

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

WITNESSES

NAME :	PAGE
SCOTT E. STATE	
Examination continued by Mr. Rehwinkel	168
Examination by Mr. Brew	212
Examination by Mr. Moyle	231

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBITS

NUMBER:		ID	ADMITTED
40	NRC Amendment to Operating License	206	

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

2 (Transcript follows in sequence from
3 Volume 1.)

4 CHAIRMAN CLARK: Good morning. We will
5 calling the hearing back to order. It's good to
6 see everyone this morning.

7 Ms. Brownless, do we have anything that we
8 need to address from yesterday before we begin
9 today?

10 MS. BROWNLESS: No, sir.

11 CHAIRMAN CLARK: All right. With that said, I
12 believe when we left off yesterday, Mr. Rehwinkel
13 was continuing his examination, so we will turn it
14 over to you, Mr. Rehwinkel.

15 MR. REHWINKEL: Thank you, Mr. Chairman, and
16 good morning.

17 Whereupon,

18 SCOTT E. STATE

19 was recalled as a witness, having been previously duly
20 sworn to speak the truth, the whole truth, and nothing
21 but the truth, was examined and testified as follows:

22 EXAMINATION (continued)

23 BY MR. REHWINKEL:

24 Q Good morning, Mr. State.

25 A Good morning.

1 Q If I could ask you to turn to Exhibit 6C?

2 A Okay.

3 Q And when you get there, I want to go to page
4 335, which is a highly confidential page.

5 A Okay, I am there.

6 Q Okay. Just give a second for the others to
7 catch up, but it looks like everyone is there.

8 This document confidential, would you agree?

9 A Yes.

10 Q And everything after Attachment 7 in the title
11 is confidential, correct?

12 A Well, I would have to go through. I will take
13 your word for it. Do you want me to go through the
14 whole document or --

15 Q I just meant on that title line, that --
16 sometimes document titles are not confidential. This
17 one is.

18 A Oh, yeah. Everything on the entire page, I
19 believe, is confidential --

20 Q Okay.

21 A -- including footnotes.

22 Q Okay. So I am going to ask you some questions
23 just for edification, really, and I am not, I don't want
24 you to vocalize confidential information. Do you feel
25 like you can -- well, do you understand that?

1 A Yes.

2 Q Okay. All right. So what -- can you tell me
3 without saying what's in them, can you tell me what the
4 green lines on -- on these two pages, and I am talking
5 about 335 and 336, can you tell me generally what those
6 represent functionally?

7 A Those would generally be considered different
8 phases or elements of the decommissioning project.

9 Q Okay. And if I look at line seven on 335 --

10 A Right.

11 Q -- through line 25.

12 A Yes.

13 Q Okay. And the descriptor in the green, would
14 you agree that's sort of a high level -- a high level
15 description of that phase?

16 A Yes.

17 Q And if you go over to the far right on line
18 25, without saying the substance of that, can you tell
19 me if that's a -- what -- what type of -- what does that
20 represent?

21 A That's the total cost of that phase of the
22 work.

23 Q Okay. So would it be fair to say if -- if ADP
24 does the work in this phase, your expectation would be
25 that the -- this amount of cost would be removed from

1 the -- the segregated account that's in the nuclear
2 decommissioning trust?

3 A Well, I would -- that's the amount of money
4 that we would expect Duke to pay us, and presumably it
5 would come out of that trust, but, you know, that's --
6 we don't control that.

7 Q Okay. If everything goes right, that's how
8 much would come out of the trust, is that fair?

9 A No. Again, that's how much we would be paid.

10 Q Okay.

11 A You are presuming that we draw directly from
12 the trust, and that's simply not the case. We invoice
13 Duke, and Duke takes the money from the trust, or
14 wherever they see fit.

15 Q Okay. All right. That's fair. I understand.

16 And I am not -- okay. And then if we go on
17 line 27 through line 87 on the next page --

18 A Yes.

19 Q -- is it fair to say this is another phase of
20 the decommissioning process?

21 A Yes. It's another major phase with a large
22 number of, I would call them subphases or, you know,
23 individual projects within that phase.

24 Q Okay. And like we discussed on page -- on
25 line 25, the dollar amount there would represent the

1 cost for that phase; is that fair?

2 A That's -- that's the amount of money that we
3 would bill and expect to be paid to us by Duke.

4 Q Okay. And that's -- that is the -- the amount
5 that's on line 25 is not included in -- in the amount
6 that's on line 87, is that right?

7 A That's correct. These are all subtotals of
8 individual phases.

9 Q Okay. And then we have on line 103 another
10 phase and another cost that you would expect to be paid
11 for for that phase, is that fair?

12 A That's correct.

13 Q Okay. Now, can you tell me if this document
14 has, in its current form, has timeframes associated with
15 these phases?

16 A Which document are we referring to?

17 Q I apologize. Attachment 7, these two pages we
18 just --

19 A Okay. There -- Attachment 7 is a summary
20 document of a, what's typically referred to as a work
21 breakdown structure, if you are familiar with that term.
22 That WBS, work breakdown structure, would be loaded into
23 a resource loaded schedule, which would have timing and
24 values tied to each of the components. And in a typical
25 WBS for a project like this, the summary level of 105

1 lines would -- would break down into, you know, several
2 hundred, or maybe a thousand individual lines to
3 describe all of the individual tasks.

4 Q Okay. So -- but right now, and the way this
5 document is, Attachment 7, it doesn't have dates
6 associated with phases?

7 A Well, it -- it really couldn't because we
8 don't know when we are going to start.

9 Q Okay. And it doesn't have timeframes
10 associated with the phases. In other words, like we
11 talked about the -- the big one that goes from 27 to 87,
12 there is no timeframe that's associated with that in
13 this do you, is that right?

14 A In -- not in this table. I don't recall if
15 there is timeframes in -- you know, the document we are
16 referring to is within -- the table is within a 597-page
17 document, and I am not certain whether there is other
18 places in here where, you know, such timelines do exist.

19 I am just looking at -- you know, we have
20 provided some examples on page three of that table of --
21 of kind of how the flow of this works, and performances
22 measured, and that sort of thing. So, you know, again,
23 I don't want to mischaracterize what's -- what's in the
24 overall document that this is part of.

25 Q Okay. And -- and I -- and I appreciate that.

1 I am just trying to understand what this document says.

2 If you can scroll back two or three pages to
3 332.

4 A 332.

5 Q You will see another confidential document.

6 A Yeah. That's the -- yes. That has the
7 timeframes for activities, assuming some start dates,
8 which have probably passed by now. And -- and I
9 think -- I believe those titles generally would line up
10 with the same titles in the other table we were -- we
11 are looking at.

12 Q Okay. That's all I was trying to do, that if
13 someone wanted to understand the time and the costs,
14 they would need to look at -- at least using this
15 document, they would need to look at the document on
16 page 332 and 333 and bump them up against 335 and 336;
17 is that fair?

18 A Yeah, that's typically how one would do that.
19 It's -- generally it's very difficult to get that
20 density of information into one report. You use a cost
21 report and a scheduling report that all come out of the
22 same mass project management system. It's all combined
23 data, it's just two separate reports that get generated.

24 Q Okay. So if I could get you to look at 333.

25 A Okay.

1 Q And if you will look in the -- close not
2 bottom of that document, there is a descriptor, and it
3 has a number to the left of it, would that descriptor
4 relate to line 103?

5 A I don't know where you are referring to.

6 Q Oh, I am sorry. 103 on page 336.

7 A I know where -- yeah, I know where that would
8 be. Which -- which line are we looking at on this page
9 333?

10 Q Well, they don't have lines to the left, but I
11 was -- if you go all the way down the last green bar.

12 A The last green bar, which starts with the
13 number five?

14 Q Yes, sir.

15 A Okay.

16 Q And that has a -- a date out to the right.

17 A Right.

18 Q So if we flip over to line 103 on page 336.

19 A Okay. Yes.

20 Q So the conclusion of that phase would --
21 would -- would relate to that bar we talked about, the
22 green bar or number five on 333?

23 A Correct.

24 Q Okay. Okay. All right. I am going to put
25 this aside for now. I am going to come -- I am going to

1 come back to the 6C one more time, but I would ask you
2 now to turn to your -- your testimony at page 10.

3 A Okay. All right.

4 Q Okay. On line 11, you use a phrase that I am
5 not sure that I understand, so I want to ask you about
6 it. And it's in the sentence that reads this way,
7 starting on-line 10: If the ADP Group goes over-budget
8 for a task, it could not get paid while additional
9 monies from the N -- with -- no, it could not get paid
10 additional monies from the NDT to complete that task.
11 Do you see that?

12 A I do.

13 Q So does -- does -- are you saying there that
14 you -- that you can't ask, you won't be paid? I don't
15 know what you mean by could not.

16 A Well, we are -- we are on the edge of some
17 confidential information, so I -- I want to make sure
18 that we are careful about how we characterize this. But
19 the -- you know, if you read the confidential documents,
20 I think it's very clear that we are allowed to be paid
21 only what we've specified a task is going to cost. And
22 that's going to cost Duke, not going to cost us. So if
23 we tell Duke the task is going to cost \$100 and we spend
24 \$200, we get paid \$100. It's a guaranteed fixed price
25 for every task in the entire job.

1 Q Okay. So this specifically is more granular
2 in the sense of this is a task-by-task -- let me --
3 this -- this only applies to what you can invoice for.
4 It doesn't apply to whether you -- you can go over the
5 total cost of the project?

6 A It has absolutely nothing do with what we
7 spend to do the work. It has everything to do with what
8 we are allowed to recover from Duke for doing the work,
9 and we recover that money only after the work is done.

10 Q Okay. Okay. I understand. I just did not
11 understand the -- the -- I see why you used that phrase.

12 Let's go back to Exhibit 6C, and I am going to
13 ask you to turn to page -- to page eight.

14 A Okay.

15 Q All right. And I want to ask you about the
16 definition of agreed amount, which is in part
17 confidential. Do you see that?

18 A I do.

19 Q And I want you to be very careful not to
20 vocalize the information contained in the yellow part of
21 that, okay?

22 A Okay.

23 Q And can you go to the bottom line in that
24 definition and one up, do you see a word that begins
25 with a little I?

1 A I am sorry, in that definition of agreed
2 amount?

3 Q Yes, sir. If you go to the bottom line and
4 then come up one.

5 A Yes.

6 Q Okay, without saying the word.

7 A Yep.

8 Q So if we take that word and go all the way
9 across to the period at the end of that, do you see --
10 do you see what I am talking?

11 A I do.

12 Q Okay. Would you agree with me that that
13 accurately states the fixed cost arrangement that you
14 hope to have with Duke if this is -- is -- arrangement
15 is approved?

16 A I would -- I would refer to it on our side as
17 the fixed price arrangement, but from your view of it,
18 it could be viewed as a fixed cost arrangement.

19 Q Okay. Okay. Now, while we are on this page,
20 can you look at the definition of affiliate that's up
21 above that?

22 A Yes.

23 Q All right. Do you know whether this affiliate
24 definition covers the equity investors that we talked
25 about yesterday, the people -- the entities above

1 NorthStar Group Holdings, LLC?

2 A It -- it does not.

3 Q They are not considered -- so you are certain
4 that this doesn't cover them?

5 A I -- you know, I don't believe so. I think
6 that that affiliate word is modified by that provision
7 we -- the -- some of the early discussion we had
8 yesterday, I don't recall the exact specifics, but we
9 were looking at organization charts, and I believe there
10 was some specificity in there about guarantees -- that
11 the parental -- parental guarantees, and so, you know,
12 whether affiliate legally includes or does not include
13 those parties, I -- I -- I can't say with certainty, but
14 I guess that's all I can really say. I am not clear on
15 that.

16 Q Okay. Well, let me -- I was -- I was trying
17 to take a shortcut, but let me go to page 73 of this
18 agreement here, and I want to go look --

19 A Page 73?

20 Q Yes, sir. I want to go look at another
21 provision that's partially confidential.

22 A Okay.

23 Q Now, do -- is the nonconfidential part of this
24 is in 13.2, you see where it says company
25 indemnification?

1 A I do.

2 Q Do you generally understand what
3 indemnification is, the concept?

4 A I do.

5 Q Okay. What is your understanding of it?

6 A It's effectively assurance or an agreement
7 that we would not be liable for impacts associated with
8 specified activities, conditions, outcomes that
9 generally we would deem not in our control.

10 Q Okay. So this says that from -- from and
11 after the closing date, company -- and that means Duke,
12 right?

13 A That means Duke.

14 Q Shall indemnify, defend and hold harmless the
15 contractor -- that's ADP, right?

16 A Correct.

17 Q And it says: The contractor indemnify parties
18 from and against, and then everything after that
19 describes what -- what is included in there, that's
20 confidential, right?

21 A Right. And I assume the shortcut you were
22 trying to make is that indemnified parties may be
23 somehow connected to affiliates?

24 Q Yes, sir.

25 So my question is do you know whether the

1 indemnification here goes all the way up to the
2 investors? Are they protected by this indemnification
3 provision?

4 A Well, I mean, I -- I think we would have to go
5 back, there must be, you know, or, you know, the
6 capitalized term, the contractor indemnified parties
7 must be defined somewhere --

8 Q Yeah, so let's go --

9 A -- we've go look at that.

10 Q So let's look at page 12. Let me know when
11 you get there.

12 A Okay.

13 Q So it reads: Contractor indemnified parties
14 means contractor, its affiliates and the respective
15 officers, directors, employees and agents of contractor
16 and its affiliates. So we have the -- contractor and
17 affiliates are defined terms.

18 The contractor definition is -- says -- what
19 it says in the preamble, and that says ADP, right -- ADP
20 CR3, LLC?

21 A Right.

22 Q Okay. And we -- we looked at affiliates, but
23 if you go -- so if you go back to affiliates on page
24 eight.

25 A Okay.

1 Q It says: Affiliate means with respect to a
2 specified person, a person that directly or indirectly,
3 through one or more intermediaries, now or hereafter,
4 owns or controls, is owned or controlled by, or under
5 common ownership or control with a party -- and let me
6 stop there and point you back to the -- the definition
7 of parties let's look at the preamble. And party in the
8 preamble, on page seven, is ADP and ADP SF1, do you
9 agree with that?

10 A Okay. Yeah.

11 Q Okay. So I stopped at party back in the
12 affiliate definition -- where control, including the
13 terms controlled by and under common control with,
14 means, little remanet one, at least a 50 percent
15 ownership interest or, two, the possession directly or
16 indirectly of the power to direct or cause the direction
17 of the management or policies of a person, whether
18 through the ownership of stock or other securities as
19 trustee or executor by contract or credit arrangement or
20 otherwise.

21 Did I read that fairly?

22 A I think that's correct.

23 Q Okay. So would you think that if you, the
24 contractor, under this definition, would you agree that
25 the entities above holdings are an affiliate of ADP CR3?

1 A Yeah. For the purposes of this agreement,
2 yes.

3 Q Okay. So Duke indemnifies all the way up
4 above Holdings, is that right?

5 A Well, let's be specific. Duke indemnifies for
6 the agreed upon confidential matters that
7 indemnification.

8 Q Yes. Okay. We can put 6C away.

9 And let's go to Exhibit 13, which we -- we
10 pulled out yesterday, but I want to ask you about --
11 about that. You got that?

12 A I do.

13 MR. REHWINKEL: Okay. And I apologize, Mr.
14 Chairman, I -- I am using 13, but it really refers
15 to, I guess, 34, but I don't want to be confusing
16 because I think people are accessing the documents
17 on the directory based on the OPC numbers, not the
18 hearing numbers.

19 BY MR. REHWINKEL:

20 Q So if you could turn to page 23 and 24 of
21 Exhibit OPC 13.

22 A Okay.

23 Q Okay. Do you -- are you familiar with these
24 tables on pages 23 and 24?

25 A I am.

1 Q Okay. Would you agree with me that these --
2 we'll represent -- well, let's look on page 24. This --
3 and this is all nonconfidential, right?

4 A This is public domain information.

5 Q Yes.

6 On Table 2 on exhibit -- on page 24, this
7 says: Annual cost profile 2020 through 2037 includes
8 ADP CR3 and SF1, and it has a total decommissioning cost
9 of 825,016,000; do you agree with that?

10 A Yes.

11 Q Okay. And that 825 million is made up of the
12 540 million that is associated with the non-ISFSI O&M
13 subtotal, plus the ISFSI O&M subtotal of \$285,016,000?

14 A Correct.

15 Q Okay. Would you agree with me that these --
16 that this represents the total cost that you expect to
17 incur for the decommissioning project?

18 A This is a -- I don't know if I would use the
19 word expected. The -- the decommissioning and free
20 release and license termination is \$540 million. The
21 independent spent fuel storage installation operation is
22 really a function of when the fuel might be removed from
23 the site. So that number is based really on an annual
24 expenditure number and an assumed number of years, which
25 could be significantly more or less than that depending

1 on how long it takes DOE to meet its obligations and
2 remove that fuel.

3 Q Okay. This is the expected or estimated
4 amount associated with the assumptions that underlie
5 this agreement, which is a 2037 pickup date?

6 A Yeah, I believe that the 2037 pickup date is a
7 contractual understanding that Duke had with DOE to pick
8 up the fuel, or, you know, some -- some -- I wouldn't
9 call it an obligation, but expectation.

10 Q Okay. And the -- the -- the 285, like you
11 said, it could be less than 285 if they come and get it
12 earlier, or it can be more than 285 if -- if they don't
13 get it until a time period after 2037, right?

14 A That's correct.

15 Q Okay. In the upper half of this table we see
16 the \$540 million broken down by years, 2020 through
17 2026. Do you see that?

18 A I do.

19 Q Do the non-ISFSI O&M subtotals that we see
20 that add up across the \$540 million, do those generally
21 represent how much you expect to spend by year based on
22 your -- your current estimate?

23 A Well, those would have been based on an
24 estimate of when we would start, and I believe we
25 expected to be started by now. So those numbers could

1 shift slightly to the right.

2 Q Okay. Okay. Assuming for the sake of this
3 question that DOE is going to come by and pick up all
4 the -- all the fuel, and that means the spent fuel and
5 any of the greater than Class C fuel that comes out of
6 the decommissioning project and is cast and stored at
7 the ISFSI; is that right?

8 A Almost. The greater than Class C is not fuel
9 material. That's low level radioactive waste. It's
10 irradiated metal. It's very concentrated, and it's
11 content of Cobalt-60 or some isotope. It's not fuel.
12 But other than that, your statement is correct.

13 Q Okay. Yeah, I didn't mean to suggest that.
14 That's all going to sit in the ISFSI, and
15 assuming DOE comes and gets it all in 2037, for you and
16 your investors and your -- your partners to make a
17 profit, you will have to earn your profit from the \$825
18 million; is that right?

19 A Well, we -- we, generally speaking, do not
20 earn a profit from anything other than the \$540 million.
21 The recovery of costs for spent fuel installation
22 operations is a, you know, long held recovery mechanism
23 tried and true through the court systems, and your
24 allowed, generally speaking, not to collect profit on
25 that work. You are collecting your cost, which can

1 include overhead and G&A.

2 Q Okay. Without getting into confidential
3 aspects of the DSA, would you agree that there is some
4 profit baked into the \$285 million?

5 A I don't think there can be.

6 Q Okay. All right. We can put 13 away. And
7 let me --

8 A Hold on one second. I want to make sure I
9 clarify something.

10 We are talking about a number that actually is
11 not just the security aspect or storage aspect. At the
12 very end, you see in column that says 11 years at the
13 top, there is an area called ISFSI decommissioning and
14 GTCC packaging and disposal. Those -- those areas could
15 have some, you know, technically could have some level
16 of margin in them if they are, you know, expenses that
17 are actually license termination expenses; but in fact,
18 you know, I don't recall specifically how this was done,
19 but those are segregated expenses. And if DOE is paying
20 for those by, I believe, law, you are not allowed to --
21 to generate profit. So I just want to make sure I am
22 not misstating something there.

23 Q Okay. I appreciate that clarification. Thank
24 you.

25 The -- let me go -- I do have one other

1 question about the 540 in this table here.

2 A Okay. I closed that, so what page was that,
3 33?

4 Q We are back on 24.

5 A I am sorry. 24.

6 Q You may not even need this to ask this
7 question.

8 This \$540 million number --

9 A Yes.

10 Q -- well, if there is an end state condition
11 that Duke is -- is responsible for and they decide they
12 need to remediate that condition, they could come to you
13 and say, NorthStar, ADP, we found this condition, it's
14 on our side of the fence. DEP has said you have got to
15 fix it. They could come to you and ask you to fix it
16 and that they would pay you more than the 540 if they
17 did that; is that correct?

18 A If -- I don't know that that's correct. I
19 think the contract is very specific to license
20 termination and the radiological conditions associated
21 with an NRC free release. If there were other
22 conditions of a non-radiological nature that had to be
23 dealt with on the site, I don't think those would be
24 actually in the decommissioning -- classified as
25 decommissioning expenses, per se, you know, under this

1 contract, and, you know, those could be other kinds of
2 expenses or costs that Duke might incur. And, yes, they
3 might request that we perform that work, or price that
4 work and ultimately perform it.

5 Q Okay. I just wanted to -- for -- for the site
6 to be completely released for public use, if there were
7 additional costs that they had to incur, they could get
8 you to do the work, but that wouldn't be in the 540?

9 A It -- let's really -- you got to be very
10 specific about this.

11 The -- the term release for unrestricted use
12 is specific to radiological issues, and the -- the NRC
13 license. The NRC license does not specifically address
14 directly non-radiological issues. So -- and -- and I
15 would also say I don't believe the site is being
16 released for public use. I think it's being released
17 for Duke's future use.

18 But, you know, under the -- under the
19 agreement to release the license, or remove the license
20 and release it for unrestricted use from a radiological
21 perspective, that's 540, period. There -- there isn't
22 any additional cost. And that's the money -- that's, I
23 believe, the money that, you know, directly -- Duke
24 expects to directly take out of this NDT subaccount.

25 Q Okay. All right. Let's go to your testimony

1 at page six, if we can.

2 A Can we -- can we close this one or are you
3 going to come back to it?

4 Q Yes, sir, I am -- I am actually through with
5 13 now. Thank you.

6 A Okay. And we are going to page six?

7 Q Yes, to line 20.

8 A Okay.

9 Q All right. So here you say -- the question
10 is: Please describe the ADP Group's financial position.
11 You say: The ADP Group's financial is backed by
12 committed support from both NorthStar and Orano, right?

13 A Correct.

14 Q Now, with respect to NorthStar, I think we
15 established you are the CEO of both ADP and NorthStar,
16 right?

17 A Yes, I am.

18 Q The use of the word committed here is not a
19 guarantee, is it?

20 A Well, in some sense it is. You know, the two
21 parties are funding, I believe, \$10 million a piece at
22 the closing of this transaction, so that money is, you
23 know, committed and will be funded if this is -- if this
24 transaction is approved.

25 Q Okay. But beyond that, there is a parent

1 guarantee that you give yourselves -- well, you give
2 Duke as NorthStar CEO, but that guarantee is only as
3 solid as the availability of the funds to back it up,
4 right?

5 A I guess that's kind of correct. It's as solid
6 as the ability of the counter-party to perform. I am
7 not sure why we would focus just specifically on funds,
8 but, you know, it's performance is what's behind that.

9 Q Okay. But you would agree that there is an
10 aspect of a parent guarantee in the form of funds if
11 you, NorthStar, for whatever reason, can't perform, Duke
12 would want to go and perform itself, correct, or get
13 someone else to do it?

14 A I don't know what Duke would want to do. I
15 mean, I think you would have to ask Duke what they would
16 want to do.

17 Q Okay. Wouldn't you agree that the experience
18 and the financial commitments that you are asking the
19 Commission to rely upon was achieved by a company that
20 was only a littlest than two-thirds of what is NorthStar
21 today?

22 A I am not sure what that means. What -- I
23 don't -- I don't know what that means.

24 Q Well, in 2014, you merged with NCM, right?

25 A Yes.

1 Q And that company didn't do much, if any,
2 nuclear D&D work, did they?

3 A I don't believe so.

4 Q Would you agree that NorthStar, as recently as
5 2017, is had severe financial problems after that --
6 after that merger?

7 A I wouldn't say severe financial problems. We
8 recapitalized the business in 2017 associated with our
9 Vermont Yankee transaction and brought in a new
10 investor, and I think they invested about \$70 million of
11 had new capital to support the future growth of the
12 business.

13 Q Wouldn't you agree that NorthStar was acquired
14 by J.F. Lehman in June of 2017 in a negative equity
15 transaction?

16 A I -- I don't know what a negative equity
17 transaction is.

18 Q Well, didn't Lehman pay less than the value of
19 the debt for the company?

20 A No.

21 Q Are you sure about that?

22 A Well, you are mischaracterizing the
23 transaction in general. There were two parties. J.F.
24 Lehman, Medley -- well, actually three -- a number of
25 parties. J.F. Lehman, Medley and management of the

1 company all co-invested in that particular transaction.
2 So the combined assets contributed did not result in a
3 negative equity transaction, whatever that means, or
4 whatever -- I guess what I understand you are trying to
5 imply that means.

6 Q You are not a CPA, are you?

7 A I am not a CPA, and I don't have an MBA.

8 Q And you are not a certified financial analyst,
9 are you?

10 A No. My closest business experience is an
11 Engineering Management Master's degree, and about 30
12 years running companies.

13 Q Okay. So as CEO of two operating companies,
14 NorthStar and WCS, Waste Control Specialists, you are
15 familiar with your financial statements, are you not?

16 A I am.

17 Q And are you generally familiar with the
18 accounting and finance principles in your industry and
19 your company?

20 A I am familiar with the accounting principles
21 as it would relate to project accounting. I wouldn't
22 say I am intimately familiar with GAAP since I am not a
23 CPA.

24 Q Okay. You are familiar with GAAP concepts
25 though, right?

1 A I -- yeah, Generally Accepted Accounting
2 Principals are something that I am familiar with.

3 Q Okay. Now, I think we established earlier
4 that LVI services performed all but one of the jobs that
5 are shown in your Exhibit SS-1, is that correct?

6 A Well, I mean, LVI services as predecessor to
7 what is today NorthStar.

8 Q Okay. And NorthStar was formed in April of
9 2014, right?

10 A It was -- well, it was -- I am not sure that I
11 would use the word formed. I believe NorthStar was
12 created out of a name change of LVI Services, Inc. So,
13 in fact, it's the same company with a different name.

14 Q Well, didn't LVI Services and NCM, which were
15 the two largest demolition and reclamation companies in
16 the country, didn't they merge in April of 2014?

17 A It was a stock for stock merger with the
18 successor entity being LVI Services, Inc. The
19 shareholders of NCM took shares in LVI Services, Inc.,
20 and then LVI Services, Inc., changed its name to
21 NorthStar.

22 Q Okay. The former owners of NCM contributed
23 37-and-a-half percent of the company and the former
24 owners of NCM -- of LVI contributed 62-and-a-half
25 percent, would you agree with that?

1 A I don't think that's a right characterization.
2 The -- those ownership groups ended up owning
3 37-and-a-half and 63-and-a-half percent of the resulting
4 company. I don't -- I am not sure that your -- your
5 terminology would be correct.

6 Q Would you agree that that was a merger between
7 the two largest demolition and reclamation companies in
8 the country?

9 A I believe that at the time that would have
10 been true.

11 Q Well, isn't it true that in 2015, that LVI and
12 NCM each accused the other of falsifying the financial
13 statements that supported the EBITDA, E-B-I-T-D-A,
14 figures that were used to support the relative ownership
15 interests in the NorthStar company that was formed from
16 the merger of those two companies?

17 A I believe in 2015, the prior -- or the --
18 yeah, the owners that had contributed, or had owned LVI
19 Services prior to the transaction filed suit against NCM
20 on the terms I believe you are describing. And as a
21 result of that claim, or complaint, the NCM shareholders
22 filed a copycat, I would call it, counter-complaint.

23 Q Well, wasn't it NCM filed first and the next
24 day LVI filed kind of at each other?

25 A I believe -- I believe LVI filed the

1 complaint, and I think NCM copied it.

2 Q Okay. One -- one on one day, the other on the
3 next day?

4 A I don't know what the timing was, but I know
5 specifically -- I know specifically LVI filed a claim.
6 I don't know when NCM filed a counterclaim.

7 Q Okay. And isn't it true that just a little
8 over six months ago in a reported decision on
9 December 31, 2019, that the Chancery Court judge in
10 Delaware denied a motion for summary judgment that the
11 attorneys for you and LVI and Northstar's former CEO
12 Paul Patrone filed on your behalf?

13 MS. TRIPLETT: Mr. Chair, can I just lodge an
14 objection? I am failing to see the -- the
15 relevance of this Chancery Court dispute to this
16 case.

17 CHAIRMAN CLARK: Where are we going, Mr.
18 Rehwinkel?

19 MR. REHWINKEL: We started off this hearing
20 all the companies at issue here are Delaware
21 companies. We have established that Duke has put
22 in evidence for your consideration Exhibit SS-1,
23 which represents the experience that NorthStar has.

24 NorthStar is -- I have established who
25 NorthStar is and who LVI is, and that LVI was the

1 company that provided the experience that they are
2 asking you to rely upon. And I am asking the
3 question, they've also said you should rely on the
4 financial capability of NorthStar.

5 So all of these elements are factors that bear
6 on the weight you should give this petition, and
7 the petitioners and litigants -- the petitioners
8 and the contracting parties.

9 Because it's in Delaware has nothing to do
10 with -- or should have no bearing on the objection.
11 Delaware companies are required to go to Chancery
12 Court in Delaware, especially if it's a merger
13 where there is an equitable distribution sought
14 between the -- the ownership interest in the
15 company, which is the case.

16 It's a -- I am asking him questions about a
17 reported decision that has a direct bearing on the
18 financial accounting measures and the financial
19 strength of this company.

20 CHAIRMAN CLARK: Okay. I will allow the
21 questions.

22 BY MR. REHWINKEL:

23 Q So let me just -- let me ask you -- do you --
24 your attorneys and LVI's attorneys filed a motion to
25 dismiss, and on December 31st of last year, that motion

1 was denied; is that correct?

2 A I don't know the answer to that.

3 Q Well, as to one fraud count, that motion was
4 denied; isn't that right?

5 A Again, I don't know the answer to that.

6 Q Isn't it true that the fraud count that was --
7 that the judge refused to dismiss, revolves around
8 allegations of falsification of the financial statements
9 related to demolition and reclamation jobs that LVI was
10 awarded?

11 A I don't -- I don't know. You are referring to
12 a decision of the Chancery Court in a case that, I
13 guess, involves me, but I haven't really -- you know, in
14 six years, I haven't spent much, if any, time or
15 involvement with it simply because the -- the
16 allegations, while, you know, apparently not removed at
17 a summary judgment or a motion to dismiss level haven't
18 even been directly heard by the Court. So, you know, if
19 you are alleging I did something, let me know what that
20 is.

21 Q Okay. Just to be clear, Mr. State, I am not
22 alleging. I am just asking you about the pending
23 matter. And if a motion for summary judgment wasn't
24 granted, that means unless it's resolved some other way,
25 you have to go to trial on that count, is that -- is

1 that your understanding?

2 A I -- I believe that the dispute is essentially
3 between the investors at this point. The company is not
4 really party to this dispute, and doesn't have any
5 financial exposure.

6 A dispute like this could be resolved in a
7 number of ways. It could be resolved as a result of
8 mediation, which a mediation took place as late as last
9 week on this matter. The two investor groups spent an
10 entire day with a vice-chancellor mediating the matter.

11 And while I can't report specifically what was
12 discussed, obviously because it's a confidential
13 mediation, you know, I will say that -- that the matter
14 appeared to be moving in a direction where it may
15 settle. But if it doesn't, it will go to court, and a
16 decision will be rendered, and it will be rendered as a
17 decision between the prior owners of the company, not
18 the current owners, and -- and will not have any impact
19 on the company or myself.

20 Q Okay. Thank you for that explanation. And to
21 be clear, I was not making an allegation against you. I
22 was asking you about this reported decision.

23 Let's go -- I want to talk to you about WCS.
24 You are the CEO for WCS, for Waste Control Specialists,
25 right?

1 A I am.

2 Q And wouldn't you agree with me that until --
3 that in 2017, WCS told the federal district court in
4 Delaware that they were a failing firm?

5 A I don't know that to be true.

6 Q They were in an antitrust trial in Delaware in
7 2017, were they not?

8 A I don't know.

9 Q Okay. Did you agree, you were -- you are --
10 you became CEO of WCS in 2018?

11 A We purchased the company -- we being JFL and
12 some members of management purchased the company in
13 January of 2018.

14 Q Okay. Now, prior to that, NorthStar did have
15 a working relationship with WCS on projects, is that
16 right?

17 A We had a -- a teaming arrangement in place for
18 Vermont Yankee, and I believe we had worked with WCS
19 previously in shipping waste to them for projects.

20 Q Do you know whether WCS merger partner, or
21 proposed merger partner, US Ecology, told the federal
22 judge that the amount of Class B and C waste wasn't
23 enough to make WCS viable?

24 MS. TRIPLETT: Mr. Chairman, I object --

25 THE WITNESS: I don't know that.

1 MS. TRIPLETT: Mr. Chair, I am going to object
2 that he has already said this, and I think we
3 should -- well, I would ask that we move on from
4 this line of questions. It's not fair to ask the
5 witness -- (inaudible) -- redundant that.

6 MR. REHWINKEL: I didn't hear the last part of
7 that.

8 CHAIRMAN CLARK: I can't hear you either, Ms.
9 Triplett. Restate your objection, please.

10 MS. TRIPLETT: Can you hear me now?

11 My objection is that this witness has
12 indicated that he does not have any knowledge about
13 this antitrust lawsuit, and so I would ask that the
14 questions be -- it's asked and answered, and it's
15 also irrelevant.

16 CHAIRMAN CLARK: If you know the answer --

17 MR. REHWINKEL: I will --

18 CHAIRMAN CLARK: If we know the answers, give
19 us a yes or no, and then respond, please, after
20 that. If the answer is no, let's move on.

21 BY MR. REHWINKEL:

22 Q Did you say you don't know?

23 A I don't know.

24 Q Okay. All right. All right. Let's go to
25 Exhibit 6C again and look at page 48.

1 A Okay.

2 Q And I want to direct you to Section 6.2,
3 decommissioning. Do you see that?

4 A I do.

5 Q And I don't want to ask you anything about
6 what's in yellow there. I want to go over to page 49
7 and the sentence starts with "contractor anticipates,"
8 do you see that?

9 A Are you on the very top line?

10 Q Yes, sir. Yeah, the very top.

11 A Okay. I see that.

12 Q It says: Contractor anticipates that it will
13 enter into a unit price subcontract with Waste Control
14 Specialists, LLC for waste disposal services; provided,
15 however, in the event that contractor is able to obtain
16 a fixed price subcontract, Waste Control Specialists
17 shall post a payment and performance bond that complies
18 with the requirements of this Section 6.2.

19 Did I read that right?

20 A Yes.

21 Q Can you tell me what the difference between a
22 unit price subcontract and a fixed price subcontract is?

23 A Well, a unit price subcontract would -- would
24 require us to pay for waste disposal services in units
25 of maybe tons or cubic feet, or some measurement of

1 units, whereas a fixed price subcontract might be a -- a
2 contract for the entire amount of waste on the site, or
3 it might be specific to disposal of the reactor
4 components. It could be a number of different things.

5 Q You are the CEO of WCS and you are the CEO of
6 NorthStar. Do you know where -- where that stands, the
7 unit price --

8 A The anticipated approach is that it would be a
9 fixed price subcontract put in place shortly after we
10 would execute the -- the transaction.

11 Q Would you -- wouldn't you agree that you or
12 your investors would have total control over how that
13 turned out?

14 A No, because ADP is part of the equation here,
15 and ADP has -- you know, within ADP, Orano has some
16 specific rights as it would relate to any contract that
17 might be let with affiliates.

18 Q Okay. So they are a 25-percent owner, but
19 your saying they could -- they could influence or veto a
20 pricing contract that you have with yourself?

21 A Well, I don't know -- you know, if you have
22 got an exhibit that's the operating agreement between
23 Orano and NorthStar that creates ADP, I think you find
24 in there that there are certain provisions that are
25 super majority, and there are majority, and then there

1 is some that a unanimous consents are required. And I
2 don't specifically recall which ones are which, but, you
3 know, that's the sort of governance that we've got in
4 place.

5 Q Okay. So that -- that's what would -- would
6 kind of be the fly in the ointment, so to speak, if
7 Orano objected, if that's the way it's set up. And I am
8 not suggesting it is, because I haven't looked at it.

9 A I wouldn't call it a fly in the ointment. I
10 would call it prudent management and, you know, on a
11 partnership.

12 Q Okay. Well, wouldn't there be an assumption
13 that a fixed price contract would be better than -- than
14 a unit price contract?

15 A Not necessarily, you know, it -- it depends.
16 You know, a fixed price contract transfers risk to the
17 disposal partner, but, you know, that transfer of risk
18 comes at a price. And so it really gets down to, you
19 know, the -- the measurement of risk among the parties.
20 So, you know, that's -- that's the give and take.

21 Q Right now, WCS is the only place in the United
22 States that can take all three levels at low level
23 radioactive waste, A, B and C?

24 A It's the only site that can take all three at
25 1:00 site. Barnwell can take Class B and C waste, and

1 Class A waste goes Clive or to going WCS. Class A
2 exempt can go to Tennessee. It can go to Texas. It can
3 go to US Ecology. The Department of Energy does have
4 some sites as well.

5 Q Okay. From your standpoint of decommissioning
6 a project, it's better for you if you put all your casks
7 on a train and send them to one place, right?

8 A No, it doesn't really matter to us where it's
9 sent as long as the disposal site is licensed and -- and
10 has good operating practices. It's a pricing issue.

11 Q Okay. Can you pull up Exhibit 4?

12 MR. REHWINKEL: Mr. Chairman, I think I need
13 to give this one a number.

14 CHAIRMAN CLARK: What's our next available
15 number? 40?

16 MS. HELTON: 40.

17 CHAIRMAN CLARK: 40, okay.

18 MS. HELTON: And I didn't hear what -- which
19 exhibit Mr. Rehwinkel said. Was it 4, OPC 4?

20 MR. REHWINKEL: Yes, 4.

21 CHAIRMAN CLARK: OPC --

22 MR. REHWINKEL: And I called it NRC Amendment
23 to Operating License. Maybe I should just call it
24 NRC License.

25 CHAIRMAN CLARK: Okay. OPC 4 will be marked

1 as Exhibit No. 40.

2 (Whereupon, Exhibit No. was marked for
3 identification.)

4 BY MR. REHWINKEL:

5 Q Do you have this document?

6 A I do.

7 Q Are you familiar with what this document
8 represents?

9 A Generally, yes.

10 Q I know it says draft all over it, but do you
11 know if there is a more recent final version, or if you
12 wouldn't really have that right now?

13 A I -- I don't -- I don't know, and I don't
14 expect that there is.

15 Q Okay. If we could turn to page four, and
16 paragraph 16 there. And will you accept the
17 representation that I put this yellow highlighting on
18 here, not the NRC?

19 A Yeah, I will accept that.

20 Q Okay. And if I look, this is a paragraph
21 talking about the financial support agreement between
22 NorthStar Group Services and ADP CR3 and ADP SF1 in the
23 amount of \$105 million, and the financial support
24 agreement between Orano USA, LLC, and ADP CR3 and ADP
25 SF1 in the amount of \$35 million, to assure the ability

1 of ADP CR3 and ADP SF1 to pay the expenses of, and then
2 it lists some things down here.

3 Is this the lic -- is this the -- does this
4 refer to the parent support agreement that is given to
5 the NRC as a part of this process?

6 A I wouldn't call it the financial support
7 agreement. I don't think the NRC refers to it as a
8 parent support agreement, but, you know, I have always
9 just referred to it as the support agreement -- the NRC
10 support agreement.

11 Q All right. Would you agree that this has been
12 referred to sometimes as a parental support agreement,
13 and that's different from the parental guarantee?

14 A It -- yeah, it could be. That's -- when you
15 put the word parental in, it gets confusing whether you
16 say support agreement or guarantee agreement, yes.

17 Q Okay. In the part in yellow, it says: These
18 support agreements may not be voided, canceled or
19 modified without the prior written consent of the NRC
20 staff; do you see that?

21 A I do.

22 Q Wasn't there a similar provision in the
23 Vermont license amendment that was similar to this, that
24 just said that it had a director, staff person called a
25 director?

1 A I -- I am sure there was something like it. I
2 don't recall the specific language.

3 Q Okay. Do you -- do you know whether -- well,
4 has ADP or NorthStar asked the NRC whether adding the
5 Florida -- State of Florida, the Florida Commission to
6 this agreement, like was done in Vermont, would be
7 objectionable to that staff?

8 A ADP has not had any communications that I know
9 of with the NRC on this, or really any other matter
10 since they issued their approval.

11 Q Okay. If the State of Florida, whether it's
12 the PSC or some other State agency, was added to the
13 support agreement like was done in Vermont, would that
14 add any cost to the transaction?

15 A I don't -- I don't know what it would do to
16 the transaction, to be honest with you.

17 Q Well, putting aside -- if we put aside the
18 issue about a delay, and how that might impact things,
19 is there a extra cost if the State is added as a -- as a
20 beneficiary to the support agreement?

21 A I -- I don't know that there would be
22 specifically an extra cost. And your comment about
23 delay is a good one. And there is, you know, a
24 substantial difference here between Vermont.

25 In Vermont, we -- we are the owner and

1 operator of that nuclear -- that licensed facility, and,
2 you know, and have a direct nexus to the State as,
3 effectively, a regulated entity.

4 Here, we would be asked -- we would be asking
5 the NRC to include an entity not directly connected to
6 us in terms of the decommissioning trust and those
7 assets, which are specifically tied to this agreement.

8 The decommissioning trust and the support
9 agreement are intended to provide the financial
10 assurance for the project, and that generally flows
11 through the owner, I believe, not the operator. And in
12 Florida, we are the operator, not the owner of the --
13 under the license. In Vermont, we are both.

14 So there is a -- it may seem like a nuance,
15 but it's -- it's the complexity and uncertainty that I
16 really can't measure for you.

17 Q Okay. That's a fair answer. I appreciate
18 that.

19 One last question. Do you know whether you
20 can close this deal if the Florida Public Service
21 Commission order approving it is on appeal?

22 A I -- I don't know the answer to that.

23 Q You don't know whether you need a
24 non-appealable order to close the deal?

25 A No. That's -- that's something our attorneys,

1 I am sure, could answer, but I specifically don't know.

2 Q Okay. Mr. State, those are all the questions
3 I have. Thank you for being patient with me.

4 MR. REHWINKEL: Mr. Chairman, I am done.

5 THE WITNESS: And I -- just, Mr. Rehwinkel, I
6 would like to just -- there was something we
7 discussed yesterday that confused me, and I think I
8 noted confusion. I just wanted -- I looked into it
9 last night, and this isn't, you know, some got you
10 here.

11 I just want to clarify something we were
12 talking about the prior projects that NorthStar had
13 done, and I know you were interested in the fact
14 that they -- we added up, I think you called it
15 megawatts, and I said I am surprised, you know, at
16 the term megawatts, and I think we talked a little
17 bit about what that meant.

18 In fact, the facilities that -- that we
19 decommissioned, are -- are tens of kilowatts.
20 Not -- they are not megawatts at all. And I
21 started to try to figure out kind of where all of
22 that was going, and we got kind of hung up on
23 megawatts being important.

24 And, in fact, you know, these facilities, they
25 are -- they are what they call pulse facilities.

1 They are radiating medical experiments and that
2 sort of thing, and they will pulse to a thousand
3 megawatts. They will generate bursts of energy at
4 that level, but they are not designed to do any of
5 those things.

6 The -- the actual thermal production is in the
7 tens of kilowatts, which was what had confused me.
8 When you said megawatts, you would need a large
9 balance of plant cooling system to take the heat
10 away from the reactor, and, in fact, that doesn't
11 exist.

12 And that's a significant reason why all of
13 those projects don't have a very large cost,
14 because there is not balance of plant. There is
15 not turbines, and generators, and other facilities.
16 They are simply just a reactor, and it's like the
17 reactor at Crystal River, only much smaller.

18 So I, you know, I got some confusion about
19 that. I just wanted to really clarify that -- that
20 the numbers you had actually were much higher than
21 what the actual thermal output of those facilities
22 is.

23 MR. REHWINKEL: Okay. Thank you very much.

24 Thank you, Mr. Chairman.

25 CHAIRMAN CLARK: Thank you, Mr. Rehwinkel.

1 this is a 2019 dated document, are there any changes to
2 that project specification that you know of?

3 A I -- I am not certain, but I don't believe
4 there would be at this point.

5 Q So as far as we know, both the scope of
6 activities and the fixed fee amount of 540 million
7 remain as when you originally -- when Duke filed this
8 petition a year ago?

9 A I believe that's true. I am not, I would say,
10 intimately familiar with -- with this document. But,
11 yes, I believe it should reflect exactly the scope that
12 was agreed to, and the cost.

13 Q Okay. That's fine.

14 Now, without getting into the details of the
15 Attachment 2 that you talked to Mr. Rehwinkel about,
16 generally speaking logistically, after you have done all
17 your planning, do you start by going in and cutting up
18 the nuclear steam supply system, and is that primarily a
19 Orano work?

20 A Yes and no. The -- the -- the planning phase
21 includes things that are not just planning. It's site
22 prep as well. So we've got to improve rail lines.
23 We've got to get some offload facilities. And then the
24 first phases of the project typically would include
25 tooling and preparation for segmenting the reactor

1 vessel -- vessel. It would include rigging plans to
2 remove the large components of the steam generators, the
3 pressurizer, reactive cooling pumps, that sort of thing.

4 And then we would also generally initiate
5 asbestos abatement on various elements of the site. The
6 turbine buildings are pretty clean, but there is some
7 asbestos abatement in the -- containment in ox
8 buildings, and so -- but there would be some parallel
9 path items, you know, lead time items, I would call
10 them, that would be executed at the same time. And
11 Orano would be certainly doing the vessel segmentation
12 work, but the other work would typically be done by
13 NorthStar.

14 Q Okay. That's -- you -- you got a little ahead
15 of me, but that's good. So just to sum up, the
16 decommissioning activity focuses initially on
17 segmenting, decontaminating or removing the radiological
18 materials and, to the extent feasible on a parallel
19 track, getting rid of any other toxic material such as
20 asbestos; is that right?

21 A Yeah. We -- we typically look at a project
22 like this and, from an ALARA perspective, if that's a
23 familiar term, as low as reasonably achievable, we like
24 to remove source term, which is the -- the material
25 that's radiologically hazardous.

1 And so getting the reactor vessel out -- the
2 fuel, of course, as you know, is gone. It's sitting in
3 the ISFSI. So the major source term right now is the
4 reactor vessel and the reactor internals, and segmenting
5 and removing those is a significant reduction to
6 exposure to our workers. So we -- we typically go after
7 those early in a project, and that work is done in a
8 remote manner.

9 And if the Commission, or anyone is
10 interested, there is many photographs on the Vermont
11 website pages that show that activity and how it's
12 conducted.

13 Q Okay. So the idea is to segment or cut up and
14 remove certainly any of the reactor internals and
15 associated materials that might be contaminated
16 radiologically, right?

17 A That's -- that's the objective, yes. And
18 the -- and the goal is to make sure that as we conduct
19 work in the facility, that we've got as low as
20 reasonably achievable exposures to our workers as they
21 are doing the work.

22 Q Because there are exposure limits that will
23 apply to all of them, right?

24 A There is exposure limits -- occupational
25 exposure limits to anybody working in a nuclear

1 facility. And of course, then there is limits for
2 people that aren't working there as well.

3 Q Okay. And as the -- as the reactor internals
4 are cut up you and decontaminated, do they all come out
5 as Class C or lower materials?

6 A No. The reactor internals -- and, you know,
7 we've done some level of characterization. This is all
8 part of the planning process. You have to look at the
9 operating history of the plant, and you can, from that,
10 ascertain the -- the exposure rates, or levels of
11 concentration of radioactive in various parts of the
12 internals.

13 So it's expected in this project that certain
14 components within the internals of the reactor will be
15 greater than Class C, and will get packaged and stored
16 on the ISFSI until a disposal pathway is identified.

17 The remaining elements of the -- the vessel
18 internals would typically be Class B and Class C;
19 although, some would be Class A. And, you know,
20 typically in a reactor that's been shut down for 10
21 years, the vessel itself may, in fact, be just Class A
22 waste.

23 Q So the -- for example, the steel liner to the
24 reactor vessel could be A, B or C?

25 A It would likely be A.

1 Q Okay. I would -- you talked with Mr.
2 Rehwinkel about the parental guarantee agreement and the
3 parental support agreement, and those would be Exhibits
4 B and H to the decommissioning service agreement.

5 A I will take your word for it, unless you want
6 me to go and look for them. I don't know where they are
7 at.

8 Q Well, let's -- let's go to page 226 of Exhibit
9 6C.

10 A Okay.

11 Q You got there faster than I did.

12 Now, on page 226, you have got the form of the
13 support agreement between NorthStar Group Services and
14 ADP CR3 and ADP SF1, right?

15 A Correct.

16 Q Okay. Now, can you distinguish for me the
17 different purposes served by the parental guarantee
18 agreement from this parental support agreement?

19 A Okay, so this is where it gets -- so this is
20 actually, I believe, what we are calling the parental
21 guarantee agreement. The support agreement is that
22 agreement that goes to the NRC.

23 So, you know, in fact when you get to these
24 agreements, they also are called support agreements, but
25 this is, I think, the agreement we've referred to

1 typically as the parental guarantee, correct?

2 Q This agreement looks to be the one that is for
3 the benefit of the NRC?

4 A This support agreement on 226 is a -- let's
5 see -- this is the parental agreement that's -- that's
6 to ADP -- I -- I -- okay, I -- I have to admit that
7 these two agreements have such similar names that I
8 oftentimes confuse one with the other.

9 This agreement is, in fact, yes, the one that
10 goes -- that's 105 million for NorthStar and 35 million
11 for Orano that are the guarantee agreements -- they are
12 guarantee agreements to the entities performing the
13 work, ADP CR3 and ADP SF1.

14 Q So -- so to -- to wrap -- to summarize, then,
15 this particular agreement says that NorthStar Group
16 Services promise to the two ADP affiliates that they
17 will provide the support required effectively by the
18 NRC, because it's -- it's -- there is no guarantee
19 provided to any other third-party, according to
20 paragraph two; is that right?

21 A That's correct. This is a long held construct
22 of the NRC to have a documented parental support
23 agreement that either is from a utility owner to the
24 operating entity that owns the plant if it's being
25 decommissioned by a utility, or in our situation, the --

1 the operating entity ADP CR3 that's performing the
2 decommissioning.

3 Q Right. So -- because you have to provide that
4 guarn-- those assurances for the NRC's benefit because
5 you are required to certify that you have sufficient
6 funds to accomplish decommissioning, right?

7 A I don't know specifically what the terminology
8 is. You know, funding availability is certainly an
9 element of this. I don't recall if it's other
10 performance capabilities or not. It looks like this is
11 purely just a funding or availability of funding
12 guarantee.

13 Q Okay. And as the CEO of all three groups, you
14 are effectively -- you can sign all three lines, right?

15 A Let's look. Yes, I can.

16 Q Okay. The -- let's assume -- without getting
17 to the specifics of the prior attachments, let's assume
18 for the moment that the -- that the estimated
19 decommissioning cost is 540 million, and --

20 A Okay.

21 Q -- two years into it, as you have gone through
22 things and updated things, you are looking at a
23 25-percent overrun from your original estimate, which
24 would be another 135 million to bring the project cost
25 up to 675 million. And walk me through how that works.

1 My understanding is that, to the extent that
2 you have specifically itemized tasks, you can only
3 invoice what's on the payment sheet; is that right?

4 A That's -- that's -- yeah, I want to be careful
5 about confidentiality.

6 Q Okay.

7 A Let's just say that, yeah -- I will say yes to
8 that, but -- but I would -- I would like to stay away
9 from our confidential approach.

10 Q I get that. And I am -- I am just trying to
11 just generally understand how it works without getting
12 into any specifics.

13 The essential feature of the 540 million fixed
14 fee is that the -- there is a payment schedule for
15 individual tasks performed, right?

16 A There is a payment schedule for, yes,
17 individual tasks that are performed.

18 Q Okay. So to the extent that the project was
19 experiencing material cost overrun in my example, 25
20 percent, what happens?

21 A Well, for Duke, nothing. The -- the
22 contractor, ADP, simply collects the amount of the money
23 that it has agreed to collect for each of these tasks.
24 And the performing entity, be it NorthStar, Orano, WCS,
25 potentially some other subcontractor, if their cost to

1 perform that given task is in excess of the amounts that
2 Duke is required to pay, they simply have to absorb
3 that -- that cost overrun.

4 And there is, you know, a number of security
5 features that support that. One certainly is this
6 parental support agreement, which Orano has signed up to
7 and NorthStar has signed up to, but, you know, as you
8 recall, there is other confidential information related
9 to surety, and bonding, and other forms of guarantees
10 that suppliers would give on the project.

11 So there is -- there is risk transfer in all
12 of those ways ahead of ever getting to this -- this
13 parental support agreement. And, in fact, you know, I
14 find it very difficult to see how the parental support
15 agreement would ever even come into play. That --
16 again, the key feature here is that Duke has an agreed
17 upon amount of money they are going to pay for each
18 task, and they only pay that money if the task is
19 completed.

20 So with that aspect of this, the risk is
21 transferred to the -- the performing contractors, and --
22 and then we, in fact, you know, have -- have committed
23 to backstop those contractors, including ourselves, in a
24 number of -- of ways.

25 Q Okay. With the -- upon closing, the 540

1 million is transferred to a subaccount, and the reserve
2 stays in the Duke decommissioning trust fund.

3 Are there any circumstances other than a
4 change in end state conditions under which any of the
5 ADP affiliates can ask for more than 540 million from
6 Duke?

7 A We are asking for the subaccount. So I
8 believe you understand if the subaccount has earnings,
9 we -- we get those accrued earnings.

10 So just to be clear, I don't want to say we
11 wouldn't -- we are getting just 540 million. We are
12 getting 540 million plus, today, a very low yield on
13 those funds.

14 Q Okay. I got that.

15 So from a Duke perspective, it's a fixed fee.
16 They put 540 million in the subaccounts. That -- that
17 balance will change over time, assuming there are
18 earnings --

19 A Correct.

20 Q -- is that right?

21 A Correct.

22 Q And -- but my question got to -- to the extent
23 that -- are there any circumstances under which ADP or
24 any of the affiliated companies can go back to Duke to
25 ask for additional funding outside of the IOI

1 subaccount, other than a change --

2 A Not for --

3 Q -- in end state conditions?

4 A Yeah. Yeah. And I would say, yes, not for
5 the -- we cannot go back for any additional funding for
6 any purpose that's associated with the license
7 termination, which is what we've agreed to -- is the end
8 state we've agreed to at this point.

9 Q Okay. I have got a few questions for you on
10 your direct testimony.

11 A Okay.

12 Q Let's start with page four, line seven.

13 A Okay.

14 Q Do you see the sentence that says: The ADP
15 Group can also optimize the disposal of nuclear waste by
16 using disposal resources that are available today?

17 A I do.

18 Q In that contest, you are referring to low
19 level waste only, right?

20 A I am referring to low level radioactive waste,
21 yes.

22 Q Not high level waste in any way, shape or
23 form?

24 A Not spent fuel. In my vernacular, there isn't
25 any high level waste. There is spent fuel, and there's

1 greater than Class C low level waste, which would be
2 retained at the ISFSI.

3 Q Because neither can be disposed at any
4 available site today?

5 A There is no disposal pathway for either.
6 Although, greater than Class C has recently been
7 identified by the DOE as a waste that they believe can
8 be disposed of safely at our Texas disposal facility.
9 And, if, in fact, the State of Texas ultimately agrees
10 that that's okay with them, we would be able to take the
11 greater than Class C waste and remove it from the ISFSI.

12 The spent fuel has no current pathway with
13 Yucca Mountain being stymied. We, through WCS in Orano,
14 though, our -- have proposed and are in development of a
15 project to provide interim storage of spent nuclear
16 fuel, again, at our site in Texas. And another project
17 from another vendor is being developed about 20 miles
18 away from us across the New Mexico border for that same
19 purpose.

20 Q Okay. So I was going to get to that, but we
21 might as well jump to it.

22 On page nine, line 16, you talk about the
23 spent nuclear fuel and the need -- the estimated time
24 for completion and the final retirement of the NRC
25 operating license by 2038; do you see that?

1 A What page of the document is that?

2 Q On page -- it's page nine of your testimony,
3 beginning at line 16.

4 A Okay, I -- I am sorry, I was back in 6C there
5 for a moment. My fault.

6 Okay. Page nine, line 16?

7 Q Yes.

8 A Okay.

9 Q All right. So we are at 2038. We can agree,
10 can we not, that that -- for the materials to be moved
11 off-site requires that there be an acceptable
12 repository, either interim or permanent; is that right?

13 A That would -- yes, specific to the spent fuel.
14 The greater than Class C waste, we do expect a pathway
15 much earlier for -- for disposal of greater than Class C
16 waste.

17 Q Whatever happens to Class C waste, the NRC
18 license can't be finally terminated until the spent fuel
19 has been moved, right?

20 A The -- the NRC license for the ISFSI can't be
21 terminated. We will be terminating the license in a
22 step-wise manner. And the license, in fact, will be
23 terminated for all of the site except the, I think, two
24 or three acres that the ISFSI sits on. And that process
25 will be part of our final status survey targeted in

1 2026-27.

2 So the 99.9 percent of what was the licensed
3 area would, in fact, be released for unrestricted use to
4 Duke, and the ISFSI and its secure facilities would be
5 all that remain.

6 Q Right. But the license would still stay
7 active as long as you have got spent nuclear fuel in the
8 ISFSI on this Crystal River site, correct?

9 A The -- yeah. It's intended to be a remaining
10 part 50 license for that specific facility on that land.

11 Q Okay. And Duke would be maintaining its
12 nuclear decommissioning trust up until the point where
13 that remaining license is terminated, right? If you
14 know.

15 A I believe they would. I think, you know, the
16 way that -- there was some description of NRC
17 requirements associated with that, which are absolutely
18 true.

19 There is also issues with the IRS. It's a
20 qualified trust, and if you tried to disperse funds from
21 that trust, you would violate its nonqualified status
22 and it would be -- it would be taxed, I think, at
23 ordinary income rates.

24 Q Okay. But I am -- I am -- let's go back,
25 then. To finally terminate the license, you need a

1 disposal site that is actually accepting high level
2 waste. There currently is no permanent repository in
3 the United States, correct?

4 A Again, I would call it spent fuel, but I
5 understand what you are referring to. Yes.

6 Q And let's -- fine, there is no repository that
7 accepts that nuclear fuel, right?

8 A Correct.

9 Q Okay. The one identified site, Yucca Mountain
10 in Nevada, has been under debate for maybe what, 35
11 years?

12 A That sounds about right, yes.

13 Q Okay. And you talked about the potential for
14 a possible interim storage. Has the NRC approved any
15 such sites?

16 A The NRC did approve a site some number of
17 years ago in Utah on tribal lands, and that project did
18 not move forward at that time.

19 We are just in the project process with our
20 project, as is the other vendor, and have gone through
21 environmental impact statements and a number of
22 hearings, and those projects are both expected to be
23 considered for approval in the coming, I would say, 12
24 to 18 months.

25 Q Okay. But you have no action at this point

1 from the NRC approving an interim site, is that right?

2 A We are in a licensing process, but no decision
3 has been made by the NRC.

4 Q Okay. Are you aware that the state of Nevada
5 is regularly opposed siting at Yucca Mountain?

6 A The State of -- yes, I believe they have
7 opposed that for probably 35 years.

8 Q Probably about right.

9 And would the State of Texas have anything to
10 say about an interim storage facility?

11 A Yes. We've made it clear to the State of
12 Texas that we would not pursue moving spent nuclear fuel
13 into the state without an agreement that it was
14 acceptable to them to have the interim storage facility
15 in the state.

16 Q Okay. Bear with me just a minute.

17 Very quickly, on -- back on Exhibit 6C, page
18 124 again on the parent guarantees.

19 A Okay. I am there.

20 Q All right. This one is the front page of what
21 would be Exhibit B2; is that right?

22 A Yes.

23 Q And this is just, I think, nitpicking. Is it
24 mislabeled NorthStar when it should be Orano?

25 A Yes, it is.

1 Q Okay. For Waste Control Specialists and the
2 site in Andrews, Texas, are its disposal rates at all
3 regulated by the State of Texas?

4 A There is regulation of disposal pricing
5 specific to -- there is regulation, and it's fairly
6 complex to describe.

7 Q So to the extent that you wanted to negotiate
8 a, either a fee specific or unit specific disposal
9 agreement with WCS, would that have to be consistent
10 with the Texas rule and laws?

11 A It would have to be consistent with our agreed
12 upon rate structure within the state of Texas, and
13 that's already been considered, obviously, as we were
14 looking at this.

15 Q Okay. The decommissioning support agreement,
16 does ADP agree to abide by all existing permits for the
17 property held by Duke?

18 A We -- we have agreed to abide by all the
19 existing permits that are relevant to our work.
20 Remember, as you know, this is a very large site with
21 other facilities, so...

22 Q All right. Fair enough. That's a fair
23 clarification.

24 So any -- any permits that Duke currently
25 holds that are pertinent to your activities, you will

1 abide by?

2 A Yes. And we -- we've initiated work on that
3 aspect of this project already.

4 Q Okay. Mr. State, have you reviewed Mr.
5 Polich's testimony?

6 A I have not.

7 Q Okay. Then let me try it differently.

8 To the extent that the Commission were to
9 require an independent monitor for the project, how
10 would that change ADP or NorthStar's ability to perform
11 under the contract?

12 A Well, it depends what the scope of the ADP
13 monitor's responsibilities and rights were as it relates
14 to the work.

15 Our -- our approach and cost structure is
16 specific to the approach that we agreed to with Duke,
17 which, you know, we would be a prudent operator of the
18 facility. We would conduct our work in a safe and
19 effective manner, and that dictated our pricing model.
20 Not knowing what the independent monitor would have as
21 its ability to impact the project, I couldn't really
22 specify what that expense would be.

23 Q If a monitor was simply that, a monitor, and
24 had no stop work authority, or other authority to
25 interfere with the management of the project, would

1 NorthStar have any objections?

2 A You know, again, we are -- we are contracted
3 to Duke, and if Duke said, you know, we -- we negotiated
4 with Duke a -- effectively a monitoring process on a
5 monthly basis, where our project is evaluated against
6 the performance metrics and milestones that we've, you
7 know, we've committed to, and, you know, so that
8 specifically already exists between us and Duke.

9 If -- if this would be a monitor working on
10 behalf of the State, I don't -- I mean, I just -- I
11 don't know specifically how that would work. It would
12 have to be coordinated, I guess, through Duke, and as
13 long as it was, you know, acceptable to Duke, we would
14 certainly discuss any impact it might have to us.

15 Q Okay. Thank you. That's all I have. Thank
16 you very much, Mr. State.

17 CHAIRMAN CLARK: Thank you, Mr. Brew.

18 Okay. Mr. Moyle, are you -- I do not see you.
19 There we are.

20 MR. MOYLE: Here we go.

21 CHAIRMAN CLARK: All right. The witness is
22 yours, Mr. Moyle.

23 MR. MOYLE: Thank you, Mr. Chairman.

24 EXAMINATION

25 BY MR. MOYLE:

1 Q Mr. State, good morning.

2 A Good morning.

3 Q I don't think we've had a chance to visit
4 before, so let me introduce myself.

5 I am Jon Moyle, and I represent the Florida
6 Industrial Power Users Group, FIPUG. It's a group of
7 large users of electricity that many of whom take
8 electricity from -- from Duke.

9 This is, I think, my first time
10 cross-examining a witness in this format at a -- at a
11 proceeding, so I am in Tallahassee. I am by myself.
12 Where are you?

13 A I am in Arizona.

14 Q Okay. And are you by yourself as well?

15 A I am, yes.

16 Q Okay. One of the things that might make our
17 conversation go a little easier, the -- the Chair asked
18 how much time I thought it would take, and I -- I gave
19 him between a half an hour and an hour, and it may
20 depend on our conversation and some of your answers.

21 Earlier, I think he indicated that it's a
22 preference at the Commission if you could answer yes or
23 no, and if you feel a need to explain, you know,
24 please -- please do that. Is it that something you can
25 do?

1 A Yes.

2 Q Okay. And obviously, I may ask you a few why
3 questions, which you can't answer with a yes or no. So
4 on those, we will ask for the explanation. On the yes
5 or no questions, it would be helpful to get a yes/no.

6 So let me start with this document. This was
7 something that Mr. Rehwinkel showed you yesterday. And
8 it's OPC Exhibit No. 13. It's the organization -- a
9 simplified organization chart.

10 A And what page is that of that exhibit?

11 Q So at the OPC number on the right, it's 34.
12 If you look at it like a loaded document, it's 35. When
13 you go to the bottom, it's either 34 or 35, depending on
14 how you -- how you move around.

15 A Okay, I have got it. I have got it.

16 Q All right. So the title was Simplified
17 Organization Chart. I found it to be a little complex
18 looking at it. So is there -- does this not accurately
19 represent the organization chart? Is there a more
20 involved or complex chart?

21 A Well, if you wanted to look at the entire
22 organization chart of all the entities involved, you
23 know, NorthStar Group Services has a number of
24 subsidiaries that operate in different locations, union
25 affiliated, nonunion affiliated. Orano similarly.

1 So I think it's, you know, it's really
2 specific to say that the streamline from ADP up through
3 the ownership is this simplified chart, and it doesn't
4 include every other ancillary entity that might exist
5 that could be owned by any of these companies.

6 Q Okay. So I'll take that as, yes, there is a
7 much more complex organizational chart if you were to
8 look and wanted to see all of the other entities, is
9 that fair?

10 A Yes.

11 CHAIRMAN CLARK: Mr. Moyle, for the record,
12 would you just clarify that you were using OPC
13 Exhibit 13, is that correct?

14 MR. MOYLE: Yes, sir. OPC Exhibit 13, Figure
15 2, entitled Simplified Organization Chart.

16 CHAIRMAN CLARK: Thank you, sir.

17 MR. MOYLE: And I printed out a copy. I am
18 better working off hard copies.

19 BY MR. MOYLE:

20 Q So am I correct in looking at this
21 organization chart that the head of all of these
22 entities is in the oval figure at the -- at the top?

23 A That's the -- the managing members of JFL
24 General Partner Investors IV, LLC.

25 Q Okay. So -- so with, you know, I -- would

1 that be, yes, that typically the investors, because they
2 are set up in a way where they, you know, have relations
3 and they are at the top of this org chart, they would
4 be -- they would be the ones in control?

5 A Yes. The general partner is the controlling
6 entity of the private equity firm, and the private
7 equity firm, in turn, owns NorthStar. We are -- we are
8 speaking specifically now on the NorthStar side, not
9 Orano.

10 Q That's right.

11 Is there any relationship between the
12 Lehman -- I call it the Lehman group, what's J.F.
13 Lehman -- what's the name of the investment agreement?

14 A Yeah, John F. Lehman.

15 Q So if I say that, is that a corporate entity,
16 or is that an individual Mr. -- Mr. John F. Lehman?

17 A It's John F. Lehman & Company, and it's named
18 specifically after him.

19 Q Okay. And that's a name I have some
20 familiarity with. Was -- does he have brothers?

21 A I -- I -- I don't know. It's not related to
22 the Lehman securities firm, if that's what -- what you
23 are thinking.

24 John F. Lehman was the Secretary of the Navy
25 under Ronald Reagan, and he is not in any way related to

1 the other Lehmans that are the Wall Street firm.

2 Q Okay. Yeah, thanks -- thanks for that
3 clarification.

4 So on this chart, what are the companies
5 that -- that you are -- you hold a -- a role in?

6 A I am the Chief Executive Officer of
7 Accelerated Decommissioning Partners, a position really
8 entitled by the fact that I am the CEO of NorthStar
9 Group Services, which is the controlling entity of ADP.

10 And then the -- the chain above that, I would
11 be the Chief Executive officer of Northstar Group
12 Holdings. North -- LVI Parent Corp, I -- I have to tell
13 you I don't know who the officers of that are. It's
14 essentially a flow-through.

15 Q Okay. And any -- any -- anything else either
16 up or down?

17 A No. I have no affiliation or -- I don't want
18 to use affiliation. I have no involvement in any of
19 these JFL entities as a partner or investor or in any
20 other capacity.

21 Q Okay.

22 A I am sorry, that's -- that's not correct
23 either. I am an investor in NorthStar via JFL-NGS
24 Partners, LLC, which is the entity structured to own the
25 interest in NorthStar.

1 Q And are you an investor in that in your
2 individual capacity?

3 A Yes.

4 Q Who is the CEO, or the officer of the ADP CR3,
5 LLC, that is underneath Accelerated Decommissioning
6 Partners, LLC, of which you are the CEO?

7 A I -- I am not 100 percent certain, but I
8 expect that I am probably the CEO of both of those
9 subsidiary entities. I -- I would classify those, you
10 know, as entities in formation. I believe we formed
11 them. I am almost certain we have, but I -- I don't
12 recall the named officers. Typically, I would be the
13 CEO of both of those, though.

14 Q Yeah. And -- and am I correct that the reason
15 that you have formed these separate entities is to, in
16 part, to limit potential liability so that it doesn't
17 rest with companies that have significant assets?

18 A No, I wouldn't say that's specifically why.

19 The ADP entity was formed to -- as a joint
20 venture with Orano and NorthStar to conduct multiple
21 projects of this type. So under ADP, for example, if we
22 were to take a project at another nuclear power plant
23 site, there would be additional subsidiaries of ADP, and
24 we simply want to segregate the obligations and
25 responsibilities between these various projects.

1 Q So what I suggested, are you aware that that
2 is also something that flows from having separate -- you
3 know, they call them single -- single purpose entities.
4 Have you ever heard that phrase?

5 A Yes.

6 Q Okay. And -- and typically, you go in and say
7 I am going to do this power plant, and it's going to be,
8 you know, Okeechobee Power Plant, LLC, and part of the
9 reason for doing that is to insulate potential
10 liability, you know, that if you have a whole bunch of
11 other power plants, it's not -- if something goes wrong,
12 you are not exposing assets of those -- of those other.
13 Is that in any way part of the consideration with
14 respect to ADP CR3 or AD -- and ADP SF1?

15 A Yes.

16 Q Okay. So just explain to me, you know, at
17 high level what ADP CR3 is doing and what ADP SF1 is
18 doing.

19 A The split between the two is the active
20 decommissioning of the nuclear power plant, which is ADP
21 CR3, and the ownership and management of the ISFSI
22 assets and spent nuclear fuel. So for those that have
23 potentially been to the site, the ISFSI sits within the
24 footprints of the, this much larger site. It's
25 surrounded, it's fenced, it's secure, and that is

1 effectively tied to ADP SF1. The rest of the site
2 that's being decommissioned is being cleaned up by ADP
3 CR3.

4 Q Okay. And so the Commission -- so who do we
5 look to? I have been involved in a few things and, you
6 know, a lot of different corporate entities, and
7 somebody said, you know, who -- where is the throat to
8 choke? I mean, if you had to say which corporate entity
9 in all this would be the one that if an issue arose,
10 who -- who would it be, in your view?

11 A It would be me in my capacity as CEO of all of
12 these entities. The -- the -- you know, the obligation
13 here is really from ADP, which is a joint venture, and I
14 understand single purpose entities. That is not a
15 single purpose entity. It's a true joint venture. But,
16 you know, NorthStar, as the controlling unit holder
17 of -- of Accelerated Decommissioning Partners, bears a
18 lot of the responsibility, but there is, you know,
19 jointly an obligation between, you know, Orano,
20 NorthStar together to provide and provision for ADP to
21 be successful in doing this project, or any other
22 project that we take on as an ADP project.

23 Q Okay. And so when you list on this chart
24 Accelerated Decommissioning Partners, LLC, that's a
25 limited liability company?

1 A It is.

2 Q Yeah, are they authorized to do business in
3 Florida?

4 A I -- I believe we have requested such
5 authorization. The actual performance of work in
6 Florida is going to be done by a NorthStar entity, which
7 has been active and operational in Florida for decades.

8 Q Is that the entity that's going to be doing
9 the work shown on this organizational chart?

10 A No. These are the owning organizations.
11 These are not the performing organizations.

12 Q What's the name of the performing
13 organization?

14 A I -- I would have to get the specific name.
15 That's typically referred to as our Florida corporation.
16 We've got -- and Orano would similarly have a
17 corporation licensed in the state of Florida.

18 We -- as I said, we've operated continuously
19 through various ways for about 30 years in the state of
20 Florida, and have conducted somewhere on the order of
21 \$300 million worth of work just in the last five years.

22 Q You -- you mentioned a joint venture. And
23 would I be right to assume that the -- the corporate
24 documents related to Accelerated Decommissioning
25 Partners, LLC, that you are referring to that as the

1 joint venture, or -- or no?

2 A Accelerated Decommissioning Partners, LLC, is
3 a -- a joint venture. It's an LLC, and it's a joint
4 venture arrangement between NorthStar Group Services,
5 Inc., and Orano USA, LLC, I believe.

6 Q Okay. So if the Commission or one -- somebody
7 wanted to say, okay, what's the -- what's the deal look
8 like, is the joint venture set forth in a memorialized
9 document that says joint venture on the top, Orano
10 Decommissioning Holdings, LLC, and NorthStar Group
11 Services, Inc.?

12 A No, I believe it would be codified in a
13 operating agreement for that LLC.

14 Q For the Accelerated Decommissioning Partners,
15 LLC?

16 A Correct.

17 Q Okay. You are CEO of -- of other companies
18 beyond the ones that we have talked about on this chart,
19 correct?

20 A Correct.

21 Q Do you know how many companies you are CEO
22 for?

23 A No.

24 Q Waste Control Specialists is a company that
25 you are a CEO for, is that right?

1 A That's correct.

2 Q And they are the company that's going to --
3 going to receive the low level radiological waste,
4 correct?

5 A Yes.

6 Q At a high level, Mr. Brew asked you whether --
7 whether disposal rates are regulated in Texas, and you
8 said yes, but it's complicated. You know, you have been
9 in business a long time. Would you just make -- give us
10 a high level overview of how -- how disposal rates are
11 regulated in Texas?

12 A Sure.

13 So the Texas site was created as part of
14 what's called the Vermont-Texas Compact. And the
15 compact arrangement was used to create the low level
16 disposal facility back probably 30 years ago. And as
17 such, the disposal rights of the site extend to all 50
18 states, essentially, but Texas and Vermont have
19 preferential pricing.

20 So the pricing structure provided to entities
21 in Texas -- in Texas and Vermont is -- is established at
22 a level where that rate is the lowest rate that could
23 ever be offered to any non-compact entity. So those
24 rates are -- are regulated and might change from time to
25 time. And if they were go up, for example, we would not

1 be allowed to accept waste from somebody at a lower
2 price than the highest price we can charge an in-compact
3 entity.

4 Within the rate structure, there is carry
5 surcharges, there is various kinds of taxes for the
6 local community, for the State, and those are also
7 regulated primarily by the Texas equivalent of your
8 Department of Environmental Qual, TECQ, which is an
9 entity of the Texas government, and the Commissioner of
10 the TCEQ is appointed by the Governor.

11 So there is a number of factors that come into
12 play. There is different rates for A, B and C waste.
13 If we are ultimately able to take greater than Class C
14 waste, there would be a rate associated with that, and
15 various surcharges and taxes that are different for each
16 waste type.

17 Q Thank you for that. Thank you for that.

18 With respect to the -- the rate setting, it's
19 not like this Florida Public Service Commission, though,
20 and they come in and -- and look at everything and set
21 rates, correct?

22 A Yeah. It's not a cost recovery kind of rate
23 setting. It's just an agreement that -- that
24 preferences the two parties, Vermont and Texas, that
25 ultimately committed to support the development of this

1 site back in the 1990s.

2 Q Right. And would it be fair to characterize
3 it as like a most favorite nation provision, that, you
4 know, they are always going to have the lowest rate?

5 A I would -- that's a fair assessment.

6 Q Okay. And is that a -- is that rate a public
7 number?

8 A I -- I believe much of that is public. I
9 don't know that all of it is. Certainly anything that's
10 public, we can provide access to that information.

11 Q Yeah. Well, let me -- let me -- let me ask
12 you, and I will just kind of wade through this, but what
13 is the -- what is the rate that, you know, that Vermont
14 and Texas pays for -- we'll just call it low level -- I
15 don't know if it's grouped A, B and C or if it's spread
16 out differently. Do you have any information? Can you
17 talk about so much per cubic yard?

18 A It would be per cubic foot, typically. And
19 I -- I don't know the specific rates. We -- we just did
20 a reset of the rates about three months ago, and I don't
21 recall the -- the specific pricing.

22 Q Okay. Have you guys established a rate yet
23 for the low level radiological waste that appears to be
24 headed -- headed that way from Crystal River?

25 A We've established, I guess, target pricing.

1 We haven't contractually committed. That will all be
2 done effectively at closing. We -- you know, part of
3 our strategy with WCS before we even owned the site is
4 we wanted to know what our -- we wanted visibility
5 transparency into what our costs would be to dispose of
6 waste. It's the most significant cost in the project,
7 and a very significant uncertainty if you don't own and
8 control your own disposal.

9 So we've -- we've put target values on that.
10 I -- I can't say specifically what those are, and
11 certainly that would be confidential and not something
12 we would discuss in this type of forum.

13 Q But you don't think -- you don't think there
14 is an agreement in place, as we sit here today, for
15 that?

16 A There is probably a contract -- a draft
17 contract agreement. It wouldn't be an effective
18 contract until we actually executed on the transaction
19 and became the operator of the site.

20 Q Yeah. Sometimes people do contracts with a
21 condition subsequent to say assuming, you know, the
22 Commission blesses it, but anyway, that's a detail.

23 So I assume that the company you are the CEO
24 of, the Waste Control Specialists, that they will make
25 money on this. They will price it in a way where they

1 make money, right?

2 A I hope so.

3 Q Yeah. And there is nothing wrong with that.

4 With respect to the relationship of the -- Mr.
5 Lehman and the other people listed in the oval box as
6 the head of the simplified organizational chart, do they
7 have an interest of the Waste Control Specialists, and
8 if so, what is it?

9 A Yeah. J.F. Lehman also owns Waste Control
10 Specialists.

11 Q Okay. Thanks.

12 I am going to move -- move on to another
13 topic. And Mr. Brew touched on this a little bit with
14 you, but just to be clear, the -- you said yesterday, I
15 think, that the CR3 project is a sibling of the Vermont
16 Yankee project; is that right?

17 A It -- I am -- I am not sure what sibling
18 means. It's an identical, nearly identical unit to me,
19 Yankee, as I recall, not Vermont Yankee, but --

20 Q Okay, I am sorry.

21 A I am not sure what you mean by sibling.

22 Q Yeah, like brother/sister. I think you said
23 it was like a -- my recollection was you said it was a
24 brother, or a sister, or the same, identical, anyway,
25 that's -- don't worry about that; but you said it's

1 identical.

2 A It's very similar. I don't -- I don't know
3 that there would be any nuclear plant that I would say
4 is identical.

5 Q Okay. And you said that -- how many meetings
6 with the public did -- did -- did you -- were you
7 involved with in terms of getting them information about
8 here's -- you know, here's what we are doing, here's the
9 plan, here's what the costs are going to be?

10 A Well, the -- I don't know specifically how
11 many I had with the public. I attended 20 plus
12 meetings, I would say, in the state of Vermont as part
13 of the process of becoming the owner of the facility
14 there.

15 Q Yeah, and your -- at the company, y'all are
16 committed to transparency, correct?

17 A Correct.

18 Q Okay. And when you went through this and
19 looked, you had an understanding that the Public Service
20 Commission has a role to play in looking at this
21 transaction, correct?

22 A No, I did not understand that from our early
23 days.

24 Q Okay. At some point, you -- you gathered that
25 understanding?

1 A I understood that -- I mean, I will just give
2 you my perspective.

3 We -- we are a contractor working for Duke
4 doing a decommissioning as the operator of a facility,
5 and I -- I saw a difference there between owning a
6 facility and -- and being a contractor doing a
7 decommissioning. And so I didn't know what Duke's
8 obligations were, if any, to gain approval of
9 essentially a contract for performance of
10 decommissioning.

11 And my -- my experience to this is tied to the
12 fact that we've decommissioned a lot of fossil plants in
13 the state of Florida, and I am happy to name all of
14 them, and the size, and who the owners were that I can
15 recall in the last five years. It's about 5,000
16 megawatts. And as such, we've never, to my knowledge,
17 been engaged in any process with the Commission. And
18 that's not to say that I disagree with this process.
19 It's just that was my experience, and so, you know, the
20 engagement with the Commission was not something that we
21 had anticipated early on.

22 Q Yeah. Well -- well, thanks for that. I
23 appreciate that.

24 And to -- to dig in a little bit on that. I
25 mean, the way those deals work is you have a coal plant,

1 or a gas plant, and somebody says, hey, we are going to
2 retire this, we need somebody to take it apart and
3 dispose of it. And -- and then you come in and say,
4 here, here's our proposal. We will be the contractor.
5 We will take this burden on, and if you work it out with
6 the owner of the plant, off you go, and you don't need a
7 PSC review; is that right?

8 A That -- that was -- has been our prior
9 experience with -- with FPL and TECO and, you know,
10 other owning entities that we've worked with in the
11 state.

12 Q All right. And typically, the way that works
13 is you agree to a price amount, and then you provide a
14 schedule of values, and then you do the work, and then
15 the company -- the company itself pays you, correct?

16 A Correct. Which is exactly the way this
17 project is going to be from -- from our side of the
18 ledger, the way we looked at it.

19 Q Yeah. Does FPL and TECO, when they do these
20 arrangements with you, do they pay you all the money up
21 front, or put it in a fund and then -- and then say,
22 here, here's all the money up front?

23 A Well, we don't -- we are not being paid up
24 front on this project. And I don't know how they
25 allocate capital to projects, so I really -- I -- I

1 can't say I know.

2 Q Well, typically as a contractor, you don't get
3 paid for your work until you have done -- done the work,
4 or on a progress scheduled payments, correct?

5 A Correct. Which is exactly the way we are
6 proposing to do Crystal River 3.

7 Q Yeah. Well, aren't you proposing that you
8 take 540 million and -- and put it in a, you know, in a
9 segregated subaccount fund?

10 A We are proposing --

11 Q It's a yes or no, and then explain if you need
12 to?

13 A Well, yeah, what we are -- what we are we have
14 agreed to with Duke is to assure that they've got the
15 funding to do the project, they will create a segregated
16 account of the NDT and commit that those funds would be
17 used to pay us for the license termination and
18 decommissioning of the plant. And from our
19 perspective --

20 Q If --

21 A If I could continue, please.

22 From our perspective, the -- the allocation of
23 those funds, and knowing that the money is available and
24 in an account, reduces our counter-party risk of not
25 getting paid. Albeit, you know, we don't experience --

1 or we are not typically concerned with FP&L, for
2 example, paying us, but, you know, in a business like
3 ours, we are concerned that we are going to get paid for
4 the work we do. So knowing the money has been set aside
5 and earmarked to do this work is important to us, but we
6 are not getting paid by the NDT.

7 Q Have -- have you ever had an arrangement with
8 FPL, or any Florida utility, where you have required the
9 money up front as part of the arrangement, or money put
10 in any kind of trust fund? And you can just go yes or
11 no. I don't need an explanation.

12 A I don't believe so.

13 Q You are -- you are taking me down a road I
14 want to get to a little later about -- about the money,
15 but let me get back to the question of the reports that
16 you have to make.

17 You have to give reports to Duke, what,
18 monthly, about how things are going?

19 A I believe, yeah, we will provide monthly
20 status reports, or monthly information as part of our
21 process of invoicing for payments for the work we are
22 doing.

23 Q So -- so it will be, like, a narrative to say,
24 you know, here's what we have done this month, probably
25 some narrative lead-on, and then an attachment that --

1 that picks up a schedule of values and shows how much
2 you have done; is that fair?

3 A Yeah, that's a good description.

4 Q Okay. Would you have any objection to sharing
5 that document with the Florida Public Service
6 Commission? This just from you, have review of it. I
7 get that. I understand that. But I am just asking on
8 behalf of -- of you and the companies that you are
9 involved with, would there be any objection that you
10 would have with respect to sharing those -- those
11 reports? If you can just go yes/no, that would be
12 great?

13 A I can't go yes/no, and I will tell you why,
14 because I don't know what's going to be in that report.
15 It may be -- it may contain confidential information
16 of -- you know, we've got a lot of material here that
17 we've redacted that's specific to the way we do our work
18 and how we classify different activities. And so to the
19 extent that -- that a report could be redacted for --
20 for public view, we don't have any issue with doing that
21 ever, but, you know, we have very significant
22 restrictions, for example, in Vermont, about, you know
23 what -- what individuals can see and what's published in
24 the -- in the public domain, and that's -- that's our
25 only concern.

1 Q So -- so I would be correct, then, I would
2 take that answer as you have no objection to providing
3 the Public Service Commission with monthly reports that
4 are provided to Duke provided confidentiality could be
5 obtained, is that fair?

6 A Close. I -- I -- I have no issue with
7 providing nonproprietary information to Duke that they,
8 in turn, could provide to the Commission. And if there
9 is confidential or proprietary information, I think we
10 would have to establish a specific protocol for that --
11 that type of data, but it would be something that we
12 would not oppose.

13 Q Okay. If -- if -- if the Commission said,
14 hey, this is important, there is, you know, hundreds and
15 hundreds of millions of dollars in these trust funds and
16 there is being changes made to that, we would like to
17 get some realtime information on that, and assuming
18 proprietary and confidential information could be
19 addressed in a way that keeps it proprietary and
20 confidential -- just to be clear, I want the record to
21 be clear on this -- then you and the companies you
22 represent have no objection; is that right?

23 A That's -- that's a lot of words. I -- I
24 believe what you said is correct.

25 Q Okay. Have any of the companies that you are

1 involved with ever had a matter in front of a state
2 Public Service Commission before, or is this -- is this
3 your first?

4 A In Vermont we did. Other than that, I don't
5 know of any others. I wouldn't -- I wouldn't attest
6 that we never have, I just don't know of any.

7 Q Okay. If I asked you some -- some maybe
8 operational detailed questions of the -- what you are
9 going to do at Crystal River, would you be comfortable
10 answering them?

11 A Some of -- yeah, probably. It depends what
12 they are.

13 Q Okay. Well, let's take a shot at it.

14 Yesterday, you talked about a situation where
15 there had been a misjudgment made related to the level
16 of contaminated soil. Do you remember that?

17 A No, but that's fine. We can -- we can talk
18 about that.

19 Q Okay. Has that ever happened to you, where
20 y'all were doing a job, and you thought there was so
21 many cubic feet or cubic yards of contaminated soil and
22 then it was like, oh, you know, it's more than that?

23 A Yeah. We've had many instances where we have
24 estimated quantities and they were different than we
25 estimated.

1 Q Okay. And have you gone out and checked
2 the -- and estimated the quantities of soil at Crystal
3 River 3?

4 A We did an -- an estimate that assumed there
5 was -- you know, it's conservative, it's an engineer's
6 estimate -- that assumed there was fairly significant
7 contamination, you know, in the footprint of the site.
8 And we did our own analysis. We -- we took samples, you
9 know, and made our own conclusions.

10 But the large -- the large driver for disposal
11 on this is not soil, typically. It's the reactor
12 structure, the vessel -- the vessel is obviously
13 important, but the containment and all of those
14 structures, and we measured and did engineering takeoffs
15 of all of those buildings.

16 Q If you -- if you get down there and start --
17 do you test the soil material when you are operating?

18 A We test soil all the time, yeah. We -- we
19 take samples and test them, and it's for compliance, not
20 just radiologically, but also for any hazardous
21 components.

22 Q Yeah. Do you sometimes, when you test it,
23 say, well, let's take it to a Class 1 landfill rather
24 than haul it all the way to, you know, something that's
25 certified for radiological waste?

1 A No.

2 Q It all goes to the radiological disposal site?

3 A If it's got radiological material, yes. It
4 wouldn't go somewhere else.

5 Q Yeah. Have you -- have you checked to see if
6 all the soil has radiological material?

7 A Where? At Crystal River?

8 Q That's right.

9 A Yeah. We've -- we've done sampling around the
10 power block. The -- the site itself, you may know, I
11 think what's was originally licensed at, like, 4,600
12 acres, which included all of the other facilities there.
13 So that footprint has been shrunk over time. By the
14 time we show up, I think there is about 100 acres that's
15 still in the licensed area, and we would be taking
16 samples as we do the work. And then as we complete the
17 work, we have a very rigorous sampling and a process of
18 taking exposure rate measurements that is defined and
19 directed by the NRC to ultimately get to the free
20 release of the facility.

21 Q Okay. In a prior conversation, I think you
22 made a distinction between low level radiological waste
23 and spent fuel, is that -- do you recall that, or is
24 that -- is that a distinction we can make?

25 A Yes.

1 Q Okay. And tell me -- tell me your
2 understanding with respect to the nuclear
3 decommissioning trust fund, and then how this
4 transaction will impact the nuclear decommissioning
5 trust fund. And I can -- if you are not comfortable
6 doing that, I can break it down in, you know, a series
7 of questions, but -- but I want to just have a
8 discussion about the -- the current nuclear
9 decommissioning trust fund, and then what will happen to
10 that if this transaction is approved.

11 A Well, so the current fund, as I understand it,
12 is -- is that the fund is all in one account, and I
13 don't recall if it's all qualified or partially
14 nonqualified, but let's just call it one account. And
15 the proposal here is that Duke commits to create a
16 segmented account and put \$540 million, which they
17 specified they would use as funding to support payment
18 to us for the work. And, you know, we would invoice the
19 work, and they would pay us as they confirm the work is
20 done presumably by drawing money out of the NDT.

21 You know, I think they would have flexibility
22 to pay us and then draw the money out of the NDT. You
23 know, I don't know the specific mechanics that Duke is
24 assuming there, but that would be the flow, as I
25 understand it, that would occur.

1 Q Okay. So can we call that account the low
2 level account, the subaccount?

3 A We'll call it the sub -- I call it a
4 subaccount, yes.

5 Q Okay. And just to make a distinction, let's
6 call it low level; can we do that?

7 A Okay.

8 Q Okay. Because my understanding, there is
9 another subaccount that's being created that will deal
10 with the spent nuclear fuel, is that your understanding?

11 A I -- I don't recall a second specific
12 subaccount for spent fuel. I -- maybe -- I don't know.
13 That's detail I am not aware of.

14 Q Okay. Well, whether it's a separate account
15 or whether it's money staying in the existing account,
16 we'll call that the spent fuel account, is that fair?

17 A Sure.

18 Q Okay. All right. And -- and your companies
19 are taking on obligations with respect to the spent
20 fuel, correct?

21 A Correct.

22 Q Okay. You actually -- you actually are buying
23 the spent fuel for \$3,000, is that right?

24 A We are taking title to the spent fuel, and I
25 don't recall the dollar value.

1 Q Yeah. I was a little surprised when I heard
2 that. I wouldn't think spent fuel was a piece of
3 tangible personal property that a lot of people would
4 want or have -- have value. Why -- why are you buying
5 the spent fuel?

6 A That's part of a proprietary business plan of
7 the company. Let me see if I can answer that at least
8 in part.

9 We view spent fuel probably differently than
10 others might. We see some potential value as it might
11 relate to other business ventures that -- that we have
12 interest in that would be associated with long-term
13 storage of spent fuel.

14 Q You have already talked about you are trying
15 to have your facility in Texas, the licensure expanded
16 to allow for the interim storage of spent fuel rods,
17 right?

18 A Spent fuel assemblies, yes.

19 Q Is -- would that expansion of the licensure
20 include the interim storage of spent fuel rods or -- you
21 corrected me on that. You said -- what did you call
22 them?

23 A Assemblies.

24 Q Are they the same thing?

25 A No. Assemblies are made up of rods.

1 Q Okay. So are any of the monies in the -- the
2 low level fund going to be used for handling the spent
3 fuel assemblies management?

4 A No.

5 Q Okay. So where are you going to get the money
6 to deal with the spent fuel responsibilities?

7 A Well, it's -- it's a long held obligation of
8 the Department of Energy to fund spent fuel -- ownership
9 of spent fuel, and ultimately the owner of that spent
10 fuel is going to be the United State of America. So we
11 as, essentially, an interim owner, just as Duke is
12 today, are going to rely on the Department of Energy
13 through a 57 or \$59 billion fund that they have
14 collected to pay for the -- the security of the spent
15 fuel on the site, and, you know, we will provide such
16 security and -- and seek recovery of DOE most likely
17 under a settlement agreement that's been discussed with
18 them that would pay us our incurred costs on an annual
19 basis.

20 Q So -- so you are -- in effect, part of this
21 transaction is you are picking up the claims that Duke
22 would have, an assignment of legal claims against the
23 Department of Energy related to spent nuclear fuel; is
24 that -- is that right?

25 A I am not sure I would classify it an

1 assignment. I think the claims transfer would title to
2 the fuel. So we become party to the standard contract
3 that exists as we become owner of the spent nuclear
4 fuel.

5 Q And the process that you had to go through
6 with the NRC, that was to get the title transferred and
7 to check you all out as owners for the -- for the fuel
8 assemblies, is that right?

9 A The license transfer application relates
10 specifically to transferring the operating license for
11 the facility, and the -- the operation of all of the
12 assets at the facility, including the ISFSI, so I guess
13 the answer to your question is yes.

14 Q Okay. And obviously, you know, the plant is
15 not operating, right?

16 A That's correct.

17 Q Yeah. So -- so the operating license, tell
18 me -- tell me the value of the operating license from
19 your perspective.

20 A As the operator of the facility, it gives us
21 the ability to execute on the decommissioning plan, and
22 we have submitted all to the documentation, and we
23 become the party that's obligated to do the
24 decommissioning of the facility under the
25 decommissioning arrangement that we proposed to Duke and

1 the NRC as approved.

2 Q So you would take the view that you are the
3 operator of the facility now with respect to the CR3
4 nuclear component?

5 A We, as part of this transaction, will become
6 the licensed operator in the eyes of the NRC.

7 Q Okay. And I suppose in the eyes of the Public
8 Service Commission as well, right?

9 A If, in fact, there is a purview to the
10 operation, I would say yes.

11 Q All right. Would you have any objections if
12 the PSC asserted jurisdiction and said, as the operator,
13 you have the NRC license to operate agreement, we are
14 going to assert jurisdiction over -- over you and get
15 monthly reports, would that pose any issues for you?

16 A Well, I am not sure that jurisdiction could be
17 asserted. I don't recall that Florida is an agreement
18 state or not, but typically -- well, it doesn't even
19 matter, I guess.

20 Typically, in power reactors, including
21 decommissioning, the NRC has always said they have sole
22 jurisdiction in that area, and as such, you know,
23 they've mandated certain reporting requirements on an
24 annual basis; and as part of this transaction, we've
25 agreed to more refined, either quarterly or monthly

1 reports.

2 Q Okay. Do you know how much money is in the
3 nuclear decommissioning trust fund as we sit here today,
4 just ballpark?

5 A I do not.

6 Q But you know it's more than 540, right?

7 A I hope so.

8 Q So this 540 that will come in, upon closing,
9 you will -- you -- you will have the ability to make
10 investment decisions related to how those monies are
11 invested, correct?

12 A We've agreed to a -- an approach that we may
13 be involved in the decision-making as it would relate to
14 those funds within a very specific set of guidelines.

15 Q Okay. And -- and when you say we, who -- who
16 is that specifically? If we go to the org chart,
17 which -- which -- which entity would be involved?

18 A ADP and Duke would be the two entities
19 involved.

20 Q Do you know -- do you have the right, you
21 being ADP, to make a decision about who invests the
22 money?

23 A Do you mean, like, the trustee or -- or is
24 that what you are referring to?

25 Q Let's take it -- let's take the trustee and

1 then let's take the investment advisors.

2 A Okay. I -- I believe -- I don't recall if
3 it's an absolute right or -- or not, but I believe we
4 have a right to propose and -- you know, I don't recall
5 the terms, but I think we have some rights in that
6 regard.

7 Q Okay. So that's -- your answering now with
8 respect to the trustee? Just so the record is clear.

9 A Yeah, the -- the trustee and the investment
10 manager, I think we have some rights to propose
11 potential parties. I -- I don't recall the specific
12 details.

13 Q Okay. Is there anything that you are aware of
14 that precludes any entities that are corporate
15 affiliates, or subsidiaries, or in any way related to
16 the John F. Lehman & Company from being involved in the
17 investment of the nuclear decommissioning trust funds in
18 the low level fund, the 540?

19 A I -- I don't know of anything that ever
20 addressed anything related to John F. Lehman & Company.
21 It's certainly not an investor in the -- the nuclear
22 decommissioning trust.

23 Q Yeah. What I am trying to ask is, you know,
24 is the organization and the -- or any of the members of
25 the organization that is found on the OPC Exhibit 13 at

1 page 34 or 35 that has the oval, are those -- those
2 folks involved in companies that potentially could be
3 the investment advisor to the low level \$540 million
4 fund?

5 A We -- we asked that question of J.F. Lehman,
6 and got a response that, no, to the best of their
7 knowledge, they have no nexus or connection to anyone or
8 anything related to this transaction in any way, other
9 than NorthStar.

10 Q So would you be willing to commit that in
11 exercising the contractual ability that you have, that
12 you would not select investment advisors that have any
13 relationship in any way, shape or form to the Lehman
14 companies, or any of their affiliates or subsidiaries,
15 or any of the folks that are listed in this exhibit?

16 A We would certainly be amenable to something
17 like that that makes sense, you know, as long as if the
18 investment advisor also provides services to a J.F.
19 Lehman company in Timbuktu, you know, I don't -- you
20 know, there is only so many investment advisors that
21 are -- are suitable for this type of situation, but we
22 would certainly be amenable to something in that regard.

23 Q Yeah. Okay.

24 And the Commission, I guess if they so
25 desired, they could probably make that a condition of

1 approving the deal, wouldn't you think that would be
2 possible?

3 A I -- I -- I don't know how the Commission
4 works explicitly, but I am assuming they could make such
5 a requirement.

6 MR. MOYLE: Okay, Mr. Chairman, I know you
7 said you wanted to plow along until 12:15. I am --
8 I can take a break now. I do have some further
9 questions, not a ton, but it might be a good -- a
10 good point for -- for lunch. You had mentioned you
11 are a bit hungry, so I defer to you.

12 CHAIRMAN CLARK: That was yesterday I was
13 hungry, Mr. Moyle. Today I just have lunch
14 scheduled for 12:15.

15 MR. MOYLE: All right. I am sorry.

16 CHAIRMAN CLARK: Yeah, we will go ahead -- we
17 will go ahead and call a break at this point,
18 because before Ms. Triplett does redirect, we also
19 have Commission questions, so this may take a
20 little bit longer than I expected. So we are going
21 to black for exactly one hour. Be back at 1:15.
22 Thanks, guys.

23 MR. MOYLE: Thank you.

24 (Lunch recess.)

25 CHAIRMAN CLARK: All right. We are going to

1 go ahead and get started.

2 Mr. Moyle, you still have the witness. The
3 witness has been sworn in, so it's over to you.

4 MR. MOYLE: Thank -- thank you, Mr. Chairman.

5 BY MR. MOYLE:

6 Q We were -- we were -- before we took a break,
7 we were talking about the -- the two trusts that, I
8 think we agreed to call them the low level trust and the
9 spent fuel trust, and I just want to go back and -- and
10 make sure that I am clear as to your understanding of
11 those trusts and what monies are going to be used for
12 what. So let's -- let's talk about the -- the low level
13 trust first. And it might be easier if I just say,
14 here's what I think it does, and you say, yeah, you are
15 right, or you are right except.

16 So low level trust, upon closing, 540 million
17 is going to come out of that, and it's going to go into
18 this low level trust, is that right?

19 A Yeah, 540 million comes out of the existing
20 trust account and goes into the subaccount, the low level
21 trust, as you are describing it.

22 Q Okay. And then that -- I mean, you don't --
23 you don't have -- you don't have really concerns, do
24 you, about Duke's credit worthiness, or ability to -- to
25 pay you for your -- your work as we sit here today?

1 A I wouldn't say I have any specific concerns,
2 but, you know, as a counter-party of a half-a-billion-
3 dollar contract, I am -- I am -- you know, I feel better
4 that the funding is actually set aside to pay me.

5 Q Yeah. Have you looked at, like, Duke's credit
6 rating by Fitch, Standard & Poor's, Moody's?

7 A We would have done that as part of a credit
8 risk assessment. I did not do that personally.

9 Q Okay. Would -- would -- would you do this
10 deal if -- if you didn't have the access with the monies
11 being put in the low level trust, if Duke just said
12 good, we are good, we will sign a contract. You know,
13 we don't -- we don't default on our contracts, we will
14 just pay you the -- the money per the schedule of values
15 as -- as they arise; would that be a deal killer?

16 A It wouldn't necessarily be a deal killer, but
17 it would be a different risk profile, and it may change
18 our pricing.

19 Q Do you have an understanding about how this
20 trust came into being in the first place?

21 A I believe it's like most, if not all, nuclear
22 decommissioning trusts. It was accrued over some
23 decades one mill per kilowatt, or some agreed upon
24 amount being taken out of monies that were being paid in
25 by ratepayers.

1 Q Okay. So if I use a couple of trust terms,
2 will you be comfortable with that?

3 A Probably. I -- try me.

4 Q Okay. You would agree that the grantor of the
5 funds for the trust are ratepayers, client's like
6 Mr. Brew's, and the FIPUG members, and all the
7 residential members of Duke, right?

8 A I -- I believe that's correct. Again, I don't
9 know specifically the history here. This goes back to
10 when it was, I believe, Florida Power Corporation, when
11 it was built. So I think what you are indicating is
12 correct.

13 Q Okay. And then with respect to the entity
14 holding the money to make sure that the money is
15 prudently held and invested, who is that?

16 A I am not sure. I believe it's Wilmington
17 Trust or it may be Bank of New York, one of those two
18 specifically the trustee.

19 Q Okay. But they act at the direction of -- of
20 Duke Energy Florida as I understand it. Is that
21 consistent with your understanding?

22 A I believe they would act at the direction of
23 an investment advisor, who would probably take direction
24 from Duke. I don't know specifically how Duke manages
25 that relationship.

1 Q Yeah. Right. But -- but Duke has collected
2 that money by putting charges on bills sent to customers
3 and collected the money, and Duke has a role in -- in
4 managing that money as we sit here today, does it not?

5 A Yes. And they will have the same role going
6 forward. Duke will make all decisions in terms of the
7 trust. We can make suggestions, recommendations,
8 requests, but ultimately, Duke will always make all of
9 those decisions.

10 Q And now we are speaking about the low level
11 trust, the 540, is it that right?

12 A I think we are speaking about the -- yeah.
13 Well, I think Duke has that authority over the entire
14 trust account, including the subaccount we are talking
15 about as the low level account.

16 Q Okay. And would your answer be the same with
17 respect to the authority with -- with regard to the
18 spent fuel trust?

19 A The -- yeah, I mean, I would call that the
20 remainder trust, but I believe they would have authority
21 over that trust as well. It's all part of the current
22 single trust that I believe exists.

23 Q Okay. And -- and how is it that you
24 understand there might be some money coming back to
25 ratepayers at some point in this transaction?

1 A Well, I believe that the -- the combined funds
2 that -- that make up what you call the low level and
3 spent fuel trust, the current existing trust, you or one
4 of the others indicated that money exceeds the \$540
5 million, and so whatever is in the excess, in what's
6 being called the spent fuel trust, at some point would
7 be released to -- to be returned to the -- the
8 ratepayers.

9 Q Yeah. Let me ask you this: If -- if today
10 there were, after that 540 comes out, there was
11 100,000 -- I am -- I am sorry, \$100 million, give or
12 take, in that remainder trust, or I will call it the,
13 you know, the spent fuel trust, you could -- you could
14 probably do a net present value calculation and then,
15 you know, give some of that money back to ratepayers
16 today, couldn't you, assuming, you could deal with any
17 issues -- legal issues that existed?

18 A Again, I don't -- I don't know what
19 restrictions there are. I do know that if you -- if you
20 use money, or take money out of the trust and it's not
21 used for decommissioning expenses, that you will -- will
22 you break the trust essentially. The IRS will
23 disqualify the trust, and it will create a tax
24 obligation. So theoretically, you could do that, but
25 it's going to be a lot less money than exists in that

1 trust today until the plan is fully decommissioned.

2 Q Yeah, but at the end of your work here, when
3 there is money left over in the trust, I think it's
4 close to maybe 300 million, and you are saying the plan
5 is is to return that to the customers, right?

6 A At some point I understand that that would
7 likely be returned to customers. I don't know what
8 Duke's intentions are in that regard.

9 Q And you don't have any information that that
10 would blow the qualified basis of the -- of the trust,
11 getting money back to the ratepayers, do you?

12 A Well, I think it still does, because the part
13 50 license still exists as it relates to the ISFSI, and
14 until the ISFSI is decommissioned, it's still a part 50
15 license under the NRC's purview.

16 Q So tell me the year when you, based on your
17 understanding of this deal, that ratepayers would see
18 some money coming back?

19 A Well, based on the presumption that DOE
20 removes the fuel by 2037, that would be the point in
21 time where the complete license termination is done, and
22 that's the -- the time at which this money could be
23 released and not be subject to adverse tax taxation.

24 Q As I mentioned, we are going to have some
25 discussions about this Exhibit 6C, as in cat. And

1 that's OPC's exhibit, you were asked some questions
2 about it earlier.

3 A Yes --

4 Q Yeah, are you there?

5 A Yeah, I am opening it. Yes.

6 Q Okay. I assume that since -- I understand
7 this exhibit comprises the transaction in toto, that you
8 would be comfortable answering questions on these
9 documents?

10 A Yes, to the extent I have knowledge of the
11 specifics, I am happy to.

12 Q Okay. Let's go to --

13 MR. MOYLE: Dianne, am I correct that in this
14 document, anything that's yellow you are claiming
15 is confidential, and then anything that's not
16 yellow I can talk about?

17 MS. TRIPLETT: Yes, sir. That's correct.

18 BY MR. MOYLE:

19 Q Okay. Let's go to -- I have it as page 264 of
20 597, and just tell me when you are there.

21 A Is that Exhibit M?

22 Q Yes, sir.

23 A Yeah, I am there.

24 Q Okay. What is this document?

25 A Form of ISFSI Decommissioning Trust Agreement.

1 Q Okay. And up at the right-hand corner, it
2 says execution copy, what does that designate?

3 A It designates that this should be the final
4 version of this agreement that was negotiated by the
5 parties and available, or subject to execution.

6 Q And what is -- is the CR3 ISFSI
7 decommissioning trust agreement, that's what we have
8 been calling the remainder trust, or the spent fuel
9 trust?

10 A I believe that's correct. Yeah, that's for
11 SF1.

12 Q All right. So I am going to just walk you
13 through some provisions of this document if I could.

14 A Okay.

15 Q What is easier for you with respect to page
16 references, at the top or the bottom?

17 A The easiest thing for me is the page number
18 out of 597.

19 Q Okay.

20 A I can just click to that.

21 Q Okay. So let's start with 268.

22 A Okay.

23 Q And this is a trust agreement. Just as a
24 general rule, tell us what your understanding of the
25 trust agreement is.

1 A It's an agreement between two parties. You
2 know, generally speaking, there is some assets in the
3 trust, and it defines what the roles, responsibilities
4 and rights are of the parties involved.

5 Q And it can be more than two parties, can it
6 not?

7 A It can be -- yeah, it can be more than two
8 parties.

9 Q All right. But in this case, we only have it
10 being between two parties, correct?

11 A It's between ADP SF1, LLC, and blank, a
12 trustee.

13 Q All right. And -- and so that the record is
14 clear, the SF1 is the same entity that we identified
15 previously on that organization chart as -- as the ADP
16 SF1, LLC, correct?

17 A Correct.

18 Q Okay. The -- the plan with the monies that
19 are in this trust, right, what -- what's going to
20 happen -- what's your understanding of what's going to
21 happen to them? Are they going to be used for dealing
22 with the spent fuel rods and all of that, or -- or -- or
23 no?

24 A I have to look at this and understand what it
25 was set up for.

1 Q I mean, I thought people were saying, hey, the
2 spent fuel rods are going to be handled with the monies
3 coming from DOE, suggested that earlier.

4 A I think the trust, as I recall, if you recall
5 in my testimony this morning, I don't know -- I don't
6 know that it was you asking. I think it was someone
7 else -- but whether there was any monies in the \$853
8 million total that might not be -- generate available
9 margin, or something to that effect. And I said, yeah,
10 there is a couple of items in there that -- that may
11 have some obligations, or would be related to
12 decommissioning, and one of those in there is the
13 decommissioning of the ISFSI itself.

14 And I would have to -- I would have to say I
15 recall this element of this transaction, but I don't
16 recall the specific structure of this agreement, and I
17 believe it has something to do with the decommissioning
18 of the ISFSI facility and the final license termination
19 at the site.

20 Q All right. Well, let me just tell you, you
21 know, I -- I read it as not being limited in that way,
22 and specifically if you go to page 270 of 597, there is
23 a definition of -- of decommissioned and
24 decommissioning. And it says, it means the
25 dismantlement and removal of the structures and any

1 reduction or removal of radioactivity at the CRC
2 facility and the NRC licensed site to a level that
3 permits the release of all and any specified portion of
4 the NRC license site consistent with the radiological
5 criteria for license termination specified in NRC -- by
6 the NRC in 10 CFR Section 20.1402 for unrestricted use.

7 Did I read that right?

8 A Yeah, I believe that's correct.

9 Q And you would agree, that's not limiting --
10 limiting the use of these monies to just spent nuclear
11 fuel items, correct?

12 A Again, it -- it may be related to
13 dismantlement of the -- the actual structures that are
14 part of the ISFSI.

15 Q Yeah, I didn't see that in here. Let me move
16 on to another section.

17 This is -- go to, if you would, page 279 of
18 597.

19 A Okay.

20 Q Okay. You see 5.02, Distribution of ISFSI
21 Decommissioning Trust Upon Termination?

22 A Yes.

23 Q I am going to -- I am going to read the first
24 sentence. That will give you a chance to read it
25 while -- while I am doing it.

1 Upon termination of this ISFSI Decommissioning
2 Trust at the discretion of SF1 pursuant to authorized
3 instructions, the trustee shall liquidate the assets of
4 the ISFSI Decommissioning Trust and distribute them,
5 paren, including accrued accumulated and undistributed
6 net income, close paren, unless otherwise determined,
7 ordered or required by any governmental authority with
8 jurisdiction over the CR-3 facility to SFI.

9 Did I get that right?

10 A Yeah.

11 Q All right. So you would agree that that
12 language says the monies out of this trust fund go to
13 the company that you are the CEO of at the end of the
14 day, unless there is a governmental entity that says
15 otherwise, correct?

16 A That's right. Yeah, I -- I do recall now why
17 this construct exists.

18 We actually fund this trust. So it's our
19 money all along, and it's monies to support the
20 decommissioning of the of ISFSI.

21 When we have been talking about trusts, we've
22 been talking -- I -- I will say I was confused as to
23 your description of the various trusts, and we were
24 talking about the spent fuel trust earlier this morning.
25 I thought you were talking about what I refer to as the

1 remainder trust, which is the excess money, the hundred
2 million, or whatever you described it to be, that's in
3 the existing trust. And so it's -- it's a different --
4 we -- we have been talking about different things for
5 some time now.

6 Q All right. So -- so is what you are saying
7 that the -- the document that we are looking at, and we
8 just agreed that it was this spent fuel trust, or the
9 ISFSI trust, that that's another trust now, that that's
10 not -- that's not the remainder trust and it's not the
11 low level trust, this was a different trust agreement?

12 A Yeah. There is a trust agreement -- a
13 subaccount or trust agreement, if you want to call it
14 that. It really is the subaccount in the existing trust
15 that pays for the decommissioning, and this is a trust
16 being set up to accumulate funds that will be used for
17 the ultimate decommissioning of the spent fuel
18 installation.

19 The third account, or, you know, what's part
20 of the original trust today is what I call the remainder
21 trust, and it's the money that is in excess of the 540
22 million that we are being paid that's in the trust as it
23 currently exists today.

24 Q Yeah. Where is the trust agreement for the
25 remainder trust?

1 A I believe that would just be the existing
2 trust agreements, which Duke would have.

3 Q Yeah. I don't know -- did you listen to the
4 deposition Mr. Hobbs, the rebuttal deposition I took
5 last week or the week --

6 A No, I didn't.

7 Q You did not?

8 A No, I didn't. No.

9 Q We will talk with him a little bit later. I
10 don't know, he may be on the phone now, but I'm pretty
11 sure he said there is going to be subaccounts,
12 subtrusts, so I am not real clear about all these -- all
13 these trusts, and the document that's attached to your
14 deal, I mean, where does it say how this trust is
15 funded?

16 A I assume it's probably described in the DSA,
17 but I don't recall where we -- we got into the specifics
18 of that.

19 Q Do you see the -- the definition of the -- of
20 the trust that the -- what's the acronym, the IF --
21 ISFS1 Decommissioning Trust Agreement?

22 A Yeah. Independent Spent Fuel Storage
23 Installation. So, yeah, we have been -- we have been
24 talking about -- I am sorry, but we have been talking
25 about different things for some time.

1 I -- I didn't know what you meant when you
2 said you wanted to call something the spent fuel trust,
3 that you were referring to this. And this is a trust
4 that we put money into to manage the essentially working
5 capital needs and ultimate decommissioning of the spent
6 fuel installation. It's our money from the beginning.

7 Q Okay. How much are you putting in?

8 A Well, we are funding, I know at closing, about
9 three-and-a-half million. And then I don't recall what
10 specifically we've got intended to fund beyond that.

11 Q Okay. Mr. Rehwinkel directed you to some
12 documents related to, he said non-recourse. And -- and
13 my understanding of non-recourse is it means that if
14 something goes -- goes wrong, there is no ability for
15 someone to reach up and come after a related party if --
16 if they are the beneficiary of non-recourse language; is
17 that your understanding?

18 A I that I that would be generally correct, yes.

19 Q Okay. So back on this org chart.

20 A Yes.

21 Q Can you -- can you draw a line, or tell us
22 where the non-recourse division is, please?

23 A That's Exhibit 13, page 24.

24 Q 34?

25 A Page 34, okay.

1 Q Yeah, 34 to 35.

2 A Well, I -- I have to say -- so that the
3 non-recourse language in the DSA applies to affiliates.
4 The -- I believe that the DSA level of -- that the
5 non-recourse language would apply to is going to be
6 above any named parties. So we would have to go back
7 and look at that agreement and see which parties are
8 named, but those are the parties that there would be --
9 that recourse could be taken against, and others that
10 are not named, such as affiliates, would be those that
11 cannot be -- that would be beneficiaries of the
12 non-recourse language.

13 Q Okay. I assume recourse could be taken
14 against the -- the two single purpose LLCs?

15 A I believe that's true. Yes.

16 Q Yeah. Do you know, how many employees do
17 those entities have?

18 A Today, those employees don't have any
19 employees -- those entities don't have any employees.

20 Q Okay. Could recourse be taken against the
21 Accelerated Decommissioning Partners, LLC, which is the
22 joint venture?

23 A Again, you would have to look at the -- at the
24 document. I believe that ADP is party to that document,
25 and recourse could be taken against it.

1 Q Okay. How many employees does -- does it
2 have?

3 A Today, ADP probably has no employees.

4 Q Okay. Going up where the line splits,
5 25 percent, 75 percent, could recourse be taken against
6 either Orano Decommissioning Holdings or NorthStar Group
7 Services, Inc.?

8 A And here is where I would say we need to refer
9 to the document and see specifically what it says about
10 that. I don't recall if -- if those two entities are
11 included in those that would be subject to any type of
12 recourse.

13 Q Yeah. I assume those two entities have more
14 assets than the three entities below that don't have any
15 employees, is that right?

16 A Yeah. The three entities below are simply not
17 populated today because they are not being used, so,
18 yes, there would certainly be more assets above there.

19 Q Okay. Well, this is an important question,
20 maybe you would just refresh yourself with the documents
21 and tell me whether recourse could -- could be taken
22 against -- against Orano Decommissioning Holdings, LLC,
23 and NorthStar Group Services, Inc.?

24 A Okay. I am happy to do that. Can you give me
25 a Bates number?

1 Q Well, you know, you -- you have the document.
2 I don't -- I don't know. I have been looking at the
3 document. It's 500 pages. I am newer to it than you
4 are, so maybe Ms. Triplett can help us, or somebody
5 else.

6 MS. TRIPLETT: You are referring to the -- is
7 it the parent guarantee form of exhibit? I think
8 it would be --

9 MR. MOYLE: I am just asking whether there
10 would be recourse -- not the parent guarantee, but
11 whether there would be recourse against the
12 corporate entity. Following up on his discussion
13 with Mr. Rehwinkel about non-recourse.

14 MS. TRIPLETT: All right. I believe that
15 language appears in the form of a parent guarantee,
16 which was an exhibit to the DSA. I don't -- I
17 didn't have his list of questions because they
18 weren't my questions, but I don't know, Mr. State,
19 does that help you? It might be an exhibit --

20 THE WITNESS: Yeah, I just don't know -- I
21 don't know which document it's in, or what page
22 it's in. I will -- I am happy to answer any
23 questions.

24 (Multiple speakers.)

25 BY MR. MOYLE:

1 Q I just want somebody to say, yes, there is
2 recourse there, or to say, no, there is not recourse
3 there.

4 A And I am happy to tell you that if I can find
5 the passage that it's in.

6 (Multiple speakers.)

7 MS. TRIPLETT: If you give me just one minute,
8 I think I can help -- let me see if I can help.
9 Hold on.

10 Thank you, Mr. Chair.

11 I believe, Mr. State, it's Exhibit 6 Charlie,
12 page 120. And, Mr. State, that's not the recourse
13 language, you probably need to go a few pages
14 earlier to refresh yourself of what the context of
15 this language appeared in.

16 THE WITNESS: Okay. Okay. All right. So in
17 reading this provision 15, I guess I would say that
18 the non-recourse applies to any former, current,
19 future equity holders, controlling persons,
20 directors, officers, employees, agents, affiliates
21 other than the contractor or buyer, which would be
22 ADP, members, managers, general or limited partners
23 or representatives of guarantor.

24 In reading that provision, I think the answer
25 to your question is that the -- the non-recourse

1 nature of the contract defines anything above ADP
2 as being provided this non-recourse coverage.

3 BY MR. MOYLE:

4 Q Okay. Thank you for that.

5 Just so the record is clear, where -- where
6 were you reading from?

7 A It is page six of nine in Exhibit B attached
8 to the DSA. It is page 120 of 597 in the Exhibit 6C.

9 Q Okay. Thank you.

10 So if things go south, or go wrong, then
11 the -- Duke would -- would be able to look to the three
12 entities at the -- at the bottom of this simplified
13 organization chart who -- or this newly created
14 corporate entity point, is that fair?

15 A Yes.

16 Q Okay. Let me -- let me just go to page 64 of
17 597?

18 A Okay.

19 Q This is -- at the bottom, 9.4, do you see
20 that?

21 A Where are you?

22 Q It's -- it's 9.4, and this is on page -- on
23 the document itself, it says 58, at the top right hand,
24 it says page 64 --

25 A Yes.

1 Q -- of 597.

2 A I see that, yes.

3 Q And it -- it looks -- it's entitled
4 maintenance of ISFSI Decommissioning Trust, do you see
5 that?

6 A Yes.

7 Q All right. And just to make sure we are not
8 talking past each other, is this the -- is this the
9 trust with, you know, the hundred -- the hundred
10 million, or is this the trust that, you know, you all
11 are funding?

12 A It's the trust that we are funding.

13 Q Okay. Do you know what the -- what the
14 requirements are that are referenced in the second and
15 third line?

16 A Yes. The requirements under 10 CFR 72, the
17 financial assurance for decommissioning of the ISFSI.
18 The removal of the facility essentially when the fuel
19 has been removed.

20 Q Yeah. And that provision would apply to, you
21 know, I think you said \$3 million, a \$3 million number?

22 A Yeah, our initial funding is a little under
23 three-and-a-half million, I believe, and we have
24 calculated that it grows to some level by the time that
25 facility needs to be decommissioned, and we would

1 demonstrate on an annual basis to the NRC that there is
2 sufficient funding available to decommission the ISFSI.

3 Q Okay. Lawyers oftentimes are -- are paid to
4 think about worst-case scenarios and -- and come up with
5 those and get advice related to those. So I want to --
6 I want to go down a worst-case scenario path with you if
7 I -- if I could, but before I do that, I want to -- I
8 want to give you a chance to tell me your level of
9 confidence that this project will go as presented to the
10 Commission and as planned.

11 If -- if -- could you quantify that? Can you
12 say, hey, I think on a one to 10, you know, we're at a
13 10, or I think maybe it's a maybe it's a six or, you
14 know, a percentage? I am just trying to gauge -- gauge
15 your level of confidence that things will go as -- as
16 you set out in the filings, in your testimony and as you
17 are representing to the Commission.

18 A Yeah, from my perspective, on a scale of one
19 to 10, this is about a 9.9.

20 Q Okay. Thank -- thank you for that.

21 Let me -- let me go through the worst-case
22 scenario. Do you assume that escalation, an inflation
23 escalation rate for this project?

24 A Yes.

25 Q What -- what is it?

1 A I can't tell you that.

2 Q Okay. So how about if your counsel -- I mean,
3 there is a few ways we can handle this. You can text me
4 the number and then I will have it and can -- can go and
5 ask questions. I think that's probably easiest, rather
6 than trying to clear the Commission room and get all
7 wound up in that. How about -- how about if we handle
8 it that way?

9 MS. TRIPLETT: Mr. Chair, I think that I would
10 ask Mr. State if there is a place perhaps in the
11 DSA that we can point to without verbalizing that
12 number, but if not, we might need to take a break
13 so we --

14 THE WITNESS: Look, I don't believe that we
15 have ever indicated to anyone what escalation we
16 assumed. This is a fixed price contract, and we
17 bear the risk of cost escalation and we bear the
18 risk of rate of return on the -- the ISFSI -- I am
19 sorry, the trust fund, the \$540 million. But the
20 assumptions of what we would make related to
21 escalation are proprietary. We wouldn't typically
22 disclose those to anyone.

23 BY MR. MOYLE:

24 Q Yeah, you disclosed a lot of stuff that are
25 confidential. I have no interest in it other than

1 knowing what it is, and then I am going to compare that
2 to the estimated -- what you expect the return on the
3 540 million fund to be.

4 That's what I want to do with it. I don't
5 think that -- it's not going to be something that the I
6 will divulge to anybody. We are a confidentiality
7 agreement. I -- I think we have done this before in a
8 hearing room where somebody just writes the number on a
9 piece of paper, and I say, okay, how does this number
10 compare to that? Is it greater, lower than?

11 So I am -- that's where I am trying to go with
12 it for the witness' hopeful comfort, and also for the --
13 for the comfort of the Commission.

14 A How about this, it's greater than one and less
15 than five.

16 CHAIRMAN CLARK: So, Mr. Slate, if this is a
17 number -- if I understand the questioning right
18 here, you are -- you are asking for, in the
19 worst-case scenario, what factor of inflation have
20 you calculate intoed it. I fail to understand
21 where that number would appear, Mr. Moyle, in a
22 document. I mean, did you run a -- I don't recall
23 a worst-case scenario document in here. That's
24 where a high rate of inflation would actually come
25 into play. Am I missing something here?

1 MR. MOYLE: Well, there is a -- there is a
2 document that is a discovery document, I don't
3 think this is confidential, that -- that has an
4 escalation rate on it. And I am referencing staff
5 hearing exhibit, it's -- the page number 0027. And
6 it's --

7 Dianne, if you want to go there, I don't want
8 to blurt something out that's confidential, but it
9 says: The escalation rate of -- blank -- used for
10 all years of escalated DEF owner costs in
11 Exhibit -- you know, page nine of 12 was obtained
12 from the financial escalation analysis prepared by
13 TLG Services in 2018.

14 CHAIRMAN CLARK: Mr. Moyle, can you give me
15 that document number again? Where did --

16 MR. MOYLE: Chair, this is from staff -- it's
17 a staff hearing exhibit. It's the response to
18 discovery. I think the easiest way -- at least the
19 easiest way for me to find it was other exhibits
20 are numbered, and this is page 27 on the bottom
21 right-hand side.

22 MR. HETRICK: Suzanne --

23 MS. HELTON: Mr. Moyle, what -- what exhibit
24 number, staff exhibit number?

25 CHAIRMAN CLARK: We have ours numbered by

1 exhibit number, Mr. Moyle.

2 MR. MOYLE: I don't have that.

3 CHAIRMAN CLARK: Okay. We think we've got it.
4 Number 22?

5 MS. BROWNLESS: Staff Exhibit 22.

6 CHAIRMAN CLARK: Staff Exhibit No. 22, refer
7 to page number 27, is that right? Is this a
8 confidential document, Ms. Brownless?

9 MR. HETRICK: You have for use your
10 microphone.

11 MS. BROWNLESS: Jon, let's be clear here. Are
12 you talking about what's been identified on
13 composite exhibit list as Staff's No. 22 -- as
14 Staff's Exhibit No. 22, is that correct?

15 MR. MOYLE: I think that's right, Suzanne.

16 MS. BROWNLESS: And the Bates number on that
17 exhibit is what? The Bates number.

18 MR. MOYLE: What I have is 00027.

19 MS. BROWNLESS: Okay.

20 MR. MOYLE: And at the top, it says: License
21 Termination, Spent Fuel Management. There is a
22 number that is the same number throughout the year
23 2019 through 2038.

24 MS. TRIPLETT: And, Mr. Chair, I have that,
25 and I would just note if we go to the previous

1 page, this is a question and answer about Duke
2 Energy Florida's owner's costs. The question Mr.
3 Moyle was asking was about NorthStar's estimate.

4 CHAIRMAN CLARK: Correct.

5 MR. MOYLE: That's right. And I am just
6 trying to find a creative way to get more -- better
7 than one and five, and I -- and I -- if this is a
8 nonconfidential number, then I am going to say,
9 hey, you know, this is this number and are you
10 above that number or below that number?

11 CHAIRMAN CLARK: And I think Ms. Triplett's
12 point is that the two numbers are not related.
13 This is Duke Energy's number, and what you are
14 asking for is a number that NorthStar would have
15 developed in a worst-case scenario with an
16 inflation factor into their calculations.

17 Mr. Slate -- State, is that number -- is that
18 document in here anywhere, to your knowledge?

19 THE WITNESS: The -- the number -- our -- our
20 escalation?

21 CHAIRMAN CLARK: Yes.

22 THE WITNESS: That's -- no. That -- that
23 number is highly confidential, and -- and it's --
24 I -- that's not a number we are going to disclose
25 to anybody unless we are absolutely forced to.

1 And let me explain a little bit why -- let me
2 do a couple of things here.

3 The document that Mr. Moyle is referring to,
4 the Duke document, I believe is a document filed
5 with the NRC. And it has predefined assumptions
6 about escalations and return on investments that
7 owners of reactors can assume. And the basic
8 premise is you can assume you are going to earn two
9 percent higher yield on your trust fund than
10 escalation.

11 I can tell you, we don't make that assumption.
12 We assume today, in today's world, rates of return
13 are under one percent, because these funds are
14 invested in primarily in treasuries or Triple A
15 credits. So it's a very low rate of return, and we
16 assume escalation is what one would typically
17 assume in the construction industry for escalation
18 on costs.

19 Now, I -- I will say this: The reason I am
20 not going to disclose what our escalation is is
21 because it's different than anyone else's. It's a
22 competitive issue. We self-perform all of this
23 work. No one else in the country does. No one
24 else even comes close, and as such, we own all the
25 means of production. We own all the equipment. We

1 own the disposal facility where the material goes.
2 So we control 90 of the escalation in the job. The
3 only thing we don't control is escalation in labor
4 costs. And we've got a pretty good idea what the
5 labor costs in this sector. We've been doing work,
6 this kind of work for 30 plus years, and so we
7 measure and -- and use our escalation rate for that
8 specific to our -- our own business and data that
9 we track and calculate and accumulate, and that's
10 proprietary. That's information that gives us a
11 competitive advantage, and -- and we don't disclose
12 that.

13 CHAIRMAN CLARK: I agree. Let's move on.

14 (Transcript continues in sequence in Volume
15 3.)

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby
certify that the foregoing proceeding was heard at the
time and place herein stated.

IT IS FURTHER CERTIFIED that I
stenographically reported the said proceedings; that the
same has been transcribed under my direct supervision;
and that this transcript constitutes a true
transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative,
employee, attorney or counsel of any of the parties, nor
am I a relative or employee of any of the parties'
attorney or counsel connected with the action, nor am I
financially interested in the action.

DATED this 10th day of July, 2020.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #GG015952
EXPIRES JULY 27, 2020