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Docket No. 20190140-EI
Cross-Examination
Hearing Exhibit

Exhibit No.: 24C

Proffered by: Public Counsel

Short title: _____

Witness(s): _____

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO.: 20190140-EI

In re: Petition to approve transaction
for accelerated decommissioning services at CR3
facility, transfer of title to spent fuel and
associated assets, and assumption of operations of CR3
facility pursuant to the NRC license,
and request for waiver from future application
of Rule 25-6.04365, F.A.C. for nuclear
decommissioning study, by Duke Energy Florida, LLC.,

_____/

VIDEOCONFERENCE

DEPOSITION OF: TERRY HOBBS

DATE: THURSDAY, JUNE 25, 2020

TIME: 9:10 A.M. - 4:50 P.M.

PLACE: VIA VIDEOCONFERENCE

STENOGRAPHICALLY

REPORTED BY: JAZZMIN A. MUSRATI, RPR, CRR
Registered Professional Reporter
Certified Realtime Reporter

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

2 *****

3 (Whereupon, the proceedings began at 9:10 a.m.)

4 THE STENOGRAPHER: Raise your right hand,
5 please.

6 Do you swear or affirm that the testimony you
7 are about to give will be the truth, the whole truth
8 and nothing but the truth?

9 THE WITNESS: Yes, I do.

10 Thereupon,

11 TERRY HOBBS,
12 having been first duly sworn or affirmed, was examined
13 and testified as follows:

14 MR. REHWINKEL: Let's take appearances, and
15 I'll start off with Charles Rehwinkel, deputy public
16 counsel, appearing on behalf of Office of Public
17 Counsel and the customers of Duke.

18 MR. HERNANDEZ: This is Daniel Hernandez with
19 Shutts & Bowen on behalf of Duke Energy.

20 MS. TRIPLETT: This is Dianne Triplett on
21 behalf of Duke Energy.

22 MR. REHWINKEL: John.

23 MR. MOYLE: Yeah. John Moyle on behalf of the
24 Florida Industrial Power Users Group, FIPUG. And
25 I'm going to be on mute.

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1 MR. REHWINKEL: Jay?

2 MR. BREW: Can you hear me now? This is James
3 Brew for White Springs Agricultural Chemicals, PCS
4 Phosphate.

5 Can you hear me?

6 MR. REHWINKEL: No, we heard you.
7 Suzanne.

8 MS. BROWNLESS: Suzanne Brownless appearing on
9 behalf of the staff of the Public Service Commission.
10 And do you want me to introduce the staffers in
11 the room with me, Charles.

12 MR. REHWINKEL: Yes, please.

13 MS. BROWNLESS: And with me is Bill McNulty and
14 Mark Cicchetti. McNulty, M-C-N-U-L-T-Y. And
15 Cicchetti, C-I-C-C-H-E-T-T-I.

16 DIRECT EXAMINATION

17 BY MR. REHWINKEL:

18 Q. Good morning, Mr. Hobbs.

19 A. Good morning.

20 Q. Before I start with the questions, I want to make
21 a statement for the record.

22 MR. REHWINKEL: Richard Polich is now on for
23 the office of public counsel.

24 This deposition has been noticed as
25 confidential because we will be asking questions

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1 about material that Duke has asserted a claim of
2 confidentiality for with the Public Service
3 Commission. And under the law, we must keep the
4 information confidential, pending a final
5 documentation determination, some of which has been
6 finally determined to be confidential.

7 The deposition and -- should only be attended
8 by parties who are -- like the Public Service
9 Commission staff and the Public Counsel covered by
10 statutes and rules that allow them to review the
11 confidential information, but which require them to
12 keep it confidential and exempt from inspection under
13 the public records law offices of the State of
14 Florida.

15 All of the other attorneys have nondisclosure
16 agreements, as does Mr. Polich with our office, and
17 are thus entitled to be on the deposition.

18 Madam Court Reporter, the arrangement that we
19 have is that we will order a deposition on an
20 expedited basis. The Public Counsel will receive our
21 copy directly from you. And if you could then send
22 the copy to -- or the -- any ordered copies that are
23 paid for that you would ordinarily send to the
24 participants, if you would send them to Duke, and
25 Duke will disseminate them to make sure that they go

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1 to the people who are entitled to receive them.

2 Is that the agreed upon procedure, Danny?

3 MR. HERNANDEZ: It is, yes.

4 MR. REHWINKEL: And with that, do we have an
5 agreement that all objections except as to the form
6 of the question are reserved?

7 MR. HERNANDEZ: Yes, we agree.

8 MR. REHWINKEL: And you will not waive reading
9 and signing?

10 MR. HERNANDEZ: We will read.

11 MR. REHWINKEL: Okay.

12 BY MR. REHWINKEL:

13 Q. All right. Now, Terry, I can start with you,
14 Mr. Hobbs. I just want to make sure that, given that
15 there are some technical glitches, at least on my end
16 here, if there is any difficulty in understanding a
17 question I ask, if you would ask me to repeat it, I
18 would appreciate that.

19 Can you do that?

20 A. Yes.

21 Q. And -- and take your time in answering questions.
22 Again, I'm not trying to rush you. And given the
23 technical constraints we find ourselves in these days,
24 you should make sure that you don't try to outrun the
25 technology.

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1 If you need a break, please ask me, and we will
2 take one.

3 MR. REHWINKEL: And that goes for anyone else,
4 especially the court reporter. If you need to break,
5 let me know. I tend to go long.

6 I -- I am pretty confident that my questions
7 will go at least past lunchtime. And I would ask if
8 there's any problem with the -- agreeing to a break
9 at 12:00, and we can decide on whether it's
10 45 minutes or an hour at that time.

11 Is that acceptable to everybody?

12 MR. HERNANDEZ: That's acceptable to Duke.

13 BY MR. REHWINKEL:

14 Q. All right. Okay. Now, we'll get to the real
15 part, which is, can you state your name and employer and
16 work address for the record.

17 A. My name is Terry Hobbs. I'm general manager for
18 decommissioning for Duke Energy Florida. My address is
19 West Powerline Street, Crystal River, Florida.

20 Q. Okay. And did you receive any Duke -- the notice
21 of deposition that Public Counsel serves in this docket
22 on June 22, 2020, at 11 o'clock?

23 A. I did not bring a copy of that with me, Charles.

24 MR. HERNANDEZ: Have you seen it?

25 THE WITNESS: I have read it, yes.

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1 MR. REHWINKEL: Okay. So, Madam Court
2 Reporter, do you have a copy of the notice of
3 deposition that you could make as an exhibit to the
4 deposition?

5 THE STENOGRAPHER: I do, yes.

6 MR. HERNANDEZ: Charles.

7 MR. REHWINKEL: We'll just designate the Public
8 Counsel's Notice of Deposition as Exhibit 1.

9 (Whereupon, Exhibit 1 was marked for
10 identification.)

11 MR. HERNANDEZ: Charles, this is Danny. I just
12 found it. I was mistaken. I do have a copy here
13 with me.

14 MR. REHWINKEL: Okay.

15 BY MR. REHWINKEL:

16 Q. Mr. Hobbs, are you -- you're familiar with this
17 notice?

18 A. I am, yes.

19 Q. Okay. And you're also familiar with the list of
20 documents that we asked you to -- to bring with you?

21 A. Yes.

22 Q. Okay. And is it your understanding that Duke
23 made available the documents that you have that were
24 responsive to this list available on a share site
25 available to all of the eligible participants on the

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1 deposition?

2 A. Yes.

3 Q. Okay. And do you have a copy of the documents --
4 I think there were five of them -- that were provided?
5 Do you have a copy of those with you?

6 A. I -- let me check. This is -- yes.

7 Q. Okay. I would like to just go through those
8 depositions and understand which ones relate to which of
9 the requests, if I could.

10 And you may or may not have the Bates numbered
11 versions of these. Duke was kind enough to Bates Number
12 these 1 through -- I think it's 50. And I would ask you
13 if you have a -- Number 1, which is the report to the
14 transaction and risk committee?

15 A. Okay. Yes, I have -- so tell me the title again,
16 please, Mr. Rehwinkel.

17 Q. The report to the transaction and risk committee.

18 A. Yes, I have that.

19 Q. And it appears to be a 24-page document; is that
20 right?

21 A. Yes, sir.

22 Q. Okay. And if you have a copy of the notice of
23 deposition with you, could you tell me which of the
24 documents listed here this responds to?

25 A. So this was a report to the committee. So I

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1 think it would be Number 2, all communications between
2 the analysis and recommendation, so it would be to
3 Number 2 of the committee. Number 3, the documents that
4 the committee relied upon in its deliberations and
5 decisions. Number 5, for my testimony.

6 Q. Okay.

7 A. I think that would be the -- at least the three
8 that stand out to me.

9 Q. Okay. Thank you.

10 The next document is Bates numbered beginning
11 with 25 through 40. And it is a slide presentation
12 entitled "CR3 Accelerated D&D Feasibility,
13 Recommendation to TRC, March 19, 2019."

14 Do you have that?

15 A. Yes, I do have that.

16 Q. Okay. And can you tell me which of the numbers
17 this relates to?

18 A. I think it would be the same numbers as before.

19 Q. 2, 3, and 5?

20 A. Right.

21 Q. All right. And then number -- the document
22 starting at Bates 41 through 46 says "Scrub Team Review
23 Question and Answer Log."

24 A. Yes, I have that.

25 Q. You have that?

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1 Can you tell me which of the documents requested
2 that relates to?

3 A. It would be Number 1, Number 2. I think that
4 would be just those two numbers.

5 Q. Okay. 1 and 2. Thank you.

6 And then we have Bates 47 through 49. And it
7 says "Utility Sheet Objections."

8 A. Yes, sir, I have that.

9 Q. Okay. Can you tell me the number for that one?

10 A. Number 1, Number 2, Number 3. I think that's all
11 of it.

12 Q. Okay. And then finally, an Excel spreadsheet
13 Bates numbered 50. And over on the upper right-hand
14 side, it says "CR3 Accelerated Decommissioning Trust
15 Fund Balance?"

16 Do you have that?

17 A. I do have that.

18 Q. What would be the corresponding numbers for that
19 one?

20 A. Number 1, Number 2, Number 3. I think that's it.

21 Q. Okay. So of -- of these five documents, the two
22 that you also designate as being a document that you
23 either used or reviewed or considered in preparing your
24 testimony?

25 A. Yes.

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1 Q. Okay. And does that mean both rebuttal and
2 direct?

3 A. More so my direct testimony.

4 Q. Okay. All righty. I think I'm going to start --
5 if you have your direct testimony with you?

6 A. Yes, sir, I do.

7 Q. Okay. And I think I want to start with your
8 direct and just ask you some preliminary questions
9 before I get into your rebuttal.

10 If I could ask you to turn to your -- your direct
11 testimony. And on Page 2, you talk about your
12 educational background and professional experience on
13 lines, I guess, 1 through 9.

14 A. Yes.

15 Q. Tell me about the -- the senior operator --
16 reactor operator license. When did you get that and how
17 long did you -- were you a nuclear plant operator,
18 licensed operator?

19 A. So I was a licensed operator from -- let's see --
20 for 11 years. I was a senior reactor operator licensed
21 by the Nuclear Regulatory Commission for eight years,
22 1992 to 2000.

23 Q. I'm sorry. There was something -- there was a
24 break in the -- in the audio.

25 You were a licensed operator for 11 years?

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1 A. Yes, sir.

2 Q. And what were those years?

3 A. 1989 until 2000. And then I was a senior
4 operator -- I'm including my years as a senior reactor
5 operator. In those years, I was a senior reactor
6 operator from 1992 until 2000.

7 Q. Okay. I got it.

8 And were -- so where did you -- what plant were
9 you for the 11 years?

10 A. This is the Harris nuclear plant in North
11 Carolina.

12 Q. So you never were an operator at CR3?

13 A. No, sir.

14 Q. Okay. Were you -- when did you first go to work
15 at CR3?

16 A. 2005.

17 Q. '5?

18 A. 2005.

19 Q. Okay. So you were -- what was your role from
20 2005 to 2009?

21 A. I was the nuclear oversight manager for an
22 independent audits and assessments from 2005 till 2007.
23 And from 2007 till 2010, I was a projects control
24 manager.

25 Q. And was that just at the CR3 site or did you have

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1 anything to do with the Levy project?

2 A. Did you say -- which project, sir?

3 Q. Levy.

4 A. The department that I was in was part of that
5 Levy project. My department was not. So the project
6 that I -- the projects control group was not related to
7 the Levy project.

8 Q. Okay. So after 2010, what was your -- your role?

9 A. Let me think. Let me get my years straight. I
10 was project controls manager until 2011. I apologize.

11 Q. Okay.

12 A. So I went to the Robinson plant for a five-months
13 assignment. The Robinson plant was in South Carolina.
14 I was there from January to July of 2011. At that
15 point, I was asked to become the general manager for
16 Crystal River 3. And I have been in that position
17 since.

18 Q. Okay. So you came back around the time of -- I
19 guess there was a delamination event in July of '11?

20 A. It was in the summer of 2011. I think it was
21 July, but I know it was in the summer. So it was -- if
22 it was not in July, it was around July.

23 Q. Okay. And what was the -- what was the reason
24 that you came back to be general manager of the CR3
25 facility? Was it to be a part of the repair, or were

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1 you anticipating then that it was going to be maybe shut
2 down?

3 A. Neither of those. The repair was a separate
4 standalone project. I went back to lead the plant
5 staff. And we were preparing for another round of
6 putting the plants systems in lay-up, maintaining the
7 plant programs healthy, knowing that there had to be a
8 future decision made. My job was to keep the plant
9 viable if that decision would be made, that we would do
10 another repair and restart.

11 Q. Okay. Okay. And so between July of 2011 and
12 February, I believe it was, 5th of 2013, decisions were
13 made that ultimately resulted -- no -- that ultimately
14 resulted in the plant being shut down permanently?

15 A. Yes, sir.

16 Q. Okay. All right. Do you have general knowledge
17 of the event that was associated with the -- the steam
18 generator repair in 2009?

19 A. Yes, I have general knowledge of that event.

20 Q. Okay. And do you also have some general
21 knowledge about the -- the upgrade that was -- or the
22 phase of the upgrade that was underway in conjunction
23 with the outage for the steam generator repair?

24 A. Yes, I have general information about the
25 extended power upgrade that was to be performed in

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1 conjunction with the steam generator replacement project
2 in 2009.

3 Q. Okay. And I assume you also have general
4 knowledge about the -- the delamination event and the
5 repair attempts associated with the aftermath of the
6 steam generator repair?

7 A. I do have general knowledge of that, yes, sir.

8 Q. Okay. And you have general knowledge about the
9 events that were associated with the Levy project? And
10 I mean at a -- at a high level.

11 A. I was not -- no, I was not involved in the Levy
12 project. I followed it, as other company employees
13 would, through the years, but that was just as an
14 employee. You know, general -- general news of what --
15 what was going on with -- with our company.

16 Q. Okay. That's fair.

17 And I only ask these questions, not to ask you
18 about those events, because I'm not going to do that,
19 but I just wanted to understand if you have any
20 appreciation for the perspective that the customers have
21 about some -- some of the events that occur in -- and
22 I'm going to call it the nuclear space with the Florida
23 Duke Progress company.

24 A. Yes, I do.

25 Q. Is it your understanding that although there have

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1 been a number of settlements and negotiated agreements
2 since 2010 related to Levy, CR3, and the CR3 upgrade,
3 that there is some level of trepidation by the customers
4 and their representatives about additional costs
5 emanating from the CR3 nuclear plant?

6 MR. HERNANDEZ: Object to form.

7 BY MR. REHWINKEL:

8 Q. Do you understand my question?

9 A. I don't think I did.

10 Q. Okay. Well, do you have a perspective that the
11 customers feel like they have a -- an -- incurred a
12 significant cost related to nuclear projects that
13 ultimately failed?

14 MR. HERNANDEZ: Object to form.

15 A. So I interact with members of the public and
16 elected officials routinely for activities in progress
17 at the Crystal River complex as well as Crystal River 3.
18 And in those interactions, these topics have never come
19 up to be discussed.

20 That's my personal experience. I'm not speaking
21 for, you know, other venues where there may be
22 discussions.

23 BY MR. REHWINKEL:

24 Q. Okay. So if I ask you the same question, but
25 about the representatives that -- that have dealt with

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1 the issue before the Public Service Commission, would
2 your answer be the same?

3 A. Which representatives, sir?

4 Q. Myself, Mr. Brew, Mr. Moyle, that represent the
5 customers before the Public Service Commission.

6 MR. HERNANDEZ: Object to form.

7 A. I don't -- I don't have an opinion on that. I
8 understand that a lot of -- you said we are a regulated
9 utility by the commission. I understand that there are
10 ongoing proceedings that are with many of the
11 stakeholders and shareholders here on this call, but I
12 have no insight into that. I'm not really privy to that
13 or part of that.

14 BY MR. REHWINKEL:

15 Q. Okay. All right. That's fair enough.

16 I just wanted to understand if you have a
17 perspective on it.

18 Let's turn to Page 9 of your direct testimony.
19 And if you could also, if you have a paper copy, open up
20 your rebuttal to Page 11. And I kind of want to ask you
21 a set of questions here just so I understand.

22 If I look on Page 9 of your testimony, Line 4, it
23 says: "ADP is assuming all project execution risk, such
24 as cost overruns or emergent conditions, which provides
25 a high level of cost certainty to DEF customers."

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1 Did I read that right?

2 A. Yes, sir.

3 Q. And then if I look on Page 11 of your rebuttal,
4 Lines 1 and 2 read: "With the exception of any changes
5 to End-State Conditions, ADP CR3 assumes all project
6 implementation risks, including scope change conduct,
7 relations, et cetera."

8 Do you see that?

9 A. Yes, sir.

10 Q. Did I read that right?

11 A. Yes, sir.

12 Q. And then if I go to Page 13 of your rebuttal,
13 there is a sentence that starts on Line 18 that reads:
14 "The DOJ of the fixed-price contract with no change
15 order provisions, with the exception of changes to
16 End-State Conditions and transfers all project
17 implementation risks (including scope changes, cost
18 escalations, et cetera) to ADP CR3."

19 Did I read that right?

20 A. Yes, sir.

21 Q. So my question is -- maybe in too many words to
22 ask you a simple question -- what's the difference
23 between project execution risk and project
24 implementation risks?

25 A. I think they're the same risk. I think that

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1 they -- when I think of those two terms, I think of them
2 as the same. I think of them as, you know, labor
3 increases.

4 I think of cost escalations in other areas. All
5 of those risks that occur during a project -- this is
6 roughly a 6 1/2-year project. Those are all in that
7 fixed-price agreed amount.

8 Q. Okay. Is there -- is there any reason why you --
9 you used the word "implementation" in the rebuttal
10 versus "execution" in your direct?

11 A. I did not intend any precise meaning in the word.
12 I used these interchangeably in this testimony.

13 Q. I was asking because, to me, implementation sort
14 of means to sort of start and get underway with
15 something versus execution, which -- which conveys
16 completion. But you wouldn't agree with that?

17 A. No, sir.

18 Q. If I look back on page -- you put your rebuttal
19 aside for now. Go back to your direct and back on
20 Page 9.

21 A. Yes, sir.

22 Q. There is a sentence that starts on Page 9,
23 Lines 10 -- Line 10 and ends on Line 12. It says:
24 "Accepted escalation and waste disposal cost is
25 particularly concerning, given the limited capacity of

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1 licensed waste disposal sites and the growing number of
2 plants that are expected to be retired in the next ten
3 years."

4 Do you see that?

5 A. Yes, sir.

6 Q. Is there something here that -- is there a reason
7 you used the phrase "accepted escalation of waste
8 disposal cost" in conjunction with this?

9 Are you saying that waste disposal costs are
10 going to be fixed under this -- under this agreement?

11 MR. HERNANDEZ: Object to form.

12 A. I think that's two questions.

13 I think your first question is why I highlighted
14 waste disposal cost. So is that for -- is that correct?
15 Was that your first question?

16 BY MR. REHWINKEL:

17 Q. Yeah. That's a good way to break it down. Thank
18 you.

19 A. There were only two for commercial power plants.
20 There's two currently licensed waste disposal sites.
21 One's in Clive, Utah. The second one is Waste Control
22 Specialists in west Texas, specifically Andrews County.
23 So it's a very finite burial capability in the United
24 States at this time. These -- these things, they are
25 regulated by many agencies, including the regulatory

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1 boards and are also licensed at both the Nuclear
2 Regulatory Commission, and the states that they are in.

3 So as I watch my industry, you know, we've
4 recently -- in the last year, we've seen the Pilgrim
5 plant in Massachusetts. We've seen a plant in New
6 Jersey, Oyster Creek. We've seen Indian Point plant in
7 New York state shut down. And then coming in the next
8 few years, it's been announced two big units in
9 California, the Diablo Canyon plants. And then the
10 Beaver Valley plants in Pennsylvania may come down.

11 So that is what I was attempting to communicate,
12 is that we have a fixed burial capability within the
13 United States, yet the production of the material that
14 has to be packaged, transported, and disposed of at
15 those sites continues to go up -- go up over time.

16 That's what -- in my testimony, that's what I was
17 attempting to communicate.

18 Q. Okay. So the second part of my question was
19 whether the cost of waste disposal is fixed under the
20 agreement that you're asking the commission to approve?

21 A. So Section 6.2 of the DSA, the decommissioning
22 services agreement, addresses that question. It
23 describes how CR3 -- ADP CR3 will enter into fixed
24 contracts with their affiliates and their subcontractors
25 to conduct the decommissioning project. And it does

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1 specifically talk about Waste Control Specialists.

2 It says -- and I'll quote part in Section 6.2:

3 "Contractor anticipates" -- contractor being ADP CR3 --

4 "anticipates that it will enter into a unit price

5 subcontract with Waste Control Specialists, LLC, for

6 waste disposal services, provided, however, in the event

7 that contractor is able to obtain a fixed-price

8 subcontract, Waste Control Specialists, LLC, shall post

9 a payment and performance bond that complies with other

10 requirements within this."

11 So what is in the current agreement, it -- ADP

12 has yet to enter into that contract; therefore, the form

13 of that contract is not known today.

14 Q. Okay. So at this point, this is a -- an open

15 item, meaning the pricing of the --

16 A. The ADP will need to -- to perform.

17 Q. I apologize. I think I talked over you Terry.

18 Could you restate your answer?

19 A. I don't know that I would consider it an open

20 item. I think it is one of several contracts that ADP

21 will enter into with either affiliates or subcontractors

22 over the life of the project, roughly a 6 1/2-year

23 project.

24 Q. If ADP does not enter into a fixed-price contract

25 with Waste Control Specialists, that wouldn't be a

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1 violation of the DSA, assuming that Duke executes the
2 DSA; is that right?

3 MR. HERNANDEZ: Object to form.

4 A. I'm -- I'm not -- I'm not sure I understand your
5 meaning of the word "violation."

6 I read what the current DSA suggests. So I read
7 that to mean that ADP intends -- and at the time we sign
8 this agreement, they certainly intend to enter into the
9 agreement with Waste Control Specialists. In
10 discussions, the reason that is, is that the Waste
11 Control Specialists in Texas, they can take -- there's
12 classes of waste, generally for radioactive waste,
13 generally speaking, that Class A, B, and C, they are
14 licensed to take all three classes of radioactive waste.
15 The facility in Utah is not and is strictly a Class A
16 facility.

17 So that is -- that's my understanding of why the
18 intent is for ADP CR3 to enter into a contract with
19 Waste Control Specialists.

20 BY MR. REHWINKEL:

21 Q. Okay. So I'm trying to understand if it's going
22 to be a fixed-price contract or not, or if there would
23 be some variability in the pricing.

24 MR. HERNANDEZ: Object to form.

25 A. I think that is ADP's decision, and it does not

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1 affect the price to Duke Energy Florida.

2 BY MR. REHWINKEL:

3 Q. Okay. If ADP's affiliate, Waste Control
4 Specialists -- you agree they're affiliates, right?

5 A. I do agree, yes, sir.

6 Q. If ADP's affiliate, Waste Control Specialists,
7 entered into a contract that allowed Waste Control
8 Specialists to raise the price for the disposal of waste
9 from CR3, based on market conditions, for example, could
10 that impose a risk to the completion of the -- the
11 project?

12 MR. HERNANDEZ: Object to form.

13 A. I think it is one of the risks that we talked
14 about a few moments ago, in that ADP is assuming that
15 risk in the fixed price nature of their contract with
16 Duke Energy Florida. There's a lot of protections that
17 I'm sure we're going to talk about today that were
18 specifically included in this agreement as we thought
19 about all of these various scenarios.

20 And when I say "protections," I'm talking about
21 protections for Duke Energy Florida and its customers,
22 not what may happen between ADP and its affiliates.

23 BY MR. REHWINKEL:

24 Q. Well, if there is a problem -- well, let's go
25 back to the sentence you read on Page 43 of the DSA,

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1 which is Page 49 of your exhibit.

2 And this is a -- it starts at the top, it says:
3 "Contract" -- "contractor" -- which you said is ADP,
4 right?

5 A. Correct.

6 Q. -- "anticipates that it will enter into a unit
7 price subcontract with Waste Control Specialists, LLC,
8 for waste disposal services," right?

9 A. Correct.

10 Q. What is your understanding of what a unit price
11 subcontract is?

12 A. I'm certainly not an expert in that. But I think
13 that possibly is a per shipment type of charge.
14 These -- these will be shipments from the Crystal River
15 site to the west Texas site mostly by train car, I
16 believe is the current plan by ADP. So that would be an
17 example of a unit price. There could be others. I
18 don't know a lot about that business. But that's an
19 example.

20 Q. All right. So a unit price subcontract doesn't
21 necessarily mean it will be a fixed-price contract; is
22 that right?

23 MR. HERNANDEZ: Object to form.

24 A. Again, I'm not an expert in waste shipments. But
25 it -- I see this where it talks about two contracting

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1 strategies. One would be a unit and the other would be
2 a fixed price. So, you know, there's -- that's
3 flexibility for ADP to manage this project effectively,
4 efficiently, cost effectively. And we, Duke Energy,
5 certainly agreed to give them those options.

6 BY MR. REHWINKEL:

7 Q. Okay. We talked -- I talked yesterday to
8 Mr. Adix about low-level radioactive waste. There's A,
9 B, and C, and then there's something called GTCC, or
10 Greater-Than-C --

11 A. Yes, sir.

12 Q. -- something like that?

13 A. Yes, sir, Greater-Than-Class C waste.

14 Q. Yes, that's what the other C is, class.

15 So he told us that WCS at Andrews is licensed and
16 taking ABC radioactive waste today.

17 Is that your understanding?

18 A. Yes, it is my understanding.

19 Q. I wasn't clear. And I want to know your
20 understanding about the GTCC capabilities of the WCS
21 site.

22 Is it your understanding that that capability is
23 licensed for WCS at Andrews today?

24 A. My understanding today is that it is not licensed
25 to take Greater-Than-Class C waste; however, I have -- I

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1 have heard ADP people discuss that that is something
2 that they would pursue, along with what they're
3 currently pursuing with respect to the interim -- a
4 centralized interim storage facility for used fuel.

5 So I think that's why those discussions are going
6 on. It's actually the used fuel discussions that our
7 nation has had for 40 something years. And right now,
8 regulatory-wise, Greater-Than-Class C waste, says it is
9 not suitable for shallow burial.

10 And generally, Class A, B, and C waste is
11 suitable for shallow burial and would not pose a
12 radiation risk to members of the public.
13 Greater-Than-Class C burial needs a more robust --
14 either a depository or very robust storage and generally
15 appointed to radiation levels.

16 So right now, Greater-Than-Class C waste that
17 would -- will be produced during this project, ADP
18 project, would be stored along with the used fuel at the
19 Crystal River site. And the current thinking is that it
20 would go along with the fuel canisters, whenever the
21 Department of Energy designates where and when that
22 transport would occur.

23 Q. So if -- so is it your -- your planning
24 assumptions is that there wouldn't be shipment of GTCC
25 waste in advance of DOE coming back -- coming by and

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1 picking up the spent fuel canisters?

2 A. That's my current understanding, yes.

3 Q. Okay. Let me ask you if you've got the report
4 to the transaction and risk committee, which is Bates 1?

5 A. I do have it in front of me.

6 Q. Okay. Actually, let me -- I'm going to hold off
7 on that. I apologize for that. Let me -- let me put
8 that aside for a second.

9 Actually, no, I take that back. I do have a
10 question. I apologize.

11 If I could get you to look -- well, first of all,
12 what's in this report, is this accurate? Does it
13 support what is in the DSA and what -- and what is
14 before the commission for approval?

15 MR. HERNANDEZ: Object to form.

16 BY MR. REHWINKEL:

17 Q. Actually, let me withdraw that question. Let me
18 reask that.

19 Are you familiar with this document?

20 A. Yes, sir, I am.

21 Q. Did you have a role in preparing?

22 A. Yes, sir, I did.

23 Q. Okay. What was your role?

24 A. I was the general manager in charge of the
25 project team that went through this entire process,

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1 starting in 2017 and up until we signed this contract,
2 on May 29th of 2019. So this was part of my project
3 team, which I was the leader of, of both our internal
4 interview processes to seek approval all the way to our
5 board of directors.

6 The transaction and risk committee, they are
7 cross-functional senior leaders of our company that
8 scrub and look at these types of projects and make a
9 recommendation ultimately to our chief executive officer
10 and our board of directors.

11 So that's the context of this report.

12 Q. Okay. Were you -- would you say you were the
13 primary author of it?

14 A. I would say it was more of a collaborative
15 approach from many groups -- parts of my team to make
16 sure that we accurately communicated with our senior
17 executives, our board, all of the aspects of this
18 agreement.

19 Q. When you transmitted it to the -- to the TRC,
20 which is the transaction and risk committee, was it
21 under your name?

22 A. I don't recall. I don't recall formally how --
23 how this was transmitted. But the process -- the
24 process, these two documents that we brought is, this
25 was submitted and then the accompanying PowerPoint

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1 presentation is what we actually discussed during the
2 committee's meeting.

3 Q. Okay. So is what happened, you prepared the
4 report, the PowerPoint was -- was prepared for the TRC
5 to consider and take action on; is that accurate?

6 A. I think that the white paper is the document that
7 the committee members read and understood.

8 The PowerPoint was to facilitate the -- an
9 efficient meeting to go through the details of the
10 agreement. That's how I viewed the two, how they worked
11 together.

12 Q. Okay. The scrub team review question and answer
13 log, how -- how did that fit into the timeline
14 between -- was it before or after the -- the white
15 paper, as you call it?

16 A. I think those were happening in parallel. And I
17 believe in our testimony, in my testimony previously, my
18 project team -- I had a project director that had
19 project control folks, different people -- is that they
20 engaged with the scrub team more than a month before
21 the -- the committee was to take it up. So the document
22 should mention is some -- the back and forth of the
23 discussions that was taking place between my project
24 team and all of the cross-functional members of Duke
25 Energy.

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1 Q. Okay. And so who is C. Lee?

2 A. I'm sorry?

3 Q. And now I'm looking at the scrub team transaction
4 review document.

5 A. Which document, sir?

6 Q. I apologize. It's called the "TRC Scrub Team
7 Transaction Review, Scrub Team Member Sign Off."

8 A. All right.

9 Q. Who are these -- it says "sign off member." Are
10 those -- who are those people, C. Lee, Kate Passarelli,
11 Lewis Camp, Arnold Garcia, Steven Holmes, Andrew
12 James --

13 A. Those --

14 Q. -- et cetera?

15 A. Those are generally managers that work for the
16 senior executives that serve on the TRC. And this is
17 the process that Duke Energy uses to make sure that we
18 have -- and, you know, if you look at the functional
19 variable, it's very cross-functional so that as a Duke
20 Energy company, we have this process in place to make
21 sure we are taking a very broad look at these types of
22 projects as we go through the review and approval
23 process.

24 Q. So are those the members of the TRC?

25 A. No, sir. These are the scrub team members that

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1 report to members of the TRC.

2 Q. And just so I understand, these scrub team
3 members, they -- they would have questions or
4 concerns -- well, they call it comment, conditions, or
5 management consideration. They were listed here on the
6 right.

7 A. Correct.

8 Q. And they were associated with either a sign off
9 or there being something pending, based on resolution or
10 concern or questions they've raised?

11 A. Correct.

12 Q. Okay. And was -- so the -- these -- the dates on
13 this thing are scrub team meeting dates, February 20,
14 2019, scrub team sign off date, March 6, 2019, and then
15 a TRC meeting date of March 19, 2019; is that right?

16 A. Yes.

17 Q. So we see in the sign off date column, the
18 relevant people signing off that they're -- I guess that
19 they approved it and any concerns they had had been
20 resolved?

21 A. As I -- as I look, when I see some of the sign
22 offs had "pending," remember the negotiations were still
23 continuing. So -- so you can see on Line Item 3, as an
24 example, to where my project team, we continue to engage
25 these folks until we actually completed the -- the

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1 negations. And yes, I can confirm that all the concerns
2 were, in fact, addressed in the DSA. And that's just
3 the timeline of how these things were happening.

4 Q. Okay. So this scrub team review question and
5 answer log, which is another one of the documents that
6 you produced, it appears that there is a question date
7 on the left and an answer date on the right. These
8 dates generally precede the transaction review document;
9 is that fair?

10 A. Yes.

11 Q. So the question and answer logs are the scrub
12 team looking at your project and asking you questions or
13 your team questions about it and then you answering
14 them. And then that culminated in the transaction
15 review sign off; is that right?

16 A. Yes, that's how I understand the process worked.

17 Q. Okay. And you got Jeff LaPratt -- on the project
18 team?

19 A. Jeff was on my project team. He worked for the
20 project director that reported to me.

21 Q. Okay. So the scrub team would ask questions and
22 Jeff was responsible for communicating back what the
23 project team's answer was to these questions and tests
24 that were sort of put to the project team about the
25 proposal; is that right?

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1 A. I don't -- I do not think Jeff acted in
2 isolation, no. I think Jeff had resources and folks,
3 for instance, the project director he reported to, maybe
4 Duke Energy legal, very cross-functional. So although
5 Jeff was respondent, he did not act in a vacuum or in
6 isolation in -- as these questions were discussed,
7 debated, and ultimately resolved.

8 Q. Okay. He's kind of the point person for the
9 project?

10 A. Yes.

11 Q. Okay. So if you could go to the white paper
12 now, and turn to Page 4, under 2.3, scope --

13 A. Okay.

14 Q. -- it says: "DEF will submit a license transfer
15 application (LTA) to the NRC, whereby ADP will become
16 the licensed owner and operator of CR3."

17 Do you see that?

18 A. I do see that.

19 Q. Is that -- is that completely accurate?

20 A. It is not how our agreement ended up. In the
21 agreement, as signed in May of 2019, Duke Energy Florida
22 continues to be the licensed owner of Crystal River 3,
23 other than the fuel that we typically referred to as the
24 ISFSI asset is a huge fuel asset. And that has been --
25 and that was communicated back to our senior management

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1 committee and to our -- to the members of the TRC.

2 Q. If you go to Page 1, under executive summary, and
3 you go down to the third paragraph, it says: "ADP will
4 receive a fixed amount of \$540 million to complete all
5 decommissioning activity, including disboundment of
6 existing of plant structures, the disposal of any waste,
7 and the restoration of the land to allow it to be
8 repurposed"; is that right?

9 A. Yes, sir.

10 Q. So this white paper, when it was developed, the
11 licensing was going to be as owner and operator, but the
12 price was going to be \$540 million fixed; is that right?

13 A. Yes.

14 Q. So as it turns out, though, ADP CR3 only became
15 the licensed operator and Duke remained the licensed
16 owner. Do I have that right?

17 A. Yes, sir.

18 Q. So what happens -- what happened to make that
19 change with no change in the price?

20 A. The price was always related to the scope of work
21 to get to the interim End-State Conditions, as defined
22 in the agreement.

23 The reason that this -- this evolution as we go
24 to negotiation was primarily related to protecting the
25 nuclear decommissioning trust fund for Crystal River 3.

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1 One of the main objectives we had from the beginning was
2 to not disqualify our trust that, frankly, has been a
3 building since 1977, when Crystal River 3 went into
4 operation. As we got into the details and our Duke
5 Energy legal consulted with outside legal experts, the
6 deal moved so that Duke Energy would remain the owner of
7 the -- of the property and the plant, other than the
8 fuel assets. But more importantly, Duke Energy Florida
9 owns and controls the nuclear decommissioning trust
10 fund.

11 So that is -- and there were other reasons, but
12 that's primarily why the evolution from owner-operator
13 to where Duke Energy, for the overall protection of the
14 nuclear decommissioning trust fund and protection of the
15 customers, that's how we ended up with the agreement
16 that we signed.

17 Q. So is it -- is it your testimony that Duke had to
18 remain the owner of the CR3 plant property, equipment,
19 and land, et cetera, in order to maintain the status of
20 an MDO or nuclear decommissioning trust fund?

21 A. That is my understanding. I'm not an attorney,
22 certainly not a tax attorney. But those were the
23 discussions as we were negotiating that got us to the
24 final agreement where Duke Energy -- as I said, we owned
25 the property, plant, equipment, other than the fuel

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1 assets. And more importantly, we continue to own and
2 control the trust fund.

3 Q. Okay. Turn to Page 10, if you wouldn't mind, in
4 the white paper, under 2.11.

5 A. Okay.

6 Q. And under the -- the first black bullet, there
7 are two white bullets. And under the second white
8 bullet, it says: "The ANI insurance policy will be
9 transferred to ADP."

10 Do you see that?

11 A. I do see that.

12 Q. Is that how -- is that how it turned out?

13 A. Give me just a moment. It's covered in the DSA.
14 I just need to find the particular section.

15 Q. And this relates to Page 12, Line 17 of your
16 testimony, your direct testimony also.

17 A. Okay. So Section 14.2 in the DSA says: "Company
18 shall maintain the nuclear insurance policies with
19 ANI" -- which is American National Insurers -- "and
20 NEIL" -- which is our property damage insurer. ANI is
21 the insurance associated with radiological events,
22 including during transportation.

23 And this is related to what we just discussed
24 about who is going to be the owner.

25 So as owner, we determined that we should

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1 continue to be the insurer.

2 Q. Okay. Who pays for the premiums for the ANI and
3 NEIL, N-E-I-L, all caps, insurance?

4 A. I will have to check. It's in here somewhere.
5 But I believe Duke Energy Florida will pay the premiums.
6 However, there is contract language in Section 14 that
7 we will determine how we will separate the ISFSI
8 portions of these policies from the overall policy, and
9 ADP will be responsible for those portions.

10 That's the general agreement. I would need to
11 spend some more time looking at the details.

12 Q. Okay. I'm kind of interested in an answer to
13 this. So how much time would you need? What would you
14 need to do to figure that out?

15 A. I don't know. We can -- we can take a break.
16 And I can do some research.

17 Q. Well, let me do this, just so we don't lose this,
18 I'm going to identify a late-filed deposition exhibit.

19 MR. REHWINKEL: And, Madam Court Reporter,
20 we'll just -- where you list the exhibits, just list
21 the title and I'll give you -- for this and the page
22 where it's discussed. And then the company will be
23 responsible for providing it, and it won't have to go
24 through -- it won't have to go through you. It will
25 be sort of an arrangement that we have with them.

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1 (Whereupon, Late-Filed Exhibit 2 was marked for
2 identification.)

3 MR. REHWINKEL: Danny, I would like to identify
4 a Late File Number 2. And it -- and it -- I'm just
5 going to call it "ANI, NEIL, Premium" -- and I'm
6 going to put the word "assessment" in there --
7 "Premium/Assessment Cost Responsibility" as the title
8 of the late-filed exhibit.

9 And what I'd like to do is ask that you explain
10 who is going to be responsible for paying the
11 premiums for these two policies. And I put the word
12 assessment in there because I think NEIL can
13 periodically assess its members for the -- in a way
14 to pay for costs of the insurance.

15 If we can -- if we can come up with an answer
16 on a break, we can dispense with the response. But
17 if it needs more time, then we'll just do it as a
18 late file.

19 Is that acceptable?

20 MR. HERNANDEZ: That works.

21 Do you want to take a break now and -- maybe
22 ten minutes to look through and see if we can find
23 the answer?

24 MR. REHWINKEL: We can -- if now is a good time
25 to take a break, we can take one until 10:30. And if

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1 you-all determine that it takes -- needs more
2 research, we can just leave it as a late file;
3 otherwise, he can answer it and we can use this
4 number again for something else.

5 MR. HERNANDEZ: All right. I think that will
6 work.

7 BY MR. REHWINKEL:

8 Q. Before we go off the record, Mr. Hobbs, do you
9 understand what I'm looking for?

10 A. Yes, sir, I do. I know it's here. I generally
11 believe that what I described to you was accurate, but I
12 need to confirm that.

13 Q. Yeah, I don't want you to guess. So I appreciate
14 it. Thank you.

15 MR. REHWINKEL: So let's take a ten-minute --
16 we'll come back at 10:30.

17 THE WITNESS: Okay.

18 (Whereupon, a break was taken from 10:18 a.m.
19 to 10:33 a.m.)

20 MR. REHWINKEL: I think you have information or
21 a response about the question that's pending?

22 MR. HERNANDEZ: Yes, Charles. As you
23 indicated, we are going to take the option of filing
24 the late-filed exhibit, Exhibit Number 2, to answer
25 the question that you posed. Mr. Hobbs briefly

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1 reviewed the documents that he has in front of him
2 right now, and could not find the answer. So we are
3 going to provide the answer in the late-filed
4 exhibit.

5 MR. REHWINKEL: Okay. That's fine.

6 BY MR. REHWINKEL:

7 Q. Okay. So let's -- let's go to -- while we're on
8 Pages 10 and 11 of the white paper.

9 Other than -- well, let me see if I understand.
10 The agreement as it stands now has the ANI policy
11 staying with Duke instead of being transferred to ADP;
12 is that correct?

13 A. That's correct.

14 Q. Okay. If you could look at the items under 2.11
15 related to insurance, can you tell me if anything else
16 is in there differently in the DSA than is in the white
17 paper?

18 MR. HERNANDEZ: Object to form.

19 A. I'm not -- so because -- I think what I said
20 previously, Mr. Rehwinkel, was that because that Duke
21 Energy will continue to be the owner, we will be -- we
22 will be the insured for ANI and NEIL insurance.

23 Your question to me that I need to dig deeper
24 into was, how -- how was the premium paid, and if there
25 is any money coming back, who does it go to? Duke

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1 Energy Florida ADP? I will get those answers. It's in
2 the DSA. I just need time to go back and refresh my
3 memory.

4 BY MR. REHWINKEL:

5 Q. All right.

6 A. So now you're asking me, is there other parts of
7 this section that change while we completed
8 negotiations?

9 Q. Yes, sir.

10 A. No. I think those second and third bullets are
11 still correct. And then I go to the next page, I think
12 that's still correct.

13 Q. The last bullet there, environmental pollution
14 insurance, 25 million coverage, is that the Item 8 on
15 Page 11 of your rebuttal testimony?

16 A. What page again, please?

17 Q. I apologize. Page 11 of your rebuttal.

18 A. I think that equates to the Number 8, the --
19 the -- let me see what it says on the white paper.

20 I'm sorry. I've lost track of your question.
21 Ask me again, please.

22 Q. The last bullet, Number 2.11, it -- it just says
23 environmental pollution insurance, \$25 million coverage.

24 A. Right.

25 Q. And the question I have is: Is that -- is that

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1 what is referred to in Item 8 on Page 11 of your
2 rebuttal?

3 A. Yes, it is. And the reason you see the
4 differences in the number is in the DSA, Attachment 16
5 is a sample of that policy. And it uses -- in the
6 sample, it uses the \$25 million policy, but I -- but
7 that's not in place yet. And I was informed a couple
8 weeks ago that the most recent quote that ADP has looked
9 at is the 30 million policy.

10 So it's the same policy, it's just until that
11 policy is established, the number, but it's going to be
12 in that range. It's in that 25 to 30 million dollar
13 range.

14 Q. Okay. And it says "DEF will reimburse ADP" --
15 I'm back on Page 11 of your testimony, Line 7 -- I mean
16 5 and 6. "DEF will reimburse ADP CR3 for the cost of
17 this policy."

18 A. Yes.

19 Q. Does that mean that that will be paid for out of
20 the -- out of the management side of the nuclear
21 decommissioning trust fund?

22 A. That will be an owner's cost that comes out of
23 the Crystal River reserve sum account.

24 Q. Okay. Let's go back to Page 1 of the -- of the
25 white paper. And I guess it would be the sixth

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1 paragraph down. It starts off with "project
2 efficiency."

3 Do you see that?

4 A. I do see that.

5 Q. Can you tell me -- well, can you just read that
6 paragraph, those couple of sentences?

7 A. "Duke" (transmission break) "can be achieved with
8 the CR3 project and the decommissioning of Crystal River
9 Units 1 and 2 being formed by sister companies. ADP
10 provided a \$5 million discount. The financial analysis
11 assumes we take advantage of this discount. This
12 assumption is consistent with the coal combustion
13 products plants."

14 Q. So in -- tell me about how this came about, if
15 you can.

16 MR. HERNANDEZ: Object to form.

17 A. My understanding about how this came about is
18 that the Units 1 and 2 were retired and there was a
19 competitive bid process that was conducted by coal
20 combustion projects. That's a -- it's a business unit
21 within Duke Energy. That was happening in parallel with
22 our negotiations with ADP.

23 Those are two completely separate projects, the
24 coal combustion project -- the contract is with
25 NorthStar, whereas we are with ADP. So there was

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1 standalone projects; however, in the ADP proposal,
2 knowing that those projects were coming up, this was
3 factored in to their bid of the fixed-price amount.

4 BY MR. REHWINKEL:

5 Q. So is it that it would be -- it would have been
6 545 -- 525 million instead of 540?

7 A. That's how I view it, yes.

8 Q. Well, what was the reason -- what was the reason
9 to lengthen by providing a discount -- let me step back
10 again.

11 Was it just a gratuitous discount or was it we'll
12 give you a \$5 million discount if you give us this job,
13 meaning either the CR1 and 2 or the CR3 job?

14 MR. HERNANDEZ: Object to form.

15 A. I -- I don't know the motives behind the
16 discussions that ultimately we had with ADP. I think
17 they were in a competitive bid process, and they wanted
18 to make offers to Duke Energy that would be attractive.
19 And this was part of the discussion.

20 BY MR. REHWINKEL:

21 Q. Well, did -- did they make the discount offer in
22 the competitive bid on CR1 and 2 or did they make it in
23 conjunction with the CR3 competitive bid process?

24 MR. HERNANDEZ: Object to form.

25 A. I don't recall. I don't recall how the

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1 discussion began.

2 BY MR. REHWINKEL:

3 Q. Was this -- Mr. Adix said that this was publicly
4 announced in conjunction with the CR3 announcement. Is
5 that your understanding? "This" meaning the -- the work
6 with CR1 and 2 and the discount.

7 A. I don't -- I know we made announcements on
8 May 30th of 2019 primarily focused on the Crystal
9 River 3 -- Duke Energy Florida-ADP agreement. I haven't
10 reviewed those communications in a year -- over a year.
11 So I don't recall the specifics of those and whether 1
12 and 2 -- Unit 1 and 2 demolition was included.

13 Q. Do you have with you a discovery response in the
14 DEF -- the Bates is 20190140DEFOPCPOD1-3. I'm looking
15 for Document Pages 1 through 28.

16 A. I did not bring --

17 MR. HERNANDEZ: Charles, tell me again what
18 you're looking for.

19 MR. REHWINKEL: 1 through 32. It's -- it's a
20 POD3 response in the first set. It's a 32-page
21 document. I want to go to Page 28.

22 MR. MOYLE: What's the Bates Number page,
23 Charles?

24 MR. REHWINKEL: It's OPCPOD1-3-0000 and the 28.

25 MR. HERNANDEZ: Charles, does it say, at the

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1 top of the page, say "project cost management"?

2 MR. REHWINKEL: Yes. Yes.

3 MR. HERNANDEZ: I'm going to scroll to the top
4 of the document so that the witness can focus.

5 MR. REHWINKEL: Actually, just go back --
6 that's Page 5 of this -- of this slide presentation.
7 So just go back a few pages. You can see the title
8 of the document I want to ask about.

9 MR. HERNANDEZ: It looks like some meeting
10 in -- it was a risk meeting, it looks like.

11 BY MR. REHWINKEL:

12 Q. The first page is CR3 commissioning risks,
13 January 22, 2019.

14 MR. HERNANDEZ: Okay. All right.

15 BY MR. REHWINKEL:

16 Q. Are you familiar with this document?

17 A. I'm certain I have looked at this document.

18 Q. Okay. Well, do you know why it would have been
19 prepared and who it would have been prepared for?

20 Actually, I think if you go to Page 23, there's
21 an email.

22 A. Okay. It says 7.

23 MR. HERNANDEZ: No, that's not the page he is
24 referring to. It says 30 there.

25 So you want us to go to 23, Charles?

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1 MR. REHWINKEL: Yeah. There's an email to Alan
2 Fata, Lewis Camp, Steve Herrera.

3 A. Yes, I know those folks, yes.

4 BY MR. REHWINKEL:

5 Q. Okay. So what -- what were their roles in the
6 project?

7 A. Matt Holstein is in risk management. And I
8 believe, if I go back to the sign off sheet, Lewis Cule
9 is on Number 3, and Lewis is on there. Matt Holstein
10 works for Lewis. Alan Fata was the project director who
11 reported to me for the -- you know, from 2017 through
12 2019 to -- to go through the competitive bid process.

13 Let me see what other --

14 Q. Okay.

15 A. -- those are -- I do not know who Steve Herrera
16 is. But those are the people that I know.

17 Q. Okay. So three people who were initially
18 involved in the development of the project are on this
19 email. And --

20 A. He is -- yes. And this is related to what
21 ultimately went through to the TRC scrub and to the TRC.

22 Q. Okay. So let's now turn back to Slide 5, which
23 is Page 28 of the POD.

24 A. Okay.

25 Q. And I would ask you to look at -- it says

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1 "project costs and fund management." Look at this and
2 see if there's anything on here that you disagree with
3 or that changed or turned out not to be what was assumed
4 in the DSA.

5 MR. HERNANDEZ: Object to form.

6 A. So I would start with the second bullet,
7 Mr. Rehwinkel. The ADP balance changes almost on a
8 daily basis.

9 BY MR. REHWINKEL:

10 Q. Okay.

11 A. The third bullet, cost to DEF will be 540
12 million, the remaining cost to be covered. So the
13 820 -- the 820 million, as it says there, includes split
14 fuel management. So -- and remember, we're not
15 paying -- Duke Energy Florida is not paying for any
16 spent fuel management from our nuclear decommissioning
17 trust fund. So that's the context of this.

18 At the time that this was discussed, the decision
19 to sell the fuel assets had not been completed. And so
20 that decision was made. And therefore, the 540 never
21 changed, but the total cost of the project is not part
22 of Duke Energy. That is internal to ADP. So that's
23 what the 820 is.

24 ADP, the bullet that says ADP is responsible for
25 the cost overruns and earning shortfalls is true in the

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1 DSA. ADP, they do take the risk if their investment
2 strategy turns out to not be good and there's a loss on
3 the subaccount, the IOI decommissioning subaccount,
4 rather than earnings. DEF will retain, that's still
5 true.

6 DEF will direct the trustee to pay ADP from the
7 subaccount as verified by the third party. The bullet
8 on the bottom where it refers to the third party, that
9 actually is going to be done by Duke Energy Florida,
10 especially the first year to two years. So I would say
11 that has evolved since this was put together.

12 The third party in this case would be an agent
13 for Duke Energy. We have a way to bring people in on a
14 part-time basis, if needed. So that was the reference
15 there.

16 And then funds will be returned, yeah. When
17 the -- the fourth is still correct. Currently, funds
18 not used during the project will be returned once the
19 spent fuel and Greater-Than-Class C waste is off site,
20 the deconstructed final site surveys. And then
21 ultimately, the NRC terminates the NRC license. So
22 those are the updates. I forget the date of this. I
23 think it was early on, wasn't it?

24 Q. January 22nd?

25 A. Yes, it would be the updates on what ultimately

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1 ended up in the decommissioning services agreement.

2 Q. Okay. So let's just talk about Bullet 3 and 4
3 together.

4 A. Okay.

5 Q. So you're saying that this -- this number isn't
6 correct as to Duke's cost, but is it still a cost of the
7 decommissioning, except that the difference between 540
8 and 820 is to be recovered -- is the responsibility of
9 ADP by either -- whatever -- whatever funds they have,
10 if they get more money out of their side of the trust
11 fund or they get recovery from DOE for maintaining the
12 spent fuel because there's not a permanent repository,
13 is that -- is that 820 still the overall bogey?

14 A. I do not know. As we went through the
15 negotiations and we decide to -- decided to enter into
16 the purchase and sell agreement, the 540 is the 540 that
17 Duke Energy Florida is going to pay. And in the DSA, it
18 specifically does not allow Duke Energy to pay for any
19 spent fuel management costs.

20 So whatever the spent fuel management cost
21 estimates that ADP has, they will self fund from
22 whatever means. They will either get into litigation or
23 reach an agreement with DOE reimbursement of whatever
24 percentage of the funds that DOE finds they should
25 reimburse.

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1 Q. Okay. So the 820 was your estimate, but ADP may
2 have a different number; is that right?

3 A. No, sir. The 820, I believe -- I would have to
4 go look -- comes from ADP's original proposal submitted
5 to Duke Energy on July -- I think it was July 27, 2018.
6 So that is ADP's estimate of spent fuel management
7 costs, not Duke Energy's.

8 So that's why I don't know what their current
9 estimate is. That's their internal estimation.

10 Q. Let's go to the next page, which is Bates 29 and
11 Page 6 of the presentation.

12 A. Okay.

13 Q. Okay. I think in your testimony, regardless of
14 whether its the word "implementation" or "execution
15 risk," you're saying that all of the risk, except for
16 the End-State Condition, is contractually shifted to
17 ADP. Do I understand that correctly?

18 A. Yes, that's what I have stated in my testimony.

19 Q. Okay. So let's just talk about where these risks
20 fall.

21 The vendor is unable to perform work, that risk,
22 where is -- what kind of risk is that and who bears
23 that?

24 MR. HERNANDEZ: Object to form.

25 A. That is ADP's risk.

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1 BY MR. REHWINKEL:

2 Q. Vendor becomes financially insolvent, you're
3 saying that's ADP's risk?

4 A. Yes, that is ADP's risk.

5 Q. Project falls behind schedule?

6 A. That is ADP's risk. The schedule performance of
7 ADP is covered in detail in the DSA.

8 Q. Vendor/subcontractors don't have technical
9 expertise required, that's ADP's risk?

10 A. Yes, sir.

11 Q. Nuclear or environmental incident, whose risk is
12 that?

13 A. That is ADP's risk.

14 Q. In every conceivable circumstance, it's theirs?

15 A. I am sure I have not considered every conceivable
16 circumstance, so no, I don't know that.

17 Q. Spent fuel not removed on time?

18 A. That is -- that is ADP's risk since they will be
19 the owner of that fuel until it is taken off the Crystal
20 River site to either an interim or permanent repository.

21 Q. Inadequate performance assurance?

22 MR. HERNANDEZ: Object to form.

23 BY MR. REHWINKEL:

24 Q. Whose risk is that?

25 A. That would be ADP's risk.

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1 Q. Damage to other Crystal River facilities, whose
2 risk is that?

3 A. ADP's risk.

4 Q. And change in NRC regulations?

5 A. That is ADP's risk, with the exception of a
6 change in End-State Condition.

7 Q. Are you familiar with the Environmental Liability
8 Provision 6.3 and the indemnification provisions in
9 Article 30?

10 A. I would say I'm familiar, but those, to me, are
11 very legal terms. As I said, I'm not a lawyer. So
12 my -- I understand them generally at a high level,
13 certainly not to any detail.

14 Q. So let's go to Page 49 and Provision 6.3,
15 environmental liabilities.

16 A. Are you in the DSA, sir?

17 Q. Yes, sir. I apologize. That's where I am.

18 A. That would be the section again, 6.3?

19 Q. 6.3, yes.

20 A. Okay. I'm there.

21 Q. So I had asked you from the slide about nuclear
22 or environmental incident.

23 Is it your understanding that this provision here
24 makes it clear that the -- the responsibility for any
25 environmental incident is -- is ADP's?

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1 MR. HERNANDEZ: Object to form.

2 A. Yes, this -- this is stating that it is an ADP
3 risk with respect to environmental liabilities.

4 BY MR. REHWINKEL:

5 Q. Okay. If there is, for whatever reason, an
6 accident or something where the spent fuel containers
7 are breached and there's a release of radiological
8 material either into the atmosphere or into the ground,
9 is it your -- is it the intent that that responsibility
10 is all ADP's and Duke does not have a risk for being a
11 responsible party?

12 MR. HERNANDEZ: Object to form.

13 A. An event of the type you just described,
14 Mr. Rehwinkel, would be between the government agency
15 and the licensee, who, in this case, is Accelerated
16 Decommissioning Partners.

17 That's part of the reasoning and the
18 decision-making to do the licensed transfer application
19 that we discussed earlier this morning.

20 BY MR. REHWINKEL:

21 Q. Was that a long way of saying yes?

22 A. I suppose so.

23 Q. Okay. How do you understand the indemnification
24 provisions in 13.1 and 13.2 to work, given that you're
25 not a lawyer?

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1 MR. HERNANDEZ: Object to form.

2 A. As explained to me, especially in 13.2, that we
3 would not hold ADP responsible for conditions
4 discovered, for example, on property adjacent to our
5 property, but not associated with the nuclear
6 decommissioning or scope of work that ADP will
7 perform -- you know, that ADP contributed. That's my
8 understanding of 13.2.

9 BY MR. REHWINKEL:

10 Q. What about 13.1?

11 MR. HERNANDEZ: Object to form.

12 A. The way I understand it, it says that if there
13 are conditions that the contractor will hold the
14 company, with no damage, if there are conditions caused
15 by the conduct of their work or their affiliates or
16 subcontractors.

17 BY MR. REHWINKEL:

18 Q. So if, heaven forbid, there is a nuclear -- an
19 accident with radiological -- harmful radiological
20 material released into the environment and you and ADP
21 are sued, ADP has to defend that lawsuit and hold you
22 harmless for any damages that are assigned to you by a
23 court?

24 MR. HERNANDEZ: Object to form.

25 A. That's beyond what I would try to postulate. I

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1 think I have explained to you my understanding of that.

2 So I don't know.

3 BY MR. REHWINKEL:

4 Q. Okay. If -- if you are sued as the owner of the
5 property, despite the provisions that assign
6 environmental liabilities and risks to ADP, and ADP, for
7 whatever reason, doesn't indemnify you or hold you
8 harmless, what would your -- what would your options be?
9 Would you -- would you have to pay and recover that from
10 the customers?

11 MR. HERNANDEZ: Object to form.

12 A. I wouldn't speculate on what that might look
13 like. I don't know.

14 BY MR. REHWINKEL:

15 Q. Okay. All right. My question is just trying to
16 understand kind of what the boundaries are, the rules
17 that -- that have been assigned in this. And I -- I
18 think --

19 So let me ask you this: Your testimony is that,
20 other than End-State Conditions, that the customers of
21 Duke should not expect to bear any costs associated with
22 harm that comes from an environmental accident over the
23 process of this entire decommissioning project; is
24 that -- is that accurate?

25 MR. HERNANDEZ: Object to form.

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1 A. Yes, that is -- that is what my testimony says,
2 that Duke Energy has a risk of a change in End-State
3 Conditions.

4 BY MR. REHWINKEL:

5 Q. All right. Let's go back to the white paper.
6 And let me ask you to turn to Page 15.

7 MR. HERNANDEZ: What page did you say, Charles?

8 MR. REHWINKEL: 1-5, 15.

9 A. All right.

10 BY MR. REHWINKEL:

11 Q. And I want to ask you to look at the top half,
12 above -- I guess it's 4.2, stakeholder discussion.

13 And right there above Section 5, assessment of
14 adhered to corporate governance, there's a paragraph
15 that starts "after the deal closes."

16 Do you see that?

17 A. I do see that.

18 Q. You see that paragraph?

19 A. Yes, sir, I do.

20 Q. Okay. There is a sentence that says: "DEF will
21 also require ADP to submit monthly and quarterly reports
22 and undergo annual audits."

23 Is that still the case?

24 A. It is, yes.

25 Q. So there would be monthly reports required?

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1 A. The context of the monthly reports are the
2 detailed reports that Duke Energy would get in
3 conjunction with the monthly invoice so that Duke Energy
4 can ensure that we are only paying for work completed.

5 Q. And then under Section 5, the last sentence on
6 that page, it says: "The counterparty will become the
7 NRC licensed owner and operator."

8 We talked about that's now just the operator,
9 right?

10 A. Yes, sir, correct.

11 Q. "Will have responsibility to complete the D&D
12 project. DEF will not have significant ongoing role."

13 Is that -- is that still correct?

14 A. Yes, that's still correct.

15 DEF will have an owner's role. And I described
16 the primary role, which is to -- if you go back to the
17 paragraph that we were just discussing, DEF role will be
18 to ensure on a monthly basis we're only paying for work
19 completed.

20 And then you'll also notice from a Duke Energy
21 Florida reputational perspective, we built into
22 Attachment 9 of the service agreement, that that would
23 be made public, that DEF would be informed -- I think
24 generally within 24 hours. So that would be the second
25 role that Duke Energy had on an ongoing -- on an ongoing

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1 basis.

2 Q. So if I go back up to the first sentence I asked
3 you about, in the top half of the page, after the
4 monthly reports and annual audits sentence, it says:
5 "DEF will use this information to validate performance,
6 ensure financial sufficiency, and inform internal
7 stakeholders of the project status."

8 Did I read that right?

9 A. Yes, sir, you did.

10 Q. So would the monthly reports be used to validate
11 performance?

12 A. Yes, that's how Duke Energy Florida will ensure
13 we're only paying money from the trust fund for work
14 that is completed.

15 Q. Okay. And that's not the point --

16 A. Yes.

17 Q. Okay. Well, go back over the -- page --

18 A. The whole paragraph, when you think about
19 performance, included in Attachment 9 -- let me make
20 sure that's there, the attachment I'm thinking it is.
21 Reporting and notification requirements. There's a good
22 bit of detail in Attachment 9, and it's quarterly and
23 monthly. So there are things such as regulatory
24 submittals, violations from government agencies,
25 notifications to government agencies, updated schedules.

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1 There's -- Duke Energy will be familiar with the
2 overall performance in many aspects during the 6 1/2
3 years of this project.

4 Q. Okay. If I go back to Page 14 of the white
5 paper, under regulators -- you see the regulators box
6 there?

7 MR. HERNANDEZ: Regulators?

8 A. Yes, sir.

9 BY MR. REHWINKEL:

10 Q. It says -- the last item says: "The Florida
11 Public Service Commission will continue interfacing with
12 DEF, monitoring the sufficiency of the nuclear
13 decommissioning trust fund, which DEF will manage, and
14 receiving routine reports about the decommissioning
15 project."

16 Did I read that right?

17 A. Yes, you did.

18 Q. What is -- what is the -- what routine reports
19 would the commission get?

20 A. When we wrote this paper, we knew that we would
21 come before the commission and we would -- that we would
22 continue to be regulated by the commission. And we knew
23 that the commission would likely let us know what their
24 informational desires would be. And what we were
25 communicating here is that we would, in fact, keep

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1 whatever request was finalized for the commission.

2 Q. If the commission requires a level of reporting
3 that you had not contemplated, would that impact the
4 deal?

5 MR. HERNANDEZ: Object to form.

6 A. No, I don't think it would affect the deal. I
7 think Duke Energy Florida would want to be transparent
8 with the commission. And I can't think of a situation,
9 what we wouldn't share, that is available to Duke Energy
10 Florida.

11 BY MR. REHWINKEL:

12 Q. So your answer there doesn't apply to the monthly
13 reporting recommendation of Mr. Polich?

14 MR. HERNANDEZ: Object to form.

15 A. We wrote this 15 months before I saw Mr. Polich.
16 I haven't tried to do any comparisons of any of these
17 documents.

18 BY MR. REHWINKEL:

19 Q. That's fair.

20 I'm just trying to understand if the commission
21 said, We'll -- we'll order you to do what Mr. Polich
22 says on a monthly reporting, is that -- I'm trying to
23 understand if that sort of concept -- if the commission
24 wants it, is it within the scope of what you
25 contemplated here or is it something more that would

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1 change the balance of the deal that you struck?

2 MR. HERNANDEZ: Object to form.

3 Charles, Hobbs doesn't have Mr. Polich's
4 recommendations in front of him. It might be helpful
5 for him to do that, get them in front of him to take
6 a look at them.

7 MR. REHWINKEL: Okay. I thought he said he had
8 it with him when I asked him at the beginning. Maybe
9 I didn't ask that.

10 MR. HERNANDEZ: I don't know if -- the
11 late-filed exhibit to Mr. Polich's deposition.

12 MR. REHWINKEL: No, I didn't have -- I didn't
13 ask that to be here.

14 But let's do this. I'll just park this --

15 A. So I think -- I think in Mr. Polich's testimony,
16 when I looked at the five items, he -- I didn't -- it
17 says -- so he recommended including establishment
18 reporting requirements for the commission.

19 BY MR. REHWINKEL:

20 Q. I can read you -- if you'll accept my
21 representation, I'll read you from Page 27 and 28 of his
22 testimony exactly what he was recommending.

23 Would that be helpful?

24 A. I think I've read it. I'm looking over my
25 testimony, Mr. Rehwinkel, to see if I have commented on

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1 this -- this topic.

2 Q. Okay.

3 A. It's silent on commission reporting in my
4 testimony.

5 Q. Okay. Well -- so I guess what I'm trying to
6 understand is: There have been a lot of comments about
7 if you pose any changes to reopen the deal and delay
8 things.

9 So I guess I'm trying to understand your
10 perspective on whether if Mr. Polich's Item Number 4
11 with the -- take any Attachment 9 reports and making
12 them monthly instead of quarterly, if that would change,
13 if the commission wanted to see those reports and see
14 them monthly instead of quarterly.

15 MR. HERNANDEZ: Object to form.

16 A. My perspective is that any changes to the DSA
17 will result in this DSA not closing, and the -- and the
18 benefits contained in could be lost. Duke Energy would
19 need to -- to regroup and look at, basically, what are
20 our options? We could renegotiate. We could sit in
21 SAFSTOR. We can go back and start a new competitive
22 bidding process. So I don't know which of those we
23 would do.

24 But I feel strongly that the DSA that we agreed
25 to on May 29, 2019, is the -- that's the transaction we

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1 are looking to get approval from the commission.

2 BY MR. REHWINKEL:

3 Q. So was that threat --

4 A. I'm not a threatening person, so I don't agree
5 that's the way. I think that I would say there's
6 tremendous benefit and protection for our Duke Energy
7 customers and that taking them as a whole, it is a very
8 good transaction for our customers.

9 Q. Okay. Yeah, I -- I was not ascribing that
10 question to your personality. I would agree with you,
11 you're not that kind of person.

12 But would it be fair to -- if -- to assume that
13 the commission might see that they were presented with a
14 take it or leave it approach by the company?

15 MR. HERNANDEZ: Object to form.

16 A. That's certainly not how I would attempt to
17 explain this transaction to the commission.

18 BY MR. REHWINKEL:

19 Q. Okay. And let's go to your direct testimony, if
20 we can.

21 On Page 9, at the bottom of 9, there's a sentence
22 that starts on Line 22: "The transaction is
23 structured." And it continues over to Page 10.

24 A. Yes, I see that.

25 Q. I want to ask you -- are you there yet?

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1 A. Yes, sir.

2 Q. It says: "The transaction is structured to
3 transfer execution risks to ADP CR3, as well as provide
4 financial assurance measures to ensure ADP's legal
5 commitments."

6 Did I read that right?

7 A. Yes, sir.

8 Q. Are the words "assurance" and "ensure," as used
9 in that sentence, the equivalent of guarantee --

10 MR. HERNANDEZ: Object to form.

11 A. I think it's financial assurance. I'm not sure
12 what your definition of guarantee is. If -- I think my
13 view of assurance is that there is a lot of protections
14 to get to the interim End-State Conditions as described
15 in the DSA, but we also say there are certain risks
16 remaining that could affect that, but that we feel the
17 way we have structured the protections in the DSA, we
18 have mitigated those risks as well as we can.

19 Q. It says in the next sentence: "The fixed price
20 will leave reserves in the NDT that can be used to
21 address potential significant emergent issues."

22 Do you see that part of the sentence?

23 A. I do.

24 Q. So when you say "will leave reserves," you're
25 saying that by carving out 540 from whatever the balance

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1 is, that will, by definition, leave the -- what do you
2 call that subaccount? What's your term for it?

3 A. Crystal River reserve subaccount.

4 Q. Okay. That, by definition, there will be dollars
5 in the Crystal River reserve subaccount; is that right?

6 A. Yes, sir.

7 Q. What is meant by "significant emergent issues"?

8 A. I didn't try to speculate what those might be. I
9 do describe some of them in my rebuttal testimony. But
10 this is just being transparent that that money that's in
11 the Crystal River reserve subaccount was collected and
12 invested to grow for the purposes of decommissioning and
13 without trying to speculate a particular scenario, that
14 to get to the -- End-State -- or interim End-State
15 Conditions, that is another source of funds to -- to
16 reach that end.

17 Q. So does that mean that some of the subaccount --
18 Crystal River reserve subaccount dollars could
19 ultimately be paid to ADP above the 540 million, plus
20 earnings on their side of the account or the trust fund?

21 A. That could be a possibility. Clearly, that would
22 be a huge decision for Duke Energy. And of course, we
23 would certainly communicate that likely, including to
24 the commission, and, again, in the vein of transparency.
25 The purpose of the successful project to the end point

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1 of establishing holding conditions.

2 Q. Okay. Go to Page 11 of your direct. What is
3 your definition of End-State Conditions?

4 A. End-State Conditions is a defined term in the
5 DSA. It says: "Contractor satisfied all of the ISFSI
6 only End-State Condition. Contract" -- "B, contractor
7 must fully perform all of his obligations under the
8 license determination plan as approved by the NRC,
9 including removal of spent fuel from NRC license
10 commission site and the decommissioning of the ISFSI."

11 And there are several other meanings. And the --
12 so that's the longer term, once the fuel storage is
13 part -- part of this large definition refers to a
14 Florida Department of Environmental Protection letter
15 that is included here. And it establishes three
16 conditions. It's that the -- the facility walls, once
17 all of the radioactivity is removed, it will be removed
18 at 3 feet below grade. Secondly, they will be filled
19 with clean concrete. And third, reading the NRC
20 regulation of a dose rate to a person less than or equal
21 to 25 million per year.

22 Those are the three End-State Conditions.

23 Q. So the ADP -- to get to End-State Condition, just
24 so I understand, ADP has to reduce radiation to a
25 certain level before you can be at the End-State

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1 Condition?

2 A. Yes, sir. By NRC regulation.

3 Q. Okay. Okay. And so -- and so until they do,
4 you're -- the risk is still on their side of the fence.
5 Once they get to that point and all of these other
6 things happen, then any risk that -- that DEP or -- or
7 some other regulator says you have to do more, dig down
8 deeper or do some -- something that wasn't contemplated,
9 that risk is on you?

10 A. Yes, sir.

11 Q. So we talked -- on Page 10, on Line 2, you -- you
12 used the phrase "significant emergent issue." And then
13 on Line 11 -- on Page 11, Line 15, in that second
14 sentence there, you say "if an extreme issue emerges."

15 Are those the same things?

16 A. Yes.

17 Q. Yes?

18 A. Yes, sir.

19 Q. Okay. Those aren't defined terms anywhere.
20 You're just saying these are things that you didn't
21 contemplate, but that would be bad?

22 A. Yeah, I think we were just merely recognizing
23 that you can't foresee everything that may come in a
24 lifecycle of a project, and that we did build
25 protections in the DSA, even though we don't know what

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1 it may be. We built a lot of protections within the DSA
2 to -- to account for them the best we could.

3 Q. Okay. So going to Page 15, on Line 11 -- well,
4 starting on Line 10, it says: "Accordingly, DEF does
5 not foresee the need to raise customer rates to fund a
6 proposed transaction."

7 Do you see that?

8 A. Yes, sir.

9 Q. DEF is not willing to guarantee that you will
10 never need to raise customer rates as a part of this
11 transaction anywhere along the timeline?

12 A. No, sir, we are not.

13 Q. And why is that?

14 A. Because we cannot foresee the future.

15 Q. So when it says on Lines 20 to 22, on the same
16 page, it says: "The study confirms that DEF expects to
17 be able to complete the decommissioning without needing
18 additional funds from our customers and Duke
19 shareholders."

20 Did I read that right?

21 A. Yes, sir, you did.

22 Q. When it says that -- confirms here is not a
23 guarantee?

24 A. It is not. That is the outcome of our analysis.

25 Q. On the next page, Line 16, the first eight lines,

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1 there's a discussion sort of about the -- the balance of
2 the -- of the NDF and sort of where the project dollars
3 are expected to be.

4 A. Right.

5 Q. And it has a number on Line 6 of the
6 \$641 million. Do you know what that number is today,
7 what the -- and I know it changes every day, but what is
8 your most recent estimate of that number?

9 A. My most recent knowledge is -- and after tax
10 value is \$660 million. That's -- that's been within the
11 last three weeks.

12 Q. Okay.

13 A. That's an approximation.

14 Q. Is there -- go ahead. I apologize.

15 A. That's -- I just wanted to say it's approximately
16 \$620 million. It's not an exact number.

17 Q. Okay. And that's why I said "estimate." Because
18 I know it changes daily.

19 Is there a document -- when did -- well, let me
20 step back.

21 I think the plant was -- told the NRC in
22 February -- was it 2013 that it ceased operation?

23 A. Yes, sir.

24 Q. Before that time, were there any funds taken out
25 of the nuclear decommissioning trust fund?

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1 A. Not to my knowledge.

2 Q. So if we took that as a beginning point, is there
3 a document that kind of shows disbursements from the --
4 the nuclear decommissioning trust fund?

5 A. There are documents for disbursements. It's part
6 of our Duke Energy process.

7 Q. You said there are not?

8 A. There are. Yes, sir, there are.

9 Q. Is there a way -- can I ask for a late-filed
10 exhibit that would just be -- what I'm looking for is a
11 ledger of some sort that just shows expenditures from
12 the fund. And if it's -- if there's one that has debits
13 and credits that shows changes, that's fine.

14 But I'm really looking for out -- outflows. Is
15 that something you think would be readily available?

16 A. I don't know. I mean, clearly, from a financial
17 controls, I'm sure that those -- that's known. You
18 know, that's been over seven years.

19 Q. Yeah.

20 MR. REHWINKEL: Let me do this. We'll identify
21 this as Late-Filed Number 3.

22 (Whereupon, Late-Filed Exhibit 3 was marked for
23 identification.) And.

24 MR. REHWINKEL: And I'm looking for
25 disbursements from -- we'll call it, for a short

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1 title, Disbursements From NDT.

2 And I'm looking for disbursements from the fund
3 since February of 2013. And I'm really looking for
4 it in a summary fashion just so we can see what
5 dollars generally left the -- the fund. And this
6 will be up to the most recent posting. I -- you
7 know, you could cut it off at May 31st, if that would
8 be a convenient number.

9 Dianne, you're leaning into the picture. Did
10 you have something to say?

11 MS. TRIPLETT: Yeah. This is Dianne Triplett.

12 I wanted to ask, Terry, when we make annual
13 filings to NRC, is that -- is that information
14 something that -- and those are publicly available.
15 Terry, do you know, is that something that has that
16 level of detail? And I'm asking because I know
17 there's a short period of time before the hearing,
18 and I want to make sure that this is not some big
19 ask.

20 If it's something pushing a button, easy to
21 get. And I don't think Terry knows how difficult.
22 So I'm trying to --

23 MR. REHWINKEL: I mean --

24 MS. TRIPLETT: And I don't know if it's -- I
25 was trying to see if we could --

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1 MR. REHWINKEL: I'm going to make the request.

2 And we can talk offline about what's the best way,
3 what -- if there's a summary fashion. It's really
4 not for us to go and sort of forensically look at
5 what you spent.

6 Just kind of want to see the activity over --
7 over the years. And if there's some high-level
8 document that summarizes it, I'm happy with that.

9 MS. TRIPLETT: Okay.

10 MR. REHWINKEL: Does that make sense?

11 MS. TRIPLETT: Yeah, I think so. I just wanted
12 it clear for the record that -- that we may just --
13 you and I can talk it out. It helps me understand
14 what it is that you're looking for.

15 MR. REHWINKEL: Yeah.

16 MS. TRIPLETT: Thank you.

17 MR. REHWINKEL: Okay.

18 MR. HERNANDEZ: Dianne, if you obviously come
19 up with that document, I'd like to as well.

20 MS. TRIPLETT: I think that we always give all
21 of the parties the late-filed deposition exhibits.

22 MR. MOYLE: Right.

23 BY MR. REHWINKEL:

24 Q. And then on lines -- same page, Page 16, Line 16
25 through 19, you talk about funding expected to be

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1 provided by the US DOE.

2 You see that?

3 A. Yes, I do.

4 Q. All right. There is an estimate, I believe, of
5 about \$90 million that you expect to receive -- you,
6 DEF, expect to receive from the DOE based on litigation
7 that has been concluded.

8 That 90 million isn't part of the DOE funds that
9 are being discussed at this part of your testimony; is
10 that correct?

11 A. So there are the -- let me -- there is current
12 DOE litigation in progress. Our assumption of that
13 overall litigation, approximately \$90 million will be --
14 go back into the trust fund. It will go into the
15 nonqualified trust fund.

16 And in the white paper presentation, you see that
17 90 million increase in the year 2022. That is still our
18 estimate. That is for Duke Energy Florida spent fuel
19 management cost from a trust fund from -- I think the
20 years in litigation are maybe 2016 to 2018. One of the
21 managers that works for me is our -- he is our person
22 involved in that.

23 The ISFSI project is also in that litigation, but
24 that's not what this is talking about. This is
25 strictly -- my testimony was talking about the part of

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1 that overall litigation that is related to our Crystal
2 River 3 nuclear decommissioning trust fund and how those
3 funds, whatever they end up being, will go back into the
4 overall trust fund.

5 And our estimate, as you saw in the white paper,
6 and we see that in 2022, and that's still just an
7 estimate.

8 Q. Okay. But those dollars, that 90 million
9 estimate, those dollars will be -- they will be in the
10 trust fund. They won't be available to ADP for their
11 cost to manage the -- the --

12 A. Correct.

13 Q. -- ISFSI facility, right?

14 A. Correct. That comes back into the -- the way I
15 think about it, it goes back into the Crystal River
16 reserve account, although it will be in the nonqualified
17 portion of that subaccount.

18 Q. And when you say "nonqualified," that relates to
19 the tax status of it?

20 A. Yes, as I understand it.

21 Q. Okay. I think you said that was on the white
22 paper, but might that have been in the -- in the slide
23 presentation?

24 A. I think it's in both. Let me look real quick.

25 Q. Look at the slide presentation on page -- Bates

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1 Page 36 or Slide Page 12.

2 A. On Page 12?

3 Q. Well, it's the slide presentation on Page 12 at
4 the bottom.

5 A. Okay.

6 Q. You see that it's got a schematic transaction
7 trust fund structure?

8 And this shows -- let me ask you this: Is this
9 accurate or was it -- I guess, at the time, it was
10 accurate?

11 MR. HERNANDEZ: Object to form.

12 Is it accurate?

13 A. This was accurate at the time. This preceded the
14 ownership decisions.

15 BY MR. REHWINKEL:

16 Q. Okay. So --

17 A. It's not accurate today.

18 Q. What's the -- what's inaccurate today?

19 A. The ISFSI holding interim -- so the management
20 reserve flows back and forth based on where it is. The
21 second box to the right is the 540 fixed-price contract.
22 The box below it that says "ISFSI decommissioning
23 account," that is now zero. When ADP purchased the
24 fuel, they would be accountable to fund that from their
25 funding source. That is no longer anything Duke Energy

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1 will pay from the trust fund.

2 Below it is the DOE recovery. You can see those
3 numbers have been moved around over -- over time. At
4 the time, it looks like it was 113. And now I think
5 they're saying around 90.

6 If I go -- if I keep moving to the right --

7 Q. Before you move to the right, it says 131. It
8 says in 2022.

9 A. Right. And I think that would have been this...

10 Q. Okay. What was the -- and it says 534.6 million
11 in the ISFSI-only interim IOI decommissioning account --

12 A. Right.

13 Q. -- why did that number change?

14 A. Because we decided to pay -- to -- well, the
15 agreement is that ADP will purchase the fuel and the
16 other assets. So once that happens, Duke Energy can no
17 longer pay for the -- for the -- for that
18 decommissioning account.

19 Q. Why is that different from the 540?

20 A. At one point, this was 540. This was part of the
21 540. In the final agreement, it's not. The 540 is the
22 540.

23 Q. Well, if I go to Page 3 of this, under
24 transaction funding, it says: "ADP commenced to fixed
25 price of 540 million for the project."

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1 So I guess I was wondering why is it the same
2 document says 540 is the number?

3 A. 540 is the agreed amount. That's the amount we
4 agreed to. When all the -- when all the changes were
5 completed, that was the negotiated amount.

6 Q. Well, if you look at the two boxes, aren't the --
7 those two, don't they total to 540?

8 A. Yes, they do.

9 Q. Okay. So explain to me again. I apologize for
10 being dense about this.

11 How does -- it looks like you have 540 that were
12 broken into two categories. And now you're saying that
13 the number of the -- in the decommissioning account
14 would be zero?

15 A. That is what I'm saying, yes. It's zero for Duke
16 Energy Florida; it is not zero for ADP.

17 Q. Okay. You were about to explain something about
18 outside of that big box.

19 A. Well, what had changed on the slide since it was
20 produced.

21 I think the box on the provisional trust, I think
22 that is still correct.

23 Q. Okay. All right. But you don't have any
24 understanding of why 131 is now 90?

25 A. I do not.

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1 Q. If you -- what would you do to find out?

2 A. Well, that's ongoing litigation. I suppose we
3 could go and get an update on the status of that
4 litigation.

5 Q. So that \$131 million, based on the current
6 estimate, and it's kind of a material amount of money.
7 I guess I'd like to understand why the estimate of
8 131 million in March of 2019 is -- is now 90, if there's
9 a way to understand how those numbers changed.

10 Do you think you could find that out for me?

11 A. I don't know.

12 Q. Okay. Well, let me try.

13 MR. REHWINKEL: I'll make it Late-Filed
14 Number 4. And we'll just call it the Explanation of
15 Difference Between 131 and 90 Million, DOE Recovery.

16 (Whereupon, Late-Filed Exhibit 4 was marked for
17 identification.)

18 MS. TRIPLETT: Where is that?

19 THE WITNESS: TRC presentation, Page 12.

20 BY MR. REHWINKEL:

21 Q. Do you understand my question regarding to
22 whether you know whether you can answer it or not?

23 A. You just want to know why the numbers changed?

24 Q. Yes.

25 All right. One last question about your direct.

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1 If I could get you to turn to Page 17.

2 A. Okay. I'm there.

3 Q. And on page -- on Line 5, it says: "This
4 transaction locks in the cost to complete the project,
5 provides sound contractual provisions to support
6 ADP CR3's and ADP SF1's contractual commitments, and
7 enables DEF to complete the project decades sooner than
8 under a SAFSTOR model." And it goes on.

9 I just want to ask you about the phrase "locks in
10 the cost." That sounds like a guarantee to me; is that
11 true?

12 A. No, it's not true. This is just recognizing the
13 fixed price nature of the service agreement.

14 Q. Okay. I have some -- I'm going to go through
15 your rebuttal testimony for a little bit. It's
16 seven minutes to 12:00.

17 MR. REHWINKEL: Do you guys want to just take a
18 break here and come back around -- in 45 minutes?

19 MR. HERNANDEZ: That's fine.

20 MR. REHWINKEL: Is that okay with everybody?

21 MR. MOYLE: That's fine.

22 MS. BROWNLESS: Does that bring us back at
23 12:30?

24 MR. REHWINKEL: Yeah, 12:30 is a good return
25 time. We'll just leave the Zoom link up.

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1 (Whereupon, a break was taken from 11:52 a.m.
2 to 12:32 p.m.)

3 BY MR. REHWINKEL:

4 Q. I said I was going to go to your rebuttal
5 testimony, but I'm going to take a little detour and go
6 back to the white paper, if I could.

7 A. All right.

8 Q. And I want to go to Page 6, which is -- and
9 Section 62.5 --

10 A. Okay.

11 Q. -- and go to the paragraph that starts "the ADP
12 team."

13 A. Yes.

14 Q. In that paragraph, it -- on the third line down,
15 it says: "The cost of waste disposal is one of the
16 largest project costs."

17 And I guess since you're the head of the team
18 that wrote that, you would agree with that statement?

19 A. Yes, I would agree with that. It is one of the
20 largest.

21 Q. What is the -- are we talking about A, B, C, and
22 GTCC?

23 A. It's talking about radioactive waste Class A, B
24 and C going to the Waste Control Specialists facility in
25 west Texas.

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1 Q. So it's just the A, B, C waste that is referenced
2 in the sentence: "The cost of waste disposal is one of
3 the largest project costs"?

4 A. That's the context of this paragraph, yes.

5 Q. And the next sentence says: "With WCS as part of
6 the ADP team and a sister company to NorthStar,
7 potential increases in waste disposal costs can be
8 mitigated by the ADP team. These costs could be
9 absorbed by WCS and not passed back to the project,
10 preserving funding to pay for other project costs and
11 maintaining the project contingency."

12 Do you see that?

13 A. I do see that.

14 Q. What is the basis for that assumption that WCS
15 would absorb costs -- would absorb costs?

16 A. The context that I view this in is similar to our
17 discussion this morning about the contracting strategies
18 between ADP CR3 -- worked out the final pricing. Since
19 this is part of the fixed price of 540 million,
20 depending upon that strategy, it's going to -- you know,
21 1 percent of 540 would end up being associated with the
22 packaging, transporting and disposal of Class A, B, and
23 C waste.

24 That was the -- that's what we were attempting to
25 communicate with this.

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1 Q. Did ADP or NorthStar tell you that they were
2 going to -- that their sister company, WCS, was going to
3 absorb costs?

4 A. No.

5 Q. What project contingency is referred to there?
6 Did you have an idea of how much contingency is built
7 into the project costs?

8 A. That was part of our -- my team's technical
9 evaluation. I -- I -- from memory, I want to say
10 generally 10 to 15 percent was in that.

11 Q. Okay. Is that in a document anywhere that's been
12 provided?

13 A. I don't recall.

14 Q. All right.

15 MR. REHWINKEL: Let me do this, if I could, is
16 just ask for a Late-Filed Number 5. And it would
17 be -- I'm just going to say Project Contingency
18 Estimate.

19 (Whereupon, Late-Filed Exhibit 5 was marked for
20 identification.)

21 BY MR. REHWINKEL:

22 Q. And all I want is your project team's technical
23 evaluation of kind of what -- where they landed on
24 contingency as to that.

25 Do you understand what I'm looking for?

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1 A. I do.

2 MS. TRIPLETT: Charles, this is Dianne. To the
3 extent that that has already been provided and all of
4 the discovery, I assume that a reference to
5 previously produced documents --

6 MR. REHWINKEL: Yes.

7 MS. TRIPLETT: -- would settle --

8 MR. REHWINKEL: Perfect. Yeah, that's -- I
9 just want to -- I want to see the document that
10 contains the project team's contingency estimate.

11 BY MR. REHWINKEL:

12 Q. So is that the most reasonable assumption to make
13 about how WCS would interact with ADP, is that they
14 would keep their costs down? Why wouldn't they --

15 Well, let me ask you that. Is that the most
16 reasonable assumption?

17 A. That was Duke Energy's reasonable assumption.
18 Because we understood that there were options that ADP
19 had in their contracting strategy with WCS.

20 We're not implying anything about the inner
21 workings of these affiliates.

22 Q. Okay. The sentence before more up in the --
23 higher up in that paragraph says they're the only
24 facility that could directly dispose of Class A, B, C
25 waste from nuclear power plants, right?

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1 A. That correct.

2 Q. So to the extent that's the case, why wouldn't it
3 be natural in the -- the capitalist society we live in
4 for WCS to try to maximize their -- their bottleneck or
5 monopoly position, if you will, in A, B, C waste
6 disposal?

7 MR. HERNANDEZ: Object to form.

8 A. I'm not sure what you asked me to speak to.

9 BY MR. REHWINKEL:

10 Q. Okay. I'm asking you why wouldn't the opposite
11 be true, that they would want to get the most that they
12 could out of this, instead of try to keep the clock
13 down?

14 MR. HERNANDEZ: Object to form.

15 A. I don't have an opinion on that. I -- I believe
16 that ADP did their due diligence in the preparation of
17 their proposal and during their due diligence in the --
18 in the fourth quarter of 2018. And whatever this
19 agreement ends up being is in the fixed price for the
20 agreed amount.

21 BY MR. REHWINKEL:

22 Q. Okay. Do you have with you a copy of the
23 application to the NRC?

24 I think I have two different versions of it.

25 It's POD --

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1 MR. REHWINKEL: Dianne, I think it's one that I
2 might have emailed or texted you and asked if he
3 could have it.

4 It's in staff's first POD, and it is -- the
5 Bates on it is 60.

6 MR. HERNANDEZ: Charles, staff's first POD,
7 which -- which one again?

8 MR. REHWINKEL: 000060. It starts at 1.

9 MS. TRIPLETT: First set.

10 MR. REHWINKEL: The first page of that document
11 is a letter from Scott State on ADP letterhead.

12 MR. HERNANDEZ: Letter dated June 26, 2019?

13 MR. REHWINKEL: Yes, sir.

14 MR. HERNANDEZ: I'm going to put that in front
15 of Mr. Hobbs.

16 BY MR. REHWINKEL:

17 Q. Okay. And if you could go to what's -- Page 21
18 of Attachment 1 to something. But it's -- it's Page 21
19 of 30 and Bates Number 60.

20 Do you have that?

21 A. I'm looking to see if that's what I have in front
22 of me. You said Page 21 of 30?

23 Q. Yes, sir.

24 A. 10 of 30. Okay. I'm on Attachment 1, Page 21 of
25 30.

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1 Q. I want to ask you about the second paragraph that
2 starts "ADP CR3's projected cost."

3 Do you see that?

4 A. I do.

5 Q. Okay. And it -- if you could kind of read to
6 yourself down to about the sixth line -- well, actually,
7 the -- the fourth line. It starts "for example."

8 A. Okay. I'm there.

9 Q. And the way I read it, it says: "For example,
10 the estimate assumes that the waste from all
11 contaminated structures will be disposed of in a
12 low-level radioactive waste disposal facility, Class A,
13 B, or C. This is a conservative assumption because ADP
14 CR3 believes significant volumes of waste can be cleared
15 for free release and/or disposed as low-activity waste
16 that does not require disposal in a licensed Class A
17 low-level radioactive waste disposal facility."

18 Do you see that?

19 A. I do see that.

20 Q. Are you generally familiar with that --

21 A. I am not generally familiar with a low-activity
22 waste that is a lower level than Class A waste.

23 I do understand that that can also be packaged,
24 transported, and disposed at the Waste Control
25 Specialists facility in Texas.

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1 Q. I didn't hear -- the kind of the first part of
2 that sentence about what could be disposed there.

3 A. What this letter from ADP that was part of our --
4 I believe this was part of the license transfer
5 application that Duke Energy submitted -- Duke Energy
6 Florida submitted to the NRC. Mr. State is describing
7 his view that this is a conservative assumption for
8 various types of waste, including Class A, Class B,
9 Class C, what he refers to as free release and/or
10 low-activity waste.

11 Q. Well, is it your understanding that all of the
12 waste is going to go to the WCS facility?

13 A. I assume that, but I don't know that.

14 Q. Okay. And is it your perspective or view that
15 that is between -- that's up to ADP to dispose of the
16 waste in -- as they see fit, as long as it's lawful?

17 A. Yes, sir. Yes, sir. I just -- ADP has a level
18 of expertise with waste generation, packaging,
19 transporting, and disposal that Duke Energy Florida does
20 not. And that's part of the fundamental reason we have
21 this agreement.

22 We wanted to bring in experts that know how to do
23 this and how to do it right.

24 Q. Okay. Let's go to your rebuttal now, like I
25 promised.

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1 And let's go to Page 4. I think you're answering
2 a question from the previous page, and you say that the
3 vetting of NorthStar ADP CR3 and ADP SF1 started with
4 your request for information, RFI process, and continued
5 throughout the pre-bid meetings, interactions, proposal,
6 bid evaluations, and contract negotiations.

7 "DEF performed detailed reviews of NorthStar and
8 ADP CR3 expertise and capabilities and partnered areas
9 important to the successful and predictable execution of
10 the CR3 decommissioning project, including technical,
11 commercial, financial, and legal."

12 Did I read that right?

13 A. Yes, sir.

14 Q. Did you do a similar financial analysis of the
15 other -- any of the other bidders?

16 A. My recollection is -- and I think we supplied
17 this early in discovery, when we shared the results of
18 our reviews -- that, yes, I think we did similar reviews
19 for the proposals we received.

20 Q. So did you specifically do a financial evaluation
21 about the -- the financial capability of the other
22 bidders?

23 A. If -- if you're asking in the context of the
24 reviews that we performed in 2019 as part of the ADP
25 selection, and then we went through the process we

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1 discussed this morning with the transaction review
2 committee and scrub committee, I do not believe we did
3 that for the other bidders. I think we did a -- a
4 proposal evaluation in those areas, but not to the level
5 that we did as part of our review and approval of the
6 DSA.

7 Q. Was it -- do you know if you did any kind of a
8 credit check or credit worthiness evaluation?

9 A. I do not know. I do not believe so, but I
10 don't -- I had a team of folks do the review.

11 Q. Was there -- did it come down to two bidders and
12 you selected ADP?

13 A. Yes. In my testimony, I state that in late
14 September/early October of 2018, we then selected the
15 two vendors and invited them for an on-site review of
16 their proposals. And they gave us -- or their due
17 diligence period -- and they give us the request
18 proposals in late December of 2018. And in early 2019,
19 we decided to proceed to negotiations with ADP.

20 Q. Okay. Who was the other bidder?

21 A. Who was the other bidder?

22 Q. Yeah. Other finalist, I mean.

23 A. I think that's -- it's in -- again, I think we
24 produced that in discovery, when we did the evaluations.
25 But it was Energy Solutions, and they had a partner. I

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1 don't recall who their partner was.

2 Q. I guess what I want to know is, did you -- would
3 you have done a financial review of energy solutions?

4 A. Yes, sir.

5 Q. And would you have done a review of Energy
6 Solutions to determine their financial capability or
7 capacity to perform the job?

8 A. Yes. Our Duke Energy process is our Duke Energy
9 process. So had it been another vendor of discussions
10 we had this morning about the scrub team and the
11 transaction review committee, and senior management
12 committee, and the board of directors, that would have
13 looked the same but with a different vendor.

14 Q. You did --

15 A. I don't know what -- I can flip -- the process
16 would have been the same.

17 Q. I apologize. I'm trying to understand. Did you
18 actually do it or you say you would have done it, had
19 they been the finalist?

20 A. We did not do it. But had they been the team we
21 selected to go to negotiations, we would have followed
22 the same process, Mr. Rehwinkel.

23 Q. I understand now. I -- I was not understanding
24 you before. Thank you.

25 On Page 9, Line 15 -- let me know when you are

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1 there.

2 A. Okay.

3 Q. It says: "The Duke Energy subject matter experts
4 determined that NorthStar's financial condition is in
5 line with peers involved in large-scale demolition and
6 decommissioning projects."

7 Do you see that?

8 A. Yes.

9 Q. And -- first of all, how do you -- how do you
10 know that?

11 A. I know that because the subject matter experts
12 reported that out to my project team as part of our
13 preparations for the transaction review committee.

14 Q. Okay. And do you know whether -- well, is -- so
15 would they have given you a report that showed who the
16 peers were?

17 A. I have never seen who the peers were that they
18 have referred to.

19 Q. But your testimony is that it was done, right?

20 A. That is my testimony, yes.

21 Q. Okay. And it was done and communicated to your
22 project team?

23 A. Yes.

24 MR. REHWINKEL: I'd like to make a late-filed
25 deposition exhibit request for the analysis of the --

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1 of NorthStar's financial condition being in line with
2 peers.

3 So let's just call it NorthStar Financial
4 Condition Peer Review -- or "peer comparison" maybe
5 is a better word.

6 (Whereupon, Late-Filed Exhibit 6 was marked for
7 identification.)

8 BY MR. REHWINKEL:

9 Q. And so the NorthStar financial condition peer
10 evaluation. And all -- and what I would like to ask you
11 to do is to see if you can locate the report or the
12 analysis that would have included those peers compared
13 to NorthStar.

14 Do you understand what I'm asking?

15 A. I don't know that it exists, but I do understand
16 what you're asking.

17 Q. And I -- when I ask for these things, I can't
18 expect you to produce something that doesn't exist. So
19 I'm just asking you to go back and see if there is
20 something.

21 A. All right.

22 Q. Let's go to Page 10 and 11. These are where --
23 these Items 1 through 13, if you scroll over a little
24 bit to Page 12 -- but these are the various benefits and
25 protections that DSA provides to DEF's customers,

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1 pursuant to your testimony, correct?

2 A. Correct.

3 Q. And you call these the essential elements on
4 Line 6 --

5 A. Yes.

6 Q. -- of that protection?

7 So one of the things that's not included in here,
8 at least as far as I could see, is the \$30 million
9 guarantee associated with WCS. Or have I overlooked it?

10 A. If you look at Number 10, Mr. Rehwinkel, that is
11 where I described the contractor's provisional trust.
12 And it says that's valued at \$50 million through the
13 project from closing date to milestone one. That
14 50 million per the DSA is composed of \$20 million cash
15 on closing date, plus the \$30 million value disposal
16 guarantee.

17 Q. So it's just embedded in that 50 million?

18 A. Yes, sir.

19 Q. Okay. And with respect to Item 8, we talked
20 about this in the morningtime about the -- okay. I
21 have -- I think you answered my question. The payment
22 for the \$30 million policy will come out of the owner's
23 cost and the Crystal River reserve account; is that
24 right?

25 A. Yes, sir, that's correct.

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1 Q. Okay. And I think I know the answer to this, but
2 I just kind of want to understand. By setting up the
3 \$540 million trust account -- what do you call that?
4 What's that subaccount called?

5 A. I think it's called the ISFSI-only interim
6 decommissioning subaccount.

7 Q. Okay. So IOI subaccount?

8 A. Let me double-check.

9 Yeah, it's called the IOI, which is ISFSI-only
10 interim, it's an acronym, decommissioning subaccount.

11 Q. Okay. And is it -- I think the -- the DSA
12 provides that all of the earnings from that account are
13 to the benefit of ADP; is that right?

14 A. Yes.

15 Q. All right. And did -- did DEF ever project what
16 you thought the earnings would be on that subaccount
17 over the period from which you would be making
18 disbursements?

19 MR. HERNANDEZ: Object to form.

20 A. I don't recall. But I -- I would --
21 contractually, they also bear the risk, should their
22 investments not have a return. So that's how we viewed
23 it contractually, that they were taking the risk.
24 Therefore, if there was a benefit at the end of the six
25 years, that seemed to be a balanced approach that we

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1 sought to achieve.

2 BY MR. REHWINKEL:

3 Q. Okay. Well, if you -- the price is \$540 million,
4 and we'll pay you out of the account, but the earnings
5 didn't go to ADP, they would stay with the -- with the
6 other side of the account, the CR3 reserve account,
7 right?

8 A. Right.

9 Q. So part of the negotiations in the final
10 determination here was that expected earnings would be
11 part of the purchase price; in other words, that would
12 go to ADP, even though it was not definitive because it
13 could go up or down, right?

14 MR. HERNANDEZ: Object to form.

15 A. I'm not -- I'm not sure how to answer that. When
16 I stated the fixed price, I think of it from a Duke
17 Energy Florida perspective. It was a fixed price on the
18 day of closing that we will have the trustee put
19 \$540 million in the decommissioning subaccount. So
20 that's the cost to Duke Energy Florida.

21 Throughout the project, ADP bears not only the
22 risk of no return or losses, but they would also benefit
23 from an investment strategy at the end of the project.

24 I'm not sure if that answered your question,
25 Mr. Rehwinkel, but that's how I think about it.

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1 BY MR. REHWINKEL:

2 Q. Are you familiar with the concept of opportunity
3 cost?

4 A. That's not a phrase I typically use, no, sir.

5 Q. All right. Do you know what it means, though?

6 Okay. Let's go to the scrub team question and
7 answer log, and to Page 3 of that log, which is the
8 Bates 43.

9 A. Okay. I'm there.

10 Q. And I see -- who is Cindy Lee and Phil Longoria?

11 A. At the time, they -- at the time, I believe they
12 were in our Duke Energy finance department.

13 Q. So the question that was asked on the -- Item
14 Number 10 there at the bottom says: "Does the fixed
15 cost of the contract, 540 million, neither go up or
16 down, thus the only changes are to owner's cost. Was
17 ADP contracted amount spend is less than 540 million?"

18 And Jeff LaPratt, as the point person, sends back
19 this answer: "ADP will perform work for a fixed price
20 of \$540 million. The only change would be for owner
21 cost, which are expected to be minimal and consistent
22 and constant (little DEF involvement). If ADP works
23 efficiently, they are entitled to the reward."

24 Do you agree with that?

25 A. I agree this was documented as Mr. LaPratt's

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1 response.

2 Q. Okay. But do you -- you also agree that's kind
3 of the way the deal was supposed to work?

4 MR. HERNANDEZ: Object to form.

5 A. The deal was for the fixed-price contract with
6 the -- with the very clear end conditions defined. And,
7 in fact, the deal -- since it's fixed price to -- once
8 those conditions are reached, that is what ADP is
9 entitled to.

10 BY MR. REHWINKEL:

11 Q. They're entitled to anything -- if they can come
12 in under \$540 million, they're guaranteed to keep that.
13 And if there are earnings -- positive earnings on the
14 fund, they're entitled to keep that as well?

15 A. That is the agreement, yes, sir.

16 Q. Okay. Tell me, if you would -- do you have this
17 document here, which is Bates 50? It's the CR3
18 Accelerated Decommissioning trust fund balances over on
19 the right.

20 A. I had it this morning, Mr. Rehwinkel. I'll have
21 to find it.

22 Q. That's okay.

23 I printed mine super large so I can find it.

24 A. Does it have two graphs on the right side of the
25 page?

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1 Q. Yes, sir, that's it.

2 A. Okay. I got it.

3 Q. Are you familiar with this document?

4 A. I'm generally familiar with this. I know this
5 was done by my project team as we were going through the
6 analysis and proposals and trying to zero in on which --
7 which company we would want to go into negotiations
8 with. And this was also -- if these curves look
9 familiar, because they were included in some of the TRC
10 documentation.

11 Q. Okay. Let's go look under Column A on the
12 left-hand side, and tell me what this represents to you.

13 A. I -- I need to get a better copy. I can't read
14 those numbers.

15 I'm familiar with the outcome, the graphs on the
16 right. It's not going to work unless it's all here.

17 THE WITNESS: Do you have it?

18 MS. TRIPLETT: It's part of the confidential
19 exhibits that we produced for today's deposition.
20 Unless we send out a subpoena.

21 MR. HERNANDEZ: Give me a minute, Charles.

22 I'll -- I'll find it.

23 MR. REHWINKEL: Okay. I tell you what we can
24 do. If there's a way to print this out on an
25 11-by-17 for him, I can come back to it.

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1 MR. HERNANDEZ: I'll be able to open it up and
2 enlarge it. The same as an Excel worksheet, is that
3 the correct one?

4 MR. REHWINKEL: Yes, it is.

5 MR. HERNANDEZ: I'm showing him the
6 spreadsheet. It's got three different pages on it.
7 Which particular page would you like him to look at?

8 THE WITNESS: The first one.

9 MR. HERNANDEZ: Let me enlarge it.

10 MR. REHWINKEL: It's not the chart. It has
11 Column A in parenthesis at the top, or just has an A
12 in parenthesis.

13 MR. HERNANDEZ: Column A, Duke NVT reserve
14 account balance?

15 MR. REHWINKEL: Yes, that's it.

16 MR. HERNANDEZ: It's not enlarging here.

17 Can you see that, Terry?

18 A. Okay, Charles.

19 BY MR. REHWINKEL:

20 Q. My question to you is: There's a balance of
21 703 million in 2018, and then in 2038, it shows
22 350,698,954.

23 A. I see that.

24 Q. You see that?

25 And then on the right -- those are in -- numbers

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1 in red. On the right it says ADP cash flow is 2018
2 dollars, excluding SFM, which I assume means spent fuel
3 management.

4 A. Right.

5 Q. And it has a variety of numbers that appear,
6 starting with 14,029,000 in 2019 and ending with
7 15,790,000 in 2026, with a 40,281,000 number in 2037.
8 And it totals to 540 million.

9 A. Okay.

10 Q. So what does -- what does this intend to show?
11 Does it intend to show -- well, tell me what you -- what
12 it is.

13 A. I'm not familiar with these calculations, only
14 the output. I would assume it's trying to show when
15 this was performed, what is the estimate and the funds
16 that would begin the trust fund when the -- when the NRC
17 terminates the license.

18 Q. Okay. So if I look at -- on -- in 2019, it shows
19 703,030,649. And then 20 -- that's in 2018. In 2019,
20 it's 98,244,631.

21 So is it fair to assume that that's the
22 difference between -- that's taking 540 million and
23 putting it over in the IOI subaccount, decommissioning
24 subaccount?

25 A. That's what it appears to be. And then --

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1 Q. If there's any difference that don't add up, it
2 would be that there's earnings and maybe some owner's
3 cost, et cetera, that have been paid out?

4 A. Are you talking about in the Column A, the red?

5 Q. Yes.

6 A. I think that represents, as you said, owner's
7 cost, DOE reimbursements and earnings on the fund. And
8 then 2038 is the assumed year that the fuel in
9 Greater-Than-Class C waste is gone and the NRC
10 terminates the license.

11 Q. Okay. And the 350,690,954 that's in 2038
12 dollars; is that right?

13 A. I don't know that. I don't know how they -- the
14 project team that put this together, I don't know if
15 they were escalating these numbers year over year. I
16 don't know, you know, what assumptions went in here.

17 Q. Okay.

18 A. I would assume there is --

19 Q. It shows growth in here. And it assumes
20 there's -- well, it shows growth in the balance, which
21 must include earnings --

22 A. It certainly includes earnings.

23 Q. -- is that fair?

24 So on the ADP side, you have this cash flow,
25 which I assume means this was an estimated payout from

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1 the IOI decommissioning subaccount or trust -- trust
2 account, assuming that work is done under a certain pay
3 item schedule; is that fair -- through 2026?

4 A. Yes, that's what I think it is. I have not
5 totaled it, so I don't know what the -- if I totaled it
6 together. I think that's what it's trying to represent.

7 Q. Okay. And then from the year -- from 2027 to
8 2036, there will be no payments, assuming everything
9 goes as planned, until 2037?

10 A. There will be no payment from Duke Energy Florida
11 to ADP after -- right now, it will be 2027. I think
12 that's where their current schedule is. So I do not
13 know about 2037. I don't know what that is attempting
14 to represent.

15 Q. Okay. Well, it should be some kind of work
16 that's in the -- the pay item schedule that's at the end
17 of --

18 A. After 2027, the only work left is the ongoing
19 operation and maintenance and security distancing until
20 DOE is ready to have that go somewhere else. But that
21 is not a Duke Energy Florida cost anymore. That is
22 ADP's cost.

23 Q. Well, wouldn't -- I mean, for them to get that
24 \$40 million, assuming that all this matched up with a
25 pay item schedule for the -- for the 2019 to 2027

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1 period -- or 2020 to 2027 period, this \$40 million would
2 have to somehow be paid out by Duke as the manager of
3 that fund, right?

4 A. No. The current -- the DSA that we agreed to
5 pays to get to ISFSI holding conditions, as defined in
6 the DSA.

7 All of these folks spitting out -- it goes back
8 to earlier discussions -- when ADP decided they wanted
9 to purchase the fuel, Duke Energy no longer pays for any
10 spent fuel management cost, including the cost out in
11 2037, where you're -- I assume that's somewhat related
12 to taking the canisters out of storage and putting them
13 on a transport and moving where they're going to move.
14 Duke Energy will not pay for any of those costs in the
15 final DSA.

16 Q. If all these numbers total up to 540 million,
17 does -- won't Duke have to sign checks or authorize
18 disbursements from the IOI decommissioning subaccount
19 totaling \$540 million?

20 MR. HERNANDEZ: Object to form.

21 A. The DSA goes into detail about the monthly
22 invoicing process. So yes, there will be a monthly
23 invoice, a validation of the process, and then there
24 will be -- Duke Energy Florida will request a trustee to
25 pay that invoice, minus the 6 percent that will go into

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1 the provisional trust.

2 And at the end of that period, Duke Energy would
3 have paid \$540 million in those invoices. And then the
4 final payment, ADP would be entitled to the earnings
5 and/or interest on that fund.

6 BY MR. REHWINKEL:

7 Q. So if there's any residual left that's just -- at
8 the end of -- when the license is terminated, that just
9 belongs to ADP. You don't -- you're not going to be
10 reviewing invoices or anything like that; is that right?

11 A. I -- no. Like I -- again, the -- the -- the
12 work -- scope of work to get to ISFSI-only End-State
13 Conditions is for the fixed price of \$540 million.

14 Duke Energy will pay those invoices on a monthly
15 basis until the work is completed.

16 And as I said, part of that provisional trust --
17 so we'll pay the invoices. When you get to ISFSI-only
18 conditions, there's -- there's \$15 million in the
19 provisional trust that's -- 30 million is part of the
20 540. We will pay the 30 million out when they get to
21 ISFSI-only conditions. And there's very great detail
22 about all this in the DSA.

23 When the NRC has approved a partial license
24 termination plan that ADP has submitted, then ADP will
25 be entitled for Duke Energy -- they will be entitled to

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1 take the remaining \$20 million that they had deposited
2 into the provisional trust on the closing date.

3 So that's the DSA that we're here talking about
4 today, Mr. Rehwinkel.

5 The ISFSI operation continues year over year,
6 right? Security and operations and maintenance and the
7 facility monitoring. And that goes -- ADP will have
8 whatever arrangement, either litigation or an agreement,
9 with the Department of Energy to seek reimbursement of
10 that money year over year, or whatever frequency they
11 want to do it. And they ultimately give somewhere to
12 send the fuel and the waste. ADP will fund all of that.

13 This contract makes -- they have to, at that
14 point, diminish the ISFSI structure, perform final site
15 surveys, submit that final license termination to the
16 NRC. NRC reviews, ultimately approves. NRC terminates
17 the NRC license from the Crystal River site. ADP, at
18 that point, has met their obligations. At that point,
19 Duke Energy, who still has the overall trust fund, would
20 like and to what remaining funds are in there and how
21 they would be distributed back to our customers and our
22 shareholders.

23 Q. Okay. I guess it's on the -- that same Excel
24 spreadsheet that we've been talking about. There's a
25 footnote little A that says: "Equals 14.7 million spent

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1 fuel transfer and 25.6 million GTCC disposal, excludes
2 DOE recoverable of C and D and E costs."

3 Do you know what that means?

4 A. I haven't found the footnote.

5 Q. I'm sorry. It's on the --

6 A. It sounds like, just listening to you,
7 Mr. Rehwinkel, that's what that \$40 million is. I think
8 you said it was 14 million and 25 million. It's roughly
9 40.

10 Q. Yep.

11 A. And then it says there was going to be some
12 assumption that there would be some percentage recovery
13 from DOE. I do think that's the plan. I think that's
14 what I just described to you. But that's not DEF money.
15 That's not money that's in --

16 Q. Yeah. Okay. So this \$25.6 million of GTCC
17 disposal, assuming that's included in the 40,000,281
18 that's showed as disbursed in 2037 -- or it becomes cash
19 that flows to ADP in 2037, do you know why there's an
20 element for GTCC disposal at that time?

21 A. As we had discussed this morning, the current
22 rules are that the GTCC, from the transportation and
23 disposal, it would be treated like fuel. So it's
24 just -- in this analysis, it's -- it clearly is just
25 tied to Greater-Than-Class C waste to the movement of

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1 the fuel canisters, to whatever location they go to.

2 Q. Okay. But if -- you know, it says that this
3 \$540 million at the top, it says ADP cash flow in 2018
4 dollars, excluding spent fuel management.

5 Is spent fuel transfer considered not part of
6 spent fuel management?

7 A. I'm not -- I'm not familiar with how
8 transportation -- I don't know how that will be viewed
9 including Greater-Than-Class C waste. That's just not
10 an area of expertise I have.

11 Q. Okay. Do you know what -- do you know the next
12 Excel spreadsheet that's not the chart, it's just -- it
13 says "B" and then "A plus C"? Or maybe that's on the
14 one you're looking at. I don't know how it's set up.

15 MR. HERNANDEZ: I'm trying to find it now.

16 MR. REHWINKEL: Okay.

17 MR. HERNANDEZ: It says -- it says B on the top
18 or A plus B on the top?

19 MR. REHWINKEL: It says B -- well, there's B
20 the silver/red column, and then there's A plus B in
21 the red column. It says "total due/ADP, NDT.

22 MR. HERNANDEZ: All right.

23 BY MR. REHWINKEL:

24 Q. Do you know what this is supposed to represent?

25 A. ADP, NDT.

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1 No, I do not.

2 Q. Okay. Do you know the heading, "CR3GF," what
3 that would stand for?

4 A. I do not. I'm not that familiar with these
5 worksheets that my project team put together.

6 Q. Okay. Thanks for bearing with me. I was just
7 trying to understand what was going on with that sheet.

8 So would you agree that the way that transaction
9 was structured, where you have the IOI decommissioning
10 subaccount and all of the earnings that would occur over
11 time as the project went forward, that that was
12 essentially a way of paying in advance for the cost of
13 the CR3 decommissioning?

14 MR. HERNANDEZ: Object to form.

15 A. I'm not sure what you mean "paying in advance."

16 BY MR. REHWINKEL:

17 Q. Well, like what we talked about in this sheet,
18 sometime in 2019 or 2020, you saw that balance go from
19 703 to 98. That money left the -- it left DEF to pay
20 for the decommissioning and the --

21 A. I would not agree with that characterization.
22 That is still money that is in the Duke Energy Florida
23 NDF. That is still the fund that Duke Energy owns and
24 controls. Duke Energy will pay from that subaccount for
25 work completed on a monthly basis.

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1 So at any time -- and there's a lot in my
2 testimony and there's a lot in the DSA about different
3 protections. But there's -- the significance of only
4 paying for work complete is that the work's complete.
5 And that -- that's the only money that's flowed out of
6 that subaccount. That's one of the primary protections
7 in this whole agreement. I think I have talked at
8 length about that in my testimony and discovery.

9 Q. Okay. Page 14, Lines 1 through 3.

10 A. Okay.

11 Q. You say in here that adding the commission in the
12 prepare and support agreement would require NRC
13 approval, which could reopen the NRC approval process,
14 potentially jeopardizing the NRC's approval and
15 extending the project's timeline.

16 Did I read that right, except for the word
17 "additionally"?

18 A. Yes, you did read that correctly.

19 Q. Do you know whether making that change would
20 require full NRC approval or whether it could be
21 approved by the staff?

22 MR. HERNANDEZ: Object to form.

23 A. First of all, I don't think the staff approved
24 the first one. I think it's the -- I mean the
25 commissioners. My understanding, which I believe to be

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1 correct, is that Duke Energy Florida would have an
2 obligation to inform our NRC project manager. He -- as
3 he's familiar with the review and approval of the
4 license transfer application that resulted in a order
5 that was issued April 1st of this year.

6 He would go and contact two groups. He would go
7 to their office of general counsel and he would seek
8 input from the financial branch analyst. And at that
9 point, it becomes an internal NRC process. It is their
10 decision on the level of formality that this review and
11 approval would need, including possibly the issuance of
12 a new order.

13 BY MR. REHWINKEL:

14 Q. Who would you -- who is that person you would go
15 to first?

16 A. Our point of contact at the NRC headquarters is
17 our NRC project manager.

18 Q. Okay. Have you asked that question, like, what
19 would -- what would the process be and if -- if we asked
20 to make this change?

21 A. We do -- we do not -- we did not ask him of what
22 they may determine their internal process is. We had a
23 general discussion with him of what, in the course of
24 these approvals, we found that we may want to make a
25 change to the order.

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1 Q. You didn't ask him about -- specifically about
2 the prepare and support agreement?

3 A. We specifically told him about that portion of
4 it.

5 Q. And what did he say?

6 A. He said that in the order -- we have an
7 obligation, Duke Energy Florida, the Florida NRC, if
8 we're contemplating a change to the prepare and support
9 agreement and then it's -- like I described. He would
10 reach out to the office of general counsel and his
11 financial reviewer branch. And then collectively, they
12 would go into their processes. And they don't really
13 share their internal deliberations of processes. But
14 there certainly would be a review and approval. Whether
15 that would require an issue of -- issuance of a new
16 order or not, I don't know. But that would be up to
17 NRC.

18 Q. So you asked him this in terms of a what if,
19 rather than Duke is contemplating a change; is that
20 fair?

21 A. Yes, sir. What if. Because we're currently --
22 we're currently not contemplating a change to the
23 prepare and support agreement.

24 Q. Yeah, I read that in your testimony. I
25 understand. I was just trying to understand

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1 qualitatively the difference.

2 And you did take that step of formally notifying
3 them that you were contemplating a change; is that
4 right?

5 A. I think it's -- we have a -- my -- my licensing
6 staff have biweekly calls with -- with actually our
7 project manager at NRC and our lead NRC inspector, who
8 was actually in the region one office in Pennsylvania.
9 And we're very transparent. They are generally very
10 interested in all things we're thinking about. So
11 that's the nature of the discussions. It's not a
12 formal, hey, what if we ask you to do this? It's a --
13 it's a routine communication that we had for years with
14 these folks.

15 Q. What I was asking about formally, you haven't
16 formally said you're contemplating a change, which would
17 be a more -- that would trigger some more formalized
18 process; is that right?

19 A. Correct. We have not done that.

20 Q. Okay. Did you get any signal from anybody at the
21 NRC in any of these biweekly or regular sessions that
22 said we recommend you don't do this?

23 A. I have not been informed of any type of
24 discussions along those lines.

25 Q. Okay. All right. Page 22, if we can go to

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1 Line 18.

2 A. Okay.

3 Q. It says: "DEF would have only paid for work that
4 is completed"?

5 A. Yes.

6 Q. Is it hypothetically possible that based on sort
7 of the fact that -- that if you dispute up to 20 -- you
8 can -- you have to pay invoices up to \$20 million, even
9 if they're in dispute, at any given time; is that right?

10 A. That's right.

11 Q. Okay. So if, for whatever reason, there was
12 something that halted ADP's work on the project and you
13 had paid out for work that had been done, plus
14 \$20 million -- or \$18 million, let's say, of invoices
15 that you thought the work wasn't done or wasn't done as
16 was indicated in the -- in the invoice or the monthly
17 report, technically there would be some -- and the work
18 and the project got stalled, there would be some work
19 that was paid for that wasn't completed; is that right?

20 MR. HERNANDEZ: Form.

21 A. I don't think that's right. In my testimony, I
22 tried to, at least at a high level, explain some of the
23 scenarios, at least from the protection s built into the
24 DSA, so that you -- you use the phrase the "project
25 stalled." Well, there's certain requirements where they

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1 can end up in default. And so the protection against
2 that is Duke Energy's right to take the provisional
3 trust fund.

4 So -- which I would remind you ADP deposited
5 20 million cash in it on closing day. So that's a type
6 of protection -- whatever one of these scenarios one
7 might want to go down, we felt there certainly was
8 adequate protection in all those things that you could
9 think about.

10 BY MR. REHWINKEL:

11 Q. So there's no scenario where there would be --
12 you would have paid out from the trust fund for work
13 that wasn't completed? There's no scenario that could
14 occur like that?

15 A. I don't think so. Because if you look -- one of
16 the -- one of the -- my view of the pay item schedule is
17 it's distinct portions of work. So although I may
18 dispute that, on some month, you know, you said you were
19 50 percent and I thought you were only 30 percent, I
20 would dispute that. But just over the course of time,
21 that scope of work will complete.

22 So from a dispute resolution, there certainly is
23 negotiations and agreements. But this -- the passage of
24 time, as the project progresses will resolve the
25 disputes, because primarily, that's what the dispute

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1 would be, at some point the work is done.

2 So now you have only paid the fixed amount in
3 that pay item schedule. Or the other high-level
4 scenario is, they don't fix it. The project -- you
5 know, we have to exercise our rights. And that's how we
6 tied the provisional trust fund to Duke Energy's rights,
7 if the project, in fact, was not going to complete as
8 anticipated.

9 Q. Well, in this scenario, this is -- this scenario
10 7 on 21 and through 20 -- 23, this would be an event of
11 default --

12 A. Which page, sir?

13 Q. -- of the DSA -- I'm asking if you could be at a
14 point where -- I don't know what would happen. But
15 there's -- there could have been a default. ADP just
16 closed up shop, stops working, and they've got a pending
17 invoice that you've challenged that -- you know, you
18 said you only did 30 percent of the work and they said
19 we did 100 percent of the work, and it was a -- you
20 know, it was a big -- it was a big payment.

21 Isn't that conceivably -- the work would have
22 stopped and you would have paid for work that wasn't
23 completed?

24 MR. HERNANDEZ: Object to form.

25 A. No, that's what I'm trying to communicate. Maybe

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1 I'm not doing a good job of it.

2 The protection for that is to provide -- our
3 rights to take the provisional trust fund, which always
4 has a minimum of \$20 million in it.

5 So -- so I -- okay. So I have some dispute. I'm
6 whole at the end of that.

7 BY MR. REHWINKEL:

8 Q. On Page 17, Line 17, you see -- actually, I think
9 I wrote the wrong one down.

10 You talked about Fukushima in here. And I wrote
11 down the wrong page. Page 23, Line 17.

12 A. Okay.

13 Q. Did Fukushima increase the cost of CR3
14 decommissioning?

15 A. It did not increase the cost of CR3
16 decommissioning. It did increase our cost, like it
17 increased the cost for every nuclear plant in the
18 country for the lessons that came out of that and the
19 additional changes to the facilities.

20 Q. Page 26, Line 2 of 3, you've got the 9 percent
21 number there.

22 A. Yes.

23 Q. Is it your understanding that ADP CR3 will be
24 using subcontractors to perform 90 percent of the CR3
25 decommissioning work?

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1 A. Well, my testimony says -- on Page 25, it says:
2 "With respect to the majority of the decommissioning
3 work, ADP CR3 will enter into fixed-price subcontracts
4 with an affiliate of NorthStar Services Group or an
5 affiliate of Orano U.S.A. and expects to enter into
6 fixed-price subcontracts with specialty trade
7 subcontractors."

8 So I do not believe that that 90 percent is
9 indicative of -- of the scope of work of who is going to
10 do it.

11 I think -- I read it to be the part to where
12 these bonds, both performance and payments bonds, will
13 be provided as part of fixed-price scopes for the
14 affiliates and subcontractors.

15 Q. So the way I should read this is that for
16 whatever work is done by subcontractors under
17 fixed-price subcontracts, that scope of work, 90 percent
18 of it will be covered by bonds?

19 A. Yes, sir, that's how I read it. That's how I
20 understand it.

21 Q. Speaking of subcontractors, let's go back to
22 Page 25.

23 A. Okay.

24 Q. And the last bullet there that's on page --
25 Line 15, it says: "Any contracts that ADP CR3 has with

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1 subcontractors would remain in effect."

2 You see that?

3 A. Yes.

4 Q. And this is something that would be a remedy or
5 something that you have taken care of in case of an
6 event of default; is that right?

7 A. Yes.

8 Q. Now, to the extent a subcontractor is an
9 affiliate of ADP and ADP is in default, for whatever
10 reason, why would you assume that the subcontracts for
11 those affiliates would -- could be enforced if ADP
12 itself was not able to perform its part of the deal?

13 MR. HERNANDEZ: Object to form.

14 A. I will give you a nonlawyer answer to that. What
15 this protection is, is that those subcontractors,
16 through their -- especially through their performance
17 and payment bonds, they have the means to complete that
18 scope of work, even though DEF may have taken over the
19 project with ADP's default. So that's the value that's
20 still is in those contracts. And then the payment
21 bonds, of course, protect us from liens from
22 subcontracts.

23 So that's what that is trying to say, if Duke
24 Energy Florida decided that it was feasible to complete
25 the project at that time.

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1 BY MR. REHWINKEL:

2 Q. Okay. How -- how would the bond work if -- if
3 ADP and, let's say, all of its subcontractors became
4 insolvent and you had subcontractor contracts that were
5 bonded? What would your -- what would your ability --
6 how could you use that bond to protect the customers?

7 MR. HERNANDEZ: Object to form.

8 BY MR. REHWINKEL:

9 Q. And -- I apologize. Assuming in that question
10 that you couldn't get the subcontractor to actually
11 perform because they were gone.

12 MR. HERNANDEZ: Object to form.

13 A. That's not a scenario that I have contemplated,
14 honestly. I -- I do the bonding strategy that ADP has
15 committed to in the DSA, is that that's their primary
16 protection from becoming insolvent. Because just as
17 Duke Energy Florida has a fixed-price contract with ADP,
18 ADP has in effect fixed their price to their affiliates
19 and their subcontractors. And that's part of why Duke
20 Energy Florida views the probability of all of these
21 discussions as very low.

22 BY MR. REHWINKEL:

23 Q. Speaking of that, let's go back to the -- to the
24 white paper for a second.

25 A. The white paper?

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1 Q. And go to Page 13.

2 A. Okay.

3 Q. And I want to ask you about the -- the red,
4 green, and yellow boxes here.

5 You're familiar with that risk matrix?

6 A. Yes, sir.

7 Q. Is that a risk matrix that -- that Duke and
8 Progress have used for a long time?

9 A. It's a typical risk matrix we've used for some
10 period of time, I think for a long period of time, on
11 most of our projects.

12 Q. And even back before Duke acquired Progress,
13 you've used those same colors and boxes, right?

14 A. I wouldn't speak to the historical nature. I
15 don't -- I don't know how to communicate risk management
16 aspects of a project.

17 Q. Okay. Are any of the risks that are -- first of
18 all, all of the risks are -- show up in the -- the
19 lowest of low risk, not only on the likelihood of
20 occurring, but the impact of occurring, in the lower
21 left-hand quadrant; is that right?

22 A. That's right.

23 Q. And there are eight risks that are categorized,
24 if you will, in this -- this matrix; is that right?

25 A. Yes, that's right.

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1 Q. And one of the risks, for example, is
2 reputational risk, that's Number 8.

3 A. Yes.

4 Q. And what does that refer to?

5 A. That would be an occurrence that would put Duke
6 Energy in a negative view in the public.

7 Q. Okay. Is there a risk of -- for the -- the risk
8 of harm to the customers evaluated on here?

9 MR. HERNANDEZ: Object to form.

10 A. So your question is, how did we consider our
11 customers from this risk matrix?

12 BY MR. REHWINKEL:

13 Q. Yeah, how -- how are they -- how are the risks to
14 the customers -- risk of harm to the customers, how are
15 they captured, if you will, in this matrix?

16 A. I would start with Number 1, where unknown to
17 unknown discoveries, our mitigation is that we do have
18 the reserve fund. So we would not need to go back to
19 customers except in a very extreme condition.

20 Let me see about the others.

21 Even though it's low, had the NRC not approved we
22 would be a SAFSTOR, so the customers -- you know, we
23 would -- we would be sitting in SAFSTOR mode for many,
24 many years. Again, there's not a sign of direct impact
25 to customers at this time.

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1 End-State Condition, insolvency. Number 5, where
2 we talked a lot about, in our testimony and all, about
3 the protections we built into the ADP.

4 Number 6, again, that there would not necessarily
5 be an impact to customers, and this was because the site
6 has a lot of different operating plants on it. We
7 did -- we did consider what if the demolition had an
8 effect on that. Again, Number 6, we think it's a very
9 low probability and, actually, just a moderate. But I
10 think ADP would be responsible for that.

11 So that's probably -- I would say that would
12 highlight Number 1, if -- but we showed protection is
13 actually the ability to use the -- the reserve fund, the
14 ability to return it to SAFSTOR.

15 So from this -- this particular page, there's
16 nothing here that would tell me that we have any -- that
17 the -- that the risk of what would affect our customers
18 would be part of any of these activities.

19 Q. Let's go to Page 23. I guess it's the
20 next-to-the-last page.

21 Financial data, it says: "ADP draw down on NVT."

22 Are you familiar with that?

23 A. I am, yes.

24 Q. So is it fair to say that the orange curve here
25 is -- in the far left end of it, it shows \$540 million.

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1 And to the far right, it's zero. And this shows sort of
2 a -- it tracks payments over time, disbursements that
3 are released by DEF to ADP for the decommissioning and
4 dismantlement; is that right?

5 A. Or what -- the decision, agreement that we
6 thought we had at the time, that is correct. However,
7 as I've pointed out in the other, when we decided to
8 sell the spent fuel assets to ADP, all of this cash flow
9 information changed.

10 Q. Okay. Did it -- did it basically -- instead of
11 the curve going to zero in 2020 -- in 2037, or
12 thereabouts, it would go to zero in 2027?

13 A. You see the -- yes, sir, you see where it says
14 license termination to physiology? At the time, we were
15 projecting 2026. It's likely to be 2026, there will be
16 some cash flow on an annual basis from 540 to zero.
17 That would be -- that's what that would look like.

18 I don't recall off the top of my head the
19 estimated angle cash flow. But in that time period from
20 2020 to 2027, yes, it would show a curve from 540 to
21 zero.

22 Q. Okay. So assuming that that curve ends ten --
23 goes to zero ten years earlier, or to the left --

24 A. Okay.

25 Q. -- would the -- the items that are shown in black

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1 there with the brackets, preclosure activity, planning
2 and site preparation, large component removal, site
3 deconstruction, partial license termination, would all
4 of those things still basically be at those points on
5 that curve?

6 A. Yes, sir.

7 Q. And so my question to you is: Are these
8 activities and the payments that track them on this
9 curve, are they designed such that if at any point in
10 time the project is terminated, for an event of default
11 or one of these emergent issues that you just discussed
12 in your testimony, is there always going to be enough
13 money to -- in the trust fund to allow you to go to
14 SAFSTOR and allow the project to be funded in -- as --
15 as -- under the SAFSTOR timeline?

16 MR. HERNANDEZ: Object to form.

17 A. So you're asking me specifically about the return
18 to SAFSTOR?

19 BY MR. REHWINKEL:

20 Q. Yeah.

21 A. So you --

22 Q. I'm trying to understand, are the payments out of
23 the IOI decommissioning trust account, are they all
24 synchronized, if you will, to the task such that if you
25 stop the project at any time, is there always going to

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1 be enough residual to go back into SAFSTOR and earn on
2 that such that when it -- you get out in time, you will
3 be able to decommission the rest?

4 A. Yes. The cash flow is synchronized with the
5 completion of specific scopes of work through these
6 various phases of the project.

7 So, yes, there will be money available to idle
8 the project and return to SAFSTOR to allow the funds in
9 the trust fund to earn -- I think in my testimony, I
10 talk about you would reestimate the scope of work, look
11 at your assumed earning on that trust fund, and
12 collectively identify when would it be prudent to
13 restart the project and have enough funding to complete
14 the project. And I think I highlight --

15 Q. You could do an analysis -- I'm sorry. Complete
16 your answer, please.

17 A. I highlighted my testimony that that's -- from a
18 regulatory standpoint, we still have until 2073 to reach
19 license termination. So that's what affords us that, as
20 an additional protection for our customers, to not have
21 to go back to rates. It's just a regulatory framework
22 for decommissioning.

23 Q. So what I'm trying to understand, I guess, is if
24 you get on this curve that we were just talking about,
25 if you get -- the farther out you get on the curve, that

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1 means there's more money that's been paid out and
2 there's less residual. You would agree with that,
3 right?

4 A. Yes, I would agree with that.

5 Q. So the question is: Are -- is there any point on
6 this curve where you would have terminated the project,
7 paid out everything to the left under the curve that
8 would -- and that there would not be enough to finish
9 the job?

10 MR. HERNANDEZ: Object to form.

11 A. The job -- the job of returning to SAFSTOR?

12 BY MR. REHWINKEL:

13 Q. Yes, sir.

14 A. I believe any point on this curve, the
15 decision -- the joint decision by Duke Energy Florida
16 and ADP, there would be funds sufficient to reestablish
17 the SAFSTOR conditions that Crystal River 3 is in today.

18 Q. Okay. So hypothetically, if you had spent
19 \$480 million out of the IOI decommissioning trust fund
20 and you have 60 million plus whatever earnings on top of
21 that and you have X number of tasks left to be done, and
22 maybe they were dropped as the costs had escalated on
23 them, you're saying that you would have that residual
24 plus whatever is in the reserve account, and those two
25 numbers would be the corpus of that -- that you would

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1 grow over time under a SAFSTOR environment to finish the
2 job?

3 A. That is what I say, yes. In my testimony, that's
4 what I say.

5 Q. Okay. On the page before that, there's a list of
6 ADP decommissioning experience.

7 A. Yes.

8 Q. Now, that -- this is NorthStar and Orano; is that
9 right?

10 A. Yes, that's right.

11 Q. Do you know what the yellow highlights mean? Are
12 these confidential or is there something about them?
13 Are these the ones that NorthStar did?

14 A. That's what I -- I -- I believe that's what this
15 is trying to highlight, but the -- I'm not sure what the
16 yellow highlight is. I do agree that this is a listing
17 of both Orano -- Orano and NorthStar. It consists of
18 non-nuclear projects, a lot of other nuclear projects in
19 here.

20 I don't recall what -- why some were highlighted.

21 Q. Okay. Did any of these list large base load
22 nuclear power plants that were decommissioned and
23 dismantled by ADP?

24 A. Just looking at this list for the first time in a
25 while. Yankee Rowe was a commercial power plant in

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1 Connecticut that has been dismantled. It's the only --
2 Vermont Yankee is a work in progress about a year and a
3 half in that is primarily -- it's a NorthStar project.
4 They're the owners of that. So this is -- it's a
5 commercial -- commercial nuclear power plant.

6 Rancho Seco was a commercial nuclear power plant
7 in California, I believe it was. I think it's also
8 now -- it's ISFSI only.

9 I don't -- I can't speak to the European plants.
10 You can see some of them say research, others don't. So
11 I don't -- I would assume some of those might be, but I
12 don't know. Maine Yankee was a commercial nuclear plant
13 in the state of Maine. It is now ISFSI only.

14 Q. Well, I guess what I'm trying to understand is, I
15 look at ADP as being different from the line. And it
16 says "ADP" up here, but I -- I'm trying to understand
17 it. I was under the impression that ADP had not
18 decommissioned and dismantled a base load nuclear power
19 plant yet and that they are -- and that Vermont Yankee
20 is really their first one.

21 A. I don't think that to be the truth. I think this
22 list is intended to show you over the decades the work
23 that ADP and these parent companies have been involved
24 in, and it's a combination of commercial plants,
25 research reactors, a lot of DOE facilities, a lot of

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1 nuclear work, and a lot of dealing with contamination.

2 So I -- I think in earlier testimony -- I would
3 have to go and look. But, you know, ADP used that --
4 they have formed a company that brings in the expertise
5 of both parents and should lead to the high probability
6 of a successful project.

7 Q. Okay. Did you -- are you familiar with the
8 Vermont order? Did you read that order?

9 A. The memorandum of understanding?

10 Q. Well, this is a -- this is the order approving
11 acquisition of Entergy Nuclear Vermont Yankee, Inc., by
12 NorthStar Decommissioning Holdings, LLC, and granting
13 other requests subject to the memorandum of
14 understanding --

15 A. I have read --

16 Q. -- entered on 12 -- 12/6/2018.

17 A. Yes.

18 I have read portions of the memorandum of
19 understanding. And I did not bring a copy.

20 Q. Okay. If I could read this to you and see if
21 the -- if you could react to it. You can say, "I don't
22 know."

23 Paragraph 24 on Page 15 -- and this is Polich
24 deposition Bates Number 88.

25 It says: "Although NorthStar has relevant

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1 expertise in decommissioning, abatement, and cleanup
2 projects, NorthStar has never taken the lead on a
3 nuclear decommissioning project nor a project of the
4 scale and complexity of the decommissioning of the DY
5 station."

6 Is that something you're familiar with?

7 A. Did you say that was in Mr. Polich's testimony?

8 Q. Well, I was reading from the Vermont order on
9 Paragraph 24. It was an exhibit in Mr. Polich's
10 deposition.

11 A. So that -- that statement was in the -- I've
12 never read that in here before, I don't --

13 Q. It's in the order. The MOU is attached to the
14 order, but that's on Page 15 of the order itself. So
15 that's -- that's information that you didn't have
16 before?

17 A. I've not read that. I mean, you're asking me to
18 react to it. I don't pretend to know a lot about these
19 companies. But I -- just in my discussions with the
20 executives of ADP, their view is that they have
21 absolutely led complex projects, nuclear and nonnuclear.
22 And they're currently dismantling a skyscraper in
23 Downtown Manhattan. And their view is that that is a
24 significant project with significant risks just because
25 of the location.

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1 So I respect Mr. Polich's opinion. I don't have
2 that strong of an opinion. But in my discussions with
3 ADP managers, their view is that they are a very capable
4 company. And they -- their view is also that the
5 Vermont Yankee project is off to a very good start.

6 The curve we were just talking about, where it
7 says "large component removal," and that is very early
8 on in the project lifecycle right after planning, that
9 is the highest risk work. That's talking about the
10 reactor vessel, reactor vessel internals. Really, the
11 highest risk work in the whole project. That's the work
12 they're doing today at Vermont Yankee.

13 And I saw an update on that project. It was
14 shared with me. I think it was in April of this year.
15 Very safely done, effectively on schedule, no violations
16 from the NRC from a radiological control standpoint, no
17 injuries. Just really a year and a half into the
18 project where the highest risk work is being done early
19 in the project.

20 And, again, I won't try to project the end of the
21 project, but I think it's being managed -- my
22 perspective is it's being managed very well.

23 Q. Okay. Thank you.

24 A. Could I ask you something, Mr. Rehwinkel?

25 Q. A little bit more in your testimony and then I

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1 will stop bothering you today.

2 A. Mr. Rehwinkel.

3 Q. I'm sure everyone is tired of hearing my voice.

4 Page 13, Line 7 and 8.

5 In the second sentence there, it says -- on
6 Line 8, says: "DEF would be responsible for funding the
7 additional work necessary to comply with the new
8 end-of-state conditions from the Crystal River
9 decommissioning reserve subaccount of the NDF."

10 Do you see that?

11 A. Yes, sir.

12 Q. So that assumes that the cost of the additional
13 work is less than the amount that's in -- less than or
14 equal to the amount that is in the reserves of the
15 account; is that right?

16 A. Yes, sir, that's correct.

17 Q. Okay. And it's Duke's position that if the cost
18 to finish that end-of-state condition work is greater
19 than that amount, that you would ask the customers to
20 pick up the rest?

21 A. No, sir, that's not what I have said in
22 testimony.

23 I said that that would be the type of action that
24 would have Duke Energy, along with ADP, consider a
25 return to SAFSTOR so that we would not have to go back

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1 and ask customers to pay into the NDF.

2 Q. Okay. On Page 14, Line 18: "The CR3
3 decommissioning project will be conducted in accordance
4 with all federal, state, and local rules and
5 regulations."

6 Do you see that?

7 A. Yes, sir.

8 Q. Is it more accurate to say that it will be
9 required to be conducted?

10 A. I think it's the same.

11 Q. Well, you don't know whether ADP is going to
12 ultimately, over the next seven years, comply with all
13 federal, state, and local rules and regulations, do you?

14 A. Of course, I can't foretell the future, but this
15 is -- your example is why the NRC will continue to have
16 frequent on-site inspections, a lot of the regulations
17 are their regulations.

18 And I highlight a couple of others in here,
19 Department of Transportation -- all of these different
20 groups have on-site inspection requirements and requests
21 for information.

22 So it's no different than what I have been doing
23 for the last seven years, I have been complying with.
24 And of course, you should be doing it, it's the right
25 way to do business. That's why I do it. There's a lot

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1 of inspection and verification and validation that you
2 are impacting lives from all of these government
3 agencies.

4 That's how I view, which is what I was trying to
5 communicate, is that high -- high assurance that it will
6 meet all requirements, especially as you get to the
7 End-State Conditions -- the ISFSI interim End-State
8 Conditions.

9 MR. HERNANDEZ: Charles, is this a good time to
10 take a break?

11 MR. REHWINKEL: Actually, if you could give me
12 five more minutes, I think I can finish.

13 MR. HERNANDEZ: Okay.

14 BY MR. REHWINKEL:

15 Q. On Page 18, Lines 8 through 9, it says: "DEF
16 would not likely petition the commission to have its
17 customers pay to the NDF."

18 Do you see that?

19 A. Yes, sir, I do.

20 Q. You're not guaranteeing that you won't petition
21 the commission under that scenario?

22 A. Correct. That is not a guarantee.

23 Q. And then the same on Page 20, Line 3.

24 For this scenario, where it says: "DEF would not
25 likely petition the commission," at the end, you

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1 wouldn't guarantee that you won't petition the
2 commission?

3 A. Correct. I would not guarantee that.

4 Q. And then on Page 21, Lines 20 -- 10 through 13,
5 referring to parent support agreements above, you say:
6 "It seems very unlikely that ADP CR3 or its parent
7 companies would not provide such funds"; is that right?

8 A. I didn't catch the line item, Mr. Rehwinkel.

9 Q. Okay. It's Lines 11 -- starting on Line 11,
10 where it says "it seems."

11 A. Right. Okay.

12 Q. On Page 21.

13 A. Yes, I see that now.

14 Q. Duke is not assuring the commission or
15 guaranteeing that ADP CR3 or its parent companies would
16 not provide such funds?

17 A. Contractually, the parents have to provide those
18 funds.

19 In this scenario, it's saying that the -- as the
20 licensee, ADP, in their annual March filing, demonstrate
21 they lack sufficient funds for -- to complete the
22 decommissioning. That is the trigger that the NRC would
23 order the parents to put money from the parent support
24 agreement into the -- to the -- to ADP to put them back
25 in compliance with federal regulations.

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1 So that the point -- then I go on to say, by the
2 way, the NRC has a lot of enforcement because at that --
3 at that moment, they're outside the -- the -- of
4 complying with NRC requirements. So I point out that
5 NRC has quite a bit of enforcement actions to force
6 those parents to honor their contractual obligations.

7 But that's the context of it seems very unlikely
8 that they would not provide the funds. They would find
9 themselves in willful violation of the NRC regulation,
10 and that brings lot of enforcement, including charge --
11 criminal charges in effect.

12 Q. All right. There's also a parental support
13 agreement that's not the NRC support. There's a
14 parental guarantee --

15 A. There is.

16 Q. -- document, right?

17 A. Yes.

18 Q. And does -- there's no guarantee that that's
19 going to be honored if it is called upon, is there?

20 A. They have a contractual obligation to honor their
21 agreement. And we would use whatever -- whatever
22 necessary to enforce the parents to honor their
23 commission.

24 Q. Page 21, Line 18, again, where it says "would not
25 likely petition," in this Scenario 6, again, you're not

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1 guaranteeing that you wouldn't if that scenario were to
2 occur?

3 A. Correct, that is not a guarantee.

4 Q. Okay. And on Page 23, Line 5, for this
5 Scenario 7, likewise, that is not a guarantee --

6 A. Correct.

7 Q. -- that you wouldn't petition for those -- for
8 the customers to pay?

9 A. Correct, it is not a guarantee.

10 Q. And if I go to Page 26, Lines 14 through 15, it
11 says: "DEF is confident that ADP CR3 and ADP SF1 will
12 be successful based on their experience in nuclear
13 decommissioning projects." Does that sound right?

14 A. Yes.

15 Q. And that confidence is not a guarantee that this
16 will be a successful project?

17 A. That is not a guarantee.

18 Q. Okay.

19 MR. REHWINKEL: Terry, I appreciate your time
20 and your patience in answering my questions. That's
21 all I have for you today. Thank you very much.

22 THE WITNESS: You're certainly welcome. Thank
23 you.

24 MR. REHWINKEL: So you say when we come back,
25 Dan.

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1 MR. HERNANDEZ: I need five minutes. Would
2 five minutes be all right?

3 (Whereupon, a break was taken from 2:11 p.m.
4 to 2:24 p.m.)

5 CROSS-EXAMINATION

6 BY MR. MOYLE:

7 Q. Good afternoon. I'm John Moyle. I have some
8 questions for you today. I represent the Florida
9 Industrial Power Users Group.

10 Tell me what you understand the role of the
11 Florida Public Service Commission to be in this case,
12 please.

13 A. We have asked the Florida Public Service
14 Commission to review and approve this transaction for
15 the accelerated decommissioning and the Crystal River
16 site to ISFSI-only condition.

17 Q. Have you followed the Public Service Commission
18 over the years and their decision-making process?

19 A. No, sir.

20 Q. Okay. Do you have any understanding with respect
21 to the interests that the Florida Public Service
22 Commission are supposed to look out for? And if so,
23 please describe that.

24 MR. HERNANDEZ: Object to form.

25 A. I guess generally, I understand the commission

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1 oversees most utilities in the State of Florida and they
2 are the decision-making authority, for instance, for
3 things such as rates, the establishments of rates,
4 changes in rates. I'm sure they have other authorities
5 that I'm just not familiar with them. That's my general
6 understanding of the commissions.

7 BY MR. MOYLE:

8 Q. Okay. Do you know that they are charged with
9 balancing the interest of utilities with the interest of
10 consumers/customers?

11 A. Yes, I -- I do think -- since we are a regulated
12 utility, I do recognize that there is a balance that the
13 commissioners maintain, yes, sir.

14 Q. And with respect to your perspective on, you
15 know, customer interest, your interests are primarily
16 focused on Duke Energy Florida, isn't that right, your
17 employer?

18 MR. HERNANDEZ: Object to form.

19 A. No, sir. We are a very customer-focused utility.
20 And as you read through my testimony, and it's clear
21 that one of our high priorities is to, to the best of
22 our ability, not go back to ratepayers to pay into our
23 trust fund.

24 My understanding is that the trust fund kind of
25 was established and the plant went into commercial

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1 operation in 1977. And I believe we stopped collecting
2 from the customers in 2001, approximately. Since then,
3 we have managed that fund responsibly. And because of
4 that responsible management of the fund, that we've
5 started in this process back in 2017 -- we didn't know
6 what the outcome of this process was going to be. But
7 part of the reason we decided to go forward is that we
8 think it's very unlikely we would need to go back to our
9 customers.

10 So I would -- clearly, and I'm an employee -- but
11 I'll tell you, from the customer focus, that has been
12 part of this project since day one.

13 BY MR. MOYLE:

14 Q. And you've answered the questions in a similar
15 way with respect to Mr. Rehwinkel. But the -- the
16 commission, if they heard this case and they said, you
17 know, there's -- there's a little thing that we would
18 like to change that we think we would improve this deal,
19 and on a 1 to 10, it was a Level 1 in terms of
20 substance, did I understand that what you said was,
21 well, you know, we want them to approve this deal as it
22 is, but if they did make such a change, we would have to
23 go back and -- and consider it internally and then we
24 would talk to our counterparty and then figure out, you
25 know, if we could make that change or not; is that -- is

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1 that fair?

2 MR. HERNANDEZ: Object to form.

3 A. Yes, that is close to what I responded earlier
4 today.

5 BY MR. MOYLE:

6 Q. You -- you talked about the fund. And I
7 appreciate your recognition of the customer -- the
8 customer's interest in that fund. And that fund is
9 comprised of monies that the customers have paid
10 throughout the years, correct?

11 A. As I said, yes, the customers paid from 1977
12 until 2001, yes.

13 Q. To the extent that there's money in that fund,
14 that it's overfunded, or there's money left over at the
15 end of the day, that money would come back to customers,
16 correct?

17 A. Most of that money would come back to customers,
18 yes, sir.

19 Q. Okay. Tell me -- tell me why you didn't say all
20 of it, you only said most of it would.

21 A. I believe that my testimony, I discussed where we
22 at one point had several joint owners, and Duke Energy
23 Florida has since paid out those joint owners. So that
24 percentage, since Duke Energy shareholders have taken
25 the risk, that money would flow back to the

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1 shareholders. I forget the exact amount, but it's in my
2 recent testimony.

3 Q. Okay. Okay. And right now, could you just --
4 you have to file regular reports with the NRC on the
5 fund, right?

6 A. Yes, sir.

7 Q. And they also -- they require you to look at
8 things like disposal cost of low-level radiological
9 waste when you're putting together your reports,
10 correct?

11 A. No, sir.

12 Q. We had had --

13 A. We have traditionally had a cost study for
14 decommissioning, just as all other nuclear plants.
15 There's a mechanism for trust fund establishment and
16 funding. So what we file to the NRC -- or to the chair
17 is the -- it's a financial assurance that you do have
18 sufficient funds or you will have sufficient funds at
19 the time you decide to do the project to complete the
20 decommissioning.

21 But we do not redo cost estimates or cost
22 studies.

23 Q. Well, let me explore that a little bit more.

24 When you're putting together this -- this report
25 that says we have enough money for the disposal, you

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1 testified earlier that one of the key expenditure items
2 was the disposal of -- of waste, correct?

3 A. Yes, sir.

4 Q. So when you're putting together that report, you
5 have to -- you have to make estimates or somehow come up
6 with what you think a disposal cost would be, I would
7 assume; is that right?

8 A. That is one of the components of the cost study,
9 yes.

10 Q. And how do you go about and do that? Do you do
11 it yourself or do you get an independent contractor to
12 do it for you?

13 A. Over the -- over the many years, Crystal River 3
14 has used a -- a couple that specialize in preparing cost
15 studies for many different nuclear plants.

16 Q. Okay. And so you rely on them, and one of the
17 things they look at is the projected disposal cost,
18 correct?

19 A. Correct.

20 Q. When was the last study done?

21 A. The last study performed was 2018.

22 Q. Okay. And -- and --

23 A. Per the model.

24 Q. Yeah.

25 And could you just characterize it in broad terms

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1 for me, please?

2 A. In broad terms, from -- as I recall, it was -- it
3 included the dormancy period from 2018 until 2037. The
4 fuel would leave at 2037. The power block itself would
5 continue to sit in SAFSTOR until 2067. You stand up the
6 demolition project. You complete the license
7 termination work in 2073. And the site restoration in
8 2074. And the estimate at that time was approximately
9 \$875 million, somewhere about that.

10 Q. And how much money did the fund have in it,
11 approximately?

12 A. The fund -- let me go back. Probably
13 approximately \$680 million.

14 Q. And you reached a conclusion that that
15 680 million was sufficient to cover the cost going
16 forward based on the growth of the monies in the fund;
17 is that right?

18 A. Well, I would -- I think two-fold: The growth of
19 the money in the fund and my ability to significantly
20 reduce spending over time.

21 Q. Okay.

22 A. Working both sides of that.

23 Q. Yeah.

24 You're familiar with the petition that's been
25 filed in the case, correct?

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1 A. Yes, sir.

2 Q. You've read it?

3 A. Yes, sir.

4 Q. I think it says that you expect there to be
5 \$100 million left over that will be distributed to --
6 available to customers; is that right?

7 A. I forget the exact number, but it is in that --
8 in that ballpark, yes, sir.

9 Q. Yeah, it might be 103. My mind was -- you know,
10 around 100, give or take.

11 When -- when would that money be available, as
12 you understand it?

13 A. That money would be available when the NRC
14 terminates the CR3 NRC license. Currently estimated to
15 be 2038.

16 Q. Okay.

17 A. Of course, the big assumption with that is that
18 either an interim or a permanent fuel repository is
19 built and we're able to ship the fuel and waste
20 Greater-Than-Class C waste off site. That's the --
21 that's the variable there in achieving that timeline.

22 Q. Yeah.

23 And I'm going to just -- again, big picture, this
24 deal, this transaction that you have, as I understand it
25 based on reading some things and discussions yesterday,

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1 that the spent nuclear fuel rod piece is divorced from
2 the monies in this fund; is that right?

3 MR. HERNANDEZ: Object to form.

4 A. If we -- Duke Energy Florida are not paying for
5 those funds, but the fuel is absolutely linked to the
6 vital site surveys and the NRC's termination of the NRC
7 license.

8 BY MR. MOYLE:

9 Q. And when you say you're not paying for those
10 funds, what do you mean?

11 A. Because -- because ADP is purchasing the used
12 fuel assets, which are the fuels, the canisters they're
13 in, the concrete overpacks and the security system that
14 surrounds it. They are funding that from -- those are
15 internal to their company. Duke Energy Florida is not
16 paying for those funds after -- excuse me -- for those
17 activities after the closing date.

18 Q. How confident are you that that 100 million will
19 be there at the end of the day?

20 MR. HERNANDEZ: Object to form.

21 A. I'm confident because I understand what the -- I
22 understand the fixed-price nature of the DSA. I
23 understand the owner's cost over time. I have looked at
24 the assumptions that our treasury folks and others have
25 put together on the fund growth. And it seems to be as

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1 accurate as you could develop for future projections.

2 BY MR. MOYLE:

3 Q. And you're comfortable that you've mitigated
4 significant risk with this transaction?

5 A. Yes, sir, I am.

6 Q. I'm not going to ask you to do this, but have
7 you -- have you -- have you looked at doing any kind of
8 net present value analysis to see what that \$100 million
9 would look like if you -- if the commission said, let's
10 return it to ratepayers now. It's 100 million bucks.
11 Express a level of confidence that it will be there.
12 Let's -- let's give them back a percentage of that now.
13 Have you-all looked at that in any way, shape, or form?

14 MR. HERNANDEZ: Object to form.

15 A. Not from a calculation to net present value, that
16 I know of, no, sir.

17 BY MR. MOYLE:

18 Q. Okay. I was hearing two different things about
19 subaccounts. I was under the impression yesterday that
20 there's one subaccount where that 540 million goes.

21 There is that subaccount, correct?

22 A. Correct.

23 Q. And that's called, like, the Crystal River
24 subaccount?

25 A. The 540 million will be intended to fund the

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1 accelerated decommissioning project that we're talking
2 about that's described in the DSA. That's called the
3 IOI, which is an acronym for ISFSI-only interim
4 decommissioning subaccount.

5 The interim was what I just described. The
6 license can't terminate until the fuel is gone. So
7 that's why there's this interim tag.

8 And then there's the Crystal River reserve
9 account. That's the other money in the trust fund,
10 currently in the trust fund.

11 Q. Okay. So would it be fair to say that the -- we
12 could call the other money in the trust fund is the main
13 account and then there's a subaccount?

14 A. I don't -- I guess if we can keep the wording
15 straight, we could try to discuss it, but...

16 Q. Okay.

17 A. We can try that.

18 Q. But there's not more than one subaccount as we
19 sit here today?

20 A. Today there's one account. On closing date,
21 there will be two subaccounts. We will put the -- we
22 will direct the trustee to put \$540 million into the
23 decommissioning subaccount. That will be used to pay
24 ADP over the 6 1/2 years of this project. The remaining
25 funds will go into the Crystal River reserve account --

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1 subaccount. Excuse me.

2 So we will establish those two subaccounts on the
3 closing day.

4 Q. And will any money be left in the -- we'll call
5 it the main account?

6 A. Yes, there will be money in the Crystal River
7 reserve account.

8 Q. Which is not the -- not one of those two
9 subaccounts?

10 A. It is one of the two subaccounts. The -- the --
11 the existing trust fund becomes two subaccounts.
12 That's -- that's what it is.

13 Q. And I was trying to understand whether the
14 existing trust fund goes away because you have two
15 subaccounts now or whether it stays there and you keep
16 some money in it.

17 A. I think the money is in the subaccounts.
18 That's -- that's my understanding and my knowledge of
19 how that trust fund is managed.

20 Q. Who is the trustee? Who manages these funds?

21 A. I don't recall. Our treasury people in our
22 corporate headquarters is in frequent contact with those
23 people, and we have discussions with them. And I just
24 don't recall the name of the company.

25 Q. Yeah. Do you -- but it's not -- it's not managed

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1 internally by Duke, it's a third party that serves as a
2 trustee?

3 A. I believe the regulations requires that there is
4 an independent trustee manager established for the trust
5 fund.

6 Q. And the 540 million, the ability to make
7 investment decisions over that 540 million is not one
8 that Duke continues to -- or has; is that right?

9 MR. HERNANDEZ: Object to form.

10 A. I do not think that's right. There's a lot of
11 specific guidance in the DSA. There's also an
12 attachment or exhibit. There's an Attachment 12 to the
13 DSA entitled "Investment Guidelines." So we agree
14 contractually how that 540 would be invested, but that
15 decision is ADP's decision. As far as the trust fund,
16 I -- I can try to find it.

17 But Duke Energy does have a say-so in the trust
18 fund manager for that subaccount.

19 BY MR. MOYLE:

20 Q. I'm going to ask you to go to the documents that
21 were provided as part of your deposition. There's a
22 report to the transaction and risk committee.

23 A. All right. I have it.

24 Q. I thought I read in there that the -- the
25 investment decisions related to this subaccount would be

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1 that of a third party and not Duke. Is that your
2 understanding?

3 And I'm sorry. I can't put my -- my fingers
4 right on it. There's not lines on it. And I didn't
5 print it out to highlight it. So I'm looking for it.

6 It says what it says. I don't want to waste much
7 of your time.

8 But just tell me -- I see it now. It's on
9 page -- it's 2.6. It says: "ADP will be able to direct
10 the investment strategy for these funds, baseline
11 investment policies, and guidelines acceptable to DEF."

12 Is that -- is that how the investments will --
13 will be handled?

14 A. Yes, sir, there's -- like I said, Attachment 9 is
15 the investment guidelines. And then the Section 9 of
16 the decommissioning services agreement and program goes
17 into detail.

18 But it does say what it says in this white paper.

19 Q. Okay. And you would rather -- you guys recognize
20 that there is some risk associated with even
21 conservative investments these days, correct?

22 MR. HERNANDEZ: Object to form.

23 A. Yes, sir, we do.

24 BY MR. MOYLE:

25 Q. The document, you helped craft this document; is

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1 that right?

2 A. Yes.

3 Q. How did you determine the risks that were
4 identified in this document?

5 A. The risks? You're talking about the report to
6 the transaction or risk committee?

7 Q. This document, yeah, it's the -- exactly, the
8 Crystal River 3 decontamination, decommissioning report
9 to transaction and risk committee.

10 A. Right. So earlier with Mr. Rehwinkel, we
11 discussed the risk matrix on Page 13. Is that what
12 you're referring to?

13 Q. Well, I just was generally asking how you -- what
14 about determining the risk, but we can talk about those
15 as well.

16 The first question is -- the leading question is:
17 How did you -- how did you go about identifying what the
18 risks are?

19 A. As I recall, we clearly established the beginning
20 conditions that ADP would take over on the closing date.
21 And we also very clearly described the End-State
22 Conditions that they would need to achieve.

23 So we -- so the project scope was very well
24 developed that -- in support of ADP putting together the
25 original proposal.

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1 My project team, very experienced folks, said,
2 okay, what's between the starting conditions and the
3 ending conditions that were put in this proposal? What
4 are the things that would hit us as a risk?

5 So that fundamentally is how we did it.

6 The second thing is we ask each of the vendor
7 teams who offered a proposal to provide in that proposal
8 their view of the project risk.

9 So I think those two things, as I recall, is how
10 we kind of started to think about what are the risks and
11 how will we mitigate them in the agreement.

12 Q. Have you prepared these types of documents before
13 not related to -- to this project?

14 MR. HERNANDEZ: Object to form.

15 A. No, this is the first project that I have been in
16 charge of that we took through this process.

17 BY MR. MOYLE:

18 Q. Were you given a form and somebody said, Hey, you
19 use this form for senior management and the board, you
20 know, put the data in -- in this form, or did you create
21 this form? How did you -- how did you deal with that?

22 A. This is more than a form. This is a formal
23 process we use at Duke Energy.

24 There are people who are kind of in charge of
25 this that tell you -- you make contact with and start to

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1 discuss. And then, yes, the format and content of these
2 reports are a standard part of that process, as is the
3 PowerPoint presentation that accompanied the white
4 paper.

5 Q. So on Page 13, there are -- at the bottom, there
6 are letters that relate to certain types of risks.

7 You see that?

8 And F -- F is for financial, R is for
9 reputational, and O is for operational, legal, and
10 compliance; is that right?

11 A. Yes, sir.

12 Q. Okay. And these 1 through 8, are those -- is
13 that an exhaustive list of the risks?

14 A. I don't recall. They were the eight that -- that
15 we felt we should share with this committee.

16 Q. So it would be fair to say that since it was a
17 senior management committee, you probably shared the
18 most significant risks, from your standpoint?

19 A. Yes.

20 Q. And all of the risks are financial, except for
21 Number 8, right?

22 A. Right.

23 Q. I don't -- I don't see the execution risk in
24 here, unless I'm missing it.

25 A. The cost escalation is an execution risk in

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1 Number 7. And, you know, from a Duke Energy
2 perspective -- Duke Energy Florida perspective, there's
3 an ADP risk. Number 5 is a -- during the project
4 implementation or execution, whatever we want to call
5 it, is a risk.

6 And a lot of my testimony is in these areas, the
7 protections that we built into the DSA in these events.
8 And those are the two that I would just -- for a quick
9 read through this list, that I would say fall into the
10 category of execution risk.

11 Q. Yeah, with your background, isn't the execution
12 risk probably the most significant?

13 A. Yes. I do think that if you analyze various
14 projects, execution risk can be the biggest risk
15 sometimes. However, as I think back through this
16 process that began in 2017, Duke Energy wanted to ensure
17 these bidders had all of the information they needed.
18 And that's why we worked very hard to establish
19 beginning conditions and ending conditions. We did not
20 want these vendors to not understand the scope of the
21 project. Because that is -- if you don't understand the
22 scope of the project, the proposal will not be good.

23 That's kind of how we viewed it. We put very
24 detailed bid instructions together. We made a lot of
25 information, an encyclopedia of information from the

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1 original design and construction of the plant, during
2 the whole operational phase. And then on the due
3 diligence, we gave them free access. I had a team of
4 people -- because they weren't physically familiar, but
5 they were able to have their folks lay their eyes on
6 whatever it was. Because they knew in their proposal
7 where they wanted to confirm. And that was the whole
8 reason for the due diligence.

9 So we were very conscious of implementation
10 risks, should we decide to go forward with this, but I
11 think that was built into our process for the -- for the
12 bidding process.

13 Q. How did you satisfy yourself that they -- they
14 got it and understood it and there was, you know, not
15 miscommunication or lack of understanding of the -- of
16 the scope?

17 A. I think there was a series of activities. As I
18 think back, as we were completing the proposal, we
19 invited -- and I think it was eight companies. We talk
20 about them in our testimony. We had a two-day three-bid
21 meeting. And we waited, you know, here's -- and I was
22 there. I mean, we said, here's what it is we're trying
23 to do.

24 Then we made -- in part of our supply chain
25 process, we make a lot of information available. And

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1 the way our process works -- at the time, we received
2 four proposals. So for those four teams, if one asks a
3 question, all four got to see the question and answer.
4 Now, we kept it anonymous, of course. So our process
5 was built to ensure, to the best of our ability, that
6 these teams were -- that the bidders understood what
7 they were bidding on.

8 And then post bid, we sent it to the proposal
9 evaluation. And part of that was, did they follow our
10 bidding instructions? Did we, Duke Energy Florida, get
11 the information we specified that we needed so we could
12 do the very evaluation that you and I are talking about.
13 Some did not do that. They did not get through the
14 table evaluation.

15 So we got through that. And two made it through
16 that, and that's the two we invited for an on-site due
17 diligence, and that was from October to December, free
18 access. We escorted them where they needed to go. We
19 made engineering documents and our own engineers
20 available.

21 So as I look at that series of activities, I
22 think we really -- we wanted to ensure these vendors had
23 a very good understanding of the scope that they can
24 appropriately price in their proposal.

25 Q. Did you-all rely on any third parties to assist

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1 you with developing the scope?

2 MR. HERNANDEZ: Object to form.

3 A. Not to develop the scope, no.

4 BY MR. MOYLE:

5 Q. How about in other aspects of the process?

6 A. Early on in the process, as we were starting to
7 think about going down -- you know, starting this
8 process, having no idea of where we might end up, we did
9 have a consultant on staff that I do recall we had him
10 come up for a day, had some discussions of what we were
11 thinking, how we were planning. And he had -- he had
12 had some previous experience.

13 So that is the -- that's the example I can use
14 where we had a third party come in, but that was -- like
15 I said, that was in the early design phase of how we're
16 going to do this.

17 Q. Yeah.

18 A. And we did some other things. In my testimony, I
19 talk about benchmarking. So we did -- I sent my project
20 team out to California to the San Onofre. Because
21 they -- they had just conducted a -- a competitive bid
22 process. So I think they spent two or three days.

23 So we did a lot of other things other than
24 third-party consultants to educate ourselves on how we
25 were going to go through this process, the competitive

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1 bid process.

2 Q. Yeah.

3 How many companies to date have -- have done what
4 you-all are proposing to do? I know there's one in
5 Vermont. Are there others?

6 A. You mean going into a more accelerated D&D?

7 Q. That's right. You know, take the material and
8 move it off site, transfer the ownership of the spent
9 nuclear fuel rods.

10 A. To my knowledge -- and I try to, as I can,
11 keep -- keep involved in the industry. Humboldt Bay
12 project in Northern California is very close to
13 having -- and this ISFSI-only condition, which means all
14 of the stuff has gone underground, the fuel greater than
15 Class C.

16 The Zion plant and two unit-plant in Illinois is
17 the same state. Vermont Yankee had just started. And
18 then the more recent announcements are the Oyster Creek
19 plant in New Jersey. Now, they just actually ended
20 their operational phase, as did the Pilgrim plant. But
21 their plans are going to go straight into -- to
22 basically be in an ISFSI only within the next 15 years.
23 So they -- they've had -- their plan was never to sit
24 for long periods of time.

25 I don't know the specifics of their trust fund

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1 balances and why they made the decisions.

2 And then there's others -- Indian Point, I think
3 I mentioned this morning. So there's several in active
4 demolition, and then -- including Vermont Yankee. You
5 know, assuming we get approval of this agreement, this
6 would start this year. And then you would see these
7 Pilgrims, Oyster Creeks, those plants, over the next
8 short period of time, get into active demolition.

9 Q. So I've counted -- counted maybe five that are
10 ahead of you?

11 A. Yeah.

12 Q. And of those five, how many -- how many are
13 NorthStar, is NorthStar doing as the prime contractor?

14 A. Vermont Yankee.

15 Q. So one?

16 A. Yes.

17 Q. This has not been talked about at all, but given
18 your background, I wanted to ask you the question: With
19 respect to the low-level radiation, what are the -- what
20 health impacts, if any, are associated with that?

21 MR. HERNANDEZ: Object to form.

22 A. The NRC has established annual limits of 5 rems
23 per year for -- even for nuclear workers.

24 To give you -- speak about the End-State
25 Conditions, and I threw out a number, 25 millirem per

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1 year. To give you a perspective of that, if you read
2 the EPA's information, they estimate the average
3 American gets 600 millirem per year from background
4 radiation, and that's just in the soils, in the building
5 materials, flying in an airplane. But the average is
6 600. So 25 percent, which is the limit post
7 decommissioning, is 5 percent above that background that
8 everybody gets.

9 So that's the perspective I keep in the back of
10 my mind when I think about cleanup standards. That's
11 from EPA information.

12 BY MR. MOYLE:

13 Q. Do you know -- are you familiar with the term
14 "the half life"?

15 A. I am, yes, sir.

16 Q. And just so we have a clear record, what is a
17 half life?

18 A. Half life is a measurement of the radioactive
19 decay of a radioactive element. I would describe it
20 as -- a radioactive element is unstable. So it is
21 decaying to another isotope. In doing so, it is giving
22 off radiation and energy in the form of heat. And then
23 half life is the measurement of how long does it take,
24 whatever the initial concentration was, for half of that
25 to have decayed to another structure, another atom,

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1 whatever. It could be extremely short lived or it could
2 be very long lived.

3 So that's it. It's known -- it could be
4 measured.

5 Does that answer your question?

6 Q. It did.

7 So the half life or the waste we're talking about
8 here, the A, B, and C, are they -- are they all the same
9 or is -- you know, is it longer for C than it is for A?
10 Do you know?

11 A. I'm not sure. I do think half life is one of the
12 inputs in that classification. I also think the
13 material itself is an input, and the radiation levels it
14 is emitting during its decay.

15 So I think -- and there could be others. Class
16 A, B, and C are suitable for what's called shallow
17 burial. So if you were to go to this west Texas site --
18 and I've not been there. I've seen photographs of it.
19 It's a licensed site that they understand on the -- so
20 if they -- Crystal River, they will segment the waste.
21 They will pack it into specialty canisters. They'd
22 transport it there. And then they'll dispose of it
23 generally in lined ditches that have monitoring,
24 radiation monitoring, groundwater monitoring. They have
25 all of that stuff. And that's how they do that.

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1 When you get Greater-Than-Class C waste, it is
2 not suitable for shallow burial -- shallow disposal.

3 That's -- so that's your fuel and your
4 higher-level Greater-Than-Class C waste. It requires
5 more protection. So what is taking place, the original
6 Department of Energy was the Yucca Mountain, the deep
7 underground repository that could hold the waste for
8 10,000 years and it -- and it not have an upset.

9 The interim storage that is being contemplated by
10 two different companies here in our country, one in New
11 Mexico, one in Texas, they think they can provide a --
12 meet all of the requirements to interimly store
13 Greater-Than-Class C waste. But ultimately, by law, by
14 our own law, it has to go to a repository. So -- and it
15 has to do, I guess if I threw out a number, 10,000
16 years. So, you know, clearly, those are the types of
17 analysis that are performed that get classified as
18 waste.

19 Q. Is there a -- a numerical year requirement for
20 the Class A, B, and C waste?

21 A. You mean how long it can sit there? I don't know
22 that, no.

23 Q. Yeah.

24 Do you know -- I haven't been to the site. I was
25 just curious whether -- whether there's a barrier

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1 requirement that, you know, you have a disposal facility
2 and then you need to erect or have barriers so that
3 nobody is within X number of feet or miles from the
4 site. Is there -- do you know anything about that?

5 A. Very similar requirements for nuclear power
6 plants. I still have a barrier around my plant, even
7 though we've been shut down, that goes out at least
8 100 meters so that members of the public could not
9 inadvertently wander in.

10 So there's -- that's a -- there's very standard
11 requirements for isolation of the site, for monitoring
12 of the site, depending on what's there, for security of
13 the site. So like me, I still have an armed security
14 force. So those are typical nuclear requirements, be it
15 a power plant, a Department of Energy facility, a burial
16 site. It's general -- generally, those apply.

17 Q. Okay. You weren't in the room yesterday. I
18 don't know -- did you listen in on the deposition
19 yesterday or --

20 A. No, sir.

21 Q. Okay. I was -- I'm going to ask you a couple of
22 questions that I asked the witness yesterday about his
23 schedule of values, we called it. I understand it's a
24 document that says, okay, here is how much of the scope
25 of the work has been done. That document gets put

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1 together, submitted to you-all, you-all look at it, and
2 say, yeah, we agree with that or we don't agree with it.

3 And are you -- you're familiar with that concept,
4 generally?

5 A. I'm very familiar with that concept.

6 Q. Okay. The -- the way that it works is, ADP puts
7 together their certification of completion, correct?

8 A. Correct.

9 Q. And then what happens?

10 A. They will submit an invoice on a monthly basis
11 with the supporting documentation confirming that this
12 is the work that was completed that prior month. That
13 will come to our contract management people. They will
14 do a validation, a review of the documentation. Plant
15 walk-downs to physically verify the scope of work is
16 done, you know, physically verify, for instance, if one
17 of the items claimed was that we make three radioactive
18 shipments, we can say show us this shipment
19 documentation. But it is a validation that the work is
20 done once.

21 Once we do -- once we agree, we approve the
22 invoice. The invoice will go through the Duke Energy
23 system. Eventually, it would go -- the treasurer to the
24 trustee. And the trustee will pay the invoice to ADP,
25 94 percent of that invoice, and the trustee will direct

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1 the other 6 percent into the provisional trust fund.

2 So that's how -- there's a few other steps in
3 there. But that's the general flow path of work
4 completed, invoice generated, invoice validated, payment
5 made.

6 Q. I think you had said earlier that part of the
7 reason you got the NorthStar folks in is because this
8 was an area of expertise and specialization, this
9 nuclear disposal, and you-all felt it was best to bring
10 the experts in; is that fair?

11 A. It was more than just a waste disposal. It's
12 really the -- it's the whole project, is that that is
13 not an expertise Duke Energy possesses. So we brought
14 in -- like I said, we had four proposals. In our
15 evaluation of those proposals, we selected ADP for
16 those -- for the reasons. And -- but that is a key part
17 of it, between -- for the ADP partners, they bring a lot
18 of expertise.

19 Q. Yeah.

20 When you guys are reviewing these submissions,
21 will you bring in some -- someone with some expertise to
22 kind of look at the submissions and help you evaluate
23 where they are with the -- with the submission?

24 I mean, it seems to me that they have expertise
25 you-all don't. Like you did with that consultant, maybe

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1 bringing somebody in to help with that evaluation would
2 make some sense.

3 MR. HERNANDEZ: Objection; form.

4 A. We could, but I'm going to be one of the people,
5 at least within the first year, that's doing the
6 contract management. And the other Duke Energy manager
7 that worked with me has been at Crystal River for over
8 35 years. So between our experience as -- and our
9 specific experience at Crystal River 3 and our project
10 experience, I'm very confident that we will validate
11 correctly as we go through this demolition project.

12 BY MR. MOYLE:

13 Q. And there's a provision that I saw in this report
14 that said: "Disputed invoices will not be allowed to
15 exceed \$20 million."

16 Are you familiar with that?

17 A. Very familiar, yes.

18 Q. So I'm guessing -- were you involved in the
19 contract negotiations?

20 A. I was involved at a higher level. The project
21 director and his team that reported to me probably did
22 the direct negotiations, but clearly, I was -- I was
23 involved at a higher level.

24 Q. Yeah.

25 So it's envisioned that there may be some

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1 disputes over -- over these schedule of values
2 submissions.

3 What happens if -- what happens if, you know, the
4 number gets over 20? It's 30 million and y'all are
5 saying, no, you're not -- you're not there, you're not a
6 50 percent, we think you're at 30 percent, and there's a
7 dispute?

8 What's your understanding as to what happens
9 next?

10 A. That we won't ever go above 20 million because
11 the next monthly invoice, we will withhold all or
12 portion of that to keep the total less than \$20 million.
13 That starts the very next invoice.

14 Q. What if they say, well, you know, you're wrong on
15 that? You know, we need the money, and if you don't
16 give us the money, we're going to pull our people off?

17 A. They can't dispute my dispute. They have to
18 resolve my dispute.

19 Q. And how would they do that?

20 A. Finish the work. Because as I said this morning,
21 the pay item schedule, as it breaks the total scope of
22 work into smaller scopes of work, eventually, that work
23 will be completed. So even though I might have disputed
24 it six months ago and we're trying to resolve it,
25 eventually the work is completed. And I will only have

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1 paid the fixed amount for that work. So time alone can
2 settle some of these disputes.

3 I've got other contractual projections --
4 protections I can estimate to their executives. I can
5 do different things. But that's how we structured this
6 whole dispute and dispute resolution process.

7 Because over the 6 1/2 years, all of the work has
8 to be done for the fixed amount. So we're disputing it
9 incrementally in the life cycle of the project, but in
10 order to resolve it through agreements to keep the
11 total -- to drive the total back towards zero, that work
12 will finish and I would have only paid the fixed amount.

13 Q. Have you guys developed the schedule of values?

14 A. That -- that is ADP's model. That is not a Duke
15 Energy Florida model.

16 Q. Right. But I assume for this to work, you've got
17 to have to have a schedule of values that you agree on,
18 right?

19 A. Make sure -- I'm not familiar with schedule of
20 values. Are you talking about the project schedule?

21 Q. No. What I'm talking about is, like, in
22 construction projects, sometimes you see it. It's
23 like -- okay, it's usually like a house. You know,
24 doing the site work, after you do the site work, you get
25 10 percent. After you pour the foundation, you get

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1 20 percent. After you put the -- you start going
2 vertical, you get another 20 percent.

3 So you're due monies after you achieve certain
4 points of project completion. And -- and that's my
5 understanding of how this project was set up.

6 A. Okay. Thank you for that. Now I understand your
7 question.

8 Attachment 7 in the DSA has the pay item
9 schedule. And it breaks down that 6 1/2-year scope of
10 work into roughly 80 items, and there is a fixed value
11 for each of those 80 items. For each of these items,
12 there's another level of detail below it that breaks
13 each of these line items into smaller components. And
14 that is what will be reported and asked to be paid for
15 in a monthly invoice.

16 Q. Okay. Thank you for that.

17 A. And very similar to what you described for a
18 construction project.

19 Q. Yeah.

20 And the number that has -- the end of the
21 document, the -- that you're referencing, is it 540?

22 A. This is 540. This is the -- this is the fixed
23 amount Duke Energy is going to pay to do this scope of
24 work.

25 Q. Okay. And Mr. Rehwinkel asked you a question

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1 earlier, which is kind of why I'm asking this line of
2 questions, where he said, well, you know, if they get it
3 done and, you know, it didn't cost them nearly -- it
4 cost them half -- he didn't say that. But let's just
5 say it cost them, you know, 300 million. Do they get
6 all the money? And I think the answer was yes.

7 But you guys had already gone out and said,
8 here's what we think the dollars associated with each
9 step in the project is?

10 A. I'm not -- help me understand the question a
11 little bit better.

12 Q. Yeah.

13 Are there any -- are there any unassigned dollars
14 with that 540 that is not assigned to a specific task?

15 A. No. No. The items -- I think it's roughly 80
16 items that make up the pay item schedule, is the scope
17 of work that equals the fixed amount of the contract.

18 Q. Okay. Just at a high level of understanding of
19 the parent guarantees?

20 A. The parent guarantees are exhibits to the DSA.
21 There's one that totals 140 million between the two
22 parents, and that was committed to the NRC so that as
23 the NRC reviewed the license transfer application that
24 they did approve April 1st, that was in support of the
25 trust fund for -- to allow the NRC to include that the

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1 ADP meets the financial requirements to be a licensee.

2 There's a second set of agreements that -- I
3 forget the exact name -- that parent guarantee that is
4 for the total project cost of \$540 million.

5 Q. Okay. That -- that -- that -- the exhibit that
6 we were asking some questions about, that I was asking
7 you some questions about, the risk document, I had a
8 question on 3.3. It says "key assumptions." This is
9 Page 12.

10 A. Okay.

11 Q. It talks about there's an assumption you had
12 adequate funding to close the transaction?

13 A. Correct.

14 Q. How much do you need to close the transaction?

15 A. I would have to find enough. But contractually,
16 there has to be \$50 million in the Crystal River reserve
17 account, which there -- there is today.

18 Q. And then probably 540 to put in the other
19 account?

20 A. Correct.

21 Q. Did this hedging that's referenced in this, did
22 that take place?

23 A. Yes, sir, it did. And it was in place during
24 February and March of this year, when we saw the -- the
25 market climbing. It protected our trust fund. And our

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1 trust fund has -- was largely unaffected. The hedge has
2 since expired.

3 Q. Do you have plans to continue putting hedges in
4 place, given market conditions today?

5 A. I have not heard any discussions, mainly. And,
6 again, I'll tell you what I know. We liquidated a large
7 portion of the trust fund to remove it from the forces
8 of the market risks. There will be some portions that
9 we will continue to invest that could -- could be
10 impacted, but it's much smaller than it was when this
11 hedge was in place.

12 Q. Okay. Do you have a closing date for this
13 transaction, as we sit here today?

14 A. Yes. It's an estimated closing date.

15 Q. What is it?

16 A. I recently -- I shouldn't say I. We recently
17 changed our projected closing date to October 1st.
18 There are several reasons. But it -- we need -- we have
19 to do one the 1st of the month.

20 Q. Yeah. I think earlier on I saw a July closing
21 date.

22 A. Yeah. The date has moved. As we went through
23 these, review and approval processes, there's a lot
24 that -- that's going to happen, you know. Which I think
25 in my closing date, there's employment actions that I

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1 will need to take for employees that I will basically
2 terminate for -- from Duke Energy, and they will -- many
3 will go to work for ADP, others will retire. We've got
4 to finalize the sale of the fuel, close the transaction,
5 have the NRC issue the order making ADP the licensee.

6 So we have to -- that's why we have to manage the
7 closure date.

8 Q. Yeah. Yeah.

9 You do know -- the spent nuclear fuel rods, do
10 you how those are viewed by the company from an
11 accounting standpoint? View that as an asset or
12 liability?

13 A. I don't know that.

14 Q. My thinking is, is that it's probably a
15 liability, given, you know, all of the characteristics
16 of it and it's already been used to generate energy.

17 Does that comport with how you would view it or
18 you understand it?

19 MR. HERNANDEZ: Object to form.

20 A. I don't know how the spent fuel would be viewed
21 by Duke Energy finance.

22 BY MR. MOYLE:

23 Q. And part of this deal is somebody is buying
24 the -- you know, the spent fuel rods, right?

25 A. Yes. ADP is buying the -- the fuel assemblies

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1 themselves, the canisters they're currently housed in,
2 the concrete over pipe that protects the canister, and
3 then the security system that surrounds it all until
4 it's -- DOE picks the fuel up.

5 Q. Do you have an understanding of if they are
6 paying you money for that?

7 A. They are going to pay us money. It's in
8 attachment -- excuse me -- Exhibit 1 of the DSA. It's
9 the purchase and sale agreement. And I think it's a
10 thousand dollars.

11 Q. 8,000?

12 A. 1,000.

13 Q. 1,000.

14 They may not be worth a lot of money?

15 Strike that. I appreciate you looking.

16 A. I think it's a thousand dollars.

17 Q. Page 16 of the -- of the document, where it's
18 asking you some questions about it.

19 A. I'm there.

20 Q. So this is the summary of the contracts. There's
21 five documents listed there.

22 Are all of these documents executed -- duly
23 executed and in place?

24 A. Only Number 5, the preclosing and service
25 agreement. The other documents will be executed at

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1 closing.

2 Q. And the -- and the disposal agreement, that also
3 is not in place, right, as far as you know? There's not
4 an executed copy of the disposal agreement?

5 A. Right. As far as I know, I don't know that ADP
6 has reached any agreement with Waste Control
7 Specialists.

8 Q. And earlier you had talked about waste disposal
9 being one of the largest costs.

10 Just in a general -- in a general view, can you
11 put a percentage on that as a cost?

12 A. My recollection is it's -- the -- the packaging
13 transportation and disposal is approximately 25 percent
14 of the project cost.

15 Q. Would you-all look or evaluate -- you know,
16 25 percent of 500 million is 125 million.

17 Did you-all look at what -- what the market might
18 be for that Utah facility?

19 MR. HERNANDEZ: Object to form.

20 A. Their disposal cost was in their proposal. So we
21 can certainly compare the two. But the overall review
22 of the proposals, we concluded ADP's fixed-price
23 contract was a much better deal for our Duke Energy
24 Florida customers.

25

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1 BY MR. MOYLE:

2 Q. So it sounds like, from your answer, it's above
3 and beyond just disposal cost?

4 A. Right.

5 Q. Are you familiar with compacts, that companies in
6 certain regional areas have compacts?

7 A. Yeah, generally familiar. I know compacts have
8 been around. And there's one -- I forget the name of
9 the facility -- in South Carolina. It seems like 25 or
10 30 years ago, the states in which those compacts were
11 located greatly reduced the number of states who could
12 share in that compact.

13 But to my knowledge, we're not -- Duke Energy
14 wasn't part of any compacts. And I don't know that ADP
15 is.

16 Q. And when you say "Duke Energy," you probably mean
17 Duke Energy Florida, not all of the Duke Energy
18 operating companies?

19 A. I will make a general statement that the waste
20 generated at Duke Energy's nuclear plants in North
21 Carolina, South Carolina, and Florida went to a common
22 facility. So I think I can assume from that that the
23 North Carolina and South Carolina plants may not be in
24 those compacts either.

25 Q. Where did -- where did the waste go there, you

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1 know, from those facilities?

2 A. A lot of that waste went to Clive, Utah. But
3 there's some -- there's some technical reasons how that
4 all plays out.

5 Q. So hypothetically, if we go along here and all of
6 a sudden some costs come up and the number is over
7 540 -- let's call it 600 million, and NorthStar says,
8 Hey, you know, these were not foreseen, these need to
9 come on your side of the ledger, what happens?

10 MR. HERNANDEZ: Object to form.

11 A. That is on their side of the ledger. That's the
12 risk they agreed to take for this fixed-price contract.
13 And the protections that I described are built in here
14 with parent support agreements and such. We would
15 expect and honor those and complete the project.

16 BY MR. MOYLE:

17 Q. Yeah. But that doesn't apply to some regulations
18 from DEP, does it? That's a risk that you kept?

19 MR. HERNANDEZ: Object to form.

20 A. That is a risk because, as I described this
21 morning, the End-State Conditions, if Florida Department
22 of Environmental Protection decided they wanted a change
23 in the End-State Conditions, that's a Duke Energy
24 Florida risk, yes, sir.

25

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1 BY MR. MOYLE:

2 Q. Let's say that happens, and all of a sudden it's
3 600 million. Do you go -- do you go to the -- how do
4 you come up with that extra 60 million?

5 A. Would come out of the Crystal River reserve
6 account.

7 Q. How much is going into that account?

8 A. Approximately -- based on the -- I think this
9 morning I described it. The last value I saw for after
10 tax value of our current trust fund, which is probably
11 three weeks ago, it would be approximately \$120 million.

12 Q. Just give me a minute. I think I'm pretty close
13 to wrapping up.

14 A couple more on the spent nuclear fuel issue.

15 Tell me -- tell me how -- let me -- let me just
16 tell you what my understanding is, and you correct me
17 where I think I'm wrong.

18 So the spent nuclear fuel, the -- the ownership
19 of that is being transferred to a third party. Duke is
20 not going to own the spent nuclear fuel, right?

21 A. Right.

22 Q. And it's going to remain on Duke's property.
23 Duke is going to say, okay, we'll let you keep it here
24 as long as you need to keep it here, unless and until
25 there's a suitable disposal option that arises; is

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1 that -- is that right?

2 A. Yes, that's right.

3 Q. Okay. And if there's a dispute -- if there's a
4 suitable disposal option that arises, what happens and
5 who pays for it?

6 A. Duke Energy Florida does not pay for it. There's
7 a standard contract between DOE and the owners of this
8 fuel that describes that. My understanding is
9 general -- generally DOE would be responsible for that
10 cost. I think ADP would be responsible -- this fuel is
11 stored in canisters. So I --

12 My recollection is that ADP would be responsible
13 for removing the canisters from the current storage
14 location and transported down to DOE's transportation,
15 likely a train, a specialty train. The DOE would pay to
16 load it and transport it. I'm not familiar with who
17 pays for it, or where they're going to take it. I think
18 that would have to be worked out.

19 That's my understanding for fuel. I'm not sure
20 that that same clarity of who pays for what exists for
21 the Greater-Than-Class C waste. But irregardless, Duke
22 Energy Florida will not pay for it. It will not be our
23 obligation. It won't be our obligation after the
24 closing date.

25 Q. So as we sit here today, you don't see the

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1 ratepayers of Duke Energy Florida in any way, shape, or
2 form being responsible for these spent nuclear fuel
3 rods? It's not an obligation to Duke and no way in the
4 heck does it flow to the ratepayers; is that right?

5 A. That's my understanding, yes, sir. Certainly
6 that's true contractually.

7 BY MR. MOYLE:

8 Q. Do you have any plan for what you will do to the
9 property for when the fuel rods get off of it?

10 A. As I think about the property -- and I thought
11 about the property a lot -- it's -- up until last year,
12 the Duke Energy property, over 4,700 acres, was under
13 NRC regulations. In the process to free release that,
14 we shrunk that footprint down to about 900, 800 acres.
15 At the completion of this project, where there is the
16 ISFSI only, it will be about 10 to 12 acres.

17 So there will be property that is removed from
18 the NRC restrictions over the course of this project.
19 It will still be Duke Energy's property. That property
20 is still in the vicinity of our operating coal fire
21 plants and the vicinity of the waterfronts that's
22 connected to our new gas powered plants.

23 So although there may be some reuse, it will
24 certainly still be an industrial complex. It will still
25 be near our Duke Energy generating plants. So I think

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1 we may have some options. Been no decisions yet. But
2 it -- it is a lot of property that could be repurposed.

3 Q. Yeah. But if it is, it's probably an industrial
4 purpose, I guess you could conclude, right?

5 A. Yes, sir, that's what we currently envision.

6 Q. Yeah, okay.

7 MR. MOYLE: Well, listen, thank you for your --
8 your time. I appreciate it very much.

9 THE WITNESS: You're certainly welcome.

10 MS. BROWNLESS: Is it my turn?

11 MS. TRIPLETT: Yes.

12 MR. MOYLE: I think Jay was going to go last,
13 Suzanne. So I think it's your turn.

14 MS. BROWNLESS: Thank you so much.

15 CROSS-EXAMINATION

16 BY MS. BROWNLESS:

17 Q. It's lovely to see you, Mr. Hobbs. As you know,
18 I'm Suzanne Brownless with the staff of the Florida
19 Public Service Commission. And we don't have all that
20 many questions, so this should go pretty quick.

21 As part of the ADP agreement, NorthStar will
22 perform project management, arrange for subcontracting
23 as needed, and perform a large majority of the decon
24 work; is that correct?

25 A. Yes, ma'am.

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1 Q. Okay. Can you describe in detail the activities
2 and duties entailed in the term "project management"?

3 A. That would be an internal ADP process how they
4 want to organize -- organize that project, how they want
5 to organize their field oversight and control of those
6 activities, how they want to conduct the required safety
7 greetings. They have full leeway to do that.

8 I do believe I will get to observe it. Because
9 we do have the owner's rights. I did observe -- I did
10 go to -- to the Vermont Yankee plant and spent two days
11 last fall. And I was able to watch how they were
12 organized. And it's typically -- although, clearly, all
13 I got was a snapshot.

14 But they had -- they were working the schedules.
15 They had key managers responsible for various areas of
16 the plant. Their communication seemed to be very good.
17 They had a morning meeting and an afternoon meeting I
18 got to watch where they discussed the coordination and
19 schedule updates. So it's the -- it's the typical
20 things you'd want to see.

21 I don't know that ADP will do that at Crystal
22 River. But it seemed -- of course, I got to spend some
23 time with the project director and all of that. So it
24 was -- I guess it struck me as what I had anticipated I
25 would see. And given that NorthStar was a majority

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1 owner, I would anticipate business being conducted at
2 Crystal River 3 similar to how it is at Vermont Yankee.

3 Q. I'm just going to name some types of roles and
4 see if you think these are appropriate.

5 Oversight of contractors would be included in
6 that term, perhaps?

7 A. In ADP's project management?

8 Q. Yes.

9 A. I agree it would be a project management
10 activity.

11 Q. Acceptance of work?

12 A. Yes, I agree with that.

13 Q. Quality assurance review?

14 A. Yes, I would -- I believe the quality assurance
15 aspect of this type of a project is going to be
16 primarily with the packaging and transportation of the
17 radioactive waste.

18 Q. Yes, sir.

19 Establishing project and past schedules?

20 A. Yes.

21 Q. Monitoring schedule adherence?

22 A. Yes.

23 Q. Estimating schedule and task completion
24 percentages?

25 A. Yes.

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1 Q. Estimating project and budget -- and task
2 budgets?

3 A. Yes.

4 Q. Moderate -- monitoring budget variance?

5 A. That is a project management function. I don't
6 know how that will be performed. I did not see that
7 aspect when I was at the Vermont Yankee project.

8 Q. But that's kind of a standard thing one does,
9 right?

10 A. Yes.

11 Q. Identifying, assessing, and mitigating project
12 risks?

13 A. Yes.

14 Q. Would you agree that in NorthStar's role in
15 project management, the frequent, accurate, and open
16 communication of project status to DEF is a necessary
17 element for its success?

18 A. I would -- I would say it differently. I would
19 say they have a contractual obligation to have frequent
20 and accurate communications with DEF, as described in
21 the DSA.

22 Q. Okay. And as a general rule, is accurate and
23 open communication required or a necessary element of
24 making sure that the project is overall successful?

25 A. I don't necessarily link the communication to the

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1 owner as the project being successful because -- because
2 they're going to be the NRC licensee. Duke Energy
3 Florida does not have any rights to correct them how to
4 do anything, what to do, when to do it.

5 So that's the uniqueness of this project. So
6 although we are the owner and we are going to pay them
7 from our trust fund, we do not have the ability to tell
8 the NRC licensee, like I said, what to do, how to do it,
9 when to do it.

10 So I think that is a -- that may make this
11 project a little different than other projects we've all
12 been associated with.

13 Q. Okay. Can you describe what you would consider
14 to be the appropriate level of communication between
15 NorthStar and DEF?

16 A. Yes. And to the best of our ability, we tried to
17 put that in Attachment 9. And I talked a little bit
18 about it this morning.

19 It's clearly any -- an event, a significant
20 injury, a reportable event to the Florida Department of
21 Environmental Protection, a reportable event to the NRC,
22 all those types of things, contractually they have to
23 tell me within 24 hours. And then I can tell whom I
24 need to within Duke Energy. I will be at the plant site
25 weekly, at a minimum.

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1 So there will be frequent tours and discussions.
2 And, again, that's our owner's rights here. Probably a
3 big part of a communication will occur, as we discussed
4 today, the invoice validation to ensure we're only
5 paying for completed work. And they have to give us a
6 lot of details. So we will know a lot about what is it
7 that they have done, how they progress, and we also have
8 the schedule. And they have to give us schedule
9 updates.

10 So on a real time basis, we will know a lot. We
11 can't necessarily influence it, but we have the right to
12 meet with them. We have the right to discuss what's
13 going on.

14 So those -- those are very frequent
15 communications on the overall status of the project.
16 And then you get into the more of the quarterly
17 meetings, where it's a little more formal to report and
18 then there's some annual reports. But fundamentally,
19 the communication is almost real time, the way we have
20 structured this.

21 Q. Okay. I think you told Mr. Rehwinkel that from
22 2007 to 2011, you served as Duke CR3 plant -- at Duke
23 CR3 plant as project controls manager for the extended
24 upgrade project there.

25 Do I have that correct?

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1 A. I believe it was 2007 till the end of 2010, yes.

2 Q. Okay. Then in the -- starting in 2011, you
3 served as the general manager of CR3.

4 Do I have that right?

5 A. Yes.

6 Q. In your various roles at CR3, did you rely on
7 various periodic status reports, progress reports,
8 and/or presentations containing updated information that
9 were provided by either DEF CR3 project teams or
10 contractors working there on behalf of DEF?

11 A. Since I was and continue to be responsible for
12 the activities, I would say yes. There's -- there's
13 really no scope of work that goes on Duke Energy's
14 property that I am responsible for that I don't get the
15 information I need to understand the project.

16 Not -- I don't know -- did I answer your
17 question.

18 Q. Okay. Yes, sir.

19 Can you describe and give examples of the types
20 of reports that you have previously relied upon?

21 A. Typically, projects, when they put together --
22 I'm trying to think back to some of the projects we've
23 done in the last seven or eight years. You know,
24 there's really almost daily discussions.

25 Generally, we would use a monthly -- a monthly

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1 report for internal -- for Duke Energy internal project
2 information to share.

3 Q. Okay. Would you consider those to be the most
4 important reports that you relied upon?

5 MR. HERNANDEZ: Object to form.

6 A. I really never thought -- I think they were
7 important. I don't know if they were the most
8 important. But certainly, a lot of information
9 generally would be accompanied, at least internally for
10 internal purposes, a discussion of the report. Yeah, I
11 think it's important.

12 BY MS. BROWNLESS:

13 Q. So you would have daily discussions and then
14 monthly written reports. And I'm just trying to get an
15 idea what those monthly written reports would contain.

16 A. I would say typically, for our internal use, it
17 would give the project director a summary of the
18 previous month and talk about safety performance, both
19 the incidents, accidents, near misses, what was
20 happening to preclude getting people hurt on the job.
21 There would be a discussion of the schedule, schedule
22 performance, upcoming milestones, cost reporting to
23 budget projection. If there was any regulatory aspects
24 or environmental expert -- environmental aspects of the
25 project.

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1 Those -- that's some of the types of information.
2 I'm sure there's others. I guess depending upon the
3 nature of the project, you could have a quality
4 assurance section. That was the -- as I recall, that
5 was the typical type of information we reviewed.

6 Q. And did you provide periodic project status
7 reports up the chain of command to your superiors?

8 A. Very infrequently. The monthly reports, from a
9 transparency standpoint, we can make available to
10 interested internal stakeholders, which there always
11 are. Maybe on an infrequent basis, an executive may ask
12 for maybe an in-person review, but that is extremely
13 rare --

14 Q. Okay.

15 A. -- in my experience.

16 Q. And the superiors to whom you would report would
17 have been? Could you tell me again?

18 A. Who do I report to?

19 Q. No, sir.

20 When you -- I think you just indicated that you
21 gave periodic project status reports up the chain of
22 command.

23 And what I want to know is, can you tell me one
24 more time folks that would be asking for those types of
25 reports?

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1 A. Well, in the last several years, it would be the
2 senior vice president that I report to.

3 Q. Okay. And he's the senior vice president of
4 what?

5 A. Operation support.

6 Q. So you basically provided reports to your
7 superiors on an ad hoc basis; is that fair to say?

8 A. The monthly report that was prepared for me was
9 made available for them to review. If they had
10 questions, we could discuss the questions or the --
11 whatever it was. That's really how it kind of flowed.

12 When my -- when my senior vice president, when he
13 could attend, he would try to attend the meeting and had
14 accompanied reviewing the report.

15 Q. The monthly meeting, then?

16 A. Yes.

17 Q. Did the reports that you prepared include project
18 performance measures or dashboards?

19 A. Yes.

20 Q. And did it include budget variance reports?

21 A. Yes.

22 Q. Updates on change orders?

23 A. Projects that I have been affiliated with, I
24 don't recall a lot of discussion on change orders.

25 I can't think of a project that I have had in the

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1 last several years that change orders would -- would
2 exceed the contingency that we had built into the
3 original project setup. So that's probably -- and they
4 were relatively small projects. We had been in
5 decommissioning since 2013. So that's probably why that
6 is.

7 Q. Was there a risk register or similar tool that
8 estimated both the likelihood of occurrence and
9 potential dollar impact of specific identified risks?

10 MR. HERNANDEZ: Object to form.

11 A. If that's a tool, when appropriate, we would use
12 in some of the projects.

13 BY MS. BROWNLESS:

14 Q. Can you describe what use was made of the
15 information that your reports contained?

16 A. My understanding of the project.

17 Q. Okay. And were they relied upon to assess the
18 overall success of the project?

19 A. I think at the completion of each project, yes,
20 you would compare your safety performance, your schedule
21 performance, and your cost performance relative to your
22 initial estimates.

23 Q. So they were relied on when you got to the end to
24 assess the overall success of that project; is that
25 correct?

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1 A. Yes.

2 Q. And in evaluating the overall success, you would
3 evaluate what the key challenges or problems within the
4 projects were and the quality of work performed by the
5 contractors; is that right?

6 A. Yes. We have a lessons learned process and we
7 have a contractor evaluation process.

8 Q. Okay. Do you believe that overall, these reports
9 provided information that that was superior with
10 success, status, challenges, problems, quality of work,
11 and risks related to the project?

12 MR. HERNANDEZ: You broke up a little bit
13 there. Can you repeat the question, please?

14 MS. BROWNLESS: Yes, sir, I will.

15 BY MS. BROWNLESS:

16 Q. Do you believe that overall, the information
17 contained in these reports provided information that was
18 essential for your superiors in assessing the success,
19 status, challenges, problems, quality of work, and risks
20 related to that specific project?

21 MR. HERNANDEZ: Object to form.

22 A. I think that the report we're talking to is
23 merely a refresh -- reflexion of the project leadership
24 team.

25 So my view of a report is an opportunity to

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1 understand the ongoing project and make adjustments as
2 needed, but the adjustments was in the leadership aspect
3 of the project. So I never thought about the monthly
4 report being a part of the critical success factor -- or
5 a critical success factor in a project. It is a
6 reflection of the project leadership team. And that's
7 how I've always viewed it.

8 So your question is just a different view that I
9 have -- it's not how I have historically thought about
10 reports.

11 BY MS. BROWNLESS:

12 Q. So you see the representation of what should be
13 done in order to appropriately run a project?

14 A. I see it as a backward-looking view of how the
15 project is being implemented. And -- but it does give
16 the leadership team an opportunity to discuss
17 adjustments, challenges, what might need to happen.

18 Q. Okay.

19 A. That's -- that's my personal view of a report.

20 Q. So is it fair for me to say that it's an
21 assessment tool as you're working through the project?

22 A. Yes, I would agree that it is a tool, from a
23 leadership perspective, through the life cycle of a
24 project.

25 Q. Are you familiar with the prehearing position

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1 statement filed by Duke in this docket?

2 A. I'm sure I read it. I don't --

3 Q. Do I want to take a minute to get it together
4 there?

5 A. For your information, I didn't want to spend a
6 lot of time.

7 MS. BROWNLESS: And, Danny, it's issue Number 7
8 on the prehearing.

9 MR. HERNANDEZ: I'm going to put that in front
10 of Mr. Hobbs.

11 THE WITNESS: Thank you, Danny.

12 BY MS. BROWNLESS:

13 Q. I'll give you a minute to look it over, sir.

14 A. Issue 7?

15 Q. Yes, sir. It's on page -- well, your pages
16 aren't numbered.

17 A. Yes, I am familiar with that issue and issue
18 response, yes.

19 Q. Thank you.

20 Can you just read your response for the record,
21 please?

22 A. I can.

23 "DEF will submit an annual report to the
24 commission to ensure that the decommissioning activities
25 outlined in the DSA are completed. The report will

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1 include the amount of funds paid to ADP CR3, LLC, from
2 the NDF during the previous years.

3 "The amount of funds remaining in the NDF, ADP
4 CR3, LLC, scheduled performance for the previous year
5 and project to date and assess with a future assessment
6 of future schedule and pay projections."

7 Q. Okay. Does this list of plan reports
8 notifications in the prehearing statement match up with
9 every requirement that's listed in Attachment 9 to the
10 DSA?

11 A. I don't know if it matches up. But this
12 information will be available to Duke Energy Florida
13 from the reporting that ADP has the support to supply.
14 A lot of this information ADP will be required to supply
15 to the Nuclear Regulatory Commission on an annual basis.
16 And as I said, contractually, they have to provide me
17 with any reports they make to a government agency.

18 So the -- this information will be available to
19 Duke Energy Florida, and as I responded in this -- in my
20 response, clearly, we can put this together and share
21 with the commission.

22 Q. And you would be willing to provide whatever
23 information came from ADP to the commission?

24 MR. HERNANDEZ: Object to form.

25 A. I mean, I -- the way -- the way this was crafted

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1 was to give a high level -- remember, I'm going to get a
2 ton of information on a monthly basis that supports the
3 invoice. As we discuss this, we wanted to -- we wanted
4 to provide something more meaningful to the commission
5 on an annual basis than the -- the details of all of
6 that.

7 But with that said, as I said this morning, we
8 recognize the commission will need information. Just
9 exactly what that might be, maybe I don't know yet.

10 BY MS. BROWNLESS:

11 Q. Okay. And would it be provided to the commission
12 on an annual basis, which is what your prehearing
13 statement says, or on a quarterly basis, which is what
14 we believe Attachment 9 says?

15 A. Attachment 9 is a quarterly report from ADP to
16 me. I'm not sure that will include the yearly aspects.
17 So if I go to Attachment 9, Attachment 9 also has annual
18 information --

19 Q. Yes.

20 A. -- and is -- annual information Section C of
21 Attachment 9, it says that they will give me the
22 information quarterly, but in addition, on or before
23 March 31st of each calendar year, the following. And it
24 says assessment of project schedule performance or
25 future projections with respect thereto, pay items

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1 schedule, and blah, blah, blah.

2 So that's the basis. It's not the quarterly
3 information, it was the annual information that's the
4 annual -- that that -- that time linked to what
5 contractually ADP will supply to me that I clearly
6 signalled that I'm willing to also share with the
7 commission, or at least with the --

8 Q. Can you help me understand about Attachment 9 and
9 the quarterly information, which you've got here as a
10 face-to-face meeting?

11 So you're not anticipating they will -- there
12 will be a written quarterly report? You're -- you are
13 saying that they'll simply be a face-to-face meeting
14 each quarter?

15 A. I did not specify that we would have a report
16 other than in the annual.

17 The reason that we structured this like we did --
18 so A is what I've been talking about, things that we
19 need to know about in a very short order, within
20 24 hours. B was an opportunity for not just me --
21 remember, I'm going to be the contract manager, me and
22 one of the managers who work for us. We're going to
23 have daily and weekly interactions.

24 So quarterly was intended for other internal Duke
25 Energy stakeholders that may want to come down or may

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1 want to be involved.

2 So that was a little of formal -- a forum to do
3 it. And then the annual is where we're getting the
4 reporting in an annual meeting.

5 So that's how we structured it.

6 And then D, because, as we've discussed a lot
7 today, we don't know where the fuel and the
8 Greater-Than-Class C waste would go, I wanted to make
9 sure that Duke Energy understood that once -- once that
10 plan started getting put in place, that we understand,
11 even though ADP owns the fuel, I wanted to specifically
12 understand where it's going, how it's going, the risk
13 assessments, and all of that.

14 So -- and then E is, you can see what we're doing
15 there.

16 So that's how we structured Attachment 9.

17 Q. And I guess what I'm trying to ask is: Does DEF
18 have a problem with providing whatever written
19 information it gets when it does these face-to-face
20 quarterly meetings to the commission?

21 MR. HERNANDEZ: Object to form.

22 A. I hadn't thought about it on a quarterly basis.
23 So I would say I don't know if I -- if I would object or
24 not. You know, I think right now, it's clearly idling
25 towards annual. I guess that's my answer. I don't know

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1 that I object or don't object.

2 BY MS. BROWNLESS:

3 Q. Okay. Can you turn to the second set of
4 interrogatories, Number 15, please.

5 A. I have the second set in front of me.

6 Q. And it's Number 15.

7 A. All right. I'm at Number 15.

8 Q. This interrogatory asks about DEF CR3 current or
9 planned reporting tools, such as update presentations,
10 status reports, key performance indicator tracking, and
11 project dashboards.

12 In your response, you state that DEF has no
13 current or planned use of CR3 decommissioning progress
14 reporting tools; is that correct?

15 A. Yes, that's correct.

16 Q. You also state that DEF expects to create
17 progress reporting tools for future use in connection
18 with the CR3 decommissioning.

19 Do I have that right?

20 A. Yes, you do.

21 Q. Has DEF created CR3 decommissioning progress
22 reporting tools for future use in connection with the
23 CR3 decommissioning since the response date of this
24 interrogatory, and if so, what are those tools?

25 A. No, we have not. But this is in the context of

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1 the annual reporting that's in Attachment 9.

2 Q. Okay.

3 A. And I responded to this. And as I thought about
4 Attachment 9, I would -- I intend to prepare a formal
5 annual report from my frequent interactions with ADP on
6 the status of this project and send it to our regional
7 key personnel, our regional headquarters in
8 St. Petersburg, and then our corporate office in
9 Charlotte, North Carolina.

10 Q. Okay. So you're thinking about doing this on an
11 annual basis only?

12 A. Yes, ma'am, that's been my thought since we
13 started thinking about Attachment 9. That's my thought.
14 Now, once we get into the project, like any project, as
15 you're going forward in time, you may make different
16 decisions.

17 But at this point in time, I -- when I drafted
18 this response, it was in the context of the annual
19 meeting on Attachment 9.

20 Q. Okay. And do you have any plans for reporting
21 documentation to the commission related to this report?

22 What are you planning to give the commission? I
23 guess is what I'm asking.

24 A. I think it's what I said in the response to
25 Issue 7. I wanted to provide a high level that here is

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1 the progress of the -- the project. Here's how much we
2 have spent. Here's how much work has been completed.
3 And as we have to tell -- as ADP has to tell NRC, here's
4 the remaining scope of work and here's the money that is
5 remaining in the subaccount.

6 And then ADP will have to make a statement of
7 fact in their annual NRC filing that they still have
8 sufficient funds in their trust fund for complete
9 decommissioning. And of course, I would include that
10 information in this annual report. That's the
11 understanding I had originally.

12 Q. So there would be one annual report, and that
13 would be prepared pursuant to Attachment 9, and that
14 report would be provided to your superiors and also
15 provided to the Public Service Commission?

16 A. Yes, that's what I intended in that response to
17 Issue 7.

18 Q. Okay. Can you look at your response to the
19 second set of interrogatories, Number 16?

20 A. Okay.

21 Q. And this question regards the oversight role over
22 ADP decommissioning performance.

23 In this response, DEF states here that it plans
24 to contract with a consulting firm to independently
25 assess ADP's project performance and invoicing process

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1 on a periodic basis; is that correct?

2 A. That is what this states.

3 Q. Okay. And the response date was October 16th of
4 2019; is that correct?

5 A. Yes.

6 Q. Has DEF made any progress since that time in
7 contracting with a consulting firm to independently
8 assess ADP's project performance and invoicing?

9 A. No, we have not. My response said we had plans
10 on a periodic basis. So if DEF determines that we would
11 want an independent look, we would, at that point, bring
12 in a third party, but there's currently no plans to do
13 that.

14 Q. At this time?

15 A. Today, correct.

16 Q. Yes, sir.

17 And what -- how does DEF plan to share the
18 results of any independent review with the Public
19 Service Commission?

20 A. I -- I haven't thought about that. I intended
21 this to be for internal use for Duke Energy Florida.
22 Again, I have very limited experience with the
23 commission. I don't know what is routinely shared or
24 not shared with the commission. So I'm not a -- I'm
25 really not in a good position to be able to tell you

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1 that.

2 Q. Okay. In that response, you state that ADP's
3 reporting and notification requirements to DEF are found
4 in Attachment Number 9 to the DSA.

5 And I think that's what we've been discussing,
6 correct?

7 A. Correct.

8 Q. Okay. Does this attachment contain all of ADP's
9 reporting and notification requirements to DEF?

10 A. No, it does not.

11 Q. Where are the other reporting requirements?

12 A. That there are some reporting requirements in the
13 closing. Section Article 4 is various information that
14 ADP will make available at closing to Duke Energy.
15 There are reporting requirements in Section 6.22,
16 financial statements. There are reporting requirements
17 in 6.12 for walk downs and compliance meetings.

18 We've already talked a lot about the monthly
19 information reporting requirements that will accompany
20 the monthly invoice so that we can validate that we are,
21 in fact, paying for work that's complete. There are
22 audit rights in 9.9.

23 There are reporting requirements in Article 11
24 for schedule extensions. And there's reporting
25 requirements in Article 15 for events of default. And

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1 there may be others in the other, you know, all of the
2 exhibits that attach with it. But there's a lot of
3 information and requirements throughout this entire
4 agreement that ADP has the obligation to inform Duke
5 Energy Florida for.

6 Q. And do you have a plan for how you're going to
7 provide this information to the Public Service
8 Commission?

9 A. I do not.

10 Q. Did you intend to develop such a plan?

11 A. I haven't given it a lot of thought because I
12 don't routinely provide a lot of information about the
13 ongoing decommissioning project now. I mean, we had a
14 decommissioning project in progress since 2013. And we
15 have -- we have cut the staff by probably 90 percent.
16 We have taken out of service all of the plant
17 structures, systems, and components. A lot of that
18 is -- I guess that was my frame of reference as I
19 thought about this project.

20 Q. So with regard to the information that is
21 contained in Attachment 9, basically where you are right
22 now is, you don't have an overall plan for when that
23 information is going to be given to the commission?

24 A. No, I don't do that --

25 Q. Is that right?

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1 A. No, I think my response to Issue 7 showed the
2 willingness that I will prepare the annual report with
3 the cost and schedule performance on an annual basis and
4 be happy to provide it to the commission.

5 Q. Okay. Would you have any difficulty in providing
6 that information on a quarterly basis as opposed to an
7 annual basis?

8 A. I think I might have difficulty because I won't
9 get information from ADP except on an annual basis.

10 Q. Well, aren't you getting -- having quarterly
11 meetings with them?

12 A. Because I wanted -- the information I wanted, I
13 intended to supply the commission in my response. Also
14 included the formal determination of a financial
15 assurance that ADP must make to the NRC. And that only
16 happens in the March filing, the annual March filing.

17 So that's -- that was how I viewed these
18 reporting, including what I -- what I believe would be
19 sufficient information for the commission. That's just
20 my opinion. But that's the key to it. It's linked to
21 that March NRC filing associated with financial
22 assurance to complete the project.

23 Q. And in that filing -- well, let me ask this
24 question: Attachment 9 says that their recording --
25 reporting requirements organized for a 24-hour

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1 notification; is that correct?

2 A. Yes, that's Section A to Attachment 9.

3 Q. Right. And when did you intend to give that type
4 of information to the commission?

5 A. Again, I'm at a loss because over my career, I
6 have made reports to the NRC and to OSHA and other
7 governing agencies. And to my knowledge, I certainly
8 never reported any of that to the commission. So I'm
9 not saying that someone within Duke Energy didn't. But
10 in my processes, there -- that did not happen.

11 Q. I see.

12 All right. Can I get you to look at your direct
13 testimony, Exhibit TH-2, Page 9 of 12.

14 A. Okay. I have it. What was the page number? I'm
15 sorry.

16 Q. 9 of 12.

17 And it's your Exhibit 2.

18 A. Is it a table?

19 Q. Yes, sir.

20 A. I have it.

21 Q. Okay. And this page shows a determination for
22 annual accrual for decommissioning; is that correct?

23 A. That's the title of this thing, yes.

24 Q. As part of the information on this table, it
25 shows DEF's projected owner costs annually from 2019

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1 through 2038, correct?

2 A. I'm looking -- DEF, other costs -- yes, it shows
3 an estimate of 77 million between 2019 and 2028 [sic].

4 Q. Okay. Are there any possible events which could
5 occur that would cause the owner costs to be much higher
6 than the amounts that are projected on this page?

7 A. Yes.

8 Q. And can you explain, please?

9 A. I have explained End-State Conditions is the
10 primary one. That is a Duke Energy Florida owner risk.
11 So that is -- contractually, that is the big risk that
12 would affect these numbers -- or this -- this estimate.

13 Q. What plans does DEF have for reporting the actual
14 owner costs incurred to decommission the CR3, to the --
15 and when I say "reporting," I mean reporting to the
16 Florida Public Service Commission.

17 A. I included -- when I said I was -- in my response
18 to Issue 7, I did not segregate the trust fund. I
19 intended to show both ADP expenditures and owner cost
20 expenditures so that the commission would have a view of
21 the total trust fund, current amounts and amounts spent
22 in the prior year and the amount forecasted in the
23 future year. I intended that to be inclusive.

24 Q. All right. And in the event of a large
25 singular -- I'm sorry. Let me start over.

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1 In the event of a singular large actual or
2 projected owner cost deviation, how soon would DEF
3 provide notification of that event to the Public Service
4 Commission?

5 MR. HERNANDEZ: Object to form.

6 A. We described the -- that there was a change in
7 End-State Conditions, and we described it in the -- in
8 our testimony. Collectively, the collaborative Duke
9 Energy folks, including many departments, that would
10 collectively decide the course of action. I would look
11 for guidance from my regulatory team and legal team to
12 advise me on when it would be appropriate, if it would
13 be appropriate to communicate with the commission.

14 So I would certainly not exclude the commission.
15 I just -- I'm not -- I don't feel that I'm the person
16 that would make that discussion.

17 But I have a large very talented team that could
18 certainly help in that determination of when and what we
19 would communicate.

20 BY MS. BROWNLESS:

21 Q. Okay. How would DEF notify the commission in the
22 event of a singular large actual or projected owner cost
23 deviation?

24 MR. HERNANDEZ: Object to form.

25 A. Same answer as before. I don't -- I don't know

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1 that, but I -- I believe someone within Duke Energy
2 Florida would know that and could help get us to go down
3 the right path.

4 BY MS. BROWNLESS:

5 Q. And I guess just generally, it would be -- you
6 would anticipate that the commission would be notified
7 at some point?

8 A. I would anticipate if an event like a -- a change
9 in End-State Conditions, I would anticipate that we
10 would be transparent with the commission.

11 MS. BROWNLESS: Can you give me just a minute,
12 please?

13 THE WITNESS: Yes.

14 MS. BROWNLESS: Thank you.

15

16 (Whereupon, a discussion was held off the
17 record.)

18 MS. BROWNLESS: Thank you, Mr. Hobbs. I
19 appreciate your patience.

20 THE WITNESS: You're certainly welcome,
21 Suzanne.

22 MS. BROWNLESS: Thank you. That's all I have.

23 MR. BREW: I guess that means I'm up.

24 CROSS-EXAMINATION

25 BY MR. BREW:

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1 Q. Mr. Hobbs, can you hear me?

2 A. Yes, sir.

3 Q. My name is James Brew. I represent one of Duke's
4 larger industrial customers. This hopefully will be
5 relatively quick. And I appreciate your stamina.

6 If we could just stay at the exhibit you just
7 spoke to the staff about, the the-2, Page 9 through 12.

8 A. Yes, sir.

9 Q. Just -- just to recap, I mean, you had spoke with
10 Mr. Rehwinkel that the current balance is more -- it's
11 in the order of 660 million, but this exhibit showed at
12 699. But at closing, you would move 540 million to the
13 IOI subaccount, and then the reserve would consist of
14 the balance, which on your exhibit, just to be
15 consistent, that would be 104 million after owner's cost
16 for that year; is that right?

17 A. I agree with the 50 -- 540. I'm trying to see --
18 I haven't look at this document.

19 Q. I'm looking at the last column, the NDT
20 balance --

21 A. I see it.

22 Q. -- the 104,000,761.

23 A. Yes, sir. I see it now. That's correct. When
24 this analysis was done, 540 to the subaccount for the
25 decommissioning, 104 for the Crystal River reserve

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1 subaccount.

2 Q. Got it.

3 And just to be clear, once that 540 is moved at
4 closing, Duke can't use it for any purpose other than
5 paying the invoices under the DSA agreement; is that
6 right?

7 A. Yes, sir, that's correct.

8 Q. And any owner's costs that are incurred come out
9 of the reserve; is that right?

10 A. Yes, that's right.

11 Q. Okay. And this column basically shows after the
12 CR closing, just the draws for owner's costs, while
13 accounts rose from assumed earnings; is that right?

14 A. Yes, that's right.

15 Q. So when it all goes as planned, we get to 2027
16 and ADP is finished decommissioning, dismantling,
17 packaging, and moving the materials off site; is that
18 right?

19 A. Yes, that's right.

20 Q. And restoring -- and restoring the site?

21 A. Other than the ISFSI, yes.

22 Q. That's where I'm getting.

23 So that puts you at your interim End-State
24 complete, which means that other than the ISFSI,
25 everything else has been done; is that right?

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1 A. Yes.

2 Q. And at that point, ADP gets -- gets whatever
3 balance is left in the IOI account; is that right?

4 A. Yes, that's right.

5 Q. Okay. You mentioned earlier that as part of the
6 closing transaction, ADP -- I guess FS-1 will purchase
7 the ISFSI and the security assets for that installation;
8 is that right?

9 A. Yes, that's right.

10 Q. And that's the thousand dollar nominal payment
11 that was made or would be made?

12 A. Yes, sir.

13 Q. And then presumably, Duke, at some point, will
14 correct its resale rates for the costs that were
15 included rates?

16 A. I'm not -- I'm not sure of the -- any rate impact
17 from this transaction.

18 Q. Okay. All right. ADP becomes solely responsible
19 for decommissioning and dismantling and moving materials
20 to an acceptable site, right?

21 A. Correct.

22 Q. And that -- that site, at least for the low-level
23 waste, is presumably the Andrews, Texas site that's
24 owned by WCS?

25 A. Yes, that's right.

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1 Q. Okay. And ADP takes responsibility for all fees
2 and license requirements and other things that Texas
3 requires for placing those materials at that site; is
4 that right?

5 A. Yes, that's right.

6 Q. ADP, as part of the agreement, is providing a
7 \$30 million disposal guarantee that you had mentioned
8 would be put in the provisional trust; is that correct?

9 A. Yes.

10 Q. Is that \$30 million disposal -- I'm sorry. Is
11 that \$30 million disposable guarantee -- does that
12 requirement end when you get to the interim End-State
13 complete?

14 A. No. The way the transaction is structured is, as
15 I described, we withhold 6 percent of the -- each
16 monthly invoice amount -- of the invoice amount,
17 94 percent of that will be paid to ADP, and the trustee
18 will direct 6 percent of it into the provisional trust.

19 So over time, as the cash builds -- and there's
20 an initial 20 million in cash and 30 million in disposal
21 guarantee for a total value of 50. As the cash
22 component increases over time, the waste disposal value
23 decreases a like amount until it's \$50 million cash and
24 the waste disposal, at that point, will have been
25 completed.

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1 Q. After -- after the waste disposal is completed --
2 and we're talking now about the non-radiological and the
3 low-level waste only; is that right?

4 A. Yes.

5 Q. Is there any remaining truck provisions that stay
6 in place after you get to interim End-State complete?

7 A. I'm not sure I understand your question.

8 Q. Let me try it a different way.

9 Duke will retain ownership of all of the real
10 property; is that right?

11 A. Yes, that's right.

12 Q. Including the property where the ISFSI is
13 located, right?

14 A. Yes, we will own the real property under the
15 ISFSI pad.

16 Q. You mentioned that was like 10 to 12 acres that
17 would still --

18 A. Right.

19 Q. -- will still be occupied by those facilities?

20 A. Right.

21 Q. And the disposal guarantee refers to the
22 decommissioning and the dismantlement, not to the
23 disposal of the high-level waste and materials that are
24 in the ISFSI; is that right?

25 A. That's right, yes.

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1 Q. Okay. So is there -- are there any particular
2 guarantees that apply after the interim End-State
3 regarding the decommissioning of the high-level waste
4 that are located on Duke's property?

5 MR. HERNANDEZ: Object to form.

6 A. ADP -- again, I'm not -- I'm not following. ADP
7 still has the obligations to move the fuel, to demolish
8 the ISFSI structures, perform site -- final site
9 radiological surveys, and give the NRC the information
10 they need, be it a license termination, to allow the NRC
11 to fully terminate the NRC license. That -- that
12 continues to be an ADP obligation. We continue to own
13 the real land.

14 BY MR. BREW:

15 Q. Okay. But my question was that there was a
16 disposal guarantee in the DSA that applies to the
17 disposal of the low-level waste, but there's no
18 corresponding guarantee or trust that applies with
19 respect to the high-level waste.

20 Is that because it's owned by ADP --

21 A. Yes, there will be --

22 Q. -- or ADP affiliate?

23 A. There will be an ISFSI trust, but it will be set
24 up and maintained by the new owner, ADP.

25 Q. So -- so the ISFSI trust is not something that's

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1 before us in this transaction?

2 A. It is discussed in the agreement, but it is not
3 part of the \$540 million that we are talking about with
4 respect to the nuclear trust fund.

5 Q. Okay. That's what I was getting to, okay.
6 Thanks. I'm glad you cleared it up.

7 The -- with respect to the high-level waste, ADP
8 will be -- will take over your slot with respect to the
9 lawsuits against the Department of Energy associated
10 with the cost of having to maintain the high-level waste
11 on-site because there is no federal high-level waste
12 repository?

13 A. Right. We will -- as part of their fuel
14 purchase, they will take -- also give the standard
15 contract. And they each -- so as they seek
16 reimbursement of their spent fuel management cost, they
17 can seek reimbursement from the Department of Energy
18 either through making a settlement agreement or through
19 litigation. But that will be for them to do, not Duke
20 Energy Florida.

21 Q. So Duke will have no role in that whatsoever?

22 A. No, Duke still has a role because Duke Energy
23 Florida will be entitled to the spent fuel management
24 cost that I'm currently funding from the trust from -- I
25 believe the time period will be from the beginning of

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1 2019 to the closing date.

2 So there will be a year and a half or more that
3 Duke Energy will litigate in the future to -- for
4 reimbursement of our costs to go back into the trust
5 fund later this decade.

6 Q. So those would be additional funds that you would
7 seek reimbursement that you hadn't previously asked for?

8 A. We will wait until the closing date as soon as we
9 get permission to close. And then we will complete the
10 current litigation, I would imagine. And then we will
11 get into the process for the cost of what Duke Energy
12 rightfully should be reimbursed for, for DOE's failure.
13 But I think that rough time frame is going to be from
14 January of '19 till sometime late this year, you know,
15 if -- if we close.

16 I don't have a dollar estimate on that right now,
17 but I know that's the time frame. And we'll go -- we'll
18 get into that process. So that will be --

19 Q. Okay.

20 A. But from the day of closing forward, ADP has
21 those same rights. So either one of those could end up
22 running parallel. But that's how that's going to work.

23 Q. And will ADP be leasing the ISFSI site from Duke
24 after closing?

25 A. There is a lease agreement being negotiated. I

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1 believe it will include all of the areas that's defined
2 in the DSA that includes the ISFSI. But we will still
3 own the real property.

4 Q. Okay. But the lease is to be negotiated; is that
5 right?

6 A. Yes, that's my understanding, yes.

7 Q. Okay. The assumption in your petition has been
8 that you expected that DOE would finally have a
9 high-level repository and accept deliveries around about
10 2038; is that right?

11 A. That's right.

12 Q. Okay. If that doesn't take place -- strike that.
13 If there were sites -- is there a federal site
14 yet?

15 A. No, there is no federal site, either interim or
16 permanent at this time.

17 Q. Okay. And -- and DOE was supposed to start
18 accepting receipt of high-level waste about 25 years
19 ago?

20 A. It was roughly 1982, somewhere in there.

21 Q. Well, 1982 is the Nuclear Waste Policy Act,
22 right?

23 A. It was in 1990. I forget the exact date. You're
24 right.

25 Q. It was around 1996 they were supposed to start

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1 accepting the waste, right, if you know?

2 To the extent that there was not a high-level
3 waste repository established by that date, the
4 responsibility to continue to maintain the ISFSI
5 materials and security stays with ADP; is that right?

6 A. Yes, that's right.

7 Q. For however long it takes?

8 A. Yes, sir, for however long it takes.

9 Q. If they determine that there's not going to be a
10 federal repository, what would happen?

11 MR. HERNANDEZ: Object to form.

12 A. I don't think that's been thought through. What
13 I would share with you and what I shared in testimony
14 is, given our nation's difficulty locating a permanent
15 repository, there are two interim storage facilities
16 that have applications before the NRC. One is in west
17 Texas at the WCS property for interim storage. The
18 other one was issued by Holtec. And Holtec if the
19 license is approved, they intend to build an interim
20 storage facility in eastern New Mexico.

21 So as a nation, as we've been able to solve this
22 permanent repository, the current move is toward
23 interim. I don't know, you know, what the probability
24 of that might be. I know there's a lot of intention
25 going on within our industry. And I think there may

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1 have to be some congressional involvement.

2 But my opinion would be that's the more likely
3 scenario, if we were capable of moving spent fuel from
4 the sites around the country. And there are several of
5 them that are ISFSI only so that those licenses can
6 be -- can be completely terminated and the
7 decommissioning trust funds closed. And like in our
8 case, we would anticipate returning funds in the trust
9 fund to customers and stakeholders.

10 So you asked me what would happen. I think right
11 now, the viable solution is interim storage, but there's
12 no guarantee that's going to happen either.

13 BY MR. BREW:

14 Q. But the prospect of refunds to Duke ratepayers
15 would follow from the actual removal of the high-level
16 waste from the Crystal River site; is that correct?

17 A. That's correct. I think we discussed that in
18 testimony. I'm not sure I have it. I think our -- I
19 think our testimony was that -- and, again, this is
20 really a legal question. But my understanding is that
21 since we can only pay for decommissioning activities
22 from the trust, that's why we would do that. But
23 there's also risk until the license is terminated. It
24 could be a change in End-State Conditions.

25 So that is our current view with respect to the

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1 trust fund.

2 Q. Okay. You talked a little bit about the waste
3 that would be delivered to Andrews, Texas. And that --
4 that site can accept Class A, B, and C waste, correct?

5 A. Correct.

6 Q. But is currently not approved for
7 Greater-Than-Class C waste?

8 A. I don't think it's currently approved. I know,
9 just in discussions with ADP, since there are
10 affiliates, they are looking for the ability to shift
11 Greater-Than-Class C waste. They seem -- they seemed
12 positive that that was going to happen. I don't know
13 a lot about that business. It certainly is not licensed
14 to accept spent nuclear fuel.

15 Q. Okay. I get that.

16 But just sticking to Greater-Than-Class C waste,
17 you will have parts of the NSSS system and maybe the
18 reactor vessel that will come out as initially
19 Greater-Than-Class C, right?

20 A. Correct.

21 Q. Okay. So I thought I heard you say that your
22 solution at this point -- or ADP's solution at this
23 point is to treat it along with the high-level waste; is
24 that right?

25 A. Yes, I did say that, but that's what caused the

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1 Department of Energy to use the transportation and
2 storage of the high-level waste in the same manner as
3 they do the fuel. That's why the two end up being
4 together.

5 Q. So in this case, then, materials that show up as
6 Greater-Than-Class C either have to be decontaminated
7 before they're moved off site or they go to the ISFSI
8 and stay there?

9 A. They will -- they will be packaged and placed on
10 the ISFSI, along with the fuel canisters. They'll be in
11 canisters. And they -- the current plan would be that
12 they would be -- those fuel canisters would be
13 transported with the canisters of fuel to the DOE
14 facility or the interim facility at the same time.

15 Q. So for our current purposes, the
16 Greater-Than-Class C waste, for the time being, is not
17 going to leave Crystal River?

18 A. My current understanding, as I shared with you, I
19 know that there is discussions -- and it's a very
20 technical discussion, and that's why I don't get into
21 it. But the -- I have -- I have been in discussions
22 about different levels of waste and that
23 Greater-Than-Class C waste may be, from a definition,
24 could be further subdivided and give some options, not
25 just to this project, but all of these projects that are

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1 ISFSI only. They have that Greater-Than-Class C waste
2 that is generated during demolition. It's sitting
3 there.

4 So this is for all of the sites that are ISFSI
5 only. Where that goes, I don't know. I know that's the
6 way the -- that could come up with a different time
7 table or solution that currently exists today.

8 Q. Okay. Will the storage of those materials at
9 Crystal River change the footprints that's required for
10 storing those materials?

11 A. I'm sorry. Ask me that again, sir.

12 Q. Duke continues to own the land and will be
13 leasing the ISFSI's location to ADP.

14 Will the requirement be -- the effective
15 requirement of keeping the Greater-Than-Class C waste
16 on-site until there's an acceptable repository require
17 ADP to lease more land?

18 A. I do not think so. When I say 10 to 15 acres,
19 let me better explain that.

20 The actual ISFSI structure that is surrounded by
21 the security system is really about an acre and a half.
22 There are requirements to have an exclusionary -- or
23 that's probably the wrong word -- but an isolation area
24 out to 100 meters, but that's for those purposes, not
25 security purposes. And then --

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1 Q. Got it.

2 A. We know that there will have to be a heavy haul
3 path to get from the current location to the rail spur.
4 There would -- it would not make sense to try to release
5 that property until it's all gone. So the actual active
6 part of it is about an acre and a half. But I would
7 anticipate 10 to 15 acres to give the room to do the
8 transport of the canisters to the -- to the rail spur.

9 Q. I understand.

10 Can I -- I'll refer you to your rebuttal
11 testimony, Page 10, please.

12 Let me know when you've got it.

13 A. All right. I'm on Page 10.

14 Q. You're on Item Number 5.

15 It says that ADP pays for all of the costs
16 associated with operating and maintaining the ISFSI. No
17 funds from the NDF paid for the spent fuel management
18 costs.

19 MR. BREW: And for the stenographer, NDF,
20 Nuclear Decommissioning Fund.

21 BY MR. BREW:

22 Q. My question is: The statement that no funds from
23 the NDF pay for the spent fuel management costs, are
24 there any funds coming from Duke from any source to pay
25 for the spent fuel management costs after closing?

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1 A. No.

2 Q. Okay. On Page 11, Item 12, Line 17, it talks
3 about the accelerated determination of the NRC license
4 from 2073 to 2039. The 2039 date requests what we just
5 discussed about, at that point do you expect the federal
6 government will have a repository that can accept
7 high-level waste?

8 A. Yes, that's correct.

9 Q. Okay. Bear with me just a second.

10 Back on Page 3 of your rebuttal, you were
11 previously asked about this statement, but on Lines 1 to
12 4, you say that if the commission imposes any of the
13 enhancements that Mr. Polich recommends on the DSA, this
14 transaction that's contemplated by the DSA will not
15 close, and thus customers will not recognize the
16 significant benefit to the deal.

17 Do you see that?

18 A. I do see that.

19 Q. Okay. If the commission determines that the
20 risks to Duke consumers aren't acceptable, should it
21 direct adoption of conditions that would mitigate those
22 risks?

23 MR. HERNANDEZ: Object to form.

24 A. I think the commission has the authority to do --
25 to do those types of things. My point is that we would

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1 not be able to close this transaction. And then I go on
2 further to list what some options would be for Duke
3 Energy Florida to consider.

4 BY MR. BREW:

5 Q. Okay. And one of those options would be for Duke
6 and ADP to determine that the conditions proposed by the
7 commission are, in fact, acceptable and they'll decide
8 to move forward regardless --

9 A. Possibly.

10 Q. -- is that right?

11 A. Possibly.

12 Q. Okay. During your discussion with Mr. Rehwinkel,
13 he reviewed a number of statements that you went through
14 in your scenarios, basically on Pages 16 through 20 are
15 most of those scenarios. You indicated your opinion
16 that it was not likely that Duke would file a petition
17 with the commission for cost recovery.

18 Do you recall that?

19 A. I do recall that, yes.

20 Q. And I don't want to go through each of them, but
21 there were six or seven references that made a similar
22 statement; is that right?

23 A. Yes, that's right.

24 Q. And your response to Mr. Rehwinkel is that you
25 thought the likelihood of Duke filing a petition was not

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1 likely, but possible; is that right?

2 A. Yes.

3 Q. In any of the scenarios where you claimed that it
4 was unlikely that Duke would petition the PSE for
5 relief, is it likely that Duke would simply absorb any
6 resulting cost increases?

7 MR. HERNANDEZ: Object to form.

8 A. I think I addressed that in my testimony. And I
9 tried to describe the protections in the DSA and the
10 options we have between whatever the occurrence is
11 versus the -- the necessity to go back to the customers.
12 And they're pretty broad ranging from, you know, looking
13 at the -- two examples I'll share is look at the Crystal
14 River reserve account as a source, return it to SAFSTOR
15 and letting it go.

16 So our intentions would be to use those
17 protections in the DSA. So that is why it is very
18 unlikely we would go back to customers, because we have
19 a lot of -- of time left to get this completed out to
20 2073, and we built those protections into the DSA.

21 So that's why my opinion, as stated in my
22 testimony, is that it's very unlikely.

23 MR. BREW: That's all I have. Thank you so
24 much.

25 THE WITNESS: You're certainly welcome.

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1 MR. HERNANDEZ: All right. We will read, Madam
2 Court Reporter.

3 MS. BROWNLESS: If you can just give us your
4 contact information.

5 (Thereupon, the proceedings concluded at
6 4:50 p.m.)

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CERTIFICATE OF OATH

STATE OF FLORIDA:
COUNTY OF ORANGE:

I, Jazzmin A. Musrati, RPR, CRR, Notary Public, State
of Florida, do hereby certify that TERRY HOBBS
personally appeared before me via videoconference on
June 25, 2020, and was duly sworn and produced driver's
license/I.D. as identification.

Signed on July 1, 2020.

Jazzmin A. Musrati, RPR, CRR
Notary Public - State of Florida
My Commission No. GG984252
My Commission Expires: May 4, 2024

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1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA:

3 COUNTY OF ORANGE:

4

5 I, Jazzmin A. Musrati, RPR, CRR, Notary Public, State
6 of Florida, certify that I was authorized to and did
7 stenographically report the deposition of TERRY HOBBS;
8 that a review of the transcript was requested; and that
9 the foregoing transcript, Pages 1 through 238, is a true
10 and accurate record of my stenographic notes.

11 I further certify that I am not a relative, employee,
12 or attorney, or counsel of any of the parties, nor am I
13 a relative or employee of any of the parties' attorneys
14 or counsel connected with the action, nor am I
15 financially interested in the action.

16

17 DATED: July 1, 2020.

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Jazzmin A. Musrati, RPR, CRR
Registered Professional Reporter
Certified Realtime Reporter

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DOCKET NO: 20190140-EI
DATE: JUNE 25, 2020
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[illegible]

DATE _____ TERRY HOBBS

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1 07/01/2020

2 TERRY HOBBS
 3 c/o DANIEL HERNANDEZ, Esq.
 4 Shutts & Bowen, LLP
 5 4301 West Boy Scout Boulevard
 6 Suite 300
 7 Tampa, Florida 33607
 8 dhernandez@shutts.com

9 In Re: June 25, 2020, Deposition of TERRY HOBBS

10 Dear TERRY HOBBS:

11 This letter is to advise that the transcript for the
 12 above-referenced deposition has been completed and is
 13 available for review. Please contact Anthem Reporting
 14 888.909.2720 to make arrangements for read and sign or
 15 sign below to waive review of this transcript.

16 It is suggested that the review of this transcript be
 17 completed within 30 days of your receipt of this letter,
 18 as considered reasonable under Federal Rules*; however,
 19 there is no Florida Statute to this regard.

20 The original of this transcript has been forwarded to
 21 the ordering party and your errata, once received, will
 22 be forwarded to all ordering parties for inclusion in
 23 the transcript.

24 Sincerely,

25 Jazzmin A. Musrati, RPR, CRR
 Registered Professional Reporter
 Certified Realtime Reporter

cc: CHARLES J. REHWINKEL, Esquire
 DANIEL HERNANDEZ, Esquire

Waiver:

I, _____, hereby waive the reading and signing
 of my deposition transcript.

 Deponent Signature Date

*Federal Civil Procedure Rule 30(e)/Florida Civil
 Procedure Rule 1.310(e)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to approve transaction for accelerated decommissioning services at CR3 facility, transfer of title to spent fuel and associated assets, and assumption of operations of CR3 facility pursuant to the NRC license, and request for waiver from future application of Rule 25-6.04365, F.A.C. for nuclear decommissioning study, by Duke Energy Florida, LLC.

DOCKET NO.: 20190140-EI

FILED: June 22, 2020

NOTICE OF DEPOSITION DUCES TECUM

TO: Dianne M. Triplett
 Duke Energy Florida
 299 First Avenue North
 St. Petersburg FL 33701
dianne.triplett@duke-energy.com

NOTICE is hereby given that pursuant to Rule 28-106.206, Florida Administrative Code and Florida Rule of Civil Procedure 1.310, the Office of Public Counsel will take the deposition of the following named individuals at the location and time indicated below:

NAME	DATE and TIME	LOCATION
Jeff Adix Terry Hobbs	June 24, 2020 at 1:00 p.m. June 25, 2020 at 9:00 a.m.	Via Zoom Link (Link will be circulated to witness and counsel by Court Reporter prior to deposition)

Terry Hobbs is requested to have with him:

1. All documents containing the analyses, notes, report(s) and other work product of the TRC scrub Team as discussed on pages 7-9 of your direct testimony.
2. All communications between the TRC Scrub Team and the TRC related to the analysis and recommendations contained on pages 8, Line 14 through Page 9, Line 7 of your Rebuttal Testimony.

EXHIBIT

1

6/25/20 - JM
HOBBS

3. All documents relied upon by the TRC in its deliberations and decisions reflected in the March 2019 recommendation that the DSA should be approved as described on Page 9, Lines 8-9 of your rebuttal testimony.
4. All workpapers, analysis, memoranda, notes, and supporting documents (including documents relied upon, consulted and referenced) in the development of his testimony in this matter.
5. All documents the deponent reviewed and/or considered in preparing his testimony in this matter.
6. All drafts of any supplemental testimony the deponent has provided or prepared in this matter.
7. All workpapers, analysis, memoranda, notes, and supporting documents (including documents relied upon, consulted and referenced) the deponent reviewed and/or considered in preparing or providing his supplemental testimony in this matter.
8. All notes the deponent prepared concerning or related to your supplemental testimony in this matter.

Jeff Adix is requested to have with him:

1. All workpapers, analysis, memoranda, notes, and supporting documents (including documents relied upon, consulted and referenced) in the development of his testimony in this matter.
2. All documents the deponent reviewed and/or considered in preparing his testimony in this matter.
3. All drafts of any supplemental testimony the deponent has provided or prepared in this matter.
4. All workpapers, analysis, memoranda, notes, and supporting documents (including documents relied upon, consulted and referenced) the deponent reviewed and/or considered in preparing or providing his supplemental testimony in this matter.
5. All notes the deponent prepared concerning or related to your supplemental testimony in this matter.
6. The agreement referred to on page Page 9, lines 8-11
7. The documents showing the calculation of the market value of the companies with similar profiles discussed on Page 11, lines 12-13.
8. The documents showing the calculation of the dollar amount of revenue backlog shown on page 11, lines 18-19

A telephonic conference line will be made available if a party wishes to participate telephonically and has made arrangements to view confidential information. This deposition shall be taken upon oral examination before an official court reporter or other officer authorized by law to take depositions. The deposition is being taken for purposes of discovery, for use at trial, and

for any other purposes allowed under the Florida Rules of Civil Procedure and the Rules of the Florida Public Service Commission.

Please govern yourselves accordingly.

Respectfully Submitted,

J.R. Kelly
Public Counsel

s/Charles Rehwinkel
Charles J. Rehwinkel
Deputy Public Counsel
Florida Bar No. 0527599

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Attorneys for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE
Docket No. 20190140-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing Citizens' Notice of Deposition to Duke Energy Florida has been furnished by electronic mail on this 22nd day of June, 2020, to the following:

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