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2				
3	199	Excerpts from Kundalkar depo	1067	1067
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## P R O C E E D I N G S

1  
2 (Transcript follows in sequence from  
3 Volume 6.)

4 **CHAIRMAN GRAHAM:** Good morning, everyone.  
5 Glad to see everybody made it back here safely today.  
6 We seem to be making pretty good headway, so I see no  
7 sense in slowing the train down. Let's keep moving.

8 We will reconvene, and this is Docket Number  
9 110009-EI, nuclear cost recovery clause. And the date  
10 is August the 11th, I believe. I say all that for the  
11 record.

12 If I remember correctly, we ended with FP&L  
13 Witness Steven Sim.

14 **MR. YOUNG:** Yes, sir.

15 **CHAIRMAN GRAHAM:** And we dismissed him, well,  
16 for the time being, and so now we're at OPC's Witness  
17 Brian Smith.

18 **MR. McGLOTHLIN:** Mr. Smith is here. He has  
19 not been sworn at this point.

20 **CHAIRMAN GRAHAM:** Let's go ahead and swear in  
21 everybody that's here that's scheduled to speak today  
22 and get that done.

23 If I can get you to stand and raise your right  
24 hand.

25 (Witnesses collectively sworn.)

1           **MR. YOUNG:** Mr. Chairman, as Mr. Smith comes  
2 to the stand, I would note that Florida Power & Light  
3 has passed out the complete Exhibit Number 195.

4           **CHAIRMAN GRAHAM:** Okay.

5           **MR. YOUNG:** And this is based on the rule of  
6 completeness they offered yesterday.

7           **CHAIRMAN GRAHAM:** We've already entered  
8 195 into the record?

9           **MR. YOUNG:** Yes, sir.

10          **CHAIRMAN GRAHAM:** Thank you.

11          Mr. McGlothlin.

12                           **BRIAN D. SMITH**

13 was called as a witness on behalf of The Citizens of the  
14 State of Florida and, having been duly sworn, testified  
15 as follows:

16                           **DIRECT EXAMINATION**

17 **BY MR. McGLOTHLIN:**

18           **Q**     Please state your full name and business  
19 address, sir.

20           **A**     My name is Brian Smith, and my business  
21 address is 1850 Parkway Place, Suite 800, Marietta,  
22 Georgia, 30067.

23           **Q**     By whom are you employed, Mr. Smith?

24           **A**     I'm employed by GDS Associates.

25           **Q**     At our request, did you prepare and submit

1 prefiled testimony in this proceeding?

2 A Yes, I did.

3 Q Do you have that document before you?

4 A I do.

5 Q Do you have any changes, additions or  
6 corrections to make to the prefiled testimony?

7 A I do not.

8 Q Do you adopt the content of the prefiled  
9 testimony as your testimony today?

10 A Yes.

11 MR. McGLOTHLIN: I request that the prefiled  
12 testimony be inserted into the record at this point.

13 CHAIRMAN GRAHAM: We will insert the prefiled  
14 testimony of Mr. Smith into the record as though read.

15 BY MR. McGLOTHLIN:

16 Q Did you also prepare an exhibit to your  
17 testimony, Mr. Smith?

18 A Yes, I did.

19 Q Do you have any changes or corrections to that  
20 exhibit?

21 A I do not.

22

23

24

25

 1  
**DIRECT TESTIMONY**2  
**Of**3  
**BRIAN D. SMITH**4  
**On Behalf of the Office of Public Counsel**5  
**Before the**6  
**Florida Public Service Commission**7  
**Docket No. 110009-EI**8  
**I. INTRODUCTION**9  
**Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.**10  
**A.** My name is Brian D. Smith. I am a Senior Project Manager at GDS Associates, Inc. My  
11  
business address is 1850 Parkway Place, Suite 800, Marietta, Georgia 30067. 12  
13  
**Q. PLEASE SUMMARIZE YOUR EDUCATION AND EXPERIENCE.**14  
**A.** I received a Bachelor of Industrial Engineering in 1981 from the Georgia Institute of  
15  
Technology. I am a registered professional engineer in the state of Florida and I have  
16  
twenty-nine years of experience in electric utility planning activities. This includes time  
17  
spent working for municipal utility planning departments as well as my association with  
18  
GDS where I have worked as a power supply and utility system simulation consultant. I  
19  
have been responsible for the development and analysis of integrated resource plans and  
20  
for computer simulation of utility production operations and financial operations.  
21  
Particular emphasis has been on economic feasibility studies of alternative power supply  
22  
resources. My resume is included as Exhibit BDS-1.

1           **II.    SUMMARY OF TESTIMONY**

2   **Q.    WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

3   **A.    In my testimony, I will identify and describe a means of using the same information that**  
4           **FPL has presented to approximate the extent to which the uprate projects are projected to**  
5           **be economical or uneconomical for customers. My testimony dovetails with that of Dr.**  
6           **William Jacobs. In his testimony, Dr. Jacobs describes shortcomings in the methodology**  
7           **that FPL witness Dr. Steven Sim employs when assessing the long term economic**  
8           **feasibility of FPL's EPU uprate project. Dr. Jacobs makes the point that with FPL's**  
9           **current methodology, in which a comparison is made between revenue requirements**  
10           **associated with a resource plan that includes the uprates and those of a resource plan that**  
11           **does not include the uprates, the exclusion of amounts spent on the uprate project to date**  
12           **(so-called "sunk costs") from the capital costs of the "with uprate" plan that FPL**  
13           **includes in the comparison--when coupled with a rapidly increasing estimate of the cost**  
14           **to complete the projects-- causes distortions in the exercise to determine whether the**  
15           **uprates are cost-effective to customers.**

16  
17           **III.   REVIEW OF FPL'S ANALYSIS**

18   **Q    WHAT IS YOUR UNDERSTANDING OF THE APPROACH THAT FPL USES**  
19           **TO EVALUATE THE FEASIBILITY OF THE EPU PROJECT?**

20   **A.    FPL's calculations involve the use of computerized simulations to model the manner in**  
21           **which FPL's system would operate to meet projected customer needs under two**  
22           **alternative resource plans and quantify the revenue requirements of each of the plans over**  
23           **time. The objective of each plan is to add generating capacity when needed to maintain**

1 FPL's targeted minimum reliability criteria over time. One resource plan incorporates the  
2 EPU uprate projects as the means for satisfying near term increases in demand, while the  
3 other plan does not. FPL's analyst expresses the total revenue requirements of each plan  
4 in terms of the cumulative net present value of those costs. He then compares the  
5 cumulative net present value figures. If the cumulative net present value of the revenue  
6 requirements associated with the resource plan that includes the uprates is lower than the  
7 cumulative net present value of the revenue requirements of the resource plan that does  
8 not include the uprates, then FPL concludes the project is economically feasible.

9  
10 **Q. WHAT IS WRONG WITH THAT APPROACH?**

11 **A.** As Dr. Jacobs describes, each time FPL has produced a comparison of revenue  
12 requirements (beginning in 2009), FPL has excluded the capital costs of the uprates that it  
13 has already spent. Presumably, for ratemaking purposes FPL will not propose to exclude  
14 this amount: instead, FPL will expect to earn a return on it. Accordingly, the comparison  
15 of resource plans that FPL performs for the long term feasibility analysis understates the  
16 revenue requirements associated with the uprates that it will seek to collect from  
17 customers.

18  
19 **Q. ISN'T THIS TREATMENT OF "SUNK COSTS" AND "TO GO COSTS" AN**  
20 **ACCEPTED METHOD OF ASSESSING THE COST-EFFECTIVENESS OF A**  
21 **PROJECT?**

22 **A.** It is appropriate to exclude sunk costs in typical cost-effectiveness evaluations. In this  
23 instance, where estimated costs to complete continue to increase, excluding amounts

1 spent to date in each annual evaluation has the potential to distort the measurement of  
2 cost-effectiveness. In his testimony, Dr. Jacobs discusses this aspect of the choice of  
3 economic feasibility methodologies in more detail.  
4

5 **Q. WON'T FPL ASSERT THAT THE "SUNK COSTS" CAN'T BE SUBTRACTED**  
6 **FROM THE SAVINGS, BECAUSE THEY WOULD ALSO APPEAR IN THE**  
7 **ALTERNATIVE RESOURCE PLAN AS COSTS TO BE RECOVERED FROM**  
8 **CUSTOMERS EVEN IF THE UPRATE PROJECT IS NOT CONSTRUCTED?**

9 A. The assertion that the "sunk costs" must be excluded from the comparison because they  
10 would show up in both resource plans, and therefore cancel out, is dependent on the  
11 assumption that the sunk costs would be fully recoverable—i.e., would be amortized and  
12 earn a return—in the alternative plan to the same extent as they would be in the resource  
13 plan that includes the uprate project. If previous costs were prudently incurred and are  
14 allowed to be included in rate base, then excluding them in current and future feasibility  
15 analyses is appropriate. This rationale would not hold, however, if the Commission were  
16 to determine that a portion of the costs of the uprate project should be attributed to  
17 imprudence and should be disallowed, because in that instance the disallowed costs (and  
18 associated revenue requirements) would not appear in both resource plans. In his  
19 testimony Dr. Jacobs will recommend such a disallowance and explain the basis for his  
20 recommendation. However, the exclusion of "sunk costs" is only one aspect that renders  
21 FPL's methodology inappropriate for its EPU projects.

22 **Q. WHAT IS THE OTHER FACTOR THAT AFFECTS FPL'S**  
23 **METHODOLOGY?**

1 A. The other equally important factor is that the estimate of overall capital costs and “to  
2 go” costs have increased each time FPL has produced a feasibility analysis. It is the  
3 combination of excluding past expenditures while also increasing projected costs of  
4 completion that can result in unreliable indications of cost-effectiveness. Under FPL’s  
5 approach, the faster the utility spends, the better able it is to show that a project of  
6 significantly increasing costs remains feasible. I agree with Dr. Jacobs’ statement that  
7 while FPL’s method of comparing the present value of revenue requirements may be  
8 suitable for a project of known and stable costs, it is a poor choice for assessing its  
9 volatile and uncertain EPU projects.  
10

11 **IV. ALTERNATE EVALUATION METHOD**

12 **Q. EARLIER YOU SAID IT IS POSSIBLE TO USE THE SAME INFORMATION**  
13 **THAT FPL PRESENTS TO APPROXIMATE THE TRUE COST-**  
14 **EFFECTIVENESS OF THE PROJECT. PLEASE EXPLAIN HOW THIS CAN BE**  
15 **DONE.**

16 A. FPL’s Dr. Sim expressed the streams of future costs of competing resource plans in  
17 present value terms, then compared the two resulting present value figures. By “present  
18 value terms,” I mean that he discounted the stream of future revenue requirements so as  
19 to measure them in 2011 dollars. The “amounts spent” that have been excluded from the  
20 comparison were expended very recently. These past spent amounts can be expressed in  
21 present value terms, such that they are quantified and measured on the same basis as are  
22 the revenue requirements of the resource plans being analyzed. To illustrate, it is  
B possible to express the present value of the revenue requirements for the term of a



1 multiyear plan in 2011 dollars, then also convert amounts spent in 2009 and 2010 to 2011  
2 dollars. Assuming that the amounts spent to date are included in rate base and allowed to  
3 earn a return over the life of the project, there would be a stream of annual capital-related  
4 revenue requirements associated with the "sunk costs." I have used FPL's response to  
5 OPC's Interrogatory No. 59 as an example of how the present value of future revenue  
6 requirements compares to the actual amounts of capital expenditures. I have included an  
7 edited version of that response as Exhibit BDS-2 to my testimony. Column 2a on the  
8 exhibit shows FPL's projection of the annual revenue requirements (in nominal dollars)  
9 associated with the EPU project capital investment. Using the discounting factors shown  
10 in column 1, I have converted the values in column 2a into 2011 dollars. These values  
11 are shown in column 6 which I added to FPL's table. Summing the annual present value  
12 amounts results in a total present value of \$2.17 billion. This present value of revenue  
13 requirements is associated with the \$1.78 billion "going forward" capital costs that FPL  
14 included in its evaluation. This demonstrates that the present value of revenue  
15 requirements associated with a capital expenditure is greater than the actual expenditure.  
16 I will conservatively assume, however, that the present value of revenue requirements  
17 equals the actual expenditure for the remainder of my testimony. To gauge whether  
18 customers are receiving a net benefit or a net cost from an overall perspective, one can  
19 approximate the effects of the present value of capital-related revenue requirements  
20 associated with the amounts previously spent by expressing the amounts previously spent  
21 in 2011 dollars and adding them to the present value of the costs of the resource plan with  
22 the uprates before comparing the costs of the two resource plans. Since FPL has already  
3 compared the costs of the two plans and concluded there is a positive benefit, one can

1 subtract the amounts spent to date (measured in 2011 dollars) from the present value of  
2 the claimed savings benefit (also measured in 2011 dollars) and determine whether the  
3 resulting figure is positive or negative. If it is positive, then the project is cost-effective  
4 even when both the rapidly increasing estimates of "to go" costs and the past  
5 expenditures are accounted for. If it is negative, then customers are "in the hole" by the  
6 amount of the difference.

7  
8 **Q. CAN YOU ILLUSTRATE THE ADDITIONAL STEP THAT HAVE**  
9 **DESCRIBED?**

10 **A.** Yes. I will use round figures to keep the explanation simple. Assume that the revenue  
11 requirements of the resource plan that includes the uprate projects over a period of 33  
12 years have been calculated and then discounted back to a present value, in 2011 dollars,  
13 of \$100 million. Next assume the corresponding cumulative present value of the resource  
14 plan that does not include the uprate projects is \$125 million. FPL would contend that  
15 customers would save (on a net present value basis) \$25 million dollars through the  
16 uprate projects. However, pursuant to FPL's methodology, this conclusion ignores the  
17 amount of money that FPL has spent on the projects and on which it will expect a  
18 return—which will be reflected in revenue requirements. Therefore, to gauge better the  
19 cost-effectiveness of the project, one can subtract the amount spent to date from the  
20 claimed "savings" figure. If, for instance, FPL spent \$20 million in the past two years  
21 (assume the original amount has been adjusted as necessary to express the amount in  
22 2011 dollars), the additional step I describe would be to subtract the \$20 million of  
23 "amounts previously spent" from the \$25 million of claimed net savings resulting from

1 the comparison of the two resource plans. The result in this example would be the  
2 indication that the projects are cost-effective, but only in the amount of approximately \$5  
3 million. If on the other hand FPL had spent \$35 million to date, then the calculation  
4 would be to subtract the \$35 million from the \$25 million of claimed savings that resulted  
5 from FPL's "CPVRR comparison" exercise. In this example, doing so would result in  
6 the conclusion that customers are actually worse off by approximately \$10 million, in  
7 present value terms, at this stage of the project, even though FPL claims the project is  
8 economically feasible.

9 **Q. HAVE YOU APPLIED YOUR METHOD TO THE INFORMATION THAT FPL**  
10 **HAS PROVIDED WITH ITS FEASIBILITY ANALYSIS?**

11 A. Yes. At Exhibit SRS-8 his testimony, Dr. Sim reports the results of the comparison of  
12 the two resource plans, using medium fuel and medium environmental compliance cost  
13 assumptions to be positive for customers in the amount of \$622 million on a present  
14 value basis. At page 20, he states that he has removed \$700 million of amounts  
15 previously spent from the resource plan that includes the uprate projects. Expressed in  
16 2011 dollars, and based on a spending profile of \$347 million in 2009 and \$353 million  
17 in 2010, the amounts already spent total \$778 million. Subtracting the already spent  
18 amount of \$778 million from the claimed savings amount of \$622 million demonstrates  
19 that the impact on customers can be conservatively estimated as a negative \$156 million  
20 for the medium fuel and medium environmental compliance cost case.

21  
22 **Q. DOES THIS MEAN THE UPRATE PROJECTS SHOULD NOT GO FORWARD?**

1 A. No. However, it does mean that the Commission should adopt a method of viewing the  
2 project that will enable it to identify and disallow costs that exceed the maximum amount  
3 that would be cost-effective for customers.

4 **Q. CAN YOU RECOMMEND A WAY IN WHICH SUCH A MAXIMUM AMOUNT**  
5 **CAN BE IDENTIFIED?**

6 A. Yes. For its evaluation of the feasibility of Turkey Point units 6 & 7, FPL used a  
7 breakeven analysis. I suggest that a similar approach could be used to identify a  
8 maximum amount of EPU related cost that should be included in FPL's rate base. FPL  
9 should be directed to produce a breakeven analysis that identifies the amount of EPU  
10 investment that can be included in the "nuclear" resource plan in order to yield the same  
11 Cumulative Present Value of Revenue Requirements ("CVPRR") as the "non-nuclear"  
12 resource plan. For purposes of this discussion, the "nuclear" resource plan is the one in  
13 which the EPU project is included. The "non-nuclear" resource plan is the one in which  
14 the EPU project is not included and is the one against which the nuclear plan is  
15 compared. The breakeven EPU investment amount should be the maximum amount  
16 allowed to be included in rate base and should include all dollars spent beginning in 2009  
17 for the project. This would protect FPL's rate payers from costs (associated with the plan  
18 that FPL has identified as its least cost choice) that exceed those associated with what it  
19 has identified as its second best choice.

20  
21 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

22 A. Yes, it does.

1 BY MR. McGLOTHLIN:

2 Q Have you prepared a summary of your testimony?

3 A I have.

4 Q Please proceed.

5 A Thanks.

6 Good morning. The purpose of my testimony is  
7 to suggest a means of evaluating the total cost of  
8 Florida Power & Light's EPU project. FPL has excluded  
9 sunk costs from its annual evaluation of the project,  
10 and its witnesses have provided testimony that shows  
11 positive benefits to Florida ratepayers using that  
12 methodology.

13 Although I agree that sunk costs are typically  
14 excluded from feasibility analyses, I maintain that sunk  
15 costs should be included in this process in order to  
16 determine if ratepayers are better off with a resource  
17 portfolio that includes the EPU project versus a  
18 portfolio that does not include the EPU project.

19 The EPU project is evaluated annually and, for  
20 each evaluation, costs spent to date are excluded from  
21 the feasibility analysis. At the same time, total EPU  
22 costs have increased since the last evaluation was  
23 produced. The effect of these two things in combination  
24 is that the total cost impact of the EPU project will  
25 never be reflected in the benefit matrix, which is

1 included in FPL's testimony.

2 I'm at this hearing on behalf of Florida  
3 ratepayers. I think it's reasonable to show how the EPU  
4 portfolio costs to the ratepayer compares to the cost to  
5 the ratepayer if the EPU project had not been pursued  
6 and an alternate resource portfolio were developed.

7 The valuations using that approach show that  
8 the economics have shifted during the course of project  
9 development. I think it's reasonable to ask why that  
10 has happened and to examine the causes of the changes in  
11 the projections of total costs.

12 My testimony shows the impact of an adjustment  
13 to FPL's medium fuel and medium environmental compliance  
14 cost benefit. If sunk costs are included in the  
15 analysis, FPL's net benefit of \$622 million for that  
16 scenario turns into a net cost of 156 million. These  
17 values relate to testimony initially filed by FPL.

18 Subsequent FPL testimony included a revised,  
19 slightly lower net benefit for the same case. When this  
20 revised value is adjusted to include estimated impacts  
21 of sunk costs, a slightly more negative cost results.

22 My testimony also contains a recommendation  
23 that FPL be required to use a breakeven approach in the  
24 evaluation of the EPU project. This would allow the  
25 determination of how much can be invested in the EPU

1 project before that investment yields a present value of  
2 revenue requirements that exceeds the present value of  
3 revenue requirements associated with a non-EPU  
4 portfolio. This breakeven amount should be the basis  
5 used to determine the maximum amount allowed in rate  
6 base for the EPU project.

7 **MR. McGLOTHLIN:** Does that conclude your  
8 summary?

9 **THE WITNESS:** It does.

10 **MR. McGLOTHLIN:** Mr. Smith is available for  
11 cross-examination.

12 **CHAIRMAN GRAHAM:** Okay.

13 Florida Power & Light.

14 **MR. ANDERSON:** FPL has no cross-exam for the  
15 witness, but notes that his testimony remains subject to  
16 the standing objection stated in our motion to strike  
17 yesterday.

18 **CHAIRMAN GRAHAM:** Okay. So noted.

19 Staff? Other Intervenors? No?

20 **MR. YOUNG:** No questions.

21 **CHAIRMAN GRAHAM:** Anybody from the board? .

22 Okay. Do we need to enter any exhibits into  
23 the record?

24 **MR. McGLOTHLIN:** I move 100 and 101.

25 **CHAIRMAN GRAHAM:** Let's move exhibits marked

1 100 and 101 into the record.

2 (Exhibits 100 and 101 admitted into evidence.)

3 If that's -- then we're currently done with  
4 this witness; is that correct?

5 **MR. McGLOTHLIN:** We have another witness.

6 **CHAIRMAN GRAHAM:** We're done with this  
7 witness?

8 **MR. McGLOTHLIN:** Dr. Jacobs, yes.

9 **CHAIRMAN GRAHAM:** Thank you, sir.

10 **THE WITNESS:** Yes.

11 **WILLIAM R. JACOBS, JR.**

12 was called as a witness on behalf of the Citizens of the  
13 State of Florida and, having been duly sworn, testified  
14 as follows:

15 **DIRECT EXAMINATION**

16 **BY MR. McGLOTHLIN:**

17 **Q** Please state your name and business address  
18 for the record, sir.

19 **A** My name is William Jacobs. My address is 1850  
20 Parkway Place, Marietta, Georgia.

21 **Q** By whom are you employed, Dr. Jacobs?

22 **A** I'm employed by GDS Associates.

23 **Q** On behalf of OPC, did you prepare direct  
24 testimony in this case?

25 **A** Yes, I did.



1 Q Do you have that document before you?

2 A I do.

3 Q Do you have any changes, additions, or  
4 corrections?

5 A Yes, I do. I have one change. On page 16 of  
6 my testimony, line 6, the end of that sentence on line  
7 6 stating "90% completion of the work" should be  
8 deleted. And in place of that it should read,  
9 "Completion of 90 design modification packages."

10 MR. McGLOTHLIN: We're in the process of  
11 preparing a substitute page to accomplish that change,  
12 Mr. Chairman.

13 CHAIRMAN GRAHAM: Okay.

14 BY MR. McGLOTHLIN:

15 Q Do you have any additional corrections to  
16 make, Dr. Jacobs?

17 A No. That's all.

18 Q With that correction, do you adopt the  
19 questions and answers in your prefiled testimony as your  
20 testimony today?

21 A Yes, I do.

22 Q Did you also prepare exhibits to your  
23 testimony that have since been marked as 102 through  
24 114?

25 A Yes, that's correct.

1           Q     Have you prepared a summary for the  
2 Commissioners?

3           A     Yes, I have.

4           **MR. McGLOTHLIN:** Excuse me. I ask that the  
5 prefiled testimony be inserted at this point.

6           **CHAIRMAN GRAHAM:** We will enter Dr. Jacobs'  
7 prefiled testimony as though read.

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1 development of the Outage Management Evaluation Program. Since joining GDS  
2 Associates, Inc. in 1986, I have participated in rate case and litigation support  
3 activities related to power plant construction, operation and decommissioning. I have  
4 evaluated nuclear power plant outages at numerous nuclear plants throughout the  
5 United States. I am currently on the management committee of Plum Point Unit 1, a  
6 650 MWe coal fired power plant under construction near Osceola, Arkansas. As a  
7 member of the management committee, I assist in providing oversight of the EPC  
8 contractor for this project. I am currently the Georgia Public Service Commission's  
9 (GPSC) Independent Construction Monitor for Georgia Power Vogtle 3 and 4 nuclear  
10 project. As the Independent Construction Monitor I assist the GPSC Commissioners  
11 and Staff in providing regulatory oversight of the project. My monitoring activities  
12 include regular meetings with project management personnel and regular visits to the  
13 Vogtle plant site to monitor construction activities and assess the project schedule and  
14 budget. My resume is included as Exhibit WRJ-1.

15

16 **Q. WERE YOU ASSISTED BY OTHER GDS PERSONNEL IN THIS EFFORT?**

17 **A.** Yes, I was. In addition to myself, the GDS team involved in the review and  
18 evaluation of the requests for authorization to recover costs consisted of Mr. James P.  
19 McGaughey, Jr., a former nuclear utility executive with over 37 years of experience,  
20 and Mr. Brian Smith, an expert in production cost modeling and feasibility analyses.  
21 Mr. Smith is sponsoring testimony on an aspect of our review. His qualifications are  
22 contained in his prefiled testimony. The resume of Mr. McGaughey is attached to this  
23 testimony as Exhibit WRJ-2. I have reviewed the work of Mr. McGaughey, and have  
24 incorporated and adopted it as my own in this testimony.

25

1 Q. **WHAT IS THE NATURE OF YOUR BUSINESS?**

2 A. GDS Associates, Inc. ("GDS") is an engineering and consulting firm with offices in  
3 Marietta, Georgia; Austin, Texas; Manchester, New Hampshire; Madison, Wisconsin;  
4 and Auburn, Alabama. GDS provides a variety of services to the electric utility  
5 industry including power supply planning, generation support services, rates and  
6 regulatory consulting, financial analysis, load forecasting and statistical services.  
7 Generation support services provided by GDS include fossil and nuclear plant  
8 monitoring, plant ownership feasibility studies, plant management audits, production  
9 cost modeling and expert testimony on matters relating to plant management,  
10 construction, licensing and performance issues in technical litigation and regulatory  
11 proceedings.

12  
13 Q. **WHOM ARE YOU REPRESENTING IN THIS PROCEEDING?**

14 A. I am appearing on behalf of the Florida Office of Public Counsel ("OPC"), who  
15 represents the ratepayers of Florida Power & Light Company.

16  
17 Q. **WHAT WAS YOUR ASSIGNMENT IN THIS PROCEEDING?**

18 A. I was asked to assist the Florida Office of Public Counsel to conduct a review and  
19 evaluation of requests by Florida Power and Light Company (FPL) for authority to  
20 collect historical and projected costs associated with extended power uprate ("EPU")  
21 projects being pursued at the Turkey Point 3 and 4 and St. Lucie 1 and 2 nuclear  
22 plants, and historical and projected costs associated with FPL's Turkey Point 6 and 7  
23 new nuclear project through the capacity cost recovery clause.

24  
25 Q. **HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?**

1 A. Yes. I testified on behalf of the Florida Office of Public Counsel in the previous  
2 NCRC proceedings in Dockets No. 080009-EI, 090009-EI and 100009-EI.

3 Q. PLEASE PROVIDE A BRIEF OVERVIEW OF THE NATURE AND STATUS  
4 OF FPL'S NUCLEAR PROJECTS.

5 A. FPL currently has two major nuclear projects under way. The most active project at  
6 this time is the project to increase the generating capacity of FPL's existing nuclear  
7 units, Turkey Point 3 and 4 and St. Lucie 1 and 2, by a total of 450 megawatts. This  
8 project is referred to as the extended power uprate or EPU project. It is currently  
9 scheduled to be completed in 2013. FPL has spent approximately \$700 million of an  
10 estimated total cost of \$2.48 billion on the EPU project. The second project is the  
11 development of Turkey Point 6 and 7, a new nuclear plant consisting of two  
12 Westinghouse AP1000 reactors. This project is in the licensing stage. It is projected  
13 to provide 2,200 megawatts of capacity with on line dates of 2022 and 2023. At this  
14 time FPL has spent \$129 million of an estimated "overnight cost" (that excludes  
15 carrying costs and escalation) of \$11.1 billion.

16  
17 Q. PLEASE SUMMARIZE FPL'S REQUEST FOR COST RECOVERY IN THIS  
18 DOCKET UNDER THE NUCLEAR COST RECOVERY CLAUSE.

19 A. FPL is requesting authority to include \$196,004,292 of nuclear cost items in the 2012  
20 Capacity Cost Recovery factor.

21  
22 **ILMETHODOLOGY**

23 Q. PLEASE DESCRIBE THE METHODOLOGY THAT YOU USED TO  
24 REVIEW AND EVALUATE THE REQUESTS FOR AUTHORIZATION TO  
25 COLLECT COSTS SUBMITTED BY FPL UNDER THE NUCLEAR COST  
26 RECOVERY CLAUSE.

1 A. I first reviewed the Company's filings in this docket and assisted in the issuance of  
2 numerous interrogatories and requests for production of documents. To evaluate the  
3 issues related to project schedule, cost and risk management, I reviewed many  
4 internal documents, status reports and correspondence with regulatory authorities. I  
5 reviewed responses to discovery requests and issued additional discovery requests as  
6 needed. I assisted OPC attorneys with the depositions of FPL witnesses.

7  
8 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

9 A. In my testimony, I will address three subjects. The first subject is the inappropriate  
10 methodology that FPL employs to assess the long-term feasibility of its EPU uprate  
11 project. Next, I will describe how the deficient feasibility methodology and  
12 imprudence on FPL's part in the areas of selecting a "fast track" approach for the  
13 EPU project, estimating the overall costs of the uprate projects and managing risk  
14 during the project have potentially placed the utility in the position of incurring  
15 unreasonable costs that are in excess of those associated with an alternative  
16 generation plan and so should be disallowed from the amounts that FPL is authorized  
17 to collect from customers. Finally, I will address the issue relating to the estimate of  
18 the capital costs of its EPU project that FPL submitted in prefiled testimony dated  
19 May 1, 2009, and that it decided not to update either prior to or during the September  
20 2009 hearing in Docket No. 090009-EL.

21 **III. SUMMARY OF TESTIMONY**

22 **Q. PLEASE SUMMARIZE YOUR CONCLUSIONS WITH RESPECT TO THE**  
23 **METHODOLOGY THAT FPL USES TO PERFORM ITS FEASIBILITY**  
24 **ANALYSES OF THE UPRADE PROJECTS.**

1 A. I conclude that FPL's comparison of the cumulative present value of revenue  
2 requirements of two resource plans—one incorporating the nuclear uprate projects and  
3 another without the nuclear uprates-- in which FPL excludes amounts already spent  
4 from the capital costs of the "with uprate" scenario, is ill-suited to the circumstance of  
5 FPL's EPU uprate project. This is because FPL had little grasp of what the capital  
6 costs would be at the beginning of the project, and FPL's estimates of the cost of  
7 completing the projects ("to-go costs") have increased dramatically from the outset.  
8 Excluding "sunk costs" is an accepted way of performing a feasibility study when the  
9 overall project cost is known, stable and well defined. However, if the project costs  
10 are largely unknown and estimates are understated at the outset, and if as a result the  
11 "to go" costs increase nearly as much as the annual "past spent" amount that is  
12 excluded from the comparison over time, the exercise can cause misleading results:  
13 based only on "to go" costs, the analysis will likely continue to show feasibility, but  
14 when all costs are considered, the project may be uneconomical for customers. If  
15 there was ever a valid basis for using the comparison of revenue requirements as the  
16 means of evaluating the feasibility of the uprate projects, it has eroded in light of  
17 FPL's experience with estimating the costs of the project. My GDS colleague, Brian  
18 Smith, will illustrate the problem and propose a means of compensating for the  
19 distortion produced by FPL's inappropriate methodology pending the adoption of a  
20 replacement methodology. In that regard, for future feasibility studies I recommend  
21 that the Commission direct FPL to perform a "break-even" analysis for the uprate  
22 projects similar to the "break-even" study that it prepares to support the long-term  
23 feasibility of its proposed new nuclear units; and to calculate separate such  
24 "breakeven" thresholds for the St. Lucie and Turkey Point sites.



1 Q. PLEASE SUMMARIZE YOUR TESTIMONY CONCERNING  
2 MANAGEMENT IMPRUDENCE AND YOUR RECOMMENDATION THAT  
3 THE COMMISSION DISALLOW COSTS FOR THE EPU PROJECT THAT  
4 ARE GREATER THAN THE BREAKEVEN COSTS.

5 A. FPL's uprate projects began with what FPL styles an initial "scoping" study, followed  
6 by an "indicative" bid from Bechtel, its EPC contractor. As FPL's witness Jones  
7 acknowledges, an uprate to an existing nuclear unit is a hugely complex undertaking.  
8 At the beginning, it is imbued with enormous uncertainties. This type of project is  
9 uniquely unsuitable for the fast track approach, in which an organization commits to a  
10 project and spends large sums before it has any idea of the ultimate cost. Not only  
11 did FPL not have a reasonable idea of the final cost of the project, FPL exacerbated  
12 the situation by failing to quantify the "breakeven" point (that is, the maximum cost  
13 per installed kW of uprate capacity that would be as cost-effective or more cost-  
14 effective than the alternative to the uprate). Such a "breakeven" analysis is better  
15 suited to a project that is characterized by substantial uncertainty than is the  
16 comparison of revenue requirements that FPL adopted as its long term feasibility  
17 methodology for its uprate projects. Even today, FPL does not have a good handle on  
18 the ultimate cost of the uprates, and it does not incorporate a contingency factor that  
19 is adequate for the circumstances. Further, FPL was slow to recognize and take into  
20 account early indications that its initial estimates were inadequate. These missteps  
21 constitute imprudence that has exposed customers to the real likelihood that costs of a  
22 plan with the uprate projects will be higher than corresponding costs of a resource  
23 plan that does not include the projects. In fact, OPC witness and fellow GDS  
24 consultant Brian Smith will demonstrate that, at this stage of the projects, FPL's own  
25 data indicate that customers will see net costs, not net benefits, from the uprate

1 projects. This is the case even though the biggest expenditures are yet to come. To  
2 protect the customers from having to bear unreasonable costs occasioned by FPL's  
3 imprudence, I recommend that the Commission should disallow all costs greater than  
4 the breakeven cost from the amount that FPL seeks to collect through the NCRC.  
5 Because estimated capital costs and years of operations remaining prior to the  
6 expiration of operating licenses differ materially between the St. Lucie and Turkey  
7 Point uprate activities, I further recommend that the Commission direct FPL to  
8 perform a breakeven analysis for each EPU project, so that the economic feasibility  
9 and the justification for the continuation of the extended uprate project at each plant  
10 site can be evaluated individually rather than being lumped together.

11

12 **Q. PLEASE SUMMARIZE YOUR CONCLUSIONS AND**  
13 **RECOMMENDATIONS WITH RESPECT TO THE ISSUE OF WHETHER**  
14 **FPL SHOULD HAVE AMENDED ITS TESTIMONY CONCERNING ITS**  
15 **ESTIMATE OF CAPITAL COSTS ASSOCIATED WITH THE UPRATE**  
16 **PROJECTS DURING THE SEPTEMBER, 2009 EVIDENTIARY HEARING.**

17 **A.** Based on my review of information provided in discovery, I conclude the information  
18 regarding the cost of the EPU projects that FPL included in prefiled testimony in May  
19 2009 was not the most current view of the utility, as the estimate in the May prefiled  
20 testimony had been effectively superseded by revised estimates as of the Executive  
21 Steering Committee meeting of July 25, 2009. At that time, managers of the uprate  
22 projects increased the estimate contained in May 2009 prefiled testimony by some  
23 \$300 million, representing a 21% increase above the estimate contained in the  
24 prefiled testimony. FPL's uprate managers adjusted their estimates of capital costs  
25 again in August 2009, when they increased estimated capital costs by another \$144.5

1 million, or a total of \$443.6 million more than the amount FPL had been using as its  
2 estimate since 2007. FPL should have apprised the Commission of these  
3 developments no later than the time when its witness testified in the evidentiary  
4 hearing conducted on September 8, 2009. Further, because the capital cost estimate is  
5 a key component of the utility's long-term feasibility study which the Commission's  
6 rule requires FPL to present annually, FPL also should have revised its feasibility  
7 calculations to reflect the increased capital cost estimate and the correspondingly  
8 lower benefits associated with the increase during the same hearing. I am informed  
9 by OPC's counsel that OPC regards these failures as a violation of the rule governing  
10 the nuclear cost recovery clause.

11 **IV. FPL'S INAPPROPRIATE METHODOLOGY FOR MEASURING**  
12 **LONG TERM FEASIBILITY OF UPRATES**

13 **Q. PLEASE SUMMARIZE THE METHODOLOGY THAT FPL EMPLOYS IN**  
14 **ITS ANALYSIS OF THE LONG TERM FEASIBILITY OF THE UPRATE**  
15 **PROJECTS.**

16 **A. FPL uses a methodology called the Current Present Value of Revenue Requirements**  
17 **(CPVRR). Using this methodology, the Company compares the revenue**  
18 **requirements flowing from a generation portfolio containing the EPU projects to a**  
19 **generation portfolio without the EPU projects for the entire life of the projects. The**  
20 **revenue requirements include fuel costs, capital costs, operating costs and all other**  
21 **costs related to operation of the plants. FPL calculates the present value of these**  
22 **costs and compares the sum of the revenue requirements for each generation**  
23 **portfolio. The generation portfolio with the lower CPVRR is considered to be the**  
24 **more economical portfolio. FPL excludes expenditures incurred prior to the analysis,**

1 and includes only the remaining costs to complete the unit as capital costs, on the  
2 basis that the expenses incurred in prior periods are "sunk costs."  
3

4 **Q. DID YOU ADDRESS THIS CHOICE OF METHODOLOGIES IN THE**  
5 **TESTIMONY THAT YOU SUBMITTED IN DOCKET NO. 100009, PRIOR**  
6 **TO THE DECISION TO DEFER FPL-RELATED ISSUES TO THIS**  
7 **HEARING CYCLE?**

8 A. Yes, I discussed my view of the shortcomings of the methodology as it is applied to  
9 the EPU uprate projects in the prefiled testimony that I presented in Docket No.  
10 100009-EI. The comments that I made in that testimony remain valid.  
11

12 **Q. PLEASE TELL THE COMMISSIONERS WHY YOU BELIEVED THEN,**  
13 **AND CONTINUE TO BELIEVE NOW, THAT FPL'S METHODOLOGY, AS**  
14 **IT IS APPLIED TO THE EPU UPRATE PROJECTS, IS DEFICIENT.**

15 A. The CPVRR method utilizing only cost to complete is appropriate for evaluating a  
16 project with known and stable cost. As I explained in my testimony in Docket No.  
17 100009-EI, this method is not appropriate for evaluating the economics of a project  
18 for which the final estimated cost is rapidly increasing. If the estimated total cost is  
19 increasing at a rate that approximates the expenditures on the project, the cost to  
20 complete will be unchanged while the total project cost is rapidly increasing. This  
21 masks the true picture of whether the project is economically feasible.  
22

23 **Q. ARE THERE INDICATIONS THAT THE SHORTCOMING THAT YOU**  
24 **DESCRIBE IS AFFECTING THE VALIDITY OF THE RESULTS OF THE**  
25 **ANNUAL ANALYSIS THAT FPL CONDUCTS?**

1 A. Yes. As discussed further in the testimony of OPC witness Brian Smith, it appears  
2 that the EPU projects provide net costs, not net benefits, to customers when total costs  
3 of the project are considered and compared to the alternative generation portfolio.  
4 Yet, FPL's feasibility analyses, which ignore past expenditures, continue to show that  
5 the EPU projects have economic benefit.

6  
7 **Q. HOW DOES THE METHODOLOGY THAT FPL EMPLOYS TO MEASURE**  
8 **LONG TERM FEASIBILITY OF ITS EPU UPRATE PROJECTS COMPARE**  
9 **TO THAT WHICH IT USES TO ASSESS THE FEASIBILITY OF ITS**  
10 **PROPOSED NEW TURKEY POINT NUCLEAR UNITS?**

11 A. FPL uses a "breakeven" methodology to assess the feasibility of the new Turkey  
12 Point 6 and 7 units. In the breakeven methodology, FPL calculates the total capital  
13 cost at which the CPVRR of a generation portfolio including the new nuclear units  
14 equals the CPVRR of the alternate generation portfolio. If the cost of the new nuclear  
15 units exceeds the breakeven cost, the units are not economically feasible. If the cost  
16 is less than the breakeven cost, they are economically feasible.

17  
18 **Q. WHAT INFORMATION DOES A BREAKEVEN ANALYSIS PROVIDE, AND**  
19 **IN WHAT CIRCUMSTANCES IS THIS INFORMATION USEFUL?**

20 A. A breakeven analysis provides the project total cost that the project must come in at  
21 or below for the project to be beneficial to ratepayers. This information is very useful  
22 for project managers to monitor the ultimate feasibility of the project as the project  
23 proceeds. If project cost estimates are rapidly increasing, the breakeven analysis  
24 provides an early warning to project managers that the project may no longer be  
25 feasible.

1  
2 **Q. HAS FPL CONDUCTED A BREAKEVEN ANALYSIS FOR ITS UPRATE**  
3 **PROJECTS THAT IS SIMILAR TO THE ONE IT PERFORMS FOR ITS**  
4 **PROPOSED NEW NUCLEAR UNITS?**

5 **A. No.** In response to OPC Interrogatory No. 85 (included as Exhibit WRJ-3), which  
6 asks FPL to explain why a breakeven cost analysis was conducted for Turkey Point 6  
7 and 7 but not for the EPU project, FPL states:

8           It is not necessary to perform a breakeven cost analysis in  
9           order to evaluate a potential generating unit option.

10  
11       This response further states:

12  
13           In its need filing for the Turkey Point 6 and 7 project, FPL  
14           chose to introduce a new breakeven cost calculation  
15           approach for that specific project. This approach was  
16           developed and utilized because of the more numerous areas  
17           of uncertainty that would affect the analysis of a much  
18           longer-term project.

19  
20       In testimony (Sim May 2, 2011 page 10, lines 12 – 17), FPL asserts that the  
21       comparison of the cumulative net present value of revenue requirements is the  
22       appropriate method to use for the uprate projects. FPL offers no explanation for this  
23       position.

24  
25 **Q.DO YOU AGREE WITH FPL ON THIS POINT?**

26 **A. No.** I believe the breakeven analysis is more appropriate than the CPVRR  
27       methodology for the uprate projects, just as it is the methodology of choice for the  
28       proposed new units.

29  
30 **Q. IN RESPONSE TO OPC INTERROGATORY 85 FPL DISCUSSES ITS USE**  
31 **OF A CPVRR ANALYSIS TO EVALUATE THE WEST COUNTY ENERGY**

1           **CENTER UNITS. DO YOU AGREE THAT THIS IS AN APPROPRIATE**  
2           **ANALOGY?**

3    A.    No, I do not. The use of a CPVRR evaluation is appropriate for the West County  
4           Energy Center Units. These are gas fired, combined cycle units of which hundreds  
5           have been constructed around the country. FPL has extensive experience, including  
6           recent experience, in constructing this type of unit. For a unit with high cost  
7           certainty, such as a combined cycle unit, a CPVRR evaluation is appropriate. This is  
8           clearly not the case for the EPU projects.

9  
10   Q.    **WHAT SIMILARITIES EXIST BETWEEN THE PROJECT TO BUILD NEW**  
11           **UNITS AND THE UPRATE PROJECTS THAT LEAD YOU TO STATE THE**  
12           **SAME TYPE OF FEASIBILITY ASSESSMENT SHOULD BE PERFORMED**  
13           **FOR EACH?**

14   A.    Because of the complexity of the project and FPL's decision to "fast track" its  
15           construction prior to the completion of the engineering design activities that are  
16           necessary to quantify costs, the costs of the EPU uprate projects are as highly  
17           uncertain, if not more so, than the costs of the new Turkey Point units. (I will  
18           develop the level of uncertainty that supports this observation more fully in a later  
19           section of my testimony.) Accordingly, everything that FPL said about the suitability  
20           of the breakeven analysis to the proposed new nuclear units is fully applicable to the  
21           EPU uprate projects. As the uprate projects progress, it is important for project  
22           managers to recognize when the project cost forecast is approaching the point at  
23           which the project is not economically feasible. Reliance on only a CPVRR  
24           methodology can result in the continuation of a project when it is no longer  
25           economically feasible and when it is too late to make necessary changes.

1

2 Q. WHAT ACTION DO YOU RECOMMEND TO THE COMMISSION ON THIS  
3 SUBJECT?

4 A. I recommend that the Commission find the long term feasibility methodology that  
5 FPL applies to its uprate projects is inappropriate and should not be accepted. I  
6 recommend that the Commission find that the results of the feasibility analysis  
7 sponsored by FPL in this case are misleading, in that they mask what can be  
8 described a "shortfall in cost-effectiveness" of the uprate projects that I attribute to  
9 management imprudence. Finally, FPL should be directed to perform a breakeven  
10 analysis for its uprate projects similar to that which it prepares annually for its  
11 proposed new units.

12

13 V. IMPRUDENCE OF FPL'S MANAGEMENT OF THE EPU PROJECTS

14

15 Q. HOW IS FPL APPROACHING THE PLANNING AND CONSTRUCTION OF  
16 THE EPU UPRATE PROJECTS?

17 A. FPL is employing what is called a "fast track" approach.

18

19 Q. WHAT IS A "FAST TRACK" METHOD OF CONSTRUCTING A PROJECT,  
20 AND HOW DOES THAT DIFFER FROM A NORMAL APPROACH?

21 A. FPL witness Jones, in his May 2, 2011 testimony, at page 17, quotes the Project  
22 Management Institute's "A Guide to the Project Management Body of Knowledge",  
23 third edition. I will quote from the same book, page 146:

24

25

26

27

28

Fast Tracking. A schedule compression technique in which phases or activities that normally would be done in sequence are performed in parallel. An example would be to construct the foundation for a building before all the architecture drawings are complete. Fast tracking can result in rework and increased risk. This approach can require work to be performed without



1 complete detailed information, such as engineering drawings. It results in  
2 trading cost for time, and increases the risk of achieving the shortened project  
3 schedule - (emphasis added)  
4

5 **Q. WHAT ARE THE ARCHITECTURE AND ENGINEERING DRAWINGS,**  
6 **AND WHY WOULD PROCEEDING WITHOUT COMPLETE DRAWINGS**  
7 **RESULT IN INCREASE COST FOR THE PROJECT?**

8 A. The architecture and engineering drawings provide the final engineering design of the  
9 project. "Final engineering design" refers to the full specifications (size, materials,  
10 configuration, etc.) of the physical components to be installed. Proceeding without  
11 complete drawings and engineering can result in increased project costs in several  
12 ways. First, as described above, rework may be required if the final design is  
13 different from a preliminary design that is implemented on the project. In addition,  
14 until the final design is complete, the true scope of the project is not known and the  
15 final cost is impossible to estimate with any degree of accuracy. Thus, the actual  
16 final cost may be significantly more than the original estimate because the scope of  
17 work included in the original estimate was incomplete. Finally, an engineering and  
18 construction contractor will not be able to provide a firm bid on a project based only  
19 on preliminary engineering. Since the scope is not known, the risk is too great.  
20 Therefore, to protect itself, an engineering and construction contractor will only  
21 provide a bid on a "time and materials" basis. This results in a high likelihood of  
22 increased costs.

23 **Q. DOES FPL PLAN TO PERFORM WORK WITHOUT COMPLETE DESIGN**  
24 **DRAWINGS?**

25 A. Apparently, FPL is considering this option. The pace of the completion of design  
26 engineering drawings has been far slower than that which would be needed to support  
27 FPL's implementation schedule. I will develop this point in greater detail later in my

1 testimony. For my immediate purposes, I have attached as Exhibit WRJ-4 a graph  
2 that FPL uprate managers presented to FPL's Executive Steering Committee for the  
3 meeting of October 27, 2010. The graph depicts the actual amount of design  
4 engineering for the St. Lucie uprate project that has been completed over time, and  
5 shows the status (as of the October 2010 meeting) of the design engineering work  
6 relative to the stated target date of July 2011 for ~~90% completion of the work.~~ <sup>completion of 90 design modification packages.</sup> To  
7 gain an appreciation for the degree to which the rate of completed design engineering  
8 would have to accelerate in order for FPL to achieve its current schedule for  
9 accomplishing design work, I have added a data point reflecting the status of  
10 engineering as of April 2011 -- the most recent date for which I have FPL data -- and  
11 then drawn a dotted line to connect that date to the target date. The steep dashed line  
12 shows that for FPL to adhere to its schedule for placing the additional megawatts of  
13 capacity associated with the uprate projects into service, either the speed with which  
14 FPL and Bechtel are performing design engineering would have to increase  
15 dramatically—at a rate which experience to date suggests would be highly unlikely—  
16 or FPL would have to perform construction without having completed design work,  
17 which would mean the ultimate costs would be even more uncertain. Of course, the  
18 alternative would be to slip the schedule. However, that would also have  
19 consequences in the form of increased costs and a smaller amount of time within  
20 which to generate fuel savings sufficient to offset the capital costs of the uprate  
21 additions before the nuclear units' operating licenses expire—all of which has  
22 implications for the projects' economic feasibility. To date, FPL's position has been  
23 that it intends to adhere to the existing schedule, notwithstanding the large amount of  
24 design engineering that remains to be done. That plan necessarily entails the type of  
25 cost risk to which the publication refers. FPL witness Jones, in his deposition, stated

1 that if portions of the design engineering are not ready in time to support the  
2 implementation schedule, it would be possible to undertake construction "at risk" in  
3 advance of the completion of design work (Jones deposition transcript, June 22, 2011,  
4 at pages 23 – 24). This, as his term "at risk" implies, is very risky from a cost,  
5 schedule and NRC point of view.  
6

7 **Q. IS FAST TRACKING APPROPRIATE FOR PROJECTS SUCH AS THE FPL**  
8 **EPU PROJECTS?**

9 **A.** In my opinion, it is not. I agree wholeheartedly with FPL witness Jones when he says  
10 "The EPU project is of extraordinary managerial and technical difficulty. FPL's EPU  
11 project represents one of the largest and most complex nuclear design, engineering  
12 and construction projects undertaken in the nuclear industry since the construction of  
13 the last generation of U.S. nuclear plants." (Jones May 2, 2011 testimony, page 4,  
14 lines 16 – 19) However, this has been true of the projects from the outset. These  
15 projects represent a combined 450MWe of nuclear capacity, which is larger than  
16 some existing nuclear plants. Practically all of the last generation of nuclear projects  
17 to which Mr. Jones refers were built with variations of fast track, time-and-material  
18 contracts with disastrous results from a cost and scheduling standpoint. The utility  
19 industry said "never again." For the current generation of new nuclear units, utilities  
20 have chosen to negotiate contracts that have fixed scope and fixed price features to  
21 control cost and provide some degree of cost certainty to ratepayers, stockholders  
22 and regulators. This is the approach wisely taken by FPL and PEF in approaching the  
23 Turkey Point 6&7 and Levy 1&2 projects. Nevertheless, FPL has chosen to approach  
24 the EPU projects in the same, high risk manner in which the last generation of nuclear  
25 units were built.

1

2 Q. DOES FPL ACKNOWLEDGE THAT THE FAST-TRACK PROCESS HAS  
3 CAUSED PROBLEMS?

4 A. Yes. On July 25, 2009, the EPU project management gave a presentation to the  
5 Executive Steering Committee (ESC) revealing significant project cost increases.  
6 Part of the presentation consisted of project management executives discussing the  
7 "lessons learned" so far in the project. Concerning the fast-track process, the  
8 following bullets were included:

- 9 • Underestimated the risk and costs associated with the fast track project  
10 concept (Turkey Point 7/25/2009 update page 39-Bates 000094)
- 11 • Fast Track Modification Control(Turkey Point 7/25/2009 update page 40-  
12 Bates 000095)
  - 13 ○ Looked at the project only from a high level risk assessment
  - 14 ○ Should have don(e) a more detailed risk assessment when establishing  
15 the budget
  - 16 ○ Did not assess the quality of original site staffing due to fast tracking

17 These comments are from the Turkey Point presentation. Those from the St. Lucie  
18 presentation are essentially the same. (Bates number 000474 and 000475)

19

20 Q. DID THE PROJECTS START OUT AS FAST TRACK  
21 PROJECTS?

22 A. No. Based on information that OPC acquired from FPL's former Vice President—  
23 Uprates during discovery, it is my understanding that FPL contemplated proceeding  
24 with the uprate activities using FPL's normal project management process before  
25 senior management directed project managers to use the "fast track" approach to

1 attempt to place the additional megawatts on line by 2012. See Exhibit WRJ-11.

2 Pages TR-25-28.

3  
4 **Q. IS THE STATUS OF PROJECT DESIGN COMPLETION AN**  
5 **IMPORTANT FACTOR IN THE SUCCESS OF A PROJECT?**

6 **A. In my opinion, it is extremely important. Completing the design is the key to**  
7 **knowing the cost and schedule. Prior to the design reaching a relatively high state**  
8 **of completion a significant amount of uncertainty exists in the key drivers of**  
9 **project cost and schedule including:**

- 10 • Number of modifications to be installed;
- 11 • Estimated craft manhours;
- 12 • Estimated engineering costs;
- 13 • Estimated equipment costs;
- 14 • Estimated material costs;
- 15 • Licensing requirements;
- 16 • Project critical path.

17 As a result, cost and schedule estimates for a fast track project are highly  
18 uncertain. Actual projects costs are likely to exceed initial estimates as the design  
19 of the project is completed and the scope of the project is identified. Initiating a  
20 very large and complex project with a high level of cost and schedule uncertainty  
21 can lead to an unsuccessful project that does not provide the hoped for benefits.

22  
23 **Q. DOES COST CERTAINTY INCREASE AS DESIGN ENGINEERING**  
24 **ADVANCES TOWARD COMPLETION?**

1 A. Yes, and FPL agrees. Page 10 of the September 9, 2009 presentation to the FPL

2 Executive Steering Committee (ESC) states:

3           Engineering and Design will complete in December 2010  
4           improving cost certainty.

5  
6 (As of April 18, 2011, only 31% of the engineering design projects, called  
7 modifications or "mods," have been completed.)

8 Page 7 of the March 8, 2010 presentation (a little over a year ago) to the ESC states:

9  
10           The project is at the very early stages of design. Cost  
11           certainty will improve as design is completed.

12  
13  
14 **Q. THESE QUOTATIONS ABOVE REFER TO THE "DESIGN". WHAT IS**  
15 **MEANT BY THAT?**

16 A. These statements are referring to design engineering. The project record is full of  
17 references to cost uncertainty usually associated with the status of the design  
18 engineering of project modifications. Design engineering on this project is divided  
19 into discrete packages that are associated with a particular project or modification.  
20 Examples are Turkey Point Unit 3 Main Feed Pump Replacement, Condensate Pump  
21 and Motor Replacement and Containment Cooling Modifications. The total EPU  
22 projects currently consist of 209 Mods, including 95 at St. Lucie and 114 at Turkey  
23 Point. Over the past year, the projects have grown from 191 to 209 Mods, and there  
24 likely will be more.

25  
26 **Q. WHAT IS THE STATUS OF DESIGN ENGINEERING AT THIS TIME?**

27 A. As I said earlier, the latest information that I have is as of April 2011. It was supplied  
28 by the Company in its response to OPC Interrogatory 50. It states that 31% or 65 of  
29 the 209 Mods have completed design engineering allowing some cost certainty for  
30 those Mods. From January 2010 until the latest data provided by FPL in April 2011,

1 a period of 15 months, the FPL EPU organization has completed the design of 65  
2 Mods (31%) or a little over 4 per month. They are scheduled to complete all 209  
3 Mods by the end of 2011, or 144 over 8 months, or about 18 per month, requiring a  
4 significant increase in the completion rate achieved to date. WRJ-4, to which I  
5 referred earlier, is a graph from the October 27, 2010, meeting showing the schedule  
6 for Design Modification completion. The dotted line indicating the slow pace of the  
7 progress during the six months prior to April 18, 2011 and the additional line  
8 indicating the steep rate of acceleration that would be needed to enable FPL to remain  
9 "on course," provide a dramatic visual of the lack of engineering progress.

10.

11 **Q. COULD IT BE THAT A NUMBER OF MODS ARE ALMOST COMPLETE?**

12 A. According to the data, there are 23 Mods that are between 90% and 100% complete  
13 and 37 that are between 30% and 90% complete. There are 67 that are between 0%  
14 and 30% complete and 17 that have not been started. I do not find these figures  
15 encouraging.

16

17 **Q. IS THE COMPANY CONCERNED ABOUT THIS SITUATION?**

18 A. Yes, they are. In the March 23, 2011, ESC presentation (Exhibit WRJ-5) on page 21,  
19 FPL states that:

20

21 **Bechtel (the EPC contractor) has struggled with meeting**  
22 **pre-outage milestones for design modifications**  
23 **requiring increased focus and management attention.**

24

25 It also states that recovery plans have been established. FPL witness Jones stated in  
26 his deposition of June 22, 2011 that he has started contracting out some of the work to  
27 other engineering firms. (Jones deposition transcript, June 22, 2011, page 42, lines 22  
28 -24) With an outage starting in five months, this may be too little, too late. I have  
29 noted in the Company's response to OPC Interrogatory No. 56, which asks for the



1 outage schedule, that every outage date is prefaced with the tentative "currently  
2 scheduled."

3

4 **Q. HAS LATE ENGINEERING ALREADY CAUSED DELAYS IN**  
5 **COMPLETING THE EPU PROJECTS?**

6 **A.** Yes. The outage for completion of implementation of the first EPU project, St. Lucie  
7 1, has slipped three months from [REDACTED] to [REDACTED]. The other  
8 outages have slipped some also. The ESC was told at its March 23, 2011, meeting  
9 (BSC slides, page 36) (Exhibit WRJ(FPL)-6)

10 Moved outage start dates to provide additional time for  
11 engineering and planning, bringing more certainty with  
12 execution.  
13

14 **Q. WHAT IS THE CURRENT OVERALL STATUS OF THE PROJECTS?**

15 **A.** As witness Jones indicates in his testimony, the projects are still in the early  
16 stages. Engineering is only 50% complete on a manhour basis and only 31% of  
17 the known project modification designs are complete. At this point, according to  
18 Dr. Sim, FPL has spent only \$700 million out of \$2.48 billion total. The first  
19 major EPU implementation and completion outage is coming up at St. Lucie 1,  
20 only some 4 ½ months away, and I would point out that for that outage only 15 of  
21 45 currently identified Mods have completed engineering. FPL has hired an  
22 outside estimating firm to help cost out the completion on over 100 Mods for  
23 Turkey Point, indicating that they are a long way from having costs nailed down  
24 on construction at Turkey Point. (FPL Response to OPC Interrogatory No. 83)  
25 Because this Turkey Point estimating work is in the early stages, I expect that the  
26 estimating for construction at St. Lucie is also very early in its development. FPL  
27 has to spend almost \$2 billion (according to their soft numbers) over the next 18



1 months for work that is, as of today's date, unplanned and unpriced. Based on  
2 what they know now, the almost \$2 billion can only be an uneducated guess.

3

4 **Q. ARE THERE OTHER ISSUES THAT ARE OF CONCERN FOR THE EPU**  
5 **COST AND SCHEDULE?**

6 **A. Yes.** Witness Jones identifies a number of additional problems beside the design  
7 in his May 2, 2011, testimony: (Jones May 2, 2011, testimony, pages 35 – 38)

- 8 • **Structural Integrity**—This factor deals with the ability of existing buildings,  
9 floors, walls, etc. to support new, heavier equipment in place and also as the  
10 equipment is transported to its proper position in the plant. This engineering  
11 and planning work has not been accomplished and will cause *additional*  
12 engineering as well as construction.
- 13 • **Limited Work and Staging Space**—Because of the numerous mods to be  
14 accomplished at the same time, the planning and scheduling of simultaneous  
15 projects in the same work spaces are very difficult. This will cause *additional*  
16 engineering and labor costs.
- 17 • **Rigging of Equipment**—Mr. Jones states that some of the equipment to be  
18 replace or modified weigh up to 185 tons. Some of it is in places that are  
19 difficult to access. The additional costs are associated with engineering and  
20 implementation of this unplanned for work.
- 21 • **Operating Plant Environment**—I discussed this earlier. This means that every  
22 action taken inside a licensed nuclear power plant must take into account the  
23 plants NRC technical specifications. For example, there will some equipment  
24 that cannot be taken out of service unless a backup is in operation. Physical  
25 security, health physics, and radiation protection specifications must be

1 strictly adhered to. Fitness for duty requirements must be applied to all plant  
2 and contractor personnel.

3 • Work Order Planning and Integration with Routine Outage Activities—Work  
4 in operating nuclear facilities must be detailed with strict, specific procedures  
5 that must be developed before work begins. Also, during a refueling outage at  
6 a nuclear power plant, there is a beehive of activity that will be taking place  
7 normally without the installation of the 209 mods. Coordination of these  
8 efforts will increase cost and lengthen schedules.

9 Witness Jones indicates in his response to OPC INT 80 that:

10 ...the extent and impact of these complicating factors cannot be fully  
11 determined until the associated engineering and construction planning  
12 activities are completed.

13  
14 **Q. WHAT DO YOU CONCLUDE CONCERNING THE MANAGEMENT OF  
15 THE FPL EPU PROJECTS?**

16 **A.** I conclude that that the decision to fast track these projects and to pursue them  
17 without performing a breakeven analysis was an imprudent decision on the part of  
18 FPL management. I expect significant increases in project cost and more project  
19 delays in the coming two years. Project cost will not be known until the project is  
20 complete, rendering FPL's feasibility analyses of relatively little use. This fast  
21 track decision will likely result in costs that will significantly exceed the cost of  
22 the studied alternative.

23 **Q. HOW WOULD YOU DESCRIBE THE NATURE OF FPL'S EPU  
24 PROJECTS, IN TERMS OF THE DEGREE OF UNCERTAINTY AND  
25 COMPLEXITY?**

26 **A.** As witness Jones states in his testimony and I have discussed above, the EPU  
27 projects are the largest and most complex since the last generation on U.S. nuclear

1 plants. I would maintain that it is even more complex, because it must be  
2 accomplished within existing, operational nuclear plants, creating all the  
3 expensive complications that witness Jones discusses so well. I would add,  
4 however, that witness Jones' points regarding complexity have been known from  
5 the beginnings of the project, and demonstrate why the decision to "fast track" the  
6 uprate projects was so risky.

7  
8 **Q. IN YOUR OPINION, DO FPL'S ESTIMATED COSTS CONTAIN**  
9 **ENOUGH CONTINGENCY AT THIS TIME GIVEN THE PRESENT**  
10 **STATUS OF THE EPU PROJECTS?**

11 **A.** No, they do not. In its answer to OPC Interrogatory 77, FPL states that its  
12 contingency in its current number is from 0 to 7%, which seems quite small  
13 considering that the engineering is only 50 % complete and the major construction  
14 has not yet been estimated to the level of detail necessary to set up construction  
15 contracts (See response to OPC Interrogatory 83.) In my opinion, a higher  
16 contingency commensurate with the current design and construction status would  
17 be appropriate.

18  
19 **Q. FPL'S PAST AND CURRENT FEASIBILITY ANALYSES INDICATE**  
20 **THE EPU UPRATE PROJECT HAVE BEEN AND ARE CURRENTLY**  
21 **COST-EFFECTIVE TO CUSTOMERS. DOES THAT ALLAY YOUR**  
22 **CONCERNS REGARDING THE SIGNIFICANT INCREASES IN THE**  
23 **CAPITAL COSTS THAT FPL HAS ESTIMATED IT WILL INCUR TO**  
24 **COMPLETE THE PROJECTS?**

1 A. No, it does not. As I discussed above, the capital costs are still uncertain at this  
2 point. As OPC Witness Brian Smith points out, the EPU projects are not feasible  
3 under the base case assumptions when costs spent to date are included. FPL has  
4 not calculated a break-even cost and therefore does not know how much the  
5 ratepayers can afford for them to spend on the projects. I recommend that the  
6 Commission order FPL to immediately submit a breakeven analysis for the EPU  
7 projects. The St. Lucie and Turkey Point projects should be looked at separately  
8 in the analysis, with a break-even cost identified for each project.

9  
10 Q. **WHY DO YOU RECOMMEND SEPARATE ANALYSES FOR EACH**  
11 **PROJECT?**

12 A. At current estimates, the Turkey Point project's estimated cost is approximately  
13 \$250 million more than the estimate for St. Lucie. It is my understanding that the  
14 capacity increase for the Turkey Point EPU project is less than that for St. Lucie.  
15 In addition, the operating licenses for Turkey Point expire in 2032 and 2033,  
16 while St. Lucie's operating licenses expire in 2036 and 2043, giving St. Lucie 14  
17 more unit-years of operation. Bear in mind that the economic feasibility of an  
18 uprate project depends on the ability of the additional megawatts of nuclear  
19 capacity to generate fuel savings over time that will more than offset the "price  
20 tag" of capital investment. The higher capital costs, lower increments of  
21 additional nuclear generating capacity, and shorter periods of service present a  
22 greater "hurdle" that the Turkey Point uprate activities must overcome to  
23 demonstrate economic feasibility. These differences between the two plants may  
24 possibly show that the St. Lucie EPU has been "carrying" the Turkey Point EPU.

1 In any event, the differences warrant separate analyses for the plant sites, and  
2 separate decisions with respect to whether each should continue.

3

4 **Q. TO BE CLEAR, HOW HAS MANAGEMENT IMPRUDENCE IN**  
5 **MANAGING THE EPU UPRATE PROJECTS, IN YOUR OPINION,**  
6 **CONTRIBUTED TO THE SITUATION IN WHICH, WITH RESPECT TO**  
7 **WHETHER CUSTOMERS WILL REALIZE NET BENEFITS OR NET**  
8 **ADDITIONAL COSTS, THE ECONOMIC FEASIBILITY OF THE**  
9 **PROJECT IS QUESTIONABLE?**

10 **A. FPL's imprudent decision to fast track the EPU projects has led to a situation in**  
11 **which FPL is spending substantial sums of money very quickly while not**  
12 **knowing what the final bill is going to be. As FPL has acknowledged, it is**  
13 **impossible to know what the projects will cost until the designs are complete.**  
14 **The final designs were only 31% complete as of April 18, 2011. By using**  
15 **inaccurate, understated estimates of project costs and ignoring money already**  
16 **spent, the projects will always look feasible even though they may ultimately cost**  
17 **the rate payer more than the alternative generation portfolio.**

18

19 **Q. EVEN IF FPL'S EPU UPRATE PROJECTS TURN OUT TO BE NOT**  
20 **COST-EFFECTIVE, ISN'T THAT OFFSET BY THE PROJECT'S FUEL**  
21 **SAVINGS, FUEL DIVERSITY AND LOWER EMISSIONS OF**  
22 **GREENHOUSE GASES?**

23 **A. Project fuel costs are the majority of costs that are included in the CPVRR or**  
24 **breakeven analyses. Thus, these savings are already considered. The cost of**  
25 **greenhouse gases is also taken into account in CPVRR and breakeven analyses.**

1 The value of fuel diversity has not been quantified, and should be a matter of  
2 Commission policy; however, the fuel diversity benefits cannot be evaluated in  
3 isolation from a realistic appraisal of economic feasibility, and would not be  
4 worth pursuing at some level of cost.

5

6 **Q. WHAT DO YOUR OBSERVATIONS REGARDING MANAGEMENT**  
7 **IMPRUDENCE INDICATE WITH RESPECT TO THE AMOUNTS**  
8 **COLLECTED FROM CUSTOMERS IN 2009, 2010, 2011, AND THE**  
9 **AMOUNT THAT FPL WISHES TO COLLECT IN 2012?**

10 **A.** I recommend that the Commission require the Company to determine a breakeven  
11 cost for each project. The Company should be allowed to collect future amounts  
12 up to the breakeven costs. Amounts for 2009, 2010, 2011 and 2012 could be  
13 collected as long as the breakeven values have not been exceeded. The amount of  
14 the breakeven cost could be reviewed and trued up each year.

15

16 **Q. BASED ON YOUR TESTIMONY ON THE SUBJECT OF PRUDENCE,**  
17 **WHAT ACTION DO YOU RECOMMEND TO THE COMMISSION/**

18 **A.** I recommend that the Commission take the following actions:

- 19 1. Order FPL to submit a breakeven analysis for each EPU project, St. Lucie  
20 and Turkey Point.
- 21 2. Based on these analyses, determine if Turkey Point EPU should be  
22 continued.
- 23 3. Limit future recovery of EPU capital cost to the amounts determined in the  
24 final breakeven analyses as filed by FPL at the conclusion of the project  
25 and reviewed and approved by the Commission.

1 VI. THE 2009 ESTIMATES OF UPRATE-RELATED CAPITAL COSTS

2 Q. HOW DID YOU CONDUCT YOUR REVIEW OF THE 2009 ESTIMATES OF  
3 UPRATE-RELATED CAPITAL COSTS TO ASCERTAIN WHETHER THE  
4 MAY 2009 ESTIMATES REPORTED IN FPL'S PREFILED TESTIMONY  
5 SHOULD HAVE BEEN UPDATED PRIOR TO OR DURING THE  
6 SEPTEMBER 2009 EVIDENTIARY HEARING?

7 A. As the Commission learned last year, in February 2010 FPL engaged Concentric  
8 Energy Advisors to investigate an employee complaint letter. In the letter the author  
9 expressed his concern about (among other things) the disregard with which managers  
10 of the uprate projects treated indications that the costs of the projects were rapidly  
11 increasing beyond the initial estimates, and the manner in which FPL would report  
12 those increases in the costs of the uprate projects to the Commission. In June 2010,  
13 John Reed, President of Concentric Energy Advisors, submitted to FPL a report in  
14 which Mr. Reed concluded that the May 2009 estimates contained in FPL's prefiled  
15 testimony were not the best information known by FPL at the time of the September  
16 2009 hearing, and that FPL's witness should have revised the estimate to reflect the  
17 utility's then current view of the costs. As the Commission is also aware, FPL took  
18 issue with its consultant's finding in this regard prior to the time that the Commission  
19 deferred FPL-related issues to the 2011 hearing cycle. In this docket, Mr. Reed has  
20 reiterated his conclusion that FPL should have revised its estimate of capital costs  
21 upward prior to or during the September 2009 hearing, while FPL witnesses Art Stall  
22 and Armando Olivera contend that, because the updated cost information was subject  
23 to further review and efforts to control, FPL had no basis on which to revise its May  
24 2009 prefiled testimony at the time of the September hearing. OPC asked me to  
25 perform an independent review of the facts and circumstances that gave rise to these

1 differing assertions, and form my own conclusion regarding whether FPL should have  
2 updated its May 2009 testimony to reflect higher projected capital costs at the time of  
3 the September 2009 hearing.

4  
5 **Q. WHAT INFORMATION DID YOU REVIEW IN FORMULATING YOUR**  
6 **OPINION?**

7 **A.** The documents and materials that OPC requested in discovery and that I reviewed for  
8 this purpose include the bulk of the materials that Mr. Reed listed in his June, 2010  
9 report. In addition to these materials, I reviewed FPL's answers to OPC's  
10 interrogatories, FPL's prefiled testimony in this docket and the transcripts of the  
11 depositions of Art Stall, John Reed, and Terry Jones. By telephone, I monitored the  
12 deposition of former FPL Vice President-Uprates Rajiv Kundalkar, who sponsored  
13 the May 2009 prefiled testimony on the subject of capital cost estimates during the  
14 September 2009 hearing.

15  
16 **Q. PLEASE DESCRIBE THE FACTS ON WHICH YOU BASE YOUR**  
17 **CONCLUSION THAT FPL DID NOT PRESENT THE BEST AVAILABLE**  
18 **INFORMATION REGARDING ITS ESTIMATE OF THE COSTS OF**  
19 **COMPLETING THE UPRATE PROJECTS DURING THE SEPTEMBER 2009**  
20 **EVIDENTIARY HEARING.**

21 **A.** The original estimate for the EPU projects was based on conceptual scoping studies  
22 and indicative bids from the EPC contractor. Detailed engineering was essentially at  
23 zero percent, and there was a high degree of uncertainty in the project estimate.  
24 During 2009, EPU project management made monthly presentations on the BPU  
25 project, including cost estimates, to FPL's Executive Steering Committee (BSC). In



1 the May 2009 presentation to the ESC, the total cost forecast for both St. Lucie and  
2 Turkey Point remained the same as the original estimate. (OPCPOD1, No. 9,  
3 FPL000103 – 000132) (Exhibit WRJ-7) However, a closer examination of the May  
4 2009 forecasts shows that the total of costs for engineering, materials and  
5 implementation had increased from the original estimate by over 25% for St. Lucie  
6 from (\$475 million to \$595 million) and over 27% for Turkey Point from (\$546  
7 million to \$696 million).

8

9 **Q. PLEASE EXPLAIN HOW THESE CATEGORIES COULD HAVE**  
10 **INCREASED IF THE OVERALL ESTIMATE DID NOT CHANGE.**

11 **A.** At the outset of the project, the uprate managers included a component in the estimate  
12 that they labeled "Scope not estimated." Thereafter, each increase in costs that the  
13 managers identified was assumed to reduce the "Scope not estimated" by the same  
14 amount.

15

16 **Q. DO YOU AGREE WITH THE MANNER IN WHICH FPL USED "SCOPE**  
17 **NOT ESTIMATED" TO MAINTAIN A CONSTANT PROJECT ESTIMATE?**

18 **A.** No. Necessarily, the premise for the practice is that FPL had accurately quantified,  
19 to the dollar, the ultimate cost of the project, when in fact FPL, because of its decision  
20 to "fast track" the decision, had little grasp on the costs that would be incurred. FPL  
21 had no basis for using the "Scope not estimated" as a "balancing adjustment." In his  
22 report, John Reed of Concentric Energy Advisors also criticized this practice.

23

24 **Q. PLEASE CONTINUE.**

1 A. The Cost and Budget Summary maintained a constant Total project cost by reducing  
2 the cost allocation for "Scope not estimated" from \$182 million to \$69 million for St.  
3 Lucie and from \$204 million to \$50 million for Turkey Point. As of May 2009 there  
4 was clearly upward pressure on the estimated cost of the project. In the June 2009  
5 ESC presentation the Total cost estimate for St. Lucie and Turkey remained the same  
6 but the "Scope not estimated" component had dwindled to \$14 million for St. Lucie, a  
7 92% decrease from the original \$182 million and to \$28 million for Turkey Point, an  
8 86% decrease from the original \$204 million. (OPCPOD1, No. 11, FPL000191 –  
9 000219) Projects costs had not stabilized and were continuing to increase. At the  
10 July 2009 ESC meeting, the current forecast for St. Lucie was shown to have  
11 increased by \$139.6 million above the original estimate and the current estimate for  
12 Turkey Point was \$160.6 million above the original estimate. (OPCPOD1, No. 5,  
13 FPL000056 – 000095 and OPCPOD1, No. 12, FPL000424 – 000475) (Exhibit WRJ-  
14 8 and Exhibit WRJ-9) In June 2009, the allowance for "Scope not estimated" had  
15 been exhausted, and FPL had to fully recognize the increase in project cost in the July  
16 ESC meeting. The July 2009 ESC presentations included a detailed, line-by-line  
17 presentation of costs as FPL management attempted to identify and understand the  
18 reasons for the cost increases.

19

20 **Q. ARE THERE OTHER ASPECTS OF THE JULY 2009 PRESENTATION TO**  
21 **THE ESC THAT ARE SIGNIFICANT?**

22 A. Yes. The July 2009 ESC presentation also reflected the results of the recent efforts  
23 by the EPU management team to rein in Bechtel's increasing cost estimates. The July  
24 2009 ESC presentation also contains an updated feasibility analysis conducted by an  
25 FPL analyst (not Dr. Sim) to examine whether the EPU projects remained

1 economically feasible (using FPL's methodology) at the new higher cost estimates.  
2 The feasibility analysis in the July 2009 ESC presentation used a combined EPU total  
3 cost of \$1.706 billion, compared to the \$1.407 billion used in the original  
4 Determination of Need filing and in FPL's 2008 and 2009 NCRC testimony. See  
5 page 50 of Exhibit WRJ-9.

6 **Q. WHAT HAPPENED AFTER JULY 2009?**

7 A. Upward cost pressures continued, as the August 2009 cost estimate shown in the  
8 September 2009 ESC presentation increased again from \$1.706 billion to \$1.850  
9 billion. From the above presentation demonstrating continued increasing costs  
10 throughout the spring and summer of 2009 and the use of the increased cost estimates  
11 in the updated feasibility analysis, I conclude that the cost estimate submitted in  
12 FPL's prefiled testimony in May 2009 was clearly stale and should have been  
13 updated prior to or during the hearing in September 2009. In addition, FPL should  
14 have updated the feasibility analysis that it presented at the September 2009 hearing  
15 to reflect the increased estimates of capital costs.

16  
17 **Q. HOW WOULD YOU COMPARE YOUR CONCLUSION WITH THAT OF**  
18 **CONCENTRIC ENERGY ADVISORS, AS EXPRESSED IN ITS JUNE 21,**  
19 **2010, INVESTIGATION REPORT?**

20 A. I reached the same conclusion as Mr. Reed with respect to whether the capital cost  
21 estimate should have been updated, with one difference. Mr. Reed approached his  
22 task from the standpoint of whether FPL adhered to its own internal policies  
23 regarding, among other things, communications to the Commission. My approach is  
24 to assess whether FPL met *Commission* requirements for submissions in the nuclear  
25 cost recovery clause, including the requirement of Rule 25-6.0423 that it provide an

1 analysis of the long term feasibility of the uprate project annually. Regardless of the  
2 methodology that is used, a proper analysis of the long term feasibility of the uprate  
3 project requires that the best available information regarding the capital costs of the  
4 project be used as an input to the analysis. This was not done in the September 2009  
5 hearing.

6

7 **Q. FPL HAS ASSERTED THAT FPL HAD NO OBLIGATION TO UPDATE THE**  
8 **TESTIMONY ON CAPITAL COSTS BECAUSE DESIGN ENGINEERING**  
9 **HAD NOT BEEN COMPLETED FOR THE PROJECTS. DO YOU FIND**  
10 **THIS PERSUASIVE?**

11 **A.** No, I do not. Design engineering for the project will not be complete until shortly  
12 before the project itself is complete. For example, as of April 18, 2011 design  
13 engineering has been completed for only 31% of the Plant Change Modifications.  
14 (Response to OPC Interrogatory 50) The logical extension of FPL's assertion is that  
15 FPL would need to update its initial estimate of capital costs (formed when little  
16 engineering had been done) and adjust the capital cost input to its ongoing economic  
17 feasibility analyses only when the project is virtually complete. This approach would  
18 frustrate the ability of the Commission to monitor the feasibility of the project over  
19 time. Further, when FPL updated capital costs in May 2010, design engineering was  
20 only 10% complete.

21

22 **Q. FPL HAS ALSO CONTENDED THAT AT THE TIME OF THE JULY 2009**  
23 **PRESENTATION TO THE ESC THERE EXISTED OPPORTUNITIES TO**  
24 **REMOVE SCOPE FROM THE PROJECTS, AND THEREFORE THE**

1           **NUMBERS WERE PRELIMINARY AND NOT YET READY TO REPORT**  
2           **TO THE COMMISSION. HOW DO YOU RESPOND?**

3    A.    I respond in two ways. First, the July 2009 cost estimates were the result of extensive  
4           line by line analyses of the capital costs which included identification and  
5           quantification of all known reductions in scope. The reductions in scope were  
6           quantified and reflected in the revised estimate of capital costs. See page 9 of Exhibit  
7           WRJ-9. It is doubtful that additional reductions in scope would be identified at a later  
8           date that would have a significant impact on the July 2009 estimate. This is borne out  
9           by the fact that FPL increased its estimate of capital costs materially above the July  
10          2009 estimate in the following month. Secondly, FPL could have provided the latest  
11          cost estimates and informed the Commission of their preliminary nature with a  
12          promise to provide the Commission with the latest update when it became more firm.  
13          FPL should have informed the Commission of this latest cost estimate.

14  
15    Q.    **FPL SAYS THAT IT DIRECTED ITS UPRATE MANAGERS TO REDUCE**  
16           **COSTS BY "PUSHING BACK" AGAINST BECHTEL. IT SAYS THAT**  
17           **BECAUSE IT HAS NOT ACCEPTED BECHTEL'S ESTIMATE, IT WAS**  
18           **UNDER NO OBLIGATION TO REGARD THE JULY 25 ESTIMATES AS**  
19           **HAVING SUPERSEDED THE MAY TESTIMONY. WHAT IS YOUR**  
20           **RESPONSE?**

21    A.    Again, the July 2009 cost estimates include the results of FPL's initiatives to push  
22           back against Bechtel. In the May 2009 and June 2009 presentations, uprate managers  
23           laid out a program of steps through which they intended to resolve their challenges to  
24           Bechtel's new, higher estimates. The program contemplated a flurry of measures  
25           designed to bring closure to the challenges within a 30 day time frame ending in late

1 June 2009. A table in the implementation section of the July 2009 report for both St.  
2 Lucie and Turkey Point presents the results of extensive negotiations with Bechtel  
3 that are incorporated in the July 2009 cost estimate. These tables entitled "Bechtel  
4 proposal Estimate Changes" show the following cost changes resulting from the  
5 negotiations with Bechtel;

- 6 • Original P50 Submittal;
- 7 • Most Likely P50;
- 8 • Most Likely P50 Rev. 1;
- 9 • Reduced Scope Hours;
- 10 • Consolidated Procurement;
- 11 • Reduced Engineering manhours and Construction.

12 Page 28 of 52 of Exhibit WRI-9 is a bar graph that was part of the presentation to the  
13 BSC during the July 2009 meeting. It indicates that FPL's program of challenging  
14 Bechtel's numbers resulted in a decrease in Bechtel's estimate of EPC-related costs  
15 from the [REDACTED] contained in Bechtel's May 12 presentation to [REDACTED] by  
16 the time the package for the July meeting was prepared. In short, negotiations with  
17 Bechtel were far along at the time the July 2009 estimate was developed and  
18 meaningful reductions in Bechtel's cost estimate were clearly identified.

19  
20 **Q. FPL HAS ALSO MAINTAINED THAT BECAUSE IT WAS CONSIDERING**  
21 **EITHER SELF-PERFORMANCE OR REPLACING BECHTEL WITH A**  
22 **DIFFERENT EPC CONTRACTOR, THE JULY 2009 PRESENTATION WAS**  
23 **TOO PRELIMINARY TO HAVE THE EFFECT OF SUPPLANTING THE**  
24 **MAY 2009 TESTIMONY. DOES THIS CONTENTION PERSUADE YOU**

1           **THAT FPL HAD NO OBLIGATION TO UPDATE ITS TESTIMONY BY THE**  
2           **TIME OF THE SEPTEMBER 2009 HEARING?**

3    A.    No, it does not. In July 2009, Bechtel was the primary EPC contractor and any steps  
4           to self-perform or replace Bechtel were very preliminary. FPL could have qualified  
5           their July 2009 estimate by stating that they were evaluating a self-performing option  
6           or replacing Bechtel. In any event, FPL should have notified the Commission of the  
7           July 2009 estimate with whatever qualifiers were needed.

8

9    **Q.    WOULD REPORTING A HIGHER ESTIMATE OF CAPITAL COSTS HAVE**  
10           **UNDERMINED FPL'S ABILITY TO NEGOTIATE WITH BECHTEL FOR**  
11           **THE BENEFIT OF CUSTOMERS?**

12   A.    No. Aside from the fact that the negotiations had borne fruit by July 25, 2009, it is  
13           important to remember that the EPC contract with Bechtel is essentially an agreement  
14           to compensate Bechtel for "time and materials" associated with its services. At issue  
15           at the time was Bechtel's estimates of labor that would be required. While of course  
16           FPL's objective properly was and is to require accurate and reasonable estimates,  
17           reporting a higher estimate to the Commission would not jeopardize FPL's ability to  
18           hold Bechtel to only the levels of staffing that would be required to actually perform  
19           the project as it progressed by supervising Bechtel and reviewing invoices so as to  
20           guard against paying for inefficiencies.

21

22   **Q.    FPL POINTS TO THE FACT THAT ITS PROCESS FOR EVALUATING**  
23           **CAPITAL COSTS WAS NOT FINISHED UNTIL SHORTLY PRIOR TO THE**  
24           **MAY 2010 FILING FOR THE FOLLOWING YEAR, AT WHICH TIME IT**  
25           **PRESENTED ITS FIRST REVISION TO THE ORIGINAL ESTIMATE OF**

1           **CAPITAL COSTS. DOES THIS SUPPORT FPL'S CONTENTION THAT**  
2           **THERE WAS NO NEED TO REVISE THE MAY 2009 ESTIMATES DURING**  
3           **THE SEPTEMBER 2009 HEARING?**

4    A.    No. FPL has argued that a revision could not be made until design engineering had  
5           been completed. At the time of the May 2010 testimony, in which FPL provided a  
6           revised estimate that increased the original estimate by between \$252 million and  
7           \$502 million, by its own account only 10% of the design engineering of the project  
8           had been completed. (Testimony of Terry Jones dated May 3, 2010 page 6, lines 8-9  
9           and 15 and page 36, line 12)

10

11   Q.    **WHAT IS THE SIGNIFICANCE OF THE UPDATED FEASIBILITY STUDY**  
12           **THAT MANAGERS INCLUDED IN THE JULY 2009 PRESENTATION, AND**  
13           **TO WHICH MR. JOHN REED REFERRED IN CONCENTRIC ENERGY**  
14           **ADVISORS' JUNE 2010 INVESTIGATION REPORT?**

15   A.    The fact that the managers of the uprate project asked for and obtained a revised  
16           feasibility study taking into account both anticipated capacity increases and increased  
17           capital costs reinforces my conclusion that FPL had moved beyond the May 2009  
18           information.

19

20   Q.    **IN RESPONSES TO OPC DISCOVERY REQUESTS, FPL CONTENDS THAT**  
21           **THE PORTION OF THE JULY 2009 PRESENTATION TO THE ESC THAT**  
22           **IS CAPTIONED AS A "FEASIBILITY ANALYSIS" WAS INSTEAD A**  
23           **"SENSITIVITY STUDY" OF THE ORIGINAL FEASIBILITY ANALYSIS,**  
24           **PERFORMED TO MEASURE THE SENSITIVITY OF THE ORIGINAL TO**  
25           **CHANGES IN CAPITAL COSTS AND MEGAWATT INCREASES. DOES**



1           **THIS CHARACTERIZATION LESSEN THE SIGNIFICANCE OF THE**  
2           **EXERCISE, IN YOUR OPINION?**

3    A.    No. It merely means that FPL held constant all of the variables except those for  
4           which its most recent information exhibited material changes. That is exactly what I  
5           would expect FPL to do with new information regarding higher capital costs and/or  
6           increased capacity. It does not matter whether the calculations are labeled an updated  
7           feasibility analysis or a sensitivity study-the significance is the same under either  
8           designation.

9  
10   **Q.    IN YOUR OPINION, SHOULD FPL HAVE PROVIDED THIS REVISED**  
11           **FEASIBILITY INFORMATION TO THE COMMISSION DURING THE**  
12           **SEPTEMBER 2009 HEARING IN ADDITION TO THE REVISED ESTIMATE.**  
13           **OF CAPITAL COSTS, EVEN IF THE RESULTS CONTINUED TO**  
14           **INDICATE THE PROJECTS WERE COST-EFFECTIVE UNDER FPL'S**  
15           **METHODOLOGY?**

16   A.    Yes. FPL has an obligation to keep the Commission fully informed with the latest  
17           available information as the EPU project progresses. This includes material changes  
18           in schedule, cost and/or overall feasibility that occur following the regular submission  
19           date. In addition to a snap shot in time that these data provide, they also allow the  
20           Commission to develop a trend over time which is important in determining the  
21           ultimate success of the project.

22  
23   **Q.    HAVE YOU SEEN ANY INDICATIONS THAT FPL'S MANAGERS**  
24           **CONTEMPLATED UPDATING THE MAY 2009 TESTIMONY AT ANY**  
25           **POINT PRIOR TO THE SEPTEMBER 2009 HEARING?**

1 A. Based on my review, I believe it is clear that, as of the August-September 2009 time  
2 frame, FPL's Vice President-Uprates and FPL's senior management had  
3 communicated on the subject, and had adopted the position that updating the capital  
4 costs was not called for. I did review one document that indicates to me the witness  
5 was considering updating his testimony earlier in the process.

6

7 Q. PLEASE CONTINUE.

8 A. In discovery, OPC obtained, and I reviewed, an email that Rajiv Kundalkar, the FPL  
9 witness who sponsored the 2009 cost estimate, wrote to FPL's Chief Nuclear Officer  
10 on May 30, 2009. I am attaching it as Exhibit WRJ-10.

11  
12 The memorandum indicates to me that Mr. Kundalkar was considering updating his  
13 testimony once the pending challenges to Bechtel's estimates were resolved at the  
14 time he wrote it.

15

16 Q. PLEASE EXPLAIN.

17 A. In this email, after first alluding to the fact that the Commission Staff had requested  
18 copies of all presentations on the uprates to the ESC and the Chief Nuclear Officer,  
19 Mr. Kundalkar stated:

20 In previous planning discussions with Armando and the  
21 legal staff we had made them aware of the expected \$\$  
22 estimated could be higher than the \$750 million for PTN  
23 and the \$650 million for PSL based on Bechtel's recent  
24 view. Therefore, in the May testimony we indicated that  
25 FPL will update this related information as soon as final  
26 analysis and designs are completed. Armando's advise  
27 (sic) at the time was to introduce the topic and  
28 collect/finalize the facts and scope for further submittal at  
29 appropriate time.

30

31 Therefore, the timing of getting the scope firmly defined  
32 and validation of estimates becomes very important. We

1 have laid out a schedule that Bechtel and the PTN/PSL/JW  
2 teams are working to be ready for FPL-Bechtel meeting  
3 scheduled for 6/12/09. Also, we will need the same  
4 information for your review and Jim Robo meeting in mid-  
5 late June.  
6

7 I believe the document shows that Mr. Kundalkar was concerned at the time that the  
8 PSC Staff would observe the disparity between the estimates he included in his May  
9 2009 prefiled testimony and the higher estimates that were contained in presentations  
10 to senior management that Staff had requested. It appears to me that at the time he  
11 was writing he regarded the conclusion of the period in which managers were  
12 attempting to bring closure to the Bechtel-related challenges—scheduled to end in  
13 late June—as the point at which pending issues of scope and estimates could be  
14 clarified and the disparity between his testimony and presentations to management  
15 could be addressed.  
16

17 **Q. WHAT DID MR. KUNDALKAR SAY ABOUT THE DOCUMENT?**

18 **A.** During his deposition, Mr. Kundalkar denied that the memorandum is related to the  
19 subject of updating the May testimony. He maintained that the higher Bechtel  
20 estimates were “unvetted” and referred to the status of design engineering. I am  
21 attaching the pertinent portion of the transcript of Mr. Kundalkar’s deposition as  
22 Exhibit WRJ-11 (see pages TR-56-76). However, even if the witness either had no  
23 intention of updating testimony at the time or changed his mind after he wrote the  
24 memorandum, based on the other matters I have described my opinion is that FPL  
25 should have updated the testimony on estimated capital costs no later than the  
26 September 2009 hearing.  
27

1 Q. DOES THE FACT THAT DURING THE SEPTEMBER 2009 HEARING  
2 WITNESSES KUNDALKAR AND SIM WERE AVAILABLE ON THE STAND  
3 TO ANSWER ANY QUESTIONS REGARDING POSSIBLE INCREASES  
4 ALTER YOUR CONCLUSION?

5 A. No.

6

7 Q. WHY NOT?

8 A. In the first place, I believe FPL had a responsibility to be forthcoming with the  
9 information. In addition, neither witness was in a position to provide full information  
10 in response to questions. This is because FPL did not share the fact of a revised  
11 feasibility study containing higher (by \$300 million) July estimates of capital costs,  
12 much less the even higher (by \$144 million) August estimate, with Dr. Sim, who  
13 sponsored the feasibility study that was based on the May 2009 estimate. Further,  
14 FPL did not inform Mr. Kundalkar, who helped present the July data to the BSC  
15 shortly before he was assigned to a different position, that the uprate managers had  
16 increased the estimate of capital costs again (by approximately \$144 million) in  
17 August 2009 before he testified in September 2009. See Exhibits WRJ-12, WRJ-13,  
18 and WRJ-11, at pages TR-131-134.

19

20 Q. BASED ON YOUR REVIEW AND ANALYSIS, WHAT DO YOU  
21 RECOMMEND THAT THE COMMISSION FIND?

22 A. I recommend that the Commission find that FPL failed to provide the best, most  
23 current information regarding its estimate of capital costs during the September 2009  
24 hearing when it elected to not update and revise the May 2009 prefiled testimony with  
25 information that was developed between the May filing date and the July 25, 2009

1 meeting of the ESC. Further, because the capital cost estimate is a key input to the  
2 feasibility analysis required by Rule 25-6.0423, F.A.C., to satisfy that requirement  
3 FPL should have updated the feasibility analysis to incorporate the more recent  
4 estimate.

5

6 **VII. TURKEY POINT UNITS 6 AND 7**

7 **Q. HAVE YOU REVIEWED THE STATUS OF TURKEY POINT 6 AND 7 AND**  
8 **THE FPL'S MANAGEMENT OF THIS PROJECT?**

9 **A.** Yes, I have. I am not taking issue with FPL's approach to the Turkey Point 6 and 7  
10 project at this time.

11

12 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

13 **A.** Yes, it does.

1 BY MR. McGLOTHLIN:

2 Q Please summarize your testimony for the  
3 Commissioners.

4 A I will. Good morning, Mr. Chairman,  
5 Commissioners.

6 My testimony -- in my testimony I address  
7 three issues that I have identified related to FPL's EPU  
8 projects underway at Turkey Point 3 and 4 and St. Lucie  
9 1 and 2. These issues are FPL's flawed methodology for  
10 estimating the long-term feasibility of the EPU  
11 projects, exhibiting dramatic and rapid increases in  
12 estimated costs, FPL's imprudence in selecting the  
13 fast-track project management approach for the extremely  
14 complex EPU projects when it had little grasp of what  
15 the EPU projects would cost or what they needed to cost  
16 to remain economically feasible, and finally FPL's  
17 failure to update its estimate of EPU capital costs in  
18 the 2009 hearing when it was clear that the then current  
19 estimates were far above the costs that FPL maintained  
20 was still valued.

21 In my testimony in the 2010 NCRC proceeding, I  
22 explained why the CPVRR methodology used by FPL to  
23 demonstrate economic feasibility of the EPU project was  
24 not appropriate and would provide misleading results  
25 when applied to the EPU project due to the uncertain and

1 rapidly increasing cost estimates.

2           The continued cost increases experienced this  
3 year validate my concerns of last year. FPL has spent  
4 approximately \$700 million on the EPU projects, and the  
5 original estimate presented in the need case of  
6 \$1.798 billion has increased \$700 million to  
7 \$2.48 billion. Since FPL has spent as much on the  
8 project as the cost has increased, the estimated cost to  
9 complete the project is essentially unchanged, and the  
10 projects remain economically feasible, according to  
11 FPL's methodology.

12           This is obviously a situation in which the  
13 results are just not credible. I recommend that the  
14 Commission require FPL to implement a breakeven cost  
15 methodology for the EPU projects, as they have done for  
16 the Turkey Point 6 and 7 project.

17           I investigated how FPL got itself into this  
18 situation. I found that FPL adopted a fast track  
19 management approach for the project in which FPL's  
20 normal project development process was abandoned and  
21 they committed to the project with essentially no  
22 engineering completed, without a good idea of the cost  
23 for the project, and without even knowing what the  
24 project needed to cost to be economically feasible.  
25 Because essentially none of the design was complete, it

1 was not possible to receive fixed or firm price bids,  
2 and the work is being constructed on a time and material  
3 basis.

4           Having been in the nuclear power business for  
5 many years, this situation seemed unfortunately  
6 familiar. The last generation of nuclear power plants  
7 were begun with incomplete designs, extremely optimistic  
8 cost estimates, and built on a time and material basis.  
9 I believe that most of us in this room know the results  
10 of those projects: Lengthy scheduled delays and massive  
11 cost overruns.

12           Based on the results of my review, I conclude  
13 that FPL was imprudent to abandon their normal  
14 construction processes and attempt the EPU projects on a  
15 fast track basis.

16           Finally, I was asked to review FPL's decision  
17 to not update the Commission on the most recent cost  
18 estimates for the EPU project during the 2009 NCRC  
19 proceeding. I reviewed the contemporaneous Executive  
20 Steering Committee presentations in the June through  
21 September 2009 time frame. I reviewed e-mail  
22 correspondence received in response to discovery. I  
23 reviewed Concentric Energy's report of their  
24 investigation of this issue. OPC issued a data request  
25 essentially asking for all of the documents that



1 Concentric reviewed and I reviewed those documents.

2 By September 2009, the forecast cost of the  
3 EPU projects increased by 444 million over the forecast  
4 costs presented by FPL in May 2009. As stated in my  
5 testimony, I agree with FPL's consultant John Reed that  
6 FPL should have made the Commission aware of those most  
7 recent cost estimates.

8 In my testimony I make the following  
9 recommendations for this Commission's consideration. I  
10 recommend that the Commission direct FPL to employ a  
11 breakeven analysis as the appropriate tool for which to  
12 assess the long-term feasibility of the EPU project. I  
13 recommend that this Commission require FPL to perform  
14 separate breakeven analyses for the St. Lucie and Turkey  
15 Point EPU projects. If the Turkey Point EPU project is  
16 determined to be uneconomic based on this analysis, FPL  
17 should be required to make an affirmative case for  
18 continuing this project.

19 I recommend that this Commission find that  
20 FPL's decision to embark on EPU projects using a fast  
21 track methodology was imprudent. The impact of this  
22 imprudence should be measured in terms of whether  
23 resulting costs exceed the final breakeven analysis as  
24 filed by FPL at the conclusion of the project and  
25 reviewed and approved by the Commission.

1           Finally, I recommend that the Commission find  
2 that FPL failed to provide the best, most current  
3 information regarding its estimate of capital costs  
4 during the September 2009 hearing when it elected to not  
5 update and revise the May 2009 prefiled testimony with  
6 information that was developed between the May filing  
7 date and the August 2009 estimates prepared by EPU  
8 project managers.

9           That concludes my opening statement.

10          **MR. McGLOTHLIN:** Dr. Jacobs is available for  
11 cross-examination.

12          **CHAIRMAN GRAHAM:** Are there any -- do any, any  
13 of the Intervenors have any questions?

14          **MS. KAUFMAN:** I have no questions. Thank you,  
15 Mr. Chairman.

16          **MS. WHITE:** No, sir. Thanks.

17          **CHAIRMAN GRAHAM:** Florida Power & Light?

18          **MR. ANDERSON:** No questions for the witness.  
19 Thank you.

20          **CHAIRMAN GRAHAM:** Staff?

21          **MR. YOUNG:** Mr. Chairman, in lieu of cross for  
22 this witness, OPC and the parties have agreed that Staff  
23 can enter the deposition transcript of Witness Jacobs  
24 into the record in lieu of cross. And that would be  
25 identified -- Staff requests that it be marked for

1 identification purposes as Number 198.

2 **CHAIRMAN GRAHAM:** What will the short title  
3 for that be?

4 **MR. YOUNG:** Deposition Transcript of Witness  
5 Jacobs.

6 **CHAIRMAN GRAHAM:** Okay.

7 (Exhibit 198 marked for identification.)

8 **MR. YOUNG:** And that will be provided to you.  
9 We're making copies as we speak.

10 **MR. ANDERSON:** Chairman Graham, could the  
11 record also reflect FPL's continuing objection to the  
12 admissibility of the testimony for the reasons stated in  
13 the motion to strike.

14 **CHAIRMAN GRAHAM:** So noted.

15 Is Staff good?

16 **MR. YOUNG:** And with that, Staff has no  
17 questions.

18 **CHAIRMAN GRAHAM:** Okay.

19 To the Commission board. Commissioner Edgar.

20 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

21 First, just for my benefit, a clarification  
22 I'd like to ask Mr. Anderson. Is the FPL objection to  
23 all of this witness's prefiled testimony?

24 **MR. ANDERSON:** The objection is to the  
25 portions which are specified in green and attached to

1 the motion to strike, which address the legal matters  
2 that we discussed at length yesterday.

3 **COMMISSIONER EDGAR:** All right. Thank you.  
4 But obviously you have no questions on any of the  
5 remainder of the prefiled testimony.

6 **MR. ANDERSON:** That is correct.

7 **COMMISSIONER EDGAR:** I have just one or two,  
8 if I may.

9 **CHAIRMAN GRAHAM:** Sure.

10 **COMMISSIONER EDGAR:** Good morning.

11 **THE WITNESS:** Good morning, Commissioner.

12 **COMMISSIONER EDGAR:** Yesterday I asked  
13 Mr. Olivera one or two questions, and I said at the time  
14 that I would pose a similar question to you, so I want  
15 to follow through on that.

16 And I recognize in your testimony, and you  
17 have given it to us also in your summary, that it is  
18 your belief that FPL failed to provide information to us  
19 that they should have at a certain point in time.

20 Is it your belief or opinion that FPL withheld  
21 information that was required to be submitted to the  
22 Commission by either rule or statute?

23 **THE WITNESS:** That seems to me to be more of a  
24 legal question, but it's my belief that the -- that FPL  
25 should have provided the most up-to-date information

1 available to this Commission in order to allow you to  
2 make a decision based on the most current information.

3 **COMMISSIONER EDGAR:** Okay. And in your  
4 testimony at page 42, line 22, and I'll quote, your  
5 words are, "I recommend that the Commission find that  
6 FPL failed to provide the best, most current information  
7 regarding its estimate of capital costs." How do you  
8 define "best information"?

9 **THE WITNESS:** Well, that would be the  
10 information of the cost estimate that best reflects  
11 their, their current estimate of what the project will  
12 ultimately cost at the point in time that the testimony  
13 was given.

14 **COMMISSIONER EDGAR:** Is that possibly  
15 subjective?

16 **THE WITNESS:** It certainly could be argued. I  
17 guess the company has argued the other side of that.  
18 But I believe if the, if there were small fluctuations  
19 in the cost estimate, then you could argue that those  
20 weren't relevant or material. However, from, from the  
21 cost estimate that the company testified to in May 2009,  
22 by the time of the hearing in September, the costs of  
23 the project had gone up \$444 million, which is a very  
24 significant and material change. So I believe if you  
25 have that degree of change, that should have been

1 provided to the Commission.

2 **COMMISSIONER EDGAR:** One second.

3 **CHAIRMAN GRAHAM:** Sure.

4 **COMMISSIONER EDGAR:** One of the things I'm  
5 grappling with is the timing of everything, and of  
6 course we need to come back and, and look to the  
7 statutes and the rules as guidance for our decisions and  
8 for processes and procedures. And I understand your  
9 point about there being a legal question, and I'm sure  
10 that will be briefed and I look forward to that. But  
11 yet when I'm trying to think timeline of information  
12 coming in and going through processes and procedures and  
13 our need for, as has been stated, accurate information,  
14 I'm trying to find what to hang this fail to provide  
15 current information. Again, it just seems somewhat  
16 subjective. So I realize you've answered this question  
17 over and over and over, but I'm going to ask you to do  
18 it again.

19 How do -- how -- what are you basing current  
20 and best upon in your testimony before us?

21 **THE WITNESS:** Well, I'm basing it on the  
22 review of documents provided by the company, in  
23 particular the July 25th, 2009, presentation to the  
24 Executive Steering Committee that indicated a  
25 \$300 million cost increase was recognized in July of

1 2009. And again an August estimate increased the cost  
2 by another \$144 million. So by the time of the  
3 September hearing, it just seems clear to me that there  
4 was very compelling evidence that the cost of the  
5 project was going up dramatically, and so --

6 **COMMISSIONER EDGAR:** Future estimated costs?

7 **THE WITNESS:** Future, yes. Total, total  
8 costs, total estimated costs.

9 **COMMISSIONER EDGAR:** Not costs incurred.

10 **THE WITNESS:** That's right, not costs  
11 incurred. And it continued to go up even beyond that  
12 point. So, I mean, I think there was no credible  
13 evidence that those costs were, were not accurate and  
14 that the cost testified to in 2009 was, was stale by  
15 that time, in May of 2009. Sorry.

16 **COMMISSIONER EDGAR:** Thank you.

17 **CHAIRMAN GRAHAM:** Commissioner Balbis.

18 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.  
19 And I have a couple of questions for this witness.

20 And I want to focus on your testimony on page  
21 14 concerning the imprudence of FPL's management of the  
22 EPU products -- or projects.

23 **THE WITNESS:** Yes.

24 **COMMISSIONER BALBIS:** And not focusing on the  
25 decision to fast track or not, where a good portion of

1 your testimony focuses on that, and you did indicate  
2 that, I believe it's on page 21, on whether or not the  
3 company was concerned about this situation. And I  
4 assume by the situation is the percentage of completion  
5 of the design or other preliminary work; is that  
6 correct?

7 **THE WITNESS:** Yes. Uh-huh.

8 **COMMISSIONER BALBIS:** And you indicated that  
9 they were concerned. Again, focusing on 2009 and 2010,  
10 did you see or find evidence of any action taken by FPL  
11 in 2009 and 2010 was imprudent in reaction to this, this  
12 concern?

13 **THE WITNESS:** No. No, I didn't. They were,  
14 they were committed to a fast track approach. The  
15 results of that commitment were the costs were  
16 increasing and the scope of the project was increasing  
17 beyond what they had originally estimated it to be. But  
18 by the 2009/2010 time frame they were committed to that  
19 approach, and I believe they were addressing those  
20 issues prudently at that point in time.

21 **COMMISSIONER BALBIS:** So the, the actions that  
22 you list, or at least one of them that you list on page  
23 22, where FPL has hired an outside estimating firm to  
24 help cost out the completion, there was also the  
25 discussion on the option of them self-performing some of



1 the work, those decisions, would you feel those are  
2 imprudent or prudent, again in 2009 and 2010?

3 **THE WITNESS:** I believe those are prudent.  
4 The reason those are in here was just to demonstrate  
5 that, again, that when they initiated this project, they  
6 didn't have a firm grasp for the scope or the, or the  
7 costs going forward. So by this time they called in  
8 help to help them get a better estimate, and I think  
9 that was prudent.

10 **COMMISSIONER BALBIS:** Okay. And then I have  
11 one question on one of your exhibits, and this will be  
12 my last question, Mr. Chairman. It's the graph that  
13 shows the percent complete. I forget which exhibit that  
14 is. I believe it's WRJ-FPL-4.

15 **THE WITNESS:** Yes. Let me, if I may, correct  
16 before, we go any further, one thing. The numbers on  
17 the side are not percentage numbers. Those are the  
18 number of modification packages.

19 **COMMISSIONER BALBIS:** Okay. That was the  
20 question that I had.

21 **THE WITNESS:** Okay.

22 **COMMISSIONER BALBIS:** And what does that  
23 number represent?

24 **THE WITNESS:** I think there was some confusion  
25 earlier about what those numbers represented. But, in

1 fact, that was the, that was the point of the correction  
2 I made to my testimony earlier when I began.

3 **COMMISSIONER BALBIS:** Okay.

4 **THE WITNESS:** Is that those are actually  
5 design modification packages, not a percentage complete.

6 **COMMISSIONER BALBIS:** And did you clarify in  
7 your testimony -- I believe you did, but, again, I want  
8 to avoid confusion. On the number of mods complete and  
9 manhours, there was an assessment on the earned value or  
10 actually work that has been done on each one of those  
11 mods in order to determine; is that correct?

12 **THE WITNESS:** That's correct.

13 **COMMISSIONER BALBIS:** Okay. Thank you. I  
14 have no further questions.

15 **CHAIRMAN GRAHAM:** Thank you.

16 Commissioner Brisé.

17 **COMMISSIONER BRISÉ:** Thank you, Mr. Chairman.

18 I have two questions, one going back to the  
19 line of questioning that Commissioner Edgar was on, and  
20 I'm going to ask you a very specific question.

21 So from your perspective, even if the company  
22 hadn't gone through its normal processes of vetting the  
23 information, you think that information should have  
24 brought, been brought to the Commission; is that your  
25 perspective?

1           **THE WITNESS:** Yes, sir.

2           **COMMISSIONER BRISÉ:** Okay. So then -- but  
3 from your perspective you think that that is the best  
4 and most accurate information that should be provided to  
5 the Commission, providing that all of the processes  
6 internally by the company have not been put in place  
7 with respect to those numbers?

8           **THE WITNESS:** Yes. I think they could have  
9 presented the information in that light: Our current  
10 formal estimate is the May 2009 estimate; however, we  
11 have very strong indications that the costs are going  
12 up. This is our current estimate; it may change  
13 slightly. But I think they should have provided that  
14 information in that light.

15           **COMMISSIONER BRISÉ:** But you would agree that  
16 reasonable people could disagree on the fact on whether  
17 you think that information should have been brought  
18 forth from the company's perspective?

19           **THE WITNESS:** Well, I believe reasonable  
20 people have disagreed on that, so I would agree with  
21 you.

22           (Laughter.)

23           **COMMISSIONER BRISÉ:** Okay. All right.

24           And, and down the path of 2009 and 2010, the  
25 actions that the company has taken between 2009 and 2010

1 with respect to projected costs and all of that, from  
2 your perspective, limiting to 2009, 2010, were the  
3 projected costs and the costs that were incurred  
4 actually prudent?

5 **THE WITNESS:** I'm sorry. I didn't fully  
6 understand that. Could you rephrase that or repeat  
7 that?

8 **COMMISSIONER BRISÉ:** Sure. When looking at  
9 2009 and 2010, we will say -- I'm asking you do you  
10 think the actions that the company has taken with  
11 respect to the project in question were prudent?

12 **THE WITNESS:** Yes. I believe I addressed that  
13 earlier. But by the time -- once they had committed on  
14 the fast track project, they were sort of in the  
15 reactive mode and they were, they were reacting as best  
16 they could. And during that time frame I believe they  
17 were acting prudently once they got -- initiated the  
18 project as they had.

19 **COMMISSIONER BRISÉ:** Okay. The reason I asked  
20 that question is because we're, we're looking at 2009  
21 and 2010.

22 **THE WITNESS:** That's correct.

23 **COMMISSIONER BRISÉ:** So -- thank you.

24 **CHAIRMAN GRAHAM:** Commissioner Brown.

25 **COMMISSIONER BROWN:** Thank you, Mr. Chairman.

1           And now I just have to ask a question as a  
2 follow-up to Commissioner Edgar's, because I was not  
3 completely satisfied with the answer that you gave  
4 regarding -- I know you're not a lawyer, but she asked  
5 you a question, Commissioner Edgar asked you a question  
6 about whether the company was required under law, under  
7 statute or rule to provide that information in  
8 September. And your answer -- if you could just  
9 elaborate a little bit more for me.

10           **THE WITNESS:** I'm afraid I'm going to have to  
11 give the same answer in that I'm not an attorney and I'm  
12 not really able to speak on what's required by rule or  
13 by law. But I think it is inherently the company's  
14 responsibility to provide the most up-to-date and  
15 accurate information to this Commission so you can have  
16 that information in your decision-making process.

17           **COMMISSIONER BROWN:** Okay. Thank you.

18           **CHAIRMAN GRAHAM:** All right. OPC for  
19 redirect?

20           **REDIRECT EXAMINATION**

21           **BY MR. McGLOTHLIN:**

22           Q     Dr. Jacobs, with respect to the questions from  
23 Commissioners regarding your review of documents  
24 indicating that the estimate of capital costs had  
25 increased after the May 2009 prefiled testimony had been

1 submitted, did your review of those documents give you a  
2 sense of whether the project managers regarded the  
3 May 2009 estimate or the revised estimates in the  
4 July/August time frame as their view of the current  
5 situation?

6 **A** Yes. I believe they -- the July 2009 was a  
7 very detailed and specific meeting. And I think after  
8 that meeting, they, which indicated an increase of  
9 \$300 million in costs, I believe after that meeting,  
10 that was the cost estimate that was the operative  
11 estimate by the FPL managers.

12 **Q** And the Commissioners asked you some questions  
13 about the actions that FPL took in the 2009/2010 time  
14 frame. Do you have an opinion as to whether those  
15 actions have, have fully mitigated the impact on  
16 ratepayers or the decision to fast track this project?

17 **A** No, they have not. They've been, they've been  
18 reacting to the situation that they found themselves in  
19 as a result of the decision to fast track the project,  
20 and they have not fully mitigated the costs or impact.

21 **MR. McGLOTHLIN:** Thank you. I have nothing  
22 further.

23 **CHAIRMAN GRAHAM:** Okay. We have some exhibits  
24 to enter into the record.

25 **MR. McGLOTHLIN:** I move Exhibits 102 through

1 114.

2 **CHAIRMAN GRAHAM:** 102 through 114.

3 **MR. McGLOTHLIN:** We also have the revised and  
4 corrected page to distribute at this point.

5 **CHAIRMAN GRAHAM:** Yes, that as well, if  
6 there's no objections.

7 (Exhibits 102 through 114 admitted into  
8 evidence.)

9 **MR. YOUNG:** Mr. Chairman, at this time Staff  
10 moves 198.

11 **CHAIRMAN GRAHAM:** Also Staff's 198. Thank  
12 you, sir.

13 (Exhibit 198 admitted into evidence.)

14 **MR. ANDERSON:** Also, Chairman Graham, as  
15 proposed Exhibit 199, FPL offers some additional  
16 excerpts from the Kundalkar deposition. Some pages are  
17 in WRJ-11, Dr. Jacobs' attachment, and under the rule of  
18 completeness we offer some additional pages. We'll  
19 distribute those now. That will be Exhibit 199.

20 **CHAIRMAN GRAHAM:** I'll wait for you to  
21 distribute to see if there's any objections.

22 This is Exhibit Number 199. Is there any  
23 objection to entering 199 into the record?

24 **MR. McGLOTHLIN:** None from OPC.

25 **CHAIRMAN GRAHAM:** Staff?

1           **MR. YOUNG:** No objections.

2           **CHAIRMAN GRAHAM:** Okay. Then it's so.

3                   (Exhibit 199 marked for identification and  
4 admitted into evidence.)

5           Okay. Are we done with Dr. Jacobs for now?

6           **MR. McGLOTHLIN:** Yes, sir.

7           **CHAIRMAN GRAHAM:** Sir, thank you very much for  
8 your testimony today.

9           **THE WITNESS:** Thank you.

10          **CHAIRMAN GRAHAM:** Okay.

11          OPC, is that it for your witnesses?

12          **MR. McGLOTHLIN:** Yes, sir.

13          **CHAIRMAN GRAHAM:** Staff?

14          **MR. YOUNG:** Mr. Chairman, at this time Staff  
15 calls Lynn Fisher and David Rich to the stand. And I  
16 think they have been sworn.

17          **CHAIRMAN GRAHAM:** Let the record show they  
18 both indicated they have been sworn.

19                               **DAVID RICH**

20                               **AND**

21                               **LYNN FISHER**

22          were called as witnesses on behalf of the Florida Public  
23 Service Commission and, having been duly sworn,  
24 testified as follows:

25                               **DIRECT EXAMINATION**



1                   MR. YOUNG: Good morning.

2                   THE WITNESS: (By Mr. Rich) Good morning.

3                   THE WITNESS: (By Mr. Fisher) Good morning.

4 BY MR. YOUNG:

5                   Q     Can you please state your full name and  
6 business address for the record.

7                   A     (By Mr. Fisher) My name is Lynn Fisher. My  
8 business address is 2540 Shumard Oak Boulevard,  
9 Tallahassee, Florida.

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

11                  A     (By Mr. Fisher) I'm employed by the Florida  
12 Public Service Commission as a Government Analyst II in  
13 the Office of Auditing and Performance Analysis.

14                  Q     All right. Mr. Rich, can you please state  
15 your full name and business address for the record?

16                  A     (By Mr. Rich) Yes. My name is David Rich.  
17 My business address is 2540 Shumard Oak Boulevard,  
18 Tallahassee, Florida, 32399.

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

20                  A     (By Mr. Rich) The Florida Public Service  
21 Commission. I'm an Operations Review Specialist.

22                  Q     Have you all jointly filed prefiled testimony  
23 consisting of five pages in this docket?

24                  A     (By Mr. Fisher) Yes.

25                  A     (By Mr. Rich) Yes, we have. Yes.

1           Q     Do you have any changes or corrections to that  
2 testimony, that joint prefiled testimony?

3           A     (By Mr. Fisher) No.

4           A     (By Mr. Rich) No, we don't.

5           **MR. YOUNG:** Mr. Chairman, at this time, I  
6 request -- Staff requests that the joint prefiled  
7 testimony of Mr. Fisher and Mr. Rich be entered into the  
8 record as though read.

9           **CHAIRMAN GRAHAM:** We will enter the joint  
10 prefiled testimony of Fish and Rich into the record --  
11 I'm sorry -- Fisher and Rich into the record as though  
12 read.

13 **BY MR. YOUNG:**

14           Q     Did you have two exhibits attached to your  
15 joint prefiled testimony as relates to Florida Power &  
16 Light, which is entitled 2010 Review of Florida Power &  
17 Light Company's Project Management Internal Controls for  
18 Nuclear Plant Uprate and Construction Projects, and 2009  
19 Review of Florida Power & Light Company Project  
20 Management Internal Controls for Nuclear Plant Uprate  
21 and Construction Projects?

22           A     (By Mr. Rich) Yes, we did.

23           Q     Do you have any changes or corrections to  
24 those exhibits?

25           A     (By Mr. Rich) No.

1                   **MR. YOUNG:** Mr. Chairman, at this time I will  
2 identify and ask that those identify, those exhibits be  
3 marked as exhibits, which are FR-1 and  
4 FR-2 respectively, and FR -- and those are Exhibit  
5 Numbers 115 and 116 on Staff's Comprehensive Exhibit  
6 List.

7                   **CHAIRMAN GRAHAM:** Okay.  
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1 DIRECT JOINT TESTIMONY OF LYNN FISHER AND DAVID RICH

2 **Q. Mr. Fisher, please state your name and business address.**

3 A. My name is Lynn Fisher. My business address is 2540 Shumard Oak Boulevard,  
4 Tallahassee, Florida 32399-0850.

5 **Q. By whom are you employed?**

6 A. I am employed as a Government Analyst II by the Florida Public Service Commission  
7 (FPSC or Commission) in the Office of Auditing and Performance Analysis.

8 **Q. What are your current duties and responsibilities?**

9 A. I perform reviews and investigations of Commission-regulated utilities, focusing on  
10 the effectiveness of management and company practices, adherence to company procedures,  
11 and the adequacy of internal controls. Mr. Rich and I jointly conducted the 2011 review of  
12 Florida Power & Light Company's (FPL) project management internal controls for the nuclear  
13 plant uprates and new construction projects underway at the St. Lucie and Turkey Point sites.

14 **Q. Please describe your educational and relevant experience.**

15 A. In 1972, I graduated from Florida State University with a Bachelor of Science degree in  
16 Marketing. My relevant utility background includes over ten years in telecommunications  
17 industry sales, sales management, and marketing management positions, and over twenty  
18 years experience with the FPSC in management auditing, performance analysis, process  
19 reviews, and complaint investigation. Since joining the Commission, I have participated in  
20 numerous reviews of utility operations, systems, and controls, each of which culminated in a  
21 written audit report similar to those attached as exhibits to this testimony. In 2008, 2009, and  
22 2010, I participated in the review of FPL's project management controls for nuclear plant  
23 uprate and new construction projects. I have previously been involved in filing a report and  
24 testimony in Docket No. 080009-EI, Docket No. 090009-EI, and Docket No. 100009-EI.

25 **Q. Have you filed testimony in any other dockets before the Commission?**

1 A. Yes. In addition to the testimony filed in the dockets just discussed, I filed testimony  
2 in 2005 in Docket No. 050045-EI. The testimony consisted of a review of distribution electric  
3 service quality for FPL's Vegetation Management, Lightning Protection, and Pole Inspection  
4 processes.

5 **Q. Mr. Rich, please state your name and business address.**

6 A. My name is David Rich. My business address is 2540 Shumard Oak Boulevard,  
7 Tallahassee, Florida 32399-0850.

8 **Q. By whom are you employed?**

9 A. I am employed as an Operations Review Specialist by the FPSC in the Office of  
10 Auditing and Performance Analysis.

11 **Q. What are your current duties and responsibilities?**

12 A. I perform reviews and investigations of Commission-regulated utilities, focusing on  
13 the effectiveness of management and company practices, adherence to company procedures  
14 and the adequacy of internal controls. Mr. Fisher and I jointly conducted the 2011 review of  
15 FPL's project management internal controls for uprate and new construction projects  
16 underway at the St. Lucie and Turkey Point sites. In 2009 and 2010, I participated in the  
17 review of FPL's project management controls for nuclear plant uprate and new construction  
18 projects and filed those reports as testimony in Docket No. 090009-EI and 100009-EI.

19 **Q. Please describe your educational and relevant experience.**

20 A. I am a 1978 graduate of the United States Military Academy at West Point, with a  
21 Bachelor of Science degree and a concentration in Engineering. A Masters of Arts degree in  
22 National Security Affairs from the US Naval Postgraduate School followed in 1987. I am also  
23 a graduate of the US Army Command and General Staff College and the Republic of Korea  
24 Army Command and General Staff College. My relevant utility experience includes over  
25 eight years with the FPSC in management auditing, utility performance analysis, process

1 reviews, and trend analysis. Since joining the Commission, I have participated in numerous  
2 reviews of utility operations, processes, systems and controls, each of which culminated in a  
3 written audit report similar to those attached as exhibits to this testimony.

4 **Q. Have you filed testimony in any other dockets before the Commission?**

5 A. Yes. I have previously filed testimony in Nuclear Cost Recovery Clause proceedings  
6 in Docket No. 090009-EI and Docket No. 100009-EI.

7 **Q. Please describe the purpose of your testimony in this docket.**

8 A. Our testimony presents two audit reports entitled *Review of Florida Power & Light*  
9 *Company's Project Management Internal Controls for Nuclear Plant Uprate and*  
10 *Construction Projects* for the years 2010 and 2009 attached as Exhibits FR-1 and FR-2,  
11 respectively. These reports were requested by the Commission's Division of Economic  
12 Regulation to assist with the evaluation of nuclear cost recovery filings.

13 Exhibit FR-1 reviewed the period January 2010 through May 2011 and reports on key  
14 project events, project controls, and contract activities for the St. Lucie Units 1&2 and Turkey  
15 Point Units 3&4 uprate projects, and for the new construction project at Turkey Point Units  
16 6&7.

17 Exhibit FR-2 reviewed the period January 2009 through April 2010 and reports on key  
18 project events, project controls, and contract activities for the St. Lucie Units 1&2 and Turkey  
19 Point Units 3&4 uprate projects, and for the new construction project at Turkey Point Units  
20 6&7. Though this report was filed as testimony last year, it was not formally entered into the  
21 hearing record.

22 **Q. Please summarize the areas examined by your review of controls.**

23 A. The Office of Auditing and Performance Analysis conducted a review of the internal  
24 controls and management oversight of the nuclear projects underway at FPL. We examined  
25 the organizations, processes, and controls being used by the company to execute the Extended

1 Power Uprate of St. Lucie Units 1&2 and Turkey Point Units 3&4 and the construction of the  
2 new Units 6&7 at Turkey Point. This is the fourth annual review of the company's controls  
3 for its nuclear uprate and construction projects. The 2008, 2009, and 2010 reports, entitled  
4 *Florida Power and Light Company's Project Management Internal Controls for Nuclear*  
5 *Plant Uprate and Construction Projects*, were published in August 2008, July 2009, and July  
6 2010, and filed in Docket No. 080009-EI, Docket No. 090009-EI, and Docket No. 100009-EI,  
7 respectively. The primary objective of each annual review is to document project key  
8 developments, along with the organization, management, internal controls, and oversight that  
9 FPL has in place or plans to employ for these projects. The internal controls examined  
10 annually are related to planning, management and organization, cost and schedule controls,  
11 contractor selection and management, auditing, and quality assurance.

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

13 A. Yes.

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**BY MR. YOUNG:**

Q Do you have -- do you all have a prepared summary of your joint prefiled testimony today?

A (By Mr. Rich) Yes.

Q Can you please provide that summary.

A (By Mr. Rich) Yes. Thank you.

Good morning, Mr. Chairman, Commissioners.

Mr. Fisher and my testimony presents, presents a review of the project controls in key events impacting Florida Power & Light's St. Lucie 1 and 2 and Turkey Point 3 and 4 uprate project, and the Turkey Point 6 and 7 new nuclear project during 2007 -- correction, 2010 into 2011.

Additionally, Staff conducted a follow-up review of events leading to and following the extended power uprate management changes in 2009. Project controls examined during our review include the areas of planning, management and organization, cost and schedule controls, contractor selection and management, auditing and quality assurance for new nuclear construction.

During 2010, Florida Power & Light slightly revised its cost estimates for new nuclear construction at Turkey Point Units 6 and 7. The final estimated cost now lies in a range from 12.85 billion to



1       \$18.75 billion. The in-service dates for Turkey Point  
2       Units 6 and 7 are 2022 and 2023 respectively.

3               Florida Power & Light filed its combined  
4       operating license application with the Nuclear  
5       Regulatory Commission in June 2009 and is currently  
6       focused on responding to requests for additional  
7       information from the NRC. The company expects to  
8       receive final approval in late 2013, with major site  
9       preparation work beginning the following year.

10              Florida Power & Light's decision to remove the  
11       limited work authorization from its application in  
12       November 2009 ensures that major construction will not  
13       begin until after the full license approval.

14              Florida Power & Light did not execute an  
15       engineering procurement and construction contract for  
16       Turkey Point 6 and 7 during the year 2010. Staff  
17       believes that the window of opportunity for negotiating  
18       and signing such a contract is still relatively distant,  
19       but must be in place by 2013 or 2014 to avoid schedule  
20       impact.

21              The reservation agreement for long-lead  
22       forging has again been extended, this time until  
23       September of this year. Staff believes that forging  
24       issues likewise must be settled and manufacturing begun  
25       by 2015 in order to meet current in-service dates.

1           Staff made no specific recommendations in this  
2 report for the Turkey Point 6 and 7 project, although we  
3 believe that the Commission should continue to closely  
4 monitor all new nuclear controls, costs, activities, and  
5 schedule as the Turkey Point 6 and 7 project transitions  
6 from licensing to site preparation and construction.

7           **THE WITNESS:** (By Mr. Fisher) Commissioners,  
8 Florida Power & Light's uprate project for the St. Lucie  
9 Units 1 and 2 and Turkey Point Units 3 and 4 experienced  
10 several key project developments during 2010. The  
11 current and nonbinding cost estimate for the extended  
12 power uprate project is 2.3 billion to \$2.48 billion.  
13 The high end of this estimate range represents an  
14 increase of 37.9% over the original need determination  
15 estimate of \$1.8 billion.

16           Several key events impacted the uprates in  
17 2010: The submittal of the St. Lucie Unit 1 EPU LAR,  
18 the submittal of the St. Lucie Unit 2 EPU LAR, the  
19 submittal of the Turkey Point EPU LAR, and several work  
20 stoppages at Turkey Point and St. Lucie.

21           In addition, three of the four remaining  
22 outages have been extended and a vendor project  
23 management team at Turkey Point 3 and 4 have been  
24 removed.

25           Additionally, Staff conducted a follow-on

1 review of events leading to the EPU management changes  
2 of 2009. Staff found no evidence of improper or  
3 duplicate invoicing, unnecessary work or rework,  
4 overpayments, overcharging, or other examples of  
5 mismanagement by the former EPU management team.

6 This concludes our summary.

7 **MR. YOUNG:** Mr. Chairman, I tender the  
8 witnesses for cross.

9 **CHAIRMAN GRAHAM:** Intervenors?

10 **MS. KAUFMAN:** I have questions.

11 **CHAIRMAN GRAHAM:** Sure.

12 **MS. KAUFMAN:** Thank you.

13 **CROSS EXAMINATION**

14 **BY MS. KAUFMAN:**

15 Q Good morning, gentlemen.

16 A (By Mr. Fisher) Good morning.

17 A (By Mr. Rich) Good morning.

18 Q Vicki Kaufman for the Florida Industrial Power  
19 Users Group.

20 Can I take from your summary that, Mr. Fisher,  
21 you were the person responsible for issues relating to  
22 the EPU uprate?

23 A (By Mr. Fisher) I wrote the portion of our  
24 report that related to EPU. However, Mr. Rich conducted  
25 the follow-up portion, so -- I was involved in a

1 different audit at that time. So he would be the one  
2 that, that would handle most of the questions relating  
3 to the follow-up.

4 Q Okay.

5 A (By Mr. Rich) I might also add, Ms. Kaufman,  
6 that our work is, is a combined effort, and that  
7 although we perhaps spent more time and energy on  
8 certain aspects of it and delineated the work in that  
9 manner, we're both fully capable of answering. We'll  
10 opine and bump in when we think it's appropriate, if  
11 that's all right with you.

12 Q Absolutely. And so what I'll do is I'll ask  
13 my question, and you gentlemen decide who's the  
14 appropriate person. And if one finishes and the other  
15 has a comment to add, that's perfectly fine.

16 A (By Mr. Rich) Thank you.

17 Q The area that I want to talk to you about, and  
18 I'm going to be looking at Exhibit 115, which is your  
19 2010 review.

20 A (By Mr. Rich) Uh-huh.

21 Q And I want to just talk to you for a moment  
22 about the extended power uprate events and developments.  
23 And if you can look, on my copy it's Section 1.4.3 in  
24 the beginning.

25 A (By Mr. Rich) Could you cite a page for me,

1 please?

2 Q I think it's page 4 of the report, as opposed  
3 to your testimony.

4 A (By Mr. Rich) Page 4. Thank you.

5 Q And let me know when you're there.

6 And I think, Mr. Fisher, you alluded to this  
7 area in your summary. But if you look under Section,  
8 it's actually 1.4.3, the third paragraph there, you say,  
9 "During 2009, FPL's senior management made the decision  
10 to replace the EPU management team. Senior management  
11 appears to have believed the management team could not  
12 provide the necessary control of EPC contractor  
13 estimates and that more aggressive actions were  
14 required." Do you see that?

15 A (By Mr. Fisher) Yes.

16 Q Can you explain, first of all, how you reached  
17 your conclusion that senior management thought that the  
18 management team of the EPU project couldn't provide the  
19 necessary controls?

20 A (By Mr. Fisher) Yes. Most of this was  
21 related to the company's response to our questions  
22 related to why, why was there a change made to the team.  
23 The response indicated that senior management was not  
24 totally happy with the, with the ability to, to question  
25 and to push back on the vendor, in this case the EPC

1 vendor, and therefore felt like there needed to be a  
2 change in management.

3 Q Was, was the entire management team replaced  
4 for the EPU project?

5 A (By Mr. Fisher) At least two, two of the VPs  
6 were. I'm not sure that -- I think there are still  
7 people involved there that were on the team that, that  
8 are working today.

9 Q Let me rephrase that inartful question.  
10 Were the, the top managers or top executives  
11 on that team replaced?

12 A (By Mr. Fisher) Yes. One I think was going  
13 for an additional, a different job and so forth. So, in  
14 other words, was, was, I think continued to work with  
15 the company for a while and then later left.

16 Q In a different capacity they continued to work  
17 for FPL.

18 A (By Mr. Fisher) Yes. Yes. A different  
19 capacity. Thank you.

20 Q And you make some reference, I guess, to what  
21 we've come to call the Concentric report. You reviewed  
22 that report?

23 A (By Mr. Fisher) Yes.

24 Q And Concentric came to a similar opinion  
25 regarding the performance of the prior EPU team, did

1 they not?

2 A (By Mr. Fisher) I'm sorry?

3 Q I'm sorry. In the -- on the same paragraph  
4 I've been looking at, 1.4.3, you talk about an  
5 investigative report by Concentric.

6 A (By Mr. Fisher) Uh-huh.

7 Q And you say that confirms your opinion  
8 regarding the performance problems with the EPU team.

9 A (By Mr. Fisher) Yes. That and the company's  
10 response.

11 MS. KAUFMAN: Thank you. That's all I have.

12 CHAIRMAN GRAHAM: Okay.

13 MR. McGLOTHLIN: No questions.

14 MR. WHITLOCK: No questions, Mr. Chairman.

15 CHAIRMAN GRAHAM: Florida Power & Light?

16 MR. ANDERSON: Yes, FPL does have a few  
17 questions.

18 CROSS EXAMINATION

19 BY MR. ANDERSON:

20 Q I believe Ms. Kaufman was just asking you some  
21 questions about Exhibit 116, is that right, which was  
22 the report you prepared in July 2010?

23 A (By Mr. Rich) Yes.

24 Q Okay.

25 MR. ANDERSON: I'm going to ask that an

1 exhibit be distributed.

2 **MS. KAUFMAN:** Mr. Chairman, just for clarity,  
3 I think it was 115, just so the record is clear.

4 **CHAIRMAN GRAHAM:** Okay.

5 **MR. YOUNG:** I think it's 116.

6 **MS. CANO:** I may be able to help.

7 **CHAIRMAN GRAHAM:** Unless I'm going crazy, I  
8 have it down as 115.

9 **MR. YOUNG:** I'm sorry. It's FR-2, and that's  
10 116.

11 **MR. ANDERSON:** Okay. So --

12 **MR. YOUNG:** That's what Ms. Kaufman was asking  
13 about, FR-2.

14 **CHAIRMAN GRAHAM:** I have in my fingers, it's  
15 FR-2, but the cover sheet says "July 2010." And looking  
16 at the exhibit sheet, I have 115, FR-1, and the  
17 description says "2010 Review of Florida Power & Light."

18 **MS. KAUFMAN:** I'm sorry, Mr. Chairman. I've  
19 created a lot of confusion. Mr. Anderson or Ms. Cano is  
20 correct. It's 116. I apologize.

21 **CHAIRMAN GRAHAM:** Okay. Thanks for confusing  
22 me.

23 (Laughter.)

24 Let's continue.

25 **MR. ANDERSON:** Great. Thank you.



1 **BY MR. ANDERSON:**

2 Q Now that we're clear, the questions you were  
3 just asked pertain to Exhibit 116 from July 2010; is  
4 that right?

5 A (By Mr. Rich) Yes.

6 Q And since that time you've prepared a new  
7 report, which is the July 2011 report, Exhibit 115; is  
8 that correct?

9 A (By Mr. Rich) That's correct. Yes.

10 Q Okay. I've distributed a document which we've  
11 marked as -- I'd asked be marked as Exhibit Number 200,  
12 I think we're up to. And the short name for this would  
13 be EPU 2009 Management Change, FPSC Audit Work Paper.  
14 Do you have that before you?

15 A (By Mr. Rich) I do, yes.

16 (Exhibit 200 marked for identification.)

17 **BY MR. ANDERSON:**

18 Q Okay. Is this a document that you gentlemen  
19 prepared?

20 A (By Mr. Rich) Mr. Fisher was not involved in  
21 the EPU look back. This is a document I prepared.

22 Q Okay. Thank you, Mr. Rich. And in roughly  
23 what time period do you prepare this document?

24 A (By Mr. Rich) We conducted this review between  
25 September and December of last year.

1           Q     Okay.  And that's after the report Ms. Kaufman  
2 just asked you about; right?

3           A     (By Mr. Rich)  Yes, it is.

4           Q     Okay.  And just directing your attention to  
5 this document, it states an issue at the top, "Did the  
6 2009 EPU management changes cause or directly lead to  
7 cost overruns, unnecessary work or rework?  Was the EPU  
8 management changeover the result of mismanagement?"  
9 That was the issue you were addressing, Mr. Rich?

10          A     (By Mr. Rich)  Yes, it was.

11          Q     Then directing down about a third of the way  
12 down the page under Condition, it says, "What is  
13 happening?  In concluding days of the 2010 hearings,  
14 several Commissioners had questions they felt were not  
15 adequately addressed by FPL during the proceedings.  
16 These form the basis of a follow-on review conducted in  
17 late 2010.  The majority of questions were directly  
18 investigated and answered by a thorough review of  
19 circumstances and events leading up to and following the  
20 changeover."  Did I read that correctly?

21          A     (By Mr. Rich)  You did.  But I would not place  
22 the emphasis on it that you did, sir.

23          Q     Okay.  I understand.  But I read the document  
24 correctly?

25          A     (By Mr. Rich)  Yes, you did.

1 Q And that's what kind of teed up the additional  
2 work you did in the latter part of, of 2010 in preparing  
3 this report for 2011?

4 A (By Mr. Rich) Yes, sir. If I might, a  
5 thorough review was done of the transcript from last  
6 year. The Commissioners' questions, then serving and  
7 currently serving, were excerpted from that. Those  
8 questions formed the basis of the following review.

9 Q Very good. Thank you. And it relates here  
10 work that you did. You did five document requests; is  
11 that right?

12 A (By Mr. Rich) Yes, there were five.

13 Q Six on-site or phone interviews with FPL  
14 personnel?

15 A (By Mr. Rich) Yes.

16 Q You talked to Mr. Reed, the CEO of Concentric  
17 Energy Advisors, in person?

18 A (By Mr. Rich) We did, yes.

19 Q And then the third paragraph -- let me see if  
20 I've got this right. "While the documentary evidence  
21 and interviews in many places strongly support the  
22 Concentric findings, there was no direct or compelling  
23 evidence discovered of unnecessary rework, overpayments  
24 or overcharging or mismanagement on the part of the  
25 former EPU management team." Did I get that right?

1           A     (By Mr. Rich) Yes, you did.

2           Q     Okay. And then going on, "Staff would opine  
3 that FPL missed a golden opportunity to be fully  
4 forthcoming with the Commission and the public about  
5 anticipated cost increases, but was not compelled to  
6 divulge more information than they did under current  
7 Commission orders or *Florida Statutes*." Did I get that  
8 right?

9           A     (By Mr. Rich) That's my opinion. Yes.

10          Q     Right.

11               **MR. ANDERSON:** FPL has nothing further, but  
12 we'll offer Exhibit 200 into evidence.

13               **CHAIRMAN GRAHAM:** Okay.

14               Staff? I'm sorry. These are your witnesses.  
15               Commission board?  
16               Commissioner Balbis.

17               **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

18               I have a question for either of you, whoever  
19 is best to answer. And, again, based on this exhibit  
20 that was just passed out with the Bureau of Performance  
21 Analysis finding summary, with the complete change of  
22 the management team, did you find that -- and you have  
23 here no examples of overpayments, overcharging, or  
24 mismanagement. I assume that has to do with the vendors  
25 that are working for FPL; is that correct?

1                   **THE WITNESS:** (By Mr. Rich) Yes, sir. If I  
2 might explain how we did that.

3                   For a period of three months before the  
4 changeover and three months after we looked at 55,  
5 correction, 54% of the total expenditures by invoice of  
6 the five, five major vendors, and for the three-month  
7 period after the EPU changeover we looked at those same  
8 five vendors, 64% of expenditures. In those invoices we  
9 saw no evidence of duplicative work, overpayment,  
10 overcharging by the contractor. In fact, we saw  
11 evidence of appropriate push back when the vendor tried  
12 to overcharge.

13                   **COMMISSIONER BALBIS:** And did you analyze any  
14 of the work performed by FPL? And just to clarify, I  
15 mean, I would assume that the, the changing of an entire  
16 management team would require a lot of time getting up  
17 to speed for the personnel, et cetera. I mean, did your  
18 analysis include the internal work by FPL?

19                   **THE WITNESS:** (By Mr. Rich) I don't know what  
20 degree to which you're referring as far as our  
21 investigation, sir. But I would answer it in this way,  
22 that we queried FPL senior executives on the changeover  
23 process and also looked at personnel records for both  
24 the incoming and the outgoing personnel involved. There  
25 was no evidence of dissatisfaction on the part of senior

1 FPL executives with the previous management of the EPU.  
2 In my investigation or my review it didn't appear that  
3 that was a -- was causation for the changeover.

4 And in querying FPL senior representatives,  
5 they, they opined that this was a matter of normal  
6 progression and transition in the company that had been  
7 done previously in the past and was a normal course of  
8 business events, to transition as the project  
9 transitioned, to get the right people in the right jobs  
10 at the right time.

11 **COMMISSIONER BALBIS:** So you're saying that  
12 FPL's response was, it was the normal process to change  
13 out the entire management team; is that correct?

14 **THE WITNESS:** (By Mr. Rich) No, sir, that's  
15 not my response. The response was in changing out  
16 Mr. Kundalkar specifically it would have been a normal  
17 transition process.

18 **COMMISSIONER BALBIS:** Okay. And, again, I  
19 guess what I'm focusing on is, is I would assume that  
20 changing out of a management team for any project  
21 requires a lot of -- could require duplicative work by  
22 the management team, again, getting up to speed,  
23 additional hours spent that, you know, you could  
24 consider rework by the management team because the other  
25 team was up to speed. I mean, did you review that? Do

1 you have any indications of that?

2 **THE WITNESS:** (By Mr. Rich) No, sir. We  
3 didn't review that. We focused on the vendor as far as  
4 rework or duplicative work went.

5 **COMMISSIONER BALBIS:** Okay. Thank you. I  
6 have nothing further.

7 **CHAIRMAN GRAHAM:** Staff for redirect.

8 **MR. YOUNG:** Just one question.

9 **REDIRECT EXAMINATION**

10 **BY MR. YOUNG:**

11 **Q** Earlier in your, your response to Mr. Anderson  
12 under Condition 2, what's happening, you said you would  
13 not place the emphasis that Mr. Anderson placed on  
14 reading that first paragraph. Can you explain why you  
15 would not place that emphasis on that?

16 **A** (By Mr. Rich) It's a subjective opinion, but  
17 I would read the sentence as written without more  
18 emphasis on the word "thorough."

19 **MR. YOUNG:** No further questions.

20 **CHAIRMAN GRAHAM:** Okay. We have some exhibits  
21 to enter?

22 **MR. YOUNG:** Yes, sir. At this time Staff  
23 moves 115 and 116 into the record.

24 **CHAIRMAN GRAHAM:** We'll move 115 and 116 into  
25 the record.

1 (Exhibits 115 and 116 admitted into evidence.)

2 **MR. ANDERSON:** FPL offers Exhibit 200 into the  
3 record.

4 **MR. YOUNG:** No objection.

5 **CHAIRMAN GRAHAM:** I don't see any objections,  
6 so we'll offer, enter -- I'm sorry. We'll enter Exhibit  
7 Number 200 into the record as well.

8 (Exhibit 200 admitted into evidence.)

9 Staff, are we finished with this witness?

10 **MR. YOUNG:** Yes, sir. We ask that the  
11 witnesses be excused from the hearing.

12 **CHAIRMAN GRAHAM:** Do we have any objection to  
13 the two witnesses being excused?

14 Seeing none, gentlemen, thank you very much  
15 for your testimony today.

16 **THE WITNESS:** (By Mr. Rich) Thank you, Mr.  
17 Chairman.

18 **MR. YOUNG:** Mr. Chairman, at this time, with  
19 the witnesses being excused, Staff will ask that  
20 Ms. Kathy Welch's prefiled exhibit and -- prefiled  
21 testimony and exhibits be entered into the record. She  
22 is a stipulated witness that the parties all agree to  
23 stipulate, and the Commissioners do not have any  
24 questions for Ms. Welch. And that's 117 -- I'm sorry.  
25 Those are Exhibits 117, 118, 119, and 120, along with



1 her prefiled direct testimony.

2           **CHAIRMAN GRAHAM:** 117, 18, 19, and 20.

3 Ms. Welch was already stipulated. There's no objection  
4 to entering those into the record?

5           Seeing none, we'll do that.

6           (Exhibits 117, 118, 119, 120 admitted  
7 evidence.)

8           **MR. YOUNG:** And just for the record, we did  
9 move her testimony into the record.

10           **CHAIRMAN GRAHAM:** Yes.

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## DIRECT TESTIMONY OF KATHY L. WELCH

1  
2 **Q. Please state your name and business address.**

3 A. My name is Kathy L. Welch, and my business address is 3625 N.W. 82nd Ave.,  
4 Suite 400, Miami, Florida, 33166.

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

6 A. I am employed by the Florida Public Service Commission as a Public Utilities  
7 Supervisor in the Office of Auditing and Performance Analysis.

8 **Q. How long have you been employed by the Commission?**

9 A. I have been employed by the Florida Public Service Commission since June, 1979.

10 **Q. Briefly review your educational and professional background.**

11 A. I have a Bachelor of Business Administration degree with a major in accounting  
12 from Florida Atlantic University and a Masters of Adult Education and Human Resource  
13 Development from Florida International University. I have a Certified Public Manager  
14 certificate from Florida State University. I am also a Certified Public Accountant licensed  
15 in the State of Florida, and I am a member of the American and Florida Institutes of  
16 Certified Public Accountants. I was hired as a Public Utilities Analyst I by the Florida  
17 Public Service Commission in June of 1979. I was promoted to Public Utilities  
18 Supervisor on June 1, 2001.

19 **Q. Please describe your current responsibilities.**

20 A. Currently, I am a Public Utilities Supervisor with the responsibilities of  
21 administering the District Office and reviewing work load and allocating resources to  
22 complete field work and issue audit reports when due. I also supervise, plan, and conduct  
23 utility audits of manual and automated accounting systems for historical and forecasted  
24 data.

25 **Q. Have you presented testimony before this Commission or any other**

1 regulatory agency?

2 A. Yes. I have testified in several cases before the Florida Public Service  
3 Commission. Exhibit KLW-1 lists these cases.

4 Q. What is the purpose of your testimony today?

5 A. The purpose of my testimony is to sponsor the staff audit report of Florida Power  
6 & Light Company (FPL or Utility) which addresses the Utility's filing in Docket No.  
7 110009-EI Nuclear Cost Recovery Clause for costs associated with its proposed nuclear  
8 units called Turkey Point 6 and 7. We issued an audit report in this docket for the  
9 proposed nuclear units on May 23, 2011. This audit report is filed with my testimony and  
10 is identified as Exhibit KLW-2.

11 Q. Was this audit prepared by you or under your direction?

12 A. Yes, it was prepared under my direction.

13 Q. Please describe the work you performed in these audits.

14 A. We reconciled the filing to the general ledger and verified that the costs incurred  
15 were proper and capitalized to the appropriate account.

16 **Construction Work in Progress**

17 We sampled and verified the Company's pre-construction cost for the year ending  
18 December 31, 2010. We included an assortment of vendors and high dollar amounts in  
19 the sample. Each transaction was traced to supporting documentation, examined to  
20 determine if the cost was appropriately capitalized, and recalculated as needed. Affiliate  
21 transactions were traced to support and compared to market rates. Payroll entries were  
22 traced to timesheets and payroll details and examined to ensure proper payroll  
23 distribution. Cash Vouchers were traced to invoices and contracts. Support for accruals  
24 and other journal vouchers were examined, determined to be reasonable, and recomputed.

25

1 **True-up**

2 We obtained Account 107, Construction Work In Progress (CWIP) cumulative  
3 balance at December 31, 2010, the CWIP balance breakdown by project, and the general  
4 ledger excerpt for this period's project cost. We reconciled the projects total cost to the  
5 CWIP balance. We reconciled the cumulative project balance at year end to this period's  
6 project cost and reconciled the amount to the general ledger excerpt balance. From the  
7 ledger balance, we subtracted all non-incremental and carrying charges for both  
8 preconstruction and site selection to arrive at the pre-construction cost reflected on the  
9 Utility's schedule T-6.

10 We reconciled the Utility's Schedule T-1 – Revenue Requirement Summary  
11 schedule to the Pre-construction/Site Selection and Deferred Tax Carrying Cost schedules  
12 on Schedules T-2 and T-3A, respectively. We verified the Company's jurisdictional cost  
13 and recomputed all schedules for mathematical accuracy. Supporting documents for all  
14 adjustments were examined and the amounts were recomputed. We reconciled the  
15 beginning balances and carrying cost rates on the schedules to Commission Orders PSC-  
16 08-0749-FOF-EI, PSC-09-0783-FOF-EI, the Proposed Stipulation of Issues in PSC-11-  
17 0095-FOF-EI, and the revised prior year NCRC filings in Docket No. 100009-EI.

18 **Q. Please review the audit findings in this audit report, Exhibit KLW-2.**

19 **A.** There was one finding in this audit related to lobbying expense. It has been  
20 Commission practice to disallow cost for direct lobbying or in support of direct lobbying  
21 activities. This Commission has maintained that costs of such activities should be borne  
22 by the stockholder since there is no evidence that the ratepayers receive any benefits from  
23 these expenditures.

24 During the testing of Pre-Construction expenditures, we found two entries for  
25 lobbyist registration fees for seven Company employees totaling \$3,430 (\$490 per

1 lobbyist x 7 Company employees). The invoices are titled "Miami-Dade County 2010  
2 Lobbyist Registration." If the Commission disallows the cost stated above, Pre-  
3 Construction cost, Carrying Cost on Pre-Construction Cost, and Deferred Carrying Cost  
4 would be reduced by \$3,389, \$292, and \$126, respectively.

5 **Q. Does that conclude your testimony?**

6 **A. Yes.**

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1 Q Will you please reintroduce yourself for the  
2 record.

3 A I'm Armando Olivera. I work for Florida Power  
4 & Light. I'm President and Chief Executive Officer.

5 Q Have you prepared and caused to be filed two  
6 pages of prefiled rebuttal testimony in this proceeding  
7 on July 25, 2011?

8 A I have.

9 Q Do you have any changes or revisions to your  
10 rebuttal testimony?

11 A No.

12 Q If I asked you the same questions contained in  
13 your prefiled rebuttal testimony, would your answers be  
14 the same?

15 A Yes.

16 MR. ANDERSON: Chairman Graham, FPL requests  
17 that the prefiled rebuttal testimony be inserted into  
18 the record as though read.

19 CHAIRMAN GRAHAM: We will insert into the  
20 record, Mr. Olivera's rebuttal into the record as though  
21 read.

22 MR. ANDERSON: We note for the record there  
23 are no exhibits.

1                   **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2                   **FLORIDA POWER & LIGHT COMPANY**

3                   **REBUTTAL TESTIMONY OF ARMANDO J. OLIVERA**

4                   **DOCKET NO. 110009-EI**

5                   **JULY 25, 2011**

6  
7           **Q.    Please state your name and business address.**

8           A.    My name is Armando J. Olivera. My business address is Florida Power &  
9           Light Company, 700 Universe Boulevard, Juno Beach, Florida 33408.

10          **Q.    Have you previously provided testimony in this docket?**

11          A.    Yes.

12          **Q.    What is the purpose of your rebuttal testimony?**

13          A.    My rebuttal testimony addresses the direct testimony provided by William R.  
14          Jacobs on behalf of the Office of Public Counsel.

15          **Q.    Please provide a summary response to Witness Jacobs's testimony.**

16          A.    The heart of Mr. Jacobs's claim is that FPL's 2007 decision to undertake the  
17          Extended Power Uprate Project (EPU project) on an expedited basis was  
18          imprudent.

19  
20          Based on this claim, Mr. Jacobs asserts that capital costs of the EPU project  
21          should be disallowed to the extent EPU generation costs may be projected to  
22          exceed natural gas generation costs.

23



1 This "heads I win, tails you lose" claim is absolutely contrary to the regulatory  
2 framework provided for by the Legislature and the Commission aimed at  
3 promoting the development of new nuclear generation which has been relied  
4 upon by FPL in undertaking the EPU project on an expedited basis.

5  
6 In the 2007 EPU project need determination case, FPL made it absolutely  
7 clear that the regulatory framework contained in the nuclear cost recovery  
8 statute and rule were essential to its willingness to undertake this capital-  
9 intensive nuclear investment on an expedited basis. FPL therefore asked that  
10 the Commission confirm that the nuclear cost recovery framework would  
11 apply to the EPU project, which the Commission did in its need determination  
12 order.

13  
14 To be very clear, absent the assurances requested by FPL and provided by the  
15 Commission in its EPU project need determination order that the nuclear cost  
16 recovery regulatory framework would be applied to the EPU project, FPL  
17 would not have undertaken the EPU project on an expedited basis and would  
18 have constructed natural gas fired generation.

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

20 **A.** Yes.

1 BY MR. ANDERSON:

2 Q Mr. Olivera, would you please provide your  
3 summary to the Commission.

4 A Thank you.

5 FPL would not have undertaken the extended  
6 power uprate project on an expedited basis absent the  
7 application of the nuclear cost recovery framework to  
8 the project and absent the Commission's need  
9 determination approving FPL's pursuit of the uprate  
10 project on an expedited basis.

11 The Office of Public Counsel's assertion that  
12 the capital cost of the project should be disallowed to  
13 the extent that uprate generation costs may be projected  
14 to exceed natural gas generation costs is a heads win,  
15 tails you lose approach. This suggested result is  
16 absolutely contrary to the regulatory framework provided  
17 by -- for by the Legislature and the Commission aimed at  
18 promoting the development of new nuclear generation.

19 In 2007, the EPU project need determination  
20 case, our company made it very clear that the regulatory  
21 framework for nuclear cost recovery was essential to  
22 FPL's willingness to undertake this capital intensive  
23 nuclear investment on an expedited basis.

24 The Commission should reject the attempt to  
25 revisit this decision in hindsight three years after the

1 issuance of the need determination approving the  
2 project.

3 This concludes my summary.

4 **MR. ANDERSON:** Mr. Olivera is available for  
5 cross-examination.

6 **CHAIRMAN GRAHAM:** Intervenors?

7 **MR. McGLOTHLIN:** I'll begin.

8 **CHAIRMAN GRAHAM:** Mr. McGlothlin.

9 **CROSS EXAMINATION**

10 **BY MR. McGLOTHLIN:**

11 Q Sir, refer to page 1 of your prefiled rebuttal  
12 testimony, and you also made this statement during your  
13 summary. At lines 20 through 22, you say, "Mr. Jacobs  
14 asserts that capital costs of the EPU project should be  
15 disallowed to the extent EPU generation costs may be  
16 projected to exceed natural gas generation costs."

17 Isn't it true, Mr. Olivera, that Dr. Jacobs'  
18 mechanism would involve not just natural gas generation  
19 costs but the present value of the revenue requirements  
20 of FPL's entire system?

21 A Yes. But the natural gas prices have a huge  
22 impact on the analysis. When this Commission approved  
23 the uprate project, natural gas that year was \$9. Today  
24 natural gas is under \$4, and that would have a big  
25 impact on this. And it's precisely the issue that we're

1       arguing, which is you can't -- we have no control of  
2       natural gas, and you want to go back and rewrite the  
3       history and say, okay, three years later the price of  
4       natural gas has changed, and we're going to rerun the  
5       analysis and we're going to rerun the breakeven  
6       analysis. That was precisely what the rule was intended  
7       to address, precisely what the legislation was intended  
8       to address.

9               Q       You said you would rerun the breakeven  
10       analysis. Isn't it true that, isn't it true that FPL  
11       has not performed and quantified the breakeven value for  
12       the EPU project?

13              A       I'm sorry. I didn't follow your question.

14              Q       In your statement a moment ago you said that  
15       we're calling on FPL to rerun the breakeven analysis.  
16       I'm using breakeven in terms, in terms of the  
17       quantification of the maximum value in dollars per KW  
18       that FPL could spend on the uprate project and remain at  
19       or below the corresponding revenue requirement of the  
20       alternative portfolio.

21                    And isn't it true that earlier witnesses for  
22       FPL in this case have said that FPL has not performed  
23       such a breakeven analysis for the uprate project?

24              A       I believe that Mr. Sim addressed the issue.

25                    But intuitively, when you have a big change in

1 natural gas prices, that would change the economics.  
2 Now we have run the analysis based on the current  
3 forward prices, and even at the current forward prices  
4 the uprate projects still make a lot of economic sense  
5 for our customers, not only because they provide real  
6 benefits, savings to the customers, but also because  
7 they provide fuel diversity. They represent a hedge on  
8 our system.

9 And I'd just like to give you one example.

10 Last year --

11 Q Excuse me, sir.

12 MR. MCGLOTHLIN: I believe that's well beyond  
13 the scope of my question, Mr. Chairman.

14 CHAIRMAN GRAHAM: I agree.

15 Mr. Olivera, if you can answer the question,  
16 and you get a little latitude to explain your answer.

17 THE WITNESS: Yes, sir.

18 MR. MCGLOTHLIN: And that's my last question.

19 CHAIRMAN GRAHAM: Okay.

20 Any of the other Intervenors?

21 Ms. Kaufman.

22 **CROSS EXAMINATION**

23 **BY MS. KAUFMAN:**

24 Q Good morning again, Mr. Olivera.

25 A Good morning.

1           Q     I just have one question for you, I think, and  
2     it had to do with some remarks you made in your summary,  
3     and you have them in your prefiled testimony as well.  
4     And basically, as I understood what you said, you're  
5     contending that the legislative framework that is at  
6     issue in this case, that you relied upon that when you  
7     moved forward with the EPU project.

8           A     We relied on both the legislation and the rule  
9     and the decision made by this Commission when they  
10    approved the uprate project.

11          Q     Let me ask you this about the legislative  
12    framework and rule. Is there anywhere in that statute  
13    or rule that permits the company to recover costs from  
14    ratepayers that are either unreasonable or unnecessary?

15          A     I believe that the -- that --

16          Q     If you wouldn't mind answering yes or no, I  
17    would appreciate that.

18          A     No, by my interpretation. I believe that the  
19    determination was prudence versus imprudence, and that's  
20    how we proceeded with this project.

21          Q     But you would agree that there's no, there's  
22    no language in the rule or statute that you're relying  
23    on that would authorize the company to recover costs  
24    that are either unnecessary or unreasonable?

25          A     I would define them that any costs that were

1 deemed to be imprudent by the company would not be  
2 recoverable.

3 Q Well --

4 A Or deemed -- I'm sorry. Deemed imprudent by  
5 this Commission would not be recoverable.

6 Q Well, aren't costs that are unnecessary -- if  
7 you incur unnecessary costs, would that not be an  
8 indicator of imprudence?

9 A I don't know what -- if you could define for  
10 me what you mean by "unnecessary."

11 Q Unnecessary would be a cost that you did not  
12 need to incur in order to move forward with the project.

13 A And thus you would say it would be an  
14 imprudent cost?

15 Q I'm asking you that. I'm asking you, would  
16 you not consider an --

17 A Look, I'm not -- I didn't -- I'm not an expert  
18 on the legislation, and you're trying to get me to  
19 define, have a broader definition than the imprudency,  
20 and we rely on the imprudency.

21 Q Okay. I'm not trying to trick you. I just  
22 wonder that if the company spent dollars that weren't  
23 necessary, you don't, you wouldn't find that imprudent  
24 as you, as you analyze prudency?

25 A If we spent dollars --

1           **MR. ANDERSON:** FPL objects to this line of  
2 questioning. It's beyond the scope of Mr. Olivera's  
3 testimony, which is very narrowly focused, and we've  
4 permitted sufficient, I believe.

5           **MS. KAUFMAN:** Mr. Chairman -- if I could be  
6 heard.

7           **CHAIRMAN GRAHAM:** Yes.

8           **MS. KAUFMAN:** Mr. Olivera has, has told us all  
9 about his views of the regulatory scheme, and I think  
10 that my questions are directly relevant to that, and  
11 they're certainly not outside the scope.

12           **CHAIRMAN GRAHAM:** I think they are relevant,  
13 and I don't have a problem with the back and forth,  
14 because I believe Mr. Olivera is trying to clarify your  
15 answer before he answers your answer. I think we should  
16 continue.

17           **MS. KAUFMAN:** Thank you.

18 **BY MS. KAUFMAN:**

19           **Q**     So I'll just ask it one more time and maybe we  
20 can agree or maybe we'll just continue to disagree, and  
21 that's fine, too.

22                     And my question simply was, if the company  
23 were to expend costs that were unnecessary or not needed  
24 to pursue the project, would you not agree that such  
25 costs would be imprudent, as you define imprudency?



1           A     If we -- if the company incurred costs that  
2 were not relevant to the project, then obviously they,  
3 we shouldn't recover those costs under this regulation.

4           **MS. KAUFMAN:** Thank you. That's all I have.

5           **CHAIRMAN GRAHAM:** Thank you.

6           SACE.

7           **MR. WHITLOCK:** No questions, Mr. Chairman.

8 Thank you.

9           **CHAIRMAN GRAHAM:** Staff?

10          **MS. NORRIS:** Staff has no questions.

11          **CHAIRMAN GRAHAM:** Commission board.

12          Commissioner Brown.

13          **COMMISSIONER BROWN:** Thank you, Mr. Chairman.

14          Mr. Olivera, as a follow-up to Mr.

15 McGlothlin's question, McGlothlin's question with regard  
16 to why is the project still cost-effective, I'm curious  
17 in hearing that answer.

18          **THE WITNESS:** It's really cost-effective  
19 because the price of fuel, nuclear fuel, it is so, it's  
20 so low. If you look, for example, last year we had a  
21 \$4 billion fuel bill. Nuclear produced 20% of the  
22 energy, but yet it only represented \$160 million of that  
23 bill. When you look at the fuel savings associated with  
24 Turkey Point 6 and 7, they, the fuel savings for that  
25 project are \$75 billion, as calculated by Mr. Sim. And

1 it's those huge fuel savings that, that I rely on when  
2 we go through all this pain and agony of building a very  
3 complex project with a lot of technical challenges.  
4 It's because the fuel savings are phenomenal, and they,  
5 not only are they real, they provide a real hedge and  
6 fuel diversity for our customers.

7 **COMMISSIONER BROWN:** Thank you.

8 **CHAIRMAN GRAHAM:** Commissioner Edgar.

9 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

10 Mr. Olivera, in your prefiled testimony and  
11 also in your summary you described that, a portion of  
12 Mr. Jacobs' testimony as, quote, heads I win, tails you  
13 lose. I'm really not clear on what you mean by that  
14 phrase in the context of your testimony or using the  
15 flip a coin metaphor. Could you explain to me the point  
16 that you were trying to make by using that phrase?

17 **THE WITNESS:** Yes, I'd be happy to. In this  
18 scenario, it is, it's -- we take all the risk, as laid  
19 by Witness Jacobs, with, with these projects. But, you  
20 know, all the benefits accrue to, to the customers. I  
21 mean, in this scenario it assumes, by the way, too, that  
22 you could go out and finance these projects, even if you  
23 have this scheme where it's breakeven. So any  
24 incremental dollars that we spend would not -- at this  
25 particular point in time, taking a snapshot of where we

1 are, which is \$4 gas, you know, our -- we -- our  
2 shareholders have to absorb any other costs. And by the  
3 way, you're assuming that we could go out and finance  
4 this under this scenario, which I'll put that aside.

5 **COMMISSIONER EDGAR:** I'm not.

6 **THE WITNESS:** Okay. Well, if you want me  
7 to --

8 **COMMISSIONER EDGAR:** I'm not making that  
9 assumption.

10 **THE WITNESS:** Well, okay. Good. I mean, I'm  
11 happy to address that as well. Maybe I should address  
12 that and I'll come back to your question.

13 In this scenario, we, we spend every dollar  
14 that FPL generates, all the cash it generates, and then  
15 we go out and we borrow more to build these projects.  
16 It's not just this; it's the modernizations that we're  
17 doing. These projects have created huge customer value.  
18 It's why we have the lowest bills, because they're very  
19 efficient generation.

20 But, you know, over time you have to be able  
21 to keep financing that, and that requires going to  
22 investors. I'm the guy that often has to go talk to  
23 investors and say, this is a good -- you know, you  
24 should allow us to continue to borrow because we are  
25 going to recover prudently invested funds.

1           And so in this scenario it would be very hard  
2 to go talk to investors and say, well, anything above  
3 the breakeven, if we go over 3, \$400 million, we're  
4 probably going to be able to recover, but by the way,  
5 lend us the money. That's a tough, that's a tough thing  
6 for me to say to an investor.

7           If you go back to the breakeven, to the  
8 witness's recommended approach, that's kind of what  
9 you're doing. You're saying you're going to be  
10 spending, you're going to be taking all the risk, but  
11 you're not going to get recovered for it. And by the  
12 way, fuel prices go up, and let's assume that gas  
13 doubles again, customers get a huge windfall, but we  
14 would have lost an opportunity to recover any of those  
15 costs.

16           When you look at these projects, you have to  
17 look at not just the math. And the math is good because  
18 they save today, on all of the current assumptions they  
19 save customers money. I think you also have to put on a  
20 bigger hat and say, how is Florida best served? How do  
21 we best serve our customers? How do we bring in fuel  
22 diversity, continue to try to build some fuel diversity?  
23 And there aren't very many choices to do that right now.

24           I worry about continuing to build natural gas,  
25 but we don't have a lot of choices. And it's still,

1 it's the right strategy, but any opportunity you have to  
2 get more something else, such as nuclear, into the mix,  
3 relatively economic nuclear, it's a win for our  
4 customers.

5 **COMMISSIONER EDGAR:** When the need  
6 determination was granted, it is my belief, and I think  
7 it's clear in the order, it's my belief and was my view  
8 at the time that the additional fuel diversity was an  
9 important component of the project. I continue to  
10 believe that, but I do not believe that we are  
11 litigating that today.

12 **THE WITNESS:** Good. Thank you.

13 **COMMISSIONER EDGAR:** You made the -- and this  
14 has taken me a little further than I had intended to go,  
15 but you opened the door. You made the statement a few  
16 moments ago that the company is taking on all the risk  
17 and all the benefits are accruing to the customers.  
18 Some might say, or an alternate view might be that the  
19 ratepayers are taking on risk under the statutory,  
20 excuse me, statutory scheme that we have, that the  
21 ratepayers are taking on risk by paying costs over the  
22 years in advance of those fuel cost benefits accruing.  
23 Would you agree that the ratepayers are taking on risk  
24 by absorbing costs prior to the project being up and  
25 running?

1           **THE WITNESS:** Yes, I would agree. And if I  
2 gave, left you with the impression that -- when I said  
3 all the risk, I meant under the scheme of Witness  
4 Jacobs.

5           Absolutely, the customers are taking risk.  
6 The shareholders are also taking risks. If you look at  
7 the time frame between '11 and '12, we will spend  
8 roughly \$2.2 billion on these projects. We will recover  
9 about \$500 million. So, you know, we're happy to have  
10 that, we're happy to have the direction from this  
11 Commission that ultimately there will be a path for the  
12 other. So the customers clearly are taking risk. I  
13 think it's a modest risk relative to the benefits that  
14 we believe the customers will get. But, yes, they  
15 certainly are taking risk, and I didn't mean to argue  
16 otherwise.

17           **COMMISSIONER EDGAR:** Those benefits down the  
18 road. Some might say that the Commission is also taking  
19 some risks.

20           **THE WITNESS:** I understand that too.

21           **COMMISSIONER EDGAR:** Thank you.

22           **CHAIRMAN GRAHAM:** Commissioner Balbis.

23           **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

24 A few questions for Mr. Olivera.

25 Mr. Jacobs, in his testimony, discussed the

1 changing of the EPU management team, and I would assume  
2 that the changing of the entire team is a difficult  
3 decision and one that is not made lightly.

4           Could you explain how you minimize and what  
5 the process was to change the team out so as not to  
6 affect those, that project?

7           **THE WITNESS:** Thank you for the opportunity.  
8 We essentially only changed two people in the team, and  
9 I will tell you why we changed it.

10           The project -- you know, we have, I think, a  
11 fair amount of experience with these large construction  
12 projects. You know, we have built four big power  
13 plants: Turkey Point 5, three West County units. So I  
14 think we have -- we kind of understand what it takes.  
15 This is arguably far bigger than those, but, you know,  
16 we have a lot of practice and a lot of people that are  
17 involved in it.

18           So we felt that as the project moved along  
19 from kind of a general scoping and general, sort of  
20 early procurement for the project, and we used a team  
21 that had a lot of engineering experience. The  
22 individual who was heading that had ran nuclear  
23 engineering for a long time, been working in kind of a  
24 support role. And as it evolved, you know, I for one  
25 felt strongly that we wanted somebody -- and because the

1 project was going to be done in operating power plants,  
2 which is different than doing this in a plant from  
3 scratch, I felt it was important to have somebody that  
4 had real operating experience running nuclear plants and  
5 had construction experience. Which these two guys, as  
6 good as they are, didn't have that experience. So that  
7 was really the decision behind asking Mr. Jones to  
8 really head this up. We also brought in another  
9 individual who has very extensive construction  
10 experience and has also dealt a lot with the vendors in  
11 procurement, and so we felt that that was kind of a good  
12 combination. And that was kind of -- in summary, that's  
13 the reason we made that change.

14 **COMMISSIONER BALBIS:** But the process itself  
15 of making the change -- again, I want to focus on my  
16 assumption that, that any time you have a management  
17 change, that there's going to be some, there's a  
18 learning curve, there's -- I mean, what did you do or  
19 FPL do to kind of ease that transition?

20 **THE WITNESS:** A lot of the people who were  
21 involved in doing the work were the same. They  
22 didn't -- those people didn't change. It was really  
23 more in providing the direction, it was really more in  
24 having experience in dealing with vendors in a very  
25 complicated project. And you've already heard a lot



1 about kind of what the sausage (phonetic) making is,  
2 what it, what it takes to deal with a -- two very big  
3 vendors in Bechtel and Siemens that played a key, play a  
4 key role in these projects, and these people had that  
5 kind of experience.

6 And so, you know, the other, the other thing  
7 is you look to the rest of the team to provide  
8 continuity, and we still had the same oversight people  
9 involved. You know, I continued to be involved. The  
10 Chief Nuclear Officer continued to be monitoring this  
11 project pretty closely during that time.

12 **COMMISSIONER BALBIS:** Okay. And one last  
13 question, Mr. Chairman.

14 There's been a lot of discussion by Mr. Jacobs  
15 and others on, and yourself as far as the vendors and  
16 large vendors, and one of the concerns I have is that,  
17 you know, again, once you go down a certain path, that  
18 although decisions may be prudent, you're still somewhat  
19 at, at the mercy of the vendor that you've selected or  
20 the actions they take. Do you feel that the existing  
21 controls that you have in, in working with those  
22 vendors, again, there was discussion on pushing back on  
23 the vendor, et cetera, with the management changes or  
24 other changes, do you feel there's enough of a control  
25 on the vendors to protect FPL and the ratepayers?

1           **THE WITNESS:** I do. I feel like we have very  
2 good processes, very good controls in place. I take  
3 comfort in the Concentric report that's validated that  
4 and the Staff report that has also validated that.

5           **COMMISSIONER BALBIS:** Okay. Thank you. I  
6 have no further questions.

7           **CHAIRMAN GRAHAM:** Thank you.

8           Commissioner Brisé.

9           **COMMISSIONER BRISÉ:** Thank you, Mr. Chairman.  
10 I want to thank Mr. Olivera for being here.

11           I have two questions for you. One of them --  
12 and both of these are more broad questions.

13           Referring back to the section of your  
14 testimony where you talk about what the Legislature did  
15 and what the Commission did with the intention of  
16 promoting the development of new nuclear, yesterday part  
17 of the discussion was the issue of the option; whether a  
18 company can decide to seek an option to build these  
19 projects but ultimately decide not to build the  
20 projects. From your understanding, the intent of the  
21 Legislature was to actually have projects built. Would  
22 we agree on that?

23           **THE WITNESS:** Absolutely.

24           **COMMISSIONER BRISÉ:** So that would go to the  
25 idea that whatever projects that you all have undertaken

1 as a company, your intention is to build them?

2 **THE WITNESS:** Correct.

3 **COMMISSIONER BRISÉ:** Okay. The second  
4 question that I have goes to if the Commission were to  
5 disallow the capital costs as asserted by Mr. Jacobs,  
6 what do you think it does to the overall framework of  
7 nuclear generation moving forward in this state?

8 **THE WITNESS:** I think it would bring it to a  
9 halt. We would do our very best to complete these  
10 projects. But as I mentioned to Commissioner Edgar  
11 earlier, I'm not sure that we could go out and get the  
12 financing to complete these projects without the right  
13 framework and without -- and given -- I mean, if there  
14 was a change in, at least in my mind, the nuclear cost  
15 recovery rule, it would be a seismic change. And it  
16 would ripple not just through nuclear energy, it would  
17 ripple through all other aspects of what we do.

18 And so I think it would certainly slow -- stop  
19 nuclear. It would challenge us tremendously to finish  
20 these projects. And I would say that it would have  
21 ramifications in other projects, including the  
22 modernizations on anything else that has large capital,  
23 because there would be a concern whether a decision made  
24 by one Commission where, that we go out and make huge,  
25 huge commitments for very long-term projects, whether

1 that could be readily undone.

2 **COMMISSIONER BRISÉ:** Follow-up, Mr. Chairman.

3 **CHAIRMAN GRAHAM:** Sure.

4 **COMMISSIONER BRISÉ:** But considering that, on  
5 the flip side of that, if the Commission looks, looks at  
6 a variety of decisions that have been made by the  
7 company and begins to question the validity of some of  
8 those decisions as being reasonable or not reasonable,  
9 you do agree that the Commission then would have the  
10 right and would be in its place to stop, or at least  
11 seriously question some of these projects, and that  
12 should not impact the broader regulatory framework in  
13 keeping nuclear projects moving forward in a positive  
14 direction in the state.

15 **THE WITNESS:** I agree. The Commission has  
16 wide discretion in, in what you do. I'm just mentioning  
17 in the real world that I -- you know, I have to go out  
18 and explain to our investors what these projects  
19 represent and why these, these are a good thing. And so  
20 I would hope that as you deliberate you factor into your  
21 decisions the impact that goes beyond any specific  
22 project. The decisions that you make, they are  
23 extrapolated. Right or wrong and whether we agree with  
24 it or not, they're extrapolated to any number of other  
25 investments. Even things that you want us to do and are

1 in complete agreement and feel that they should go  
2 forward, they're extrapolated to those as well.

3 **CHAIRMAN GRAHAM:** Commissioner Brown.

4 **COMMISSIONER BROWN:** Thank you, Mr. Chairman.

5 Just a follow-up to some of your responses to  
6 some of the Commissioners' questions regarding  
7 financing. Mr. Olivera, how do you feel that the  
8 current financial market today will affect the company's  
9 financing capabilities on these projects?

10 **THE WITNESS:** Like everybody else, it's a  
11 little scary to watch the gyrations of the market. So  
12 far, I mean, we've continued to have access to the  
13 capital markets. We have a pretty extensive line of  
14 credit that we have frankly barely touched. We -- sort  
15 of that's been our backup. And so, you know, I can  
16 never -- I learned long ago never to say never. But  
17 right now we have access to capital, even if it was on a  
18 short-term line of credit, that would allow us to  
19 continue working on these projects.

20 **COMMISSIONER BROWN:** Thank you.

21 **CHAIRMAN GRAHAM:** Redirect?

22 **MR. ANDERSON:** Just very briefly.

23 **REDIRECT EXAMINATION**

24 **BY MR. ANDERSON:**

25 Q Commissioner Brisé was asking you some

1 questions, looking back at the legislation which  
2 promoted new nuclear generation, and we've talked about  
3 economic fuel diversity benefits and savings for  
4 customers. But was there an electric reliability aspect  
5 of that also?

6           A     No, absolutely. And I think I mentioned that  
7 when I was answering Commissioner Edgar's questions.

8                     The nuclear projects, not only do they provide  
9 fuel benefit, but they also provide a huge reliability  
10 benefit, particularly the units in Miami-Dade County.  
11 We have roughly 25% of our customers are in the  
12 Miami-Dade County area, and so any generation we have  
13 close to the load center is more reliable than having to  
14 rely on generation that's far away and you have a lot of  
15 transmission lines that run for hundreds of miles. So  
16 we always favor anything that increases the capacity in  
17 that area.

18           Q     And we've talked about the company has, has  
19 high electric reliability, but should that be taken for  
20 granted? Are there ever close calls that, in terms of  
21 electric reliability that nuclear generation can  
22 contribute to?

23           A     I'm an old operating guy. I never take  
24 reliability for granted. It's hour by hour, minute by  
25 minute. And so, no, we can't take that for granted. We

1 can't take for granted the value of having sufficient  
2 generation reserves, and I think this Commission has  
3 historically recognized that.

4 **MR. ANDERSON:** We have no further questions.  
5 Thank you.

6 **CHAIRMAN GRAHAM:** Okay. We don't have any  
7 exhibits to enter into the record for this witness? No?

8 **MR. ANDERSON:** We do not.

9 **CHAIRMAN GRAHAM:** Sir, thank you very much for  
10 your testimony.

11 **THE WITNESS:** Thank you, sir.

12 **MR. ANDERSON:** With the completion of  
13 Mr. Olivera's rebuttal testimony, may he be excused for  
14 the balance of the hearing?

15 **CHAIRMAN GRAHAM:** Is there any -- is it okay  
16 for everybody for this witness to be excused?

17 **MR. YOUNG:** No objection.

18 **CHAIRMAN GRAHAM:** Intervenors?

19 Yes.

20 **MR. ANDERSON:** May we proceed with our next  
21 witness?

22 **CHAIRMAN GRAHAM:** Yes.

23 **MR. ANDERSON:** FPL calls as its next witness  
24 Terry Deason.

25 **TERRY DEASON**

1 was called as a rebuttal witness on behalf of Florida  
2 Power & Light Company and, having been duly sworn,  
3 testified as follows:

4 **DIRECT EXAMINATION**

5 **BY MR. ANDERSON:**

6 Q Good morning, Mr. Deason.

7 A Good morning.

8 Q Have you been sworn?

9 A Yes, I was sworn this morning.

10 Q Would you please tell us your name and your  
11 business address.

12 A Yes. My name is Terry Deason. And my  
13 business address is 301 Bronough Street, Tallahassee,  
14 Florida, 32301.

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

16 A I'm employed by the firm Radey, Thomas, Yon &  
17 Clark as a special consultant.

18 Q Have you prepared and caused to be filed 15  
19 pages of prefiled rebuttal testimony in this proceeding  
20 on July 25, 2011?

21 A Yes, I have.

22 Q Do you have any changes or revisions to your  
23 rebuttal testimony?

24 A I do not.

25 Q If I asked you the same questions contained in



1 your prefiled rebuttal testimony, would your answers be  
2 the same?

3 A Yes, they would.

4 MR. ANDERSON: Chairman Graham, FPL asks that  
5 the prefiled rebuttal testimony of the witness be  
6 inserted into the record as though read.

7 CHAIRMAN GRAHAM: We will insert the  
8 prefiled -- we will insert the prefiled rebuttal  
9 testimony into the record as though read for Mr. Deason.

10 BY MR. ANDERSON:

11 Q Mr. Deason, you have one exhibit which you  
12 called TD-1. Is that right?

13 A Yes.

14 MR. ANDERSON: This is shown on Staff's  
15 exhibit list, Mr. Chairman, as Exhibit 130.

16 CHAIRMAN GRAHAM: Okay.  
17  
18  
19  
20  
21  
22  
23  
24  
25

1                   **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2                   **FLORIDA POWER & LIGHT COMPANY**

3                   **REBUTTAL TESTIMONY OF TERRY DEASON**

4                   **DOCKET NO. 110009-EI**

5                   **JULY 25, 2011**

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

7    A.    My name is Terry Deason. My business address is 301 S. Bronough Street,  
8           Suite 200, Tallahassee, Florida 32301.

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

10   A.    I am employed by the law firm Radey Thomas Yon and Clark as a Special  
11           Consultant specializing in the fields of energy, telecommunications, water and  
12           wastewater, and public utilities generally.

13   **Q.    Please describe your educational background and professional  
14           experience.**

15   A.    I have over thirty-four years of experience in the field of public utility  
16           regulation spanning a wide range of responsibilities and roles. I served a total  
17           of seven years as a consumer advocate in the Florida Office of Public Counsel  
18           (OPC) on two separate occasions. In that role, I testified as an expert witness  
19           in numerous rate proceedings before the Florida Public Service Commission  
20           (Commission). My tenure of service at the Florida Office of Public Counsel  
21           was interrupted by six years as Chief Advisor to Florida Public Service  
22           Commissioner Gerald L. Gunter. I left OPC as its Chief Regulatory Analyst  
23           when I was first appointed to the Commission in 1991. I served as

1 Commissioner on the Commission for sixteen years, serving as its chairman  
2 on two separate occasions. Since retiring from the Commission at the end of  
3 2006, I have been providing consulting services and expert testimony on  
4 behalf of various clients, including public service commission advocacy staff  
5 and regulated utility companies, before commissions in Arkansas, Florida,  
6 Montana, New York and North Dakota. My testimony has addressed various  
7 regulatory policy matters, including: regulated income tax policy; storm cost  
8 recovery procedures; austerity adjustments; depreciation policy; subsequent  
9 year rate adjustments; appropriate capital structure ratios; and prudence  
10 determinations for proposed new generating plants and associated  
11 transmission facilities. I have also testified before various legislative  
12 committees on regulatory policy matters. I hold a Bachelor of Science Degree  
13 in Accounting, summa cum laude, and a Master of Accounting, both from  
14 Florida State University.

15 **Q. Are you sponsoring an exhibit?**

16 A. Yes. I am sponsoring the following rebuttal exhibit:

17       ▪ TD-1, Biographical Information for Terry Deason

18 **Q: What is the purpose of your rebuttal testimony?**

19 A: The purpose of my rebuttal testimony is to respond to certain assertions and  
20 recommendations made by OPC Witnesses Jacobs and Smith concerning  
21 Florida Power & Light Company's (FPL's) extended power uprate (EPU)  
22 project. Specifically, I respond to their assertion that the use of a cumulative  
23 present value of revenue requirements (CPVRR) analysis should be rejected

1 and substituted with a break-even analysis to determine recoverable costs. I  
2 also respond to Witness Jacobs' assertion that FPL was imprudent in selecting  
3 an expedited schedule for the EPU project.

4

5

#### BREAK-EVEN ANALYSIS

6

7 **Q: Do you agree with Witness Jacobs' assertion that the CPVRR analysis is**  
8 **not valid for the EPU project?**

9 A: No, I do not.

10 **Q: Why do you disagree with the recommendation of Witnesses Jacobs and**  
11 **Smith?**

12 A: Essentially, their recommendation is a mid-stream attempt to fundamentally  
13 and inappropriately change the standard for determining cost recovery through  
14 the nuclear cost recovery clause. Their recommendation is inconsistent with  
15 Rule 25-6.0423, F.A.C., contrary to previous decisions of the Commission,  
16 constitutes bad regulatory policy and is counter to the stated goals of the State  
17 of Florida. Distilled to its essence these Witnesses are advocating the use of  
18 hindsight to determine the prudence of costs incurred for the EPU project.

19 **Q: What is a CPVRR analysis?**

20 A: It is an analytical tool used to compare different approaches to determine the  
21 one that is the most cost-effective. It is a generally accepted method and was  
22 used by the Commission to determine that FPL's proposed EPU project for  
23 the Turkey Point and St. Lucie nuclear power plants was the most cost-  
24 effective alternative to meet its need for capacity and energy. It has been used

1 in many other Commission need determination cases as well as accepted in  
2 prior nuclear cost recovery proceedings. It remains a valid tool to measure the  
3 ongoing cost effectiveness and continued viability of the EPU project and  
4 does so by appropriately using forward-looking costs.

5 **Q: Witnesses Jacobs and Smith state that their break-even alternative is**  
6 **needed to protect customers from unreasonable costs. Do you agree?**

7 A: No, I do not. First, there is already a two-step mechanism in place to protect  
8 customers from unreasonable costs. The first step is the need determination  
9 process. The second step is the annual ongoing prudence and reasonableness  
10 reviews of actual and projected costs. OPC's proposed break-even alternative  
11 is merely a one-sided way to put a cap on otherwise prudent costs. In essence,  
12 Witnesses Jacobs and Smith want to preserve all of the upside benefits of the  
13 uprates with no risk that costs could reasonably fall beyond a break-even  
14 point.

15 **Q: Is such an approach consistent with good regulatory policy?**

16 A: No, it is not. Consistent with good regulatory policy, the Commission has the  
17 responsibility to balance the needs of investors and customers. Customers  
18 have the reasonable expectation to receive safe, reliable and efficient services  
19 and the responsibility to pay the cost of providing those services. Investors  
20 have the reasonable expectation that capital deployed to provide services to  
21 customers will earn a reasonable return and will be eventually repaid in the  
22 form of depreciation allowances. In balancing these interests, the

1 Commission should protect customers from imprudent costs and yet ensure  
2 that all prudent costs are recovered.

3 **Q: How does use of OPC's break-even alternative impose a limitation on**  
4 **costs?**

5 A: It imposes a cap on costs regardless of whether they were prudently incurred.  
6 This is contrary to standards of ratemaking and cost recovery which call for  
7 all prudently incurred costs to be recovered. This standard has been and  
8 should continue to be applied to the EPU project.

9 **Q: If costs were to be higher than a break-even point, would the costs be**  
10 **unreasonable or imprudent?**

11 A: No, not necessarily. There is nothing magical about the break-even point that  
12 makes cost become unreasonable or imprudent, as Witnesses Jacobs and  
13 Smith imply. The break-even point is only a point on a continuum of possible  
14 cost ranges. It is the nature of the costs themselves and whether the costs have  
15 been prudently incurred and well managed that determines their  
16 recoverability.

17 **Q: Would there be other consequences of accepting the OPC's break-even**  
18 **alternative?**

19 A: Yes. It could result in two different economic regulatory standards being  
20 applied within the nuclear cost recovery rule to the same EPU project, one for  
21 considering cost effectiveness and project viability (CPVRR) and a different  
22 one to establish a cap on cost recovery (break-even). Having two different  
23 standards being applied to the same costs would be inappropriate regulatory

1 policy and place utility management in an untenable position. It also would  
2 have negative consequences on a utility's ability to acquire capital to support  
3 cost-effective nuclear projects.

4  
5 Second, applying the break-even alternative as suggested by Witnesses Jacobs  
6 and Smith would result in a significant shift in the balance of risk  
7 contemplated in Rule 25-6.0423, F.A.C. It would introduce a new "moving  
8 target" standard based on continual backward-looking determinations of costs  
9 eligible for recovery. This is counter to the fundamental purpose of the rule to  
10 encourage nuclear generation in Florida and basic principles of utility  
11 ratemaking.

12 **Q: Why does Florida have a regulatory policy to promote nuclear**  
13 **generation?**

14 A: Rule 25-6.0423, F.A.C., was proposed and adopted in response to Section  
15 366.93, Florida Statutes, which became law on June 19, 2006. This law sets  
16 forth the State of Florida's policy to promote fuel diversity and electric supply  
17 reliability by encouraging utility investment in nuclear power plants. The  
18 FPSC was directed by law to adopt a rule that would implement this  
19 legislative directive.

20 **Q: What was the purpose of this directive?**

21 A: The Legislature determined that the risks of planning, constructing, and  
22 operating new nuclear generation were great and that the traditional regulatory  
23 model was insufficient to address those risks. The traditional regulatory

1 model, which was used in the last round of new nuclear plants constructed in  
2 the United States, resulted in the disallowance of substantial investments  
3 based on reviews being undertaken only after plants were completed and  
4 requests were made to have them included in rate base. Often these reviews  
5 entailed upwards to a decade of costs that had been incurred. This caused  
6 several problems, not the least of which was the complexity and the span of  
7 time of the reviews. Another factor was the accumulated carrying costs of the  
8 investments and their resulting impact on rates. For investors to be willing to  
9 devote their capital to the planning, construction, and operation of new  
10 nuclear plants and for the benefits of new nuclear generation to be achieved,  
11 the Legislature determined that a different regulatory approach was needed. A  
12 key component of this new approach was to provide greater certainty to the  
13 amount and timing of recovery of all prudently incurred costs. Providing  
14 regulatory certainty for the recovery of all prudently incurred costs avoided  
15 the unacceptable risk of a prudence determination being made only after many  
16 years of construction expenditures had been incurred. Pursuant to this  
17 directive, Rule 25-6.0423, F.A.C., established annual prudence determinations  
18 with much needed finality.

19 **Q: Why is this finality needed?**

20 A: It is needed to avoid the same concerns I expressed earlier with prudence  
21 reviews spanning unacceptable time frames and addressing costs that have  
22 accumulated over multiple years. Without the finality of the annual prudence  
23 determinations, it is possible and perhaps likely that investments in new



1 nuclear generation would be subject to the same risks that plagued earlier  
2 investments in nuclear generation.

3 **Q: What is Florida's policy on the finality of prudence determinations of**  
4 **nuclear costs?**

5 A: Florida's policy is to review the prudence of incurred costs annually and to  
6 disallow those costs found to be imprudent. Costs determined to be prudent  
7 are no longer subject to disallowance or further prudence review.

8 **Q: What is the standard used by the Commission in making its prudence**  
9 **determinations?**

10 A: After a new nuclear project has received a determination of need, the  
11 associated costs are not subject to challenge unless and only to the extent the  
12 Commission finds, based on a preponderance of the evidence adduced at a  
13 hearing, that certain costs were imprudently incurred. In addition, imprudence  
14 shall not include any cost increases due to events beyond the utility's control.  
15 Further, a decision to proceed with construction after a determination of need  
16 is granted "shall not constitute or be evidence of imprudence". This standard  
17 is contained in Section 403.519(4)(e), Florida Statutes and is specifically  
18 referenced by Rule 25-6.0423, F.A.C.

19 **Q: Is OPC's suggested use of a break-even analysis consistent with this**  
20 **standard?**

21 A: No, it is not.

22 **Q: How else would use of OPC's break-even alternative be inconsistent with**  
23 **Florida regulatory policy?**

1 A: Rule 25-6.0423(f)(c)2. requires a determination of “the prudence of actual  
2 construction expenditures expended by the utility, and the associated carrying  
3 costs.” The use of a break-even alternative as proposed by Witnesses Jacobs  
4 and Smith does not address the prudence (or imprudence) of any actual  
5 expenditures as required by Florida regulatory policy for nuclear projects.  
6 Rather, the break-even alternative would establish an arbitrary cap on costs  
7 that otherwise would be recovered, if found to be prudent.

8 **Q: In response to an earlier question, you stated that the break-even**  
9 **approach recommended by Witnesses Jacobs and Smith would shift the**  
10 **balance of risk contemplated in Rule 26-6.0423, F.A.C. Would you please**  
11 **explain?**

12 A: Yes, I will. As I previously discussed, Florida regulatory policy as  
13 represented by Rule 25-6.0423, F.A.C., recognizes that new nuclear  
14 generation provides many benefits to customers, but is an inherently risky  
15 undertaking for a utility because of the long lead times to plan, construct, and  
16 operate such generation. This inherent risk acts as a disincentive to undertake  
17 such projects. To better enable the benefits of new nuclear generation to be  
18 realized, the rule provides greater regulatory certainty of cost recovery of  
19 prudently incurred costs by providing for annual prudence reviews that  
20 provide a high degree of finality. This is the balance to which I refer.

21

22 The approach advocated by Witnesses Jacobs and Smith materially alters this  
23 balance by purporting to disallow costs which fall beyond some break-even

1 point on the cost continuum, but are nonetheless prudent. It essentially  
2 provides all of the benefits of new nuclear generation to customers but  
3 requires customers to potentially pay only part of the cost. Essentially, these  
4 Witnesses are proposing a risk sharing mechanism not contemplated or  
5 allowed by the rule.

6 **Q: Has the Commission previously addressed the concept of a risk sharing**  
7 **mechanism within the context of the nuclear cost recovery clause?**

8 A: Yes, the Commission has considered and rejected such a concept. In Order  
9 No. 11-0095-FOF-EI in Docket No. 100009-EI, intervenors argued that the  
10 Commission had the statutory authority to implement a sharing mechanism to  
11 prevent customers from bearing all of the risk when projects face significant  
12 uncertainty. In response, the Commission found that a risk sharing  
13 mechanism would not be consistent with the clear statutory requirement that  
14 all prudently incurred costs are recoverable. The Commission stated:

15 In conclusion, based upon the analysis above, we find that we  
16 do not have the authority under the existing statutory  
17 framework to require a utility to implement a risk sharing  
18 mechanism that would preclude a utility from recovering all  
19 prudently incurred costs resulting from the siting, design,  
20 licensing, and construction of a nuclear power plant. To do so  
21 would limit the scope and effect of a specific statute, and an  
22 agency may not modify, limit, or enlarge the authority it  
23 derives from the statute.

1 **Q: Do you have any other concerns with the recommendation to institute a**  
2 **risk sharing mechanism through a backward looking break-even**  
3 **analysis?**

4 A: Yes, I do. Aside from the fact that the Commission has found it to be  
5 statutorily impermissible, I believe it is bad regulatory policy and I am  
6 concerned that adopting such an approach would have severe negative  
7 implications for future generation expansion plans in Florida.

8 **Q: How so?**

9 A: I believe good regulatory policy should encourage utilities to consider all cost-  
10 effective options for new generation. Having a full array of viable options can  
11 only serve to provide benefits to customers in terms of reliability, cost and  
12 fuel diversity. I fear that a risk sharing mechanism as contemplated by the  
13 break-even approach will lead to only the lower-risk options being considered.  
14 In today's environment, this means an even greater reliance upon gas-fired  
15 generation. Of course, reliance on natural gas is one of the things the  
16 Legislature and Commission are attempting to mitigate by encouraging  
17 additional nuclear generation.

18

19 **DECISION TO EXPEDITE THE EPU PROJECT**

20

21 **Q: Do you agree with Witness Jacobs' conclusion that FPL's decision to**  
22 **expedite the EPU project was imprudent?**

1 A: I disagree with his conclusion. My lack of agreement is not based on an  
2 engineering analysis of the risks of undertaking the “fast track” approach.  
3 Rather, I find fault with his conclusion from a regulatory policy perspective.

4 **Q: Please explain.**

5 A: Good regulatory policy calls for issues to be raised at the appropriate time and  
6 for findings of prudence or imprudence of management decisions to be made  
7 based on facts known to management at the time decisions are made. The use  
8 of 20-20 hindsight to conclude a decision was imprudent is improper.

9  
10 FPL’s decision to pursue the EPU project on an expedited basis was clearly  
11 disclosed in the need determination proceeding. The anticipated in-service  
12 dates of the uprates were part of FPL’s filing and the cost-effectiveness  
13 calculations were consistent with the aggressive time frames. FPL’s petition  
14 referred to the aggressive schedule of the uprates and FPL’s Witness used  
15 terms such as “earliest feasible point in time” and “expedited basis” in  
16 referring to the EPU project’s construction time frame and the ensuing  
17 benefits being achieved for customers. If there were concerns that the  
18 decision to expedite the process was an imprudent one, the issue should have  
19 been raised at that time and it was not. FPL has relied upon a regulatory  
20 decision to accept the expedited schedule and has pursued the EPU project  
21 accordingly and was encouraged to do so by the applicability of Rule 25-  
22 6.0423, F.A.C. Witness Jacobs now wants to use 20-20 hindsight to declare  
23 this previously-approved decision imprudent. Also, as I earlier described, the

1 decision to proceed with a nuclear project that has been granted a  
2 determination of need cannot be used as evidence of imprudence.

3 **Q: Do you have any other concerns with Witness Jacobs' conclusion of**  
4 **management imprudence?**

5 A: Yes, I do. I believe Witness Jacobs' conclusion lacks an appreciation of the  
6 electric supply circumstances confronting FPL prior to and at the time of the  
7 need determination.

8 **Q: What were the electric supply circumstances confronting FPL prior to and**  
9 **at the time of the need determination?**

10 A: FPL was faced with the need for reliable and cost effective base-load  
11 generation that also provided greater fuel diversity. The need for greater fuel  
12 diversity was clearly expressed to FPL by the Commission and other policy  
13 makers during this time. As early as 2004, the Commission raised concerns  
14 with a lack of fuel diversity and FPL committed to file a feasibility study of  
15 coal-fired alternatives, which was filed in 2005. In 2006, in emphasizing its  
16 concern of a lack of fuel diversity, the Commission stated that utilities should  
17 not assume the automatic approval of gas-fired plants in future need  
18 determination proceedings. In response to the Commission's direction, FPL  
19 proposed building two ultra-supercritical pulverized coal units in Glades  
20 County to come on line in 2012 and 2013. These units were referred to as the  
21 Florida Glades Power Park and were the subject of a need determination  
22 before the Commission in 2007. While the project had attractive economics  
23 and significant reliability benefits, it was not approved by the Commission.

1 The Commission cited concerns with the risks associated with new coal  
2 generation in light of anticipated greenhouse gas emissions regulations. FPL  
3 then found itself in a situation of meeting its need reliably and cost effectively  
4 and providing greater fuel diversity while minimizing greenhouse gas  
5 emissions. As a result, FPL proposed to expedite the EPU project in order to  
6 meet these needs. The Commission approved FPL's need determination  
7 request in late 2007 and the order was issued in early 2008. There were no  
8 intervenors in opposition to the EPU project.

9 **Q: Why was there a need to expedite the EPU project?**

10 A: First was the need to have the uprates on line in time to meet FPL's need for  
11 capacity. Second was the desire to maximize benefits to customers through  
12 greater fuel savings as quickly as possible.

13 **Q: How does this relate to the issue of management prudence?**

14 A: It goes right to the heart of the issue. The decision to expedite the EPU  
15 project needs to be reviewed in the context of the circumstances leading to  
16 and the reasons supporting it. FPL Management took action to meet its  
17 obligation to serve reliably and cost effectively and to address policy concerns  
18 over fuel diversity and greenhouse gas emissions. And they did this in a way  
19 that would maximize fuel savings to customers. Such action should be  
20 encouraged. It definitely should not be penalized by a finding of imprudence  
21 based on hindsight of a decision that was unchallenged at the time it was  
22 originally made. Given the facts and circumstances, a finding of management  
23 imprudence by the Commission would only tend to nullify its previous

1 decisions to encourage maximizing nuclear benefits to customers and would  
2 send a message to FPL's management and other utility managers that they  
3 should not aggressively pursue solutions to challenging problems. Customers  
4 will only be harmed in the long term by such a message.

5 **Q: Does this conclude your testimony?**

6 **A:** Yes, it does.



1 BY MR. ANDERSON:

2 Q Mr. Deason, would you please go ahead and  
3 introduce, reintroduce yourself to the Commission and  
4 provide a summary of your, of your testimony.

5 A Commissioners, it's a pleasure to be back here  
6 in this hearing room again and to have this opportunity  
7 to provide testimony to you as you consider this very  
8 important matter.

9 OPC is recommending that FPL should be  
10 required to utilize a breakeven analysis to disallow  
11 otherwise prudent costs. This is inappropriate and  
12 should be rejected. OPC's recommendation is a midstream  
13 attempt to fundamentally and inappropriately change  
14 Florida's policy for determining nuclear cost recovery  
15 and feasibility and, if implemented, would have negative  
16 implications for FPL's customers.

17 OPC suggests that the Commission should no  
18 longer use the cumulative present value of revenue  
19 requirements, which I will refer to as present value  
20 analysis, as the means to determine cost-effectiveness  
21 and continued project viability.

22 For many years the Commission has consistently  
23 and appropriately used the present value approach to  
24 make decisions on cost-effectiveness in need  
25 determination proceedings and in the nuclear cost

1 recovery proceedings. The present value approach  
2 appropriately considers forward-looking costs and should  
3 not be discontinued.

4 OPC's suggestion to replace the Commission's  
5 use of the present value analysis with a breakeven  
6 approach is inappropriate for many reasons and should be  
7 rejected. OPC's proposed breakeven approach  
8 inappropriately relies on hindsight and has the effect  
9 of disallowing otherwise prudent costs. This is  
10 contrary to the state's policy to promote nuclear  
11 generation and violates basic principles of ratemaking.  
12 All prudently incurred costs are to be included in  
13 rates. OPC's suggested approach does not do this and  
14 violates this basic principle.

15 OPC's suggestion also materially distorts the  
16 balance of risk provided for by the Legislature and the  
17 Commission. This could have severe negative  
18 consequences for customers by limiting options for new  
19 generation needed to cost-effectively and reliably serve  
20 them. In essence, OPC's suggestion is a risk-sharing  
21 mechanism which has been previously rejected and  
22 determined by the Commission to be impermissible.

23 OPC also alleges that FPL's and this decision,  
24 this Commission's decision to expedite the extended  
25 power uprates was imprudent. I cannot agree that this

1 decision was imprudent. At the time FPL proposed and  
2 the Commission approved the expedited schedule, FPL was  
3 appropriately responding to the circumstances at the  
4 time. After being encouraged to consider ways to  
5 increase its fuel diversity, FPL proposed the Glades  
6 Power Park, two coal-fired units in Glades County.  
7 These units were rejected by the Commission.

8 FPL then proposed and the Commission approved  
9 the expedited schedule for the EPU project. This was  
10 done to cost-effectively meet the need for capacity and  
11 energy, to increase fuel diversity, to minimize  
12 greenhouse gas emissions, and to achieve fuel savings  
13 for customers as quickly as possible.

14 Such actions by FPL should be encouraged.  
15 OPC's allegation of imprudence ignores these realities  
16 and penalizes FPL for proposing a cost-effective  
17 solution to meet these needs and achieve these goals.

18 FPL has appropriately relied upon the  
19 Commission's decisions to approve the expedited  
20 schedule. It is inappropriate to attempt to litigate  
21 that now. Good regulation should maintain consistent  
22 policies that can be relied upon and which encourage  
23 utilities to make aggressive and prudent decisions to  
24 maximize customer benefits. OPC's suggestion of  
25 imprudence would send the wrong message and have the

1 opposite effect.

2 That concludes my summary.

3 **MR. ANDERSON:** Thank you, Mr. Deason.

4 The witness is available for  
5 cross-examination, Chairman Graham.

6 **CHAIRMAN GRAHAM:** Thank you.

7 Intervenors? Ms. Kaufman.

8 **CROSS EXAMINATION**

9 **BY MS. KAUFMAN:**

10 Q Good morning, Mr. Deason. I've often wanted  
11 to cross-examine you.

12 A I bet you have.

13 (Laughter.)

14 If I were in your place, I would relish the  
15 opportunity.

16 Q You know I'm just kidding you.

17 A I think back, was I ever mean to you before?

18 Q Never. Always the consummate gentleman.

19 As I understand your testimony, and I think  
20 you referenced this in your summary, you take issue with  
21 Mr. Jacobs' suggestion that the Commission look at a  
22 breakeven analysis, and you've referenced that.

23 And you also claim that that kind of analysis  
24 would require the Commission to engage in hindsight; is  
25 that correct?

1           A     Yes.

2           Q     Okay.  Would you agree with me that as the  
3 Commission evaluates the cost-effectiveness of a project  
4 each year as it goes forward, it should be able to use  
5 the tools that it finds the most appropriate to look at  
6 the project?

7           A     Absolutely.  The Commission should avail  
8 itself of the tools that it thinks are appropriate.  The  
9 present value analysis is an appropriate tool, is one  
10 the Commission has relied upon in the past.  And, and a  
11 breakeven analysis can also be used to look at whether a  
12 project should continue.

13                     The problem I have is with the suggestion that  
14 a breakeven analysis, that that tool be used in an  
15 inappropriate manner, that manner being to basically put  
16 a cap on costs that otherwise would have been determined  
17 to be prudent.  That is not the purpose, that is not the  
18 intent, that is not correct use of a breakeven analysis.

19           Q     But I think that you agreed that the use of a  
20 breakeven analysis in this situation could be  
21 appropriate if the Commission deems it to provide  
22 information that they find relevant.

23           A     Yes, it could be used by the Commission, not  
24 to determine what costs should be recoverable, but to  
25 determine the continued viability of the project.

1           One needs to understand that a breakeven  
2 analysis is just a refinement of the present value  
3 analysis. The present value analysis compares two  
4 alternatives and determines which of those is the most  
5 cost-effective alternative. A breakeven analysis just  
6 takes that one, takes it a step and looks and determines  
7 the magnitude of the difference in costs.

8           And if there are two projects and there's a  
9 difference, a beta of one million, that means that one  
10 is \$1 million more cost-effective than the other, and  
11 that the other project, that those costs, there's a \$1  
12 million difference and that's the breakeven point.  
13 Costs for the project that you approve could increase by  
14 \$1 million and it becomes breakeven with the project  
15 that you're comparing it against.

16           Q     But certainly if the Commission wanted to  
17 request the company to perform a breakeven analysis,  
18 that would -- in your view, would that be something the  
19 company would be willing to provide?

20           A     I can't speak for the company in that regard.  
21 I believe that question was asked to Mr., perhaps  
22 Mr. Sim yesterday. I think the record speaks for  
23 itself. But as I recall, I think he indicated that is  
24 an analysis that FPL can perform, perhaps routinely  
25 performs. But the point that needs to be made to the

1 Commission is that you do not use that analysis as a  
2 tool for -- and achieve a purpose for a never -- it was  
3 never intended, it was never intended to be a tool to  
4 deny the recoverability of otherwise prudently incurred  
5 costs. That's the point.

6 Q Mr. Deason, I apologize for not recalling.  
7 Were you on the Commission when the determination of  
8 need for the EPU was granted?

9 A I was not.

10 Q Okay. Have you reviewed the record in that  
11 case in preparation for your comments here today?

12 A To a limited extent. I would not call it a  
13 thorough review of that record. I do recall that the,  
14 that the matter was actually presented to the Commission  
15 in the form of a stipulation. I do recall -- I looked  
16 at some of the information requests or interrogatories  
17 that the Staff submitted, and it appeared to me the  
18 Staff did a very thorough analysis, as they always do on  
19 need determination proceedings, but I do not believe  
20 there were other -- any other Intervenors in the case.

21 Q Well, from your limited review, as you've  
22 said, of the record, do you recall whether you ever saw  
23 the term "fast tracked" used by anybody in the documents  
24 that you reviewed?

25 A No. I, I did not see the term "fast track" in

1 my limited review, but I did see terms used. Expedited,  
2 quickest feasible manner, or things similar to that.  
3 But, no, the term "fast track," I did not see that  
4 particular term.

5 Q Have you, have you been here -- were you here  
6 yesterday? Have you been in the hearing room?

7 A I was not in the hearing room yesterday. I  
8 did come out here yesterday evening about 5:30, quarter  
9 to 6:00, just in case things were moving so rapidly as  
10 to whether I would be needed, but that was my limited  
11 extent to being here yesterday.

12 Q Okay. You reviewed the testimony in this  
13 case, have you not? You certainly reviewed Dr. Jacobs'  
14 testimony.

15 A Yes, I did.

16 Q Okay. And you would agree with me that there  
17 is a rather strenuous debate among the parties as to  
18 whether expedited is the same thing as fast tracked?

19 A Yes, I do understand that there is a  
20 difference of opinion as to whether those terminologies  
21 mean something different as they are used in the context  
22 of the issues in this case.

23 MS. KAUFMAN: Thank you, Mr. Deason. It was a  
24 pleasure.

25 CROSS EXAMINATION

FLORIDA PUBLIC SERVICE COMMISSION



1 BY MR. McGLOTHLIN:

2 Q Hello, Mr. Deason.

3 A Hello.

4 Q Based upon your prefiled testimony and your  
5 summary, as I understand it, you object to the use of a  
6 breakeven analysis to disallow costs that would  
7 otherwise be deemed prudent; is that correct?

8 A That is correct.

9 MR. McGLOTHLIN: No further questions.

10 MR. WHITLOCK: No questions for this witness,  
11 Mr. Chairman.

12 CHAIRMAN GRAHAM: Staff?

13 MR. YOUNG: No questions.

14 CHAIRMAN GRAHAM: Commissioner Edgar.

15 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

16 Hello, Mr. Deason.

17 THE WITNESS: Hello, Commissioner.

18 COMMISSIONER EDGAR: You have in your prefiled  
19 and also in response to questions talked to us here  
20 today a good amount about that, the issue of the  
21 breakeven analysis. I'd like to approach that from a  
22 slightly different point and pose to you, in light of  
23 your unique experience working as a consumer advocate  
24 and also as a regulator, could you speak to us from your  
25 experience and with your expertise about the issue of

1 separate long-term feasibility analyses versus  
2 comprehensive?

3 **THE WITNESS:** I need some clarification on  
4 your question. Are you talking about in the context of  
5 the EPU uprate project and it being conducted at two  
6 different plant sites?

7 **COMMISSIONER EDGAR:** Yes. Yes, I am.

8 **THE WITNESS:** Okay. I think it is, it is  
9 important for the Commission to consider the context in  
10 which the EPU project was presented to it at the time of  
11 the need determination. It was presented as one  
12 project, and the cost estimates and the comparison to  
13 other alternatives were done in the context of one  
14 project. I think for consistency that it needs to be,  
15 to continue to be, to be viewed as one project.

16 And the reason is because when the decision  
17 was made that it was the most cost-effective  
18 alternative, there was a need of a certain magnitude  
19 that needed to be met, and that need was as a result of  
20 the fact that the Commission denied the Glades power  
21 project. I'm not taking issue with the Commission's  
22 decision to deny that, but it is a reality.

23 **COMMISSIONER EDGAR:** Which was a vote that I  
24 made.

25 **THE WITNESS:** I didn't participate in that

1 case. But I do recall the Commission strongly  
2 encouraging FPL, all of Florida's utilities, perhaps FPL  
3 in particular, to look at what I call solid based, solid  
4 fuel generating alternatives, which would either be  
5 nuclear or coal, because there was concern about a lack  
6 of fuel diversity and perhaps an overreliance on natural  
7 gas generation.

8 And it was at the encouragement of the  
9 Commission that the Glades project was studied and it  
10 was proposed and it was fully vetted at the Commission  
11 and a decision was reached. And that's fine, that's the  
12 way the process should work, and a decision was made.

13 But I think the Commission should be cognizant  
14 that it put FPL in the position of having to determine  
15 how they could cost-effectively meet the demand that was  
16 envisioned in the 2012/2013 time frame, how they could  
17 do that while also minimizing greenhouse gas emissions,  
18 while increasing fuel diversity, and doing all of that  
19 in a cost-effective manner.

20 And that was as a result that FPL came forward  
21 with the EPU project, and it was one project to meet  
22 that demand. Both of these projects, if you want to say  
23 they were separate projects, were needed to meet the  
24 demand.

25 But beyond that, the cost-effectiveness was

1 looked at as one project, and to, now to sever that and  
2 say that they are standalone projects and one could  
3 proceed or one could not, I think that's placing a lot  
4 in jeopardy.

5           There's also been testimony in this proceeding  
6 about the location of generation and how that's  
7 important for liability purposes and in terms of perhaps  
8 additional transmission costs. I know there's an  
9 allegation by FP -- I mean by OPC that one of the, one  
10 of the, I think it's Turkey Point, that it may not  
11 appear to be as cost-effective because of the fact that  
12 the life of that plant is not as great as the remaining  
13 life of the other nuclear plant.

14           Well, I think the Commission should obviously  
15 ask whether there's a possibility of the life being  
16 extended at Turkey Point. I don't have an answer to  
17 that question, but that is perhaps a possibility.

18           But also the Commission has heard testimony  
19 about the necessity of having generation located close  
20 to load. So that's another aspect. I think the fact  
21 that the, that the generation was going to be, from  
22 Turkey Point was going to be closer to load was a  
23 consideration. I know it was something that Staff  
24 explored in their interrogatories as they posed them to  
25 FPL in terms of whether the project was cost-effective,

1 and it was a factor.

2 So to ignore the benefits and the cost  
3 parameters that were explored in the need determination  
4 and at this point, some years later, to sever that -- I  
5 think it could be done. I would use extreme caution  
6 before doing so. I just think that it could, it could,  
7 it could put some things in jeopardy.

8 **COMMISSIONER EDGAR:** I remember and recognize  
9 and, you know, appreciate the points that you're making,  
10 realizing that at the time the project was presented as  
11 a whole as opposed to separate components, and that  
12 there was the belief and the expectation that that would  
13 therefore include some efficiencies and some additional  
14 cost-effectiveness and some, you know, additional  
15 benefits of, of approaching it that way.

16 But would you agree that, by virtue of a  
17 project being presented in that way, does not preclude  
18 the Commission's responsibility or authority to analyze  
19 a project as separate components?

20 **THE WITNESS:** I would agree with that,  
21 Commissioner. My only caution would be to look at it,  
22 make sure it's the right thing to do, realize that there  
23 could be other consequences of breaking it apart. But,  
24 yes, I think it's within the Commission's discretion to  
25 do that.

1                   **COMMISSIONER EDGAR:** Thank you.

2                   **CHAIRMAN GRAHAM:** I'm glad you asked that  
3 question. You took it right out of my mouth.

4                   Commissioner Brisé.

5                   **COMMISSIONER BRISÉ:** Thank you, Mr. Chairman.

6                   Mr. Deason, happy to see you again. I have a  
7 couple of questions, and they'll be based from your  
8 testimony. Go to page 3 on your testimony where on line  
9 12 -- the question is, "Why do you disagree with the  
10 recommendation of Witnesses Jacobs and Smith?"

11                   And, one, you have that the recommendation  
12 addresses a midstream attempt to fundamentally,  
13 fundamentally and inappropriately change the standard  
14 for determining cost recovery through the nuclear  
15 recovery clause. So I suppose that that goes to the  
16 issue of finality to a certain degree.

17                   **THE WITNESS:** Yes, Commissioner, it does. It  
18 goes to, I think, the need for finality and how that was  
19 expressed by the Legislature and how the Commission  
20 adopted its rule. With the annual prudence reviews and  
21 the finality of those, I think, yes, it goes to the  
22 heart of that. And I think that OPC's suggestion is, is  
23 midstream in the fact that the Commission has already  
24 determined a need for the project and it's determined  
25 that the, the expedited approach was the appropriate

1 approach.

2 So, yeah, I would consider that it would be a  
3 midstream and it would be counter to the policy of the  
4 State of Florida to determine finality of costs based  
5 upon annual prudence reviews.

6 **COMMISSIONER BRISÉ:** Now, on, on page 4 you  
7 address the issue, starting at line 5, 5 through 14,  
8 whether the breakeven alternative is needed to protect  
9 customers from unreasonable costs, "Do you agree?"

10 The question that I have is do you agree for  
11 this instant or is that something that the Commission  
12 should potentially look at moving forward?

13 **THE WITNESS:** I believe -- the answer to your  
14 question is both. I think that my answer is in terms of  
15 where we find us, where we find ourselves at this point,  
16 as well on a moving forward basis.

17 You have to realize, Commissioner, that the  
18 breakeven analysis being proposed by OPC, it doesn't  
19 find fault with any particular costs. In fact, I think  
20 this testimony in this case is devoid of there being any  
21 specific cost that was incurred by FPL that was deemed  
22 to be imprudent.

23 What it does is it relies upon hindsight,  
24 relies upon sunk costs, and an ever-changing breakeven  
25 analysis which is going to change with time. That

1 breakeven analysis is going to change as the price of  
2 gas changes, perhaps as inflation changes, cost of  
3 capital changes, or, or cost of materials change, or --  
4 it's going to change as well.

5           Sitting here today, we don't know what the  
6 relationship is going to be with a breakeven analysis at  
7 the time that these, this EPU project is completed. It  
8 could be below that, it could be above. But the fact  
9 that it is above does not mean that there has been one  
10 dime of cost incurred imprudently, and that's how it  
11 violates the policy that has been established by the  
12 Legislature and this Commission.

13           **COMMISSIONER BRISÉ:** So final question. So  
14 from your perspective, not only in this instant but as  
15 an overarching policy for the Commission, it would be  
16 bad policy to pursue that, this, that approach?

17           **THE WITNESS:** Yes, it would be bad policy. It  
18 would be inconsistent with policy already established.  
19 And as you heard Mr. Olivera say, he feels like that it  
20 would -- could possibly prevent the company from doing  
21 additional nuclear projects just from the fact of the  
22 adverse impacts on the investment community.

23           **COMMISSIONER BRISÉ:** Thank you.

24           **CHAIRMAN GRAHAM:** Redirect?

25           **MR. ANDERSON:** Thank you, Mr. Chairman.



## REDIRECT EXAMINATION

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BY MR. ANDERSON:

Q Mr. Deason, Ms. Kaufman asked you if you recalled seeing the word "fast track" in the nuclear uprate need determination information. Do you recall that?

A Yes.

Q And you told us that you saw information about completing the project as soon as practicable and expedited and those things; right?

A Yes. I did see that terminology.

Q You are -- are you aware that the Commission determined in the 2008 need order that the uprates were approved to fulfill a 2012 reserve resource need for FPL?

A Yes, I saw that. And that was, that was the need -- that was determined that was the time frame. And the only way that those projects could have been completed is if it had been expedited. Now whether someone wants to use the term fast track or not, you know, I don't want to quibble with that. But I think the Commission did recognize to have these plants in place to meet the need for the time frame envisioned, 2012 and 2013, that these projects had to be expedited.

Q In the course of your work you mentioned that

1 you reviewed discovery that Staff propounded on the  
2 company and the company responded to in that case; is  
3 that right?

4 A Yes, I did review that.

5 Q From your review was it understood that this  
6 was a complex project?

7 A Yes, it was -- to my -- in my opinion, yes. I  
8 think certainly the, the scope and the, the, the  
9 in-depth questions that were asked by Staff in their  
10 review, I think it was obvious that it was a complicated  
11 project.

12 Q Was there testing and probing of the inputs to  
13 the economic analysis submitted in the proceeding?

14 A Yes. It was -- yes. As, as is the case in  
15 all need determinations, it was certainly the case for  
16 the need determination for these projects as well.  
17 There were a number of scenarios that were reviewed that  
18 could affect the outcome of that, and the analysis was  
19 done which showed that these projects were -- they were  
20 either cost-effective in all scenarios or the vast  
21 majority of the scenarios.

22 Q And you're familiar from your review of  
23 Dr. Jacobs' testimony that he points to the geographic  
24 distance of the plants and the differences in license  
25 terms and things like that, those are the part of the

1 reasons Dr. Jacobs says a different analysis should be  
2 done; is that right?

3 **A** I'm sorry. Could you repeat the question?

4 **Q** Okay. Focusing on the discovery you reviewed  
5 in the need determination case, did -- was there  
6 investigation and probing of the different license lives  
7 of the plants?

8 **A** Honestly, I just don't remember that at this  
9 point based upon my review.

10 **Q** Okay. Okay. That's fine.

11 Did Public Counsel submit any testimony in the  
12 need determination for your review?

13 **A** No, Public Counsel did not. It was my  
14 understanding there were no Intervenors in the case.

15 **Q** If Public Counsel had wanted to challenge the  
16 timing or method of the project, call it expedited or  
17 call it fast track or call it Bob --

18 **MR. McGLOTHLIN:** I object to this line of  
19 questioning as beyond the scope of cross-examination.

20 **MR. ANDERSON:** I believe it's directly within  
21 the scope because Ms. Kaufman asked about the 2007 need  
22 determination proceeding.

23 **MR. McGLOTHLIN:** She didn't ask anything about  
24 OPC's participation.

25 **CHAIRMAN GRAHAM:** Wait a second. I do not

1 remember what the question was. We can get the court  
2 reporter to bring it back.

3 **MR. ANDERSON:** May I rephrase a different  
4 question? Would that be better?

5 **CHAIRMAN GRAHAM:** Let's try that.

6 **MR. ANDERSON:** Okay.

7 **BY MR. ANDERSON:**

8 **Q** Mr. Deason, you noted there were no  
9 intervenors; is that correct?

10 **A** That's correct.

11 **Q** Is it fair to say that if an Intervenor wanted  
12 to participate, they could have challenged the timing or  
13 method of the project by whether the project was  
14 expedited or fast tracked?

15 **A** Yes. The timing of a project would be a  
16 legitimate issue that could be raised in any need  
17 determination proceeding as to what -- and as to whether  
18 the need actually exists that is being, being presented.  
19 And the Commission looks at that and the timing of that  
20 and whether there are other alternatives which could  
21 meet that need, such as conservation efforts and things  
22 of that nature.

23 **Q** Regardless of who would have or could have  
24 raised that, is it good policy to permit years later  
25 relitigation of that?

1           A     Well, I think this --

2           **MS. KAUFMAN:** Chairman, I'm going to object.  
3 I think this is way beyond the scope of my  
4 cross-examination. And I think Mr. Deason has already  
5 made his opinions clear.

6           **CHAIRMAN GRAHAM:** I have to agree with her.

7           **MR. ANDERSON:** We have no further questions.  
8 Thanks.

9           **CHAIRMAN GRAHAM:** Thank you.

10           We have some exhibits to enter into the  
11 record?

12           **MR. ANDERSON:** Yes, we do. We have Exhibit  
13 130. FPL offers Exhibit 130 into evidence.

14           **CHAIRMAN GRAHAM:** We will enter Exhibit 130  
15 into the record. Any objections to that?

16           **MR. YOUNG:** No objections.

17           **CHAIRMAN GRAHAM:** Okay. Anything else for  
18 this witness?

19           (Exhibit 130 admitted into evidence.)

20           **MR. ANDERSON:** No, sir. We would ask that  
21 Mr. Deason be excused for the balance of the hearing.

22           **CHAIRMAN GRAHAM:** Any objections to that?  
23 Seeing none, Mr. Deason, thank you for your  
24 testimony today.

25           **THE WITNESS:** Thank you.

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(Transcript continues in sequence with Volume

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1 STATE OF FLORIDA )  
2 COUNTY OF LEON ) : CERTIFICATE OF REPORTER

3  
4 I, LINDA BOLES, RPR, CRR, Official Commission  
5 Reporter, do hereby certify that the foregoing  
6 proceeding was heard at the time and place herein  
7 stated.

8 IT IS FURTHER CERTIFIED that I  
9 stenographically reported the said proceedings; that the  
10 same has been transcribed under my direct supervision;  
11 and that this transcript constitutes a true  
12 transcription of my notes of said proceedings.

13 I FURTHER CERTIFY that I am not a relative,  
14 employee, attorney or counsel of any of the parties, nor  
15 am I a relative or employee of any of the parties'  
16 attorneys or counsel connected with the action, nor am I  
17 financially interested in the action.

18 DATED THIS 16<sup>th</sup> day of August,  
19 2011.

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LINDA BOLES, RPR, CRR  
FPSC Official Commission Reporter  
(850) 413-6734