you  
10 going to continue until he finally says the other  
11 answer?

12 **MR. SAYLER:** Actually, I'll ask my last  
13 question, and then we will go with that.

14 **CHAIRMAN GRAHAM:** Please.

15 **BY MR. SAYLER:**

16 Q. Really, the meat of this question is would you  
17 agree that if the Levy project, whether for a reasonable  
18 reason or not, was to slip too far beyond 2021, such as  
19 2027, or 2029, or 2026, there's at some point where both  
20 the Commission would say we don't want -- it's not  
21 reasonable for you to incur any further costs on this  
22 project. And the same question for the NRC, we are  
23 going to go ahead and tell you to go to the back of the  
24 line, or why don't you come back with a real plan when  
25 you are planning to build the project. I mean, there is

1 some threshold point where the authorities give the  
2 thumbs down to the project, correct?

3 A. Yes, I would agree. And I think the driver  
4 would be at some point a scheduled delay, the ability to  
5 maintain the supply chain and actually execute the  
6 project comes into jeopardy. And I would argue that at  
7 that point that would have substantial cost  
8 ramifications and probably ultimate schedule  
9 ramifications to go back and try to renegotiate not only  
10 the contract for the actual construction, but all the  
11 long-lead equipment.

12 So, yes, I think there is some point you get  
13 to where you have to look at what is causing that change  
14 and then come back. And I think that is where we have  
15 to make our best decision as a company and bring that  
16 back to the Commission and say these are the reasons  
17 that either, A, we think the project should stop, or why  
18 we think the project should go forward.

19 Q. And a significant change in the schedule would  
20 be one of those considerations, right?

21 A. Yes, I would agree.

22 Q. Okay. Let's move to your transmission study  
23 that you discuss in your direct testimony.

24 A. Okay.

25 Q. And most of my questions are rather generic.

1 I'm not going to point you to a specific point in your  
2 testimony. Isn't it true that Progress Energy Florida  
3 has already completed one transmission study for the  
4 Levy project when the in-service dates were 2016 and  
5 2017?

6 A. That's correct.

7 Q. And the customers have already paid for that  
8 transmission study, correct?

9 A. That is correct.

10 Q. And now is this transmission study being  
11 done -- redone in toto, or is it just being updated for  
12 the new in-service dates?

13 A. The objective is to be able to do an update to  
14 it based on the new in-service dates, because our  
15 suspicion is, based on that five-year change in  
16 schedule, that there would be enough other work that  
17 happens in the transmission system that some of the  
18 things we were doing only because of Levy are now going  
19 to have to happen for other reasons. As such, by  
20 updating the transition study we think we should be able  
21 to go back and actually reduce the scope of transmission  
22 work that's required as part of Levy.

23 Q. What other reasons?

24 A. Say again?

25 Q. You just testified that there may be other

1 reasons for doing this transmission study. What are  
2 those other reasons?

3 A. No, other resources is what I think I said.

4 Q. Oh, resources. What other resources?

5 A. Yes. Other work that has been done elsewhere  
6 in the system on the part of the regulation of the  
7 transmission system. So upgrades, for example, in 69 kW  
8 distribution systems, for example.

9 Q. Okay. Are these other resources new units  
10 going on-line or something along that line?

11 A. No, I was talking about upgrades that we have  
12 done to the transmission system.

13 Q. Okay. So there is no plans for other power  
14 plants in the immediate vicinity of the Levy site that  
15 would require these transmission upgrades?

16 A. No.

17 Q. Whether the transaction study is an update to  
18 it or completely redone, you would agree there is some  
19 cost associated with that, correct?

20 A. Yes, there is.

21 Q. And because of the shift to the 2021  
22 in-service date, Progress is now asking the Commission  
23 to require customers to pay for an updated transmission  
24 study, correct?

25 A. Yes.

1 Q. And with regard to the money expended by  
2 customers for the first transmission study, was that  
3 money wasted?

4 A. I would say no. This is the same type of  
5 issue we are having to deal with as a result of those  
6 circumstances that were out of our control around the  
7 limited work authorization and the other changes in the  
8 licensing schedule that resulted in the decision we made  
9 last year to implement this longer-term partial  
10 suspension and slow the project down. So that resulted  
11 in, as you know, Mr. Sayler, a set of work around  
12 long-lead equipment. This is really another part of  
13 that. It's an action we are having to take. We didn't  
14 want to have to do that, but we think it's the  
15 reasonable and prudent thing to do, especially if it can  
16 ultimately reduce the scope that is going to be required  
17 for transmission in the Levy project.

18 Q. Thank you. Maybe wasted was the wrong term.  
19 An outdated transmission study doesn't really provide  
20 any value to the Levy project, does it?

21 A. Well, yes, it does at this point, until we  
22 have an update that gives us a better solution in terms  
23 of how to deal with the transmission requirements  
24 associated with that project.

25 Q. All right. Because of the uncertainty

1 associated with the Levy project in-service schedule,  
2 can you see why Progress customers may be nervous about  
3 expending money for an update to the transmission study?

4 A. Well, I don't believe with the premise that  
5 there is uncertainty about the Levy schedule. We have a  
6 plan that we are executing to. We are doing the work  
7 necessary to maintain the current schedule to bring the  
8 first unit in service in 2021. Part of doing that is to  
9 ensure that we have the right transmission system  
10 available at the time that we do start-up and the  
11 commissioning activities, and that's the reason for  
12 having to start this transition study and the work  
13 associated with it early next year.

14 Q. Okay. To date for this updated or second  
15 transition study, isn't it true that Progress has not  
16 spent any of the -- any money on that update?

17 A. That's correct.

18 Q. When does Progress expect to start spending  
19 money on that update?

20 A. We would start doing some of the internal  
21 planning at the end of this year and then probably  
22 contract for some resources to complete that study next  
23 year.

24 Q. As it relates to receipt of the COLA, C-O-L-A,  
25 or COL, would you agree that the transmission study is

1 not necessary for the receipt of the COL?

2 A. Not exactly. It is in one part in that part  
3 of getting our license is also the final environmental  
4 impact statement. And in order to get to the final  
5 environmental impact statement, you have to know all the  
6 environment that you are impacting. And for this  
7 project, it's not just at the generation site, but it is  
8 also the wetlands and the areas that are impacted by  
9 transmission. So right now, that's moving forward based  
10 on the study that we have. However, if we do get to the  
11 point where we have a substantial change or an update as  
12 a result of the transmission study, we would incorporate  
13 that into the process.

14 Q. But would you agree, as it relates to  
15 transmission costs or studies necessary for the receipt  
16 of the COLA, Progress has already performed all of  
17 those, is that correct?

18 A. That's correct.

19 Q. And the monies associated with those have  
20 already been recovered from the customers, correct,  
21 whether it's in the rate mitigation plan, or --

22 A. Yes. They have been found prudent and  
23 authorized for recovery.

24 Q. Okay. Would you agree that this transmission  
25 study update was not contemplated by the senior

1 management committee when it created its March 2010  
2 integrated project plan?

3 A. I don't remember. I'm trying to remember  
4 whether I briefed them on the potential for reviewing  
5 the transmission system. I'd have to go back and look  
6 at the briefs from time frame. I don't think we  
7 specifically talked about having to update the  
8 transmission system.

9 Q. And earlier you testified things that are in  
10 the IPP are the plan of record --

11 A. That's correct.

12 Q. -- and things that are not in it are not the  
13 plan of record.

14 A. Yes. And as I recall, I don't think we had  
15 that in the April 2010 IPP as a requirement.

16 Q. If you will turn in your rebuttal testimony to  
17 Exhibit JE-13, it's your IPP. I don't know --

18 A. This one is from April.

19 Q. Yes, April 28, 2010. There is a nice  
20 illustration which shows -- it highlights key schedule  
21 milestones for generation. Page 12, or 13 of 23 if you  
22 are looking at the exhibit number, Page 12 of the actual  
23 IPP. If you will take a moment to look at that.

24 A. Okay.

25 Q. And do you see anywhere on that there is a

1 requirement for expending money for a transmission study  
2 or for a transmission EPC RFP?

3 A. No, there's not.

4 Q. Okay. So at the time that Progress was asking  
5 the Commission to approve the program of record in 2010,  
6 there was no reference to the transmission study or  
7 transmission EPC, correct?

8 A. Yes. I would argue that is correct that that  
9 was not part of the integrated project plan other than  
10 that we did show general transmission costs, but I don't  
11 think this was specific enough to identify whether  
12 another study would be done.

13 Q. So you would agree that in 2010, when the new  
14 dates for Levy 2012 and 2022 were approved by the SMC,  
15 at that time the transmission study and the transmission  
16 EPC RFP was not necessary to achieve that 2021 schedule,  
17 correct?

18 A. Yes, but I think that we had not completed all  
19 of the analysis --

20 Q. Thank you.

21 A. -- of whether that study would be needed.

22 Q. How long would the schedule have to slip for  
23 you to update the second transmission study a third  
24 time; a year, two years, five years? I mean, I just  
25 don't know how long a transmission study is valid before

1 it becomes stale or outdated.

2 A. It really depends on the amount of other  
3 system work that is going on, and that is really what  
4 will drive it. So part of what we continue to watch  
5 each year is there another upgrades in the transmission  
6 system that cause us to question whether or not we would  
7 need to do additional work as part of Levy.

8 Q. Would it be fair to say if the in-service  
9 dates changed to 2027 the transmission study would be at  
10 a minimum need to be updated or redone?

11 A. I would still have to say it depends on what  
12 other work has gone on in the transmission system in the  
13 interim period.

14 Q. So what changed between 2010 and 2011 that  
15 requires the transmission study and transmission EPC to  
16 be done at this time?

17 A. As we developed the detailed project plan and  
18 we worked our way backwards from the time frame when we  
19 would need transmission in service, and then we looked  
20 at other changes that had gone on in the transmission  
21 system, or that were proposed to happen in the  
22 transmission system during the intervening years, it  
23 became apparent to the project team that there might be  
24 a benefit to going back and redoing the transmission  
25 study to see if we could reduce the scope associated

1 with the Levy project.

2 Q. Did Progress add this transmission study and  
3 the costs associated with that transmission EPC --  
4 excuse me, let's go ahead and turn to your most recent  
5 IPP.

6 A. Okay.

7 Q. There's a similar graphic. Part of that is  
8 confidential. I apologize for not being able to put my  
9 finger right on it. It's Page 9 of his Exhibit JE-12.

10 A. Okay.

11 Q. Now, you would agree that things have been  
12 added to this chart as compared to the one from 2010,  
13 correct?

14 A. That is correct. We continue to update the  
15 project plans as we need.

16 Q. Were any of those things added to this chart  
17 in order to bolster that Progress was proceeding  
18 according to the plan of record with the Levy project?

19 A. No, things were added to this chart as deemed  
20 necessary by the project team to continue to execute to  
21 the first in-service date in 2021.

22 Q. So it is your testimony that Progress did not  
23 just add these costs in order to bolster its intent that  
24 it is building the plant according to the program of  
25 record, correct?

1           A.    That's correct.  That's not the way we do  
2 business.

3           **MR. MOYLE:**  Can I just ask for a  
4 clarification?  You referenced JE-13, and I think you  
5 said Page 9, and it seems to be a mismatch between the  
6 pages on the document.

7           **MR. SAYLER:**  It's Page 10 on the exhibit page,  
8 but Page 9 -- yes, on the top right it's Page 10; on the  
9 bottom left it's Page 12.  Excuse me, I apologize.  No,  
10 on the March -- or, excuse me, the April 2010 IPP it is  
11 Page 12, or Page 13 of 23.  Of the current IPP, it's  
12 Page 9 or 11 of 38.

13           **MR. MOYLE:**  Thank you.

14           **MR. SAYLER:**  My apologies for that misspeak on  
15 the numbers.

16 **BY MR. SAYLER:**

17           Q.    Mr. Elnitsky, at this time would you agree  
18 that Progress does not need to acquire any additional  
19 land in order to receive its COL, is that correct?

20           A.    That's correct.

21           Q.    And at this time Progress is not required  
22 to -- it's not necessary for Progress to acquire any  
23 additional land for potential transmission  
24 right-of-ways, is that correct, for its COL?

25           A.    For the COL, no.  For the transmission

1 right-of-ways, yes.

2 Q. But for the COL, no? Okay.

3 And even if the schedule does not slip, you  
4 would agree that there is no need to acquire any  
5 additional land in the remainder, 2011 or 2012, is that  
6 correct?

7 A. No, there is a need to acquire land based on  
8 the project plan. But if your question was is there a  
9 need to do it to receive the COL, the answer to that  
10 would be no.

11 Q. Okay. And the things in the project plan such  
12 as transmission right-of-way or other things, those  
13 things are not necessary to receive the COL, correct?

14 A. That's correct.

15 Q. And if Progress -- I mean, if it's necessary  
16 to achieve the plan of record, but not the COL, then why  
17 is Progress trying to expend that money in 2011 or 2012?

18 A. Well, I think the first part of your question  
19 answers that. In order to continue the project and the  
20 work activities that are necessary to bring the plants  
21 in service in '21 and '22, there is a set of activities  
22 that have to go on now and a rather extensive list of  
23 work that continues above and beyond just that work that  
24 is focused on achieving the license.

25 Q. But there is no reason that Progress couldn't

1 wait until after 2012 to purchase that additional land,  
2 is there?

3 A. Only that it might result in additional cost  
4 impact for the customers.

5 Q. In the sense that land might be more expensive  
6 in the future?

7 A. That's correct.

8 Q. Do you have any studies that show land will be  
9 more expensive or less expensive in the future?

10 A. I have the results of the negotiations we have  
11 been doing to strategically buy land in the  
12 right-of-ways that have come in significantly below what  
13 our original project expectations were.

14 Q. Repeat that. You said --

15 A. I have the results of negotiated contracts for  
16 parcels in the right-of-way that came in at prices below  
17 what we originally anticipated would be required to  
18 procure those properties.

19 Q. And the price anticipated was based upon the  
20 high prices for land pre-2008?

21 A. It was based on some early studies that were  
22 done in 2008 and 2009 around anticipated land prices in  
23 the different areas that we needed to buy right-of-way.

24 Q. Do you have any reason to believe that land  
25 prices may continue to decline?

1           A.    I'm not a real estate mogul, but I don't have  
2 any better insight into what land prices are going to do  
3 in the long-term than anyone else. We're just trying to  
4 take advantage of an opportunity as we saw it.

5           Q.    Thank you. It's my understanding from your  
6 direct testimony that at some point in the future  
7 Progress will need to restart the suspended long-lead  
8 equipment disposition negotiations, is that right? I  
9 believe the time when you're planning to start is  
10 confidential, so I'm not trying to specify a year.

11          A.    No, not specifically the long-lead equipment  
12 requirements. Those dispositions are complete as of  
13 August 1. But there will be work required, as I spell  
14 out in my direct testimony, to negotiate with the  
15 consortium the cancellation of the current suspension  
16 and then the full notice to proceed to start  
17 construction.

18          Q.    But there is no need to restart those  
19 negotiations in 2011 or 2012, is that correct?

20          A.    No, that's not correct. If those negotiations  
21 don't start in 2012, it will be very difficult to  
22 conclude them in a timely manner consistent with when we  
23 expect to receive our license and when we would like to  
24 begin construction activities to support the project  
25 schedule.

1 Q. Is it your testimony that you have to have  
2 those restated before you receive your COL or --

3 A. No.

4 Q. So you can receive the COL without actually  
5 having renegotiated those, correct?

6 A. Yes. But if you were to wait until the COL to  
7 begin negotiations, that would add a substantial amount  
8 of time into the project plan and would put in jeopardy  
9 the ability to achieve a 2021 in-service date.

10 Q. I believe according to testimony last year and  
11 this year, when the five-year shift was created Progress  
12 built in some float time, is that correct?

13 A. That is correct.

14 Q. Wouldn't that float time be sufficient to  
15 accommodate any of those potential delays?

16 A. Not based on our experience negotiating  
17 Amendment 3 to the engineering procurement and  
18 construction contract. If that's an indicator of what  
19 will be required to -- and I think it is, if it's an  
20 indicator of what will be required to negotiate the full  
21 notice to proceed, I think we need sufficient time to do  
22 that correctly.

23 Q. Okay. And in your direct testimony you  
24 mentioned a reference potentially starting to negotiate  
25 the full notice to proceed, is that right?

1           A.    Yes, I mentioned beginning those negotiations  
2 in mid to late next year.

3           Q.    When negotiating long-lead dispositions or the  
4 full notice to proceed, FNTF, what types of things would  
5 Progress spend money on in those negotiations?

6           A.    It is really limited to our own staff work and  
7 potentially some external consulting work around  
8 establishing our principles for negotiation and then  
9 conducting those negotiations, but really it's primarily  
10 internal work.

11          Q.    Outside consultants being attorneys, CPAs, and  
12 other people that evaluate things for you?

13          A.    Yes. We'd like to have some external experts,  
14 again, look at our contracts as we move forward.  
15 Similar to how we did when we first negotiated the EPC  
16 contract.

17          Q.    All right. Thank you. Regarding the  
18 transmission study for the remainder of 2021 -- or,  
19 excuse me, 2011 and 2012, how much has Progress budgeted  
20 for that transmission study update?

21          A.    Approximately 400,000.

22          Q.    What amount has Progress budgeted in 2011 or  
23 2012 for the transmission EPC RFP and detailed design  
24 process? And I believe it's just only 2012 costs, is  
25 that correct?

1           A.    Yes.  I don't have that exact number in front  
2 of me, but it would be included in the transmission line  
3 item in the IPP for 2012 costs.  It would be an element  
4 of that number.

5           Q.    Would that number be something you could  
6 isolate and provide to us in a late-filed exhibit, or  
7 would that be something Mr. Foster could tell us about?

8           A.    I would say no, because we really haven't done  
9 anything at this point to begin a negotiation and do any  
10 requests for proposal.  To try to give you a precise  
11 number on what that work might cost would be premature  
12 at this point.

13          Q.    So Progress has not allocated or estimated a  
14 cost associated with starting that EPC RFP for the  
15 transmission design phase?

16          A.    Not yet.

17          Q.    But yet there are monies in the projected  
18 2011/'12 costs -- excuse me, there are monies in the  
19 projected 2012 costs that are going to be specifically  
20 going towards the transmission EPC and RFP process, is  
21 that correct?

22          A.    The money I think that is currently in the  
23 2012 costs is specifically associated with the  
24 transmission study.  It is not specifically associated  
25 with the RFP work that will come later.

1 Q. And you just testified that '11 and '12 costs  
2 for the transmission study is 400,000?

3 A. That's correct.

4 Q. How much has Progress budgeted for the  
5 remainder of '11 and projected 2012 for transmission  
6 line -- or, excuse me, transmission land right-of-way  
7 acquisition?

8 A. Can we go back a second?

9 Q. Sure.

10 A. Could you ask me your previous question again,  
11 because I think I misunderstood your question. I think  
12 I can actually answer that, if I look it up here a  
13 minute. The one about the EPC RFP.

14 Q. What amount has Progress budgeted for the  
15 transmission EPC RFP and detailed design process?

16 A. Let me get that out, because as I think about  
17 it, that would be in our estimate broken out  
18 specifically. So if you would like me to pull that  
19 number, I can probably find it real quick.

20 Q. Yes, if you don't mind.

21 **MR. WALLS:** Is that a confidential number?

22 **THE WITNESS:** You know, it probably is. So I  
23 can show it to you, or shall we do this later?

24 **MR. SAYLER:** What about a confidential  
25 late-filed exhibit that would contain those confidential

1 numbers? (Pause.)

2 My co-counsel has suggested we can maybe deal  
3 with that on his rebuttal testimony, and maybe have it  
4 identified specifically where in the filing it is so we  
5 can find that number.

6 **THE WITNESS:** Okay. We can do that. I  
7 apologize, I just didn't think about it until you asked.

8 **BY MR. SAYLER:**

9 Q. A similar question. How much has Progress  
10 budgeted for transmission land right-of-way acquisition  
11 for '11 and '12?

12 A. Approximately \$2 million in '11 and 2 million  
13 in 2012.

14 Q. And has Progress expended money already in  
15 2011 for transmission land acquisition?

16 A. Yes, we have.

17 Q. How much of that 2 million have you not  
18 expended?

19 A. Have we not compensated?

20 Q. Have you not expended?

21 A. Approximately, a million.

22 Q. So a million remaining for '11 that has not  
23 been expended?

24 A. That's correct.

25 Q. How much has Progress budgeted for

1 negotiations to restart the suspended LLE purchase order  
2 dispositions?

3 A. Less than -- well, for right now from internal  
4 resources, less than 200K. I don't have the exact  
5 numbers in front of me in terms of what we might  
6 anticipate for contractor support. I would have to get  
7 those to you.

8 Q. Would that be isolated in the filing that was  
9 made to the Commission?

10 A. I think it is in the estimate. I would have  
11 to go dig that out, so I could try to find that, as  
12 well.

13 Q. Maybe we can isolate that on rebuttal, as  
14 well.

15 A. Okay.

16 Q. What about for negotiations to start  
17 negotiating the FNTP?

18 A. That's what I was just talking about.

19 Q. Okay. So approximately 200,000 for restarting  
20 the FNTP?

21 A. Yes.

22 Q. What about restarting suspended long-lead  
23 equipment?

24 A. Those are really the same thing. So just to  
25 go back, the work associated with long-lead equipment,

1 that is complete. So now what remains -- and part of  
2 that negotiation was all how that work would get  
3 restated at the right time. So that work is done as  
4 part of that long-lead equipment disposition. The work  
5 that remains in terms of the engineering procurement and  
6 construction contract is the negotiation of the formal  
7 notice to proceed.

8 Q. Another sort of hypothetical question. Well,  
9 let me build a basis for it. Annually Progress  
10 provides, for lack of a better term, a budget to this  
11 Commission actual/estimated for 2011, and then projected  
12 for 2012, the next year. And if Progress were to expend  
13 monies that were either not in that spending plan or was  
14 above that spending plan and the Commission determined  
15 those were reasonable, then Progress could still recover  
16 those dollars that were reasonably spent in the  
17 following year's true-up cycle, is that correct?

18 A. That's the way I understand the rule.

19 Q. All right. And because Progress could still  
20 recover those dollars in the next NCRC proceeding as a  
21 true-up, Progress would not be harmed, is that right?

22 A. Would not be what?

23 Q. Harmed.

24 A. No. Or, yes, Progress would not be harmed.

25 Q. Would not be harmed. Would you agree that the

1 opposite would be true for Progress' customers if  
2 Progress expended money on transmission studies, EPC,  
3 RFPs, buying more land, or restarting negotiations now,  
4 and then the project is either significantly delayed or  
5 never built, would you agree that the Progress customers  
6 would be harmed?

7 **A.** No, I would not. I think what we are doing  
8 now is the reasonable and prudent actions necessary to  
9 continue with the plan based on the best knowledge that  
10 we have at this point.

11 **Q.** Would you turn to Page 16 of your May  
12 testimony.

13 **A.** Sixteen.

14 **Q.** Right around Line 13 and following. And if  
15 you will find the SEC filing excerpts.

16 **A.** Okay.

17 **MR. SAYLER:** Mr. Chairman, could we take a  
18 moment off the record to speak with the company?

19 **CHAIRMAN GRAHAM:** Sure.

20 (Pause.)

21 **MR. SAYLER:** Thank you. Thank you for your  
22 indulgence.

23 **BY MR. SAYLER:**

24 **Q.** Mr. Elnitsky, on Page 16 -- excuse me, on Page  
25 33 of this SEC excerpt?

1           A.    I'm sorry, which page again?

2           Q.    Page 33, the last page.  That's from the most  
3 recent 10Q.

4           A.    Okay.

5           Q.    In that last paragraph there are some dollar  
6 figures that are shown here, and if you would just take  
7 a moment to explain how they relate to the dollars on  
8 Page 16 and 17 of your testimony.

9           A.    Okay.  Let me just kind of walk through the  
10 process here.  Commissioners, if you look at Line 13 on  
11 Page 16, that number was our original estimate of what  
12 we thought it might take to disposition the long-lead  
13 equipment purchase orders for those 14 items I mentioned  
14 in my opening summary statement.

15                   As we worked with the consortium and the  
16 supply chain this last year, it became apparent to us  
17 that market conditions were beginning to change and that  
18 suppliers that originally did not want to entertain  
19 suspending their work and had wanted only to cancel the  
20 work were now willing to suspend.  That was good news  
21 for the customers and good news for us in terms of the  
22 project.

23                   When we filed our updated estimates and  
24 actuals for 2010 last year, we updated that number to  
25 the 50 million that you see in the SEC filing, and we

1 thought that we would be able to finish that in 2010.  
2 In actuality, those negotiations took until this year.  
3 As a matter of fact, we just completed the last item on  
4 August 1st. But as a result of taking longer to do  
5 that, we were able to reduce those ultimate disposition  
6 costs below 25 million. Actually to about twenty-two  
7 and a half million from what that original estimate was.  
8 So that is the correlation between the numbers on Page  
9 16 and what is discussed in this SEC filing.

10 Q. Thank you for that explanation. And I think  
11 we all appreciate the fact that Progress is able to  
12 negotiate very well not only for themselves but on  
13 behalf of customers at a much lower amount. But it is  
14 true that in -- last year you had estimated 50 million,  
15 but none of that money was spent, and then this year you  
16 revised that estimate lower in the estimated/actual for  
17 2011, correct?

18 A. That's correct.

19 Q. And you lowered it to 25, and then you just  
20 testified that it is actually even lower, correct?

21 A. That is correct. Just barely, twenty-two and  
22 a half.

23 Q. And is the Office of Public Counsel asking the  
24 Commission to refund any portion of that potential  
25 \$25 million overrecovery from the customers or from the

1 utility?

2 A. Was your question is Progress Energy -- I  
3 think you said Office of Public Counsel.

4 Q. No. Sorry. Is the Office of Public Counsel  
5 asking the Commission to --

6 A. Let me say it again is Progress Energy asking,  
7 is that what you mean?

8 Q. No. I mean, Progress Energy is asking for  
9 money to go towards that, but there seems to be a small  
10 overrecovery in 2011 of about \$25 million, and has OPC  
11 taken issue with that overrecovery related to the long  
12 lead disposition?

13 A. I think that was the subject of discussion  
14 with Mr. Foster this morning. It's sort of embedded in  
15 the rate management plan discussion. I'm sorry, I  
16 misunderstood your premise.

17 Q. No problem.

18 Let me ask you this. With Progress seeking  
19 \$115 million from the rate mitigation plan, 115 million,  
20 and also in light of this overrecovery, do you think  
21 Progress' ratepayers should receive any kind of break in  
22 2012, commensurate with the overrecovery amount?

23 A I think that goes back to that conversation  
24 with Mr. Foster this morning. It's really a question of  
25 do you recover now in 2012 and keep customer rates

1 relatively flat and mitigate some of the cost rate  
2 impact that you will see in 2013 and '14, or do you  
3 stick with a slower rate of recovery in that amortized  
4 amount, have a lower customer rate in 2012, but then  
5 bigger numbers in '13 and '14. That's really the  
6 trade-off. That's a judgment question. We have made a  
7 proposal for what we think is a fair approach, but that  
8 is subject to the Commission's review, obviously.

9 Q. But it is your testimony that they shouldn't  
10 get a break now in 2012, is that correct?

11 A. They shouldn't get what?

12 Q. They shouldn't get a break in their rates in  
13 2012, is that correct?

14 A. Yes. My testimony is consistent with  
15 Mr. Foster's proposal.

16 Q. Okay. Thank you. Regarding joint ownership,  
17 in both your May direct testimony and your rebuttal  
18 testimony you discuss joint ownership. Page 55 and 57  
19 in your May testimony, and I'm just going to ask some  
20 kind of 10,000-foot-view questions. You can probably  
21 answer them without needing to turn there.

22 A. Okay.

23 Q. Isn't it true that Progress does not expect to  
24 acquire any joint owners for the Levy project in 2011 or  
25 2012?

1           A.    No.

2           Q.    How about 2011, do you expect to acquire any  
3 joint owners this year?

4           A.    No.

5           Q.    And 2012?

6           A.    I think it will depend on our ongoing  
7 discussions and negotiations.

8           Q.    Do you expect to have any joint owners prior  
9 to the receipt of the COL from the NRC?

10          A.    It's possible.

11          Q.    Would you agree that if Progress fails to  
12 acquire any joint owners for the Levy project, Progress  
13 is planning to build the project anyway?

14          A.    Yes.  We have repeatedly stated that we could  
15 go forward with the project without joint ownership,  
16 however we recognize the significant impact of a project  
17 of this cost, and there are obviously benefits to  
18 mitigating some of that by spreading that risk across a  
19 broader customer base.  However, the other side of that  
20 is there is also lost benefit as a results of doing  
21 that.  So I think that's the trade that we have to  
22 continue to evaluate going forward as we negotiate with  
23 different joint owner participants.

24          Q.    Isn't it true that without joint owners the  
25 rate impact to Progress' customers would double,

1 correct?

2 A. That's basically correct, if you assume a  
3 50 percent joint ownership.

4 Q. All right. If you will refer actually to the  
5 exhibit that I handed out regarding Levy's CPVRR  
6 analyses for 2008 through 2021 -- or 2011. You haven't  
7 done any future ones.

8 A. Okay.

9 Q. If you will take a moment to take a look at  
10 it, and let me know if you believe it is an accurate  
11 representation of the CPVRR analyses for the project,  
12 various ones that Progress performed from 2008 to the  
13 present?

14 MR. WALLS: If I may, I think we would agree  
15 that these are excerpts of those CPVRR analyses from  
16 those years. Obviously the full analysis looks more  
17 like what we filed with Mr. Elnitsky's testimony this  
18 year. These are just certain pages picked out.

19 A Yes, I would agree these look correct. I was  
20 just trying to compare it to what is, I guess, Exhibit  
21 JE-7 to my May testimony. That would be the full  
22 report. There would be a similar full report for each  
23 of these.

24 Q. All right. And it is your testimony that  
25 Progress does a CPVRR, which is cumulative present value

1 revenue requirement, analysis on an annual basis for the  
2 project?

3 A. That is correct, consistent with the  
4 Commission order.

5 Q. And that is part of the feasibility analysis,  
6 correct?

7 A. That's one element.

8 Q. And looking at Bates Page 7, the last page of  
9 the exhibit, that is -- you would agree that's the 2011  
10 CPVRR analysis chart, correct?

11 A. Yes, that is correct. That's the same thing  
12 that is in my exhibit.

13 Q. And it still shows Levy being cost-effective  
14 in more cases than not as compared to an all gas  
15 generation resource, is that right?

16 A. That's correct.

17 Q. And there are three main inputs to the Levy  
18 project CPVRR analysis, is that correct?

19 A. There are three main drivers as we discuss in  
20 the analysis. There are multiple inputs to the process.

21 Q. Okay.

22 A. And we discuss that in the analysis, what  
23 specifically those drivers are.

24 Q. So the three main drivers are fuel, capital  
25 costs, and also greenhouse gas costs, correct?

1           A.    And carbon costs.

2           Q.    And the cost of natural gas is something that  
3 is also an enterprise risk, as well, correct?

4           A.    That's correct.

5           Q.    And the future cost of carbon is also an  
6 enterprise risk?

7           A.    That's correct.

8           Q.    And access to capital is also an enterprise  
9 risk?

10          A.    That's correct.

11          Q.    And according to your May testimony, you  
12 testified that the future cost of natural gas and the  
13 future cost of carbon regulation are two of the main  
14 drivers that directly affect the cost-effectiveness of  
15 the Levy project, correct? I can refer you to your  
16 testimony, if you would prefer?

17          A.    Yes. Just show me what -- I just want to make  
18 sure it is in the right context, but that sounds  
19 correct.

20          Q.    Page 47, Line 10 and 11. And I quote, natural  
21 gas prices and carbon costs are two key drivers in the  
22 economic CPVRR analysis, end quote?

23          A.    Yes, that's correct. And this is in a  
24 response to what are two of the factors that are showing  
25 unfavorable trends.

1           Q.    Regarding the capital expenditure or CapX  
2 driver, you would agree that this driver is directly  
3 affected by Progress Energy's current discount rate,  
4 correct?

5           A.    No.  If you're talking about the capital cost  
6 that goes into this, that's driven by the project  
7 estimate and then the application of carrying costs, so  
8 that cash flow that goes with that project estimate.

9           Q.    Okay.  But the 6.75 discount rate shown on  
10 this chart is an input that effects capital expenditure  
11 sensitivity, is that right for the project?

12          A.    Yes, it's part of the methodology for bringing  
13 an asset that's somewhere out in the future and those  
14 dollars back to 2007 to do the present value analysis,  
15 that's correct.

16          Q.    And the discount rate shown on this page, 6.75  
17 is directly affected or derived from Progress' currently  
18 authorized ROE, is that correct?

19          A.    It's a combination of things.  It is both  
20 looking at the weighted average cost of capital for  
21 projects, balancing about a 50/50 debt-to-equity ratio  
22 with the current authorized return on equity, and then  
23 really using that as the best number then to say how do  
24 you bring those future assets and bring them back to a  
25 present value.  There is a lot -- I'm not an economist,

1 but there's a lot of different ways you can potentially  
2 do that. This has been the consistent approach that we  
3 have used over the years was to use that weighted  
4 average cost-of-capital approach as also a surrogate  
5 then for the discount rate to allow you to bring dollars  
6 back in the future.

7 Q. And we understand it's a sensitivity based on  
8 the 6.75 discount rate, right?

9 A. Say that again?

10 Q. Excuse me, let me retract that question.

11 So there is a relationship between the  
12 authorized ROE and the discount rate, correct?

13 A. That's correct.

14 Q. And if the authorized ROE were decreased, then  
15 the discount rate would also decrease, is that right?

16 A. If you continue to use -- if we continue to  
17 use the same consistent methodology as an indicator of  
18 how to do a present value calculation, that's correct.

19 Q. And similarly, if the ROE, authorized ROE  
20 increased, the discount rate would increase keeping all  
21 the other factors the same, right?

22 A. If all the other factors stayed the same and  
23 you continue to use that approach, yes.

24 Q. And if Progress' discount rate increased,  
25 keeping all the other inputs and cost drivers and

1 everything else constant, that would reduce the number  
2 of cases where the Levy project is cost-effective -- or  
3 I should say that could reduce the number of cases where  
4 the Levy project is being shown as being cost-effective,  
5 isn't that true?

6 A. Yes, that is correct, and that's one of the  
7 reasons we showed that last year in our CPVRR analysis  
8 last year. We showed the comparison of the two discount  
9 rates and what that meant to the analysis.

10 Q. And isn't it true Progress is planning to file  
11 a rate case sometime in the next 12 months?

12 A. As I understand it, yes.

13 Q. And isn't it likely Progress is probably going  
14 to ask for a higher ROE, isn't that correct?

15 A. I will defer that to those that are involved  
16 in the rate case.

17 Q. Assuming Progress asks for a higher ROE and is  
18 granted a higher ROE, that would raise Progress'  
19 discount rate, correct, in a future CPVRR analysis,  
20 correct?

21 A. Again, if you stick with the same methodology,  
22 and, again, it's a way of, you know, how do you place a  
23 value on a dollar in the future and bring it back. So  
24 if you stay with the same technique, yes. If we applied  
25 a different ROE, as authorized by the Commission, that

1 would seem a logical way to continue to do the  
2 calculations.

3 Q. And as we discussed, keeping all the other  
4 inputs constant, an increased ROE could reduce the  
5 number of cases where the Levy project is  
6 cost-effective, correct?

7 A. As a way of the result of the way the  
8 calculation is performed. I think it is important to be  
9 careful it is not the ROE that's driving the way the  
10 analysis is done.

11 Q. All right. In your testimony you described  
12 natural gas, the natural gas driver and enterprise risk  
13 as trending negatively, correct?

14 A. That's correct.

15 Q. And it's trending negatively because costs are  
16 staying low?

17 A. Correct.

18 Q. Conversely, a positive trend would be higher  
19 natural gas prices for the future?

20 A. Correct.

21 Q. The same thing for cost of carbon regulation.  
22 For it to be a positive trend, you would need to have  
23 high costs associated with carbon regulation, correct?

24 A. That's correct.

25 Q. And a positive trend for the CapX CPVRR

1 discount rate, a low ROE would be a positive trend if it  
2 were a trend, is that correct?

3 A. Yes, but I would say those are a little  
4 different. It's sort of like apples and oranges  
5 comparing sort of real-world changes in inputs and the  
6 discount rate. It's a little bit different.

7 Q. Generally, if all the other inputs to the  
8 CPVRR analysis were kept the same, if you had positive  
9 trends in all three categories, or we will just stick to  
10 the gas and carbon. If you have positive trends, that  
11 would generally increase the cost-effectiveness of the  
12 Levy project and even more cases than what are currently  
13 shown?

14 A. Yes. In general, that's true. It's a  
15 comparison of a primarily all gas portfolio with a gas  
16 and nuclear portfolio. So, yes.

17 Q. And if the enterprise risk/economic driver of  
18 natural gas prices and the lack of carbon regulation, if  
19 those continue to decrease, then potentially keeping all  
20 the constants the same, there would be even more cases  
21 where these boxes were yellow?

22 A. That is correct. That has been one of the  
23 reasons we said it is dangerous to use this as just a  
24 single-year litmus test because of those trends.

25 Q. And just for the record, the yellow on these

1 charts does not it is confidential. It's just a way to  
2 show which cases are negative and which are positive.

3 A. That's correct.

4 Q. And I apologize for getting a little bit  
5 outside the scope of your direct, but you did testify in  
6 your rebuttal that CPVRR analyses over time could  
7 potentially show a trend, is that right?

8 A. No, I don't think that's true.

9 Q. Okay.

10 A. I think what I -- and I would have to go look  
11 at my direct. I think what I may have indicated in my  
12 direct testimony is that you could see longer-term  
13 trends in inputs to CPVRR. But, you know, one of the  
14 problems with this analysis is it does tend to be sort  
15 of a snapshot. And as we have testified in the past, we  
16 don't think this should be the only litmus test to use  
17 around the feasibility of the project.

18 Q. And you would agree that since the 2008 need  
19 determination, enterprise risk for the cost of natural  
20 gas are continuing to trend negatively, is that correct?

21 A. Yes. And as I indicate in my direct  
22 testimony, we have not yet evaluated whether that  
23 indicates a long-term trend in natural gas or that is a  
24 year-over-year change. So we did this year update the  
25 lower fuel reference, mid, and high fuel references

1 based on what we have been seeing in those various gas  
2 indices. But we are not yet convinced that that is a  
3 long-term trend that is going to be in effect for the  
4 life of the plant.

5 Q. The same thing for the future of carbon  
6 regulation. That's still also a negative trend?

7 A. That's correct. We have not seen, as of this  
8 point, clear and concise regulation around carbon. What  
9 we do continue to see is emergent regulation from the  
10 EPA around trying to do things around emissions. But  
11 whether or not that is going to result in any sort of  
12 clear carbon policy in the near-term is not clear at  
13 this point.

14 Q. Would you please look at Bates Page Number 5,  
15 which is kind of -- just look at Page 5 and 7 of those  
16 two analyses?

17 A. I'm sorry, are you on -- you are on Page 7 on  
18 the exhibit?

19 Q. Yes. Bates-stamped Page 5 and Bates-stamped  
20 Page 7.

21 A. Okay.

22 Q. And you would agree that the discount rate for  
23 both 2010 and 2011 are the same, correct? 6.75 is shown  
24 on both.

25 A. I'm sorry, I'm not seeing where you are

1 looking. I must be looking at the wrong thing.

2 Q. On the bottom left-hand side where it says  
3 OPC, PEF, NCRC Exhibit 0005.

4 A. Okay.

5 Q. And then two pages after that is 007, that's  
6 the where the page number is.

7 A. Oh, okay. So this is the one that says  
8 Summary of 2009, Updated Results for 21 Schedule Shift,  
9 is that the one you are looking at? I must be -- or am  
10 I looking at the wrong summary?

11 Q. I'm looking at summary of April '10, Updated  
12 CPVRR Analysis, Table 2.

13 A. Sorry. I was looking at these numbers. Oh,  
14 that number. Okay. I'm sorry.

15 Okay. Now I'm on the right page. Sorry.

16 Q. No problem.

17 Regarding the discount rate, you would agree  
18 that the discount rate input is the same?

19 A. In April of last year and this year's  
20 analysis, yes, that is correct.

21 Q. April 2010 and March 2011?

22 A. Yes. You're right. April 2010 and the  
23 March 2011 are the same discount rate.

24 Q. Okay. Now, for the costs associated with  
25 carbon, all the letterings are the same, NOO, CO2, EPA,

1 et cetera. Those all appear to be the same. Did those  
2 inputs change in the scenario?

3 A. No. The carbon inputs did not change  
4 substantially from last year, and I think we -- I'm just  
5 looking at our actual report. I'll double-check that.  
6 I think that's correct. Let me just make sure.

7 Q. I see the five carbon scenarios in both, and  
8 I'm just confirming that they are the same.

9 A. I just want to make sure.

10 Q. I'm trying to drive to an apples-to-apples  
11 comparison between --

12 A. We actually say in our analysis this year on  
13 Page 4 and 5 that the projection for the impacts of  
14 carbon policy were retained from the 2010 study. So  
15 those would be the same input assumptions.

16 Q. And the input as it relates to fuel changed?

17 A. Yes. The fuel assumptions did change, based  
18 on the updated analysis and inputs we had gotten from  
19 various market surveys.

20 Q. And also in 2011 you just did three fuel  
21 cases, whereas in 2010 you did five?

22 A. Yes. What we had done last year, because we  
23 were starting to see this trend in lower gas prices, we  
24 included both a low bandwidth and a high bandwidth  
25 sensitivity, because we were becoming skeptical of the

1 high fuel reference as a real indicator of a longer-term  
2 trend. So when we went back to do the analysis this  
3 year, we eliminated the high fuel reference and stuck  
4 with the lower bandwidth analysis.

5 Q. All right. Part of this explanation I just  
6 kind of want to set up my next series of questions so we  
7 can speed along.

8 A Okay.

9 Q. What I want to do is to compare the fuel  
10 sensitivity cases in 2010 and 2011, you know,  
11 essentially the number of boxes that are cost-effective  
12 versus the number of boxes -- in 2010 versus the number  
13 of boxes in 2011. However, I note that you have dropped  
14 three of the cases. So in order to provide an  
15 apples-to-apples comparison, if you trust my math, in  
16 the 2010 NCRC filing, the top left box for 100 percent  
17 ownership, it shows that 19 of the 25 cases are  
18 cost-effective. Do you agree?

19 A. That's correct.

20 Q. And if you were to divide 19 by 25, you would  
21 get 76 percent or thereabouts. So, in other words, in  
22 76 percent of these cases it's cost-effective?

23 A. That's correct.

24 Q. All right. Now, if you turn to the same box  
25 on the 2011 NCRC filing, you have 10 out of 15 cases

1 where Levy is cost-effective, do you agree?

2 A. That's correct.

3 Q. And if you were to divide 10 by 15, you would  
4 get 66.66667, so it's 67 percent cost-effective, or  
5 showing that it is cost-effective in 67 percent of the  
6 cases as opposed to 76 percent of the cases?

7 A. Yes, your math is correct. But I think your  
8 analysis is erroneous, because it is not exactly  
9 apples-to-apples. Again, as I just described a moment  
10 ago, we eliminated the higher fuel references because we  
11 saw that those were not tracking consistent with  
12 industry trends. So, it's not -- I don't know if that  
13 is exactly a fair comparison to make by counting all the  
14 boxes in one and only some in the other.

15 It would be more applicable to say if I took  
16 out the high fuel reference and I looked at three fuel  
17 cases, and I took out my two highest bands how those two  
18 now compare. So if I took the low fuel reference, the  
19 low bandwidth in the mid fuel reference and I compared  
20 those to the three here, how would that look by  
21 comparison.

22 Q. Or if you were to just take the mid fuel  
23 reference for both?

24 A. And, again, that's why, you know, you can't  
25 really trend these very well, and that's why we don't

1 consider this a specific litmus test on feasibility. It  
2 is a good indicator, but it's not the only litmus test.

3 Q. But you would agree mathematically it appears  
4 that 2011 is less cost-effective than 2010, correct?

5 A. Not if we compare applicable fuel references.

6 Q. And the same thing with --

7 A. Not if we -- let me correct that. Not if we  
8 compare similar fuel reference inputs.

9 Q. And similarly for the CapX sensitivities, the  
10 same box, 100 percent ownership, in 2010 you show it  
11 being cost-effective in 28 of 30 cases, or 93 percent  
12 cost-effective. And then something changed in 2011  
13 where it is only cost-effective in 22 of 30 cases, or 73  
14 percent cost-effective. Would you agree that the 2011  
15 shows a trend that it is being less cost-effective now,  
16 today, than it was last year?

17 A. I would agree it shows that trend. However, I  
18 would, again, caution that if we are going to do an  
19 apples-to-apples comparison, I would eliminate the  
20 column in the 2010 analysis around the minus 15 percent  
21 CapX and just use the 5 percent -- the 5 percent down,  
22 the expected, which is the column that says mid fuel  
23 reference, the five percent up, the 15 percent up, and  
24 the 25 percent up. That then would give you a box that  
25 is comparable to what we show in 2011.

1 Q. I'm confused. Under 2011 it shows 15 percent,  
2 negative 15 percent, negative 5 percent, mid fuel, plus  
3 5 percent, plus 15, plus 25, and it appears to show the  
4 same thing, negative 15, negative 5. It appears to be  
5 the same?

6 A. I'm sorry, I thought you were comparing it to  
7 the 2011. Did I misunderstand your question?

8 Q. No, I'm comparing 2010 to 2011.

9 A. All right. So if I go to 2011, and I look at  
10 the upper right-hand box, and you look at the CapXs, the  
11 lowest CapX there is only a minus five percent as  
12 opposed to the 2010 study which also included a minus 15  
13 percent. If you eliminate in the 2010 study the minus  
14 15 percent column, then that's more of an  
15 apples-to-apples comparison.

16 Q. I believe you are comparing to the Levy need  
17 determination, not the --

18 A. Maybe I am. I might be on the wrong page.  
19 I'm sorry, you're right. You're right. I was looking  
20 at the wrong page. All right. You're right. So that  
21 would then be an apples-to-apples. My apology.

22 Q. No problem.

23 A. I lost track of the page. Sorry.

24 Q. That's all right. Those darn exhibits.

25 So just regarding CapX, you can see that it's

1 less cost-effective today than it was last year.

2 A. I agree.

3 Q. And I'm not going to belabor going through all  
4 the rest of them, but there appears to be, if you do it  
5 mathematically percentage-wise by just counting the  
6 number of cost-effective boxes compared to  
7 noncost-effective, percentage-wise there seems to be a  
8 downward trend in cost-effectiveness; would you agree  
9 mathematically, subject to those caveats?

10 A. No, because I think, again, it's the wrong  
11 comparison. I think the better analysis to do, and I  
12 would encourage the Commissioners to actually read the  
13 report which shows the comparison sort of side by --  
14 well, not sort of -- it shows side-by-side comparisons  
15 with the same inputs and fuel references. And we think  
16 it is a present cogent description of how to use this  
17 tool and what that it indicates in terms of feasibility  
18 of the project.

19 Q. All right. Now, when Progress saw the  
20 decrease in cost-effectiveness between 2010 and 2011 for  
21 fuel in CapX, was that the first time Progress Energy  
22 noticed that trend was trending adversely for the Levy  
23 project? I can rephrase the question. That seemed  
24 complicated.

25 A. I think I can answer that. I would say no,

1 that is not the first time. It was one of the same  
2 reasons that we included both the low bandwidth and high  
3 bandwidth fuel scenario in the 2010 study. And we  
4 mentioned in the full report, which I don't have here in  
5 front of me, the reason for including those two  
6 additional bands was an indication even in 2010 that a  
7 longer-term lower fuel indices may be indicated, and  
8 that was why we included it '10, as well.

9 Q. All right. You would agree that a prudent  
10 utility manager would keep their fingers on the pulse of  
11 all these major inputs to the CPVRR analysis, or major  
12 cost drivers, correct?

13 A. Yes, as part of our normal fuel process we  
14 have professionals and that's their job.

15 Q. And Progress monitors fuel throughout the  
16 year, correct?

17 A. Correct.

18 Q. And what was the big change between 2010 and  
19 2011 that caused the '11 analysis to be less  
20 cost-effective?

21 A. Again, the biggest driver was, as I mentioned,  
22 that longer-term change in how we evaluated the fuel  
23 cases and including that low, mid, and high fuel  
24 reference that is lower, it is in that lower bandwidth  
25 of what was in the 2010 analysis. So although still

1 economically feasible in a majority of cases, it is  
2 different from last year's study.

3 Q. Hypothetically speaking, if the Commission  
4 were to try to attempt some sort of long range CPVRR  
5 analysis trend, all the inputs to it would need to be  
6 tied directly to the 2008 need determination one,  
7 correct? I mean, you would need to do the same carbon  
8 and the same CapX and maybe adjust it for fuel, right?

9 A. I think it's still hard to use this as a  
10 trending tool. I think the best guidance I can  
11 recommend is to evaluate the consistency of the inputs  
12 in the approach. Again, it's not a litmus test, but it  
13 is one of the inputs into the overall analysis and  
14 certainly one that we pay attention to. But I think it  
15 is very hard, just given the nature of how these  
16 calculations are done and some of the assumptions, to  
17 say you can sort of trend it over time, that's  
18 difficult.

19 Q. But you would generally agree that in all of  
20 these exhibits it shows that Levy is generally more  
21 cost-effective in more cases than not, correct?

22 A. In all which exhibits, all exhibits that you  
23 handed me in 2008?

24 Q. Yes, from 2008 through 2011. In other words,  
25 there was never an instance where all the -- well, maybe

1 one, where Levy was less cost-effective in more cases?

2 A. Yes, I would agree that's correct, but to some  
3 extent I would also argue that the analysis that at this  
4 point is really germane is the most recent one. Because  
5 some of the things that the previous ones were  
6 predicated on are no longer true.

7 Q. Okay. You would also agree that one of the  
8 inputs to the analysis is performing this analysis over  
9 a 60-year horizon, correct?

10 A. That's correct.

11 Q. And that is a necessary input to the CPVRR  
12 analysis, correct?

13 A. If by necessary you mean is it one of the  
14 standard assumptions, yes.

15 Q. And also necessary, like, you couldn't perform  
16 it without time?

17 A. Yes. You have to make an assumption about how  
18 long assets will be in service.

19 Q. And if the CPVRR analysis was shortened to 40  
20 years, that could possibly reduce the number of cases  
21 where the Levy project would be cost-effective?

22 A. I'm going to have to say it depends, because,  
23 again, remember the two scenarios that we are comparing  
24 side-by-side are one that has Levy and nuclear and gas  
25 in it, and then one that is all gas. So if you for some

1 reason stopped Levy at -- I think your assumption is if  
2 you stop Levy or the nuclear plant at 40 years, there  
3 would have to be something else that goes into the  
4 generation mix. And then you would have to make some  
5 assumptions around emission requirements in that time  
6 frame. So in general I would say you are right, but I  
7 don't know that that is a very -- there is a very easy  
8 way to do that analysis without having to make some  
9 pretty large assumptions around what happens then in  
10 year 40 through 60.

11 Q. But assuming you just made it 40 years,  
12 keeping everything else the same, it would possibly be  
13 less cost-effective in more cases?

14 A. Yes. I would agree in general the benefit of  
15 this significant capital investment is that \$100 billion  
16 in fuel savings that you get over the 60 years of the  
17 plant. That is the big driver. That is the reason to  
18 do this type of project. So if you shorten that horizon  
19 in terms of when that plant could be in service, yes,  
20 that would have a deleterious effect on the analysis.

21 Q. And isn't it true that Progress when it  
22 receives its COL, or receives its actual license from  
23 the NRC would only receive an initial 40-year license,  
24 isn't that correct?

25 A. That's correct.

1           Q.    And although the NRC at this time is renewing  
2 license applications for an additional 20 years, once  
3 the Levy project is up for that renewal, there is no  
4 certainty that the NRC would grant that extension, is  
5 that correct?

6           A.    It would have to be applied for as any other  
7 license application is applied for. The only other  
8 delta I would mention is that part of the design process  
9 in the DCD process in front of the NRC was to  
10 incorporate some of those 60-year requirements.

11           **MR. SAYLER:** Commissioners, to let you know,  
12 I'm in the home stretch of my questions. I don't know  
13 if you want to take a small break, or just let me drive  
14 on and finish this off.

15           **CHAIRMAN GRAHAM:** Go ahead.

16 **BY MR. SAYLER:**

17           Q.    Would you turn to Page 18 of your May  
18 testimony.

19           A.    Okay.

20           Q.    Okay. I appear to have written down the wrong  
21 page number. Okay. Page 28 of your testimony. I  
22 apologize.

23           A.    Page 28, okay.

24           Q.    That's regarding the nuke merger and its  
25 effect on enterprise risk.

1           A.    Okay.

2           Q.    In your testimony you testified that the  
3 Duke/Progress merger is a potentially favorable  
4 enterprise risk, correct, or will potentially have a  
5 favorable effect on an enterprise risk, correct?

6           A.    Correct, as indicated by some of the investor  
7 service statements that we provided as part of my  
8 exhibits.

9           Q.    In general, it's Progress' belief that  
10 Progress and the merged company have more access to  
11 capital to pay for expensive generation projects like  
12 the Levy project, correct?

13          A.    Yes.  It's the belief that based on what we  
14 have seen in the investor analyses, that a stronger  
15 balance sheet would put you in a better position,  
16 potentially, for this type of capital project.

17          Q.    Okay.  And the merger is expected to close  
18 around -- in or around December of 2011, is that  
19 correct?

20          A.    That's my current understanding.

21          Q.    Do you have any reason to believe it won't  
22 close at that time?

23          A.    I don't have any reason to believe that, but  
24 I'm not the one in the middle of that entire regulatory  
25 process, so it's probably inappropriate for me to

1 speculate on that.

2 Q. But today you cannot really testify whether  
3 the merger will close as expected, correct?

4 A. No, I cannot, and I did not try to do that.

5 Q. And you cannot assure the Commission that the  
6 merger will close as expected, is that correct?

7 A. No, I personally cannot.

8 Q. And neither can you assure the Commission that  
9 once the merger closes the merger will have a positive  
10 benefit for the Levy project, is that correct?

11 A. No, only in that I can point at, again, back  
12 to the investor relating investor services, such as  
13 Moody's and Standard & Poors, and their assessment of  
14 what this merger could mean to the combined company in  
15 terms of its access to capital.

16 Q. So the merger will benefit the combined  
17 company, but it may not necessarily benefit individual  
18 large capital projects like Levy, correct?

19 A. No, I don't think that's correct. I think  
20 that if the merger benefits the combined company's  
21 access to capital, that would, in its nature, benefit  
22 any large capital investment infrastructure improvement.

23 Q. Would you agree that once the two companies  
24 merge, they could reprioritize their capital investment  
25 plan?

1           A.    Yes.

2           Q.    And they could reprioritize the plan to either  
3 deemphasize Levy or to cancel it, is that correct?

4           A.    That is one possible scenario, yes.

5           Q.    But you do not know or have personal knowledge  
6 that the merger will benefit the Levy project, correct?  
7 You have assumptions that it will, but not personal  
8 knowledge that it will?

9           A.    Again, only to the extent, as I testify in my  
10 testimony, that the credit agencies seem to view this as  
11 a positive move forward for our company, a combined  
12 company to do those types of projects.

13          Q.    Can you point to anything in any of the merger  
14 dockets that show that the Levy project will remain a  
15 priority for the merged company?

16          A.    In the merger dockets, no, only in my direct  
17 conversations with the Duke leadership.

18          Q.    And has the Duke leadership said the Levy  
19 project will remain a priority?

20          A.    To the best of my knowledge, yes, they have  
21 done their due diligence reviews as part of the merger.

22          Q.    They have done their due diligence, correct?

23          A.    That's correct.

24          Q.    But they haven't told you that we are going to  
25 continue with the Levy project, correct?

1           A.   Not at this point.  That would be  
2 inappropriate because the companies still continue to  
3 operate as two separate companies.

4           Q.   You would agree that Duke is currently  
5 pursuing the development of an AP reactor in South  
6 Carolina, is that correct?

7           A.   That is correct.

8           Q.   And they also have a pending application  
9 before the NRC for that reactor, correct?

10          A.   That's correct; it's behind ours.

11          Q.   Similarly, Progress Energy Carolina is  
12 developing a reactor for North Carolina, is that  
13 correct?

14          A.   That's correct.

15          Q.   And their pending COLA application is also  
16 before the NRC, correct?

17          A.   Yes.

18          Q.   And it's after -- it's in line after the Levy  
19 project, correct?

20          A.   It actually would be -- yes, it is in line  
21 after Levy.  I'm not sure where it stands in the order  
22 of precedence.  I would have to check that.

23          Q.   And the bulk of the two -- the bulk of the  
24 Duke generating system and the bulk of the Progress  
25 Energy generating system, they are all located in the

1 Carolinas, North and South Carolina, is that correct?

2 A. No, that's not correct.

3 Q. Would you agree that in the merged companies  
4 there are many efficiencies to be gained by combining  
5 the Carolina systems?

6 MR. WALLS: Objection, lack of foundation and  
7 relevance.

8 CHAIRMAN GRAHAM: I agree with the objection.

9 MR. SAYLER: All right.

10 BY MR. SAYLER:

11 Q. You would agree that Florida is a peninsula  
12 separated from the Progress Energy Carolina system by  
13 the state of Georgia, correct?

14 A. That is correct.

15 Q. And a nuclear power plant in Florida would  
16 provide little benefit to the Carolina system, correct?

17 A. Yes, without some substantial change in the  
18 transmission wheeling requirements to move power from  
19 Florida to the Carolinas. That would require a pretty  
20 substantive change in the transmission system.

21 Q. Would that require, you know, a federal rule  
22 change, or, I mean, what would be required to change  
23 that to be able to --

24 A. You would have to be able to negotiate  
25 agreements with the utilities that you would move that

1 power through to make that a cost-effective proposition.

2 Q. Okay. With regard to the future of the Levy  
3 project, would you agree that there is some uncertainty  
4 as it relates to the priority of that project in the  
5 newly merged company?

6 A. No, I can't really draw that conclusion based  
7 on my personal knowledge.

8 Q. All right. Do you know what your position  
9 will be in the new company?

10 MR. WALLS: Objection, relevance.

11 CHAIRMAN GRAHAM: I agree with the objection.

12 MR. SAYLER: Thank you, Mr. Elnitsky, for your  
13 time and your testimony. I appreciate your forthright  
14 answers.

15 No further questions on rebuttal. Thank you  
16 very much.

17 THE WITNESS: Thank you, sir.

18 CHAIRMAN GRAHAM: Let's take a break. I've  
19 got about 20 till. Let's come back about a quarter  
20 till.

21 (Recess.)

22 CHAIRMAN GRAHAM: Please proceed.

23 MR. BREW: Now I've got questions. (Laughter.)

24 CROSS EXAMINATION

25 BY MR. BREW:

1 Q. Good evening, Mr. Elnitsky.

2 A. Good evening, Mr. Brew.

3 Q. Could I refer to your direct testimony at Page  
4 9.

5 A. Which version, March or May?

6 Q. The May 2 testimony at Page 9.

7 A. Okay, I'm there.

8 Q. On Lines 16 through 18, your testimony states  
9 that we now, or we expect now that the issuance of the  
10 LNP COL has slipped from late 2012 or early 2013 to the  
11 second quarter of 2013 at the earliest, do you see that?

12 A. Yes, I do.

13 Q. First, is that statement still accurate?

14 A. Yes, it is.

15 Q. Okay. Second, last year you give us an end  
16 date, now it is the earliest date. What is the expected  
17 date that you expect to see it that you are using in  
18 your plan of record?

19 A. Second quarter of 2013.

20 Q. Okay. So that's what you are going for at  
21 this point and there is no further range from that?

22 A. No, sir. Based on the current schedule from  
23 the NRC, and our conversations, and the steps that we  
24 are going through, it looks like that is still a  
25 reasonable date.

1 Q. Okay. And so your plan of record, which is  
2 the plan for Levy, is based on that date now?

3 A. That's correct, with just one qualifier,  
4 because the plan of record is really set on that 2021 in  
5 service and then when you execute the full notice to  
6 proceed, as Mr. Sayler asked me earlier. There is a  
7 little bit of float in that schedule, but that is the  
8 basis.

9 Q. Okay. A quick question on Page 17, and this  
10 is all of that same testimony?

11 A. Yes, sir. Let me get there real quick. Yes,  
12 sir.

13 Q. Your answer at Page 17, Line 14, this is with  
14 reference to the updated transmission study. It says  
15 that an updated transmission study is necessary because  
16 the statewide transmission system that LNP will connect  
17 with is not static, but it changes with PEF and other  
18 electric utility resources transmission system  
19 additions.

20 The question is aren't those systemwide  
21 transmission changes something that Progress normally  
22 looks at it in doing its ten-year site plans?

23 A. Yes, that's correct.

24 Q. Okay. If I can move along to Page 26 of that  
25 testimony. Actually, I need to back up to Page 21

1 through 23, which is the section of your testimony that  
2 talks about feasibility.

3 A. Yes, sir.

4 Q. And the answer on the top of 22 states that  
5 the completion of the LNP is technically feasible if the  
6 AP1000 nuclear reactor design can be successfully  
7 installed at the Levy site, do you see that?

8 A. Yes.

9 Q. Does the Florida Public Service Commission  
10 have any role in determining whether or not the AP1000  
11 nuclear reactor design can be successfully installed at  
12 the Levy site?

13 A. No, it does not.

14 Q. So technical feasibility as defined there is  
15 not something that the Commission here needs to look at?

16 A. I would say yes from the perspective of if the  
17 plant cannot be technically applied at the site, that  
18 would obviously impact the ability to move forward with  
19 the project.

20 Q. Fine. Let me rephrase, then. That technical  
21 feasibility is not a determination that the Florida  
22 Commission makes, that's a determination that the  
23 Nuclear Regulatory Commission makes.

24 A. That's correct.

25 Q. Okay. On Page 23, beginning on Line 4, there

1 was a question that reads is the LNP feasible from a  
2 regulatory perspective. Do you see that?

3 A. Yes, sir.

4 Q. What legal or regulatory licenses and permits  
5 going forward do you require from the Florida PSC?

6 A. None from the Florida Public Service  
7 Commission.

8 Q. Okay. On Page 26, and actually it continues,  
9 but this is the portion of your testimony that talks  
10 about your analysis of enterprise risks. Do you see  
11 that?

12 A. That's correct.

13 Q. And you state, beginning at Line 18, that as  
14 we explained last year, the qualitative analysis of the  
15 enterprise risk facing the LNP is a more holistic  
16 analysis than a measurable or computable analysis. Do  
17 you see that?

18 A. Yes, I do.

19 Q. Is it fair to state, or is the company  
20 required to do an analysis of enterprise risk under the  
21 nuclear cost-recovery rule, do you know?

22 A. Only from the standpoint that we have done  
23 that consistently year over year as a way of describing  
24 the factors beyond the project's control that could  
25 effect whether or not it's the reasonable thing to move

1 forward with the project.

2 Q. Okay. And so performing that qualitative  
3 analysis of what you describe as a more holistic view of  
4 the project, would you say that that is essential to  
5 have a proper assessment of the overall advisability of  
6 moving forward with the project?

7 A. Yes, I would.

8 Q. You discussed in your testimony -- actually,  
9 am I correct that your testimony breaks down those  
10 enterprise risks into essentially three categories this  
11 year, trends that are favorable, neutral, or not  
12 favorable?

13 A. That's correct.

14 Q. Okay. Overall have the changing trends in the  
15 enterprise risks that you have observed led to a greater  
16 or lesser interest in nuclear power?

17 A. Our assessment this year is that those  
18 enterprise risks at this point would not cause us to  
19 have reason to accelerate the schedule or to cancel the  
20 project, and we think still support the approach that we  
21 are taking, which was to go slower and focus our work  
22 efforts on receipt of the license and the other  
23 activities necessary for the schedule.

24 Q. Have there been any new applications for new  
25 reactors filed at the NRC in 2011?

1           A.    The only reason I'm hesitating is I don't know  
2 whether Bellefonte is a new application. I don't know  
3 if I would qualify that as a new application, but it is  
4 a new project that has been submitted under the old  
5 licensing regime, Part 50, so TVA has gone to the NRC  
6 for that approval.

7           Q.    But other than that?

8           A.    Other than that, I don't think so.

9           Q.    On Page 28 of the same testimony you  
10 specifically discuss your perspective of the proposed  
11 merger between Progress Energy and Duke Energy. Do you  
12 see that?

13          A.    That's correct.

14          Q.    Does the proposed merger in any way alter the  
15 potential rate impacts of Levy on customers?

16          A.    I would say no. If we continue on the current  
17 plan of record, I would say no.

18          Q.    Okay. How will the proposed merger effect  
19 prospects for securing joint ownership in the Levy  
20 project, do you know?

21          A.    Yes, and I'll explain. Sorry. What we saw  
22 during your discussions with joint owners this year was  
23 that the discussion of the merger had, in fact, seemed  
24 to motivate them to clearly articulate their interest in  
25 joint ownership. My sense of that, and I didn't say

1 this, but my sense from that was some concern that in  
2 the merged company they would be somehow boxed out of  
3 joint ownership.

4 Q. Okay. At the bottom of Page 31 and the top of  
5 Page 32, you discuss your Exhibit JE-6, which references  
6 expected customer bills in 2010, '11, and '12, is that  
7 right?

8 A. That is correct.

9 Q. Okay. Can you tell me what will happen on the  
10 current track in customer bills for 2013, '14, and '15?

11 A. Yes. They will increase dramatically.

12 Q. Were you in the room when I discussed  
13 Mr. Foster's exhibit with him?

14 A. Yes, I was.

15 Q. Do you have in front of you a copy of his  
16 Exhibit TFG-3, Schedule TOR-3?

17 A. Yes, I do.

18 Q. Okay. And I had asked him at the time some  
19 questions regarding the year-to-year changes in  
20 spending, which he was nice enough to push to you. And  
21 so, if you don't mind, I would like to refer you to that  
22 exhibit, and the Category 2, which if you have it, it is  
23 labeled preconstruction category; do you see that?

24 A. Yes. Just to make sure I'm looking at the  
25 right thing, I am on TOR-3, Levy County Nuclear Units 1

1 and 2, Page 5 of 17?

2 Q. That's correct. And you should also have Page  
3 6 of 17, and the document itself is entitled summary of  
4 annual clause recovery amounts?

5 A. That's correct.

6 Q. Okay. And I'd like to refer you to Item  
7 Number 2-1A, which is labeled preconstruction category  
8 additions?

9 A. Yes.

10 Q. Okay. If you look at -- what I want to talk  
11 about is Columns G, H, and I.

12 A. Okay.

13 Q. And G involves projected 2012 preconstruction  
14 additions of roughly \$25.5 million, and then it moves in  
15 2013 to a projected amount of \$155.9 million. Do you  
16 see that?

17 A. Yes, I do.

18 Q. Does that jump in spending, is that based on  
19 the assumptions of a receipt of a COL in mid-2013?

20 A. That's correct. That's based on really two  
21 things, receipt of the COL in mid-2013, successful  
22 completion of negotiations with a consortium to end the  
23 current partial suspension, and then issuance of a full  
24 notice to proceed which would cause site mobilization  
25 and construction activities to begin.

1 Q. Okay. And that actually got to my next  
2 question. This assumes also that you would secure that  
3 full notice -- or issue that full notice to proceed  
4 when?

5 A. In mid-2013. Basically, about the same  
6 time --

7 Q. Coincident with the receipt of the COL?

8 A. As close as possible, yes, sir.

9 Q. Okay. And at that point site mobilization  
10 would begin, you would crank up engineering and  
11 procurement again?

12 A. Yes, but if I could just explain a little bit.  
13 Depending on how the schedule was moving forward, we  
14 might actually start mobilizing earlier in 2013 to get  
15 ahead of the curve in terms of the project schedule.  
16 You know, once we have clarity that the license is  
17 moving through the Federal Register notice process, we  
18 would -- if we had been successful in negotiating the  
19 full notice to proceed at that point, move forward with  
20 site mobilization. So it is on or about the time of  
21 receipt of the license.

22 Q. Okay. Are there any other preconditions or  
23 critical inputs other than receipt of the COL to moving  
24 forward with the full notice to proceed?

25 A. Yes. The other -- there are a set of other

1 construction permits that we have to obtain, including  
2 the U.S. Army Corps of Engineers, what's called the 404  
3 permit, which is the permit to do work in wetlands and  
4 to cause wetland changes. That is tied effectively to  
5 the final environmental impact statement, which will be  
6 issued next year, but it is another precondition. There  
7 also are several conditions of certification tied to the  
8 state -- the SCA work we did in '09 and conditions of  
9 cert, so all those things have to be in place to be able  
10 to mobilize.

11 Q. And so the assumption here is that all of  
12 those are in place by the time you receive the COL?

13 A. Yes, sir.

14 Q. Okay. Moving to the next column, projected  
15 2014. The preconstruction additions jump up again by a  
16 factor of four to 666 million. Do you see that?

17 A. Yes, I do.

18 Q. Now, that reflects what at this point, full  
19 mobilization of engineering procurement?

20 A. Yes, sir. By that time we are up and  
21 constructing at the site.

22 Q. Okay. Now, if I bounce down to Line 3, which  
23 is the construction category, and there's a line for  
24 average net addition balances, do you see that?

25 A. Yes, I do.

1 Q. And that shows net addition balances of  
2 \$187 million in 2013, do you see that?

3 A. I'm sorry, I lost you.

4 Q. I'm in Column H.

5 A. Column H, okay.

6 Q. Projected 2013, \$187 million?

7 A. Yes.

8 Q. And then it goes up to \$344 million in  
9 projected 2014, is that right?

10 A. That's correct.

11 Q. And in 2015 it moves up dramatically to  
12 1.4 billion, is that correct?

13 A. That's correct. So that would be the  
14 continuing construction balance as Mr. Foster described.

15 Q. So at that point you are running full scale in  
16 terms of both preconstruction and construction  
17 activities?

18 A. At 2015, I would think at that point it's  
19 pretty much full scale in construction activities as  
20 opposed to preconstruction.

21 Q. Okay.

22 A. And I think you see the preconstruction  
23 numbers are substantially smaller.

24 Q. And so those items are all reflected in the  
25 total final period costs which are shown on Mr. Foster's

1 exhibit on Line 9 for the clause recovery amounts to go  
2 from 75 million in 2012 to 767 million 2014, to --  
3 actually it goes down in 2015, and then goes up  
4 dramatically from there, is that right?

5 A. That's correct.

6 Q. All right. I just lost my reference. Now,  
7 looking at your Exhibit JE-6, which shows for 2012 what  
8 is the company's current proposal for clause recovery as  
9 applied to a typical residential bill, is that right?

10 A. Yes, sir.

11 Q. Can you tell me what that factor would be in  
12 2013 under the proposed spending plan?

13 A. Yes, I can. Just give me one moment. Under  
14 the proposed spending plan in 2013 that would be \$8.94.

15 Q. So it would almost double?

16 A. That's correct.

17 Q. Okay. In 2014?

18 A. \$24.45.

19 Q. \$24.45. So it is six times higher than it was  
20 in 2012?

21 A. That's correct.

22 Q. Okay. So that's the direction we are heading?

23 A. Yes, sir.

24 Q. Okay. Oh, and then it goes up from there,  
25 except for 2015?

1           A.    Yes, in general.  I don't have all those  
2 numbers in front of me, but the cash flow for the  
3 project in execution -- I'm just looking at the estimate  
4 we provided in production of documents.  That peaks in  
5 2016.  So '16, '17, and '18 are the highest spend years  
6 for the project.

7           Q.    Okay.  And so in 2013 and '14 they are just  
8 headed up?

9           A.    That's correct.

10          Q.    With respect to your discussion of the current  
11 status of joint ownership in Levy at around Page 55 and  
12 56 of your testimony?

13          A.    Let me get there real quick.  Yes, sir.

14          Q.    Okay.  As I recall, last year the company  
15 stated that it expected that potential joint owners  
16 would need more greater clarity with respect to a number  
17 of issues on the project before you would expect them to  
18 commit.  Do you recall that?

19          A.    That's correct.

20          Q.    Okay.  Has that changed?

21          A.    In terms of the clarity that they have now, I  
22 would say yes.  It's still a requirement for them based  
23 on our discussions with them this year.  They were very  
24 interested in what is now the best schedule and what is  
25 the status of licensing activities.

1 Q. Okay. Is the group of folks that you are  
2 talking to regarding potential joint ownership a fixed  
3 set of entities?

4 A. There is a set that has expressed the largest  
5 interest to date that we continue to talk to, but that  
6 is not precluding us from engaging with others.

7 MR. BREW: Okay. I handed out a document to  
8 you that should be circulated to the Commissioners. It  
9 is a one-page document that for a short descriptor would  
10 probably be "FMPA Announced Investment in V.C. Summer  
11 Nuclear Plant." And I would ask, Mr. Chairman, that it  
12 be marked for identification.

13 CHAIRMAN GRAHAM: We will mark it 209 for  
14 identification purposes.

15 MR. BREW: Thank you.

16 (Exhibit Number 209 marked for  
17 identification.)

18 BY MR. BREW:

19 Q. Mr. Elnitsky, do you have that document in  
20 front of you?

21 A. Yes, I do.

22 Q. Okay. Were you aware of the announcement of  
23 the Florida Municipal Power Agency earlier this month,  
24 or actually late last month that it intends to enter  
25 into an agreement to take an interest in the V.C. Summer

1 new units?

2 A. Yes. As a matter of fact, when we met with  
3 them on 27 April, Nick Gorello (phonetic), their CEO,  
4 actually told us that he was talking with Santee Cooper  
5 about executing just such an agreement.

6 Q. Okay. And so they were one of the entities  
7 that you have been talking with in terms of potential  
8 joint ownership in Levy?

9 A. That's correct.

10 Q. Okay. And the V.C. Summer Units 2 and 3, are  
11 they ahead of or behind you in the queue for licensing  
12 at the NRC?

13 A. They are actually ahead of us, quite ahead of  
14 us, and they are actually further along in actual site  
15 construction activities.

16 Q. Okay. And those are units that are nominally  
17 slated for in-service in 2016 and '19, if you know?

18 A. That's correct.

19 MR. BREW: Okay. Thank you very much, sir.

20 Mr. Chairman, that's all I have. I would like  
21 to move Exhibit 209 into the record.

22 CHAIRMAN GRAHAM: Any objection to --

23 MR. YOUNG: Mr. Chairman, if we can possibly  
24 wait until after the redirect in case there is any --  
25 it's late -- in case Progress wants, under the rule of

1 completeness, to move certain other documents that  
2 relate to this docket, the whole document.

3 CHAIRMAN GRAHAM: Okay. Sounds good.

4 Ms. White.

5 MS. WHITE: I only have one clarifying  
6 question.

7 CROSS EXAMINATION

8 BY MS. WHITE:

9 Q. When you were just speaking with Mr. Brew  
10 about the bill impacts, those numbers that you mentioned  
11 for 2012, '13, and '14 -- or '13 and '14, actually,  
12 those numbers assume a 50 percent ownership, is that  
13 true?

14 A. No, that is not correct. Those assume  
15 100 percent ownership and the approval of the proposed  
16 rate management plan.

17 MS. WHITE: Okay. Thank you for that  
18 clarification. That's all I have.

19 CHAIRMAN GRAHAM: Mr. Moyle.

20 MR. MOYLE: Thank you.

21 CROSS EXAMINATION

22 BY MR. MOYLE:

23 Q. Mr. Elnitsky, good evening.

24 A. Good evening, Mr. Moyle. We seem to always be  
25 speaking in the evening. (Laughter.)

1           Q.    Yes.  That's the result of me going after some  
2 others, but that's okay.

3                    I wanted to ask you a few questions about --  
4 and make sure I understand the relationship you have  
5 with senior management in the SEC filings that Public  
6 Counsel provided.  I would assume as part of your  
7 responsibility as kind of being the person for nuclear,  
8 that you review SEC filings before they are made, is  
9 that a correct assumption?

10           A.   That is normally the case.  Usually our  
11 financial group will send the proposed language to  
12 several people to review and chop before it's released.

13           Q.   And ultimately, I think, they have to be  
14 signed by Mr. Johnson or an executive, a key executive  
15 when they are submitted to the SEC.  Do you know that?

16           A.   I don't know exactly who signs them.  I  
17 suspect it's our Chief Financial Officer, but that would  
18 be subject to check.

19           Q.   And you would agree that the information  
20 contained in the SEC filings are true and accurate,  
21 correct?

22           A.   Yes, I would.

23           Q.   And so I want to just draw your attention to a  
24 couple of statements that are contained in the SEC  
25 filings.  And if we could just work off Exhibit 206.  Do

1 you have that?

2 A. Yes, I do.

3 Q. Okay. Mr. Brew asked you a question about  
4 scheduling, and you said, well, you might move things up  
5 and move it along before you got the COL. But I noted  
6 on the very last page, on Page 99 the following sentence  
7 appears, "Once we have received the COL, we will assess  
8 the project and determine the schedule." So is the plan  
9 to get the COL and then kind of say, okay, where are we,  
10 and where do we go from here?

11 A. No. I think what we have said all along is  
12 that we will continue to evaluate the project schedule  
13 year over year. One of the things we're seeing now is  
14 some clarity around when we will receive our license,  
15 and there is a period of time in there that is really  
16 just now going to evolve as part of hearings in front of  
17 the Atomic Safety and Licensing Board. So our thought  
18 is once we get to that point, we will have pretty good  
19 clarity about what the final schedule is going to be,  
20 and that will be the time to continue our evaluation and  
21 make our negotiations with the consortium around the  
22 full notice to proceed.

23 Q. You are not envisioning any scenario where the  
24 schedule is compressed and takes less time, correct?

25 A. For the COL, or in general?

1 Q. For the in-service date?

2 A. I would say per the current plan, no, but I  
3 would not rule that out of the possible.

4 Q. All right. Let me flip you over. Just,  
5 again, working from the back of the document. If you  
6 would flip over one page, and this is on Page 31 of the  
7 OPC document, down at the bottom?

8 A. Okay.

9 Q. I'm going to ask you a few questions about the  
10 statements that appear starting on Page 23 where it says  
11 nuclear cost-recovery Levy Nuclear, and you list, I  
12 think, a lot of enterprise risks. Do you see that?

13 A. I just want to make sure I'm on the right  
14 page. So you're on the page labeled 23 and the excerpt  
15 Page 30?

16 Q. Right.

17 A. Is that where you are?

18 Q. That's right, Page 30 and 31 of the numbering  
19 on the bottom right-hand corner.

20 A. Yes, I'm on that page.

21 Q. All right. There's a statement that the way I  
22 read it, it says you're evaluating all of these things,  
23 and one is appropriate levels of joint owner  
24 participation. Do you know what is meant by appropriate  
25 levels of joint owner participation?

1           A.    We have not set specific targets around what  
2 that participation level needs to be. We have continued  
3 to say that we can proceed with the project without  
4 joint ownership. However, as I mentioned earlier, we  
5 certainly recognize the benefits of joint ownership  
6 associated with a project of this size.

7           Q.    What have the -- well, let me ask you this  
8 way. I mean, you've got a merger coming up with Duke,  
9 correct?

10          A.    Correct.

11          Q.    You have got a CLL license application in that  
12 is supposed to be coming out in 2013, right? Aren't the  
13 owners saying, well, thanks for sitting down with us.  
14 We appreciate the information, but until you get the  
15 license, you know, there's really not a lot for us to do  
16 to see, indeed, whether you get it, and then whether the  
17 decision is made to move forward. Are you getting that  
18 general type of statement back from the people you are  
19 sitting down with?

20          A.    No. Actually the statements have been more  
21 along the lines of we want to make sure you're talking  
22 to us early enough that we can get in front of our board  
23 of directors and negotiate agreements with you so that  
24 we can have those agreements in place as you make the  
25 decision to move forward.

1           Q.    I assume, based on that comment back, you  
2 probably had a draft agreement to share with them if  
3 they were that interested, didn't you?

4           A.    Not at this point.  We are still -- that's  
5 part of the negotiation.

6           Q.    So no papers changed hands with anybody at  
7 this point with respect to prospective joint owners?

8           A.    We have exchanged briefings and project  
9 materials, but no specific papers other than what was  
10 done previously before we put the longer-term partial  
11 suspension in place.

12          Q.    So no letters of intent, no --

13          A.    Not at this stage, no, sir.

14          Q.    You also state in this SEC filing that you are  
15 going to consider customer rate impacts.  You would  
16 agree, would you not, based on some of the discussion we  
17 have had today and that chart that shows that mountain  
18 for Levy that the customer rate impacts are shaping up  
19 to be fairly significant in 2013/'14, correct?

20          A.    I would agree that this is a substantial  
21 investment for the state of Florida.  I don't think I  
22 would classify that necessarily as a mountain, but it is  
23 substantial.  It is an investment that comes with a  
24 long-term benefit, but that is obviously the discussion  
25 point that I think we, as a state, have got to work

1 through as well as us, as a utility, in terms of what is  
2 the right way to move forward.

3 Q. And it would be an easier conversation, you  
4 would agree, if the conversation were taking place on a  
5 statewide basis with joint ownership of others than just  
6 you going it alone, correct?

7 A. I would agree it is -- it would share the risk  
8 of the project across a broader customer base to have  
9 statewide joint ownership. It does, however, also  
10 reduce then the benefit to Progress' customers because  
11 in addition to giving up that investment requirement at  
12 the front, they also give up that \$100 billion in fuel  
13 savings, a portion of that on the back side of the  
14 project.

15 Q. And the savings, that's one of those things  
16 that starts kicking in about 2030, is that right, 2029?

17 A. Well, actually the fuel savings will start to  
18 manifest themselves once the plant goes in service. I  
19 think one of the interrogatories that Mr. Foster  
20 provided, I think some of those break-evens are like in  
21 '27 and '29. But, again, that was indicative numbers  
22 that he provided.

23 Q. I'm confused by that. Do you have Exhibit  
24 176?

25 A. I think I do.

1 Q. This was used with Mr. Foster.

2 A. I think I do. This is the economic analysis  
3 projection of approximate rate impact of the Levy 1 and  
4 2 projects?

5 Q. Yes, sir.

6 A. Yes, sir.

7 Q. The counsel for Progress asked questions of  
8 Mr. Foster that I interpreted that the differential of  
9 the savings would begin to be realized in --

10 A. I think she said '27 and '29.

11 Q. -- '27 and '29, is that right?

12 A. Yes. That's what I said, '27 and '29. '27  
13 for -- at least in this exhibit, again, this is based on  
14 the set of assumptions that are in here, but at retail  
15 it is in '27, and residential in '29. And then you see  
16 the out-year fuel offset because of the longer term of  
17 the fuel costs.

18 Q. You would agree that 2029 represents sort of  
19 another generation from people as we sit here today,  
20 correct? It's 18 years or so in the future?

21 A. Yes, sir. But by the same token, we are  
22 benefiting today from the people in the '70s that made  
23 the same commitment.

24 Q. And we can talk a little bit more about that  
25 maybe on your rebuttal, because I think you go into

1 recovery there.

2 A. Yes, sir.

3 Q. So I asked the question about the customer  
4 rate impacts, if that's something that is going to be  
5 considered. And the mountain I was describing was the  
6 exhibit, so I hope I didn't confuse you on that. But  
7 isn't it true that the customer rate impacts are going  
8 to be significant in 2013 and 2014? If you could just  
9 answer that yes or no and then --

10 A. Yes, sir.

11 Q. And just briefly, to work off of the list  
12 that's in the SEC filing, there's some overlap between  
13 this and your enterprise risk, but for the purposes of  
14 just quickly kind of going through these, the first one  
15 you list, potential carbon regulation, that's working  
16 against you as we sit here today, correct?

17 A. You know, I would say yes and no. Yes, there  
18 is no definitive carbon regulation out of the federal  
19 government. However, one of the trends we continue to  
20 watch is what the EPA is doing in that same environment,  
21 which seems to indicate carbon legislation of some sort  
22 is going to be around. It's a question of when that  
23 will come into effect, and they seem to be taking  
24 actions from a regulatory posture without legislation.

25 Q. And what I'm going to try to do is just kind

1 of get you to go through and say favorable or  
2 unfavorable, and maybe my question wasn't articulated  
3 very well, but you did list on Page 43 of your testimony  
4 the -- you were asked about unfavorable trends, and you  
5 listed greenhouse gas legislation and regulation as an  
6 unfavorable trend, correct?

7 A. That's correct.

8 Q. So the next one that you have here are the  
9 fossil fuel prices. I assume that refers in large part  
10 to natural gas prices, is that right?

11 A. That's correct.

12 Q. And that trend is kind of working against you  
13 right now, as well, correct.

14 A. Yes, sir. That's one of the ones we listed as  
15 unfavorable.

16 Q. The benefits of fuel diversification, I guess  
17 that's fairly debatable, because the state is  
18 considering renewable energy and other things. But the  
19 nuclear, if were to get done, would give you some  
20 diversification, correct?

21 A. Yes, but I would qualify the opening part of  
22 your statement. I don't think I would classify  
23 renewables in the same category as reliable baseload  
24 generation from a diversity perspective.

25 Q. Okay. We could talk about that little bit,

1 but given the hour I think we'll save that for another  
2 day.

3 A. That's an assessment, but everybody has got a  
4 different opinion.

5 Q. You would agree that some renewable providers  
6 provide baseload generation, waste-to-energy, those  
7 types provide reliable energy, correct?

8 A. That's true.

9 Q. You would agree that the public support  
10 appears to be waning for the project somewhat, would you  
11 not, that trend is working against you?

12 A. I would say yes and no. Yes in terms of  
13 impacts to customer rates, so if you tie that back to  
14 customer rates there is a public support issue there.  
15 It's sort of tied into the same enterprise risk. In  
16 terms of general public sentiment around the need for  
17 nuclear, that seems to continue to be reasonably  
18 favorable.

19 Q. And what do you base that answer on?

20 A. Based on some of the latest survey materials  
21 that I have seen and been briefed on at part of our new  
22 plant working group meetings and some of the industry  
23 meetings that I attend.

24 Q. And you would say that notwithstanding the  
25 events in Japan?

1           A.    Yes.  Interestingly enough, notwithstanding  
2 the events in Japan.

3           Q.    And notwithstanding -- I think it was Germany  
4 that said they are not moving forward with any more  
5 nuclear energy?

6           A.    Yes, notwithstanding that.  In fact, although  
7 we saw a dip in public support immediately after  
8 Fukushima, in a lot of sectors that has now on a  
9 nationwide basis at least returned to levels comparable  
10 to what it was before that event.

11          Q.    You were here, I think, for the opening  
12 statement that everybody made, correct?

13          A.    Yes, sir.

14          Q.    And I had talked about judgment.  You would  
15 agree that the decision as to whether Levy makes sense  
16 as a prudent and reliable decision is, at the end of the  
17 day, a question of judgment, correct?

18          A.    Yes, I would agree that you have to take all  
19 the appropriate factors into consideration and make a  
20 judgment on what is in the best long-term interests of  
21 the customers and the company.

22          Q.    And when you talk about what is in the best  
23 interest of the customers, it would be fair to say you  
24 are getting a message at least today that the customers  
25 have a lot of concerns about the impacts of the Levy

1 Nuclear Power Plant, correct?

2 A. Yes, sir, that would be fair. And I think  
3 that has to be balanced then against those long term  
4 benefits.

5 Q. And with respect to making decisions about  
6 what is best for customers, you would have more  
7 confidence in customers making that decision than, say,  
8 the utility, correct?

9 A. No, I would not say that. I think that is a  
10 dangerous assumption to make, in that you have to  
11 balance the impact of the near-term customer rate impact  
12 with that long-term fuel benefit. And sometimes we can  
13 all be somewhat short-sighted in the importance of  
14 investments like that.

15 Q. You are familiar with the term paternalism,  
16 correct?

17 A. Yes, sir.

18 Q. And that's somebody making a decision for you  
19 because they know best, correct?

20 A. Yes, sir.

21 Q. So just to make sure I understand your answer,  
22 you are saying that notwithstanding the customers'  
23 objection to Levy, and the cost, and moving forward,  
24 that you believe it still is in the customers' best  
25 interest for this project to proceed because of the

1 savings that will result in 2030 -- 2029, correct?

2 A. What I would say -- I don't totally agree with  
3 that. What I would say, I think it is our job to  
4 continue to try to inform the customers of what is the  
5 long-term benefit of this investment that they are being  
6 asked to make.

7 Q. So you would agree that the customers in  
8 exercising their judgment have a difference of opinion  
9 with the company as to the wisdom, prudence, and  
10 viability of the Levy plant, correct?

11 A. I would agree that some customers here today  
12 have expressed that opinion, yes, sir.

13 Q. There haven't been any customers today that  
14 have testified or given opening statements to say this  
15 is great, we support this 100 percent?

16 A. None that have testified here today; no, sir.

17 Q. And you would also agree that ultimately the  
18 judgment to be made about this rests with the five  
19 people up here, correct?

20 A. Yes, I would agree. That's part of what the  
21 statute requires is that we come in and have that  
22 conversation with them each year around our actions and  
23 the reasonableness and prudence of moving forward with  
24 the project.

25 Q. And the enterprise risk that we talked about,

1 that's something that can be factored in. They may view  
2 it differently than Progress Energy, correct?

3 A. That is correct, they certainly might look at  
4 those differently.

5 Q. Yes. And if they do look at them differently  
6 and they make a decision to say, you know, I'm not sure  
7 this dog is gonna to hunt, or that this is feasible,  
8 that would be something you would disagree with, but it  
9 necessarily wouldn't be wrong, it would be a different  
10 exercise of judgment, correct?

11 A. It would be a different exercise of judgment.  
12 I would think today based on where we stand today, I  
13 don't think it would be the optimal decision, but it is  
14 certainly a decision that the Commission could make.

15 Q. And let me just -- I'm skipping around a  
16 little bit, but let me flip back to the SEC document.

17 A. Okay.

18 Q. Just tell me your understanding of the word  
19 option?

20 A. Are you looking somewhere in the document or  
21 just in general?

22 Q. Well, not for this question, but tell me what  
23 you understand option to be?

24 A. More than one alternative.

25 Q. So door number one, door number two, door

1 number three, those would be options, correct?

2 A. Correct.

3 Q. So now to refer you to the document on Page 16  
4 down, again, at the bottom right.

5 A. Okay. Now are you on -- oh, down at the  
6 bottom right, 16. Okay.

7 Q. Under the section potential new construction,  
8 the SEC filing says, and I quote, "While we have not  
9 made a final determination on new nuclear construction,  
10 we continue to take steps to keep open the option of  
11 building one or more plants." Is that a true and  
12 accurate statement?

13 A. Yes, I'd say it is.

14 Q. And you don't disagree with that statement,  
15 correct?

16 A. No. I think we have been pretty consistent in  
17 saying that we have not at this point taken any action  
18 that would be irreversible. We continue to have a plan  
19 of record that brings the plants in service in '21 and  
20 '22, however, we come in front of the Commission each  
21 year with our assessment of the reasonableness of moving  
22 forward with the project and the prudence of the actions  
23 we have taken to date.

24 Q. Thank you. I may take the Chairman up on his  
25 offer on the editorializing at some point, but that's

1           okay.

2           **A.**    Sorry about that.  They weren't easy yes/no  
3           answers.

4           **Q.**    I want to go through a few things in your  
5           testimony, and in the opening statement I said that I  
6           thought you might agree, or I would have some questions  
7           about intent, but you would agree that the intent to  
8           move forward is probably properly characterized with a  
9           little i, correct?

10          **A.**    No, I would not.

11          **Q.**    Notwithstanding the statement in the SEC that,  
12          you know, you are looking at getting an option, or the  
13          statement in the SEC filing that you are going to  
14          reevaluate after you get the COL, you think that the  
15          large I is appropriate?

16          **A.**    Yes, I do.  As I have previously discussed, we  
17          are taking all the actions necessary to move forward  
18          with the project above and beyond those required just to  
19          get the license.  But as I answered in my previous  
20          question, we are not taking any actions that are  
21          irreversible, so we continue to do that evaluation year  
22          over year.

23          **Q.**    Wouldn't you agree that a large I would have  
24          been represented by a decision to move forward with the  
25          project full steam ahead and get the equipment?  I mean,

1 if I understand what you considered, there were, in  
2 effect, three options. One was to continue and store  
3 the equipment, is that right, as one option?

4 A. You're going to have to be a little more  
5 specific. If you are referring to the options that we  
6 evaluated last year and that we briefed in front of the  
7 Commission, there were three options in those analyses.  
8 One was to continue the project full speed ahead, which  
9 was a 36-month schedule; the second one was to cancel  
10 the project; and I think the third was to move forward  
11 with the longer-term partial suspension focusing work  
12 activities on the license and other things necessary to  
13 achieve a 2021 in-service. It was that final option  
14 that we selected and briefed the Commission on last  
15 year.

16 Q. And you filed testimony on that this year in  
17 your March filing, correct? I mean, I can point you to  
18 it. I've got it on Page 14, Line 23.

19 A. Okay.

20 Q. I'm sorry, I may have given you a wrong  
21 reference. I guess the point is the decision to  
22 suspend, that was kind of the middle of the road  
23 approach, was it not?

24 A. I would say no. It was, we think, the right  
25 approach given the circumstances that faced the company

1 at the time. It was certainly not the easiest approach.

2 Q. On the continuum of the three decisions to  
3 full steam ahead, to cancel, or to suspend and then  
4 reengage, you wouldn't say that that was kind of in the  
5 middle of that continuum?

6 A. It was in the middle of the continuum in terms  
7 of the timing of project activities, if that's your  
8 question.

9 Q. You are testifying about intent. At the end  
10 of the day, you know, you are charged by who, the senior  
11 management committee, with moving forward?

12 A. The senior management committee via the  
13 integrated project plan provides our authorization to  
14 continue forward with the project, and, for lack of a  
15 better term, appropriates the funding that's authorized  
16 for the next period of the project.

17 Q. So the intent is not your call, necessarily.  
18 I mean, it's not your decision as to whether to move  
19 forward or not. You are interacting with the senior  
20 management committee, you don't serve on it, and  
21 whatever they say is kind of what you move forward and  
22 execute, is that correct?

23 A. I'll agree it's not my decision on whether the  
24 project moves forward or not.

25 Q. And on that senior management committee, how

1 many people who are employed by Progress Energy Florida  
2 serve on that committee?

3 A. Well, you've got to kind of qualify that  
4 answer. There is two members technically, Vincent Dolan  
5 and Michael Lewis (phonetic) that are directly serving  
6 Progress Energy Florida as members of the senior  
7 management committee. But then there are also senior  
8 management committee members that are part of the  
9 service company that provide services and support to  
10 Progress Energy Florida.

11 Q. And you do not work for Progress Energy  
12 Florida, correct; you work for Progress Energy, the  
13 parent?

14 A. I technically work for Progress Energy  
15 Florida.

16 Q. Let me walk through some portions of your  
17 testimony.

18 MR. MOYLE: I mean, Mr. Chairman, I have some  
19 additional questions. I'm happy to pile through until  
20 7:00, given the --

21 CHAIRMAN GRAHAM: Go ahead.

22 MR. MOYLE: Okay.

23 BY MR. MOYLE:

24 Q. Let me refer you to Page 6, Line 18, of your  
25 May testimony.

1           A.    Page 6.  Okay.  I'm on Page 6, Line 18.

2           Q.    And I can take you to each place on this, or  
3 we can just have the conversation.  Maybe I'll try to  
4 have the conversation, and if we get stuck I'll take you  
5 to the line and page.

6           A.    Okay.

7           Q.    But you talk about the involvement in the  
8 Nuclear Energy Institute's new plant working group and  
9 the nuclear plant oversight committee.  Those are trade  
10 organizations, is that right?

11          A.    Not exactly.  They are industry organizations.  
12 The Nuclear Energy Institute specifically works closely  
13 with the Nuclear Regulatory Commission in crafting  
14 regulation and implementation instructions.  I sit on  
15 both the new plant working group, and I sometimes  
16 substitute for Mr. Lyash on the new plant oversight  
17 committee.

18          Q.    Are there costs associated with belonging to  
19 those organizations?

20          A.    Yes, there are.

21          Q.    Do you know how much they are?

22          A.    I do not know, but they are not part of Levy  
23 project costs, because we are members of the NEI as part  
24 of our general nuclear business.

25          Q.    So those costs aren't ones that you look to

1 ratepayers to fund?

2 A. Other than as part of general base rate  
3 requirements, no, sir, not as part of this proceeding.

4 Q. All right. And there were questions earlier  
5 about carrying costs and things like that. If I  
6 understood your decision of last year it was to suspend  
7 and try to go slow, and, if you could, save some  
8 ratepayer dollars. Is that a fair statement?

9 A. One of the drivers around that decision was  
10 recognizing the state of the economy in 2009 to lower  
11 the customer rate impact until the economy began to  
12 recover.

13 Q. And you would agree the economy hasn't really  
14 recovered a whole lot as we sit here today?

15 A. Yes, I would. And I talk about that in my  
16 testimony that we are continuing to see relatively  
17 anemic load growth.

18 Q. Right. So I guess just to be clear, so the  
19 record is clear, you would agree that the economy has  
20 not improved considerably since 2009?

21 A. Yes.

22 Q. Okay. And on Page 14, Line 3, you have some  
23 testimony in here about moving forward with your  
24 conditions of site certification.

25 A. I'm sorry, let me get there again. Page 14?

1           Q.    Yes.  Page 14, Line 3.  These conditions of  
2 site certification that you are proposing to move  
3 forward with and spend money on, those aren't  
4 necessarily ones that have to be done in 2011 and 2012,  
5 are they?

6           A.    Yes, sir, they are, as part of the --

7           Q.    And why do you say that?

8           A.    Because they were part of the agreement we  
9 made with the State of Florida as part of the conditions  
10 of certification when we went in front of the Department  
11 of Environmental Protection and then the cabinet with  
12 our state conditions.

13          Q.    And do you know how long those permits are  
14 good for?

15          A.    I would have to -- I'd have to go look at the  
16 specific data on each of these, but they were predicated  
17 on the conditions that we agreed to in that SCA  
18 proceeding, and they are in support of the project  
19 schedule as it is articulated.

20          Q.    And I understand they very well may be  
21 conditions that are in the permit, but there is not any  
22 requirement that those conditions be fulfilled in 2011  
23 and 2012, is there?

24          A.    Other than what we have agreed to in the  
25 conditions of certification.  I mean, that's where the

1 requirement is, and that's an agreement we made with the  
2 state that we take seriously.

3 Q. I understand that. Do you know from a  
4 standpoint of enforcement, I mean, those conditions of  
5 certification have to be met and completed before the  
6 power plant starts running, isn't that correct?

7 A. I don't think that's correct. Some of these  
8 have to actually be completed in advance. Things like  
9 the start of construction or the first site  
10 mobilization. So you look at some of the things that  
11 are, like, an example, threatening and endangered  
12 species protection. There is work that we need to do  
13 now to survey the number of gopher tortoises on the Levy  
14 site.

15 Q. And I don't -- you know, we could get into the  
16 details on all of these about what is entailed, but even  
17 assuming that they have to be done before the start of  
18 construction, when is construction going to start at the  
19 very earliest?

20 A. 2013. That's two years away.

21 Q. Well, that's assuming -- I thought you said  
22 you're going to get your COL in mid-2013, and that was  
23 your point that you were using for planning purposes,  
24 right, mid-2013?

25 A. That's correct.

1 Q. You have talked a lot about the transmission  
2 study. It was a \$400,000 item, is that right?

3 A. Yes, sir.

4 Q. Are you aware that any time a new generation  
5 unit wants to be built and come on-line that they have  
6 to perform a transmission study?

7 A. Yes, sir. And I know that they have to apply  
8 to the FRCC in terms of how they are going to fit into  
9 the queue.

10 Q. Right. And you said in your testimony it's a  
11 static situation. I mean, transmission changes as  
12 assets come on-line and go off-line, correct?

13 A. I think I said it's not a static condition.  
14 It continues to change. That was my point.

15 Q. I'm sorry. And, given that, wouldn't it make  
16 sense rather than to move forward with the transmission  
17 study now, if the plant is not coming on-line at the  
18 earliest until 2021 or '22 to defer on the transmission  
19 study until you're a little closer in time to the actual  
20 plant coming on-line?

21 A. No, it would not. And the reason for that is  
22 the critical path that gets you to the point where you  
23 are able to provide backfeed power to the plant for  
24 start-up. And when you work back from that schedule on  
25 a critical path, you have to know what the transmission

1 work requirements will be in 2012.

2 Q. Are we going to -- do you think it's likely  
3 that we will be here a few years from now having a  
4 discussion about a need for another transmission study  
5 in the year 2018, give or take?

6 A. Based on our current plan of record, no.

7 Q. So this is the last transmission study, based  
8 on your current plan of record, that we'll ever get to  
9 talk about?

10 A. It's the last transmission study that we will  
11 need to support a 2021 in-service.

12 Q. On Page 19, I've got it on Line 19, you state,  
13 quote, "The negotiations with respect to amending the  
14 EPC agreement to include these design change proposals,  
15 therefore, may impact the LNP schedule and the LNP total  
16 project costs."

17 Am I correct in assuming that the impact would  
18 be negative in terms of impacting it with regard to  
19 having the costs go up and the schedule go out?

20 A. That's correct.

21 Q. And I would be correct, also, would I not, in  
22 that the potential impact on costs could be significant?  
23 Significant, let's say more than \$100 million?

24 A. Yes, but if I could explain. We have also  
25 incorporated that into our cost estimate as one of the

1 factors we considered as part of our contingencies.

2 Q. And as we sit here today, you don't have these  
3 issues negotiated out, do you?

4 A. No, sir. That's part of the reason to begin  
5 the negotiations in the timing that we discuss in my  
6 testimony.

7 Q. Page 21.

8 A. Okay.

9 Q. You reference the consortium negotiations,  
10 correct?

11 A. I'm sorry, what --

12 Q. This is on Line 3. As you have previously  
13 testified, the current total project cost estimate is  
14 dependent upon, among other things, consortium  
15 negotiations.

16 A. Let's go back and look at this statement.  
17 That's correct.

18 Q. And there's something called estimates, on  
19 cost estimates Class IV and Class V. What are Class IV  
20 and Class V estimates?

21 A. In the standard that we use as part of  
22 Progress Energy, you will see in a lot of our documents  
23 a reference to Class IV or Class V estimates as part of  
24 the American Association for Advancement of Cost  
25 Engineering. We tend to qualify an estimate as a Class

1 IV or Class V before we have a final contract  
2 negotiation or final engineering complete, and for the  
3 Levy project we have done just that. We provided a band  
4 around the expected case, qualified it as a Class IV or  
5 Class V estimate until such time as we have completed  
6 final negotiations and move forward with the project.

7 Q. And as you move forward in these negotiations,  
8 do you get more detail to the people that are giving you  
9 pricing as compared to the Class IV or Class V that you  
10 currently have?

11 A. Yes, but one of the advantages we had when we  
12 did the estimates associated with the change in schedule  
13 was the fact that we had an existing contract with terms  
14 and conditions and price agreements in it, so we were  
15 well informed in performing that estimate. But what  
16 this statement is applying to is the fact that we still  
17 have to negotiate the final from those two.

18 Q. Okay. And last week during the FPL case, I  
19 think there was testimony that somebody said, you know,  
20 as you get closer and you get more detail associated  
21 with projects, that typically drives the cost up. Would  
22 you agree with that general proposition?

23 A. No. You have to define drives the cost up  
24 relative to what.

25 Q. Relative to a current condition.



1           Q.    And did you hear me say that it's not a matter  
2 of when, it's a matter of if in regards to whether  
3 Progress will actually construct the Levy nuclear  
4 project?

5           A.    Yes, I did.

6           Q.    And is that an accurate characterization?

7           A.    No, it's not.

8           Q.    How so?

9           A.    We have, as I mentioned, we have a plan of  
10 record to go forward with when the project would come  
11 in-service and we are proceeding with those activities  
12 necessary to make that schedule a reality.

13          Q.    Okay. I appreciate that answer, and I'm very  
14 familiar with the program of record. Do you have  
15 Exhibit 206 in front of you still?

16          A.    I'm sorry?

17          Q.    The excerpt from the SEC filings.

18          A.    Okay. Let me just get back to it here. Okay.

19          Q.    If I could, I'll refer you to the 10K which  
20 was filed on February 28th of 2011. It's about halfway  
21 through the document.

22                **CHAIRMAN GRAHAM:** If you can refer to the  
23 numbers in the bottom right-hand corner.

24                **MR. WHITLOCK:** Certainly, Mr. Chairman.

25

1 BY MR. WHITLOCK:

2 Q. Page 15 Bates-stamped at the bottom, Mr.  
3 Elnitsky.

4 A. Okay.

5 Q. In the second to the last full paragraph  
6 there, the first sentence says, "Although we have not  
7 made a final determination on new nuclear generation,"  
8 correct?

9 A. I'm sorry, where are you, again?

10 Q. The second paragraph from the bottom.

11 A. Okay.

12 Q. Could you read that first sentence for me out  
13 loud, please?

14 A. Yes. It says, "Although we have not made a  
15 final determination on new nuclear construction, we have  
16 taken steps," and then it goes on.

17 Q. Okay. And then the very last sentence of  
18 that -- of that same paragraph says, "If the licensing  
19 schedule remains on track, and if the decision to build  
20 is made," correct?

21 A. That's correct.

22 Q. So the decision to build, as we sit here  
23 today, has not been made, correct?

24 A. The final decision and an irreversible  
25 decision has not been made.

1 Q. Thank you. So it's not a matter of when, it's  
2 a matter of if, I'll ask you again, correct?

3 A. I disagree.

4 Q. Mr. Elnitsky, we just established that the  
5 final decision of whether to build the Levy nuclear  
6 project has not been made, correct?

7 MR. WALLS: Objection, argumentative.

8 CHAIRMAN GRAHAM: I've got to overrule.

9 MR. WHITLOCK: Thank you.

10 THE WITNESS: No, I think what we established  
11 was that we have not taken any actions at this point  
12 that are irreversible. We continue to do all the things  
13 necessary in good project management to move the  
14 schedule forward on the current plan.

15 BY MR. WHITLOCK:

16 Q. It is illogical, is it not, Mr. Elnitsky, to  
17 say that you intend to do something when you haven't  
18 made the final decision to actually do that thing?

19 A. It would be equally illogical not to do the  
20 steps necessary to do that thing --

21 MR. WHITLOCK: Mr. Chairman, with all due  
22 respect, that was not my question.

23 BY MR. WHITLOCK:

24 Q. Mr. Elnitsky, it's a simple yes or no, and if  
25 you want to then elaborate.

1           It would be illogical, would it not, to say  
2 that you intend to do something when you haven't made  
3 the actual final decision to do that thing? That would  
4 be illogical, would it not?

5           A. Yes, but it also would be illogical not to do  
6 the actions necessary to move forward with the project  
7 on the schedule that we've articulated.

8           Q. I appreciate your yes answer. Thank you.

9           Mr. Moyle had referred you to some language in  
10 this same Exhibit 206. The page was Bates-stamped 16 at  
11 the bottom.

12          A. I'm sorry, which one are you on now?

13          Q. The same exhibit, SEC Filing Excerpts, 206,  
14 and the page with the Bates-stamp 16 at the bottom?

15          A. Okay.

16          Q. There is a heading there that says potential  
17 new construction?

18          A. I see it.

19          Q. And it says, "While we have not made a final  
20 determination on new nuclear construction, we continue  
21 to take steps to keep open the option of building one or  
22 more plants," correct?

23          A. That's correct.

24          Q. Okay. And you would also agree with me, in  
25 addition to the fact that it would be illogical to

1 intend to do something before you have actually decided  
2 to do it, that there is a difference in intending to  
3 create an option and intending to exercise that option,  
4 would you not?

5 A. Is the question is there a difference between  
6 exercising an option and intending to exercise it?

7 Q. A difference in intending to create or  
8 preserve an option and intending to exercise the same  
9 option. There's a difference in those two things, is  
10 there not?

11 A. Yes.

12 Q. Thank you.

13 While we still have Exhibit 206 in front of  
14 us, I believe Mr. Sayler had you read several -- it was  
15 the same sentence in several different places earlier.  
16 I'm looking at the page with the Bates stamp 4 at the  
17 bottom?

18 A. Okay.

19 Q. The very last two sentences there. It says,  
20 if the licensing schedule remains on track, and if the  
21 decision to build is made, the first of the two proposed  
22 units, so on and so forth. Do you see that?

23 A. Yes, I do.

24 Q. And I believe you testified that that was  
25 consistent with the program of record earlier today,

1 correct?

2 A. That's correct.

3 Q. Okay. And, in fact, at Page 5 of your  
4 testimony, on Line 19, you referred to the company's  
5 decision last year to execute Amendment III to the EPC.  
6 You refer to that action allowed the company to  
7 implement the COL focused option, correct?

8 A. I'm sorry, where are you?

9 Q. Page 5 of your May 2nd testimony, Lines 18  
10 through 19. And I apologize, I didn't let you get  
11 there.

12 A. That's okay.

13 Q. I'll repeat the question, if you need me to.

14 A. That's correct. My testimony says that  
15 exercising the decision we made last year to move  
16 forward on a slower schedule basically allowed us to  
17 implement the COL license option while maintaining  
18 near-term costs -- minimizing near-term costs and  
19 maintaining favorable terms and levels of risk of the  
20 EPC agreement.

21 Q. And actually it says COL-focused option, does  
22 it not?

23 A. COL focus, that's correct.

24 Q. Okay. That's the program of record, COL  
25 focused option?

1           A.    That's correct.

2           Q.    Okay.  I want to talk a little bit about  
3 feasibility.  Let's see here.  If I could direct you to  
4 Page 26 of your May 2nd testimony, please?

5           A.    Okay.

6           Q.    And actually we will go ahead and move on over  
7 to Page 27.  And I believe Mr. Moyle had asked you that  
8 in terms of the company's evaluation of enterprise risk  
9 you generally group them into favorable, neutral, or  
10 unfavorable, correct?

11          A.    That's correct.

12          Q.    Okay.  And on Page 28, you identify one  
13 favorable trend as the company's access to capital,  
14 correct?

15          A.    One of the favorable trends, correct.

16          Q.    Right.  Okay.  Now, immediately after that you  
17 go on to say on Line 17, "This positive development must  
18 be tempered, however, because it depends on the merger  
19 of the two companies which has not yet occurred,"  
20 correct?

21          A.    Correct.

22          Q.    Okay.  And then at the bottom of the page  
23 starting on Line 20, you say, "As a result, during 2011  
24 and until the closing, the two companies will continue  
25 to operate as separate entities and the merger has no

1 impact on the company or the LNP," correct?

2 A. That's correct.

3 Q. Okay. So as we sit here today, you stated  
4 that the access to capital is a favorable trend, but  
5 then you go on to say even on the same page that the  
6 merger has no impact on the company of the Levy nuclear  
7 project.

8 A. During 2011, that's what that says. After  
9 2011, it certainly does.

10 Q. Well, the Commission is making a determination  
11 here in 2011, correct, as to reasonableness or prudence  
12 of certain costs, correct?

13 A. Correct, tempered by longer-term perspectives  
14 which these enterprise risks provide.

15 Q. Sure. You then go on the next page to further  
16 temper your positive trending of this, or the fact that  
17 you label this as favorable by noting that there were  
18 some other cautionary notes regarding access to capital,  
19 is that correct?

20 A. Is there a specific section of this answer  
21 that you are referring to?

22 Q. Well, you can look on Page 29, Line 4, where  
23 you say, yes, there are other cautionary notes. Do you  
24 see that?

25 A. That's correct.

1 Q. Okay. And those would include the previous  
2 adverse rating actions of some of the credit agencies in  
3 2009 and 2010, correct?

4 A. Correct.

5 Q. And then you go on on Page 30 to talk about  
6 the recent problems the company has had with Crystal  
7 River 3, correct?

8 A. That is correct. On Page 30 I talk about the  
9 potential impacts of Crystal River 3.

10 Q. Okay. So given the fact that the merger has  
11 no impact on the Levy nuclear project this year, and  
12 given these other cautionary notes, wouldn't you agree  
13 that it is a bit disingenuous to turn this access to  
14 capital as a favorable enterprise risk?

15 A. No, I would not.

16 Q. How so?

17 A. Because one of the things that you know I'm  
18 sure, Mr. Whitlock, about rating agencies is perception  
19 is sometimes as important as reality. And in this fact,  
20 what you will see in the exhibits is those rating  
21 agencies look at what they see as a merger that will  
22 move forward and would provide positive benefit in terms  
23 of a company that size being able to access capital. I  
24 qualify that, as you accurately describe, by the fact  
25 that the merger has to be consummated.

1           Q.    So you have deemed that a favorable enterprise  
2 risk, but it's by your own testimony tampered by these  
3 other conditions, if you will?

4           A.    Yes, I think as I describe in my testimony  
5 that I think the testimony speaks for itself as it is  
6 written.

7           Q.    Thank you.  On Page 31, you were asked were  
8 there any other favorable trends in the LNP enterprise  
9 risk.  Do you see that?

10          A.    Yes, I do.

11          Q.    And I think you talk about the near-term  
12 impact on customer bills?

13          A.    That's correct.

14          Q.    And I think we have already clearly  
15 established that once we pass out of 2012 and go to 2013  
16 there is going to be -- I think you even referred to it  
17 as a significant increase in customer bills, correct?

18          A.    That's correct.

19          Q.    So while there might be some near-term  
20 benefit, by 2013 that's is going to -- that positive  
21 enterprise risk will have essentially disappeared,  
22 correct?

23          A.    Correct.

24          Q.    Thank you.  And I don't want to beat a dead  
25 horse here, because we have talked about this several

1 times today, on Page 43, I believe it's 43, you talk  
2 about some of the unfavorable trends.

3 A. Okay.

4 Q. And I believe there you talk about a lack of  
5 cost of carbon, correct?

6 A. Correct.

7 Q. And low natural gas prices, correct?

8 A. Correct.

9 Q. And those are, as you have testified before,  
10 two key drivers in the qualitative and quantitative  
11 feasibility analysis?

12 A. That's correct.

13 Q. Okay. Do you have the exhibit before you with  
14 the CPVRR analyses? I believe it's Exhibit Number 208,  
15 I have it marked. And I apologize to be shuffling you  
16 around so much.

17 A. No. I have the CPVRR analysis that is filed  
18 as exhibit -- it would be JE-7 in my May 2nd testimony.

19 Q. Sure. We can look at that.

20 A. I think that's the same thing.

21 Q. Yes, we can look at that one. JE-4?

22 A. JE-4, yes.

23 Q. Okay. Now, you would agree with me, would you  
24 not, that based on what JE-4 shows us, in the low fuel  
25 reference case the LNP is not economically feasible in

1 12 out of 15 cases, correct?

2 A. That's correct.

3 Q. And the low fuel case would be essentially as  
4 conditions exist today, a low price of natural gas,  
5 correct?

6 A. No.

7 Q. Would you explain, please?

8 A. It also would assume that those low fuel  
9 prices remain in effect for the 60-year life of the  
10 plant.

11 Q. Okay. But they have been trending that way  
12 since the determination made in 2008, correct?

13 A. That's correct.

14 Q. Okay. And staying in the low-fuel case, the  
15 three cases where the LNP is economically feasible, it's  
16 only so if you assume a high cost of carbon, correct?

17 A. That's correct.

18 Q. And as we sit here today, we have no cost of  
19 carbon, correct?

20 A. That's correct.

21 Q. Okay. In the mid-fuel reference case, the LNP  
22 is only economically feasible if you include a cost of  
23 carbon, correct?

24 A. I'm sorry, say that again. I missed part of  
25 the comment.

1 Q. Okay. In the mid-fuel reference case, in  
2 order for it to appear -- for it to make the LNP appear  
3 economically feasible, you have to include a cost of  
4 carbon, correct?

5 A. Correct.

6 Q. And as we have just established, as we sit  
7 here today we don't have a cost of carbon, do we?

8 A. That's correct.

9 Q. Okay. And if we assume no cost of carbon as  
10 you have done in this CPVRR, the LNP is not economically  
11 feasible in 24 out of 27 cases, is that accurate?

12 A. So you are looking on Page 8 across each of  
13 the different levels of ownership, is that what you're  
14 looking at?

15 Q. That's correct, right. For the no CO2, right.

16 A. Yes, I would agree across the three different  
17 cases of ownership shown here that in a no carbon case  
18 there is only three scenarios where --

19 Q. And those are the high fuel reference cases,  
20 right?

21 A. That's correct.

22 Q. So -- thank you.

23 There has been a fair amount of discussion  
24 today, Mr. Elnitsky, about the project cost and  
25 in-service dates. I understand what the program of

1 record is, but certainly it is not your testimony here  
2 today that those costs are set in stone or that the 2021  
3 and 2022 projected in-service dates are set in stone,  
4 correct?

5 A. That's correct.

6 Q. And if those -- we'll start with the  
7 in-service dates. If those dates were to change, more  
8 likely than not they would be pushed out into the  
9 future, is that accurate?

10 A. I would have to qualify by what is it that is  
11 causing the change. There could be things that would  
12 cause you to want to bring that plant in-service sooner,  
13 although I will admit that we are about at the limits of  
14 how quickly we can bring that plant on-line.

15 Q. And that's kind of what I'm getting at. The  
16 2021/2022 is probably the earliest practical dates that  
17 you could reasonably bring those plants into service,  
18 correct?

19 A. Based on the current license and schedule,  
20 that's correct.

21 Q. Okay. So the answer to my original question  
22 would be yes?

23 A. That's correct.

24 Q. Okay. And in regards to the project costs,  
25 based on the fact that we know if the in-service dates

1 are going to shift, it's going to be into the future,  
2 the cost is only going to go up, correct?

3 A. Based on escalation rates, yes, that would be  
4 correct.

5 MR. WHITLOCK: If I could just have one  
6 minute, Mr. Chairman.

7 CHAIRMAN GRAHAM: Sure. Do you want to go  
8 back to Mr. Moyle?

9 MR. WHITLOCK: That would be great. Thank  
10 you.

11 CONTINUED CROSS EXAMINATION

12 BY MR. MOYLE:

13 Q. Just a few more. Let me take you to the  
14 confidential document that OPC used.

15 A. 207?

16 Q. That's right, 207, the one with the red cover  
17 on it, and take you to Page 20?

18 A. Okay.

19 Q. And it's entitled scenario implications for  
20 key plan components. Are you with me?

21 A. Yes, sir.

22 Q. And it's listed as a moderate change. That's  
23 not confidential, right?

24 A. No.

25 Q. And with respect to Levy, nothing with respect

1 to Levy is confidential, is that right?

2 A. No, that's correct.

3 Q. So this is a document that you shared with  
4 your senior management group, is that right?

5 A. Yes. This was one of the documents in the  
6 series that was discussed at the senior management  
7 retreat in August.

8 Q. Okay. And this snapshot for Levy, it says it  
9 is a preferred resource, but depending on robust policy  
10 support, correct?

11 A. Correct.

12 Q. And would I be correct that robust policy  
13 support means continuing to get the dollars you're  
14 seeking and continuing to have the ability to get the  
15 advanced recovery through the Florida Statute, is that  
16 right?

17 A. No. I think it's actually bigger than that,  
18 too. It would be legislative support, regulatory  
19 support around the licensing activities, policy support  
20 around DOE loan guarantees, and other factors that  
21 effect the enterprise risks associated with the project.  
22 It's not just about recovery.

23 Q. All right. And for your snapshot of BAU,  
24 that's business as usual?

25 A. Yes.

1 Q. You reached the conclusion that I assume that  
2 it is not economic presently due to low gas and no  
3 greenhouse gas, is that correct?

4 A. Yes, but it could use some qualification, if  
5 you will allow.

6 Q. Why don't I let your lawyer qualify it further  
7 on and we'll move on.

8 A. Okay.

9 Q. You were asked just briefly access to capital,  
10 you had some questions about that. Did I understand  
11 correctly that after the merger that this new combined  
12 entity will have three new nuclear power projects going?

13 A. No, that's not correct.

14 Q. Okay. Well, right now as we sit here the  
15 company, Progress Energy has two, correct, one in the  
16 Carolinas and one in Florida?

17 A. You're going to have to define how a project  
18 is going. So if we are talking about projects that are  
19 in licensing activities, yes. If we are talking about  
20 projects that have EPC contracts and are executing other  
21 actions necessary to move forward with construction,  
22 then there is but one.

23 Q. Let's use the licensing. That's sort of the  
24 first step, correct?

25 A. Correct.

1 Q. Okay. So as we sit here today, Progress  
2 Energy has a project in North Carolina, is that right?

3 A. A licensing project, correct.

4 Q. Okay. Are you responsible for that?

5 A. Yes, I am.

6 Q. And it also has one in Florida, correct?

7 A. Correct.

8 Q. And Duke also has a licensing project moving  
9 forward, correct?

10 A. That's correct.

11 Q. And where is that, South Carolina?

12 A. That is in South Carolina. It's what is  
13 called the Lee Station.

14 Q. All right. Are you aware of any other entity  
15 that has three separate stand-alone new nuclear projects  
16 moving forward?

17 A. Three licenses?

18 Q. Yes.

19 A. Other than TVA, I don't think so.

20 Q. And TVA, that's kind of a governmental entity,  
21 isn't it?

22 A. Yes, but they have to go through a lot of the  
23 same licensing wickets that anyone else does.

24 Q. And after the merger, if I understand it, the  
25 new combined entity will be the largest electric company

1 in the country, is that right?

2 A. Yes, sir. I think by most of the metrics,  
3 such as generation capacity, customers, et cetera.

4 Q. And the second largest will be Southern?

5 A. I think that's correct.

6 Q. Okay. And Southern, as we sit here today, how  
7 many licenses do they have for new nuclear? Just one,  
8 correct?

9 A. That's correct.

10 Q. And that's Vogtle?

11 A. Well, they actually have a license and an  
12 ongoing project with a signed EPC contract.

13 Q. Okay. But they only have one, correct?

14 A. That's correct.

15 Q. So with respect to the favorable trend about  
16 being access to capital, did you consider when you made  
17 this statement the fact that after the merger that there  
18 will be three new nuclear projects moving forward in the  
19 new combined entity?

20 A. No. What I considered was based on what  
21 Moody's and S&P reported in their ratings relative to  
22 the Levy project, since that's the only project that  
23 actually has an EPC contract and is moving forward with  
24 a plan of record.

25 Q. Do you know if they considered the fact that

1 there will be three new nuclear projects moving through  
2 the system?

3 A. I don't know. It wasn't clear in their  
4 write-up.

5 Q. Okay. And basically your comments about  
6 favorable trends and access to capital, that all relies  
7 on what the lawyers like to say is hearsay, right? It's  
8 a statement outside of this proceeding that's provided  
9 by another. I mean, those Moody's statements, nobody  
10 from Moody's has come here, nobody from Standard and  
11 Poor's has come here. All of your testimony about  
12 access to capital relies wholly on what the rating  
13 agencies have said in documents, correct?

14 MR. WALLS: I'm going to object to the  
15 statements include in the question. It's irrelevant and  
16 not part of the question. But he can answer the last  
17 part of the question. Mr. Moyle is not here to testify.

18 MR. MOYLE: I can, I think, rephrase.

19 BY MR. MOYLE:

20 Q. Is your testimony about the favorable trend in  
21 access to capital wholly dependent on the written  
22 documentation provided by the rating agencies?

23 A. No, it's primarily based on that written  
24 documentation and the ongoing discussions between our  
25 financial leaders and the financial community.

1 Q. So it's primarily based on that?

2 A. My testimony is, yes, sir.

3 Q. Page 49, Line 22.

4 A. I'm sorry, where are you in my testimony?

5 Q. Back to your May testimony.

6 A. Okay.

7 Q. So am I correct in assuming that when you do  
8 cost sensitivities, you did them on the low end at  
9 15 percent and the high end at 25 percent, because it's  
10 more likely that the costs are going to go up? That's  
11 the basis for that, correct?

12 A. No, it's -- no.

13 Q. They taught me in law school not to ask why,  
14 but I'll ask why? (Laughter.) I'm just trying to be  
15 short.

16 A. The reason it's not is it is also informed by  
17 the fact that the actual cost estimate that we have  
18 provided has an expected band on it. So the low end of  
19 that band is down like 13 percent, so that's what is  
20 setting the low end of the expectations around the CPVRR  
21 analysis, and that's consistent with what we have done  
22 each year.

23 Q. All right. You had mentioned a little earlier  
24 along about you had some discussion about the economy.  
25 That's Page 33, correct?

1           A.    Let me get back there real quick.  Page 33,  
2 I'm there.

3           Q.    Up on Line 3, Florida's unemployment is higher  
4 than the national average, and the housing market  
5 continues to decline on nearly every measure, correct?

6           A.    That's correct.

7           Q.    And as we sit here today, that's still  
8 accurate, true?

9           A.    That's correct.

10          Q.    If hasn't gotten any better.  If anything, it  
11 has probably gotten worse, given the results of the  
12 situation last week with the stock market and some other  
13 things?

14          A.    I don't know if it has gotten better or worse  
15 in the last week, but I'll stand by my testimony that it  
16 has not begun to improve.

17          Q.    It hasn't improved?

18          A.    That's correct.

19          Q.    On Page 32, Line 6, you have a sentence that  
20 says the customers' ability to pay for and support new  
21 nuclear development will, of course, be tested again in  
22 future years.  I assume that you would agree that it has  
23 already been tested, the customers' willingness to pay  
24 for and support new nuclear has already been tested,  
25 correct?

1           A.    Yes, I would agree that one of the factors  
2 that influenced our decision last year was the  
3 customers' ability to absorb rate increases during a  
4 down economy.

5           Q.    And when you say tested again in future years,  
6 are you referring to 2013/2014 when the costs start  
7 going up?

8           A.    That's correct.

9           Q.    Wouldn't you agree it's a bad time to be  
10 moving forward with the Levy project right now with the  
11 economy in Florida, as you have testified, with the high  
12 unemployment, the housing markets not moving forward,  
13 that in 2013/2014 it is really not a good time to be  
14 moving forward with new nuclear as it relates to impacts  
15 on customers? You would agree with that, correct?

16          A.    I would say no. I will agree that it is going  
17 to have a significant impact on customers, but I think  
18 the decision about whether or not to move forward has to  
19 be weighted with a set of other factors, as well.

20          Q.    And your message to customers is sort of, you  
21 know, we know it is going to be tough, you have just got  
22 to suck it up. I mean, that's sort of the bottom line  
23 on it, correct, because there will be benefits way down  
24 the road in 2029?

25          A.    That's not what I said, and that's not what I

1 would say to customers. As I said earlier, I think it  
2 is our responsibility to help educate customers about  
3 the long-term benefits of a project like this.

4 Q. Briefly, on Exhibit 205, your letter of  
5 December 14th, 2010?

6 A. I have it.

7 Q. On the first page you state current schedule  
8 based on economic needs are to complete LNP with a  
9 commercial in-service date in 2021 or later, correct?

10 A. I'm sorry, will you show me where you are? I  
11 lost your place.

12 Q. Sure. The first page.

13 A. Okay.

14 Q. Last paragraph, second sentence from the  
15 bottom.

16 A. Yes, current schedule based on economic -- I  
17 see it, yes, sir.

18 Q. Okay. What were you referencing when you said  
19 economic needs? Was that the company's economic needs?

20 A. No, that was really just a broader descriptor  
21 around the load and growth needs in Florida.

22 Q. The load is not really growing in Florida  
23 right now, correct?

24 A. No, but that was why we were saying the  
25 current schedule based on economic needs. Again,

1 looking at all the things we did last year as part of  
2 making that decision to move slower, including what we  
3 anticipated with load growth would necessitate the  
4 in-service date in 2021.

5 Q. There is a legislative -- I guess it's  
6 judicial interpretation that says you have got to give  
7 words their meaning, and you don't assume superfluous  
8 words. When you said or later, that's not superfluous.  
9 That was a conscious decision to indicate that the  
10 commercial in-service date would be 2021 or later,  
11 correct?

12 A. That's correct, but recognizing the time frame  
13 in which this letter was written as part of that.

14 MR. MOYLE: Thank you. It has been a long day  
15 for those of us at this table, and I assume the case may  
16 be similar for you.

17 THE WITNESS: I love talking about this stuff,  
18 you know that.

19 MR. MOYLE: I have nothing further.

20 MR. WHITLOCK: Mr. Elnitsky, I have nothing  
21 further. Thank you.

22 Thank you, Mr. Chairman.

23 CHAIRMAN GRAHAM: Okay. Staff, I take it you  
24 have questions?

25 MR. YOUNG: Sir, after about six hours of Mr.

1 Elnitsky, I think he answered our questions. No  
2 questions.

3 **CHAIRMAN GRAHAM:** Anybody from the Commission  
4 board that has questions? Okay. Before we get started,  
5 the question I have is can you finish your questions in  
6 the next 20 or 25 minutes, or should we start your  
7 questions tomorrow?

8 **COMMISSIONER EDGAR:** It will be closer to  
9 five.

10 **CHAIRMAN GRAHAM:** Okay.

11 **COMMISSIONER EDGAR:** In other words, I can do  
12 mine in less than five minutes.

13 **CHAIRMAN GRAHAM:** Okay. Commissioner Edgar.

14 **COMMISSIONER EDGAR:** Good evening.

15 **THE WITNESS:** Good evening, Commissioner.

16 **COMMISSIONER EDGAR:** At the very beginning of  
17 your March 1st testimony, as prefiled, you say that you  
18 report directly to Jeff Lyash. Is that still the case?

19 **THE WITNESS:** That's still the case. Excuse  
20 me; no, it is not the case. Administratively, I report  
21 to Paula Simms. For the purposes of the Levy project,  
22 though, I report to Jeff Lyash, as the senior executive  
23 for this project. Basically, I have multiple bosses.  
24 Don't we all.

25 **COMMISSIONER EDGAR:** I can relate. Is Mr.

1 Lyash still an employee of Progress Energy Florida?

2 **THE WITNESS:** No, he is not. I think he is  
3 now technically an employee of Progress Energy, the  
4 holding company. That is subject to check, though. I  
5 know he is not an employee of Progress Energy Florida.  
6 I think he would now be considered part of the holding  
7 company, or service company, rather.

8 **COMMISSIONER EDGAR:** Is he still the executive  
9 sponsor for the Levy project?

10 **THE WITNESS:** Yes, he is. As the executive  
11 vice-president in charge of energy supply, he is  
12 responsible for the new generation assets, including  
13 Levy.

14 **COMMISSIONER EDGAR:** By saying responsible for  
15 new generation assets, including Levy, can you elaborate  
16 a little bit as to what his role is to the Levy project,  
17 more specifically regarding your use of the term  
18 executive sponsor in your testimony?

19 **THE WITNESS:** Yes, ma'am. He is the chair of  
20 all the oversight activities associated with the  
21 project, so he reports to the board of directors for the  
22 project. He is the senior member of the SMC that is  
23 engaged on a day-to-day basis with the project. He is  
24 also the chair of a couple of lower governance meetings.  
25 We have a quarterly program performance review meeting

1 that he is responsible for participating in and  
2 overseeing, and then as well as periodic participation  
3 in things like our monthly project execution reviews.  
4 So he basically has a day-to-day -- the way I would  
5 describe it is day-to-day operational control of the  
6 project.

7 **COMMISSIONER EDGAR:** And your use of the term  
8 just now of day-to-day operational control of the  
9 project, do you believe that that involves daily work on  
10 this project in his role?

11 **THE WITNESS:** In one form or another, yes,  
12 ma'am.

13 **COMMISSIONER EDGAR:** I'm going to move on.  
14 And I don't think you need to go there, but on Page  
15 10 of your May prefiled testimony, you discuss the NRC's  
16 review of the AP1000, and state that a final rule  
17 approving the AP1000 design should be issued by  
18 September of 2011. I know I have read somewhere that  
19 the NRC has recently approved the AP1000 design. Can  
20 you tell me if that is an accurate statement or not?  
21 And if it is or is not, how that process fits in with  
22 this September 2011 rulemaking.

23 **THE WITNESS:** Yes, ma'am. That is different  
24 than the condition as it existed when I wrote my  
25 testimony, so what you saw last week was the staff had

1 made their final recommendation on what's called  
2 Revision 19 to the design certification document for the  
3 AP1000. So they basically are sending that now to the  
4 Commissioners for their vote. That vote, I think, is  
5 expected sometime in November, and the publication that  
6 came out from the NRC said that they expect to then see  
7 the rule posted in the Federal Register in January.

8 So that means from a legal perspective it  
9 would become effective approximately 30 days later in  
10 February. So when I wrote this estimate, I thought we  
11 would see that sometime in September. This was one of  
12 our concerns last year when we talked about the schedule  
13 of the project. It looks like now we will probably see  
14 that in January of '12.

15 **COMMISSIONER EDGAR:** Does that some months  
16 delay have an additional cost impact to the project?

17 **THE WITNESS:** For the Levy project, no. As a  
18 matter of fact, it doesn't really affect our licensing  
19 schedule, because our environmental impact statements  
20 and our safety evaluation in Florida are in mid-'12, so  
21 that slight shift doesn't really effect our overall  
22 licensing schedule.

23 **COMMISSIONER EDGAR:** Thank you. And then  
24 towards the end of your prefiled testimony, it begins on  
25 Page 55, you talk a little bit about the questions and

1 the issue of potential future joint ownership, and that  
2 is something that you have been asked a number of  
3 questions about today. It's an issue that we have asked  
4 questions of witnesses in the past years, as well. To  
5 summarize very briefly the testimony that you have  
6 given, both prefiled and in response to questions, would  
7 it be accurate to say that you believe the potential for  
8 joint ownership is something that is still on the table?

9 **THE WITNESS:** Very much so, ma'am, or  
10 Commissioner. We had discussions with three of the  
11 principal participants in a potential joint ownership in  
12 April, and to be quite direct, I was pleasantly  
13 surprised by how interested they still are. And I think  
14 that as we go forward with receipt of the license and  
15 the start of negotiations, I think we are in a good  
16 position now in terms of negotiation with those joint  
17 owners to move forward.

18 **COMMISSIONER EDGAR:** Thank you. And I would  
19 like to probably reserve to ask some questions of this  
20 witness when he comes back on rebuttal. But for now,  
21 I'm done. Thank you. Thank you.

22 **THE WITNESS:** Thank you, ma'am.

23 **CHAIRMAN GRAHAM:** Commissioner Brown.

24 **COMMISSIONER BROWN:** Thank you. And, thank  
25 you, Commissioner Edgar, you asked three of my

1 questions. I appreciate that in simplifying it.

2 But I did want to go back to the joint  
3 ownership. I understand from your testimony that the  
4 company has been in contact with potential joint owners.  
5 Why at this stage, knowing that the license is expected  
6 to be issued in 2013, are there no LOIs?

7 **THE WITNESS:** Really because as we looked at  
8 the status of the project right now, and we reengaged in  
9 discussions with the joint owners. And if I can go back  
10 a little bit, you know, we had started discussions with  
11 joint owners really in 2008 and had started exchanging  
12 some papers. When we got into the situation at the end  
13 of '08 and '09 where we had to look at this slowdown to  
14 support the licensing schedule and our inability to move  
15 forward with the project under a limited work  
16 authorization, that was going to let us do a bunch of  
17 work, really about 24 months worth of work before we  
18 ever got our license.

19 We reached out to joint owners and said, you  
20 know, now is probably not the right time to be talking.  
21 We really need to get through this decision, and we need  
22 to go back to the Commission and tell them what we're  
23 doing and how we are going to execute this decision, and  
24 that we will reengage with you again in 2011. And  
25 that's what we have done. We reached out to them

1 earlier this year. I'm planning to be back with them in  
2 the fall again for the next round of discussions. But I  
3 think we are now moving to the point where it's the  
4 right time to start getting to, really, more than just  
5 LOIs, but to commitments. And I think, you know, we  
6 would like to see that on or about the time we move  
7 forward with construction on the project.

8 **COMMISSIONER BROWN:** Are you in charge of  
9 those discussions?

10 **THE WITNESS:** I am involved in those  
11 discussions. I'm not in charge of those discussions.  
12 That's something actually that Mr. Dolan has been  
13 personally involved in.

14 **COMMISSIONER BROWN:** Thank you. And another  
15 question, I don't know if this has been answered in any  
16 of the exhibits, but I'll just ask you straight up. Has  
17 the company prepared cost allocation scenarios, if a  
18 joint owner comes on board?

19 **THE WITNESS:** Yes, we have. Those are  
20 probably best depicted in some of the CPVRR analysis  
21 where we show sort of how those scenarios play out at a  
22 50 percent ownership ratio, or an 80 percent ownership  
23 ratio. So there's some background information that  
24 supports those calculations, if I understand your  
25 question correctly. I don't know if that is the answer

1 to the question.

2           **COMMISSIONER BROWN:** I kind of wanted an  
3 understanding if there has been analysis on the rate  
4 impact, and whether at the 50 percent joint ownership  
5 level the various scenarios that were already depicted  
6 in that exhibit that you just described. If there has  
7 been an analysis on the rate impact.

8           **THE WITNESS:** You know, I don't think so  
9 beyond just total project cost impact and how that plays  
10 in that analysis. So I don't know that we have got a  
11 detail analysis that shows customer rate impacts at each  
12 different level of ownership, but I would have to check  
13 on that. Not that I'm aware of.

14           **COMMISSIONER BROWN:** Is the company leaning  
15 towards any particular percentage of a joint ownership?

16           **THE WITNESS:** No. We, as you saw in my  
17 testimony, continue to support the position that we  
18 could move forward without joint owners if necessary,  
19 but we understand the benefits of sharing some of that  
20 risk. We have not set particular targets, though,  
21 around just how much joint ownership we think we would  
22 have to have.

23           **COMMISSIONER BROWN:** Okay. And just to switch  
24 gears, and this is my last question. What is the  
25 scenario if Progress doesn't build the project?

1           **THE WITNESS:** I'm sorry, what's the scenario?

2           **COMMISSIONER BROWN:** What is the scenario?

3           What is the alternative generation plan?

4           **THE WITNESS:** Without a nuclear project,  
5           probably it will be some sort of a gas portfolio,  
6           combined cycle type gas projects moving forward. That's  
7           really the probably only reasonable alternative from a  
8           lower emissions, not quite zero emissions, but a lower  
9           emissions perspective. So we would sort of see, in that  
10          type of a world, gas as sort of a bridge to the next  
11          point where you might begin nuclear construction again.

12          **COMMISSIONER BROWN:** And when would the date  
13          be?

14          **THE WITNESS:** I don't know that.

15          **COMMISSIONER BROWN:** 2018, 2021?

16          **THE WITNESS:** When would the date be for --  
17          oh, for the next gas addition? You know, I'd have to go  
18          and look at our broader resource plans, but I think we  
19          would have to see something probably in the 2018 time  
20          frame. And, again, that would depend on load growth  
21          projections moving forward.

22          **COMMISSIONER BROWN:** Okay. Thank you.

23          **CHAIRMAN GRAHAM:** Commissioner Balbis.

24          **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.  
25          I just have a few questions for Mr. Elnitsky.

1           **THE WITNESS:** Yes, sir.

2           **COMMISSIONER BALBIS:** And, first, I'd like to  
3 start off by thanking you for your over 27 years of  
4 service. That is very impressive, and thank you for  
5 that.

6           **THE WITNESS:** Thank you.

7           **COMMISSIONER BALBIS:** First of all, you have  
8 discussed several times in response to questions from  
9 the intervenors and also in your testimony that, you  
10 know, the concept of creating an option and maybe not  
11 exercising that option. The question I have, if you  
12 receive the COLA, or combined license in 2013, and the  
13 receipt of all the other associated permits, the 404  
14 permit, you know, local permits, et cetera, how long  
15 would that option be preserved for before those licenses  
16 and permits expire?

17           **THE WITNESS:** The reason I hesitate on that is  
18 this is the subject of a little bit of discussion right  
19 now with the Nuclear Regulatory Commission about just  
20 what would happen to a license if it's obtained and you  
21 don't move forward with construction. By law, that  
22 license has no expiration. By practicality, though, it  
23 is not clear whether the NRC would allow that to stand.

24           The nearer term permit impacts are usually  
25 more around some of the environmental and construction

1 permits, which usually have about a 15-year duration.  
2 But, again, I would have to check details of specific  
3 lower levels permits. But in terms of the nuclear  
4 license, that technically has no expiration on it.

5 **COMMISSIONER BALBIS:** And has there been a lot  
6 of controversy on that? You said by matter of law it  
7 doesn't expire, but there's some controversy. What is  
8 the other end of the spectrum that's been bantered  
9 about?

10 **THE WITNESS:** The NRC is proposing some  
11 changes to regulation that could potentially put limits  
12 on how long a COLA would be good for. And they have  
13 bantered terms around like 20 years or 30 years, but  
14 none of that has been the subject of any rulemaking yet.

15 **COMMISSIONER BALBIS:** Okay. And then my final  
16 question, I believe it was the TOR-3 exhibit, you don't  
17 have to turn to it, and you testified to this in  
18 response, was that the substantial increase in the net  
19 additions really were associated with the final notice  
20 to proceed on the EPC contract and starting to move  
21 forward with construction, correct?

22 **THE WITNESS:** That's correct, sir.

23 **COMMISSIONER BALBIS:** So until the option to  
24 build is exercised, those major increases would not be  
25 incurred, is that correct?

1           **THE WITNESS:** That is correct.

2           **COMMISSIONER BALBIS:** Okay. I have no further  
3 questions.

4           **CHAIRMAN GRAHAM:** Thank you. I need to figure  
5 out where we go from here. I have a question of the  
6 intervenors. If we were to conclude with the redirect,  
7 do you foresee having any more questions for Witness  
8 Foster, because he is on hold basically waiting until  
9 after we are done with this current witness?

10           **MR. SAYLER:** None from OPC. And I do believe  
11 the utility still has redirect, as well.

12           **CHAIRMAN GRAHAM:** Yes, I know. If it's one of  
13 those things if you still have questions of Foster, we  
14 are not going to get through that, because he's going to  
15 have to come back anyway tomorrow.

16           **MR. SAYLER:** No, no questions for Mr. Foster.

17           **MR. BREW:** PCS does not expect to have any  
18 further questions for Mr. Foster.

19           **MS. WHITE:** FEA does not have any questions.

20           **MR. MOYLE:** Nor does FIPUG.

21           **MR. WHITLOCK:** Nor does SACE.

22           **CHAIRMAN GRAHAM:** To redirect time, do you  
23 have any idea how much you have in redirect?

24           **MR. WALLS:** I actually have no questions on  
25 redirect.

1           **CHAIRMAN GRAHAM:** There you go. So then if we  
2 have nothing from staff of Mr. Foster, Commission board,  
3 we can let Mr. Foster go.

4           **MR. YOUNG:** He can be excused.

5           **CHAIRMAN GRAHAM:** Okay. Mr. Foster, have a  
6 good night.

7           We have some exhibits we need to put on the  
8 record.

9           **MR. WALLS:** Yes. The company would move into  
10 evidence the witness' Exhibits JE-1 through JE-11, which  
11 are identified as Exhibits 155, 156, 157, 158, 159, 160,  
12 161, 162, 163, 164, and 165 in the staff exhibit list.

13           **CHAIRMAN GRAHAM:** Okay. We will move forward  
14 155 through 165 into the record.

15           (Exhibit Numbers 155 through 165 admitted into  
16 the record.)

17           **MR. SAYLER:** And OPC would move Exhibits 205  
18 through 208 with 206, the composite SEC filings being  
19 excerpts only unless the parties prefer the entire. And  
20 if the parties want the entire exhibit, I would  
21 recommend or ask that that be identified separately as  
22 Exhibit 210, only for the purpose that the excerpts are  
23 Bates-stamped and it would be easier to reference a  
24 Bates-stamped exhibit than about 1,000 pages worth of  
25 10Qs.

1           **CHAIRMAN GRAHAM:** Does Progress want the  
2           entire exhibit?

3           **MR. WALLS:** No, we see no need for that.

4           **CHAIRMAN GRAHAM:** Okay.

5           **MR. SAYLER:** So I would move 205 through 208.

6           **MR. WALLS:** No objection from the Company.

7           **CHAIRMAN GRAHAM:** Okay.

8           **MR. YOUNG:** No objection.

9           **MR. BREW:** Mr. Chairman, PCS Phosphate would  
10          move Exhibit 209.

11          **CHAIRMAN GRAHAM:** Okay.

12          **MR. WALLS:** No objection.

13          **CHAIRMAN GRAHAM:** Okay. So we are moving  
14          Exhibits 205, 206, 207, 208, and 209 into the record. I  
15          see no objections to any of those.

16                   (Exhibit Numbers 205 through 209 admitted into  
17          the record.)

18          **MR. SAYLER:** Mr. Chairman, was Exhibit 203 and  
19          204 moved into the record earlier today?

20          **CHAIRMAN GRAHAM:** I believe 203 was. I wasn't  
21          sure about 204.

22          **MR. SAYLER:** 204 is the stipulated exhibit of  
23          the Coston/Carpenter deposition.

24          **MR. YOUNG:** Yes.

25          **CHAIRMAN GRAHAM:** Yes, that was moved into the

1 record.

2 **MR. SAYLER:** All right. Also, as a  
3 housekeeping matter, for Exhibit 207, the red  
4 confidential scenario planning exercise, OPC needs to  
5 collect back all the copies because those are  
6 confidential documents, with the exception, I believe,  
7 of the one we gave to the court reporter.

8 **CHAIRMAN GRAHAM:** Okay. We will do that.

9 Now, is there anything else to be entered into  
10 the record for this witness? And I know we do have this  
11 witness scheduled for rebuttal tomorrow.

12 I do thank you all for your patience today.  
13 And I know we went a little long, but I want to get to a  
14 stopping point. I thought if we can get to the point  
15 where we can clear off Mr. Foster and move on to Mr.  
16 Jacobs tomorrow, it would be a good starting point.

17 That all being said, we are scheduled to start  
18 again tomorrow morning at 9:30. And if there's nothing  
19 else -- Mr. Young?

20 **MR. YOUNG:** There is nothing else.

21 **CHAIRMAN GRAHAM:** If there is nothing else, we  
22 are in recess until tomorrow morning at 9:30.

23 Thank you.

24 (Transcript continues in sequence with Volume  
25 12.)

1  
2 STATE OF FLORIDA )

3 : CERTIFICATE OF REPORTER

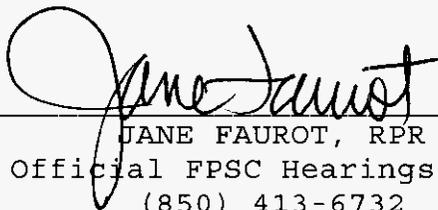
4 COUNTY OF LEON )

5  
6 I, JANE FAUROT, RPR, Chief, Hearing Reporter  
7 Services Section, FPSC Division of Commission Clerk, do  
8 hereby certify that the foregoing proceeding was heard  
9 at the time and place herein stated.

10 IT IS FURTHER CERTIFIED that I  
11 stenographically reported the said proceedings; that the  
12 same has been transcribed under my direct supervision;  
13 and that this transcript constitutes a true  
14 transcription of my notes of said proceedings.

15 I FURTHER CERTIFY that I am not a relative,  
16 employee, attorney or counsel of any of the parties, nor  
17 am I a relative or employee of any of the parties'  
18 attorney or counsel connected with the action, nor am I  
19 financially interested in the action.

20 DATED THIS 19th day of August, 2011.

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JANE FAUROT, RPR  
Official FPSC Hearings Reporter  
(850) 413-6732