

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 120009-EI

In re:

NUCLEAR COST RECOVERY CLAUSE

VOLUME 1

Pages 1 through 114

PROCEEDINGS: HEARING

COMMISSIONERS PARTICIPATING: CHAIRMAN RONALD A. BRISÉ
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER ART GRAHAM
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

DATE: Wednesday, September 5, 2012

TIME: Commenced at 10:30 a.m.
Concluded at 12:53 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK
(850) 894-0828

PREMIER REPORTING
114 WEST 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

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COMMISSION
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1 APPEARANCES:

2 JOHN T. BURNETT, ESQUIRE, Progress Energy
3 Florida, Inc., Post Office Box 14042, St. Petersburg, FL
4 33733; JAMES MICHAEL WALLS, ESQUIRE, Carlton Fields,
5 P.A., Post Office Box 3239, Tampa, Florida 33601;
6 appearing on behalf of Progress Energy Florida, Inc.
7 (PEF).

8 BRYAN S. ANDERSON and MITCHELL S. ROSS,
9 KENNETH R. RUBIN and JESSICA A. CANO, ESQUIRES, Florida
10 Power & Light Company, 700 Universe Boulevard, Juno
11 Beach, Florida 33408; on behalf of Florida Power & Light
12 Company (FPL).

13 CHARLES J. REHWINKEL, JOSEPH A. MCGLOTHLIN,
14 ESQUIRE, Office of Public Counsel, c/o The Florida
15 Legislature, 111 W. Madison Street, Room 812,
16 Tallahassee, Florida 32399; on behalf of the Citizens of
17 the State of Florida (OPC).

18 JAMES S. WHITLOCK and GARY A. DAVIS, ESQUIRES,
19 Davis & Whitlock, P.C., 61 North Andrews Avenue, Post
20 Office Box 649, Hot Springs, NC 28779; E. LEON JACOBS,
21 JR. ESQUIRE, Williams & Jacobs, 2510 Miccosukee Road,
22 Suite 104, Tallahassee, FL 32308; on behalf of Southern
23 Alliance for Clean Energy (SACE).

24

25

1 APPEARANCES (Cont.):

2 JON MOYLE, JR., and VICKI GORDON KAUFMAN,
3 ESQUIRE, Moyle Law Firm, P.A., 118 North Gadsden Street,
4 Tallahassee, Florida 32301; on behalf of the Florida
5 Industrial Power Users Group (FIPUG).

6 JAMES W. BREW and F. ALVIN TAYLOR, ESQUIRES,
7 Brickfield, Burchette, Ritts & Stone, P.C., 1025 Thomas
8 Jefferson St., NW, Eighth Floor, West Tower, Washington,
9 DC 20007; on behalf of White Springs Agricultural
10 Chemicals, Inc. d/b/a PCS Phosphate - White Springs (PCS
11 PHOSPHATE).

12 LIEUTENANT COLONEL GREGORY FIKE, CHIEF;
13 CAPTAIN SAMUEL MILLER; and KAREN WHITE, ESQUIRE, Federal
14 Executive Agencies, AFLOA/JACL-ULFSC, 139 Barnes Drive,
15 Suite 1, Tyndall AFB, Florida 32403; appearing on behalf
16 of the Federal Executive Agencies (FEA).

17 ROBERT SCHEFFEL WRIGHT and JOHN T. LAVIA, III,
18 ESQUIRES, Gardner, Bist, Wiener, Wadsworth, Bowden,
19 Bush, Dee, LaVia & Wright, P.A., 1300 Thomaswood Drive,
20 Tallahassee, Florida 32308; on behalf of the Florida
21 Retail Federation (FRF).

22 MICHAEL T. LAWSON, LISA C. BENNETT and KEINO
23 YOUNG, ESQUIRES, Florida Public Service Commission, 2540
24 Shumard Oak Boulevard, Tallahassee, Florida 32399; on
25 behalf of the Florida Public Service Commission (STAFF).

1 APPEARANCES (Cont.):

2 MARY ANNE HELTON and SAMANTHA CIBULA,
3 ESQUIRES, Deputy General Counsel, Florida Public Service
4 Commission, 2540 Shumard Oak Boulevard, Tallahassee,
5 Florida 32399; Advisor to the Florida Public Service
6 Commission.

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

2 CHAIRMAN BRISÉ: Good morning. It is 10:30,
3 September 5th, 2012. We are convening to deal with
4 Docket Number 120009-EI.

5 Mr. Lawson, if you could read the notice.

6 MR. LAWSON: Certainly, sir. By notice issued
7 July 17th, 2012, this time and place was set for
8 this hearing in Docket Number 120009-EI, the
9 Nuclear Cost Recovery Clause. The purpose of this
10 hearing is set forth in that notice.

11 CHAIRMAN BRISÉ: Thank you. At this time, we
12 will take appearances.

13 MR. ANDERSON: Good morning, Chairman Brisé
14 and Commissioners, Bryan Anderson, Mitch Ross for
15 Florida Power & Light Company, and Monday, we will
16 be joined by Jessica Cano and Ken Rubin, our
17 colleagues.

18 CHAIRMAN BRISÉ: Okay. Thank you.

19 MR. WALLS: Mike Walls of Carlton Fields on
20 behalf of Progress Energy Florida and Mr. Burnett
21 with Progress Energy.

22 CHAIRMAN BRISÉ: All right. Thank you.

23 MR. WRIGHT: Robert Scheffel Wright and John
24 T. LaVia, III on behalf of the Florida Retail
25 Federation.

1 CHAIRMAN BRISÉ: All right. Thank you.

2 MR. REHWINKEL: Good morning, Mr. Chairman.
3 Charles Rehwinkel in the Progress Energy portion of
4 the case and Joe McGlothlin in the FPL portion of
5 the case --

6 CHAIRMAN BRISÉ: All right. Thank you.

7 MR. REHWINKEL: -- for the Citizens of
8 Florida.

9 MR. BREW: Good morning, Mr. Chairman,
10 Commissioners. I am James Brew, and with me will
11 be F. Alvin Taylor on behalf of White Springs
12 Agricultural Chemicals, PCS Phosphate.

13 CHAIRMAN BRISÉ: All right. Thank you.

14 LT. COL. FIKE: Good morning, Mr. Chairman,
15 Lieutenant Colonel Greg Fike appearing on behalf of
16 the Federal Executive Agencies. I would also want
17 to enter appearances for Ms. Karen White and
18 Captain Sam Miller.

19 CHAIRMAN BRISÉ: All right. Thank you.

20 MS. KAUFMAN: Good morning, Chairman,
21 Commissioners. Vicki Gordon Kaufman. I am here on
22 behalf of the Florida Industrial Power Users Group,
23 and I would also like to enter an appearance for
24 John Moyle.

25 CHAIRMAN BRISÉ: Thank you.

1 MR. JACOBS: Good morning, Mr. Chairman and
2 Commissioners. Ennis Leon Jacobs appearing on
3 behalf of Southern Alliance for Clean Energy, and I
4 would also like to enter an appearance for Jimmy
5 Whitlock and Gary Davis.

6 CHAIRMAN BRISÉ: All right. Thank you. Okay.

7 MR. LAWSON: Appearing for staff, Mike Lawson
8 and Lisa Bennett for General Counsel's Office.

9 CHAIRMAN BRISÉ: Thank you. Health.

10 MS. HELTON: And Mary Anne Helton, Advisor to
11 the Commission. I would also like to make an
12 appearance for Samantha Cibula.

13 CHAIRMAN BRISÉ: Thank you.

14 Okay. As you all are well aware, we are
15 convening on this date as -- as a result of a
16 request by the parties to adjust a hearing schedule
17 which resulted in the need to hear an FPL witness
18 roughly a week prior to the main portion of the
19 hearing. So today, we will only have two items on
20 our agenda. Excuse me.

21 First, we will take up Progress Energy's
22 Motion to Defer Approval of the Long-term
23 Feasibility and Reasonableness of the Projected
24 Construction Expenditures and Associated Carrying
25 Costs for CR3 Uprate project.

1 Second, we will hear direct and rebuttal
2 testimony from FPL Witness John Reed. After which
3 we will recess until 9:30 September 10, 2012.

4 We will defer opening statements and all other
5 matters in this docket until then.

6 Staff?

7 MR. LAWSON: Yes, sir. Moving on to the
8 Motion to Defer on August 14th, 2012, Progress
9 Energy Florida filed their Motion to Defer Approval
10 of the Long-term Feasibility and Reasonableness of
11 the Projected Construction and Expenditures and
12 Associated Carrying Costs for the CR3 Uprate
13 project.

14 To the best of our knowledge, the motion is
15 unopposed and that the -- the intervening parties
16 and all the parties believe that they either
17 support the motion or have taken no position on it.
18 Parties, however, may wish to be heard on this
19 motion at your discretion.

20 CHAIRMAN BRISÉ: Okay. Thank you.

21 Commissioner Edgar?

22 COMMISSIONER EDGAR: Thank you, Mr. Chairman.
23 I was just going to ask -- and I understand and
24 heard our staff, of course -- but if there are any
25 parties who have an objection to it -- I am not

1 aware of any, but I wanted to have the opportunity
2 to give a last chance in -- in case there is.

3 So are there any objections?

4 MS. KAUFMAN: I don't have an objection, but I
5 would just like to be heard for a moment, if
6 that -- if that's appropriate.

7 COMMISSIONER EDGAR: Then -- Then, Mr. Chair,
8 I will look to you as to how you want to handle it.
9 If there were no objections, I was ready to make a
10 motion in support. I have reviewed the motion. I
11 have discussed it with our staff. I do believe I
12 understand the reasons for it and that it is -- in
13 keeping with past practice, is in best interest of
14 the ratepayers long-term and brings efficiency to
15 the process.

16 And I will look to you if -- when you want a
17 motion or how you would like to --

18 CHAIRMAN BRISÉ: Sure.

19 COMMISSIONER EDGAR: -- the parties. Thank
20 you.

21 CHAIRMAN BRISÉ: Sure. Ms. Kaufman, it seems
22 like you would like to say something, so go right
23 ahead.

24 MS. KAUFMAN: Yes and just -- I will just take
25 a moment, and that is, I have no objection to the

1 motion. And I just wanted it to be clear, and I
2 think that it is, that the motion deals only with
3 2012 and '13. The subject of what to do with 2011
4 is addressed in Issue 3 and is something I
5 understand we will be taking up when the main part
6 of the hearing goes forward.

7 CHAIRMAN BRISÉ: Okay. Mr. Rehwinkel?

8 MR. REHWINKEL: Yes, Mr. Chairman. Just for
9 the record, the Public Counsel, in -- in the
10 motion, we are accurately portrayed as not opposing
11 the motion. To be more precise, we neither oppose
12 nor support the motion.

13 I have conferred with Mr. Brew, counsel for
14 White Springs, and I believe that they have some
15 remarks to make to the extent you allow them. We
16 largely agree with what Mr. Brew may say today
17 based on our conversations, so we think our
18 interests are largely aligned in this.

19 CHAIRMAN BRISÉ: All right. Mr. Brew?

20 MR. BREW: Thank you, Mr. Chairman. Very
21 briefly, obviously, in -- in this circumstance, we
22 have gone way beyond, I think, what anybody
23 reasonably expected in the Nuclear Cost Recovery
24 Rule, and we will hear a lot more about that on
25 Monday. I don't want to get into that.

1 But as -- in this particular motion, as the
2 Company represented, White Springs was not listed
3 as having supported or opposed, and I just want to
4 make clear that we don't oppose the Motion to Defer
5 the decision on 2012 and '13 actual and estimated
6 costs or deferring the -- the feasibility finding
7 there.

8 But that's really where our concern lays on
9 this on feasibility. Last year, we deferred that
10 finding with respect to 2011, and we are going to
11 be -- the Company has left that in the case here.

12 Our concern was that given where we are with
13 the lack of a decision on whether to repair the
14 unit, the feasibility finding is problematic. And
15 while we don't oppose the motion, we very concerned
16 about the Commission -- we would suggest that to
17 the extent possible, the Commission keep its powder
18 dry on feasibility and prudence issues on all
19 matters. And so -- and as much as possible.

20 Now, with respect to 2011, you had deferred
21 those matters to this year, and normally, we would
22 argue strongly that you continue to defer that here
23 because you don't have the essential facts that you
24 need regarding the decision on whether the unit
25 will be repaired or not.

1 However, as -- as shown in the Company -- the
2 company -- the attachment to the Company's motion,
3 most of the dollars that we are talking about are
4 carrying costs, and so it's -- to the extent that
5 the Commission can frame its opinion, while we
6 don't oppose the motion, we would strongly
7 encourage the Commission to try to defer the
8 findings of prudence or feasibility on -- on all
9 the matters possible.

10 So thank you.

11 CHAIRMAN BRISÉ: Thank you.

12 Any further comments?

13 Okay.

14 MR. JACOBS: Bear with me, Mr. Chairman.

15 CHAIRMAN BRISÉ: Sure.

16 MR. JACOBS: Very briefly.

17 CHAIRMAN BRISÉ: Okay.

18 MR. JACOBS: I just want to echo one point
19 that Mr. Brew made. We -- SACE really neither
20 support nor opposes the motion, but the point is,
21 it's -- we believe it's going to be incredibly
22 important for the Commission to take full measure
23 of the facts as they existed at the time the -- the
24 measuring decisions were made.

25 There are a lot of moving parts, a lot of

1 moving pieces, and so it's very important that you
2 do -- not do a -- an in camera. You got -- you
3 must be looking at it with a full history and full
4 background of the facts that were in play at the
5 time these decisions were made, and we think that
6 that's very -- the Commission is very capable of
7 doing that.

8 Thank you.

9 CHAIRMAN BRISÉ: Thank you very much.

10 Commissioner Balbis?

11 COMMISSIONER BALBIS: Thank you, Mr. Chairman.

12 I have a quick question for staff on this.

13 Mr. Brew brought up a good point, and that's
14 concerning the carrying costs. If we approve this
15 motion and defer that decision, what will be the
16 effect on the carrying costs if subsequent --
17 subsequently we make the determination that these
18 costs were prudently incurred?

19 MR. LAUX: At this time point, Commissioner, I
20 would have to respond to it based on the petition
21 that Progress Energy filed and the -- the
22 information that's in their motion, so we are still
23 at the beginning of the dance. So you don't know
24 exactly what those are.

25 But given those two parameters, the actual

1 impact of approving the motion as filed based on
2 the information that was in their petition would
3 adjust the dollars that you would not be addressing
4 today in carrying costs of approximately \$9
5 million.

6 The impact on that in 2013 as to customer
7 rates would be approximately 30 cents on the
8 residential side, and the deferred impact of that
9 would be approximately \$800 to \$900,000, which
10 would be probably in the area of a penny, maybe a
11 penny and a half, something like that.

12 COMMISSIONER BALBIS: Okay. And -- and a
13 followup question, so if at which time it is
14 appropriate for us to make the determination on
15 these costs, would all of the costs, including the
16 increased carrying costs, they could be subject to
17 refund, correct?

18 MR. LAUX: I am a little confused because the
19 terminology for "subject to refund" is something we
20 usually do in different clauses like fuel and
21 things like that.

22 Once the Commission makes the determination on
23 the base costs that are prudent, then there
24 wouldn't be any refund, but at this point, you have
25 a determination of only reasonableness. And you

1 would have another opportunity to look at those
2 costs, the base costs for those and make a
3 determination of prudence.

4 So in essence, I guess, they are subject to
5 refund. They are subject to true-up.

6 COMMISSIONER BALBIS: Well, yeah, maybe I
7 wasn't clear enough. So the -- there are
8 additional carrying costs by deferring this
9 decision, correct?

10 MR. LAUX: Yes, sir.

11 COMMISSIONER BALBIS: Okay. And if at which
12 point we -- if we determine that these costs were
13 imprudently incurred, all the costs, including the
14 additional carrying costs, could be returned to the
15 customers, correct?

16 MR. LAUX: Yes, sir.

17 COMMISSIONER BALBIS: Okay. I just wanted to
18 make sure we are not losing an opportunity to
19 really adequately address these costs and we are
20 not incurring additional costs to the customers,
21 that we can still look at those costs as well. So
22 that's all I had.

23 CHAIRMAN BRISÉ: Commissioner Brown?

24 COMMISSIONER BROWN: Thank you. I want to
25 take the opportunity to ask Mr. Rehwinkel, I know

1 you deferred your comments to Mr. Brew, but I
2 wanted to see, from your perspective, what the
3 benefits are for the deferral to customers.

4 MR. REHWINKEL: The benefits from our
5 perspective are that, I think as Mr. Brew alluded
6 to, for '12 and '13, the determination of
7 feasibility and prudence are bound up in this issue
8 about whether to repair the unit or retire it. And
9 the facts there are in a state of limbo or
10 suspension. We just don't have them.

11 And I think the Company has pointed out in
12 their -- in their petition or their motion that
13 the -- that decision is still pending, and it's
14 bound up in the management change and the yet to be
15 made decisions by the board.

16 So the customers benefit by the Commission not
17 having to make the decision without all the facts.
18 And we do have a concern about carrying costs at
19 the statutory rate. I think Mr. Laux indicated
20 that at least on the balance that would be
21 deferred, it is relatively a small amount, and I
22 think it's probably prudent to defer in all the
23 facts come in at -- at the -- the cost that
24 Commissioner Balbis asked about.

25 COMMISSIONER BROWN: Thank you. I --

1 MR. REHWINKEL: If that answers your question.

2 COMMISSIONER BROWN: Thank you. I -- I agree
3 with you.

4 I have one more question for Progress. Again,
5 to take an opportunity to see if there is any
6 updates on the independent study that is being
7 performed on CR3. Do you have any new updates?

8 MS. BENNETT: No, Commissioner, not at this
9 time, other than it -- it has naturally progressed
10 since the last time we were before you, but as to
11 an expected date of completion, I don't have any
12 more concrete information at this time other than
13 in process and still moving.

14 COMMISSIONER BROWN: Okay. Thank you.

15 MS. BENNETT: Yes, ma'am.

16 CHAIRMAN BRISÉ: All right. Commissioners,
17 any further comments?

18 Okay. I think we are in a position to -- to
19 vote, so I will entertain a motion. Commissioner
20 Edgar?

21 COMMISSIONER EDGAR: Thank you, Mr. Chairman.
22 And from the questions and comments that we have
23 had, they are consistent with my understanding of
24 the request that was before us, and therefore, I
25 would move that we approve the PEF motion for

1 deferral.

2 CHAIRMAN BRISÉ: All right. It's been moved.

3 Is there a second?

4 COMMISSIONER BROWN: Second.

5 CHAIRMAN BRISÉ: Okay. It's been moved and
6 seconded.

7 All in favor, say aye.

8 (Chorus of ayes.)

9 CHAIRMAN BRISÉ: All right. We have approved
10 the Motion to Defer.

11 All right. At this time, we are going to
12 prepare for our witness. FPL will go first.

13 MR. ROSS: Thank you, Mr. Chairman. The
14 Company calls John Reed.

15 Mr. Chairman, he has not been sworn.

16 CHAIRMAN BRISÉ: Mr. Reed, if you would stand,
17 please.

18 Whereupon,

19 JOHN J. REED

20 was called as a witness, having been first duly sworn to
21 speak the truth, the whole truth, and nothing but the
22 truth, was examined and testified as follows:

23 CHAIRMAN BRISÉ: Thank you. You may be
24 seated.

25 DIRECT EXAMINATION

1 BY MR. ROSS:

2 Q Would you please state your name and business
3 address?

4 A My name is John J. Reed. My business address
5 is 293 Boston Post Road, Marlborough, Massachusetts.

6 Q By whom are you employed and in what capacity?

7 A I am the Chairman and Chief Executive Officer
8 of Concentric Energy Advisors.

9 Q Have you prepared and caused to be filed 66
10 pages of prefiled direct testimony in this proceeding on
11 March 1st, 2012?

12 A Yes, I have.

13 Q Do you have any changes or revisions to your
14 prefiled direct testimony?

15 A I have two brief comments about information
16 that has changed since the March 1st filing. The first
17 relates to a figure that appears on page six of my
18 direct testimony at line three. That figure is the
19 figure for the aggregate amount of additional megawatts
20 that would be coming out of the uprate -- uprates when
21 completed.

22 That number of 490 megawatts is now
23 out-of-date. The planning range, as I understand it, is
24 522 to 532 megawatts. And that additional information
25 will be put on the record by Mr. Jones.

1 In addition, at page 48 of my prepared direct
2 testimony, I talk about dates for the completion of the
3 COLA process in 2014. Those dates are now out-of-date,
4 although there are not new dates yet established pending
5 NRC action with regard to the issuance of the licenses.
6 So I just want to comment that those dates are no longer
7 accurate, although new dates are not yet available.

8 That's all.

9 **Q With the changes that you just indicated, if I**
10 **asked you the questions contained in your prefiled**
11 **direct testimony today, would your answers be the same?**

12 A Yes.

13 MR. ROSS: Mr. Chairman, I ask that the
14 prefiled direct testimony of Mr. Reed be inserted
15 into the record as though read with those changes
16 as indicated.

17 CHAIRMAN BRISÉ: Okay. At this time, we will
18 enter Mr. Reed's prefiled testimony into the record
19 as -- as though read, recognizing the changes that
20 have been made to the testimony.

21 MR. ROSS: Thank you.

22 (Whereupon, testimony inserted.)

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **FLORIDA POWER & LIGHT COMPANY**

3 **DIRECT TESTIMONY OF JOHN J. REED**

4 **DOCKET NO. 120009**

5 **March 1, 2012**

6

7 **Section I: Introduction**

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

9 A. My name is John J. Reed. My business address is 293 Boston Post Road West,
10 Marlborough, Massachusetts 01752.

11 **Q. By whom are you employed and what is your position?**

12 A. I am the Chairman and Chief Executive Officer of Concentric Energy Advisors,
13 Inc. (“Concentric”).

14 **Q. Please describe Concentric.**

15 A. Concentric is an economic advisory and management consulting firm,
16 headquartered in Marlborough, Massachusetts, which provides consulting
17 services related to energy industry transactions, energy market analysis, litigation,
18 and regulatory support.

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

20 A. I have more than 35 years of experience in the energy industry, having served as
21 an executive in energy consulting firms, including the position of Co-Chief
22 Executive Officer of the largest publicly-traded management consulting firm in
23 the United States and as Chief Economist for the largest gas utility in the United
24 States. I have provided expert testimony on a wide variety of economic and

1 financial issues related to the energy and utility industry on numerous occasions
 2 before administrative agencies, utility commissions, courts, arbitration panels and
 3 elected bodies across North America. I also have provided testimony on behalf
 4 of FPL in its NCRC proceedings in 2008, 2009, 2010, and 2011. A summary of
 5 my educational background can be found on Exhibit JJR-1.

6 **Q. Are you sponsoring any exhibits in this case?**

7 A. Yes. I am sponsoring Exhibits JJR-1 through JJR-5, which are attached to my
 8 direct testimony.

9	Exhibit JJR-1	Curriculum Vitae
10	Exhibit JJR-2	Current Testimony of John J. Reed
11	Exhibit JJR-3	Total Production Cost of Electricity
12	Exhibit JJR-4	List of the EPU Project's Periodic Meetings
13	Exhibit JJR-5	PTN 6 & 7 Project Organizational Chart

14 **Q. What is the purpose of your testimony in this proceeding?**

15 A. The purpose of my testimony is to review the benefits of nuclear power and the
 16 appropriate prudence standard to be applied to Florida Power & Light's ("FPL"
 17 or the "Company") decision-making processes in this Nuclear Cost Recovery
 18 Clause ("NCRC") proceeding before the Florida Public Service Commission (the
 19 "FPSC" or the "Commission"). In addition, I provide a review of the system of
 20 internal controls used by the Company in 2011 during construction phases of the
 21 Extended Power Uprate ("EPU") project at the Turkey Point ("PTN") and St.
 22 Lucie ("PSL") generating stations (together, the "EPU Project"), and in
 23 developing and maintaining the option to construct two new nuclear generating
 24 units ("PTN 6 & 7" or "New Nuclear Project") at FPL's existing Turkey Point

1 site. Finally, I provide an opinion as to whether the EPU and PTN 6 & 7
 2 expenditures for which FPL is seeking recovery in this proceeding have been
 3 prudently incurred.

4 **Q. Please describe your experience with nuclear power plants, and**
 5 **specifically your experience with major construction programs at these**
 6 **plants.**

7 A. My consulting experience with nuclear power plants spans more than 30 years.
 8 My clients have retained me for assignments relating to the construction of
 9 nuclear plants, the purchase, sale and valuation of nuclear plants, power uprates
 10 and major capital improvement projects at nuclear plants, and the
 11 decommissioning of nuclear plants. In addition to my work at FPL's plants, I
 12 have had significant experience with those activities at the following plants:

- | | | |
|----|-------------------|------------------|
| 13 | ● Big Rock Point | ● Oyster Creek |
| 14 | ● Callaway | ● Palisades |
| 15 | ● Darlington | ● Peach Bottom |
| 16 | ● Duane Arnold | ● Pilgrim |
| 17 | ● Fermi | ● Point Beach |
| 18 | ● Ginna | ● Prairie Island |
| 19 | ● Hope Creek | ● Salem |
| 20 | ● Indian Point | ● Seabrook |
| 21 | ● Limerick | ● Vermont Yankee |
| 22 | ● Millstone | ● Wolf Creek |
| 23 | ● Monticello | ● Vogtle |
| 24 | ● Nine Mile Point | |

25 I have recently been active on behalf of a number of clients in pre-
 26 construction activities for new nuclear plants across the United States and in
 27 Canada. Those activities include state and Federal regulatory processes, raising
 28 debt and equity financing for new projects and evaluating the costs schedules and
 29 economics of new nuclear facilities. Those activities have included detailed

1 reviews of contracting strategies, cost estimation and construction project
2 management activities of other refurbishment and new nuclear projects.

3 **Q. Please summarize your testimony.**

4 A. The remainder of my testimony covers five main topic areas. Section II contains
5 an introduction to the projects and a discussion of the benefits of nuclear power
6 to Florida. Section III describes the appropriate prudence standard that should
7 be applied in this case, and discusses the precedents with respect to the prudence
8 standard in Florida. In Section IV, I discuss the internal controls, processes, and
9 procedures that were the focus of Concentric's review. In Section V, I discuss
10 Concentric's assessment of the EPU Project that is underway at both of FPL's
11 Florida nuclear generating stations, and in Section VI, I present Concentric's
12 review of the New Nuclear Project. My conclusions are provided in Section VII.
13 Each of those topics is summarized below.

14 FPL's four existing nuclear reactors in Florida have provided, and
15 continue to provide, substantial benefits to Florida customers. Those benefits
16 include virtually no air emissions, increased fuel diversity, reduced exposure to
17 fuel price volatility, fuel cost savings, highly reliable base load capacity, and
18 efficient land use. Additional nuclear capacity is expected to provide more of
19 those same benefits to Florida.

20 The rule that governs the Commission's review of FPL's nuclear projects
21 calls for an annual prudence determination. The prudence standard encapsulates
22 three main elements. First, prudence relates to decisions and actions, not costs
23 incurred by a utility. Second, the prudence standard includes a presumption of
24 prudence with regard to the utility's actions. Absent evidence to the contrary, a

1 utility is assumed to have acted prudently. Third, the prudence standard excludes
2 hindsight. Thus, the prudence of a utility's actions must be evaluated on the
3 basis of information that was known or could have been known at the time the
4 decision was made.

5 Finally, Concentric has reviewed the processes and procedures that are
6 used to manage and implement the EPU and PTN 6 & 7 projects. This review
7 has focused on the Company's internal controls that are in place to provide
8 assurance that the Company meets its strategic, financial, and regulatory
9 objectives related to the projects. Our review is premised on a framework
10 developed by Concentric when advising potential investors in new nuclear
11 development projects and our recent regulatory experience.

12 **Q. What are your summary conclusions?**

13 A. Concentric's review found that FPL appropriately and prudently managed the
14 EPU Project and PTN 6 & 7 in 2011. As discussed in more detail later in my
15 testimony, FPL faced challenges in 2011 in its management of the projects,
16 including significant challenges due to external factors outside of the Company's
17 control. However, I found that FPL's policies and procedures put it in a
18 position to appropriately respond to those challenges, and that the Company's
19 oversight and decision making resulted in prudently incurred costs in 2011.

20

21 **Section II: Introduction to the Projects and Benefits of Nuclear Power to Florida**

22 **Q. Please provide a brief introduction to FPL's EPU Project.**

23 A. FPL is implementing an EPU at PSL and PTN. An EPU is the process of
24 modifying and upgrading specific components at a nuclear power plant to

1 increase the maximum power level at which the plant can operate. Once
2 completed, the EPU Project is expected to increase the nuclear generating
3 capacity of PSL and PTN by about 490 megawatts for the benefit of FPL's
4 customers. The final increase in capacity will not be known until all
5 modifications and testing are complete.

6 **Q. Please also generally describe PTN 6 & 7.**

7 A. The PTN 6 & 7 Project remains focused on obtaining the licenses and permits
8 that will provide FPL and its customers the option to construct two nuclear units
9 at the existing PTN site. Specifically, through PTN 6 & 7, FPL continues to
10 develop the option to construct approximately 2,200 megawatts of additional
11 nuclear capacity. The Company's project management strategy is focused on
12 preserving appropriate flexibility and multiple hold points and off-ramps during
13 which PTN 6 & 7's progress can be delayed for further analysis, or progressed to
14 meet the existing schedule. A decision on whether to move forward with
15 development of new units can be made based on the project's ability to achieve a
16 balance of high value to customers and decreased exposure to risk at the point
17 when all relevant permits have been obtained. The option to construct will last
18 for a period of at least 20 years from the date the final license is issued.

19 **Q. Has nuclear power benefited FPL customers?**

20 A. Yes. Nuclear power has a long and successful history of operation in FPL's
21 power generating fleet. The four reactors at FPL's existing PSL and PTN sites
22 have been generating power for an average of over 35 years. Throughout the last
23 three and a half decades, these units have benefited Florida customers by reliably
24 producing emissions-free energy, decreasing total fuel costs, enhancing the

1 diversity of fuels used to generate power and insulating customers from
2 commodity price spikes.

3 **Q. Is it prudent to continue the development of additional nuclear capacity in**
4 **Florida?**

5 A. Yes, whenever that capacity can be developed on an economic basis over its
6 useful life. One of the most compelling advantages of additional nuclear power
7 is that it emits virtually no carbon dioxide. Whereas the alternative base load
8 power sources in Florida are carbon intensive, nuclear power emits no
9 greenhouse gases (“GHG”).

10 This is especially important in the current federal policy context. Support
11 for a federal cap and trade system of regulating emissions has lost momentum in
12 the past two to three years, partially as a result of challenging economic
13 conditions. However, other Federal regulations of power plant emissions have
14 been creating considerable controversy in Washington. In December 2011, the
15 Environmental Protection Agency finalized a rule establishing national emissions
16 standards for coal- and oil-burning power plants. The rule, known as the “Utility
17 MACT” rule, is expected to have dramatic consequences on operators of fossil-
18 fueled power plants, especially those that burn coal. In order to operate, affected
19 plants will need to install the “maximum achievable control technologies” for
20 certain emissions. The costs of compliance are expected to cause the retirement
21 of many facilities, and will likely make electricity considerably more expensive.

22 Similarly, the Cross State Air Pollution Rule (“CSAPR”), announced in
23 July 2011, targets power plant emissions that cross state lines. Like the Utility
24 MACT rule, the CSAPR is expected to have a significant effect on fossil-fired

1 generating stations. While a recent ruling in a federal appeals court has
2 temporarily halted implementation of the CSAPR, the specter of stringent
3 regulations on power plant emissions remains a significant risk to power
4 producers.

5 These federal rules pose the greatest obstacles to coal generation. As a
6 consequence, there will be an implicit promotion of natural gas generation. In
7 many regions, including Florida, a greater emphasis on gas increases the risk that
8 electric customers face from a volatile market that faces increasing demand, both
9 in the U.S. and abroad, and periodic supply constraints. Nuclear power,
10 however, provides much-needed fuel diversity, insulating residents from the
11 market for natural gas. In addition, nuclear power's limited emissions profile
12 essentially eliminates considerable uncertainty with regard to the highly
13 contentious federal rules.

14 **Q. How do trends in the production cost of natural gas-fired generation**
15 **compare with trends in the price of nuclear power?**

16 A. The cost of nuclear power has been stable due to the fact that fuel represents a
17 comparatively small portion of the production costs of nuclear power facilities.
18 According to the Nuclear Energy Institute ("NEI"), fuel has accounted for
19 approximately 90% of the total production cost of energy from natural gas,
20 whereas fuel costs of nuclear power are only 25-30% of the total production
21 cost.¹

22 As shown in Exhibit JJR-3, the production cost of energy from nuclear
23 power remains substantially lower than other sources of base load energy. The

1 electric bills of Florida residents have benefited from lower and much less
2 volatile production costs of nuclear power.

3 **Q. Is it appropriate for the Commission to continue to allow recovery of**
4 **certain pre-construction costs and construction carrying costs through the**
5 **NCRC process?**

6 A. Yes. Given the unique nature of nuclear construction and its economics, it is
7 absolutely appropriate to allow for cost recovery through the annual NCRC
8 process. The NCRC is important for both the Company and its customers.
9 With respect to the Company, the NCRC provides FPL's debt and equity
10 investors with some measure of assurance of cost recovery if their investments
11 are used to prudently incur costs. In addition, by allowing recovery of carrying
12 costs during construction, the NCRC eliminates the effect of compound interest
13 on the total project costs, which will reduce customer bills when the facilities are
14 constructed.

15 **Q. Have other utilities considering nuclear development activities noted the**
16 **necessity of NCRC-like recovery mechanisms?**

17 A. Yes. Utilities such as Duke, SCANA, Georgia Power, Progress Energy and
18 Ameren have publicly acknowledged the benefits and the necessity of cost
19 recovery mechanisms like the NCRC.

20 **Q. Has the financial community commented on the importance of NCRC-**
21 **like recovery mechanisms?**

22 A. Yes, Standard & Poor's recently commented that "such frameworks can support
23 credit quality and provide utilities with guidelines for dealing with schedule

1 delays, cost overruns, stemming from technical difficulties, or other issues that
2 may arise.”²

3 **Q. Are there benefits of nuclear power other than those that quantitatively**
4 **affect the price of electricity?**

5 A. Yes. The comparatively small footprint of a nuclear powered generating station
6 relative to clean, emissions-free alternative technologies is often overlooked. By
7 requiring less land, nuclear power plants limit the degree of forest clearing,
8 wetlands encroachments, and other environmental impacts associated with siting
9 a generating facility.

10

11 **Section III: The Prudence Standard**

12 **Q. Please generally describe the prudence standard as you understand it.**

13 A. The prudence standard is captured by three key features. First, prudence relates
14 to actions and decisions; costs themselves are not prudent or imprudent. It is the
15 decision or action that must be reviewed and assessed, not simply whether the
16 costs are above or below expectations. The second feature is that the standard
17 incorporates a presumption of prudence, which is often referred to as a
18 rebuttable presumption. The burden of showing that a decision is outside of the
19 reasonable bounds falls, at least initially, on the party challenging the utility’s
20 actions. The final feature is the total exclusion of hindsight. A utility’s decisions
21 must be judged based upon what was known or knowable at the time the
22 decision was made by the utility.

1 **Q. What test for prudence has been adopted by the Commission?**

2 A. The Commission has prohibited the use of hindsight when reviewing utility
3 management decisions and has instead chosen to strictly follow the standard I
4 described above. In 2011, the Commission reaffirmed this approach, quoting its
5 2009 Order (Order No. PSC-09-0783-FOF-EI):

6 The applicable standard for determining prudence is
7 consideration of what a reasonable utility manager would have
8 done in light of conditions and circumstances which were known
9 or reasonably should have been known at the time decisions were
10 made.

11

12 **Section IV: Framework of Internal Controls Review**

13 **Q. What is meant by the term “internal control” and what does it intend to
14 achieve?**

15 A. The Committee of Sponsoring Organizations of the Treadway Commission
16 (“COSO”) is a global industry organization that provides guidance as to the
17 development, implementation and assessment of systems of internal control.
18 COSO has defined internal control as a process that provides reasonable
19 assurance of the effectiveness of operations, reliability of financial reporting and
20 compliance with applicable laws and regulations. This definition has been
21 further expanded to reflect four critical concepts. First amongst these is that
22 internal control is a process. While internal control may be assessed at specific
23 moments in time, a system of internal control can only be effective if it responds
24 to the dynamic nature of organizations and projects over time. Second, internal
25 control is created by people, and thus the effectiveness of an internal control
26 system is dependent on the individuals in an organization. Third, internal

1 control is specifically directed at the achievement of an entity's goals. Thus, risks
2 that present the greatest challenge to the achievement of those objectives must
3 take priority. Finally, internal control can provide only reasonable assurance.
4 Expectations of absolute assurance cannot be achieved.

5 **Q. Please describe the framework Concentric used to review the Company's**
6 **system of internal control as implemented by the EPU Project and PTN 6**
7 **& 7 in 2011.**

8 A. In order to review and assess the Company's internal controls, Concentric
9 utilized a similar framework to that which it has used previously for FPL's
10 NCRC proceedings. That framework is based upon Concentric's
11 contemporaneous experience advising prospective investors in new nuclear
12 projects and Concentric's regulatory experience.

13 In summary, the framework has focused on six elements of the
14 Company's internal controls, including:

- 15 • Defined corporate procedures;
- 16 • Written project execution plans;
- 17 • Involvement of key internal stakeholders;
- 18 • Reporting and oversight requirements;
- 19 • Corrective action mechanisms; and
- 20 • Reliance on a viable technology.

21 Each of these elements was reviewed for five processes including:

- 22 • Project estimating and budgeting processes;
- 23 • Project schedule development and management processes;

- 1 • Contract management and administration processes;
- 2 • Internal oversight mechanisms; and
- 3 • External oversight mechanisms.

4 Concentric's work in this proceeding is additive to our work reviewing the
5 projects in prior years. In other words, Concentric's efforts in 2012 reflect the
6 information and understanding of the projects gained during Concentric's
7 reviews in 2008 through 2011.

8 **Q. Please describe how Concentric performed this review.**

9 A. Concentric's review was performed over the period from December 2011 to
10 February 2012. Concentric began by reviewing the Company's policies,
11 procedures and instructions with particular emphasis placed on those policies,
12 procedures or instructions that may have been revised since the time of
13 Concentric's previous review. In addition, Concentric reviewed the current
14 project organizational structures and key project milestones that were achieved in
15 2011. Concentric then reviewed other documents, conducted several in-person
16 interviews and conducted site tours at PTN and PSL to make certain the EPU
17 Project's and PTN 6 & 7's policies, procedures and instructions were known by
18 the project teams, were being implemented by the projects and have resulted in
19 prudent decisions based on the information that was available at the time of each
20 decision.

21 Concentric's in person interviews included representatives from each of the
22 following functional areas:

- 23 • Project Management;
- 24 • Project Controls;

- 1 • Integrated Supply Chain Management (“ISC”);
- 2 • Employee Concerns Program;
- 3 • Quality Assurance/Quality Control (“QA/QC”);
- 4 • Transmission;
- 5 • Environmental Services; and
- 6 • Licensing and Permitting.

7 **Q. Please describe why you believe it is important for FPL to have defined**
8 **corporate procedures in place throughout the development of the projects.**

9 A. Defined corporate procedures are critical to any project development process as
10 they detail the methodology with which the project will be completed and make
11 certain that business processes are consistently applied to the project. To be
12 effective, these procedures should be documented with sufficient detail to allow
13 project teams to implement the procedures, and they should be clear enough to
14 allow project teams to easily comprehend the procedures. It is also important to
15 assess whether the procedures are known by the project teams and adopted into
16 the Company’s culture, including a process that allows employees to openly
17 challenge and seek to improve the existing procedures and to incorporate lessons
18 learned from other projects into the Company’s procedures. Within the EPU
19 Project and PTN 6 & 7, the Project Controls staff is primarily responsible for
20 ensuring the Company’s corporate procedures are applied consistently by the
21 various FPL and contractor staff members who are working on the projects.
22 However, it is acknowledged that this is a shared responsibility held by all project
23 team members, including the project managers.

1 **Q. Please explain the importance of written project execution plans.**

2 A. Written project execution plans are necessary to prudently develop a project.
3 These plans lay out the resource needs of the project, the scope of the project,
4 key project milestones or activities and the objectives of the project. These
5 documents are critical as they provide a “roadmap” for completing the project as
6 well as a “yardstick” by which overall performance can be monitored and
7 managed. It is also important for the project sponsor to require its large-value
8 contract vendors to provide similar execution plans. Such plans allow the project
9 sponsor to accurately monitor the performance of these vendors and make
10 certain at an early stage of the project that each vendor’s approach to achieving
11 key project milestones is consistent with the project sponsor’s needs. These
12 project plans must be updated to reflect changes to the project scope and
13 schedule as warranted by project developments.

14 **Q. Why is it important that key internal stakeholders are involved in the
15 project development process?**

16 A. One of the most challenging aspects of prudently developing a large project is
17 the ability to balance the needs of all stakeholders, including various Company
18 representatives and the Company’s customers. This balance is necessary to make
19 certain that the maximum value of the project is realized. By including these
20 stakeholders in a transparent project development process, the project sponsor
21 will be better positioned to deliver on these high-value projects.

1 **Q. Why is it important to have established reporting and oversight**
2 **requirements?**

3 A. Effective internal and external communications enable an organization to meet
4 its key objectives, and allow employees to effectively discharge their
5 responsibilities. By having an established reporting structure and periodic
6 reporting requirements, the project sponsor's senior management will be well
7 informed on the status of the project's various activities. Reporting requirements
8 give senior management the information it needs to leverage its background and
9 previous experience to prudently direct the many facets of the project. In
10 addition, established reporting requirements ensure that senior management is
11 fully aware of the activities of the respective project teams so management can
12 effectively control the overall project risks. In the case of the EPU Project and
13 PTN 6 & 7, this level of project administration by senior management is prudent
14 considering the large expenditures that will be required to complete the projects
15 and the potential impact of the projects on the Company overall.

16 In order to be considered robust, these reporting requirements should be
17 frequent and periodic (*i.e.*, established daily, weekly and monthly reporting
18 requirements) and should include varying levels of detail based on the frequency
19 of the report. The need for timely and effective project reporting is well
20 recognized in the industry. To that point, a field guide for construction
21 managers notes:

22 Cost and time control information must be timely with little delay
23 between field work and management review of performance.
24 This timely information gives the project manager a chance to
25 evaluate alternatives and take corrective action while an
26 opportunity still exists to rectify the problem areas.³

1 **Q. What is the purpose of corrective action mechanisms and why are they**
2 **important to ensure the Company is prudently incurring costs?**

3 A. A corrective action mechanism is a defined process whereby a learning culture is
4 implemented and nurtured throughout an organization to help eliminate
5 concerns that can interfere with the successful completion of the project.
6 Corrective action mechanisms help identify the root cause of issues, such as an
7 activity that is trending behind schedule, and provide the opportunity to adopt
8 mechanisms that mitigate and correct the negative impact from these issues. A
9 robust corrective action mechanism assigns responsibility for implementing the
10 corrective actions and a means by which these activities are managed. In
11 addition, a corrective action mechanism educates the project team in such a
12 manner as to ensure project risks are prudently managed in the future.

13 **Q. Are there any other elements of the Company's internal controls included**
14 **in your review?**

15 A. No. There were no other elements of the Company's internal controls included
16 in my review.

17

18 **Section V: EPU Project Activities in 2011**

19 **Q. How is this section of your testimony organized?**

20 A. This section describes my review of the five key processes (*i.e.*, project estimating
21 and budgeting, project schedule development and management, contract
22 management and administration, internal oversight mechanisms, and external
23 oversight mechanisms), described above, as they related to the EPU Project in
24 2011.

1 **Q. As a preliminary matter, what did your review lead you to conclude with**
2 **regard to the prudence of FPL's actions in 2011 as they related to the EPU**
3 **Project?**

4 A. FPL's decision making and management actions as they related to the EPU
5 Project in 2011 were prudent. Those decisions and actions included: making key
6 staffing decisions regarding the organization of the EPU Project and bringing in
7 experienced staff to manage the implementation outages; managing two
8 implementation outages and reassessing the planned schedule for the remaining
9 outages in light of delays in the licensing process, challenges to complete all
10 planning for the outages due to design evolution and complexity, and lessons
11 learned from previous outages; and rigorous oversight and management of the
12 Engineering, Procurement, and Construction ("EPC") vendor, including the
13 establishment of a target price incentive structure at PSL, and bringing in
14 vendors with specialized experience to assist with project management and to
15 subcontract to the EPC. As a consequence, it is my opinion that FPL's 2011
16 expenditures on the EPU Project have been prudently incurred. Importantly,
17 Concentric continued to note that FPL is a learning organization that effectively
18 incorporates lessons learned from prior EPU outages at both PTN and PSL,
19 other EPU projects, and Concentric's prior reviews.

20 **Q. What period of time did your review of the EPU Project encompass?**

21 A. Our review of the EPU Project was for the period January 1, 2011 through
22 December 31, 2011. Concentric's review of this time period relied upon data
23 that was provided to Concentric in the period from November 2011 to February
24 2012.

1 **Q. What steps is FPL taking to plan and execute the EPU Project?**

2 A. The EPU Project consists of four overlapping phases: (i) the Engineering
3 Analysis Phase; (ii) the Long Lead Equipment Procurement Phase; (iii) the
4 Engineering Design Modification Phase; and (iv) the Implementation Phase. In
5 2011, all four phases of the EPU Project were underway concurrently, with the
6 Engineering Analysis Phase and Long Lead Procurement Phase nearing
7 completion. The activities undertaken in each of the four phases presented
8 above are further described in the testimony of FPL Witness Jones.

9 **Q. Please describe the general progress of the EPU Project in 2011 as it**
10 **pertained to the phases you have identified above.**

11 A. As stated above, the Engineering Analysis and Long Lead Procurement Phases
12 neared completion in 2011, and a substantial amount of work was completed in
13 the Engineering Design Modification Phase in preparation for the 2011 and 2012
14 implementation outages. Two outages were completed in 2011 as part of the
15 Implementation Phase, one at PSL Unit 2, and one at PTN Unit 4.

16 **Q. Given that all phases of the project were underway, what was the timeline**
17 **for the implementation of the EPU Project?**

18 A. The EPU Project is scheduled for completion by August 2013, including project
19 close out activities. Activities planned for 2012 include receipt of NRC approval
20 of the EPU License Amendment Requests (“LAR”) for PSL Unit 1, PSL Unit 2,
21 and PTN Units 3 and 4, and the completion of the Engineering Analysis Phase,
22 the Long Lead Procurement Phase and the Engineering Design Modifications
23 Phase of the project. As of February 15, 2012, FPL is performing an outage at
24 PSL Unit 1, which it expects to complete in April 2012, and implementation

1 outages are also expected to be performed at the other three units (with the PTN
2 Unit 4 outage extending into 2013). Due to a delay in receiving approval of the
3 PSL Unit 1 LAR from the NRC, FPL expects to perform an additional short,
4 mid-cycle implementation outage at that unit in order to operate the plant at the
5 post-EPU rating. FPL expects to add over 300 MWe in 2012. The PTN Unit 4
6 outage, expected to be complete in 2013, will be the final implementation outage.

7 **Q. Does that timeline reflect any modifications to the overall schedule made**
8 **in 2011?**

9 A. Yes, it does. As discussed further below, the planned start date of the PSL Unit
10 1 2011 outage, as well as the PTN Unit 3 and PSL Unit 2 2012 outages, were all
11 changed due to challenges identified in 2011. Those challenges included the
12 completion of engineering planning for each outage. Allowing for additional
13 time before the start of each outage allows for greater certainty regarding
14 licensing and implementation while keeping within the constraints of FPL's
15 operational fueling requirements.

16 **Q. How was the EPU Project organized in 2011?**

17 A. As it has been since 2009, the EPU Project is organized at the site level, with
18 managers at each site to oversee construction, project controls, licensing,
19 procurement, and other critical functions. Having these functions at both EPU
20 sites is appropriate and necessary given the number of activities that require
21 oversight at each plant. Furthermore, towards the end of the year, the EPU
22 Project added additional oversight at each plant by splitting the role of
23 Implementation Owner – South, and designating an Implementation Owner at
24 each site. That change, which officially took place in January 2012, reflects the

1 fact that the EPU Project is now moving out of the engineering and planning
2 phases and into a mode of almost continuous implementation, in which each site
3 will benefit from the increased focus brought by its directly assigned
4 Implementation Owner.

5 In Juno Beach, there remains a centralized core project management
6 team providing oversight of the EPU Project from FPL headquarters. The
7 primary centralized positions include: the Nuclear Power Uprate Vice President,
8 responsible for all aspects of project execution, including licensing, design,
9 engineering, cost, implementation and regulatory; the Controls Director, who
10 provides direction, oversight and governance to the Project Control Supervisor
11 at each site and has overall responsibility for the EPU Project control functions
12 including cost control, estimating, scheduling and support activities; the EPU
13 Licensing and Regulatory Interface Director, who is responsible for the
14 oversight, coordination, production and technical quality of the licensing
15 engineering and analysis related to the LARs and other regulatory submittals; and
16 the EPU Nuclear Cost Recovery interface manager, responsible for the overall
17 coordination of the project with the Commission and FPL Regulatory Affairs.

18 **Q. Did the EPU Project team consist of any other centralized management**
19 **positions?**

20 A. Yes. Throughout 2011, the EPU Project team included a Quality Assurance
21 ("QA") manager at the Company's headquarters. Described in greater detail later
22 in this section of my testimony, this function necessarily acted separately from
23 the functions described above to maintain independence when assessing the
24 EPU Project.

1 **Q. Was the management structure explicitly defined in a Company procedure**
2 **or instruction?**

3 A. Yes. The management structure is outlined in Extended Power Uprate Project
4 Instruction (“EPPI”)-140: Roles and Responsibilities.

5 **Q. What challenges did FPL face in 2011 with regard to employee turnover**
6 **within the EPU Project?**

7 A. Employee turnover included seven senior employees voluntarily resigning or
8 retiring from the EPU Project in 2011, compared to two employees in 2010, and
9 four employees in 2009. That turnover included the Site Directors at both sites.

10 **Q. What was FPL’s response to those challenges?**

11 A. FPL responded by looking both inward and outward to fill key positions with
12 employees who had the requisite experience and qualifications to replace
13 personnel who resigned or retired from the Company. That response included
14 promoting employees from within the EPU Project, and reassigning employees
15 from other areas of NextEra’s nuclear business. In that way, FPL ensured
16 continuity on the EPU Project while also incorporating operational experience
17 from NextEra’s nuclear fleet. I discuss the value of transferring that operational
18 experience in further detail later in my testimony.

19 **Q. What major milestones were met on the EPU Project in 2011?**

20 A. The EPU Project reached several major milestones in 2011, including: (1)
21 acceptance by the NRC of the PSL Unit 1, PSL Unit 2, PTN 3&4, and PTN
22 Core Operating Limits Report LARs, and the approval by the NRC of the PTN
23 Alternate Source Term and Spent Fuel Criticality LARs; (2) continuation and
24 near completion of the Engineering Analysis Phase and the Long Lead

1 Equipment Procurement Phase of the project; (3) the completion of two
2 implementation outages, which enabled increased output at PSL Unit 2 of 36
3 MWe due to the replacement of the low pressure turbine; and (4) continued
4 oversight of the EPC contractor, Bechtel, which included the establishment of a
5 target price incentive mechanism at PSL and negotiations regarding the incentive
6 structure at PTN. That last development (*i.e.*, establishment of a target price
7 mechanism at PSL) represents a significant step for FPL in terms of its
8 management of the EPU Project in general, and its EPC contractor specifically.
9 I will discuss the repercussions of that development further below.

10
11 *Project Estimating and Budgeting Processes*

12 **Q. Please describe the mechanisms utilized to track the project's 2011**
13 **budgets and cost estimate.**

14 A. Several budget and cost reporting mechanisms exist to ensure that key decisions
15 related to the EPU Project were prudent and made at the appropriate level of
16 FPL's management structure. Those reporting mechanisms included
17 presentations and status calls as well as periodic reports. That allowed the
18 Company to leverage the experience of its executive team. A list of the EPU
19 Project's periodic meetings can be found in Exhibit JJR-4.

20 **Q. Was the EPU Project's cost estimate modified in 2011?**

21 A. Yes, it was. In fact, in 2011 FPL established a procedure, EPPI-302,
22 "Nonbinding Cost Estimate Range," that calls for an update to the cost estimate
23 range to be performed annually. In 2011, in accordance with that procedure,
24 FPL updated its cost estimate range of direct EPU Project costs of \$1,844 to

1 \$2,091 million, to a range of \$2,065 to \$2,221 million. The range was updated to
2 reflect the evolution of scope of the project and lessons learned to date. As
3 discussed above, FPL also developed a target price structure for the PSL EPC
4 contract with Bechtel in 2011 that resulted in FPL and Bechtel agreeing to a
5 target price estimate that was also reflected in the updated range.

6 As of December 31, 2011, the EPU Project cost estimate exceeded that
7 range. It is my understanding that FPL plans to update its cost estimate again on
8 or before May 1, 2012 to account for the need for additional modifications,
9 evolution in design engineering, and the need for additional engineers to address
10 scope growth. In addition, as part of its negotiations with Bechtel to establish an
11 incentive structure for the PTN EPU, Bechtel has provided its cost estimate to
12 complete the work. Siemens has similarly proposed increases to costs due to the
13 complexity of scope of the work it is completing for the project. FPL is
14 currently performing due diligence on those areas of potential increase, and it is
15 my understanding that any increase in cost will be reflected in FPL's May 1, 2012
16 filing and 2012 Feasibility Analysis.

17 **Q. What are the components of FPL's cost estimate?**

18 A. FPL's cost estimate is comprised of a base amount, a weighted allowance for
19 identified risks, and a category called "Undefined Scope." The weighted risk
20 allowance is based on FPL's evaluation of risks to the project, which are each
21 assigned a potential cost estimate that is weighted by FPL's assessment of its
22 probability of occurrence. As new risks are identified, or as existing risks are
23 resolved, FPL depletes or increases, respectively, the Undefined Scope element
24 of the cost estimate.

1 **Q. How was undefined scope accounted for in the EPU Project's cost**
2 **estimates?**

3 A. Undefined scope was accounted for by a specific line within the EPU Project's
4 cost estimates. In 2011, the EPU Project's allowance for undefined scope was
5 released at times to fund increases in the cost estimate and was brought down to
6 \$0 by year end. FPL has recognized that the allowance for unknown scope now
7 needs to be replenished. As in my previous NCRC reviews, it continues to be
8 my opinion that this is an area in which FPL could strengthen its processes and
9 its compliance with its written procedures. However, it is my understanding that,
10 as part of its 2012 analysis of the EPU Project's cost estimate, FPL will revisit
11 and establish a contingency amount in accordance with the Company's
12 procedures.

13 **Q. Did the increase to the cost estimate result from imprudent project**
14 **management?**

15 A. No, it did not. It is not uncommon for a mega project of this size to require
16 regular updates to its cost estimate, especially given the fact that the EPU Project
17 is currently in the Implementation Phase in which significant new items of scope
18 (referred to as "discovery scope") are revealed. The reason for that is, often, the
19 full scope of a work package cannot be known until the modifications to the
20 facility have begun. At that point, wear and tear on the equipment can be better
21 evaluated, and additional scope identified as necessary. In addition, there are
22 factors external to FPL's control, such as the timing of the NRC reviews and
23 additional analyses required by the NRC, which can have significant effects on

1 the EPU Project's scope and schedule. In fact, as I will explain further below,
2 delays in the NRC's reviews posed a significant challenge for FPL in 2011.

3 **Q. Does management of the target price structure at PSL present any new**
4 **challenges for the Company?**

5 A. Yes, it does. The target price structure is intended to provide incentives to the
6 EPC contractor to operate efficiently, both from a schedule and cost perspective.
7 The target price is structured so that cost overruns or under-runs, outside of a
8 dead band around the target price, are shared between the Company and the
9 contractor. In that way, the contractor's profit under the contract is at risk.
10 Under such a construct, the project sponsor must diligently manage the contract
11 such that any vendor-proposed scope changes that affect the target price (known
12 as "compensation events") are evaluated to confirm that they are caused by
13 emerging issues, not poor planning on the vendor's part. That can often lead to
14 a series of negotiations between the sponsor and the contractor, and it is
15 important that such negotiations be elevated to the appropriate level of authority.
16 Those are the major new challenges FPL faced in 2011 resulting from the target
17 price structure.

18 **Q. Did FPL institute any new policies in 2011 to mitigate the risks presented**
19 **by the challenges discussed above?**

20 A. Yes, it did. FPL issued EPPI-250, "Project Target Price Control Process," to
21 establish policies and procedures for managing potential target price changes.
22 That EPPI includes procedures for processing Potential Scope Change /Delay
23 Notices ("PSCDN") and Requests for Change ("RFC") to the target price,
24 establishes a procedure for dispute resolution, and calls for the tracking of

1 PSCDNs and RFCs in a Target Price Change Log. In addition, as discussed
2 above, FPL established EPPI-302, “Nonbinding Cost Estimate Range,” in 2011
3 in order to document its process for updating its cost estimate and accounting
4 for contingency.

5 **Q. In 2011, how were vendor costs at PTN controlled?**

6 A. Whereas PSL used a target price structure to provide performance incentives to
7 the EPC vendor, PTN used a “report card” incentive structure as well as reviews
8 of overtime and staff augmentation requests. The report card incentive structure
9 involves allotting portions of an incentive fee to performance factors such as
10 safety, quality, and schedule maintenance. If the vendor achieves its goal in a
11 particular performance factor, then it is awarded that portion of the incentive fee.
12 If the vendor achieves only part of the goal, then it is awarded a commensurately
13 lower incentive fee. In my opinion, the report card approach to vendor
14 management was appropriate for PTN in 2011, given the magnitude and
15 complexity of work to be accomplished at the site. The remaining complexity of
16 scope would likely have been built into any target price for PTN in 2011, leading
17 to the potential for higher costs on the project.

18 **Q. In addition to EPPI-250, EPPI-302, and the Target Price Change Log,**
19 **how were project controls executed by the site teams and the overall**
20 **project management team to track the EPU Project’s 2011 budget?**

21 A. The site team utilized multiple reports and reviews in 2011 to track the EPU
22 Project’s budget. These reports included the Monthly Operating Performance
23 Report that categorized the overall performance of the EPU Project as either on
24 budget, budget-challenged, or out of budget. Each site also produced monthly

1 cash flow reports in 2011, which contained monthly actual and forecast capital
2 expenditures as compared to the budget. Those reports were reviewed and
3 discussed during formal project management meetings. The EPU Project
4 recently has increased the detail of its regular reports, which now include current
5 project risks and cost-related performance indicators in addition to budget
6 matters.

7 **Q. In 2011, did anything related to the budgeting and expenditure tracking**
8 **processes occur that would eliminate the cost effectiveness of the EPU**
9 **Project?**

10 A. No. In May 2011, the EPU Project was subject to an annual feasibility analysis
11 that included a review of the continued cost effectiveness of the project.
12 However, as mentioned above, Bechtel and Siemens both have both proposed
13 increases to their cost estimates to complete the EPU Project, the effect of which
14 will be evaluated in 2012. Bechtel's Estimate at Completion ("EAC") for PTN
15 was received in November 2011, and is currently not reflected in the cost
16 estimate because FPL is performing due diligence on the amount and challenging
17 Bechtel to find a more cost-effective means of implementing the work. FPL is
18 similarly evaluating Siemens' proposal under the Turbine Generator Installation
19 Agreement for PTN for additional budget to complete its scope of work.

20 **Q. In 2011, how did the EPU Project track and identify risks to the project**
21 **schedule?**

22 A. In 2011, the EPU Project used a Risk Matrix, referred to as the "Risk Register,"
23 to track challenges to the current budgets and cost estimates and to provide a
24 brief explanation of the reasons for the challenges. According to EPPI-340,

1 “EPU Project Risk Management Program,” the risk identification process
2 covered identification, assessment and analysis, handling strategy, risk
3 management, categorization, reporting, and mitigation. The Company defined
4 risks as issues that affect nuclear quality, environment, project cost, schedule,
5 safety, security, legal, plant operations, regulatory, and reputation. EPPI-340 was
6 updated on April 22, 2011 to reflect recommendations Concentric previously
7 made about the EPU Project’s mechanisms for tracking risk to the project.
8 Specifically, provisions were made for preserving all Risk Mitigation Plans in a
9 central location and for not closing Risk Mitigation Plans until all actions therein
10 had been completed.

11 **Q. In light of internal and external assessments of its risk management**
12 **process, how has the EPU Project modified its processes?**

13 A. The managers of the EPU Project have recognized the need to modify and
14 improve processes based on progressive experience. To that end, the EPU
15 Project modified 14 of its policy documents during 2011. Many of those changes
16 were minor, but some were in direct response to internal or external assessments.
17 In addition to the EPU Project policies that were modified in 2011, a new EPPI
18 was created to address the adoption of a target price contract with Bechtel, as
19 discussed above.

20 **Q. Did Concentric review the process by which the EPU Project made**
21 **certain that each plant modification or component replacement is**
22 **necessary for the completion of the EPU Project?**

23 A. Yes, Concentric reviewed the process by which FPL made certain that the costs
24 being charged to the EPU Project in 2011 are separate and apart from the

1 normal maintenance and operations of PSL and PTN, and, therefore eligible for
2 recovery under the NCRC. This process included a detailed engineering analysis
3 to determine if the component replacement or plant modification is necessary for
4 plant operations under uprated conditions.

5 **Q. Has the Commission previously reviewed and approved this**
6 **methodology?**

7 A. Yes. In Commission Order PSC-09-0783-FOF-EI the Commission determined
8 that "FPL's separate and apart methodology is reasonable and appropriate for
9 identifying NCRC costs."⁴

10 **Q. Did Concentric have any observations related to the EPU Project's**
11 **processes used to track cost performance in 2011?**

12 A. Yes. As discussed above, several budget and cost reporting mechanisms exist to
13 ensure that key decisions related to the EPU Project were prudent and made at
14 the appropriate level of FPL's management structure, and the Company added
15 new procedures in 2011 to further its oversight of the project. While it continues
16 to be my opinion that FPL could strengthen its processes and its compliance
17 with its written procedures with regard to accounting for cost contingency, any
18 such variance from established procedures has not resulted in any imprudently
19 incurred costs. In addition, it is my understanding that FPL will revisit and
20 establish a contingency amount in accordance with the Company's procedures in
21 2012.

22

1 Project Schedule Development and Management Process

2 **Q. How did the EPU Project monitor its schedule performance in 2011?**

3 A. In 2011, the EPU Project team continued to utilize several periodic reporting
4 mechanisms including daily, weekly, bi-weekly, and monthly conference calls. In
5 addition, the EPU Project team issued a variety of reports, including a Daily
6 Report. Exhibit JJR-4 provides a listing of the meetings used in 2011 to monitor
7 the EPU Project's schedule performance. A list of the reports used to monitor
8 the EPU Project's schedule performance can be found in the testimony of FPL
9 Witness Jones as Exhibit TOJ-4. Many of those reports included a discussion of
10 the EPU Project's schedule performance as compared to an initial target
11 schedule.

12 **Q. Were any new reports created in 2011 to assist FPL in managing the**
13 **project?**

14 A. Yes. As discussed above, FPL created a Target Price Change Log to track and
15 aid in the processing of potential scope and cost changes under the target price
16 structure at PSL.

17 **Q. Did the EPU Project use any other methods to monitor schedule**
18 **performance in 2011?**

19 A. Yes. FPL used an industry standard software package known as Primavera P-6
20 to review the project schedule based on approved updates on an almost real-time
21 basis. Primavera provides Critical Path Method ("CPM") Scheduling, which uses
22 the activity duration, relationships between activities, and calendars to calculate a
23 schedule for the project. CPM identifies the critical path of activities that affect
24 the completion date for the project or an intermediate deadline, and how these

1 activity schedules may affect the completion of the project. This software
2 package is used by many in the nuclear power industry to schedule refueling
3 outages and major capital projects.

4 **Q. What status reports did the EPU Project's key vendors provide to the**
5 **Company?**

6 A. In addition to monitoring the EPU Project team's efforts, the Company also
7 required that status reports be provided by its key vendors in 2011. At the
8 beginning of each vendor's scope of work, FPL required the vendors to provide
9 a reasonable target schedule from which future progress would be measured.
10 The vendors were then responsible for providing daily, weekly, and monthly
11 progress reports regarding that schedule depending on outage or non-outage
12 conditions. The Company also received some insight regarding the vendors'
13 progress by monitoring the number of work hours that were included on each
14 monthly invoice. That was done by comparing the number of work hours
15 expended during the prior month with a projection.

16 **Q. How did the EPU Project track and identify risks to the project schedule?**

17 A. In 2011, the EPU Project continued to use the same Risk Register, described
18 earlier, to track challenges to the current schedule and to provide a brief
19 explanation of the reasons for the challenges. Bechtel, the EPC contractor, also
20 provided a Trend Log to FPL to track risks to schedule. The Trend Log is
21 integrated into the Risk Register.

22 **Q. What EPPI governs schedule creation and management?**

23 A. The processes for schedule creation and management were described in EPPI-
24 310: Project Instructions – Development, Maintenance and Update of Schedules.

1 **Q. Was this EPPI modified in 2011?**

2 A. Yes. EPPI-310 was modified in April 2011 to incorporate lessons learned during
3 the project as well as eliminate some unnecessary directives. Such modifications
4 included: clarifying the treatment of activity duration, predicating the use of the
5 phrase "Expected Finish" on the establishment of a firm start date, granting
6 responsibility for issuing Key Performance Indicator reports to the Lead
7 Scheduler, and adding additional steps to check schedule performance, among
8 others. Changes of this type are to be expected with the progression of a project,
9 as past lessons are incorporated and the focus shifts to implementation.

10 **Q. What activities occurred in 2011 that altered the project schedule?**

11 A. As discussed above, the NRC's review of FPL's LARs are taking longer than
12 expected, presenting challenges to FPL's schedule. In addition, to allow for
13 greater certainty regarding the completion of planning and engineering for the
14 upcoming outages, FPL made the decision in 2011 to delay the start of the PSL
15 Unit 1 2011 outage, as well as the 2012 outages at PTN Unit 3 and PSL Unit 2.
16 In addition to those delays, the EPU portion of the PSL Unit 2 2011 outage
17 lasted longer than planned, due to an error by Siemens, the vendor that is
18 performing the turbine generator upgrade work. It is my understanding,
19 however, that the Siemens delay will not cause any change to the overall EPU
20 Project schedule. That incident is discussed in the testimonies of Company
21 Witness Jones and Company Witness Ferrer, and I also discuss it further below.

1 **Q. What outstanding challenges to the timely execution of the EPU Project's**
2 **schedule existed in 2011?**

3 A. Going forward, as with 2011, the primary schedule challenges lie in licensing and
4 outage implementation. Specifically affected by licensing is the schedule at PTN.
5 As of December 31, 2011, FPL planned to enter into the PTN Unit 3 2012
6 outage prior to receipt of the PTN LAR. It is important to note that once
7 certain EPU modifications are made at the PTN units, those units cannot start
8 up again until the PTN LAR is approved. For that reason, FPL must enter the
9 2012 PTN EPU outage with a high degree of certainty that the LAR will be
10 received during or shortly after the outage. However, FPL can only do so with
11 some amount of risk as the alternative (*i.e.*, delaying the EPU modifications until
12 the next scheduled refueling outage) represents potentially greater cost and
13 schedule risks to the Company and its customers.

14 As to the NRC's delay, it has, in general, resulted from a shift of
15 resources within the NRC in response to a natural disaster in Japan and the
16 earthquake in Virginia. Those events broadly affected the U.S. nuclear industry.
17 Another ongoing risk to schedule is the discovery of additional design
18 modifications that need to be completed during the outages themselves.

19 **Q. Please further explain the effect of the events in Japan and Virginia on the**
20 **nuclear industry.**

21 A. The earthquake and resulting tsunami that occurred on March 11, 2011 in Japan
22 caused severe accidents at Tokyo Electric Power Co.'s Fukushima Daiichi
23 nuclear power plant that reverberated throughout the world's nuclear industry.
24 That event has led to action plans by both the NRC and the U.S. nuclear

1 industry that have already begun to affect FPL's licensing processes for both the
2 EPU Project and PTN 6 & 7. The same can be said of the August 23, 2011
3 earthquake that caused the North Anna nuclear station in Virginia to lose
4 electricity and automatically shut down for a period of time. Those events had
5 two major effects on FPL's licensing efforts: (1) the NRC has become resource
6 limited as it allocated personnel to respond to those events; and (2) the reviews
7 themselves have involved requirements for new analyses. Both of those external
8 factors posed challenges to be managed by FPL in 2011, and they will continue
9 to do so in 2012.

10 **Q. Please describe Concentric's observations related to the EPU Project's**
11 **schedule development and management in 2011.**

12 A. Concentric observed that FPL has sufficient systems and procedures in place to
13 allow for appropriate oversight of the project schedule development and
14 management process. In addition, in 2011 FPL made reasonable changes to its
15 outage schedule in response to emerging trends and issues.

16

17 *Contract Management and Administration Processes*

18 **Q. In 2011, what processes were used to ensure the EPU Project was**
19 **prudently managing and administering the Company's procurement**
20 **functions?**

21 A. Several policies and procedures governed the procurement functions in 2011,
22 including General Operating ("GO") Procedure 705 and Nuclear Policy NP-
23 1100, Procurement Control. In 2011, those policies were administered through
24 the ISC organization and include a significant breadth and depth of procurement

1 processes, including a stated preference for competitive bidding wherever
2 possible, the proper means for conducting a comprehensive solicitation, initial
3 contract formation, and administration of the contract.

4 **Q. Were there cases in 2011 when contracts were executed without first**
5 **having gone through a competitive bidding process?**

6 A. Yes. Certain situations called for the use of single or sole source procurement
7 methods. The reasons for that included the fact that there were very few
8 suppliers qualified to handle the vast amount of proprietary technical
9 information relied upon when operating or working on a nuclear plant.
10 Additionally, single sourcing was appropriate in certain situations that involved
11 leveraging existing knowledge or expertise or otherwise capitalizing on synergies.

12 **Q. Please describe the procedures involved in the awarding of non-**
13 **competitively bid contracts.**

14 A. Single and sole source procurements required documented justification for using
15 a single or sole source procurement strategy and senior-level approval. The
16 recommendation of any vendor for a single or sole sourced contract necessitated
17 the completion of a Single/Sole Source Justification (“SSJ”) Memorandum.
18 That document must describe the conditions that have given rise to the need to
19 procure outside services, a justification for not seeking competitive bids, and an
20 explanation of the reasonableness of the vendor’s costs.

21 **Q. Please describe the Company’s competitive bidding process in 2011.**

22 A. While the majority of procurement activities were completed before the start of
23 2011, in the cases in 2011 where competitive bidding was utilized, the process
24 began with the creation of a purchase requisition. Pursuant to the creation of a

1 purchase requisition, the department that originated the request, in conjunction
2 with ISC, was required to develop a scope of work or technical specification and
3 develop a timeline to ensure it meets the schedule requirements. Once those
4 steps were complete, the originating department was required to provide the
5 purchase requisition to the Nuclear Supply Chain (“NSC”) Sourcing Specialist
6 who was a member of ISC.

7 The NSC Sourcing Specialist, with assistance from the originating
8 department, was responsible for the creation and issuance of the request for
9 proposals (“RFP”), but worked in concert with the originating department when
10 identifying potential bidders and determining the base commercial terms and
11 conditions that were included in the RFP. What followed was the assembly of
12 the RFP package, which incorporated any special terms identified by the
13 originating department, an RFP transmittal letter providing the potential bidders
14 with all specific instructions and requirements, and any applicable attachments.

15 Upon receipt of proposals, the NSC Sourcing Specialist sorted and
16 distributed all submissions to subject matter experts for technical and
17 commercial analysis. If questions arose during that review process, written
18 requests for clarification or additional information were sent to the bidder for
19 commercial or technical clarifications. After that initial phase, the originating
20 department undertook a side-by-side comparison of the bids’ technical
21 information, taking into consideration scope requirements, differences in
22 operational impacts, whether or not any technical exceptions were necessary, and
23 the potential for impacts to the scope of work. At the conclusion of this

1 process, the NSC Sourcing Specialist and the originating department together
2 determined the recommended supplier.

3 **Q. What process was used in 2011 to make certain that the Company and its**
4 **customers received the full value of the various contracts for services and**
5 **materials?**

6 A. FPL utilized an invoice review process to make certain that the Company and its
7 customers received the full value of the goods and services being procured for
8 the EPU Project. The process required a review of each invoice by key project
9 team members who worked closely with the vendor on the goods and services
10 for which payment was requested to make certain that the costs being billed were
11 correct and appropriate. Project Controls Supervisors at each site ensured that
12 invoice monitoring reports from approved purchases were up-to-date and
13 accurate. Each invoice review required approval by certain senior project team
14 members based upon the individuals' corporate approval authority. That tiered
15 oversight structure, including technical specialists who are most familiar with the
16 contracted work, ensures that the EPU Project's procured goods and services are
17 providing their full value to the Company and its customers.

18 **Q. What significant decisions did FPL make in 2011 with regards to its EPC**
19 **contract?**

20 A. In order to ensure that the Company is deriving appropriate value from the EPC
21 contract and implementing the EPU Project in an efficient manner, FPL hired
22 outside contractors to serve as Owner's Representatives to assist with
23 management of the EPC. In addition, FPL directed Bechtel to sub-contract
24 portions of the project for which a specialty provider was able to carve out a

1 portion of the scope for which it had more expertise. That approach, which
2 included engaging industry-recognized vendors such as Babcock & Wilcox,
3 Sargent & Lundy LLC, Shaw/Stone & Webster Inc., Weldtech Services,
4 Westinghouse Electric Company (“WEC”), Williams Group, and Zachry Nuclear
5 Engineering Inc., resulted in a more cost-effective implementation of the project.

6 **Q. Were there any vendor-caused work stoppages in 2011?**

7 A. Yes, there were. As discussed in the testimonies of Company Witness Jones and
8 Company Witness Ferrer, in the spring 2011 outage at PSL Unit 2, it was
9 determined that a tool was left inside the generator stator core by Siemens
10 personnel after work had been completed on that piece of equipment. That tool
11 caused damaged to the equipment during post-modification testing. In addition,
12 in December 2011 during the PSL Unit 1 outage, work was begun by Bechtel
13 personnel on an incorrect motor control center, which resulted in a two day
14 work stand down for Bechtel’s electrician staff.

15 **Q. What was FPL’s response to those challenges?**

16 A. In regards to the Siemens error, FPL challenged Siemens to review its tooling
17 design to improve its “foreign material exclusion” procedures. In response,
18 Siemens took corrective actions to improve its engineering of the tool. The
19 Company and Siemens agreed to a confidential settlement regarding the incident
20 that was consistent with industry norms for such contracts.

21 As to the work stand-down for Bechtel staff, numerous training and “job
22 aid” procedures were put in place to avoid similar issues in the future. Thus, for
23 both the Siemens and the Bechtel work stoppage issues in 2011, corrective
24 actions were put in place to prevent future occurrences of similar issues. That is

1 consistent with industry best practices regarding the avoidance of repeat
2 incidents.

3 **Q. Does Concentric have any observations and recommendations related to**
4 **the processes used to manage the EPU Project's procurement functions in**
5 **2011?**

6 A. Yes. Overall, Concentric noted that the EPU Project's procurement functions
7 performed quite well in 2011. FPL instituted incentive mechanisms at both
8 plants that were the result of significant negotiations with the EPC vendor, and
9 required diligent management by the Company.

10

11 *Internal Oversight Mechanisms*

12 **Q. What mechanisms exist for internal oversight and review of the EPU**
13 **Project?**

14 A. There are three primary mechanisms used to make certain the EPU Project
15 received adequate oversight in 2011. First, the Company has in place senior
16 oversight and management committees, including the Board of Directors, the
17 Nuclear Committee on the Board of Directors, the Company's Nuclear Review
18 Board, and On-Site Review Groups at both PSL and PTN. In addition, the
19 Company's senior management received a briefing of the EPU Project on a
20 periodic basis. The Company's Chief Nuclear Officer also received a briefing on
21 an approximately bi-weekly basis.

22 Secondly, the EPU Project was subject to an annual review by the FPL
23 Internal Audit Division. Lastly, the FPL QA/QC department was responsible

1 for making certain that the FPL QA program was being implemented by the
2 EPU Project.

3 In addition, FPL transferred operational experience from NextEra's
4 nuclear fleet. That internal transfer of knowledge allowed FPL to benefit from
5 lessons learned within NextEra that should result in improved efficiency in the
6 implementation of the EPU Project.

7 **Q. With the EPU Project's management effort largely decentralized, how was**
8 **information communicated from the site-level to the corporate-level in**
9 **2011?**

10 A. The centralized management staff that operated from the Company's
11 headquarters included director positions that were responsible for each business
12 function. For instance, the Director of Project Controls oversaw the project
13 controls managers at both sites. Communication between overall project
14 management and management at the sites was facilitated by a formal reporting
15 structure that emphasized the timely and comprehensive transfer of information.

16 **Q. Please describe the Internal Audit division and its functions.**

17 A. The Internal Audit process was a backstop to make certain the EPU Project
18 complied with the Company's internal policies and procedures. The Internal
19 Audit Division did not report to any of the EPU Project team members to
20 protect the Internal Audit employees' independence. Rather, Internal Audit
21 reported to the Senior Vice President Internal Audit and Compliance, who
22 reported directly to the Chairman and CEO of NextEra Energy. Internal Audit's
23 2011 financial review of the EPU Project ensured that costs were being

1 appropriately charged to the project and that the project complied with the
2 Company's accounting policies.

3 **Q. Is Internal Audit conducting a review of the EPU Project costs charged in**
4 **2011?**

5 A. Yes. Costs incurred by the EPU Project in 2011 are being reviewed by the
6 Company's Internal Audit Department, with a final report to be issued by
7 Internal Audit in May 2012.

8 **Q. Please describe the FPL QA/QC function and its purpose.**

9 A. In 2011, the FPL QA/QC function was responsible for implementing the
10 Company's QA Program that was mandated by the NRC in 10 CFR 50,
11 Appendix B. The QA/QC function was separate from the EPU Project and
12 reported to the Company's Chief Nuclear Officer through the Director of
13 Nuclear Assurance. Federal regulations define eighteen criteria for a NRC
14 licensee's QA program. It was the responsibility of the QA/QC function to
15 ensure that FPL's QA program met these criteria.

16 **Q. What quality assurance activities, related to the EPU Project, took place in**
17 **2011?**

18 A. Throughout 2011 the QA/QC function oversaw the implementation phase of
19 the EPU Project. As the EPU Project commenced its outages, QA inspectors
20 were assigned to both PTN and PSL. The QA/QC function was also
21 responsible for reviewing certain activities by the EPU Project's vendors, both at
22 the EPU Project sites as well as at certain vendors' manufacturing facilities.
23 These activities included multiple in-person reviews of the project vendors'
24 methodologies, qualifications and QA programs. Finally, the QA/QC function

1 monitored NRC QA activities and suggested changes to the EPU Project to
2 respond to the NRC's findings at other power uprate projects.

3 **Q. What internal operational experience did FPL incorporate into the EPU**
4 **Project in 2011?**

5 A. In 2011, FPL incorporated operational experience learned from other plants
6 within NextEra's nuclear fleet. That operational experience was transferred
7 directly through meetings and presentations to the EPU Project team, and
8 indirectly through the reassignment of experienced personnel from other plants
9 within NextEra's fleet into key positions on the EPU Project.

10 **Q. Please provide Concentric's observations related to the internal oversight**
11 **and review mechanisms utilized in 2011.**

12 A. FPL has in place the appropriate internal oversight and audit functions to
13 properly manage and survey the EPU Project, including processes by which to
14 address emerging issues. Those are important functions to have within a mega
15 project organization to ensure prudent execution of the project.

16

17 *External Oversight Mechanisms*

18 **Q. What external oversight mechanisms did the Company utilize in 2011 to**
19 **ensure the EPU Project had adequate internal controls and were**
20 **prudently incurring costs?**

21 A. There were several external oversight and review mechanisms in place for the
22 EPU Project, including the retention of my firm, Concentric, to assess the EPU
23 Project's internal control mechanisms, ongoing contact with the project's major
24 vendors' quality oversight functions, industry contacts, and the FPSC Staff's

1 financial and internal controls audits. Additionally, as a publicly traded company,
2 NextEra Energy must undergo an annual company-wide audit of its financial and
3 internal controls.

4 **Q. Please expand on Concentric's role vis-à-vis external oversight and**
5 **review.**

6 A. Concentric conducted a review of the EPU Project, its procedures, and the
7 various mechanisms in place to ensure compliance with these procedures in
8 2011. Concentric focused on ensuring that these internal controls were
9 implemented, and as a result, that the EPU Project prudently incurred costs
10 during 2011.

11 **Q. In 2011, did industry contacts provide a form of external oversight and**
12 **review?**

13 A. Yes. FPL was a member of industry groups that provided further guidance
14 about uprate projects. These groups include the Institute of Nuclear Power
15 Operations, the World Association of Nuclear Operators, the Electric Power
16 Research Institute and NEI, among others. Each of these groups provided the
17 EPU Project team access to a wide breadth and depth of information that was
18 used to enhance the project team's effectiveness. Additionally, the EPU Project
19 team members maintained close relationships with their counterparts at other
20 nuclear power plants around the country. These valuable relationships allowed
21 the EPU Project team to monitor developments or challenges at other plants and
22 leverage those experiences at PSL and PTN.

1 **Q. Did Concentric have any observations related to external oversight and**
2 **review of the project in 2011?**

3 A. During its review, Concentric noted that FPL appeared to have taken reasonable
4 steps to obtain and implement lessons learned from outside sources in 2011.
5 These lessons learned are vital to the successful execution of the projects.
6

7 **Section VI: PTN 6 & 7 Project Activities in 2011**

8 **Q. How is this section of your testimony organized?**

9 A. This section describes my review of the five key processes (*i.e.*, project estimating
10 and budgeting, project schedule development and management, contract
11 management and administration, internal oversight mechanisms, and external
12 oversight mechanisms) as they were applied to PTN 6 & 7 in 2011.

13 **Q. As a preliminary matter, what did your review lead you to conclude with**
14 **regard to the prudence of FPL's actions in 2011 on the PTN 6 & 7 Project?**

15 A. FPL's decision to continue pursuing PTN 6 & 7 in 2011 was prudent and was
16 expected to be beneficial to customers. In addition, Concentric's review
17 indicates that FPL's management of the PTN 6 & 7 Project over the course of
18 2011 has resulted in prudently incurred costs. During 2011 FPL continued its
19 methodical approach to achieving its licensing goals, which will allow it to
20 continue to create the option to build new nuclear capacity for the benefit of its
21 customers.

22 **Q. How was PTN 6 & 7 organized in 2011?**

23 A. Since 2008, few changes have occurred in the PTN 6 & 7 Project organization,
24 which is depicted in Exhibit JJR-5. The project organizational structure

1 continued to be developed around two separate, but collaborative business units:
2 Project Development and New Nuclear Projects. While both organizations
3 ultimately report up to NextEra Energy's Chief Operating Officer, their
4 objectives are tied to each group's respective capabilities. That approach allows
5 FPL to ensure the most qualified group is utilized to accomplish the project's
6 objectives.

7 The Project Development organization was responsible for all aspects of
8 the project not related to the NRC in 2011. In contrast, the New Nuclear
9 Projects organization is responsible for submitting and defending the PTN 6 & 7
10 COLA. That organization will also be responsible for the engineering,
11 procurement, construction, and subsequent start-up of the project if a decision
12 to proceed is ultimately made.

13 **Q. In 2011, who was responsible for the New Nuclear Projects organization?**

14 A. The New Nuclear Projects organization falls under the leadership of the
15 Executive Vice President of Engineering and Construction, who was supported
16 directly by a Licensing Director. The Licensing Director was supported by
17 multiple Licensing Engineers and Document Control personnel, as well as by a
18 matrix relationship to other departments within FPL.

19 **Q. Who was responsible for the Project Development organization in 2011?**

20 A. The Project Development organization also falls under the leadership of the
21 Executive Vice President of Engineering and Construction. The organization is
22 led on a day-to-day basis by a Senior Project Director who was supported via
23 matrix relationships by a variety of FPL functional departments.

1 **Q. What internal FPL departments supported the New Nuclear and Project**
2 **Development organizations in 2011?**

3 A. Both organizations received support from FPL's Juno Environmental Services,
4 Law Department, and ISC, among others.

5 **Q. Did Concentric have any observations related to the PTN 6 & 7**
6 **organizational structure in 2011?**

7 A. Yes. Concentric believes the organizational structure appropriately assigned
8 responsibility to those employees best equipped to respond to the project needs
9 and properly reflected the project's focus on the licensing and permitting stage
10 that the project is currently in.

11 **Q. What major milestones were achieved by PTN 6 & 7 in 2011?**

12 A. The main focus of the New Nuclear Project in 2011 was the facilitation of the
13 Federal and State licensing reviews. To that end, PTN 6 & 7 achieved several
14 significant milestones.

15 In September 2011, the project's State Certification Application ("SCA")
16 was determined to be complete, which is a major step in the state licensing
17 process. The transmission portion of the New Nuclear Project had previously
18 achieved completion in December 2010. Preparation of the SCA required
19 thousands of man-hours and more than a year to complete, as did the
20 preparation of responses to numerous information requests made by state
21 agencies since the application was submitted.

22 The NRC approved an amendment to the Westinghouse AP1000 Design
23 Certification in December 2011. That is a significant achievement for

1 Westinghouse, and for FPL and the other companies that are pursuing
2 development of projects using the AP1000 reactor.

3 In addition, after a three month delay for additional regulatory reviews,
4 the New Nuclear Project began drilling an exploratory underground injection
5 control (“UIC”) well to demonstrate the required hydro-geologic conditions
6 necessary to obtain approval of planned operating wells from the Florida
7 Department of Environmental Protection.

8 **Q. Were there changes in 2011 that affect expectations for the timing of future
9 regulatory approvals?**

10 A. Yes, two significant changes occurred in 2011 with respect to the timing of
11 regulatory approval of applications made by the New Nuclear Project. First, a
12 revised NRC review schedule was sent to FPL on October 27th, 2011. Under
13 that new schedule, the expected completion of a Final Environmental Impact
14 Statement has been delayed from October 2012 to February 2014. The expected
15 issuance of the Final Safety Evaluation Report has been delayed from December
16 2012 to November 2013. However, the NRC has also indicated that the
17 duration of hearings related to the PTN 6 & 7 COLA could be reduced. Based
18 on these schedule revisions, the mandatory NRC hearings are now expected to
19 take place in June 2014. The delays in review of the COLA are related to staff
20 and budget challenges at the NRC that have affected other NRC applicants as
21 well, and have also affected the EPU Project. The changes suggest that a COL
22 could be issued as soon as June 2014.

1 The State of Florida's review of the PTN 6 & 7 SCA has been delayed
2 for similar reasons. FPL currently expects that land-use hearings will be held in
3 September 2012, with approval of the SCA expected in July 2013.

4 The PTN 6 & 7 Project is currently assessing the effect these scheduling
5 changes will have on the project. This review is expected to be complete by the
6 middle of 2012.

7 **Q. You mentioned that certain challenges facing the NRC have affected the**
8 **PTN 6 & 7 Project, as well as other new nuclear development projects.**
9 **Please briefly describe these challenges.**

10 **A.** As described in my discussion of the EPU Project, the NRC was presented with
11 two considerable challenges in 2011. In March, the disaster at Japan's
12 Fukushima Daiichi Nuclear Generating Station prompted the NRC to shift
13 considerable personnel resources to an emergency Task Force assigned with
14 ensuring that U.S. nuclear facilities are adequately protected from similar seismic
15 events. The earthquake that struck Virginia occurred only months later, and
16 additional NRC engineering staff-members were reassigned to assessing that
17 incident. As a result of these emergent priorities, some members of the teams
18 assigned to review licensing applications for new nuclear projects were
19 reassigned, delaying technical reviews. The PTN 6 & 7 Project is not alone in
20 having been affected by these staffing challenges. Exelon, Tennessee Valley
21 Authority, PSEG, and other projects have received revised review schedules as
22 well. In addition, FPL has been made aware that budget constraints have limited
23 the extent to which the NRC can use contractors, a resource that is typically
24 heavily relied upon by the NRC, to assist in its review of licensing applications.

1 **Q. Please describe what key decisions related to PTN 6 & 7 were made in**
2 **2011.**

3 A. FPL determined that continuing to extend PTN 6 & 7's reservation agreement
4 with WEC for the forging of certain ultra-heavy forgings presented the best
5 value to customers. That agreement was entered into in 2008 when the global
6 market for ultra-heavy forging was becoming increasingly constrained. Those
7 constraints have since been greatly alleviated, and thus FPL has continued to
8 maintain flexibility with regard to the agreement by regularly extending the terms
9 while the Company evaluates the risks and benefits of such continuations. In
10 addition, due to the NRC's announced delay in its license review process for
11 PTN 6 & 7, FPL made plans in 2011 to further evaluate its execution schedule
12 for the units. The results of that review are expected in 2012. No other major
13 decisions affecting the direction of the project were made in 2011.

14 **Q. Was PTN 6 & 7 deemed feasible by the Company during the period of**
15 **your review?**

16 A. Yes. In the second fiscal quarter of 2011, the Company performed a feasibility
17 analysis regarding PTN 6 & 7, concluding that the project continues to be
18 feasible. FPL revisits its feasibility analysis on an annual basis, and will present a
19 revised feasibility analysis in the second quarter of 2012.
20

1 Project Estimating and Budgeting Processes

2 **Q. Please describe how the 2011 project budgets were developed for PTN 6 &**
3 **7.**

4 A. As in prior years, the PTN 6 & 7 budgets were developed based on feedback
5 from each department supporting the New Nuclear Project. Those budgets
6 included a bottom-up analysis that assessed the resource needs of each
7 department during the year, and included an adequate contingency for undefined
8 scope or project uncertainties. Typically, that contingency is equal to 15% of the
9 project budget, but may be increased or decreased based upon discussions with
10 each business unit lead.

11 **Q. Was the process used by PTN 6 & 7 to develop its budgets consistent with**
12 **the Company's policies and procedures?**

13 A. Yes, the process utilized by PTN 6 & 7 to develop its 2011 budgets was
14 consistent with FPL's corporate procedures, which outline the process to be
15 used by each business unit when developing annual budgets.

16 **Q. What mechanisms did the PTN 6 & 7 Project team use to monitor budget**
17 **performance in 2011?**

18 A. The PTN 6 & 7 Project team used numerous reports to manage budget
19 performance. Those reports are more fully described by Company Witness
20 Scroggs on Exhibit SDS-4. Throughout the year on a monthly basis, the PTN 6
21 & 7 Project management received several reports detailing budget variances by
22 department, with explanations of the variances. Those reports included a
23 description of all costs expended in the current month and quarter as well as
24 year-to-date and total cumulative spending. In addition, the PTN 6 & 7 Project

1 team published quarterly Due Diligence reports for the Company's senior
2 executives. Further, the project management periodically (usually monthly),
3 presented a status update to FPL's senior management. Those presentations
4 included a description and explanation of any budget variances or significant
5 project challenges.

6 **Q. Are those reporting mechanisms consistent with the PTN 6 & 7 Project**
7 **Execution Plan?**

8 A. Yes, those reporting mechanisms are consistent with the PTN 6 & 7 Project
9 Execution Plan, which was last revised in March 2010.

10 **Q. Within the PTN 6 & 7 Project team, who was responsible for tracking and**
11 **reporting project expenditures?**

12 A. Responsibility for tracking and reporting project expenditures was held by the
13 PTN 6 & 7 Project Controls Manager, who worked with a Senior Financial
14 Analyst to review and approve significant vendor invoices, and to track the
15 project's expenditures relative to PTN 6 & 7's annual budget. The processes for
16 both approving invoices and tracking project expenditures are well documented
17 within PTN 6 & 7.

18 **Q. Did Concentric have observations related to the PTN 6 & 7 budget**
19 **processes?**

20 A. Concentric has found that in 2011 the PTN 6 & 7 Project team acted prudently
21 when developing its annual budget and in tracking its performance relative to the
22 annual budget. As in years past, the PTN 6 & 7 Project team developed a series
23 of reports that track budget performance on a cumulative and periodic basis,
24 along with a process for describing variances in actual expenditures relative to

1 the budget. The PTN 6 & 7 budget processes include a variety of mechanisms
2 that ensure that the project's management and the Company's senior
3 management are well informed of the project's performance.

4 **Q. What are your observations regarding the Company's Quarterly Risk**
5 **Assessments?**

6 A. The Quarterly Risk Assessments, which contain an assessment of key issues in
7 six areas (*i.e.*, NRC License, Army Corps of Engineers Section 404b and Section
8 10 Permits, State Cite Certification, Underground Injection Control Permit,
9 Miami Dade County Zoning and Land Use, and Development Agreements),
10 along with FPL's mitigation strategy, continue to be an important tool to assist
11 the Company in analyzing, monitoring, and mitigating risks. The Quarterly Risk
12 Assessments also provide the Company with another method of tracking trends
13 in key issues facing the project, as well as the potential impacts to
14 implementation, cost, and schedule.

15 The Quarterly Reports are one of the methods by which FPL's senior
16 leadership is apprised of the PTN 6 & 7 Project's status. It is, therefore, very
17 important to clearly communicate all risks and the full suite of mitigation
18 strategies being considered for the project. In 2011, I observed several
19 opportunities to improve the Quarterly Risk Assessment, including the
20 identification and explanation of "fall back" or "Plan B" options for listed risks.
21 That opportunity to strengthen the Risk Assessments remains. Including a
22 discussion of alternatives will help executives grasp the importance of properly
23 mitigating risk, and of achieving risk-related milestones. It will also keep the

1 project focused on maintaining and developing the alternative approaches,
2 reducing the overall risk to the project.

3 **Q. Has FPL developed a cost estimate that is sufficiently detailed for the**
4 **current phase of the project?**

5 A. Yes. However, it is important to note that FPL's cost estimate is currently
6 indicative in nature and will need to be much more definitive before FPL
7 commits to the construction phase of the project. It is my understanding that
8 the Company has plans to obtain a more definitive cost estimate as the project
9 progresses.

10

11 *Project Schedule Development and Management Processes*

12 **Q. Please describe how the PTN 6 & 7 Project team produced and managed**
13 **the PTN 6 & 7 schedule in 2011.**

14 A. The initial PTN 6 & 7 Project schedule was developed earlier in PTN 6 & 7's life
15 cycle. This schedule continues to be refined and managed using an industry
16 standard software package developed by Primavera Systems, Inc., which I
17 described in the context of the EPU Project's schedule development.

18 State and federal review schedules have changed significantly over the
19 past year. Those changes extended the review process into the early construction
20 periods of the current project schedule. As discussed above, FPL is in the
21 process of evaluating the effect those schedule adjustments will have on project
22 timelines, including the assessment of whether early construction phases can be
23 condensed to capture lost time from extended regulatory reviews.

1 **Q. What procedures or project instructions existed in 2011 to govern the**
2 **development and refinement of the PTN 6 & 7 schedule?**

3 A. New Nuclear Project, Project Instruction 100 governs the development,
4 refinement and configuration of the project schedule.

5 **Q. What mechanisms were in place to ensure that the PTN 6 & 7 Project**
6 **team prudently managed its schedule performance?**

7 A. The PTN 6 & 7 Project team proactively monitored and managed its schedule
8 performance on a weekly and monthly basis. The PTN 6 & 7 Project team has
9 incorporated similar reporting requirements into its contracts with key vendors
10 such as Bechtel. As a result, Bechtel was required to submit monthly progress
11 reports detailing its progress to date, including any projected delays.

12 **Q. Did Concentric have any observations related to how the PTN 6 & 7**
13 **Project team managed and reported its schedule performance in 2011?**

14 A. Yes. Concentric believes PTN 6 & 7 has taken appropriate steps to prudently
15 manage and report on its schedule performance, which include keeping executive
16 management apprised of the project's progress against its schedule plans.

17

18 *Contract Management and Administration Processes*

19 **Q. Did PTN 6 & 7 require the use of outside vendors in 2011?**

20 A. Yes. In order to avoid the need to recruit, train and retain the significant number
21 of employees required to complete the COLA, SCA and other project activities,
22 and respond to interrogatories from Federal, State, and local agencies, FPL used,
23 and will continue to use, a number of outside vendors. Those vendors were
24 utilized to produce the COLA and SCA and provide ongoing post-submittal

1 support, among other tasks. In addition, a limited number of individual
2 contractors were utilized to augment the project staff and fill vacancies where
3 appropriate. FPL's use of outside vendors and contractors is consistent with
4 general industry trends and was clearly anticipated by the PTN 6 & 7 Project
5 Execution Plan.

6 **Q. How did the PTN 6 & 7 Project team make certain that it is prudently**
7 **managing and administering its procurement processes?**

8 A. As discussed in my review of the EPU Project, FPL has a number of GO
9 Procedures related to the procurement function. In addition, ISC, which has
10 overall responsibility for managing FPL's commercial interactions with vendors,
11 produced a desktop Procurement Process Manual that provides more detailed
12 instructions for implementing the GOs, while also containing nuclear-specific
13 procurement procedures. The GOs, along with the Procurement Process
14 Manual, are sufficiently detailed to ensure that ISC prudently manages the vast
15 number of procurement activities that must take place to support an endeavor
16 such as PTN 6 & 7. Additionally, those procedures clearly state a preference for
17 competitive bidding except in instances where no other supplier can be
18 identified, in cases of emergencies or when a compelling business reason not to
19 seek competitive bids exists.

20 **Q. Did Concentric review examples of how these processes were**
21 **implemented throughout 2011?**

22 A. Yes. Concentric reviewed information related to each of the new contracts,
23 purchase orders and change orders listed on Schedule T-7A of the Company's
24 Nuclear Filing Requirements. Relative to early phases of the project, PTN 6 & 7

1 entered into comparatively few new contracts in 2011. PTN 6 & 7 executed 14
2 contracts in 2011 that related to extensions or expansions of scope for PTN 6 &
3 7's existing vendors. For the remaining eleven contracts executed in 2011, FPL
4 utilized single or sole source justifications to acquire a specific skill or proprietary
5 technology eight times. One contract was competitively bid, and the remaining
6 two contracts were for less than \$25,000.

7 In a past review, Concentric observed an opportunity to improve
8 procurement processes, and recommended that competitive bids received in
9 response to an RFP for in excess of \$5 million be reviewed by ISC roughly
10 contemporaneously and with at least two people participating in the review
11 process. FPL implemented a new Procurement Guideline to address this
12 observation, and followed that new guideline for bids received for UIC
13 construction work in early 2011.

14 **Q. Does the PTN 6 & 7 Project team expect the number of goods and**
15 **services procured on a single or sole source basis to grow in the future?**

16 A. Yes. This results from the fact that many of the future goods and services that
17 must be procured relate to proprietary design information that is specific to a
18 single vendor. Thus, it will often be impossible to locate another vendor that is
19 capable of providing those goods or services without re-creating thousands of
20 man-hours to replicate the initial plant designs.

1 **Q. What processes were in place to ensure that PTN 6 & 7 received the full**
2 **value for the goods and services that were procured in 2011 and that**
3 **appropriate charges were invoiced to the project?**

4 A. In order to ensure that the Company and its customers received the full value of
5 the goods and services that were procured, the PTN 6 & 7 Business Manager and
6 his staff were responsible for reviewing each invoice received from the major
7 PTN 6 & 7 Project vendors. To perform that review, the Business Manager's
8 staff received the invoices from each of the project's vendors. Upon receipt, an
9 Invoice Review/Verification Form that detailed which technical or functional
10 representative was responsible for reviewing each section of the invoice was
11 attached to the invoice. That form and the respective invoice were then sent to
12 each reviewer to verify that the appropriate charges were included in the invoice
13 and that the work product met PTN 6 & 7's needs and contractual provisions
14 prior to payment. When discrepancies were identified, FPL sought a credit on a
15 future invoice or deducted the amount from the current invoice depending on
16 discussions with the vendor. Similar processes are utilized by the FPL
17 departments that support PTN 6 & 7.

18 **Q. Were there instances in 2011 where project vendors were found to be**
19 **including inappropriate charges in their invoices?**

20 A. Yes. For example, early in 2011 FPL was charged for warranty work that was
21 performed by Bechtel. Those charges were discovered by the invoice review
22 process. Upon discovery of the charges, FPL withheld payment of the aggregate
23 overcharge when completing payment of the monthly invoice. From time-to-

1 time, FPL also discovered and challenged minor, inappropriate expenses from
2 other vendors.

3 **Q. Does Concentric have any observations related to FPL's management of**
4 **the contract management and administration processes?**

5 A. Yes. FPL managed the contract management and administration process
6 according to its corporate procedures and guidelines in 2011. In addition, the
7 Company continued to follow recommendations that Concentric has made in
8 prior years with respect to contracts and ISC management.

9

10 *Internal Oversight Mechanisms*

11 **Q. What internal reporting mechanisms were used to inform the Company's**
12 **senior management of PTN 6 & 7's status and key decisions?**

13 A. As I discuss above, the PTN 6 & 7 Project team used a number of periodic
14 reports to inform the project management team and the Company's executive
15 management of progress with PTN 6 & 7. Those reports are described in greater
16 detail in the direct testimony of Company Witness Scroggs and are used to make
17 certain that the costs PTN 6 & 7 is incurring are the result of prudent decision-
18 making processes. Those reports included monthly reports that detailed key
19 budget and schedule performance.

20 **Q. What other internal oversight and review mechanisms exist for the New**
21 **Nuclear Project?**

22 A. PTN 6 & 7 is subject to FPL's corporate GO procedures, but is being developed
23 external to the FPL Nuclear Division. Thus, PTN 6 & 7 is not automatically
24 subject to the Nuclear Division's policies. To address this condition, and to

1 remain in compliance with the NRC's QA requirements, the FPL QA/QC
2 department developed a procedure, QI-2-NNP-01, that identifies which FPL
3 Nuclear Division polices are applicable to PTN 6 & 7. In response to
4 Concentric's 2009 recommendation, QA/QC staff created a regular update
5 schedule to revise and update this procedure in order to adapt to the dynamic
6 nature of the project.

7 Similarly, during 2011, PTN 6 & 7 continued to develop its own set of New
8 Nuclear Project Instructions that relate to the following activities:

- 9 • Internal controls policies (*e.g.*, the monthly closing process);
- 10 • Purchase order and invoice processing;
- 11 • ISC policies;
- 12 • Contracting policies; and
- 13 • The New Nuclear Project Desktop Guide.

14 Additionally, there were two primary active internal oversight and review
15 mechanisms for PTN 6 & 7: the FPL Internal Audit Department and the FPL
16 QA/QC division.

17 **Q. Please describe the FPL Internal Audit Department and its function.**

18 A. FPL's Internal Audit Department, described earlier, performs regular audits of
19 PTN 6 & 7, not only focusing on the eligibility of the costs being recorded to the
20 NCRC for recovery from customers, but also considering internal controls as
21 part of its procedures, and commenting to PTN 6 & 7 if it finds areas for
22 improvement. In 2011, the FPL Internal Audit Department performed an audit
23 of PTN 6 & 7 to test whether charges billed to the project were appropriate and
24 that those charges were being accounted for correctly. Very often, findings are

1 resolved during the course of the audit, and any unresolved items are tracked
2 within a database to make sure they are completed on schedule.

3 In 2011, PTN 6 & 7 received an audit rating of “Good,” which is the
4 highest rating used by Internal Audit. The audit report included only very minor
5 suggestions to improve project controls, such as providing additional guidance to
6 staff about the level of detail to include on expense reports so that the
7 appropriateness of costs is easier to verify.

8 **Q. Is Internal Audit conducting a review of the New Nuclear Project costs**
9 **charged in 2011?**

10 A. Yes. Costs incurred by the New Nuclear Project in 2011 are being reviewed by
11 the Company’s Internal Audit Department, with a final report to be issued by
12 Internal Audit in May 2012.

13 **Q. Please describe the FPL QA/QC function and its purpose.**

14 A. The FPL QA/QC function has a similar mandate with regard to PTN 6 & 7 as it
15 does with regard to the EPU Project, which was discussed earlier in my
16 testimony.

17 **Q. What quality assurance activities related to PTN 6 & 7 took place in 2011?**

18 A. In 2011, QA/QC performed an audit of Bechtel’s processes for responding to
19 NRC Requests for Additional Information (“RAI”). That audit was conducted
20 at Bechtel’s offices in Frederick, Maryland, and involved extensive review of
21 work product samples and in-person interviews. The results of the audit
22 confirmed that the Bechtel QA program is being implemented and followed
23 properly.

1 QA/QC also conducted an audit of quality control processes for the
2 PTN 6 & 7 Project overall. The audit revealed that the project complies with
3 NRC requirements specified for COLA and preconstruction projects, and that
4 appropriate measures have been established and implemented for procurement
5 and contracting policies. In addition, PTN 6 & 7 was found to have an effective
6 correction action program.

7 **Q. Does the Company maintain other internal oversight and review**
8 **mechanisms for PTN 6 & 7?**

9 A. Yes. The Company maintains other internal oversight mechanisms that are
10 available to help ensure that PTN 6 & 7 is prudently incurring costs. The first of
11 those mechanisms is the FPL Corporate Risk Committee. This committee
12 consists of FPL director-level and other senior employees, and is charged with
13 ensuring that the project appropriately considers risks when making key project
14 decisions. That committee is available to the project when necessary as an
15 additional oversight tool.

16 **Q. Did Concentric have any observations related to PTN 6 & 7's internal**
17 **oversight mechanisms?**

18 A. Yes. While the suggestions for improvement that were made in 2011 through
19 internal oversight mechanisms were relatively minor, the PTN 6 & 7 Project has
20 already implemented these recommendations.

21

1 External Oversight Mechanisms

2 **Q. What external review mechanisms were used by the PTN 6 & 7 Project**
3 **team in 2011 to ensure that the Company is prudently incurring costs?**

4 A. PTN 6 & 7 and FPL have been subject to several external reviews. These
5 reviews are utilized to make certain industry best practices are incorporated into
6 PTN 6 & 7 and to improve overall project and senior management performance.
7 These reviews include Concentric's review of the Company's activities and
8 project controls, and the FPSC Staff's financial and internal controls audits.
9 Those reviews are in addition to NextEra Energy's company-wide audit of its
10 financial and internal controls, discussed earlier.

11 **Q. Are there other external information sources relied upon by the PTN 6 & 7**
12 **Project team?**

13 A. Yes. In 2011, FPL maintained membership in several industry groups that relate
14 to the development of new nuclear projects. Those groups include the NuStart
15 Consortium, APOG (the AP 1000 owners group), the Electric Power Research
16 Institute, and NEI, among others. Each of those groups provides the PTN 6 &
17 7 Project team with access to a breadth and depth of information that can be
18 used to enhance the PTN 6 & 7 Project team's effectiveness. For instance, those
19 industry groups were utilized during the preparation of the PTN 6 & 7 COLA to
20 identify and analyze potential areas of concern by the NRC and the appropriate
21 response to the NRC's RAIs.

1 **Q. Did Concentric have any observations related to the external oversight**
2 **mechanisms utilized by FPL in 2011?**

3 A. Based on Concentric's review to date, Concentric believes the PTN 6 & 7
4 Project team is proactively seeking to incorporate best practices into the
5 management of PTN 6 & 7. That is being achieved by retaining outside experts
6 to review and comment on certain aspects of the project, and by soliciting
7 external information sources that can provide useful guidance to the project
8 team.

9

10 **Section VII: Conclusions**

11 **Q. Please summarize your conclusions.**

12 A. It is my conclusion that there were no imprudently incurred costs or project
13 management deficiencies that led to imprudently incurred costs for the EPU
14 Project and PTN 6 & 7 in 2011. FPL faced challenges in 2011 in its
15 management of the projects, including significant challenges due to external
16 factors outside of the Company's control. However, I found that FPL's policies
17 and procedures put it in a position to appropriately respond to those challenges,
18 and that the Company's oversight and decision making resulted in prudently-
19 incurred costs. In addition, it is important to note that for over three decades
20 nuclear power has provided a number of substantial benefits to utility customers
21 in Florida. Those benefits include electric generation with virtually no GHG
22 emissions, fuel cost savings, fuel diversity, reduced exposure to fuel price
23 volatility and more efficient land use. As a result, it is prudent for FPL to
24 develop additional nuclear capacity for the benefit of its customers. In order to

1 do so, FPL is carefully managing the EPU Project and PTN 6 & 7 through
2 capable project managers and directors who are guided by detailed company
3 procedures and appropriate management oversight.

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

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

1 BY MR. ROSS:

2 Q Mr. Reed, are you also sponsoring any exhibits
3 to your prefiled direct testimony?

4 A Yes.

5 Q And do those exhibits consist of documents
6 labeled as JJR-1 through -- I am sorry, JJR-5?

7 A Yes, that's correct.

8 MR. ROSS: Mr. Chairman, I note that Mr.
9 Reed's exhibits have been marked on the Staff's
10 Exhibit List as Exhibit 76 through 80 for
11 identification.

12 CHAIRMAN BRISÉ: Thank you.

13 (Whereupon, Exhibit Nos. 76 through 80 were
14 marked for identification.)

15 BY MR. ROSS:

16 Q Mr. Reed, have you prepared and caused to be
17 filed 14 pages of prefiled rebuttal testimony in this
18 proceeding on July 9th, 2012?

19 A Yes, I have.

20 Q Do you have any changes or revisions to your
21 prefiled rebuttal testimony?

22 A No.

23 Q If I asked you the same questions contained in
24 your prefiled rebuttal testimony today, would your
25 answers be the same?

1 A Yes, they would.

2 MR. ROSS: Mr. Chairman, I would ask that the
3 prefiled rebuttal testimony of Mr. Reed be inserted
4 into the record as though read.

5 CHAIRMAN BRISÉ: Okay. At this time, we will
6 enter Mr. Reed's rebuttal testimony into the record
7 as though read.

8 (Whereupon, rebuttal testimony inserted.)

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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**2 **FLORIDA POWER & LIGHT COMPANY**3 **REBUTTAL TESTIMONY OF JOHN J. REED**4 **DOCKET NO. 120009**5 **July 9, 2012**6 **Q. Please state your name and business address.**7 A. My name is John J. Reed. My business address is 293 Boston Post Road West,
8 Marlborough, Massachusetts 01752.9 **Q. Have you previously filed direct testimony in this proceeding?**

10 A. Yes, I have.

11 **Q. Please state the purpose of your rebuttal testimony.**12 A. I have been asked by FPL to respond to portions of the Florida Public Service
13 Commission's (the "Commission") Audit Staff's Review of FPL's Project Management
14 Internal Controls for Nuclear Plant Uprate and Construction Projects (the "Staff Audit
15 Report"). Specifically, FPL has asked me to assess Staff's recommended cost disallowance
16 of \$3.5 million due to a vendor-caused work stoppage, as well as Staff's concerns regarding
17 FPL's Engineering, Procurement and Construction ("EPC") vendor. FPL has also asked me
18 to respond to portions of the direct testimony of William Jacobs, submitted on behalf of the
19 Florida Office of the Public Counsel ("OPC"). I will address Dr. Jacobs's recommendation
20 that the Commission consider the Turkey Point ("PTN") and St. Lucie ("PSL") Extended
21 Power Uprates ("EPU") separately, as well as his recommendation that the Commission
22 disallow all EPU Project costs expended at PTN that are greater than a recent cost forecast
23 for that plant.

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1 **Q. Please summarize your conclusions regarding Staff's recommended disallowance**
2 **and Staff's concerns regarding the EPC vendor.**

3 A. In my view, Staff's recommended disallowance is inconsistent with a reasonable application
4 of the prudence standard. A reasonable application of the prudence standard involves
5 evaluating decisions, actions, and outcomes within FPL's control. The prudence standard
6 also considers a range of reasonable behavior given the circumstances, and requires an
7 exclusion of hindsight. Staff's recommended disallowance, however, fails to focus strictly on
8 those items and factors within the Company's control, does not allow for a range of
9 reasonable behavior, and relies on hindsight.

10 Staff also expressed concerns regarding the potential for future project delays and
11 cost increases caused by the EPC vendor, Bechtel. It is my opinion that such concerns are
12 misplaced for many of the same reasons I disagree with Staff's recommended cost
13 disallowance. Specifically, Staff has not focused on the reasonableness of the Company's
14 decisions and actions for those items within FPL's control. In a reasonable application of
15 the prudence standard, specific facts related to management decisions or actions that are
16 under the subject company's control should be evaluated with consideration of a range of
17 reasonable behavior based on the circumstances that were known or knowable at the time of
18 the decisions or actions. In these instances, however, Staff is looking beyond the
19 reasonableness of the Company's actions and reactions as they relate to its contractors,
20 which places an unreasonable standard of prudence on FPL.

21 **Q. Please summarize your conclusions regarding the direct testimony of OPC Witness**
22 **Jacobs.**

23 A. It is my opinion that Witness Jacobs's recommendation regarding the disallowance of costs
24 also puts the Company in the position in which recovery of costs is not determined by FPL's

1 actions, but rather is determined by factors that are outside of its control. For that reason, I
2 conclude that the Commission should reject Witness Jacobs's recommendations regarding
3 placing a cap on FPL's recoverable costs.

4 I also disagree with the recommendation that PTN and PSL be considered
5 separately. Considering either plant on its own would reverse the Commission's prior
6 approach for approving the project and its expenditures, upon which FPL has relied in its
7 continued management and implementation of the EPU Project, and would fail to account
8 for the economies of scale and other advantages of conducting the uprates at the two plants
9 simultaneously. In that regard, OPC Witness Jacobs calls on the Commission to make a
10 virtually last minute change in its policies that violates certain core tenants of the prudence
11 standard.

12 **Q. How is the remainder of your testimony organized?**

13 A. My testimony is organized in two sections. I address the Commission Staff's
14 recommendations pertaining to the PSL outage and FPL's EPC contractor in Section I. In
15 Section II, I address the recommendations made by OPC Witness Jacobs.

16
17 Section I: Response to the Staff Audit Report

18 **Q. Please provide an overview of the work stoppage for which Staff is recommending a
19 cost disallowance.**

20 A. As described in my Direct Testimony, an error by Siemens, the vendor that is performing
21 the turbine generator upgrade work as part of the EPU Project at PSL, led to a delay in the
22 spring 2011 outage at PSL Unit 2. Specifically, it was determined that a tool was left inside
23 the generator stator core by Siemens personnel after work had been completed on that piece

1 of equipment. That tool caused damage to the equipment during post-modification testing.
2 FPL incurred \$3.5 million in unforeseen costs required as a consequence of that incident.

3 **Q. What are the relevant decisions and actions by FPL related to this matter that should**
4 **be evaluated by the Commission?**

5 A. The relevant decisions and actions by FPL related to this matter are those decisions and
6 actions that were within the Company's control. Those decisions and actions included: (1)
7 FPL's selection of Siemens to perform the turbine generator upgrade work; (2) the decision
8 to have the work performed under a highly detailed contract; and (3) FPL's reliance on
9 Siemens's procedures, training, and oversight for the turbine generator upgrade, including
10 Siemens's tool accountability and control. The control and oversight failures that Staff
11 alleges were the responsibility of FPL were in fact those of its vendor, whose knowledge and
12 expertise were appropriately relied upon by the Company.

13 **Q. The Audit Staff's report suggests that FPL, as the owner, bears strict liability for a**
14 **vendor-caused error. Do you agree?**

15 A. No, I do not. FPL, as the owner and licensee at PTN and PSL, is ultimately responsible for
16 the safe operations of the facilities, and must apply effective oversight of contractors that
17 perform work at the facilities on behalf of the Company. However, Staff has improperly
18 extended that responsibility to impute the actions of its vendor to FPL. In addition, Staff
19 has taken management and safety principles outlined in a DOE-sponsored publication and
20 in a 2004 speech by Company Witness Diaz out of context and improperly applied them to
21 the concept of cost recovery in this proceeding.

22 **Q. Please discuss the DOE-sponsored publication.**

23 A. The Staff Audit Report references a 2005 publication sponsored by the Department of
24 Energy ("DOE") in Staff's argument that strict cost liability for the outage extension at PSL

1 lies with the Company. That publication was developed to evaluate implementation of
2 recommendations that had previously been made with respect to DOE's management of
3 DOE projects. The DOE does not own or operate any commercial nuclear power plants.
4 As such, I do not see how this document is authoritative or relevant to reasonable nuclear
5 power plant managers' decision-making. Nor have I seen that document offered as such an
6 authority in my experience. In addition, the DOE publication is focused on project
7 management techniques, not on issues that specifically address prudence and recovery of
8 project-related costs. In any event, the DOE report states that one appropriate method of
9 risk mitigation is transference of risk to others through a contracting strategy.¹

10 The Commission, in prior proceedings, has implicitly approved the FPL approach to
11 contracting for the EPU Project. That contracting approach does not involve a "self
12 perform" model, but rather includes the engagement of well qualified and experienced
13 vendors to manage and implement key aspects of the EPU Project. As I have discussed
14 above, FPL is responsible for selecting qualified vendors that are capable of, and have core
15 competencies in, elements of the project, and for properly managing those vendors, as called
16 for under the terms of the EPC contract. While FPL continues to evaluate the performance
17 and risk management strategies used by its vendors during the execution of the EPU Project,
18 the monitoring and use of highly specialized, state of the art tools and equipment is clearly
19 the responsibility of the construction and engineering vendor, not the Company, as specified
20 in the Siemens agreement.

21 **Q. Please also discuss the 2004 speech made by Company Witness Diaz.**

22 **A.** The Staff Report also references remarks made by Company Witness Diaz in 2004 when he
23 was Chairman of the U.S. Nuclear Regulatory Commission ("NRC"). As discussed in the
24 rebuttal testimony of Company Witness Diaz, those remarks were not made in the context

1 of cost recovery and the economics of regulation, but instead were focused on the owner's
2 responsibilities for the actions of its vendors in the context of operational safety and
3 security. Those concepts are very different as are the governing standards. The U.S. nuclear
4 industry and the NRC apply an absolute standard of owner responsibility for safety
5 management and operational safety, while the prudence standard, as it relates to economic
6 regulation and cost recovery, considers a range of reasonable behavior, give the
7 circumstances. The range of reasonable behavior concept embodied in the prudence
8 standard also recognizes that capital projects such as the EPU Project are not risk free, nor
9 does it apply a standard of perfection to utility decision-making or performance.

10 **Q. What would be the effect of eliminating economic risk from the EPU Project?**

11 A. The effect of eliminating economic risk from the EPU Project would be significant and most
12 likely uneconomic increases in project cost. For instance, in order for Siemens to accept
13 unlimited liability for events such as the alignment pin issue (which, to begin with, might be
14 an untenable contract condition from Siemens's perspective), Siemens would undoubtedly
15 require a significantly greater contract price and more restrictive contract terms.

16 **Q. Has the Commission specifically evaluated the prudence of FPL's vendor
17 management in the past?**

18 A. Yes it has. In Order No. PSC-11-0547-FOF-EI, issued at the conclusion of last year's
19 Nuclear Cost Recovery Clause ("NCRC") proceeding, the Commission considered issues of
20 prudence surrounding brief work stoppages that occurred in 2010 and early 2011. The
21 Commission found that the Company's actions surrounding project management and
22 controls were prudent:

23 We find that the recoverability of the work stoppage related costs
24 concern raised by our audit staff witnesses hinges on whether FPL
25 was prudent in training and oversight prior to work stoppages and its
26 response to the facts surrounding the work stoppage. We note that

1 our audit staffs testimony identifies no error or deficiency in FPL's
2 procedures, policies, or other management related controls. As noted
3 above, witness Derrickson attested to reviewing FPL's response to
4 each work stoppage and he found no evidence of imprudence.²

5 It is important to note that the Root Cause Evaluation ("RCE") performed after the
6 alignment pin event did not determine FPL's oversight of Siemens to be either a root cause
7 or a contributing cause of the error.³

8 **Q. What is an appropriate application of the prudence standard as it relates to this**
9 **event?**

10 A. An appropriate application of the prudence standard: (1) identifies what was reasonably
11 known or knowable by FPL at the time of its decisions or actions and given the specific
12 circumstances faced by the Company; (2) does not use hindsight to identify what the prudent
13 course of action would have been based on the end result of management's decisions; and
14 (3) considers a range of reasonable behavior regarding elements of the EPU Project that are
15 within FPL's control. In my opinion, according to those principles, the decisions and
16 actions of FPL as they related to this incident were reasonable and prudent.

17 **Q. Has that standard of prudence been adopted by the Commission?**

18 A. Yes. As stated in my Direct Testimony, the Commission has adopted the following standard
19 of prudence (Order No. PSC-09-0783-FOF-ED):

20 The applicable standard for determining prudence is consideration of
21 what a reasonable utility manager would have done in light of
22 conditions and circumstances which were known or reasonably
23 should have been known at the time decisions were made.

24 Important to that definition of the prudence standard is the consideration of the "conditions
25 and circumstances" faced at the time of decision-making. An important condition in this
26 case is the nature of the contract between FPL and Siemens, as well as the level of

1 responsibility FPL reasonably delegated to the vendor and relied upon in overseeing the
2 project.

3 **Q. Have other commissions applied similar standards of prudence?**

4 A. Yes. For example, a similar standard was applied by the Minnesota Public Utilities
5 Commission, which stated:

6 The [prudence] test examines the Company's prudence, *i.e.* whether
7 the Company exercised the care that a reasonable person would
8 exercise under the same circumstances at the time the decision was
9 made.⁴

10 The Federal Energy Regulatory Commission ("FERC") also offered a consistent view of the
11 prudence standard in 1984 by stating the following:

12 We note that while in hindsight it may be clear that a management
13 decision was wrong, our task is to review the prudence of the utility's
14 action and the cost resulting there from based on the particular
15 circumstances existing either at the time the challenged costs were
16 actually incurred, or the time the utility became committed to incur
17 those expenses.⁵

18 Lastly, the New York Public Service Commission shared similar observations when
19 reviewing Consolidated Edison Company of New York's Indian Point 2 nuclear plant.

20 The Company's conduct should be judged by asking whether the
21 conduct was reasonable at the time, under all the circumstances,
22 considering that the company had to solve its problems prospectively
23 rather than in reliance on hindsight. In effect, our responsibility is to
24 determine how reasonable people would have performed the tasks
25 that confronted the company.⁶

26
27 **Q. Were the selection of Siemens, the negotiation of and reliance on a highly detailed
28 contract, and the reliance on the vendor's procedures, training, and oversight all
29 decisions that were prudent and within FPL's control?**

30 A. Yes, I believe they were. As described by Company Witness Jones, Siemens was clearly an
31 appropriate vendor to engage for the turbine generator upgrade work, and in my experience
32 the contract terms with regards to limitations on liability were standard for the industry.

1 Furthermore, the Siemens contract was entered into in 2008, and has never been the subject
2 of a disallowance in previous NCRC proceedings. In addition, the nature of the contract
3 (*i.e.*, a highly detailed contract) vested Siemens with the responsibility for control and
4 oversight of the alignment pin toolset. FPL reasonably relied upon the vendor to design and
5 follow procedures and controls for a toolset that had been in place for 18 months and was
6 successfully used by Siemens at other sites. Staff's assertion that FPL acted imprudently by
7 failing to detect a vendor-supplied tool control deficiency suggests a level of owner
8 responsibility infallibility that is clearly outside a reasonable application of the prudence
9 standard for a contract such as this. As noted above, the RCE performed after the outage
10 event did not find that FPL's oversight of Siemens was a root cause or a contributing cause
11 of the error.

12 **Q. With regard to Staff's concerns regarding Bechtel, the EPC vendor, why do you state**
13 **such concerns are misplaced?**

14 A. It is my opinion that such concerns are misplaced because Staff is focusing not on FPL's
15 oversight and management of the EPC contract (*i.e.*, those elements within the Company's
16 control) but rather on the performance of the vendor. In my opinion, decisions and actions
17 are prudent or imprudent, not results or costs. The appropriate decisions and actions made
18 by FPL as they relate to the EPC vendor include: (1) FPL's decision to engage Bechtel as the
19 EPC; (2) the formation of the Bechtel contract; (3) FPL's oversight of Bechtel; and (4) the
20 decision to maintain Bechtel as the EPC vendor. The first two decisions and actions
21 happened prior to the period under review in this proceeding, and were not the subject of
22 any disallowance by the Commission. I provided details on the third decision or action (*i.e.*,
23 FPL's oversight of Bechtel) in my Direct Testimony. That discussion included reference to
24 FPL's application of rigorous oversight and management of the EPC vendor, including

1 modifying the incentive structure and bringing in vendors with specialized experience to
2 assist with project management and to subcontract to the EPC. I believe that FPL continues
3 to prudently manage the EPC contract. Lastly, in my opinion, FPL's decision to maintain
4 Bechtel as the EPC vendor was prudent. The alternative, of course, would be to self-
5 perform the remainder of the project or replace Bechtel with another firm, either of which
6 could have highly adverse effects on the budget and schedule of the project at this late stage
7 of implementation.

8 **Q. Do you have any further comment regarding Staff's recommendations and concerns?**

9 A. Yes. Much of the information related to the Siemens and Bechtel contracts that was cited by
10 Staff comes from FPL's and its vendors' quality control and oversight of the EPU Project.
11 Reviews and reports such as the RCE of the Siemens error and the Contractor Evaluation
12 Report of Bechtel demonstrate a culture that strives for continued learning and
13 improvement. Such a culture promotes candid reviews of issues as they arise and
14 encourages employees to step forward and challenge the status quo. In my opinion, the
15 information that is gained from those reviews and evaluations provides transparency for
16 management as to the implementation of the EPU Project, and is invaluable to the ongoing
17 oversight of the project.

18 However, I am concerned that a cost disallowance that applies hindsight by relying
19 on the results of an after-the-fact candid assessment of an event could discourage forthright
20 assessments and improvements critical to the safe implementation of complex projects such
21 as the EPU Project. Reports such as RCEs intentionally apply hindsight in order to provide
22 assurance that negative events are not repeated. If that hindsight is misused in a regulatory
23 context, an incentive will be created to diminish the transparency of such reports. Such an
24 incentive would detract from the Company's ability to learn and improve from past events.

1 Section II: Response to OPC Witness Jacobs

2 **Q. Please summarize this section of your testimony.**

3 A. In this section of my rebuttal testimony I address OPC Witness Jacobs's recommendation
4 that the Commission consider the costs and feasibility of the PTN and PSL EPU work
5 separately, rather than as one project. I also explain why Witness Jacobs's recommendation
6 that the Commission implement a hard cap on costs to complete the PTN uprate would
7 violate the prudence standard that has been affirmed by the Commission in prior NCRC
8 proceedings.

9 **Q. Do you agree with Witness Jacobs's recommendation that the Commission should
10 split the EPU work apart for economic analysis?**

11 A. No, I do not. As is discussed in greater detail by Company Witness Jones, there are several
12 notable advantages of treating the PTN and PSL uprates as a single integrated project. Mr.
13 Jones discusses the contracting and engineering cost efficiencies of conducting the uprates
14 together as one project in his rebuttal testimony. In addition, revising the feasibility
15 approach would also violate the prudence standard that has been established by the
16 Commission by revisiting actions, decisions, and evidence that has been the subject of prior
17 NCRC hearing cycles.

18 **Q. How has the Commission handled its consideration of the PTN and PSL EPU
19 Project in the past?**

20 A. The Commission approved the combined project on its merits in 2008, and has approved
21 the combined project's prudently-incurred costs through the NCRC proceeding every year
22 since. To change course on this matter today, in an advanced stage of project development,
23 would be a significant departure from the regulatory approach that has defined the

1 Company's actions throughout the Project, and upon which FPL has relied in implementing
2 the Project.

3 **Q. Witness Jacobs recommends that all PTN uprate costs above a recent cost forecast**
4 **be disallowed, if and when such costs are incurred. Do you agree with that**
5 **recommendation?**

6 A. No, I do not. Witness Jacobs's recommendation would prevent the Commission from
7 evaluating the specific actions and decisions made by FPL and their attendant cost impacts.
8 Placing a hard cap on the costs to be recovered by FPL would also put FPL at risk for cost
9 disallowances regardless of the source of those costs, and absent due process regarding the
10 specific activities undertaken in the EPU Project.

11 **Q. Is OPC Witness Jacobs's recommendation consistent with the Nuclear Cost**
12 **Recovery Rule?**

13 A. No. The Nuclear Cost Recovery Rule states that alternative cost recovery mechanisms shall
14 "promote electric utility investment in nuclear or integrated gasification combined cycle
15 power plants and allow for the recovery in rates of all such prudently incurred costs."⁷ The
16 Nuclear Cost Recovery Rule further states, "[s]uch costs shall not be subject to disallowance
17 or further prudence review."⁸ OPC Witness Jacobs's recommendation, however, would
18 essentially bypass the prudence review process. By placing a cap on expenditures, FPL
19 would be at risk of not recovering costs even if they were prudently incurred.

20 **Q. Please explain.**

21 A. By recommending both the setting of a strict cost benchmark for completion of the EPU
22 Project and disallowing any costs above that level — regardless of the Commission's views
23 on the prudence or imprudence of the actions of the utility — Witness Jacobs ignores
24 provisions of the Nuclear Cost Recovery rule and calls for abandonment of the prudence

1 standard and the framework that has been established by the Florida Legislature and the
2 Commission, within which the Commission has the opportunity to address and review
3 ongoing capital projects, and ensure that ratepayers bear only prudently incurred expenses.

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

5 A. Yes it does.

1 BY MR. ROSS:

2 Q Mr. Reed, have you prepared a summary of your
3 direct and your rebuttal testimony?

4 A Yes, I have two summaries.

5 Q Okay. So, Mr. Reed, would you please provide
6 your summaries to the Commission. First the direct
7 testimony, and please indicate when you are finished
8 with the summary of the direct testimony followed by a
9 summary of your rebuttal testimony?

10 A Yes. Beginning with my direct.

11 Good morning, Mr. Chairman and Commissioners.
12 My direct testimony reviews the benefits of nuclear
13 power and the appropriate prudent standard to be applied
14 to FPL's decision-making processes in this proceeding.
15 I have also reviewed the system of internal controls
16 used by the Company in 2011 during the construction
17 phases of the EPU and in developing and maintaining the
18 option to construct two new nuclear units at Turkey
19 Point.

20 Finally, I provided an opinion whether the EPU
21 and new nuclear expenditures for which FPL seeks
22 recovery have been prudently incurred. The prudence
23 standard in utility regulation states that utility
24 management decisions are evaluated for the
25 reasonableness only in the context of the facts that

1 were known or knowable at the time a particular decision
2 is made. In addition, prudence is defined by a range of
3 reasonable actions, not perfect performance. I applied
4 that standard in my review of FPL's nuclear projects for
5 2011.

6 Through document reviews and interviews, my
7 staff and I reviewed the key element of FPL's internal
8 projects controls for each of the following five
9 processes: Estimating and budgeting, schedule
10 development and management, contract management and
11 administration, internal oversight mechanisms and
12 external oversight mechanisms.

13 FPL has corporate procedures that detail
14 business oversight and quality assurance practices that
15 are to be followed throughout the project. Those
16 policies and procedures are thorough, well-documented
17 and have been adopted by the relevant project teams and
18 incorporated into the Company's corporate culture.

19 I also examined how those internal controls
20 were implemented by the EPU project. Key decisions and
21 actions that took place during 2011 included staffing
22 decisions regarding the EPU organization, reassessment
23 of the planned schedule for the remaining EPU outages,
24 updating the non-binding cost of project completion,
25 application of lessons learned from previous outages and

1 attentive oversight in management of the EPC vendor.

2 Major decisions involving that EPC vendor in
3 2011 included the establishment of a target price
4 incentive structure at St. Lucie and bringing in vendors
5 with specialized experience to assist with project
6 management and to subcontract to the EPC vendor.

7 With regard to FPL's new nuclear activities, I
8 assessed the reasonableness of written corporate
9 procedures and evaluated their ability to ensure robust
10 and prudent management. The focus in 2011 remained on
11 achieving licensing goals, which will allow the Company
12 to continue to develop the option to construct the new
13 units.

14 In conclusion, FPL's project management
15 practices and procedures for the EPU and new nuclear
16 projects are reasonable and are currently meeting or
17 exceeding industry norms. These practices and
18 procedures include appropriate oversight of the projects
19 and include internal and external project reviews to
20 strengthen compliance with the company's policies.

21 All of the 2011 EPU and Turkey Point 6 and 7
22 costs for which FPL is seeking recovery in this case
23 were prudently incurred.

24 That concludes the summary of my direct.

25 Moving on to the summary of my rebuttal, my

1 rebuttal testimony responds to staff's recommended
2 disallowance of \$3.5 million due to a vendor caused work
3 stoppage as well as concerns regarding FPL's EPC vendor.
4 It is my understanding that the issue of the work
5 stoppage may now be resolved to staff's satisfaction.
6 However, since my rebuttal testimony was filed before
7 that agreement was reached, I will still summarize it
8 for the sake of completeness.

9 In my view, the staff audit reports
10 recommended disallowance did not focus strictly on the
11 factors within the Company's control, did not recognize
12 that FPL reasonably relied on the expertise of a well
13 qualified and industry leading vendor and did not allow
14 for a range of reasonable behavior. In short, staff's
15 recommendation was, in my opinion, inconsistent with the
16 principles of the prudent standard as adopted by the
17 Commission.

18 Furthermore, while it is doubtful that a
19 vendor would accept a contract that completely
20 eliminated FPL's risks of implementation in instances
21 such as this work stoppage, such a contractual
22 arrangement would significantly raise costs, potentially
23 decreasing the economic benefits of the project.

24 My rebuttal testimony also addresses OPC
25 Witness Jacobs' suggestion that the Commission should

1 place a hard cap on future expenditures. That approach
2 would put FPL in a position in which the recovery of its
3 costs could be determined by factors that are completely
4 outside its control. To do so would be inconsistent
5 with the Nuclear Cost Recovery Rule that is the basis
6 for this proceeding. The Commission should reject this
7 recommendation.

8 I also disagree that the EPU's at St. Lucie and
9 Turkey Point should be considered separately as OPC
10 Witness Jacobs has proposed. To do so would reverse the
11 approach the Commission has taken for the past five
12 years and upon which FPL has relied in its continued
13 management and implementation of the EPU project. Such
14 a reversal would also ignore the benefit of economies of
15 scale and other advantages of proceeding with the
16 projects simultaneously.

17 That concludes the summary of my rebuttal.

18 MR. ROSS: Mr. Chairman, Mr. Reed is available
19 for cross-examination.

20 CHAIRMAN BRISÉ: All right. Thank you.

21 OPC?

22 CROSS EXAMINATION

23 BY MR. MCGLOTHLIN:

24 Q Hello again, Mr. Reed.

25 A Good morning, Mr. McGlothlin.

1 Q At page seven of your direct testimony, at
2 line five, you say that it's prudent to continue the
3 development of vision on nuclear capacity whenever that
4 capacity can be developed on an economic basis over its
5 useful life. That criterion -- and by which I mean the
6 economic basis that was used for life -- continues to be
7 important; does it not?

8 A It does.

9 Q At page 13 of your direct testimony, you
10 describe how you and your company performed your review
11 of FPL's activities in 2011, and you refer, among other
12 things, to internal controls; do you not?

13 A Yes.

14 Q And that would include such things as organ --
15 organizational structure?

16 A We reviewed the organizational structure.
17 Technically, that's not an item included within internal
18 controls.

19 Q Procedures, directives and guidelines, those
20 are part of internal controls; are they not?

21 A Yes, they are.

22 Q Would you agree with me that it's one thing to
23 have a body of adequate internal controls and another to
24 implement and adhere to them?

25 A Yes, both are important, the structure as well

1 as the conduct.

2 **Q And from time to time, in your review, you**
3 **have identified instances in which, in your opinion, FPL**
4 **has failed to adhere to or implement its internal**
5 **controls; have you not?**

6 A Yes, this is my fifth year of conducting these
7 reviews. In some prior years, I found a number of areas
8 where I recommended the Company should take action to
9 improve their procedures and conduct. This year, there
10 were only a couple of those items, but there is always
11 room for improvement. And we try and note it where we
12 think it exists.

13 **Q And one thing to which you refer in this cycle**
14 **is the area in which FPL uses something called**
15 **"undefined scope" as a form of contingency; is that**
16 **correct?**

17 A That was one area that we thought needed to be
18 updated, yes.

19 **Q And in your testimony, at pages 25 and 30, you**
20 **describe how, in 2011, FPL exhausted that component of**
21 **its estimate that consisted of undefined scope, correct?**

22 A It did by the end of 2011. We indicated we
23 thought it should be replenished. The Company agreed
24 and has done so.

25 **Q In your view, had FPL incorporated the type of**

1 contingency provision that you recommend or you think is
2 more appropriate, would that have had a bearing on FPL's
3 ability to more accurately estimate the ultimate cost of
4 the project?

5 A No. It would have raised the estimate by some
6 five to 10 percent at different times. At other times,
7 there was an adequate contingency established, but I
8 don't consider the accuracy of the estimate to be
9 improved by simply adding an additional five to
10 10 percent it becomes higher. So I think overall the
11 cost estimate is more reliable, but that doesn't really
12 mean you have an indication of greater accuracy.

13 Q At page 18 of your direct testimony, beginning
14 at line four, you recite the decisions that FPL made in
15 2011 that were the subject of your review; do you not?

16 A Yes, we recite some of them. Yes.

17 Q They involved staffing, management of the
18 implementation outage and reassessing the plans
19 scheduled for remaining outages, among other things?

20 A Yes, among other things.

21 Q Are these decisions the ones on which you base
22 your conclusion at page 25, that the increase in the
23 estimate was not the result of imprudent decisions?

24 A I would say that's based on the entirety of
25 the set of decisions that we reviewed, not just those

1 few.

2 **Q Well, when you referred to the entirety, what**
3 **decisions do you have in mind that were not listed in**
4 **response to the question at line one, page 18?**

5 A The decisions that are discussed in lines four
6 to 19 on page 18 are categories of decisions that were
7 made. So, for example, with regard to organizational
8 change or the schedule -- rescheduling of outages, there
9 were several decisions made within that scope, within
10 that bucket of decisions.

11 We looked at every management action that was
12 documented in calendar year 2011. So really, our review
13 simply has a greater level of detail. But I think these
14 buckets of decisions outlined there capture at a high
15 level what we looked at.

16 **Q And it is with respect to the decisions that**
17 **you describe between lines four and 15 on page 18 that**
18 **you then say at line 15, "as a consequence, it is my**
19 **opinion that FPL's 2011 expenditures have been prudently**
20 **incurred," correct?**

21 A Yes. In my view, you gauge prudence based
22 upon the quality of decision-making compared to a range
23 of reasonable behavior, and we found those decisions to
24 be well within that range.

25 **Q Would you agree with me that all the decisions**

1 that you list on page 18 were in the realm of moving the
2 activities forward towards completion?

3 A They were in the realm of evaluating the
4 project and moving it forward. We certainly also, as
5 discussed here, looked at the cost-effectiveness review
6 that was undertaken in 2011 and opined that we thought
7 that was reasonable as well.

8 Q I have a few questions about that. In your
9 March testimony at page 24, you said that Bechtel has
10 provided its cost estimate to complete the work, and
11 Siemens has similarly proposed increases due to the
12 complexity of the scope of work it is completing.

13 When you provide that testimony in March, did
14 you know then of the potential size of the increased
15 estimate that would be posted in late April?

16 A Not the specific number. I knew that -- as I
17 indicated in this testimony, that FPL would be filing a
18 cost increase on or before May 1st, but I did not know
19 the specific number.

20 Q When you became aware of either the specific
21 numbers or the approximate numbers, were those increases
22 separated into the cost for Turkey Point and St. Lucie
23 respectively?

24 A My information came from Mr. Jones' testimony,
25 so I simply had access to the information he filed with

1 regard to the level of support behind those numbers.

2 Q A few questions about your rebuttal testimony
3 now.

4 At pages two and three, you state that certain
5 costs are determined by factors that are outside FPL's
6 control; do you not?

7 A Yes.

8 Q When FPL receives a cost estimate from a
9 consultant, does FPL control what it does or does not do
10 with that estimate?

11 A Yes.

12 Q Does FPL control whether it continues a
13 project or halts a project?

14 A It has some control. Ultimately, the board
15 would also have final approval of the decision to move
16 forward or to terminate the projects.

17 Q At page three, line six, you testify that FPL
18 has, in your view, relied on the prior approach for
19 approving the feasibility of the overall uprate
20 activities on a consolidated basis; do you not?

21 A Yes.

22 Q I want to ask you some questions about what
23 you mean by that. By using the word "rely," you do not
24 mean, do you, that FPL was free to pursue one plant site
25 activity with the knowledge that it would be less than

1 **cost-effective as long as the overall analysis, when**
2 **absorbed, indicated feasibility.**

3 MR. ROSS: Mr. Chairman, I am going to object.
4 That question calls for testimony that has been
5 excluded by Commissioner Balbis' order on
6 August 27th excluding Issue 28-A from this
7 proceeding.

8 Mr. McGlothlin is pursuing questions about
9 taking the Turkey Point and the St. Lucie ports --
10 portions of the project separately, and this
11 Commission ruled last year and again on August 27th
12 that that was outside the scope of this hearing and
13 could not be considered.

14 CHAIRMAN BRISÉ: Mr. McGlothlin?

15 MR. MCGLOTHLIN: That ruling did not exclude
16 any testimony. It -- it denied an alternative
17 wording of an issue that OPC had presented, but the
18 testimony has not been excluded or stricken by any
19 means.

20 And further, that decision is going to be the
21 subject of a request for clarification or a
22 reconsideration that we intend to file tomorrow.
23 So I don't believe my question should be prohibited
24 by a -- a pending decision which it, first, does
25 not exclude any testimony, and second, is going to

1 be the subject of a request for clarification or
2 reconsideration.

3 CHAIRMAN BRISÉ: Okay.

4 MR. ROSS: Mr. Chairman?

5 CHAIRMAN BRISÉ: Yes, sir.

6 MR. ROSS: The -- if the issue has been
7 excluded from the case, then any testimony dealing
8 with that issue would not be relevant. And as to
9 the comment regarding the motion for
10 reconsideration, the prehearing order is the law of
11 the case until that motion is made and the Company
12 has a chance to respond to it.

13 CHAIRMAN BRISÉ: Okay.

14 MR. McGLOTHLIN: The -- one rationale for
15 excluding the issue was the fact that OPC had the
16 ability to present its testimony and all arguments
17 it wished to bear on the activities of FPL in the
18 existing issue. That being the case, I don't
19 believe -- I believe it to be prejudicial to
20 exclude these questions and testimony.

21 CHAIRMAN BRISÉ: Did you want to say
22 something, Commissioner Balbis?

23 COMMISSIONER BALBIS: Well, it was my ruling.
24 If you need clarification, I would be more than
25 willing to give it.

1 CHAIRMAN BRISÉ: Okay. Do you think your
2 ruling needs clarification, or was it clear as it
3 was ruled?

4 COMMISSIONER BALBIS: I think it was clear
5 that I did not exclude Witness Jacobs' testimony,
6 and I eliminated Issue 28-A because was subsumed in
7 28. And I allowed a modified --

8 CHAIRMAN BRISÉ: You mean 29-A?

9 COMMISSIONER BALBIS: And 29-A was allowed and
10 modified.

11 CHAIRMAN BRISÉ: Okay. Thank you.

12 Mary Anne?

13 MS. HELTON: If an issue was subsumed into
14 another issue, in my mind, that means that the --
15 the issue at hand is still live, and no one has
16 asked for testimony to be stricken. So it seems to
17 me that Mr. McGlothlin's cross-examination is
18 appropriate.

19 CHAIRMAN BRISÉ: Okay. Mr. McGlothlin, you
20 may proceed.

21 BY MR. MCGLOTHLIN:

22 **Q Do you recall the question?**

23 **A** Could I have it again, please?

24 **Q The question relates to your testimony to the**
25 **effect that FPL has relied on the initial approval of**

1 measuring the feasibility of its uprate activities on a
2 consolidated overall basis.

3 By the term "rely," you do not imply, do you,
4 that FPL could undertake one plant site activity that is
5 less than economic and rely on the overall calculation
6 to, more or less, carry one less than economic project
7 with one that is more cost-effective?

8 A That's not implied in my statement. What I am
9 saying is that FPL develops a -- an integrated cost
10 estimate for the set of four uprates across two sites
11 and four units. And that includes joint costs, shared
12 costs across the sites and across the units. It then
13 allocates those costs to the two sites, but that is an
14 allocation.

15 It's not meant to be a stand-alone cost
16 estimate, meaning what those uprates would cost if that
17 was all that was being performed. To my knowledge, it
18 has never performed a stand-alone cost estimate of what
19 just doing one or two or three uprates would look like.

20 So when I say it's relied on the Commission's
21 approach, the Commission's approach has been, let's look
22 at the entirety of the costs and the entirety of the
23 megawatts to determine if it's cost-effective. That's
24 what FPL has done. It's never attempted to say what a
25 stand-alone cost would be for a site or a unit and

1 evaluate that independently of the balance of the
2 activities.

3 Q Do you mean to imply with your testimony, in
4 which you say, among other things, that FPL has relied
5 upon the initial adoption of an overall approach to
6 feasibility that there is no set of circumstances under
7 which FPL, or absent FPL, the Commission, should review
8 the activities of a particular plant site on a
9 stand-alone basis?

10 A I don't have a problem with the Commission
11 considering that information, but it should do so
12 understanding that if, in fact, the activities at one
13 site were canceled, then the costs of the other site
14 would go up substantially.

15 So in terms of avoidable costs, the real
16 question about going forward should focus on the
17 avoidable costs: What could we save if we stopped today
18 or a year ago or at whatever point in time you look at?
19 And my point is, the allocated costs to that site are
20 not a measure of the avoidable costs.

21 Q I want to pursue that answer with a
22 hypothetical, and I am not asking you to agree with any
23 of the specific facts that are the subject of -- of a
24 dispute in this case, but assume a hypothetical in which
25 there is a development -- perhaps it's in the form of a

1 new NRC requirement that is applicable to and specific
2 to the Turkey Point Unit design and is not applicable to
3 St. Lucie -- and the impact of this new requirement is
4 to cause price increases that have the effect of
5 rendering the Turkey Point activity less than economic,
6 even taking into consideration any economies of scale
7 that have been identified earlier in the process -- but
8 when viewed on an overall basis, the cost-effectiveness
9 of the St. Lucie project is adequate to absorb that
10 situation and still show positive feasibility.

11 In that instance, would it be appropriate to
12 view the feasibility of the Turkey Point project on a
13 stand-alone basis and determine whether the maximum
14 value, as you describe in your testimony, to customers
15 would be -- would be realized better by canceling that
16 project and -- and continuing with St. Lucie -- is
17 that -- with that hypothetical, would you think that
18 would be appropriate to do?

19 A Not necessarily. Your hypothetical excluded
20 the most important consideration, which is the need to
21 separate the cost estimate between the sunk cost and the
22 avoidable portion of the to-go cost. The evaluation of
23 whether one should continue forward should be evaluated
24 strictly on the basis of avoidable to-go costs, without
25 regard to whatever the sunk cost or committed costs are

1 to that point in time.

2 If the Commission determined that that small
3 portion of the costs that were avoidable as of 2011, to
4 use your example, was rendered that uprate or that
5 site's uprates as being non-cost effective, then that
6 may be the basis for saying we should rethink this and
7 terminate the activity.

8 But, number one, that wasn't the case. That's
9 contrary to the facts before us. And, number two, I
10 don't think anyone has actually asserted that in this
11 case.

12 **Q You -- you understand that my hypothetical did**
13 **not ask you to assume the facts -- the disputed facts of**
14 **this example -- of this case? And --**

15 **A My point was simply that you left out the most**
16 **important consideration, which is the need to separate**
17 **the cost estimate between sunk costs and the avoidable**
18 **to-go costs.**

19 **Q Yes. Assume for the purposes of the**
20 **hypothetical that FPL's feasibility methodology that**
21 **excludes sunk costs and examines only to-go costs is**
22 **applied and the same result is reached. In that**
23 **instance, would it be appropriate to view that on a**
24 **stand-alone basis and determine whether it should go**
25 **forward or it should be canceled?**

1 A No. Again, you looked at to-go costs. The
2 vast majority of the to-go costs actually also are not
3 avoidable. If you, for example, have demobilization
4 cost, if you have contract cancellation costs, those are
5 also not avoidable, so those effectively are sunk even
6 though they are to be spent in the future.

7 So the refinement you need to have is to take
8 a portion of the to-go costs that are avoidable, meaning
9 net of cancellation costs, demobilization costs,
10 everything else and look at the cost-effectiveness of
11 just that portion going forward as compared to the loss
12 of the total megawatts of the uprate.

13 **Q So we should exclude sunk costs and we should**
14 **take into account any to-go costs that are avoidable in**
15 **the overall examination, correct?**

16 A That's correct.

17 **Q And if that is done and the conclusion is that**
18 **the Turkey Point activity, in this hypothetical, is less**
19 **than cost-effective, it should be examined on a**
20 **stand-alone basis?**

21 A I don't -- as I said, I don't have a problem
22 with the Commission looking at that fact if they chose
23 to do so. That's not the basis on which it has examined
24 the project so far, which was as an integrated project,
25 and I think the answer is abundantly clear in 2011 that

1 the avoidable costs were tiny compared to the value of
2 the megawatts that would be gained from the uprate.
3 But, again, I don't have a problem with the Commission
4 looking at that if they care to do so, but it is a
5 change from their methodology for the past five years.

6 **Q It is a change and should be done only if**
7 **circumstances warrant, correct?**

8 A I can agree with that.

9 MR. MCGLOTHLIN: No further questions.

10 CHAIRMAN BRIS : All right. Thank you, Mr.
11 McGlothlin.

12 Mr. Wright, Florida Retail Federation?

13 MR. WRIGHT: No questions, Mr. Chairman.
14 Thank you.

15 CHAIRMAN BRISÉ: Okay. FEA?

16 LT. COL. FIKE: No questions, Mr. Chairman.

17 CHAIRMAN BRISÉ: FIPUG?

18 MS. KAUFMAN: Yes, I have a few, Mr. Chairman.
19 Thank you.

20 CHAIRMAN BRISÉ: All right.

21 CROSS EXAMINATION

22 BY MS. KAUFMAN:

23 **Q Good morning, Mr. Reed.**

24 A Good morning.

25 **Q Good to see you again. It seems like we were**

1 just here.

2 A Yes.

3 Q I wanted to first ask you about the changes
4 that you made to your test -- your direct testimony on
5 page 48. I -- because I wasn't exactly sure, and let me
6 see if I understand the dates that are reflected on page
7 48, line 14, October 2012 to February 2014, those dates
8 are no longer accurate; is that right?

9 A Yes, line 14, line 19 and line 22 all contain
10 projected dates for subsequent COLA activities, and
11 those are now not certain given the delays that the
12 Nuclear Regulatory Commission has enacted.

13 Q It's -- it's safe to assume, is it not,
14 though, that the -- the dates will be further out than
15 the dates that are reflected on page 48?

16 A Yes. So I think that's safe to assume at this
17 point.

18 Q Okay. But -- but you don't -- you have -- you
19 don't have any feel for -- for the actual dates,
20 correct?

21 A Mr. Scroggs -- FPL Witness Scroggs will be
22 testifying to that issue. I think you should put the
23 question to him.

24 My understanding is the Company does not have
25 an updated schedule that it can rely on at this point,

1 but it's working with NRC to establish that.

2 Q Okay. If -- if you could turn back in your
3 direct testimony to page 10. And in the section that
4 begins on line 11, you talk about the prudence standard
5 and on -- starting on line 16, you say, "the second
6 feature is that the standard incorporates a -- a
7 presumption of prudence, which is often referred to as a
8 rebuttable presumption," correct?

9 A Yes.

10 Q And I -- I know you're not a lawyer, but --
11 but that is -- is your understanding of how things work
12 in Florida?

13 A Each state has adopted the Prudence Standard
14 in slightly different ways, and I am not aware of
15 whether the Florida Commission has specifically adopted
16 that rebuttable presumption. Some states explicitly do
17 so; others do not. That standard of a rebuttable
18 presumption actually comes from a U.S. Supreme Court
19 case from 1923, but I am not aware of whether this
20 commission has also specifically adopted that rebuttable
21 presumption.

22 MS. KAUFMAN: Commissioners, I have an order
23 that I would like to pass out just for reference.
24 It doesn't need an exhibit number, though.

25 CHAIRMAN BRISÉ: Sure. Someone will help you

1 with that shortly.

2 MS. KAUFMAN: Thank you.

3 Mr. Reed, I would like you to get one, but I
4 would like the Commission to take official
5 recognition Order Number PSC-09-0024-FOF-EI.

6 CHAIRMAN BRISÉ: All right. We will take
7 official recognition of PSC Order 09-0024-FOF-EI.

8 BY MS. KAUFMAN:

9 Q And, Mr. Reed, this is an order that
10 involved -- that's all I have -- that involved Florida
11 Power & Light and whether or not a hole that was
12 mistakenly drilled was -- was, you know, the result of
13 prudent or imprudent action on FPL's part.

14 If you would flip over to page 12, first
15 paragraph. And right in the middle of the paragraph,
16 you will see that I have underlined a sentence.
17 Would -- would you read that sentence? It says, "It has
18 been well established."

19 A I -- I see that sentence. Do you want me to
20 read it out loud?

21 Q Yes. Would you please?

22 A It says, "It has been well established, both
23 by us and the State's courts, that the burden of proof
24 lies with the utility who is seeking a rate change."

25 Q Okay. And then there are some citations

1 following it.

2 So you would agree, would you not, that there
3 is not a rebuttable presumption of prudence in Florida;
4 is there?

5 A No, I would not agree with that.

6 Q Even after reading this sentence from our
7 Supreme Court?

8 A That's correct.

9 Q Well, I think the order will speak for itself.

10 You talked with Mr. McGlothlin, and I think
11 you mentioned your testimony on page 25 and on page 30,
12 about some actions that you had suggested that Florida
13 Power & Light take, for example, on page 25, line eight,
14 to strengthen its processes and its compliance with
15 written procedures, correct?

16 A Yes.

17 Q What is your understanding, or do you know why
18 Florida Power & Light has not followed your advice?

19 A I think it has with regards to the contingency
20 which is what's discussed here, or undefined scope. It
21 did update that as part of its May 1st filing and added
22 a contingency to its cost estimate. It simply does so
23 now on a -- an annual cycle leading up to the May 1st
24 filing.

25 My observation was that, as of the end of

1 2011, they had drawn down that contingency to
2 essentially zero, and it needed to be replenished. And
3 it has done so as of May 1st.

4 **Q So the -- so your comment that appears on page**
5 **25, line eight through nine, is -- is no longer**
6 **applicable?**

7 A No, I think it's still applicable. I would
8 like to see that type of contingency kept in the cost
9 estimate at all times, but obviously, the most important
10 time is when you are reevaluating the cost-effectiveness
11 of the uprates, which occurs in the May 1st timeframe.
12 So I think it's still applicable, but it's worth noting
13 that the Company has complied with that in this May 1st
14 filing.

15 **Q And is your comment or -- or -- let's see,**
16 **your comment on page 30 at lines 16 through 17**
17 **compliance with written procedures with regard to**
18 **accounting cost contingency; is -- is that still an**
19 **appropriate comment in your testimony?**

20 A I think it remains appropriate. Again, the
21 Company's written procedures and policies apply every
22 day of the year, not just at the time of a filing. And
23 I would like to see that contingency maintained, but,
24 again, it has been updated and incorporated for the
25 purposes of evaluating this proceeding.

1 Q On page 36 of your direct testimony, beginning
2 at line 12, you talk about procedures relating to the
3 award of contracts that are not competitively bid; do
4 you see that?

5 A I do.

6 Q Do you know how many contracts in 2011 were
7 not competitively bid?

8 A I am looking to see if that number made it
9 into the testimony. I think I would have to go back to
10 my notes. I think the answer is, there were not that
11 many -- you're talking about for the EPU as opposed to
12 new nuclear? I should have clarified that.

13 Q Well, I am talking to whatever you are
14 referring to in your testimony beginning at line 12.

15 A On that page, I am talking about the EPU
16 project.

17 Q And --

18 A I would have to go back to my notes and check
19 to see how many were done through either a sole source
20 or a single source process.

21 Q And still on that same page, under your answer
22 that begins at line -- line 12 -- the question is at
23 line 12 and your answer follows -- you talk about there
24 being a memorandum completed for these projects that are
25 not bid; do you see that?

1 A Yes.

2 **Q Who approves at FPL whether a project will or**
3 **will not be bid?**

4 A It's approved at several levels. I think
5 three years ago, we had commented that the SSJ
6 documentation needed to be improved. The Company wrote
7 a new procedure to improve the quality of that SSJ
8 documentation, which includes a sign-off by, as I
9 recall, about five levels within the Company, including
10 both a supply chain as well as the project management
11 team.

12 **Q Is -- in the instances that you are describing**
13 **on page 36, is there one FPL person that has final say**
14 **on whether a project will be bid or not?**

15 A That depends on the level of the contract, the
16 size of the contract.

17 **Q Uh-huh.**

18 A For most significant contracts, it goes up
19 through Terry Jones, who is the VP on the uprate. But
20 depending on size, it could be -- if it's a \$10,000
21 contract at a lower level --

22 **Q Uh-huh.**

23 A -- or a multi-million dollar contract at a
24 higher level.

25 **Q Do you -- do you know what that rate point is?**

1 How -- what the value of a contract has to be before,
2 for example, it would need approval by Mr. Jones?

3 A Not without going back to the procedure.
4 There is a written procedure on that issue, which
5 actually gets updated from time to time with the dollar
6 amounts changing, so I would have to go back to review
7 the current procedure to tell you specifically what the
8 break points are.

9 Q And I -- I want to ask you just a couple of
10 questions on page 39, dealing with the vendor issue --
11 issues and the work stoppages. And as I understand it,
12 there was an issue with Bechtel and there was an issue
13 with Siemens; am I correct?

14 A There was an issue with Siemens. There have
15 been, I suppose, a series of performance issues related
16 to Bechtel, all of which have been dealt with without
17 any type of arbitration or litigation or settlement at
18 this point.

19 Q Let -- let's talk about the Siemens incident
20 first, which you began talking about on page 15, and
21 that's a question and your answer follows. So that
22 incident involved the vendor leaving a tool in the unit
23 that they should not have; is that right?

24 A Yes, an alignment pin within the stator core
25 of the generator.

1 **Q** Okay. And I am not asking you to reveal any
2 confidential information, but your testimony states that
3 a confidential settlement was re -- reached, I am
4 assuming between the vendor and FPL, correct?

5 A That's correct.

6 **Q** Do you know if -- assuming that it was a
7 monetary settlement, if any of those dollars will be
8 flowed back to the ratepayers?

9 A Yes, all of them will be.

10 **Q** Is the amount confidential?

11 A The aggregate amount is confidential. I can
12 state that the revised settlement includes full
13 restitution for FPL's \$3.5 million of direct cost that
14 it incurred and an additional sum on top of that. And
15 this -- that's the updated settlement, not the one that
16 was discussed here, but there was, as you know, an
17 updated settlement beyond that point.

18 **Q** And what about the Bechtel issues; did you say
19 that there has been some resolution of those issues?

20 A There has been an ongoing process in terms of
21 managing Bechtel's performance in terms of bringing in
22 subcontractors and vendors. Again, we are talking about
23 the EPU here --

24 **Q** Right.

25 A -- not anything new on nuclear. And that has

1 been satisfactory in terms of the enhancement to the EPC
2 vendors' performance through subbing out several areas
3 of the work to these vendors identified at the top of
4 page 39.

5 Q Okay. When you say on line 13 of page 29 that
6 the incident described there resulted in a -- a two-day
7 delay, I guess you could say, of work on the -- the
8 project, correct?

9 A You're talking about the December 2011 outage.

10 Q Uh-huh.

11 A Yes.

12 Q Right. Did the workout of this issue involve
13 the return of monies to the ratepayers, if you know --

14 A I believe --

15 Q -- and if it's not confidential?

16 A I believe it involved Bechtel absorbing the
17 incremental cost associated with the -- with their
18 compliance with the incorrect motor control center, but
19 I think, again, Mr. Jones can provide you with
20 additional details on that.

21 MS. KAUFMAN: Thank you. Commissioner, that's
22 all I have.

23 Thank you, Mr. Reed.

24 CHAIRMAN BRISÉ: All right. SACE?

25 MR. JACOBS: Thank you, Mr. Chairman.

1 CROSS EXAMINATION

2 BY MR. JACOBS:

3 Q Good morning, Mr. Reed.

4 A Good morning.

5 Q My name is Ennis Jacobs, and I want to ask you
6 a few questions.7 To start, what I would like to do is just kind
8 of briefly give a synopsis of what I believe to be
9 your -- the major issues in your testimony. Essentially
10 your position is that the Company is maintaining the
11 option to construct Turkey Points 6 and 7 effectively,
12 and -- and that -- that has been the primary focus of
13 their activity over the last year; is that correct?

14 A Within new nuclear, yes.

15 Q Within new nuclear. Thank you.

16 On page five your testimony, you give the
17 scope of the review that you -- that you undertook in
18 this. Beginning at, I think, line six, you -- where you
19 state you reviewed the processes and so forth, I won't
20 go through all of it. You -- but specifically on line
21 eight, you -- you look to assure that the Company was
22 meeting its strategic, financial and regulatory
23 objectives; is that correct?

24 A Yes.

25 Q Okay. Now, earlier in your testimony, you

1 indicated with regard to Witness Jacobs' testimony that
2 you would not agree -- I think that his testimony has to
3 do with the uprate, but you would not agree that the
4 Commission should consider any kind of a cap of recovery
5 with regard to -- to those expenses; is that correct?

6 A I think it's fair to say it can consider that.
7 I think it should be rejected by the Commission after
8 its considered it.

9 Q Okay. Does that opinion extend also to new
10 construction as well?

11 A I am sorry. Does it apply to new
12 construction?

13 Q Yes. Would you --

14 A No, that's the -- yes, the answer is that the
15 Nuclear Cost Recovery Rule should remain as it is -- has
16 been practiced and enacted, which is to permit the
17 recovery of prudently incurred costs. That's the
18 standard for cost recovery, not whether it's above or
19 below a cap.

20 Q Okay. Now, with regard to the -- and -- and
21 again, regarding new construction, where you -- you have
22 agreed that there is an option main -- being maintained,
23 is -- is it your understanding that option can -- can be
24 in place for up to 20 years?

25 A After the COLA has been issued, yes.

1 Q So -- so the option to -- to bill could
2 actually be in place for over -- for up to 20 years
3 after the COLA has been issued?

4 A That's correct.

5 Q And -- and is it your position that over the
6 course of the 20 years, there should be no cap as to
7 what -- what expenses should be considered?

8 A Not in terms of cost recovery. Again, I don't
9 have a problem with the Commission indicating it wants
10 the Company to come back if it projects costs are going
11 to be above a specified level if that's the basis for
12 deciding to go forward, but the standard for cost
13 recovery under the Nuclear Cost Recovery Rule is
14 prudence and, of course, that it's related to a covered
15 activity for nuclear construction or nuclear licensing.

16 Q On page nine of your testimony, I think
17 beginning at line six, you state that there are unique
18 aspects of nuclear construction that warrant the -- the
19 revisions in the -- the Cost Recovery Statute; is that
20 correct?

21 A That's correct.

22 Q Isn't it correct that the -- this statute
23 is -- does -- is not restricted to nuclear construction?

24 A That's correct. As I recall, it can apply to,
25 for example, integrated coal gasification, that kind of

1 activity.

2 Q So is it your view that there are similar
3 aspects of -- of coal gasification that -- that parallel
4 nuclear construction that -- such that they should be
5 grouped together in this statute?

6 A I haven't really reviewed the cost
7 characteristics of IGCC to determine whether they should
8 have a policy basis for being included in the same
9 statute. I am aware that they were, as I recall, also
10 an eligible category. They are also a very high capital
11 cost and relatively low operating cost type of
12 generating unit to add, but beyond that, I couldn't
13 really comment on the similarity.

14 Q Okay. Further down on that same page, you --
15 you reference the -- that the importance of the Cost
16 Recovery Statute has been noted in the financial
17 community, and specifically, you reference Standard &
18 Poor's; is that correct?

19 A Yes.

20 Q And you indicate that some -- some utilities
21 have acknowledged the benefits and necessity of a
22 cost -- cost recovery mechanism such as -- as the
23 nuclear cost recovery statute in Florida; is that
24 correct?

25 A That's correct.

1 **Q And -- and I believe your -- your conclusion**
2 **is that this provision supports a credit quality for**
3 **those companies; is that correct?**

4 A In general, it does two things: It leads to
5 companies being willing to take on the risks associated
6 with a nuclear construction program, and secondly, it
7 provides a supportive regulatory environment to maintain
8 lower cost of capital for companies that are undertaking
9 that.

10 **Q And one of the companies, I believe, that you**
11 **have indicated here is SCANA, which is the South**
12 **Carolina holding company; is that correct?**

13 A Yes.

14 MR. JACOBS: Mr. Chairman, I would like to
15 mark an exhibit.

16 CHAIRMAN BRISÉ: Sure. This will be Exhibit
17 114.

18 (Whereupon, Exhibit No. 114 was marked for
19 identification.)

20 BY MR. JACOBS:

21 **Q I will give you a moment to review that, Mr.**
22 **Reed.**

23 A I quickly reviewed it.

24 **Q Are you familiar with the Moody's Investor**
25 **Service?**

1 A I am.

2 Q And they are -- in fact, they are a national
3 ratings agent -- ratings agency; are they not?

4 A They are.

5 Q And this is a report of a ratings action with
6 regard to SCANA; is it not?

7 A It is, from September 2011.

8 Q If I can direct your attention to the bottom
9 of the first page, where it says rate -- ratings
10 rationale.

11 A Yes, I see that.

12 Q And if I -- if you may -- if you would, please
13 read into the record just that first sentence there.

14 A I am happy to do that. Although, I think the
15 following sentences are equally informative.

16 Q Please do. Please do. Go right ahead.

17 A I am sorry?

18 Q I am sorry. If -- I would be happy for you to
19 read the following sentence. That's not a problem.

20 A Okay. Beginning with the -- today's
21 downgrade, "today's downgrade of SCE&G's senior unsecured
22 and issuer rating to Baa2 considers the heightened risks
23 associated with a large nuclear construction program
24 extending through 2019 that is expected to be about
25 50 percent debt financed and will pressure future

1 financial metrics. In general, Moody's expects that
2 utilities embarking on a nuclear construction cycle will
3 have financial metrics that are robust for their rating
4 category.

5 In our view, SCE&G's financial metrics meet
6 that criterion for a Baa2 rating but not for a Baa1
7 rating. Moody's also takes into account a credit
8 supportive regulatory regime. South Carolina
9 legislation that incentivizes nuclear construction and
10 very manageable environmental compliance requirements,
11 which is balanced against the extreme asset
12 concentration that the summer station will represent
13 upon completion."

14 And that's, again, similar to what I mentioned
15 in my testimony. They specifically cite the new nuclear
16 cost recovery legislation in South Carolina, which is
17 very, very similar to what exists in Florida.

18 **Q Thank you.**

19 **If I can direct you on that same page where**
20 **you finished do you know two -- two paragraphs lower,**
21 **where the paragraph begins, "Moody's acknowledges," and**
22 **I won't have you read into the record the whole thing.**
23 **Let me see if I can isolate it here.**

24 **First of all, let me give you a chance to**
25 **review that and make sure you have read it.**

1 A Okay. Give my just a second.

2 I have reviewed that.

3 Q Okay. Will it be safe to say that this
4 ratings agency accepts the -- the presence of a
5 mechanism like the Cost Recovery Statute but in the face
6 of that statute, still exercises significant concern
7 about other risk factors facing this company?

8 A I don't think I would use the word
9 "significant concern." It's still a strong investment
10 grade rating, a Baa2, and it specifically acknowledges
11 the support of regulatory and legislative framework. I
12 think it's safe to say without that framework, that a
13 rating would be materially lower.

14 Q Would this action -- if -- if this were the
15 only action taken by Moody's, would it affect the cost
16 of capital for this company?

17 A Marginally to go from a Baa1 to a Baa2, so one
18 notch --

19 Q Okay.

20 A -- has very small affect on debt cost.

21 Q And I -- I would now direct you to the -- the
22 very last sentence in that same paragraph where we were
23 just, the one that says "Moody's is concerned," and I
24 ask you -- I would ask you to read that sentence.

25 A It says, "Moody's is concerned that future

1 rate fatigue caused by summer could put pressure on
2 regulators in the future to find offsetting reductions
3 in non-summer rates, especially if high rates deter the
4 industrial and commercial investment that has been a
5 mainspring of South Carolina's economic development
6 strategy."

7 **Q So it would -- it would, in your view -- and I**
8 **want to identify what those metrics are, but there**
9 **appear to be some identification of metrics that this**
10 **rating company, maybe others, are -- are monitoring to**
11 **determine long-term feasibility of these plants; is that**
12 **correct?**

13 **A I don't see a reference to metrics there of**
14 **long-term feasibility. Moody's takes cognizance of what**
15 **the Commission does and what the parties in those cases**
16 **are taking as -- as positions, and it knows, for**
17 **example, that under the Base Load Act in South Carolina,**
18 **that a cost-effectiveness review is conducted just like**
19 **it is in Florida. But I don't think it's safe to say**
20 **that Moody's does its own analysis of metrics that are**
21 **trying to determine the cost-effectiveness of the plant.**

22 **Q But -- but it does monitor them for -- for**
23 **purposes of determining the financial condition of the**
24 **Company?**

25 **A It monitors the regulatory proceedings for**

1 purposes of analyzing credit quality.

2 Q And in so doing, could that be a -- a relative
3 measure that could -- could have import for the
4 feasibility of the plant?

5 A I am not sure what you mean by relative
6 measure. Relative to what?

7 Q In other words, could it -- could it be a
8 template or a -- or a proposed standard for feasibility
9 of the plant, the fact that ratings agencies that have a
10 direct impact on borrowing costs for the company are
11 looking at these factors? Could that -- should that be
12 a factor in the feasibility of the plant?

13 A I think when you look at the feasibility of
14 the plant, you should certainly factor into it your
15 costs of capital, both current and projected costs of
16 capital. I think that's probably where the relevance of
17 the rating agency's views comes into the feasibility
18 analysis, but that would be where I think it ends as
19 well.

20 MR. JACOBS: Mr. Chairman, I would like to
21 mark a second exhibit.

22 CHAIRMAN BRISÉ: Sure. That would be 115.

23 (Whereupon, Exhibit No. 115 was marked for
24 identification.)

25 BY MR. JACOBS:

1 Q I will give you a moment to -- to --

2 A I have quickly reviewed it.

3 Q Again, this is a report from Moody's --

4 Moody's service, correct?

5 A That's correct.

6 Q Now, I would direct you to the -- again,
7 the -- the section labeled ratings rationale, and if you
8 would read into the record that sentence, please?

9 MR. ROSS: Mr. Chairman, I am going to object
10 to any questions based on this Exhibit. This
11 exhibit deals with a -- an IGCC plant. That's far
12 outside the scope of this proceeding, and it's far
13 outside the scope of Mr. Reed's direct or rebuttal
14 testimony. I think we are pretty far off the --
15 off the tracks here, and I think that we should
16 move on to something else.

17 CHAIRMAN BRISÉ: Mr. Jacobs?

18 MR. JACOBS: Thank you, Mr. Chairman. Mr.
19 Reed has given expert testimony as to, first of
20 all, the views of rating agencies towards
21 utilities. Second of all, as to prudence decisions
22 of -- of the companies.

23 We just had a discussion as to whether or not
24 there was some parallel relevance as to what the
25 ratings agencies look to and monitor and have --

1 how does that -- how should that be considered in
2 decisions with regard to prudence. That's the only
3 reason I introduced that. It's not -- it's not
4 really for the IGCC.

5 But earlier in his testimony, I think we did
6 acknowledge that the Florida Statute covers IGCC
7 and nuclear -- and Mr. Reed acknowledged that the
8 high capital cost and other factors parallel
9 between the two types of construction. That's the
10 only reason that this is -- this is being looked
11 at.

12 CHAIRMAN BRISÉ: Thank you. I -- I heard that
13 portion of the testimony, and I heard -- and I
14 looked at the other document. I think -- I agree
15 with FPL that this sort of moves us beyond the --
16 the testimony of this witness.

17 MR. JACOBS: Okay.

18 CHAIRMAN BRISÉ: So if you could move on to
19 your next question.

20 MR. JACOBS: Thank you.

21 BY MR. JACOBS:

22 **Q So, Mr. Reed, I believe in your testimony, you**
23 **indicated that ratings agencies are looking at this**
24 **statute -- at the Cost Recovery Statute for its benefits**
25 **to the companies with regard to, I guess, management of**

1 **risk. Is that a fair -- is that a fair statement?**

2 A Management of risk is one aspect of it. They
3 look at it in terms of timeliness of cost recovery, in
4 terms of an understanding of the framework for cost
5 recovery, here prudence as opposed to something that's
6 after-the-fact. So all of those are considerations that
7 the rating agencies have.

8 Q Isn't it true that the -- by the very
9 operation of the statute, that has not -- it doesn't
10 reduce the market risk or the financing risk or even for
11 that matter the construction risk; it simply transfers
12 them. Is that correct?

13 A I guess that depends on how you define the
14 risk. It takes the project risk, and it does two
15 things.

16 One, is it accelerates cost recovery so that
17 it occurs earlier, thereby reducing costs compared to
18 the other model of not putting anything into rates until
19 the plant is completed. So it actually effectuates a
20 significant cost reduction from achieving earlier cost
21 recovery.

22 And then, it apportions the risk between the
23 Company and its ratepayers based upon prudently incurred
24 costs being recovered, imprudently -- and imprudently
25 incurred costs not being recovered.

1 Overall, by establishing a clear framework, I
2 think it does significantly reduce the risk.

3 Q Okay.

4 A Anytime you have the rules known well in
5 advance, more appropriate decisions can be made and
6 overall risks can be reduced.

7 Q Did you complete? Thank you.

8 A Yes.

9 Q So -- and -- and so accepting your theory,
10 then, earlier in -- in your testimony, that prudent
11 standard has to do with this -- continuing this option
12 to build?

13 A That's part of the decisions that have to be
14 evaluated under the prudent standard, yes.

15 Q And so under that -- under that theory, so
16 long as that -- that option is there which we have
17 acknowledged could -- could be for over 20 -- up to 20
18 years, those costs would be subject to recovery?

19 A If the Commission determined that FPL's
20 actions in incurring costs were prudently incurred.

21 Q Now, are you -- do you have any opinion or
22 thought as -- well, strike that.

23 I think in our earlier conversation we
24 acknowledged that you don't favor the Commission
25 enacting some kind of a cap on costs to recover. Are

1 you aware of -- of a self-effectuating or self-acting
2 provision in the Cost Recovery Statute other than the
3 prudence determination that you just mentioned, which
4 would limit or monitor -- or restrict recovery of costs
5 by the Company?

6 A I am not quite sure I know what you mean by
7 self-acting. There is an annual review of prudence and
8 an annual review of cost-effectiveness. At any point in
9 time, the Commission could say we no longer consider
10 this to be appropriate to consider because -- or to
11 continue, I mean, because we consider it to be not
12 cost-effective going forward.

13 So I guess I would describe that as a process
14 incorporated into the Cost Recovery Rule, at which there
15 is an ongoing evaluation by both the Company and by the
16 Commission as to whether the project should be
17 continued.

18 Q Okay. That -- that's a great segue into my
19 next line of questioning.

20 I believe that in the Commission's 2011
21 order -- and I apologize, I -- I do not have the order
22 for you, but you had a chance to review that?

23 A I have.

24 Q And in that order, the Commission lists some
25 activities that were engaged in which it felt met that

1 **standard. I can read those for you, if you would like.**

2 A You're talking about for the new nuclear
3 projects?

4 Q **Yes. Yes.**

5 A I recall the general language.

6 Q **And in your -- in your testimony, you listed**
7 **activities that occurred, in your review, which you felt**
8 **supported a continued conclusion that the intent to**
9 **build was -- was in place and effective; is that**
10 **correct?**

11 MR. ROSS: Mr. Chairman, I would like to
12 request to the extent Mr. Reed is going to be
13 examined on the 2011 order, that the order be put
14 in front of him.

15 MR. JACOBS: I withdraw my question with
16 regard to the order.

17 CHAIRMAN BRISÉ: Okay.

18 BY MR. JACOBS:

19 Q **Let's go to your testimony at page 47.**

20 A I have that page.

21 Q **And there beginning at line 11 -- beginning at**
22 **line 11, you list the milestones that were achieved; is**
23 **that correct?**

24 A Yes.

25 Q **And -- and is it -- it would have -- is it a**

1 fair statement that all of these are almost exclusively
2 related to the licensing process?

3 A Yes, licensing and state certification.

4 Q Okay. Now -- I -- I will walk through a
5 couple of these. On line 18, you reference the
6 preparation of the state certification application.
7 That was actually started in 2008 and simply completed
8 in 2011; is that correct?

9 A I can accept that, subject to check, that it
10 started in 2008. It certainly started before 2009.

11 Q Okay. And further down on line 22, you recite
12 the NRC's approval of -- of the design change for the
13 AP1000; is that correct?

14 A Yes.

15 Q That -- that, in fact, was not a milestone by
16 the Company, but simply they -- it was a milestone in
17 moving forward with the project; is that correct?

18 A I think it's also a milestone for the Company
19 and all projects at that are using that technology. The
20 Company was an active participant in the design
21 certification process as well.

22 Q Now, did -- did you -- so you -- you had an
23 opportunity to review these activities specifically?

24 A Yes.

25 Q Okay. And were there any other incremental

1 activities beyond these that you would -- you would
2 point to -- to evidence the idea that there was an
3 intent to move -- move the project forward?

4 A I also mention on page 48 the drilling of the
5 exploratory underground injection control well. And
6 then, of course, all of the activities with regard to
7 the COLA.

8 Q Okay. I am going to come back to that -- to
9 that well in a moment, so those -- those would be the
10 activities that you -- that you -- you would point,
11 correct?

12 A Yes. There are also -- I mentioned the
13 continuation of the contract for the ultra heavy
14 forgings and some organizational changes that were made.

15 Q Now, earlier in -- in your conversation with
16 Mr. McGlothlin, there was reference to -- and again,
17 this is relating to the -- to the uprate project -- this
18 idea of undefined scope projects.

19 A Yes.

20 Q That -- would -- if that practice were adhered
21 to in the new construction, would your opinion be the
22 same, that it will be acceptable but -- but need to be
23 carefully monitored?

24 A The practice is not the same for new nuclear.

25 Q Okay. How would it differ?

1 A It has an explicit contingency built in and
2 verified by each of the departments within the new --
3 new nuclear organization. Currently, it's an aggregate
4 15 percent contingency. So it does fully comply with
5 the Company's policies.

6 Q So -- but it's not -- that contingency is not
7 reflected in your review as of this point?

8 A It is something we looked at. I commented on
9 it in my testimony here.

10 Q Okay. Now, have -- with -- having reviewed
11 this, your conclusion remains that -- I believe on page
12 54 of your testimony, that there is no decision that has
13 been made on whether or not to build Turkey Point 6 --
14 Turkey Point Units 6 and 7, correct?

15 A That's correct, to date.

16 Q And -- and in fact --

17 I am sorry. I didn't mean to cut you off.

18 A I said, that's correct, to date.

19 Q Okay. And, in fact, you -- you state that the
20 cost estimates will need to be much more definitive
21 until before the Company can commit to construction; is
22 that correct?

23 A Yes. I think that's one of the activities
24 that needs to be further developed before a decision to
25 move forward with construction occurs.

1 Q Now, isn't it true that -- that these projects
2 were -- were affected by some significant regulatory
3 delays?

4 A They will be, yes.

5 Q Yes. And I believe you mentioned that in
6 your -- in you review -- in your -- I am sorry, in your
7 summary?

8 A Yes, that's correct.

9 Q And -- and I believe you also indicated that
10 as a result of those --

11 First of all, could you, for the record,
12 explain what those delays are?

13 A There is two delays, one of which is probably
14 subsumed within the other. One delay is for the NRC
15 waiting for new information to be supplied to it in
16 response to its request for additional information, or
17 RAIs, by FPL in conjunction with work done by Bechtel.

18 The second is a delay in the issuance of new
19 nuclear licenses, which is an industry-wide delay
20 pending the Commission undertaking a rule-making and
21 probably an environmental assessment with regard to
22 what's called the Waste Confidence Rule for the storage
23 of nuclear waste at nuclear facilities.

24 Q And it's -- and I believe that the delay
25 caused by just those two could be 18 to 24 months; is

1 **that a safe estimate?**

2 A It's always risky to say it's a safe estimate.
3 It's -- the conventional wisdom is that the Commission
4 will act within 24 months to reinstate the licensing
5 process for new nuclear based on a waste confidence
6 rule-making. Whether that will then be appealed by
7 somebody to a court, which could extend the
8 recommencement of the issuance of licenses, is up in the
9 air.

10 But I think it's important to understand
11 that's only with regard to the issuance of the license.
12 The consideration of all of the COLAs is still ongoing
13 even though a final issuance of a -- of a combined
14 operating license will not occur until the Waste
15 Confidence Rule is resolved.

16 Q I believe in your -- in your summary, you -- I
17 am sorry, in your questioning from Mr. McGlothlin, you
18 indicated that another witness is actually going to give
19 testimony as to the impact of these delays on the
20 execution scheduling and cost analysis; is that correct?
21 Or is that true?

22 A I think FPL Witness Scroggs will have
23 additional information on that, yes.

24 Q Now, in -- in your view, though, you -- you
25 would have looked at the management and control measure

1 that were implemented by the Company to address these
2 delays; is that correct?

3 A Yes.

4 Q And were you -- were you able to do that?

5 A Those delays both arose in 2012. My review
6 was of calendar year 2011. Presumably, it will be part
7 of the review for next year.

8 Q Okay. So -- so not been determined at this
9 point?

10 A That's fair.

11 Q Were you -- were you able to determine if --
12 strike that.

13 From your response, it -- it appears that you
14 have been given the opportunity to understand that there
15 is an internal review underway with regard to these --
16 these two delays?

17 A That's correct.

18 Q Okay. So is -- so -- in -- in total, then,
19 it -- it would sound that your testimony is that there
20 is an effective option to build but certainly
21 significantly in-- affected by these new external
22 challenges; is that a fair statement?

23 A FPL is continuing to pursue the option to
24 build it, further developing the option to build. It
25 will be affected in terms of the timing by whatever

1 actions the NRC takes on reinstatement of the granting
2 of licenses. So, yes, that has the potential to delay
3 the issuance of the license.

4 Q Now -- and -- and I think we can agree that
5 that's not likely to occur before 2015, I think just
6 based on these -- these delays, correct?

7 A That's probably accurate, but again, that
8 question should go to Mr. Scroggs.

9 Q Okay. Does that affect your opinion about
10 there being a present option to construct?

11 A No. There have been earlier extensions of the
12 COLA process and COLA schedule where the Commission
13 itself has delayed its projected date for the issuance
14 of the FPL COLA. That doesn't change the
15 appropriateness of pursuing the option and maintaining
16 the option to build the unit through securing the -- the
17 actual combined operating license.

18 Q Now, I want to turn to a slightly different
19 topic for a moment. On page 48 of your testimony, we
20 just -- we just mentioned a moment ago that one of the
21 activities that you look to -- as evidence as ongoing
22 intent to -- or option to build was the drilling of this
23 well, correct?

24 A Yes.

25 Q And -- ant that your view included the

1 **internal controls and manage -- management and controls**
2 **related to decisions affecting that; is that correct?**

3 A That's parts of our scope of review, yes.

4 MR. JACOBS: Mr. Chairman, I would like to
5 mark an exhibit.

6 CHAIRMAN BRISÉ: Sure. That will be 116.

7 (Whereupon, Exhibit No. 116 was marked for
8 identification.)

9 BY MR. JACOBS:

10 Q I will give you a moment to review that.

11 A I have seen this before, so I am ready to
12 answer your questions.

13 Q I would -- thank you.

14 If I can direct over to page two of this --
15 first of all, would you describe this -- since you have
16 had a chance to review it, would you describe this
17 document for us?

18 A This looks to be a -- I am not sure what the
19 source is, but it is a letter from the Nuclear
20 Regulatory Commission to FPL's Chief Nuclear Officer,
21 Mano Nazar, with regard to the Commission's reaction to
22 certain information provided to it in request for
23 additional information in the COLA for Units 6 and 7 at
24 Turkey Point.

25 Q Okay. If you would, let me direct you over to

1 page two and --

2 A Okay.

3 Q The section labeled, alternative sites, and I
4 would like to go to the -- to the second paragraph in
5 that section. And if you would read into the record the
6 first sentence.

7 MR. ROSS: Mr. Chairman, before we go down
8 this road. Next week, we have Mr. Scroggs, who is
9 the director of the project, and Dr. Nils Diaz, who
10 is the former chairman of the Nuclear Regulatory
11 Commission, both of which their testimony would be
12 able to answer questions about this document.

13 Mr. Reed has a single mention in his testimony
14 about an under -- underground injection control
15 well, and other than that, he doesn't really
16 provide opinions on -- specific opinions as to the
17 NRC regulatory process. It might save some time by
18 waiting for those witnesses.

19 CHAIRMAN BRISÉ: Mr. Jacobs?

20 MR. JACOBS: I'm happy to limit my questions
21 on this to only Mr. Reed's opportunity to -- to
22 determine -- to have reviewed the management and
23 controls related -- excuse me -- to his testimony
24 and specifically on this section that he references
25 in his testimony.

1 CHAIRMAN BRISÉ: Okay.

2 MR. JACOBS: I'm happy to limit.

3 CHAIRMAN BRISÉ: You may proceed if it's in a
4 limited fashion.

5 BY MR. JACOBS:

6 Q So, Mr. -- Mr. Reed, in your testimony, you
7 indicate that, as one of the factors in -- in the
8 positive advancement of this project was the idea that
9 the Company set about drilling this well to determine
10 the hydrogeologic conditions at -- at the Turkey Point
11 site?

12 A That is an activity that occurred in 2011,
13 yes.

14 Q Okay. And that -- that is evidence also of
15 prudence; is that fair statement from your testimony?

16 A It was a prudent activity. It was a prudent
17 decision to move forward with that.

18 Q Okay.

19 A Yes.

20 Q Now -- so is it a fair statement that -- that
21 NRC's concern here is that it didn't have adequate
22 information to determine hydrogeologic conditions at
23 alternative sites?

24 MR. ROSS: Again, I am -- I am going to
25 object. We are very far outside the scope Mr.

1 Reed's testimony. Those questions about what the
2 NRC did or didn't do are really more appropriately
3 directed to Mr. Scroggs and Dr. Diaz.

4 MR. JACOBS: Mr. Chairman?

5 CHAIRMAN BRISÉ: Sure.

6 MR. JACOBS: The question I specifically asked
7 was, did Mr. Reed have an opportunity to review
8 management control decisions and controls with --
9 with regard to his statement in his testimony?

10 Now I am asking, did he have the
11 opportunity to -- well, let me strike that. That
12 may be a good point. Let me ask that -- the
13 appropriate -- the more appropriate question.

14 CHAIRMAN BRISÉ: Okay. Go right ahead.

15 MR. JACOBS: I will strike that question.

16 BY MR. JACOBS:

17 **Q Did you have an opportunity to review**
18 **management decisions and controls with regard to**
19 **alternative sites?**

20 A No, this issue arose in 2012. Our review was
21 of activities in 2011. Presumably, this will be one of
22 the scope of the review items in 2012 when that occurs
23 at the end of 2012.

24 **Q Now, when you say this occurred in 2012, you**
25 **mean the letter from the NRC, correct?**

1 A The issue was first raised in a discussion
2 between the NRC and the Company in the January 2012
3 timeframe. It was documented in this May letter, so all
4 of the scope of their concerns became known and became
5 something the Company could react to within 2012.

6 **Q If I may, can I direct you to the first**
7 **sentence in -- in the first paragraph of this section**
8 **here? Could you read that into the record, please?**

9 A The first paragraph under --

10 **Q Alternative sites.**

11 A -- alternative sites?

12 "As part of its review of Section 9.3 of the
13 Environmental Report, the NRC staff issued in April 2011
14 RAIs related to FPL's site selection process and
15 alternative sites."

16 **Q Is it your testimony that those --**
17 **What are RAIs, if you may?**

18 A Requests for additional information.

19 **Q So it's your testimony that these requests**
20 **from the NRC in April 2011 did not address this -- this**
21 **issue?**

22 A It's my understanding, as stated in this
23 letter, that the NRC's concern about water availability
24 stemmed from its discussion in February 23rd, 2012 with
25 the South Florida Water Management District.

1 Q Well, let me stay -- stay focused on what I --
2 on my promise, Mr. Chairman.

3 So and -- so then, my question was whether or
4 not, in your review of management and controls, you had
5 an opportunity to determine the actions and
6 determinations of the Company with regard to both the
7 site at Turkey Point and alternative sites, so I will
8 restate that question.

9 A Within those activities that existed within
10 2011, yes, we had the opportunity to review anything
11 that was part of the COLA process.

12 Q Okay. And alternative sites were a part of
13 the COLA process?

14 A They were, as part of the submissions made
15 actually earlier than 2011.

16 Q What's your opinion, then, with regard to the
17 findings of the NRC staff as to the filings related to
18 the alternative sites?

19 MR. ROSS: I'm going to object. He is asking
20 the wrong witness these questions. He can ask Dr.
21 Diaz and Mr. Scroggs next week; he can ask them the
22 same questions.

23 MR. JACOBS: Mr. Chairman, my -- my question
24 specifically was his determination with regard to
25 the Company's decision-making management and

1 controls as to the submissions on the alternative
2 sites? I understood that was part of the COLA
3 application and a part of his review.

4 CHAIRMAN BRISÉ: Okay. You may proceed.

5 BY MR. JACOBS:

6 Q Mr. Reed?

7 A As those activities occurred in 2011, we saw
8 nothing in our review of them that gave us any reason
9 for concern.

10 Q Okay. I -- there are other issues here that I
11 will put aside because you only reference the
12 geological.

13 Now, as a result of -- of this concern, the
14 NRC took some actions; did it not?

15 A Yes, in 2012.

16 Q What -- what other actions did it take?

17 MR. ROSS: Objection. This is outside the
18 scope of Mr. Reed's testimony. He just clarified
19 that his review of the project was a review of 2011
20 prudence, and he -- Mr. Jacobs continues to ask
21 about activities in 2012. We are definitely
22 outside the scope Mr. Reed's testimony.

23 MR. JACOBS: Mr. Chairman?

24 CHAIRMAN BRISÉ: Sure. Mr. Jacobs?

25 MR. JACOBS: Mr. Reed has given extensive

1 testimony about the length of this project, and we
2 have already had -- had a conversation about delays
3 that have been -- that have been imposed by the NRC
4 with regard to other regulatory issues. So my
5 question other only as what to do with NRC
6 regulatory decision, that has to do with timing of
7 this project.

8 CHAIRMAN BRISÉ: I think the objection isn't
9 to the -- the basic question, the -- the objection
10 is to the 2012, which Mr. Reed does not deal with.

11 MR. JACOBS: If I may.

12 CHAIRMAN BRISÉ: Sure.

13 MR. JACOBS: There -- the premise of my
14 inter-- questioning of mister -- I shouldn't say
15 interrogation -- questioning Mr. Reed, is whether
16 or not these concerns were known to the Company
17 during the periods of his review. He has indicated
18 that he wasn't -- he -- he was aware of the letter
19 but he was not aware of it during his review.

20 My question now has to do with whether or not
21 any delays relating to this action are a part of
22 his review. And if he says, no, it's no.

23 CHAIRMAN BRISÉ: Okay. You may pose that
24 question.

25 MR. JACOBS: Very well.

1 BY MR. JACOBS:

2 Q So, Mr. Reed, have you had the chance to
3 determine any delays based on this NRC action?

4 A No. That's not been part of our review.

5 Q Okay. Thank you.

6 MR. JACOBS: Just one moment.

7 BY MR. JACOBS:

8 Q So one brief -- one other brief question. Are
9 you aware of any other -- have you done a review, let me
10 put this way, of any other actions that were done in
11 this letter but as they relate to your prior assessment
12 under 2011 activities?

13 A Nothing in this letter changes my views with
14 regards to 2011 activities.

15 Q Okay.

16 A I continue to believe all of those decisions
17 and costs were prudent.

18 Q Now, in your testimony, you -- you again say
19 that cost estimates will need to be much more definitive
20 before F -- Power & Light -- Florida Power & Light
21 commits to construction phase. Is there anything about
22 this letter that affects that opinion?

23 A No. That opinion remains.

24 Q Okay. Is there anything about this letter
25 that you think would impact the Company's ability to

1 arrive at that cost estimate?

2 A No, I think the only impact of this letter
3 will be a slight impact on -- very slight on the cost of
4 obtaining the combined operating license and potentially
5 to delay the commercial operation date for the two
6 units. That may have an impact in terms of inflation,
7 but even that is speculative at this point.

8 Q Now, let me -- let's turn then to, I think, my
9 final area of questioning. If -- if you would turn over
10 to page 49 of your testimony.

11 A I have that.

12 Q Actually, that's not correct -- oh, I am
13 sorry. It is.

14 Now, beginning at line 19, you indicate
15 that -- that Turkey Point 6 and 7 have been affected by
16 issues at NR -- at the NRC; is that correct?

17 A Yes.

18 Q And then -- and -- we will keep our testimony
19 with what's been accepted, those earlier regulatory
20 delays that we talked about, and then, I believe on
21 page -- I believe it's page six of your testimony, you
22 talked also about some -- these companies that are
23 dealing with these challenges as well, and I -- I can
24 try and find it real quickly, if I can.

25 A I think you're talking about page 49, line 20.

1 **Q** I think you're right.

2 Now, one of the companies that you referred to
3 whose dealing with the -- these -- these challenges is
4 **Exelon**. Could you describe for me **Exelon's** -- who
5 **Exelon** is and what their role in the industry is?

6 A Exelon is a utility holding company that
7 operates several nuclear units under the operating
8 utilities of Commonwealth Edison and Constellation.

9 **Q** And **Exelon**, your review -- your -- your
10 mention here is based on your understanding of **Exelon's**
11 filing with the Commission -- filing of the NRC of -- of
12 a site application; is that correct?

13 A Originally, it was for a COLA, and then it was
14 changed to an early site permit application.

15 **Q** Okay.

16 A ESP.

17 MR. JACOBS: Mr. Chairman, I would like to
18 mark an exhibit.

19 CHAIRMAN BRISÉ: All right. 117.

20 (Whereupon, Exhibit No. 117 was marked for
21 identification.)

22 BY MR. JACOBS:

23 **Q** I will give you a chance to review that.

24 A Yes, I have reviewed it.

25 **Q** I would direct you to the first page of

1 this -- to this letter and -- well, I will just --
2 what's your -- what's your view of -- of what this
3 letter conveys?

4 A Exelon has made the decision to cancel the
5 Victoria County early site permit project.

6 Q And that's, in fact, the docket you just
7 referred to that was transferred from a COLA to an early
8 site permit; is that correct?

9 A That's correct.

10 Q I would -- and I would like to direct you to
11 the sentence that begins, "Exelon has reassessed," the
12 middle of the page, the first page.

13 MR. ROSS: Mister -- Mr. Chairman, I would
14 like to object. I think that this line of inquiry
15 is outside the scope of Mr. Reed's testimony. The
16 focus of Mr. Reed's testimony that Mr. Jacobs
17 pointed to is -- is NRC review schedules of
18 projects un-- being undertaken by other utilities.
19 This subject matter has to deal with the actions of
20 Exelon, not the NRC, so I think that's without --
21 outside the scope of Mr. Reed's testimony.

22 CHAIRMAN BRISÉ: Mr. Jacobs?

23 MR. JACOBS: Actually, this goes back to an
24 earlier question that we talked about, and I was
25 referring back to that. And that has to do with

1 the impact of -- of these long review cycles and
2 whether or not he believes this action had any
3 relevance -- was in -- was a part of that concern
4 or not.

5 MR. ROSS: Again, that -- that line of inquiry
6 goes to actions of the -- of an NRC docket, has
7 nothing to do with this proceeding. I don't see
8 the relevance of this testimony.

9 CHAIRMAN BRISÉ: Mr. Jacobs, with respect to
10 this document, you said you want to take him back
11 to --

12 MR. JACOBS: Earlier --

13 CHAIRMAN BRISÉ: -- a prior question?

14 MR. JACOBS: Yeah. Earlier in -- in Exhibit
15 114, we -- we discussed -- we discussed --

16 CHAIRMAN BRISÉ: The Moody's report.

17 MR. JACOBS: Right. We discussed the
18 statement in that report that one of the concerns
19 with the ratings agency was -- was the long time
20 cycles of these -- of these approval processes,
21 and -- and now, I want to take that full circle.

22 MR. ROSS: The Exelon documents, with all due
23 respect, don't say anything about --

24 CHAIRMAN BRISÉ: Right.

25 MR. ROSS: -- the reasons for withdrawal of

1 the application dealing with the long NRC review
2 cycles. They -- they cite economic conditions. So
3 we are nowhere within the scope Mr. Reed's
4 testimony, nor do we relate to the prior
5 questioning by Mr. Jacobs.

6 MR. JACOBS: If I may, Mr. Chairman.

7 CHAIRMAN BRISÉ: Sure. You may respond, and
8 then I will provide my ruling.

9 MR. JACOBS: I think it absolutely falls
10 squarely within the scope of Mr. Reed's testimony.
11 His testimony has been that he has done a review of
12 this company's management and controls, which
13 includes, by his testimony, financial, strategic
14 and other aspects of the decision-making in this
15 company.

16 Here is a decision by one of the peers that
17 has everything to do with those very exact factors,
18 financial, strategic and other matters relating to
19 the -- this industry.

20 And my question simply is, did he have -- did
21 he monitor whether or not this company was in
22 contact with the same factors that were in play
23 here, and did he monitor how the Company was making
24 decisions related to these same factors that were
25 in play here?

1 CHAIRMAN BRISÉ: In -- in looking at the
2 document, I think that we can move beyond this
3 document to get to the information that you're
4 seeking.

5 MR. JACOBS: Okay.

6 BY MR. JACOBS:

7 **Q Mr. Reed, are you aware of -- of companies --**
8 **of the strategic and financial challenges that are**
9 **affecting new construction in the nuclear industry?**

10 A Yes, I am.

11 MR. JACOBS: Mark another Exhibit,
12 Mr. Chairman?

13 CHAIRMAN BRISÉ: Sure. 118.

14 (Whereupon, Exhibit No. 118 was marked for
15 identification.)

16 CHAIRMAN BRISÉ: Mr. Jacobs, just for sort of
17 housekeeping purposes, do you have a whole lot more
18 for this witness?

19 MR. JACOBS: This is my last line of
20 questions, Mr. Chairman. Probably --

21 CHAIRMAN BRISÉ: This is your last line of
22 questions?

23 MR. JACOBS: Yes, probably another 10, 15
24 minutes.

25 CHAIRMAN BRISÉ: Okay.

1 MR. JACOBS: Maybe not. I may not need that
2 much.

3 CHAIRMAN BRISÉ: Okay.

4 BY MR. JACOBS:

5 Q Mr. Reed, have you had a chance to review
6 this?

7 A Give me just a minute.

8 MR. ROSS: Mr. Chairman, this -- can I -- can
9 I ask for some clarification on this document?
10 This is not a self-authenticating document. It
11 appears to be a chart prepared by someone unknown
12 with information in it. We have no information as
13 to the accuracy of the information in this -- in
14 this untitled chart. I would like to ask for some
15 clarification on what is being put in front of the
16 witness.

17 CHAIRMAN BRISÉ: Sure.

18 Mr. Jacobs?

19 MR. JACOBS: By all means. This actually
20 is -- is simply is exactly that, and it's only
21 reference. I am really trying to get -- I asked
22 Mr. Reed if he was aware of the various -- of the
23 general strategic and industry status of -- of
24 applications.

25 So I am really happy to take his testimony

1 about what he knows. This is meant simply -- I
2 don't -- I don't even need it entered into the
3 record. I want his -- I really just want his
4 testimony about what he's aware of with regard to
5 applications.

6 MR. ROSS: I am not sure, Mr. Chairman, that
7 this document -- he -- I would -- I would say
8 subject to potential objection as to relevancy, Mr.
9 Jacobs can ask Mr. Reed if he knows the status of
10 certain projects if it relates to his testimony and
11 if it's relevant. But putting a document like this
12 in front of him without any pedigree whatsoever and
13 asking him to comment on it, I don't see how it
14 adds any probative value to the evidence in this
15 proceeding.

16 MR. JACOBS: Here is what I can agree to do,
17 we will simply use it for -- as a -- as a
18 demarcation point to just walk through the
19 projects. I -- that's all I really wanted it for
20 us to have a common point of reference; that's all
21 it's for.

22 CHAIRMAN BRISÉ: Okay. You may proceed.

23 Mr. Jacobs?

24 MR. JACOBS: Are you ready? I am sorry.

25 THE WITNESS: I am ready.

1 BY MR. JACOBS:

2 Q So earlier, you indicated that you had some
3 understanding of the relative status of the pending
4 applications, and without getting into any real
5 controversy regarding this document, what I would really
6 like to ask you is, in your -- are the statuses listed
7 consistent with your understanding? And if not, please
8 feel free to -- to support -- to supplement that.

9 A No, this document is not consistent with my
10 understanding of the status of each of these projects.

11 Q Okay. Now, so if you don't mind, I would like
12 to just walk through several of these and give -- and I
13 am going to ask you for your testimony about your --
14 your knowledge of these -- of these dockets.

15 MR. ROSS: Mr. Chairman, could I ask that --
16 that the counsel explain what the relevancy is of
17 this line of questioning and how it relates to Mr.
18 Reed's testimony as all?

19 MR. JACOBS: Let me back into the question. I
20 think it may help, Mr. Chairman. I will go back to
21 where we were originally. If I may.

22 CHAIRMAN BRISÉ: Yeah. If you could make the
23 connection of the -- the relevance of -- of this
24 document or the line of questions --

25 MR. JACOBS: Very well.

1 CHAIRMAN BRISÉ: -- to -- to Mr. Reed's
2 testimony.

3 MR. JACOBS: I will.

4 BY MR. JACOBS:

5 Q Mr. Reed, earlier we -- in our discussion, I
6 think, we were focused on the idea that in your
7 assessment of the -- and I think it's clear in your
8 testimony that part of your purpose of your testimony is
9 to give -- give an opinion on the management decisions
10 and controls, correct?

11 A Yes.

12 Q So -- and I think we have also -- we have also
13 established that you kind of narrowed that down to the
14 year 2011?

15 A That was the scope of my testimony this year,
16 yes.

17 Q Okay. And you have reviewed the prior years,
18 but let's stick to 2011. So what I am -- and I think
19 you also -- we also established in your testimony that
20 part of your scope was financial, strategic decisions
21 that were made by the Company?

22 A Yes.

23 Q So my question is simply this, in the scope of
24 that review, did you assess how the Company was
25 monitoring the challenges of the nuclear construction

1 **industry?**

2 A Perhaps broadly. We state in my testimony
3 that one of the things that FPL does and does well is
4 participate in external review groups. So, for example,
5 the review -- review groups for APWR owners or potential
6 owners, people at that are sponsoring that technology,
7 as well as other nuclear organizations.

8 I don't say anything in my testimony with
9 regard to monitoring individual other projects, but I do
10 note that they participate in external activities that
11 are appropriate for and consistent with its desire to
12 move forward with Turkey Point 6 and 7.

13 Q And so does that -- would that then denote --
14 strike that.

15 So I understand that you are saying that there
16 may not have been an assessment of individual peer
17 applications; is that correct?

18 A That's correct.

19 Q And so there may not have been an
20 understanding of the challenges that are -- that are
21 affecting other major capital construction projects,
22 correct?

23 A I think that question should go to
24 Mr. Scroggs.

25 Q Okay. Fair enough.

1 And I think this will be my last line of
2 questioning, so to the ex -- well, before I go there.
3 If there -- would you have had the opportunity to review
4 the Company's assessment of -- let me see how to
5 properly word this -- as to this -- the fine line
6 between invoking the option to build, in 2011, would you
7 have had an opportunity to review the Company's
8 assessment of any of the external strategic or financial
9 issues facing the nuclear construction issue --
10 industry, I am sorry?

11 A I have not reviewed any document the Company
12 prepared, if there are any, relating to industry-wide
13 issues associated with new nuclear construction.

14 Q Okay. So just to kind of summarize, there --
15 there, then, is this ongoing option to build, and we --
16 and you would -- you -- I think your testimony is that
17 there should not be any real consideration of a cap of
18 recovered expenses with regard to that?

19 MR. ROSS: Objection. Asked and answered.

20 CHAIRMAN BRISÉ: I would agree. That -- that
21 question has been asked and answered.

22 BY MR. JACOBS:

23 Q So in the face of that, then, if -- if the --
24 can you determine if there is any internal mechanism
25 audit or any other fact that is being produced or

1 evaluated by the Company which would tag internal
2 capital investment to external market risk?

3 A Yes. That is an issue that's addressed by the
4 feasibility analysis that Dr. Sim has put forward in his
5 testimony for new nuclear. It is specifically a
6 comparison of projected costs against -- and including
7 market risk in that, against the benefits of new
8 nuclear. So that's fully captured within the economic
9 feasibility analysis.

10 Q Understood. My question, I think, was a
11 little bit different. My question was, does that
12 determination get calibrated -- is that determination of
13 the positive nuclear investment decision, does it get
14 calibrated by the forces of external challenges in the
15 industry?

16 A Partially. It gets calibrated by examining
17 the APWR cost estimates that FPL has against the cost
18 estimates of other APWR sponsors, and Mr. Scroggs can
19 speak to that.

20 Q So to the extent other -- when you -- strike
21 that.

22 When you say other APWR sponsors, what does
23 that refer to?

24 A Advanced Passive Water Reactor, the technology
25 that FPL has select.

1 Q So to the extent other companies who will --
2 will be proposing to build those type of reactors?

3 A I am sorry, Advanced Pressurized Water
4 Reactor.

5 Q So to the extent there are other companies out
6 there who are planning to build those type of reactors,
7 there will be some process of evaluating what's
8 happening with regard to their cost overruns and project
9 delays, correct?

10 A The only ones that are in any type of
11 construction right now are Vogtle and the SCANA project.
12 It does monitor those projects, and it monitors the cost
13 estimates for the other projects that are in the
14 licensing stage.

15 MR. JACOBS: Okay. Just one moment,
16 Mr. Chairman. I think I may be about done.
17 BY MR. JACOBS:

18 Q Do you have any opinion as to the
19 industry-wide regulatory market forces in 2011 whether
20 or not they would affect your review of Florida Power &
21 Light?

22 A As I understand your question, is there any
23 industry action in 2011 that affected my view of the
24 prudence of FPL's activities in 2011?

25 Q Thank you very much. You are very --

1 A No, there is nothing that led me to conclude
2 that FPL's activities were anything other than prudent.
3 There is no action or event that occurred in the
4 industry that would change that view.

5 **Q And do you have any opinion that -- whereas**
6 **any activities in 2011 would have complicated the -- the**
7 **efforts -- the ongoing internal efforts to develop new**
8 **execution schedules and cost estimates?**

9 A I talk about events that complicated that in
10 terms of both Fukushima and the earthquake in Virginia
11 that affected the North Anna Unit, and I discussed how
12 the Company was responding to those challenges.

13 **Q You have been very gracious. Thank you very**
14 **much.**

15 CHAIRMAN BRISÉ: Thank you, Mr. Jacobs.
16 Ms. Bennett?

17 MS. BENNETT: Mr. Chairman, I have about 10 to
18 15 minutes of questions, and most of them would be
19 based upon a confidential document I would like to
20 have handed out now.

21 CHAIRMAN BRISÉ: Okay.

22 MS. BENNETT: And as you're looking at the
23 document, I won't ask that it be marked for
24 identification. It is already in the comprehensive
25 exhibit list as number 100. It's Staff's Exhibit

1 to Fisher and Rich's testimony.

2 MR. ROSS: Mr. Chairman, while the
3 confidential exhibit is being passed out, I would
4 note that only OPC and SACE have signed a
5 confidentiality agreement that would allow them to
6 view this document. They are the only parties that
7 can see it unless the other parties were to sign
8 confidentiality agreements right now.

9 CHAIRMAN BRISÉ: Okay. Thank you.

10 THE WITNESS: If I could also just correct one
11 statement I made. My references to the APWR should
12 have been to the AP1000; that's the name of the
13 technology.

14 CHAIRMAN BRISÉ: Okay. Thank you.

15 MS. BENNETT: Mr. Reed and Commissioners, I
16 will be focusing on page 41 and 42 of the
17 confidential document, and there are some items
18 that are highlighted in yellow. As we discuss this
19 document, we need to make sure that we do not speak
20 out loud the doc -- the information that is in
21 yellow. So as Mr. Reed is responding to my
22 questions, I would caution you not to verbal --
23 verbalize the information that's deemed
24 confidential by Florida Power & Light.

25 May I begin?

1 CHAIRMAN BRISÉ: Yes, you may.

2 CROSS EXAMINATION

3 BY MS. BENNETT:

4 Q Commissioners, this is -- this line of
5 questioning is in reference to Issue 29, and that's the
6 prudence of FPL's contracting management and also 29-A
7 for 2011. And I am also talking with Mr. Reed about his
8 rebuttal testimony.

9 Specifically, I would ask you that turn to
10 page two of your rebuttal testimony, Mr. Reed. And on
11 that page, you disagreed with Commission Management
12 Audit Staff's application of the Prudence Standard as it
13 applied to both the Siemens contract and with the
14 Bechtel management; is that correct?

15 A In general terms, yes.

16 Q And subsequent to your rebuttal testimony, I
17 understand that FPL has renegotiated a settlement
18 agreement and filed supplemental testimony in this
19 docket, is that correct, on the Siemens contract?

20 A That's correct.

21 Q Okay. So really, the remaining disputes you
22 have with the management audit is in reference to the
23 Bechtel contract; is that correct?

24 A Yes, although there was not a specific
25 recommendation in terms of any cost disallowance or

1 other finding with regard to Bechtel.

2 Q That was exactly my next question. There is
3 no financial recommendation from management audit to
4 reduce any allowance for FPL for 2011; is that correct?

5 A I think that's correct. I view it as sort of
6 a heads up.

7 Q Okay. I would like for you to go ahead and
8 turn to page 41 of the Exhibit FR-1, and that's
9 subsection 3.3.1, Bechtel Performance Evaluation. Are
10 you there?

11 A I am. And to be clear, are only the yellow
12 portions the confidential material?

13 Q I am going to look to FPL to confirm that, but
14 that is my understanding.

15 MR. ANDERSON: We will confirm that.

16 MS. BENNETT: Okay.

17 BY MS. BENNETT:

18 Q In this first paragraph under 3.3.1 regarding
19 the Turkey Point, the Commission staff reported the
20 results of 2010 and 2011 that evaluations by FPL by
21 Bechtel. Do you see that?

22 A Yes.

23 Q Okay. And then immediately under that
24 paragraph is a bullet point list of comments. Do you
25 see those?

1 A I do.

2 Q And those comments continue on to page 42?

3 A That's correct.

4 Q And of course, these are all confidential; is
5 that correct?

6 A Yes.

7 Q According to the footnote on the bottom of the
8 page 41, those comments were from the Contractor
9 Evaluation Report dated December 2011. Do you see that?

10 A I do.

11 Q And could you explain what a Contractor
12 Evaluation Report is?

13 A It's an internal documents produced by FPL in
14 response to an activity that they initiated to evaluate
15 performance, in this case, of the EPC vendor. This is
16 all on the -- yes, I believe this is all on the uprate,
17 and it is to basically take lessons learned from past
18 activities and to try and improve performance going
19 forward.

20 Q So I -- I think it's a fair characterization
21 that all of these bits of information that are
22 confidential on this page 41 and continuing to 42 are
23 comments by FPL about Bechtel; is that correct? Is that
24 a good characterization?

25 A Yes.

1 Q Okay. And so that's a management function of
2 FPL to manage their contractor; is that correct?

3 A Yes.

4 Q Okay. On page 42, the last paragraph in
5 Section 3.3.1. I will give you a minute to look at
6 that.

7 A I reviewed that.

8 Q Again, and most of this is confidential, so we
9 will be cautious on how we approach this. But it does
10 discuss -- audit staff discusses its concerns about
11 Bechtel and the effect it may have on further project
12 delays and increased costs. Do you see those concerns
13 raised by staff?

14 A I do.

15 Q Turning to page nine of your rebuttal
16 testimony.

17 On page nine, I think it's a correct, accurate
18 representation that you state that Commission's audit
19 staff's concerns are misplaced because staff is focusing
20 on the performance of the vendor, but isn't it true that
21 each of the auditor's comments are reporting what FPL
22 has done regarding Bechtel?

23 A That's correct. My point was that FPL's
24 actions and the cost recovery associated with those
25 actions should be based upon whether FPL was prudent and

1 diligent in managing the contractor.

2 **Q Okay. But audit staff is not recommending any**
3 **disallowance for 2011 based on these comments?**

4 A That's true. My concern overall -- what I
5 said overall was I thought their concerns were misplaced
6 because I do believe that the issues raised in that
7 performance evaluation are being fully addressed by FPL.

8 **Q But isn't it true that the audit staff is**
9 **warning about future delays and future costs that this**
10 **could cause?**

11 A It's warning about the potential for those,
12 yes.

13 **Q Okay. And isn't it appropriate that the audit**
14 **staff bring this type of information to the Commission**
15 **for its consideration?**

16 A Again, I don't have a problem with that. I
17 think the issue with regard to -- this was, to be
18 honest, taken in conjunction with the recommendation on
19 the Siemens contract. My view is quite clearly that the
20 prudence of FPL's actions should determine cost
21 recovery, and if it prudently manage -- manages its
22 contractors, it has fulfilled its duty. That was my
23 only point.

24 MS. BENNETT: I have no further questions of
25 this witness.

1 CHAIRMAN BRISÉ: Thank you. Commissioners?
2 Commissioner Brown?

3 COMMISSIONER BROWN: I just have one question
4 regarding your direct testimony on -- and it's just
5 out of curiosity, really. On page 22, lines seven
6 through nine, you -- you talk about employee
7 turnover. Can you address why it increased a
8 little bit on the EPU?

9 THE WITNESS: I can start and, again, I would
10 invite you to put that question to Mr. Jones as
11 well.

12 But part of it is associated with the changing
13 nature of the EPU as it moved from an engineering
14 and design and licensing phase to an implementation
15 phase. The best people for that job changes as the
16 nature of the job changes, and, for example, the
17 decision to move forward with separate
18 implementation owners for the different sites
19 contributed to, I think, a sense of replacing
20 individuals or individuals deciding they should
21 move on as being appropriate at that time.

22 In addition, the industry is very, very
23 competitive right now in terms of attracting top
24 talent. So many companies look at FPL and say,
25 that is one of the top performers in the industry

1 and if we can recruit people away from them, we are
2 going to try and do it.

3 So both of those are factors that entered into
4 that, I think, in 2011.

5 COMMISSIONER BROWN: And did the -- I am
6 assuming that affected the costs associated with
7 management?

8 THE WITNESS: Somewhat. Although, again, as I
9 mention later on in that same page, FPL, really the
10 NextEra nuclear organization, is almost uniquely
11 able to deal with that kind of turnover by moving
12 people from the unregulated nuclear units back to
13 Florida for the benefit of Florida ratepayers.

14 It's a great benefit to be able to draw from a
15 broader talent pool and bring in, in fact,
16 individuals that who are associated with the uprate
17 that occurred in -- at the Point Beach facility and
18 to bring that experience down to Florida as, again,
19 incorporating lessons learned.

20 COMMISSIONER BROWN: Did -- did FPL utilize
21 NextEra employees then?

22 THE WITNESS: They did. If you look at lines
23 14 and 15, they, in fact, took employees that were
24 in other areas of NextEra's nuclear business, and
25 they had gone through the uprate at Point Beach and

1 reassigned them to Florida to help incorporate
2 those lessons learned.

3 COMMISSIONER BROWN: Okay. Thank you. That's
4 all.

5 CHAIRMAN BRISÉ: Commissioner Balbis?

6 COMMISSIONER BALBIS: Thank you.

7 I have one quick question for Mr. Reed. You
8 indicated in an answer from, I believe, Ms. Kaufman
9 one of her questions about a resolution with
10 Siemens --

11 THE WITNESS: Yes.

12 COMMISSIONER BALBIS: -- and resulting in
13 dollars flowing back to the customers, I think
14 that's a term you used, but my question is, are
15 there any terms to that resolution that is
16 dependent upon this commission disallowing any
17 costs?

18 THE WITNESS: No.

19 COMMISSIONER BALBIS: Okay. Thank you.
20 That's all I had.

21 CHAIRMAN BRISÉ: All right. Thank you.
22 Before we go to redirect, it's way past 12:30. I
23 want to go ahead and give the court reporter five
24 minutes, and then we will get into --

25 MR. ROSS: Maybe I can help, Mr. Chairman.

1 The Company has no redirect.

2 CHAIRMAN BRISÉ: Perfect. That's what I was
3 hoping you would say.

4 All right. Let's deal with exhibits.

5 MR. ROSS: The company moves admission of
6 Exhibit 76 through 80.

7 CHAIRMAN BRISÉ: Okay. We will move Exhibit
8 76 through 80. Seeing no objections.

9 (Whereupon, Exhibit Nos. 76 through 80 were
10 received into evidence.)

11 MR. JACOBS: Mr. Chairman, I believe we had
12 Exhibit 114 and 116.

13 CHAIRMAN BRISÉ: Right.

14 MR. JACOBS: And -- and with all due respect,
15 with regard to the determination on Exhibit 117, I
16 would like to preserve subject for the record.

17 CHAIRMAN BRISÉ: Okay. 117 was the
18 Victoria --

19 MR. JACOBS: Station.

20 CHAIRMAN BRISÉ: -- station issue. Was there
21 a --

22 MR. ROSS: Yeah, the Company objects to the
23 admission of 117 as to relevancy.

24 MR. JACOBS: If you -- we moved it for
25 admission. I thought you disallowed it.

1 CHAIRMAN BRISÉ: Right. We did disallow that.
2 So we will move into the record 114 and 116.

3 (Whereupon, Exhibit Nos. 114 and 116 were
4 received into evidence.)

5 CHAIRMAN BRISÉ: Okay. Seeing no objections,
6 those have been moved into the record.

7 MR. ROSS: Mr. Chairman, we would ask that Mr.
8 Reed be excused for the duration of the cost
9 recovery hearings.

10 CHAIRMAN BRISÉ: Okay. We will excuse Mr.
11 Reed from these hearings.

12 THE WITNESS: Thank you. And thank you for
13 taking me out of order.

14 CHAIRMAN BRISÉ: All right. Our -- well, I
15 won't say our pleasure, but we are happy to --

16 (Witness excused.)

17 MS. BENNETT: Mr. Chairman, before we recess,
18 Teresa will be collecting the confidential
19 documents.

20 CHAIRMAN BRISÉ: Sure.

21 All right. We will recess, and we will
22 reconvene on September 10th, 2012, at 9:30 a.m.
23 See you then.

24 MR. MCGLOTHLIN: Mr. Chairman, before you
25 close the hearing, one very quick item. Earlier

1 today, I indicated my plan to file a request for
2 clarification or reconsideration. I think the
3 clarification ruling from earlier this morning
4 obviates the need for me to do that, so that --
5 just so you won't be surprised when I don't file
6 something tomorrow.

7 CHAIRMAN BRISÉ: Okay. Thank you.

8 (Whereupon, the proceedings were concluded at
9 12:53 p.m.)

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TRANSCRIPT CERTIFICATE

STATE OF FLORIDA)

COUNTY OF LEON)

I, DEBRA R. KRICK, Court Reporter, hereby certify that the foregoing transcript of a audio-recorded proceedings was taken down as stated in the caption, and the questions and answers thereto were reduced to typewriting under my direction;

That the foregoing pages 7 through 191 represent a true, correct, and complete transcript of the tape-recording;

And I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

Dated this 16th day of September, 2012.

Debra R. Krick
DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #EE212307
EXPIRES JULY 13, 2016

