215

 1 BEFORE THE

 FLORIDA PUBLIC SERVICE COMMISSION

 2

 3 DOCKET NO. 070650-EI

 4 In the Matter of:

 5 PETITION TO DETERMINE NEED FOR TURKEY

 POINT NUCLEAR UNITS 6 AND 7 ELECTRICAL

 6 POWER PLANT, BY FLORIDA POWER & LIGHT

 COMPANY.

 7 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/

 8

 9 VOLUME 3

 10 Pages 215 through 390

 11

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 12 A CONVENIENCE COPY ONLY AND ARE NOT

 THE OFFICIAL TRANSCRIPT OF THE HEARING.

 13 THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

 14

 15 PROCEEDINGS: HEARING

 16 BEFORE: CHAIRMAN MATTHEW M. CARTER, II

 COMMISSIONER LISA POLAK EDGAR

 17 COMMISSIONER KATRINA J. McMURRIAN

 COMMISSIONER NANCY ARGENZIANO

 18 COMMISSIONER NATHAN A. SKOP

 19 DATE: Wednesday, January 30, 2008

 20 TIME: Commenced at 9:30 a.m.

 Concluded at 5:00 p.m.

 21

 PLACE: Betty Easley Conference Center

 22 Room 148

 4075 Esplanade Way

 23 Tallahassee, Florida

 24 REPORTED BY: MARY ALLEN NEEL, RPR, FPR

 25 APPEARANCES: (As heretofore noted.)

 216

 1 I N D E X

 2 WITNESSES

 3

 NAME PAGE

 4

 J. A. (ART) STALL

 5

 Direct Examination by Mr. Ross 218

 6 Prefiled Direct Testimony Inserted 221

 Cross-Examination by Mr. Krasowski 234

 7

 8 STEVEN D. SCROGGS

 9 Direct Examination by Mr. Butler 259

 Errata Sheet Inserted 262

 10 Prefiled Direct Testimony Inserted 263

 Cross-Examination by Mr. Beck 333

 11

 12 CERTIFICATE OF REPORTER 390

 13

 14

 15

 16

 17

 18

 19

 20

 21

 22

 23

 24

 25

 217

 1 EXHIBITS

 2 NUMBER ID. ADMTD.

 3 21 WANO Indices 220 257

 4 22 NRC Performance Indicators 220 257

 5 23 Development Process Timeline 261

 6 24 Site Selection Study Report 261

 7 25 FPL Technology Review 261

 8 26 COL Application Content 261

 9 27 Estimated Project Milestones 261

 10 28 Overnight Cost Estimate Range 261

 (2007 $)

 11

 29 Comparison to Economically Viable 261

 12 Range (2007 $)

 13 30 Total Project Cost Estimate Range 261

 (Year Spent $)

 14

 31 Project Cost Expenditure by NPPCRR 261

 15 Category

 16

 17

 18

 19

 20

 21

 22

 23

 24

 25

 218

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

 2 (Transcript follows in sequence from

 3 Volume 2.)

 4 CHAIRMAN CARTER: Okay. We are back on the

 5 record. And when we left, Mr. Stall was coming to the

 6 stand. And I don't think you've been sworn yet, have

 7 you? Have you been sworn in?

 8 THE WITNESS: No, I have not.

 9 CHAIRMAN CARTER: Okay. Would you please

 10 stand and raise your right hand.

 11 (Witness sworn.)

 12 CHAIRMAN CARTER: Please be seated.

 13 Thereupon,

 14 J. A. (ART) STALL

 15 was called as a witness on behalf of Florida Power &

 16 Light Company and, having been first duly sworn, was

 17 examined and testified as follows:

 18 DIRECT EXAMINATION

 19 BY MR. ROSS:

 20 Q. Good afternoon. Would you please state your

 21 name and your business address?

 22 A. My name is Art Stall.

 23 CHAIRMAN CARTER: Oh, we can't hear. Is your

 24 little green button pushed there?

 25 THE WITNESS: It's on.

 219

 1 CHAIRMAN CARTER: Okay.

 2 THE WITNESS: My name is Art Stall, 700

 3 Universe Boulevard, Juno Beach, Florida.

 4 BY MR. ROSS:

 5 Q. By whom are you employed, and in what

 6 capacity?

 7 A. I'm employed by FPL Group, and I am the Senior

 8 Vice President - Nuclear, Chief Nuclear Officer.

 9 Q. Have you prepared and caused to be filed 11

 10 pages of prefiled direct testimony in this proceeding on

 11 October 16, 2007?

 12 A. I have.

 13 Q. Do you have any changes or revisions to your

 14 prefiled direct testimony?

 15 A. I do have one change on page 6 of my prefiled

 16 testimony. Line 7 regarding the reporting relationship

 17 of the Site Vice President should read, "to a Site Vice

 18 President, who reports to the Nuclear Chief Operating

 19 Officer," in lieu of Vice President of Operations.

 20 Q. Do you have any other changes or revisions to

 21 your testimony?

 22 A. No, I do not.

 23 Q. With those changes, if I asked you the same

 24 questions contained in your prefiled direct testimony,

 25 would your answers be the same?

 220

 1 A. Yes, they would.

 2 MR. ROSS: Mr. Chairman, FPL requests that the

 3 prefiled direct testimony of Art Stall be inserted into

 4 the record as if read.

 5 CHAIRMAN CARTER: The prefiled testimony will

 6 be inserted into the record as though read.

 7 BY MR. ROSS:

 8 Q. Are you also sponsoring any exhibits to your

 9 testimony?

 10 A. I am.

 11 Q. Do the exhibits consist of a single-page

 12 document marked JAS-1 and a single-page document marked

 13 JAS-2?

 14 A. Yes, they do.

 15 MR. ROSS: Mr. Chairman, I would note that

 16 Mr. Stall's exhibits have been marked for identification

 17 as Exhibits 21 and 22.

 18 CHAIRMAN CARTER: Commissioners, on your list,

 19 21 and 22 for identification.

 20 (Exhibit Numbers 21 and 22 were marked for

 21 identification.)

 22

 23

 24

 25

 232

 1 BY MR. ROSS:

 2 Q. Mr. Stall, have you prepared a summary of your

 3 direct testimony?

 4 A. I have.

 5 Q. Would you please provide your summary to the

 6 Commission?

 7 A. I would. Thank you.

 8 Good afternoon, Chairman Carter and

 9 Commissioners. Thank you for this opportunity to spend

 10 some time with you today to discuss our nuclear program

 11 at FPL.

 12 I'm very proud of our employees and our

 13 long-term track record at FPL in safe, reliable

 14 operation of our nuclear power plants. Our performance

 15 over the long run ranks amongst the best in the

 16 industry. We're quite proud of that. This performance

 17 has been verified by a variety of objective indicators

 18 that take into account nuclear safety, personnel safety,

 19 production, efficiency, reliability, and equally

 20 important, regulatory performance as graded by the

 21 Nuclear Regulatory Commission.

 22 FPL Group and its affiliates have successfully

 23 operated nuclear power plants for over 130 combined

 24 reactor operating years. During that period of time,

 25 our plants have produced reliable power and have helped

 233

 1 to save lots of greenhouse gas emissions as well as fuel

 2 savings costs for our customers and have contributed to

 3 a diverse fuel supply for our system. The high

 4 availability rate of our nuclear units and the fact that

 5 they currently represent about 14 percent of the

 6 capacity of our system, yet generate over 20 percent of

 7 our energy needs, testifies to the substantial

 8 contribution these units make to our existing system

 9 mix.

 10 Based on this track record, the company has

 11 determined that pursuing future nuclear capability will

 12 create an attractive option to generate electricity well

 13 into the future. Again, pursuing this option provides

 14 fuel diversity and will not contribute greenhouse gases

 15 to the environment. I do expect that this project will

 16 be executed successfully based on our track record of

 17 other large, complex projects, specifically in the

 18 nuclear program, most recently, our license renewal

 19 efforts and approvals for all four of our units here in

 20 Florida.

 21 And that concludes my summary testimony.

 22 Thank you.

 23 MR. ROSS: Mr. Stall is available for

 24 cross-examination.

 25 CHAIRMAN CARTER: Mr. Beck.

 234

 1 MR. BECK: No questions.

 2 CHAIRMAN CARTER: Mr. Krasowski.

 3 MR. KRASOWSKI: Yes, thank you.

 4 CROSS-EXAMINATION

 5 BY MR. KRASOWSKI:

 6 Q. Good afternoon, Mr. Stall. My name is Bob

 7 Krasowski, and I'm an intervenor, a resident of Florida,

 8 very interested in your project, very much impressed

 9 with your testimony and the things you do.

 10 I have a couple of questions. I have a couple

 11 of questions for clarification. I hope you can help me

 12 out. This is pretty complicated stuff, so I hope you

 13 can clarify it for me.

 14 Just to start off, in your remarks, you

 15 mentioned that moving forward with this project will not

 16 contribute to greenhouse gases. Now, are you saying

 17 that the entire project won't contribute to greenhouse

 18 gases or just the location of the facility, the

 19 operational Turkey Point 6 and 7 facility?

 20 A. When we describe the fact that this plant will

 21 not contribute greenhouse gases, we're talking about the

 22 physical production of electricity on that site. I

 23 recall your questions earlier regarding the fuel cycle,

 24 and witness Villard will be able to speak to the

 25 contributions to greenhouse gases from the mining and

 235

 1 milling portion of the operation, which I might add are

 2 quite minuscule.

 3 Q. Yes. Well, so -- okay. You just said you

 4 believe they're quite minuscule. Okay. But they do

 5 exist? There are greenhouse gas emissions associated

 6 with a nuclear power project?

 7 A. Yes, and witness Villard will speak to that in

 8 detail.

 9 Q. I'm sorry to persist on this, but I really

 10 have a problem with someone testifying that there are no

 11 greenhouse gases associated with the project, and this

 12 is incorrect in terms of the project does involve

 13 creation of greenhouse gases to supply fuel and other

 14 needs of the project.

 15 MR. ROSS: I'm sorry. Is there a question?

 16 BY MR. KRASOWSKI:

 17 Q. Can you understand how somebody might have

 18 concerns with the accuracy of the statement that there

 19 are no greenhouse gases associated with this project?

 20 A. Well, I think I can understand the nature of

 21 your question, but I think that again, witness Villard

 22 will be able to place that in a broader context of how

 23 the greenhouse gas emissions from the front end of the

 24 process that you refer to compare to greenhouse gas

 25 emissions from other sources of generation.

 236

 1 Q. Thank you. I'll pursue it with Mr. Villard.

 2 I appreciate your answer.

 3 On the back of your testimony or your --

 4 there's an exhibit attached to your testimony on the

 5 very back. If you flip over to the back, I believe --

 6 CHAIRMAN CARTER: What exhibit number are you

 7 referring to?

 8 MR. KRASOWSKI: It's Exhibit JAS-2.

 9 CHAIRMAN CARTER: Okay.

 10 MR. KRASOWSKI: Page 1 of 1.

 11 BY MR. KRASOWSKI:

 12 Q. This relates to questions I have about

 13 emissions. I would really like to understand the

 14 emissions issue.

 15 Now, it has been stated by a number of other

 16 people in their testimony that there are no emissions

 17 associated with this project, so I would really

 18 appreciate your help in getting me to understand exactly

 19 what we're talking about in terms of emissions. I see

 20 here kind of towards the bottom under Public Radiation

 21 Safety Cornerstone, RETS and ODCM Radiological Effluent

 22 Occurrence. What is a radiological effluent occurrence?

 23 A. The answer to that question lies in the

 24 inherent design of these plants. I think that witness

 25 Silva did a good job of characterizing the emissions as

 237

 1 they relate to the typical air emissions that we

 2 normally think about when we talk about operating power

 3 plants.

 4 However, at the nuclear plants, there are

 5 small radioactive emissions that occur from time to time

 6 in the form of a batch release. These emissions are

 7 very closely regulated and monitored by the Nuclear

 8 Regulatory Commission, as well as our own folks on-site.

 9 We have extensive monitoring on-site and off-site, and

 10 even the Florida Department of Environmental Protection

 11 oversees this operation.

 12 As you can see, our performance is all green,

 13 which means that we are performing well within all

 14 regulatory limits at all of our plants, and that's the

 15 case at all eight of our operating reactors.

 16 Just to provide a little bit of context around

 17 that, as I indicated earlier, by design, these plants do

 18 have small amounts of releases. We live in a

 19 radioactive world. All of us are in fact radioactive

 20 ourselves. These emissions that we have are of such a

 21 small magnitude. Even in relation to what the federal

 22 limits are, we emit a small fraction of those limits, as

 23 do other operating nuclear plants.

 24 So to your questions earlier, there are these

 25 emissions that come from these plants, but they're

 238

 1 monitored, they're well understood, and they're reported

 2 each quarter, or semiannually, excuse me, to the Nuclear

 3 Regulatory Commission. And these records are public,

 4 publicly available, totally transparent. And I think

 5 that our track record speaks for itself. Our indicators

 6 are all green. We haven't had any abnormal radiological

 7 releases, and we're proud of our performance in this

 8 area.

 9 Q. So to say that these facilities don't have

 10 emissions is not accurate; is that correct?

 11 A. Well, I think that the context that all of

 12 this was presented in was in terms of air quality

 13 emissions as it relates to greenhouse gases, sulfur

 14 dioxides, those types of emissions. And it's absolutely

 15 accurate to state that a nuclear power plant is a zero

 16 emission source of energy in the context of this broader

 17 discussion that we have been having, not only in this

 18 state, but in the country, regarding greenhouse gas

 19 emissions and air quality issues.

 20 Q. And that kind of goes to the point I'm trying

 21 to make, but let me ask you it this way. So in order

 22 for someone to say that there are no emissions

 23 associated with a plant like this, they would have to be

 24 making a comment that is narrowly focused. Would you

 25 agree with that?

 239

 1 A. No. I stand by not only what I just said here

 2 a moment ago, but also all of our previous witnesses. I

 3 think in the broader context of the societal issues that

 4 we're facing today with emissions of greenhouse gases

 5 and other pollutants to the atmosphere, I absolutely

 6 believe that nuclear energy is the most benign source of

 7 emissions that you can have on a large scale generating

 8 plant.

 9 Q. Are you aware of studies that show radiation

 10 concentrated in the teeth of children around nuclear

 11 power plants, including the one at Turkey Point?

 12 A. I'm very much aware of that. And I might add

 13 that those cases have been large dismissed, and they're

 14 based on poor science, and that has been generally

 15 accepted in the scientific community.

 16 Q. I would like to ask you, you're the safety

 17 officer at the Turkey Point facilities?

 18 A. I'm the Chief Nuclear Officer. I'm

 19 responsible for the entire nuclear program at FPL Group.

 20 Q. Okay. Not to exaggerate something out of

 21 proportion, but are you aware of the sleeping guards

 22 incident as far as the safety over at Turkey Point?

 23 A. I'm absolutely aware of that.

 24 Q. Okay. Do you feel any concern about the

 25 ability to protect the facilities at Turkey Point?

 240

 1 A. No, I have no concern at all about the ability

 2 to protect the facilities. But let me comment on that

 3 briefly, if I may, for the benefit of the Commissioners

 4 and the staff, as well as the public that may be

 5 listening here today. We absolutely do not tolerate it,

 6 and we do not accept any sleeping officers. But to

 7 place this in a little bit of context, we have in our

 8 eight operating reactors perhaps anywhere from 600 to

 9 800 security officers, and the vast majority of those

 10 security officers are highly trained, dedicated

 11 professionals. We're talking about an small number of

 12 security officers several years ago who did not meet our

 13 standards, and none of those officers are on our payroll

 14 or Wackenhut's payroll today.

 15 We have taken significant steps to improve the

 16 performance of the security organization not just at

 17 Turkey Point, but across our fleet, and we've worked

 18 collaboratively with the industry to help to improve

 19 performance across the industry. For example, we have

 20 significantly improved the hiring standards of incoming

 21 officers that we might hire, or Wackenhut, I should say,

 22 hires onto their payroll on our behalf. We have

 23 improved the training programs for those officers. We

 24 have added additional FPL oversight around the clock, 24

 25 hours a day, seven days a week, to ensure that all of

 241

 1 these officers maintain full awareness. And we've done

 2 some things that can also help them, because some of

 3 these jobs can be quite tedious for these officers

 4 sitting out there in their guard posts, so we rotate

 5 them more frequently. We try to give them opportunities

 6 to stay mentally alert.

 7 I think those things are being successful. We

 8 haven't had any events in the last two years. And we're

 9 quite proud of the overall performance of our security

 10 officers. And I feel embarrassed that we would have

 11 anybody who would sleep, but at the same time, I want to

 12 stand up and I want to make sure that we acknowledge the

 13 vast majority of these officers who are doing a fine job

 14 day in and day out at our nuclear plants, not just here

 15 in Florida, but across the country in this industry.

 16 Q. I appreciate your comments and agree that it's

 17 only a, you know, very small, remote group of people. I

 18 don't want to cast aspersions on the working man, so I

 19 appreciate your explaining that.

 20 A. And I wanted to also just mention -- I forgot,

 21 I'm sorry, briefly to mention. The NRC, as well as our

 22 own folks -- never was our security compromised at our

 23 plant. The NRC sent in inspectors, looked at it, and

 24 said we have enough redundancy in these security plans.

 25 I can't really speak to the details of it today, but we

 242

 1 are not vulnerable to any number of officers who may

 2 doze off like these officers did compromising the

 3 security of our plant. It's a comprehensive, well

 4 integrated plan, and it's designed with defense and

 5 depth to protect against these very sorts of things from

 6 happening.

 7 Q. I appreciate that. Could you explain the

 8 situation that occurred where a worker in the plant

 9 drilled a hole in one of the pipes? I mean, some moron

 10 did that. How did that happen, being that there's such

 11 a complex integrated system of protection?

 12 A. Well, that happened during one of our

 13 refueling outages at our Turkey Point unit as well. We

 14 do have a large number of contractors who come in during

 15 these refueling outages when we shut these plants down

 16 every 18 months to do work. And in this particular

 17 case, this individual did in fact willfully drill a hole

 18 in a pipe that was part of the reactive coolant system

 19 boundary. In this particular case, and in any other

 20 case like this that could happen in our industry, not

 21 just at our plants, we have any time we come out of

 22 these refueling outages a comprehensive test and

 23 inspection program that's designed to make sure that all

 24 of these systems are functionally tested before we would

 25 return a unit to service. And in this particular case,

 243

 1 our engineers doing inspections before we ever started

 2 up the plant determined that this had happened, and we

 3 were able to obviously come in and fix it.

 4 Now, the Nuclear Regulatory Commission in

 5 response to that sent an inspection team into Turkey

 6 Point to do a detailed inspection of, frankly, our

 7 literal compliance, did we meet all the regulations, did

 8 we comply with our security plan. And after an

 9 extensive inspection by the NRC, they came to the

 10 conclusion that we did everything humanly possible to

 11 prevent that event from occurring.

 12 And many of you probably are aware that the

 13 investigation that was subsequently turned over to the

 14 FBI has been investigated, and the NRC has come back

 15 recently and said that they don't believe that there's,

 16 or the FBI as well, sufficient evidence to continue to

 17 pursue this particular individual.

 18 Now, I will tell that you we, FPL, have asked

 19 for that set of documents from the NRC and the FBI, and

 20 when we get that, we will do our own assessment of it,

 21 and we will determine whether or not there is an avenue

 22 for to us pursue that individual.

 23 Q. Thank you again. So you know who this person

 24 is?

 25 A. We have a good idea who this individual is,

 244

 1 and we know that this individual can no longer be

 2 admitted not only to any of our nuclear plants or any of

 3 our company facilities, but any other nuclear plant in

 4 this country.

 5 Q. Thank you. I feel safer now.

 6 Let's see. Where is this person? Do you know

 7 if they're still in this country or --

 8 A. I'm not certain that I should comment any

 9 further on the details of that.

 10 Q. Okay. That's adequate. I just made my point.

 11 Now, you're also responsible for the

 12 protection of the cooling pools that have the spent rods

 13 in them?

 14 A. That is correct.

 15 Q. Okay. What type of risk do you perceive there

 16 in terms of another idiot maybe doing something to drop

 17 a helicopter, a plane, or a bomb, or a truck, or a car

 18 into the pool as a dirty bomb type of thing?

 19 A. There has actually been a lot of work done in

 20 this area since 9/11. The Nuclear Regulatory Commission

 21 as well as the industry have studied this extensively

 22 and looked into modeling various scenarios of sabotage,

 23 if you will, or terrorism around these spent fuel pools.

 24 And I think the broad conclusion there is that there is

 25 sufficient redundancy and safety built into the existing

 245

 1 plant designs that that would not cause any sort of

 2 impact to the health and safety of the public.

 3 Be that as it may, the industry, not just

 4 ourselves, have taken some additional steps to install

 5 some additional backup systems beyond what we even have

 6 today in the unlikely event that something like that was

 7 to occur, all designed around being able to assure that

 8 we can maintain inventory in these spent fuel pools,

 9 which is really what you're concerned about when you're

 10 trying to protect this used fuel as it's discharged from

 11 the reactor. So I'm very confident as I sit here today

 12 that this threat, while we believe that it is relatively

 13 small, is one that could be very safety managed if it

 14 was to happen at any of our plants in this country.

 15 Q. Would you consider the drilling of the hole in

 16 the pipe as being something that was unanticipated or a

 17 risk associated with a future problem? Well, let me

 18 just -- one thing at a time. Mr. Olivera described the

 19 fact, mentioned the fact that in assessing risk, as we

 20 move forward when analyzing this whole situation, that

 21 there would certainly be some unanticipated events.

 22 Would that drilling a hole in a pipe be unanticipated

 23 when it happened?

 24 A. No, not unanticipated at all. Our whole

 25 security plans, our whole -- as I said earlier, we have

 246

 1 an integrated security and operational strategy that's

 2 designed around these very sorts of low probability

 3 events. If an individual like this drills a hole in a

 4 pipe, the rest of our plan is, what do we do to make

 5 sure that before we return that unit to service that our

 6 inspection and test program would reveal that and we

 7 would fix that before we returned it to service. So I

 8 would have to say that that was not unanticipated. And

 9 while it's a very unfortunate event that it happened, it

 10 once again to me demonstrates the validity of having an

 11 integrated security and operational strategy in place.

 12 Q. So you have redundancy set up in your security

 13 system that protects against certain things from

 14 happening.

 15 A. And that redundancy overlaps into our

 16 operational and maintenance strategies as well. It's an

 17 integrated strategy. There is -- you can't look at

 18 security in isolation. You have to look at the

 19 operational aspects and the maintenance aspects, and

 20 even the engineering controls that we put in place to

 21 make sure that all of these things work together to

 22 minimize risk. And I think we've done a very good job

 23 in this industry, as well as at FPL, of managing that

 24 risk.

 25 Q. So, Mr. Stall, would you liken the redundancy

 247

 1 strategy that you've developed to protect these plants

 2 to maybe the redundance in strategy in the space shuttle

 3 program?

 4 A. I would not be qualified to draw any direct

 5 comparisons between, you know, the nuclear industry and

 6 the space shuttle program.

 7 Q. Just in terms of trying to plan for unforeseen

 8 risks?

 9 A. Well, I think in a broad sort of way, both us

 10 and the aviation or space industry are in the risk

 11 mitigation business, and we all contemplate risk and we

 12 manage risk in our operations.

 13 Q. I'm going to wrap it up pretty soon. I

 14 appreciate your honest answers to all these questions.

 15 I have in front me -- and I'll just use this

 16 as a reference. I don't think I'll have to share it.

 17 But it's a data -- well, maybe I should show it to you.

 18 It's an effluent database for nuclear power plants, and

 19 it identifies the gaseous ground level releases for

 20 Turkey Point 4 in the year 2004 and then effluent liquid

 21 releases, and it just -- it has a list of specific

 22 radioactive things that come out of there. I don't know

 23 what amounts. You've addressed this earlier and said

 24 they're minuscule. But I would like to ask you, based

 25 on what you've told me already, are there emissions from

 248

 1 the pools that contain the spent rods occasionally, any

 2 emissions? Are there any emissions?

 3 MR. ROSS: Mr. Chairman, if he's asking about

 4 a particular document, out of fairness, the document

 5 should be furnished to the witness and also to counsel.

 6 If he's moving on from the document he was going

 7 discuss, then he can ask his next question.

 8 CHAIRMAN CARTER: Are you just going to ask a

 9 question, or do you have --

 10 MR. KRASOWSKI: Well, Mr. Chairman, I have six

 11 copies of this document. I'll be glad to distribute it.

 12 CHAIRMAN CARTER: Well, before you ask him any

 13 questions, let him see it, and then --

 14 MR. KRASOWSKI: Okay.

 15 CHAIRMAN CARTER: Give a copy to his lawyer,

 16 and then you can ask him a question. Okay? Why don't

 17 we do that?

 18 MR. KRASOWSKI: Okay. And I'll give a copy to

 19 -- okay. And we would like to enter this as an exhibit

 20 then if we're presenting it to him.

 21 CHAIRMAN CARTER: Well, let's not do that

 22 right now. We're a long, long way from that,

 23 Mr. Krasowski.

 24 MR. KRASOWSKI: Oh, okay. Sorry.

 25 CHAIRMAN CARTER: I mean, you may be able to

 249

 1 use it to ask him some questions, but that's a whole

 2 'nother Encyclopedia Britannica about getting it in.

 3 MR. KRASOWSKI: Well, maybe we'll figure that

 4 out by tomorrow. But for the moment, I hope --

 5 CHAIRMAN CARTER: Maybe, the 12th of never.

 6 MR. KRASOWSKI: Okay. I did refer to the

 7 document, but I would like to have my question based on

 8 his previous comments outside of the range of what the

 9 document says.

 10 CHAIRMAN CARTER: Okay. Great. Sure.

 11 MR. KRASOWSKI: I just mentioned that I'm

 12 looking at this document, but my question is a general

 13 question as it relates to Mr. Stall's comments earlier

 14 about emissions. And so I'm asking, regardless of this

 15 document, whether or not there are emissions that he is

 16 aware of that are associated with the storage of the

 17 spent fuel as it sits in the pool.

 18 BY MR. KRASOWSKI:

 19 Q. Are there emissions?

 20 A. It's an interesting academic question. I

 21 would have to say sitting here today that the answer to

 22 that in general is no. These spent fuel pools are

 23 encapsulated in buildings at all of the plants across

 24 this country, and in these buildings there are filter

 25 systems, and there are radiation monitors in case there

 250

 1 was a release. But those are designed primarily for

 2 what we call a fuel handling accident. When you're

 3 offloading this fuel or you're handling it in the spent

 4 fuel pool, if you were to have some sort of an accident

 5 with that spent fuel assembly, which really hasn't

 6 happened, you could have some releases, and the

 7 filtration system is designed to filter those releases

 8 and monitor those releases. So we haven't had that

 9 happen, and we don't have any ongoing emissions coming

 10 out of these pools as they sit there today. So the

 11 answer would be no to that.

 12 Q. Okay. Good. Thank you. Being that you're

 13 involved with the security at these facilities, is it

 14 correct for me to -- my understanding is that these

 15 nuclear power plants require external sources of power

 16 to back up their safe operation.

 17 A. We have multiple diverse power supplies not

 18 only for our safety systems at these reactors, but also

 19 for our security systems. We have off-site power

 20 supplies that come in through the normal transmission

 21 switch yard. We have emergency diesel generators in

 22 case we were to lose that source of power which would

 23 start up and supply not only our security equipment, but

 24 our safety systems, and we also have batteries that

 25 supply key instrumentation associated with these

 251

 1 critical systems as well. So there are multiple diverse

 2 power supplies that I might add are frequently tested to

 3 make sure that they're in a ready state to operate if

 4 called upon.

 5 Q. And do they give off any greenhouse gas

 6 emissions?

 7 A. To the extent -- no more than I would say your

 8 automobile does driving here today. And they're

 9 exercised on a periodic basis, infrequently, but

 10 frequently enough to ensure that they're going to

 11 perform their intended function if called upon.

 12 Q. Are there any -- back to another point. Are

 13 there any plants that haven't been rated green?

 14 A. Well, on average, in this industry, at any

 15 given point in time, about 25 percent of the plants will

 16 move into what we call the column 2 or the white area.

 17 And these thresholds are set at extremely low levels for

 18 the NRC. And in fact, yes, we've had several of our

 19 plants that have moved into the white category in a

 20 given performance indicator or based on an inspection

 21 finding for a transitory period of time.

 22 But in general, the way that we manage our

 23 program is, we look at these NRC performance indicators

 24 which have a green band associated with them, and we

 25 draw a line basically at the midpoint of that, and we

 252

 1 maintain our business to maintain a clear margin between

 2 the white band and the green band. And we manage our

 3 business to stay in the top half of that green band,

 4 because we don't want to just meet the minimum

 5 compliance regulations or requirements. We want to be

 6 the very best we can in any of these areas.

 7 Q. So are there any plants that haven't been

 8 rated green in the United States this year?

 9 A. At any given point in time, again --

 10 MR. ROSS: Mr. Chairman -- wait one second.

 11 Mr. Chairman, we're getting a little far afield from

 12 Mr. Stall's testimony, which is about FPL's program, not

 13 about the rest of the industry, so I would object to

 14 this line of questions.

 15 MR. KRASOWSKI: I'll rephrase my question. I

 16 respect the position.

 17 BY MR. KRASOWSKI:

 18 Q. Are there any FP&L plants that have been rated

 19 other than green this year?

 20 A. Well, no, not this year. But in '06 we had --

 21 in '07, I think early '07, we had one of our plants that

 22 went into the white in regard to a performance

 23 indicator, or excuse me, an inspection finding for a

 24 period of time.

 25 Q. And was that a Turkey Point or a St. Lucie

 253

 1 plant?

 2 A. We had an event at Turkey Point several years

 3 ago where we had what's called a white finding

 4 associated with an inspection that the NRC did at one of

 5 our plants; that's correct.

 6 Again, these NRC performance indicators and

 7 inspection findings are set with a very low threshold to

 8 ratchet up, if you will, the NRC intrusiveness and

 9 involvement with any particular licensee, depending on

 10 how these indicators fluctuate. And I think that's a

 11 good thing, because it holds the industry to a very high

 12 standard to make certain that these plants are all

 13 operated at the highest levels of safety. So I think

 14 this is a good regulatory scheme.

 15 And someone should not draw a conclusion

 16 simply because a plant would move into what is called

 17 the white zone, or even the yellow zone, column 2 or

 18 column 3 in regulatory lingo, that that signals some

 19 sort of a problem with the operation or the safety of

 20 the plant. I can assure you, based on my 30 years of

 21 experience in this industry, that the NRC will not

 22 tolerate an unsafe plant, and they will shut that plant

 23 down, and they have exercised that authority on many,

 24 many occasions. So just because these plants

 25 transitorily move into a column 2 or even a 3 or 4

 254

 1 situation does not imply that there's some level of

 2 concern with the ability to operate that plant safely.

 3 That's not tolerated in this country.

 4 Q. Mr. Stall, are NRC overseers at the site all

 5 the time?

 6 A. We have -- at all of these sites, not just the

 7 FPL sites, but across the country, the NRC has what they

 8 call resident inspectors, and typically they use a

 9 protocol of what they call N plus one. If there's one

 10 reactor at that site, there's two inspectors. If

 11 there's two reactors, there's two plus one, typically

 12 three inspectors. And they are there. They are

 13 stationed there. They're there 40 hours a week. They

 14 come in on weekends, work back shifts.

 15 In addition to that, the NRC sends inspectors

 16 through that specialize in various functional areas of

 17 the plant that do specific inspections, for example, the

 18 security we talked about earlier.

 19 But our policy at FPL is and has always been

 20 one of total transparency with the regulators. If we

 21 make a mistake in our operation, if we do something

 22 wrong, we're the first ones to go down and tell the NRC

 23 ourselves. If we have a meeting at one of our sites

 24 that we think is important that the NRC might want to

 25 participate in, we make it a point to go find the NRC

 255

 1 and ask them to come attend the meeting. We believe

 2 total transparency, total openness is the only way to

 3 deal with these regulators. And I think that over time,

 4 that has proven to be, not only for us, but this

 5 industry, the only way to operate these plants, is total

 6 transparency.

 7 Q. Do you have that same total transparency

 8 position when it comes to the public?

 9 A. Absolutely.

 10 Q. So am I correct when I say that these nuclear

 11 plants may not emit CO2 on-site, but there are

 12 greenhouse gases, emissions associated with nuclear

 13 operations and radiological emissions at every plant?

 14 A. Yes. And we've discussed over the last 30

 15 minutes or so, I think, you know, we've covered that

 16 subject in depth.

 17 MR. KRASOWSKI: Well, thank you for your

 18 candor. I appreciate the conversation and the answers.

 19 I think that's all we have for today.

 20 THE WITNESS: You're quite welcome. Thank

 21 you.

 22 CHAIRMAN CARTER: Commissioner Skop, you're

 23 recognized.

 24 COMMISSIONER SKOP: Thank you, Mr. Chairman.

 25 Just a quick follow-up on a question that Mr. Krasowski

 256

 1 asked to Mr. Stall.

 2 Mr. Stall, with respect to spent fuel pool

 3 storage, would it be correct say that water is utilized

 4 as a shielding medium?

 5 THE WITNESS: That's correct. We're required

 6 to maintain a minimum of 23 feet of water over the top

 7 of all fuel assemblies by federal law, and typically we

 8 maintain substantially more inventory than that over the

 9 top of the fuel assemblies.

 10 COMMISSIONER SKOP: And also, would it be also

 11 correct to say that a person can stand directly next to

 12 the pool without donning any protective gear?

 13 THE WITNESS: That is correct. I've done that

 14 many times in my career, absolutely.

 15 COMMISSIONER SKOP: Thank you. No further

 16 questions.

 17 THE WITNESS: And received no dose, I might

 18 add.

 19 CHAIRMAN CARTER: Staff?

 20 MS. FLEMING: No questions.

 21 CHAIRMAN CARTER: Commissioners? Redirect?

 22 MR. ROSS: FPL has no redirect.

 23 CHAIRMAN CARTER: No redirect?

 24 MR. ROSS: No. At this time, we would move

 25 admission of Exhibits 21 and 22.

 257

 1 CHAIRMAN CARTER: Exhibits 21 and 22, any

 2 objections? Hearing none. Show it done.

 3 (Exhibit Numbers 21 and 22 were admitted into

 4 the record.)

 5 CHAIRMAN CARTER: Let's do this. As we get

 6 ready for our next witness, let's take about seven

 7 minutes, and then we'll pick up with our next witness.

 8 COMMISSIONER EDGAR: Could I --

 9 CHAIRMAN CARTER: Wait one second. Hold on,

 10 everybody. Hold it.

 11 COMMISSIONER EDGAR: I apologize. You went

 12 real fast there. I do have a procedural question for

 13 staff that I would like to have answered before the

 14 break, if I may have leave to do so.

 15 CHAIRMAN CARTER: Absolutely. You're

 16 recognized.

 17 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

 18 Earlier Commissioner Skop pointed out for my

 19 edification that the prefiled testimony came in prior to

 20 the issuance of the Prehearing Order, which is, of

 21 course, a necessity, realizing that the Prehearing Order

 22 was issued four working days ago. I do have some

 23 questions for some of the later witnesses based on my

 24 reading of some of the prefiled testimony, and it was my

 25 understanding that all of this was available for

 258

 1 questions. I'm not aware of any motion or request being

 2 made to strike some of this prefiled testimony. So my

 3 question is, is this available, the prefiled testimony

 4 with future witnesses available for questions?

 5 MS. BRUBAKER: Commissioner, it's my

 6 understanding at this time that the testimony has not

 7 been stricken with respect to what portions go to those

 8 issues. I think they were 11 and 12. It's my

 9 experience that Commissioners have a broad range of

 10 discretion to ask what questions they deem appropriate

 11 and relevant, and I don't believe that there are

 12 actually any limitations with respect to that. I

 13 suppose the question is just -- it's a question of what

 14 you interpret as relevant to the proceedings.

 15 COMMISSIONER EDGAR: All right. It's just

 16 that Mr. Olivera was listed as -- well, obviously, I

 17 have some questions, and clearly, if I'm not going to

 18 have the opportunity to ask them because they pertained

 19 to issues that were excluded, then I don't want to spend

 20 my time on those points, so I just want to clarify that

 21 this is available to me.

 22 MS. BRUBAKER: (Nodding head affirmatively.)

 23 COMMISSIONER EDGAR: All right. Thank you

 24 very much.

 25 CHAIRMAN CARTER: Any further questions before

 259

 1 we take a break, Commissioners? Okay. We're on recess

 2 as you get your next witness ready. Let's do that.

 3 (Short recess.)

 4 CHAIRMAN CARTER: We are back on the record.

 5 And the last time when we left, we were getting ready to

 6 call the next witness. Mr. Butler.

 7 MR. BUTLER: Yes. It would be Mr. Scroggs.

 8 And Mr. Scroggs has not been previously sworn.

 9 CHAIRMAN CARTER: Mr. Scroggs, will you please

 10 stand raise your right hand.

 11 (Witness sworn.)

 12 CHAIRMAN CARTER: Thank you. You may be

 13 seated.

 14 Thereupon,

 15 STEVEN D. SCROGGS

 16 was called as a witness on behalf of Florida Power &

 17 Light Company and, having been first duly sworn, was

 18 examined and testified as follows:

 19 DIRECT EXAMINATION

 20 BY MR. BUTLER:

 21 Q. Would you please state your name and business

 22 address for the record?

 23 A. Yes. My name is Steven Scroggs. I work at

 24 700 Universe Boulevard in Juno Beach, Florida.

 25 Q. And by whom are you employed and in what

 260

 1 capacity?

 2 A. I'm employed by Florida Power & Light Company

 3 as Senior Director of Project Development.

 4 Q. Thank you. Have you prepared and caused to be

 5 filed 67 pages of prefiled direct testimony in this

 6 proceeding on October 16, 2007?

 7 A. I have.

 8 Q. Did you also cause to be filed errata to your

 9 testimony on January 25, 2008?

 10 A. I have.

 11 Q. Do you have any further changes or revisions

 12 to your prefiled direct testimony other than the errata

 13 sheet that has been submitted?

 14 A. I do have one minor change. On page 42 of my

 15 testimony, line number 19, the sentence ends, "and the

 16 associated." The words "economies" should follow "and

 17 the associated."

 18 Q. Thank you. With that change, if I asked you

 19 the questions contained in your prefiled direct

 20 testimony, would your answers be the same?

 21 A. Yes, they would.

 22 MR. BUTLER: Chairman Carter, FPL requests

 23 that the prefiled direct testimony of Mr. Scroggs as

 24 corrected be inserted into the record as though read.

 25 CHAIRMAN CARTER: The prefiled testimony will

 261

 1 be accepted into the record as though read.

 2 BY MR. BUTLER:

 3 Q. Now, are you also sponsoring Exhibits SDS-1 to

 4 SDS-9 which are attached to your prefiled testimony?

 5 A. That's correct.

 6 MR. BUTLER: Chairman Carter, I would note

 7 that these exhibits have been premarked for

 8 identification as Exhibits 23 through 31.

 9 CHAIRMAN CARTER: They'll be marked for

 10 identification. Show it done.

 11 (Exhibit Numbers 23 through 31 were marked for

 12 identification.)

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 1 BY MR. BUTLER:

 2 Q. Mr. Scroggs, would you please summarize your

 3 direct testimony for the Commission?

 4 A. Yes, I will. Thank you.

 5 Mr. Chairman and Commissioners, I appreciate

 6 the opportunity to come before you today. The purpose

 7 of my testimony is to describe the steps that FPL has

 8 taken and with your approval will take to develop the

 9 proposed Turkey Point 6 and 7 project. My testimony

 10 describes FPL's cost estimate for the project and

 11 highlights the really unique and challenging aspects of

 12 deploying new nuclear generation today. I also explain

 13 how these aspects will be managed by FPL and overseen by

 14 the Commission through the nuclear power plant cost

 15 recovery rule.

 16 The Turkey Point 6 and 7 project proposed in

 17 this proceeding is a unique undertaking in almost every

 18 aspect, yet the foundation work for this proposal has

 19 been under way for many years. Industry and government

 20 at all levels have collaborated diligently to retool the

 21 process for deploying new nuclear generation.

 22 In the State of Florida, the pathway leading

 23 to this specific petition was carefully laid by the

 24 State Legislature with the passage of the Florida Energy

 25 Act in 2006. Subsequently, this Commission accomplished

 331

 1 a significant amount of detailed work to develop the

 2 rules that will allow for such an important project to

 3 move forward, in full recognition for the benefits that

 4 it offers and the unknowns that must be resolved. The

 5 forethought that has preceded this project and the

 6 specific petition is unparalleled. That is only

 7 fitting, as the benefits offered by the project,

 8 increased energy independence, increased fuel supply

 9 reliability, stability of electric generation costs, and

 10 reduced greenhouse gas emissions, are all vital

 11 contributors to the continued health and well-being of

 12 all Floridians.

 13 Specifically, FPL is proposing to license,

 14 design, construct, and operate a two-unit nuclear

 15 project at our Turkey Point site in southern Miami-Dade

 16 County. New nuclear generation at Turkey Point makes

 17 sense. It makes sense for customers that it will

 18 utilize an existing site and existing infrastructure

 19 that has successfully filled this role for over 30

 20 years. It also makes sense for the environment to add

 21 generation without greenhouse gases at a site that is

 22 already designed for this purpose.

 23 Further, the project is based on known, safe,

 24 and reliable technology that can help us reduce

 25 greenhouse gas emissions systemwide. The project will

 332

 1 increase our energy independence, reduce our reliance on

 2 fossil fuels and the exposure to the rising costs of

 3 emissions and potential fuel supply disruption.

 4 Finally, nuclear generation is available 24

 5 hours a day, seven days a week. It's important to

 6 understand that this type of baseload resource is

 7 necessary if we're going to make increased use of

 8 conservation and renewable energy programs that are not

 9 always available to us.

 10 The project we are discussing today is unlike

 11 other projects that FPL has brought to you in the past.

 12 As envisioned by the legislation, the proposal is

 13 brought to you early in the process, before designs are

 14 complete, before regulatory approvals have been secured,

 15 and before commercial terms have been negotiated. While

 16 this leaves some questions unanswered, we know enough to

 17 take the important steps forward to bring the project

 18 benefits to our customers. We know that the capacity

 19 will be needed even with extraordinary effort in the

 20 areas of renewables and conservation. We know that the

 21 life cycle costs of available alternatives, as shown by

 22 our economic analysis, is projected to be more

 23 uncertain, and higher in many cases than that projected

 24 for nuclear. We know that the regulatory approval

 25 process at the state and federal levels will ensure our

 333

 1 customers and our environment are protected. And we

 2 know that failing to act now will defer meaningful

 3 progress in reducing greenhouse gas emissions and will

 4 not address fuel diversity in the state.

 5 That concludes my summary.

 6 MR. BUTLER: Thank you, Mr. Scroggs. Chairman

 7 Carter, I tender the witness for cross-examination.

 8 CHAIRMAN CARTER: Before we do that,

 9 Commissioners, obviously, at any point during the

 10 process -- I know we'll do our cross-examination, but if

 11 you have a question at that point in time about an issue

 12 raised, we'll stop and do that. And I say to the

 13 parties, let's just -- we want to kind of -- sometimes

 14 you may ask a question that a Commissioner has an issue

 15 about, and we'll just kind of interrupt you and do that,

 16 but we'll go back on with that. I just want to kind of

 17 let everybody know so we're all on the same page. Okay?

 18 Mr. Beck, you're recognized.

 19 MR. BECK: Thank you, Mr. Chairman.

 20 CROSS-EXAMINATION

 21 BY MR. BECK:

 22 Q. Good afternoon, Mr. Scroggs.

 23 A. Good afternoon, sir.

 24 Q. Could you tell me how much water will be

 25 required to cool your proposed Units 6 and 7?

 334

 1 A. The actual final amount of water will be a

 2 result of the detailed design process that will be under

 3 way following this need determination. Our preliminary

 4 estimates are a range of 60 to 90 million gallons per

 5 day necessary for the operation of the plant.

 6 Q. Will the amount change depending on which of

 7 the projects you go forward with, which of the designs?

 8 A. It will change based on the design, and it

 9 will change based on the source of water, yes, sir.

 10 Q. Okay. Which design requires more water?

 11 A. The larger design, the GE design, would

 12 require more water.

 13 Q. Do you have a basis to compare, relatively

 14 compare to the other design, how much difference is

 15 there?

 16 A. On a per megawatt basis, it would be

 17 essentially the same. It's a scaler to the total number

 18 megawatts.

 19 Q. Okay. FPL has not made a final decision on

 20 the source of the water for the cooling, has it?

 21 A. That's correct. That will be a part of the

 22 site certification application process to develop those

 23 alternatives and identify which is the best option for

 24 the facility.

 25 Q. Would you describe some of the sources that

 335

 1 FPL is looking at?

 2 A. Yes, sir. There's actually three sources that

 3 FPL is looking at. One source is reclaimed water from

 4 the Miami-Dade Water and Sewer Department. Currently,

 5 the Miami-Dade Water and Sewer Department has an

 6 abundance of treated water that could be cleaned up and

 7 used in -- reclaimed water in the facility. The other

 8 sources are groundwater and surface water. Groundwater

 9 would come from two potential sources, the Lower

 10 Floridan aquifer, which is a very deep aquifer, saline

 11 content water, or below the lower Floridan, there's an

 12 aquifer identified as the Boulder Zone. That's 2,800

 13 plus feet deep, and that would be -- yes, sir.

 14 CHAIRMAN CARTER: I'm sorry, Mr. Beck. You

 15 said the Boulder?

 16 THE WITNESS: Boulder Zone.

 17 CHAIRMAN CARTER: The Boulder Zone. Thank

 18 you.

 19 THE WITNESS: Those would both be considered

 20 groundwater sources.

 21 We're also looking at sources from marine

 22 water or seawater that could be used to provide cooling

 23 water. The methods of bringing that in would be a

 24 currently unused remnant canal that's at the south end

 25 of the cooling canal system that currently has no use,

 336

 1 or a subocean floor well system that would draw water

 2 through the sand and provide it to the facility.

 3 BY MR. BECK:

 4 Q. I understand your cost studies have included

 5 capital costs of approximately 250 to $300 million for

 6 water, cooling water.

 7 A. That's correct. In developing our cost

 8 estimate, we relied on FPL's experience in siting

 9 facilities in Florida to develop a reasonable cost

 10 estimate that covers the water requirements for this

 11 facility.

 12 Q. If you haven't determined precisely what the

 13 source of the water is going to be, how did you

 14 determine the cost estimates for the cost studies?

 15 A. We have extensive knowledge of different

 16 opportunities. We based the cost estimate that is in

 17 our cost estimate range on groundwater. So the

 18 groundwater source from the Lower Floridan or the

 19 Boulder Zone would be directly relevant specific to our

 20 cost estimate. However, we feel in looking at the other

 21 alternatives that the cost estimate range that we

 22 provided would be sufficient to cover costs reasonably

 23 expected for any of the other alternatives.

 24 Q. If you were to use reclaimed water, do you

 25 believe the cost would be greater or lesser than the use

 337

 1 of groundwater?

 2 A. Again, I believe that our cost estimate range

 3 is sufficiently covering the range of costs that would

 4 be required for FPL to pay in association with the use

 5 of reclaimed water.

 6 Q. Okay. But would it -- let me ask it again.

 7 Would the cost of -- if you were to go with reclaimed

 8 water, would that be more or less than the use of

 9 groundwater as far as FPL's costs go?

 10 A. Again, we feel it's within the same range. It

 11 would be essentially within the 250 to $300 million cost

 12 range.

 13 Q. And have you done studies of that

 14 specifically?

 15 A. We have not done detailed engineering studies.

 16 That will be a focus of the work in the application

 17 process for both the federal and state license

 18 applications.

 19 Q. What's the basis for your statement that the

 20 cost for the reclaimed water would be approximately the

 21 same as the groundwater?

 22 A. We have had discussions with the Water and

 23 Sewer Department, and our understanding of the

 24 facilities that would be required include the fact that

 25 the reclaimed water would be a very clean source. It

 338

 1 would not contain a lot of chlorides or other mineral

 2 content that groundwater would require, and therefore

 3 would not requirement treatment systems that are

 4 expensive and are a big part of the costs associated

 5 with groundwater. So we feel that we've appropriately

 6 bracketed the cost range that would be required or

 7 expected of any of these resources.

 8 Q. Do your estimates for the cost of reclaimed

 9 water include the cost of pipelines to connect the

 10 source of the reclaimed water to the plants?

 11 A. The estimate for reclaimed -- again, we have

 12 used a groundwater source as the specific basis for our

 13 cost estimate. In looking at the cost of reclaimed

 14 water, in our discussions with the Water and Sewer

 15 Department, we feel that the all-in cost to FPL for the

 16 use of reclaimed water are sufficiently covered by that

 17 250 to $300 million.

 18 Q. And that includes then the cost for the pipes

 19 that would connect the source of the water to Florida

 20 Power & Light's plants?

 21 A. Yes.

 22 Q. The costs that you include for water are

 23 incorporated into your Exhibit SDS-6, is that correct,

 24 there in some of the lines?

 25 A. SDS-6 provides a line item breakdown of cost

 339

 1 categories for our cost estimate, some of which are

 2 specific to cooling water, some of which are general to

 3 a broader range, but encompass some costs for cooling

 4 water.

 5 Q. Would you please turn to your Exhibit SDS-6

 6 and tell me where the 250 to $300 million estimates can

 7 be found in that exhibit?

 8 A. Yes. Costs that are specific to cooling water

 9 would be the costs associated with additional required

 10 scope under the first category of Power Plant Island and

 11 Supporting Construction. The second line item

 12 associated with cooling water supply would be cooling

 13 towers, which is the second line item in the Owners

 14 Costs category. There would be additional costs in the

 15 site work that would be related to water infrastructure

 16 on-site. There would be some amount of the permits and

 17 licensing costs that would be dedicated to the permits

 18 for water supply. And then in the allowance for cost

 19 risk, that would entail -- some amount of that would be

 20 related to water supply costs.

 21 MR. BECK: Thank you, Mr. Scroggs. That's all

 22 I have.

 23 CHAIRMAN CARTER: Thank you.

 24 COMMISSIONER ARGENZIANO: Mr. Chair?

 25 CHAIRMAN CARTER: Commissioner Argenziano,

 340

 1 you're recognized.

 2 COMMISSIONER ARGENZIANO: Yes. May I ask

 3 Mr. Scroggs a couple of questions?

 4 CHAIRMAN CARTER: You're recognized.

 5 COMMISSIONER ARGENZIANO: Thank you.

 6 Mr. Scroggs, in the last question, I think

 7 Mr. Beck asked you if included in your costs were the

 8 pipeline itself. Did you answer yes, they were

 9 included?

 10 THE WITNESS: Yes, ma'am. We believe that the

 11 overall cost estimate of 250 to $300 million associated

 12 with water infrastructure would cover the cost of the

 13 pipe.

 14 COMMISSIONER ARGENZIANO: And do you need any

 15 land purchasing? Do you have to buy any land to

 16 accommodate the pipeline?

 17 THE WITNESS: The details of that would be

 18 related to the final design. Our current understanding

 19 in our discussions with the Water and Sewer Department,

 20 we would look at using existing FPL transmission

 21 easements and rights-of-way for the conveyance of

 22 pipeline from any treatment facilities to FPL. So

 23 largely, our objective is to maximize the use of land

 24 that FPL or the County of Miami-Dade would have for

 25 that. So at this point in time, I can't answer

 341

 1 specifically.

 2 COMMISSIONER ARGENZIANO: Okay. Well, if you

 3 could use your own land, that would, of course, not

 4 include any -- incur any other cost in purchasing land.

 5 THE WITNESS: That's correct, ma'am.

 6 COMMISSIONER ARGENZIANO: Okay. And there are

 7 energy costs involved in pumping water also through a

 8 pipeline, and I guess the farther, the more expensive it

 9 is. Is that included, or that cannot be included at

 10 this time?

 11 THE WITNESS: The two areas of costs that we

 12 would be discussing are the capital costs to build the

 13 infrastructure necessary to deliver the water, and then

 14 there are operating costs that would be incurred during

 15 the operation. The cost for pumping the water, the

 16 electricity cost to convey the water would be something

 17 we would consider an operational cost. And we feel that

 18 in our cost estimates for fixed O&M, we have adequately

 19 included an amount that would necessary to cover the

 20 cost of pumping the water.

 21 COMMISSIONER ARGENZIANO: Okay. So that is

 22 included. And my last question for now, you had

 23 mentioned that the Miami-Dade sewer -- you might be able

 24 to get reclaimed water from Miami-Dade. How far away

 25 would the nearest station be?

 342

 1 THE WITNESS: The current nearest treatment

 2 station is the South Water Treatment Plant, and that's

 3 approximately nine miles from the Turkey Point site.

 4 However, we have talked about using water from either

 5 Virginia Key or using the existing water and sewer

 6 infrastructure to deliver raw water to a yet to be

 7 determined site that would be closer to the plant that

 8 would treat the water and then send the finished water

 9 product to Turkey Point.

 10 COMMISSIONER ARGENZIANO: Okay. And I'm

 11 sorry. Just one last question. Depending on where you

 12 get the water from, the Boulder Zone or wherever you get

 13 it from, is going to depend on the amount of treatment

 14 that's needed. Do you have different cost scenarios for

 15 each one of those areas?

 16 THE WITNESS: We believe that the cost

 17 estimates that we've included, meaning 250 to

 18 $300 million of capital costs and then an allowance

 19 within the fixed O&M costs for operational costs, would

 20 cover the range of costs that we would see with any of

 21 these alternatives. For example, the reclaimed water,

 22 coming to us rather clean, would require less capital in

 23 terms of developing a pretreatment facility on-site, so

 24 some of that capital might be used to pay a tariff or

 25 some form of water supply agreement with Miami-Dade

 343

 1 County as an operational cost. So we believe our costs

 2 are fully encompassing of all these options.

 3 COMMISSIONER ARGENZIANO: Thank you. Thank

 4 you, Mr. Chair.

 5 CHAIRMAN CARTER: Thank you, Commissioner

 6 Argenziano. Commissioners, any other questions before

 7 we -- Commissioner Edgar.

 8 COMMISSIONER EDGAR: Thank you. I do have

 9 just a couple of questions for this witness. Good

 10 afternoon.

 11 THE WITNESS: Good afternoon.

 12 COMMISSIONER EDGAR: In your testimony, you

 13 described to us that in order to meet production dates

 14 that it is necessary for the reactor pressure vessel to

 15 be in place early in the construction process, and for

 16 that to take place, that it takes many years to go from

 17 order to design to delivery. So that brings me back to

 18 a point I was trying to get at earlier, which is, if it

 19 is necessary to make advance reservation years in

 20 advance, then why is it necessary for this Commission to

 21 approve or direct advance payment?

 22 THE WITNESS: I can speak to your question

 23 from the perspective of a project developer, my

 24 discussions with the vendors and my knowledge of the

 25 market and my knowledge of the construction schedule and

 344

 1 what items are critical path. It's imperative that we

 2 make our reservation as early as possible in the process

 3 to assure that we can maintain the earliest deployment

 4 schedule. So from that aspect, I can tell you there is

 5 a schedule imperative, and there's market forces that

 6 really make it important for us to make those

 7 expenditures earlier.

 8 In the process of the nuclear power plant cost

 9 recovery rule, we'll not be able to put those before the

 10 Commission and have those formally decided upon until

 11 sometime in late September, or by October 1st, is my

 12 understanding. We are being advised that we would want

 13 to do this earlier than that.

 14 So in wanting to do this earlier, we want to

 15 be again transparent in the decisions that were being

 16 suggested that we should be making, the commitments that

 17 we would be making on behalf of the project. So we want

 18 to have that up front, that discussion, and disclose

 19 that up front with you now. And that's our impetus to

 20 bring that before you now and ask that you recognize,

 21 with all the information that we have, that it's a

 22 prudent thing to do, and you understand that in the

 23 dynamics of the market forces and the schedule, that in

 24 order to bring the benefits of the project per the

 25 schedule, it's a prudent thing for us to do.

 345

 1 COMMISSIONER EDGAR: And I do have --

 2 CHAIRMAN CARTER: Go ahead.

 3 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

 4 And that does help me get to -- and I'm not

 5 trying to be argumentative. I'm truly trying to

 6 understand and think this through in my own mind.

 7 But when I read Issue 9, it does not say

 8 finding of prudence. It says the Commission -- it says

 9 should FPL commit advance payment. In my mind, if this

 10 Commission agrees with Issue 9, then we are approving or

 11 directing that advance payment. It does not say

 12 prudence. But to me, if we were to direct or approve,

 13 that would be making a finding of prudence, but yet it

 14 doesn't say making a finding of prudence.

 15 And I realize that may be more a question for

 16 the lawyers and for briefs, and I will look forward to

 17 seeing that point fleshed out in briefs. But it does --

 18 you are listed as one of the witnesses on this issue,

 19 and so that's why I'm posing the questions to you.

 20 So I recognize that there will be, as you

 21 pointed out, critical paths and critical decision-making

 22 points, but that brings me back to my other point. If a

 23 need determination is granted in this, then it is the

 24 responsibility of the utility to make your expert

 25 business decisions as to what you need to do in order to

 346

 1 meet those future dates. And I'm just not understanding

 2 why this particular one -- it's a significant amount,

 3 absolutely, and I recognize a critical point in the

 4 construction process, but why this one piece of that

 5 whole process requires a direction from this Commission

 6 that, as you have described, would be a finding of

 7 prudence, and I believe as Mr. Olivera said, would be a

 8 finding of prudence.

 9 And there actually was a question in there.

 10 Could you maybe help me understand why this particular

 11 piece of this process is so important to step out of the

 12 process that has been laid out and that we are just

 13 beginning to embark upon as far as cost recovery

 14 approvals?

 15 THE WITNESS: Yes, ma'am. In terms of why

 16 this specific item, this specific item we know will fall

 17 out of sequence of the normal prescribed cost recovery

 18 process. In other words, we will have to expend this

 19 reservation fee in advance of the full nuclear power

 20 plant cost recovery rule process and hearing. So we

 21 wanted to say, you know, we're going to need to move

 22 before that process has a chance to complete, so we

 23 wanted -- that's why this specific area has been brought

 24 up. From my way --

 25 COMMISSIONER EDGAR: And I don't want to – I

 347

 1 am interrupting, and I apologize for interrupting, and

 2 if you have more that you think would help me for me to

 3 hear, I want to hear it. But cost recovery is by nature

 4 cost recovery, I mean, recovery after the fact. And the

 5 way I read this issue, it's asking for approval in

 6 advance of incurring the costs. And again, I'm not

 7 arguing with whether this is a very important piece of

 8 the process. I'm just not understanding why it is so

 9 important that advance approval be given rather than a

 10 cost recovery review.

 11 MR. BUTLER: Commissioner Edgar, if I may --

 12 COMMISSIONER EDGAR: Please.

 13 MR. BUTLER: -- distinguish something here to

 14 be sure that you understand what we are asking for and

 15 not asking for here. Our position on Issue 9 tries to

 16 make it clear that we are not trying to take off the

 17 table for review in the cost recovery proceeding the

 18 specifics about the amount that we would end up paying,

 19 the terms, you know, what we would get for the payment

 20 that we would make, those sorts of details, because we

 21 recognize that's something that does need to be explored

 22 in the cost recovery proceeding, and properly it should

 23 be. What we're really looking for here and included

 24 in --

 25 COMMISSIONER EDGAR: Again, I want to keep

 348

 1 with my own track, and then I'm glad to hear the rest of

 2 what you're saying. But I have reviewed the filed

 3 positions, and I look forward to reading the briefs and

 4 hearing more. And in this instance, I actually mean

 5 that. I do look forward to reading them more.

 6 But yet the way the issue is worded and the

 7 way it will come before us with a staff recommendation

 8 and an order is, should FPL commit to the advance

 9 payment. And in a question to Mr. Olivera and in a

 10 question to this witness, I think I have heard them --

 11 and I'll go back over the transcript, but I think I have

 12 heard them say that they would view that as us saying

 13 that it's a prudent decision for them to go ahead and do

 14 it.

 15 And therefore, in a later procedure that goes

 16 through prudence, I think that it would be very

 17 difficult for this Commission to find -- I think it's

 18 limiting our options if witnesses have told us that they

 19 would deem it as a finding of prudence, and then after

 20 the fact, FPL were to present testimony and records and

 21 our staff were to review it and we were to have some

 22 questions as to prudence. And I have the strong concern

 23 that then we would be accused of regulatory uncertainty

 24 if we even asked a question during that prudence review

 25 after already directing the payment.

 349

 1 And there is not a question there, but I

 2 welcome your response.

 3 MR. BUTLER: Thank you. Let me try what I

 4 tried in distinguishing what we were asking for and not

 5 with the Prehearing Officer when we were going through

 6 what the appropriate -- you know, whether this was

 7 properly an issue here and see if that helps.

 8 COMMISSIONER EDGAR: You know, it really

 9 actually isn't. I would rather that you responded to my

 10 question than to what other discussions went on.

 11 MR. BUTLER: I'm just alluding to the fact

 12 that some people may have already been through this, but

 13 I'm certainly happy and want to --

 14 COMMISSIONER EDGAR: You know, I understand

 15 what other people have already been through. I have

 16 read the transcript. I have read all of the

 17 information.

 18 MR. BUTLER: Okay. Well, then you know

 19 what --

 20 COMMISSIONER EDGAR: And I have asked for your

 21 response.

 22 MR. BUTLER: Okay. Fair enough. What I am --

 23 what I want to distinguish between is that what we don't

 24 want to come back to in September or late August,

 25 whenever the hearing would be held in the cost recovery

 350

 1 proceeding, is someone raising the position or taking

 2 the position that all things considered, even though we

 3 realize that you probably would have lost your spot in

 4 the queue and it would have an adverse impact on the

 5 schedule, that would have been better than to have made

 6 some sort of advance payment to keep that spot in the

 7 queue.

 8 COMMISSIONER EDGAR: But, Mr. Butler, there

 9 isn't -- I'm not -- nobody has raised the question of

 10 you losing the spot in the queue. What I'm trying to

 11 pin down -- and I feel like you're dancing around my

 12 point. What I'm trying to pin down is why this

 13 particular, critical albeit, piece of the process

 14 requires advance specific direction from this

 15 Commission.

 16 MR. BUTLER: I think there's two pieces to it.

 17 The first piece to that is because of the timing, this

 18 kind of awkwardness of a decision probably being needed

 19 to be made to go ahead and pay this forging reservation

 20 fee in the early summer of 2008, which means that we

 21 would actually be paying it before the cost recovery

 22 proceeding --

 23 COMMISSIONER EDGAR: But again, my point, it's

 24 a cost recovery procedure. And so what you're telling

 25 is that for the future years -- and again, we're looking

 351

 1 forward to annual proceedings. That is what the rule

 2 lays out, and we spent a lot of time trying to get the

 3 rule in the best shape we could. But it is a cost

 4 recovery procedure, and I feel like what I'm hearing you

 5 say is that if indeed -- that what we will being seeing

 6 is more and more and more use of the cost recovery

 7 annual proceedings to direct advance cost direction.

 8 MR. BUTLER: Here's what I had in mind with

 9 it. Let's just -- maybe I can illustrate the point

 10 effectively this way. Let's say that this cost instead

 11 had to be incurred in the early summer of 2009.

 12 COMMISSIONER EDGAR: I don't feel like you're

 13 being responsive to me. I really don't. I don't think

 14 you're being responsive to me. Okay. So let me try

 15 again. From your previous response, I think what I can

 16 infer from it is that annual cost recovery proceedings

 17 will be used by this utility for this project to ask

 18 this Commission for additional advance approvals, not

 19 cost recovery approvals, advance approvals.

 20 MR. BUTLER: We would intend to file

 21 projections each year, and one of the things that we

 22 envisioned that the projections would do would be to

 23 give everyone, including the Commission, an idea of what

 24 we plan to do in the following year. And I guess our

 25 model for this, as we envision it at least, is the

 352

 1 adjustment clause proceedings where we bring each year

 2 what we plan to do, there is review of that, and

 3 typically, if somebody thinks that what we plan to do is

 4 way off base, they will say something about it.

 5 COMMISSIONER EDGAR: Well, in that case, then

 6 why aren't the other expenditures that this utility will

 7 be making that they will deem to be reasonable and

 8 necessary, why aren't those included in this need

 9 determination?

 10 MR. BUTLER: That was going to be the second

 11 thing I was raising as a distinction, which was that

 12 there's the timing, and the other is that, frankly, this

 13 struck us as being pretty unusual, pretty distinct.

 14 It's the type of thing that a lot of projects wouldn't

 15 have a counterpart to it. It's, in our mind, unusual.

 16 COMMISSIONER EDGAR: But there are a lot of

 17 things in this that other projects would not have a

 18 counter -- I mean, that has been the whole point of a

 19 separate and unique need determination statute and a

 20 separate and unique cost recovery process, is because

 21 projects -- this project is the first one to come before

 22 us in -- well, come before me, but come before the

 23 Commission in 30 some years, or whatever it is. Much of

 24 this project is unique. And I've read the testimony,

 25 I've listened very carefully to each of the witnesses

 353

 1 and look forward to the other ones, and I have yet to

 2 hear anything that tells me why this particular advance

 3 purchase is sufficiently unique from all of the other

 4 very important financial pieces of this project.

 5 MR. BUTLER: For right or wrong --

 6 COMMISSIONER EDGAR: For regulatory -- excuse

 7 me. I'm sorry. For regulatory treatment.

 8 MR. BUTLER: Right or wrong, our assessment of

 9 this particular item was really driven by those two

 10 facts, that it's kind of an unusual thing of having to

 11 make this reservation fee payment simply to get a spot

 12 in line to be able to later buy the forging from this

 13 facility. That seemed unusual. And the timing of it

 14 was something that, unlike other later payments of a

 15 similar nature that will occur at a point when we could

 16 raise them as projections for later cost recovery

 17 periods, this one we didn't have the chance to raise it

 18 as a projection. And those two factors together are

 19 really what made it, in our mind, distinct.

 20 COMMISSIONER EDGAR: Okay. I'm not agreeing

 21 with you, but I think I'm understanding what you're

 22 saying. But I don't see this as -- the way this issue

 23 is framed, as we are letting the Commission know that

 24 there's a cost projection for advance payment of

 25 16 million next year. I see it as a request for this

 354

 1 Commission to approve and direct.

 2 MR. BUTLER: I don't know that I would go so

 3 far as direct. I would agree with approve. We are

 4 asking that you look at this and say, "Yes, we agree.

 5 It would be a good thing, good idea, preserve the

 6 schedule, make this sort of payment." The exact dollar

 7 amount, the terms you have for it, et cetera, will be

 8 subject to later prudence review, but we are asking you

 9 now, because we're going to have to make it in the early

 10 summer before the first cycle of the cost recovery, to

 11 approve that issue.

 12 COMMISSIONER EDGAR: So are you telling me

 13 that if Issue 9 is not approved as worded as a part of

 14 this proceeding that FPL will not get in line, although

 15 I'm hearing from witnesses and reading that that is best

 16 deal for the state?

 17 MR. BUTLER: No, I'm not telling you that.

 18 This is one of those places where we were really in a

 19 new process, embarking in kind of a different direction

 20 that we or you have been in a long time, as you

 21 suggested, looking for getting a little bit more sense

 22 that we were on the same page going forward. But we're

 23 going to do what's the right thing for this project to

 24 protect the opportunity it presents for FPL and the

 25 customers as we normally would.

 355

 1 COMMISSIONER EDGAR: As I would expect.

 2 I am very uncomfortable with -- I'm going to

 3 be kind when I say the inference that if this Commission

 4 does not fall in line with this issue, that we will be

 5 accused of creating an environment of regulatory

 6 uncertainty, because I think that that is a

 7 mischaracterization. And I have numerous comments on

 8 that point, and I'll reserve them for whatever may be a

 9 more appropriate time, but I will throw that out so that

 10 there will maybe be the opportunity for a response.

 11 Mr. Butler, I would like to come back, because

 12 I have one or two more questions for the witness, and if

 13 that triggers something that you would like to say to

 14 me, I'll be glad to hear it.

 15 MR. BUTLER: Fair enough.

 16 COMMISSIONER EDGAR: In the testimony, it says

 17 that these items may be expected to have a certain

 18 remarket value, which would be risk mitigation. So in

 19 that case, why again is it necessary for this Commission

 20 to approve or direct the advance payment if it's a risk

 21 mitigation and there is, as it says, certain remarket

 22 value?

 23 THE WITNESS: Again, I would say that we're

 24 trying to highlight that this is the right thing to do,

 25 and we want to be open with the Commission as to the

 356

 1 fact that it's going to be a little bit out of sequence,

 2 and that we want to --

 3 COMMISSIONER EDGAR: But it's not out of

 4 sequence. I'm sorry. It's not out of sequence. You're

 5 saying this is the sequence that it needs to occur in.

 6 I hate ending things with a preposition. But you're

 7 telling us that it's the appropriate sequence, so what

 8 is out of sequence?

 9 THE WITNESS: I'm sorry if I confused you. I

 10 was referring to out of the --

 11 COMMISSIONER EDGAR: Actually, I think I

 12 understood.

 13 THE WITNESS: Out of the nuclear power plant

 14 cost recovery cycle. In other words, the decision would

 15 be made for us to make the expenditure in advance of a

 16 PSC, Commission judgment on our initial filing of May 1

 17 for costs.

 18 COMMISSIONER EDGAR: But then again, why do we

 19 have an issue before us asking the Commission to direct

 20 you -- I mean, it says should FPL commit; to me, if we

 21 say yes, that's a direction for you to do so -- if

 22 indeed you're saying it's what you need to do to keep

 23 this project on line, and if, as it says in here, it's a

 24 risk mitigation step and there's remarket value should

 25 something happen down the road that would have nothing

 357

 1 to do with me?

 2 THE WITNESS: We wanted to amplify all the

 3 issues surrounding it as to why it's a good step to take

 4 and why, if we were to decide after the expenditure to

 5 not go forward or to delay the project, that there would

 6 be a potential, as with any option, to find another

 7 purchaser for that option. So we were simply trying to

 8 illuminate the specific issues surrounding this payment.

 9 COMMISSIONER EDGAR: I'm not sure I get the

 10 reasoning, but I do understand what you're saying, and I

 11 thank you for your responses. And I think I only have

 12 one more question at this point.

 13 In testimony earlier today, Mr. Olivera asked

 14 that this Commission not tie the utility's hands by

 15 directing a specific technology or specific engineering.

 16 And I understand that, because again, you all are the

 17 experts. But then why would you ask the Commission to

 18 direct a specific payment at a specific time to a

 19 specific vendor?

 20 THE WITNESS: I believe what we've identified

 21 is a specific payment at a specific time that would be

 22 applicable to either vendor. We have provided you an

 23 estimate that is based on information provided to us

 24 from a specific vendor to give you a cost estimate, a

 25 range of costs, but –-

 358

 1 COMMISSIONER EDGAR: Okay. Now I'm going to

 2 stop you there, and I'm going to come back to

 3 Mr. Butler.

 4 Mr. Butler, my reading of this issue is,

 5 should -- and I'm going to leave out a few words, but

 6 basically, should FPL commit to make advance payments to

 7 Japan Steel Works. And now I'm hearing from your

 8 witness that actually it could be this vendor or a

 9 different vendor that we would be --

 10 MR. BUTLER: I think the distinction there,

 11 Commissioner Edgar, is that Japan Steel Works is really

 12 kind of like a subcontractor for making these forgings,

 13 and they would end up being used, they, Japan Steel

 14 Works, by either Westinghouse or GE. And we know what

 15 Westinghouse has advised that the payment to Japan Steel

 16 Works would require would be, which is in the range of

 17 16 million. Probably it would be a very similar figure

 18 from GE. But in both instances, there are large

 19 forgings they will have to look to Japan Steel Works to

 20 make, so that particular choice actually will have to be

 21 made regardless of which of the two suppliers we end up

 22 ultimately going with.

 23 COMMISSIONER EDGAR: Okay. But to the

 24 witness, I ask the question why do we have one specific

 25 vendor in this, and I think I heard him say, well,

 359

 1 really there are two, and --

 2 MR. BUTLER: I think that may have been a

 3 misunderstanding between him and you. There are two

 4 vendors we are considering for the supply of the nuclear

 5 reactor, basically, and both of them need large forgings

 6 that neither of them has itself the facilities to

 7 fabricate. They both would be looking to Japan Steel

 8 Works to make that piece of equipment. And I'm

 9 suspecting there may have been a misunderstanding about

 10 what you were referring to as supplier and what he was

 11 answering.

 12 COMMISSIONER EDGAR: Then I will leave it with

 13 this larger point. I am still befuddled as to why the

 14 utility would ask us in so many different dockets and so

 15 many different instances and issues not to micromanage,

 16 and I have yet to hear an answer that I find compelling

 17 as to why this specific issue rises to a level to ask us

 18 to do something that is, in my opinion, micromanaging

 19 and limiting this Commission's ability to do any future

 20 prudence review. And I'll leave it at that. And thank

 21 you all for your indulgence.

 22 CHAIRMAN CARTER: Thank you, Commissioner

 23 Edgar. Again, Commissioners --

 24 COMMISSIONER ARGENZIANO: Mr. Chair?

 25 CHAIRMAN CARTER: Commissioner Argenziano,

 360

 1 you're recognized.

 2 COMMISSIONER ARGENZIANO: Yes. I'm having

 3 some difficulty with this, and I think I've heard some

 4 concerns that are now concerning me that I would like to

 5 have more information on. And I'm never afraid to ask

 6 something that I may not know, because that gives me

 7 power in learning. So I need to know, number one, are

 8 we advance directing -- excuse me. I'm sorry. The

 9 minute I start to talk -- excuse me. I probably need to

 10 know more information on this issue that Commissioner

 11 Edgar brings up.

 12 Are we doing something differently than we

 13 normally would do? Where is OPC on this issue? I would

 14 like to hear from them. And maybe staff could clarify

 15 some of the questions that Commissioner Edgar brought

 16 up.

 17 CHAIRMAN CARTER: Okay. Commissioner

 18 Argenziano, who would you like to hear from first?

 19 COMMISSIONER ARGENZIANO: Is it possible to

 20 hear from OPC?

 21 CHAIRMAN CARTER: One second.

 22 COMMISSIONER ARGENZIANO: Even if it's at the

 23 proper time? It doesn't have to be now, Mr. Chair. I

 24 understand we have a witness on the deck.

 25 CHAIRMAN CARTER: Not a problem. You're in

 361

 1 order. Let me ask you this. Would you yield for a

 2 moment for Commissioner Skop before we go to OPC and

 3 staff?

 4 COMMISSIONER ARGENZIANO: Yes, absolutely.

 5 Thank you.

 6 CHAIRMAN CARTER: Commissioner Skop, you're

 7 recognized.

 8 COMMISSIONER SKOP: Thank you, Mr. Chairman.

 9 Again, I also would like to hear from OPC, and I was

 10 just wondering if Mr. Beck would happen to have a copy

 11 of the prehearing transcript on page 82, and if not, I

 12 would happy to provide it to him, with respect to this

 13 issue.

 14 MR. BECK: I don't have it with me.

 15 COMMISSIONER SKOP: Would the parties object

 16 or the Commission object if I gave Mr. Beck my copy?

 17 You may approach. Thank you.

 18 (Pause in the proceedings.)

 19 CHAIRMAN CARTER: Do you have a question of

 20 Mr. Beck, Commissioner?

 21 COMMISSIONER SKOP: No. I just wanted to be

 22 aware if Mr. Beck had a copy of the prehearing

 23 transcript on page 82.

 24 CHAIRMAN CARTER: Okay. Mr. Beck, then staff,

 25 to Commissioner Argenziano's questions.

 362

 1 MR. BECK: Commissioner Skop has referred me

 2 to comments I had made at the prehearing conference,

 3 which I do recall.

 4 Commissioner Argenziano, we have not taken a

 5 final position on Issue 9. We reserved our position on

 6 that. I will say the same thing I said at the

 7 prehearing conference, in that we take some comfort from

 8 the fact, if you look at the second half of the position

 9 of Florida Power & Light, that the terms of any contract

 10 and the amount of the payment are all subject to the

 11 ongoing cost recovery proceeding which hasn't been filed

 12 yet, and that Florida Power & Light is asking solely for

 13 a decision by the Commission on the decision to enter

 14 into the advance payment, not the terms, not the price,

 15 not anything else. All those things will be reviewed

 16 later. But we are still considering it. We've not

 17 taken a final position on Issue 9.

 18 CHAIRMAN CARTER: Staff?

 19 MS. BRUBAKER: Staff is in the same position

 20 as OPC, in that we have not yet taken any final position

 21 on this.

 22 I note from FPL's position on Issue 9 that

 23 they used the word "prudence" several times, and it

 24 seems to me that they are at least asking for a

 25 determination as to the prudence of committing to making

 363

 1 those payments. So that word would lead me to question

 2 whether that is something that would otherwise -- had

 3 they not brought this issue forward, would otherwise not

 4 be dealt with in the cost recovery process. At the same

 5 time, if FPL wishes to put this issue forward, I would,

 6 of course, expect them to put forth sufficient evidence

 7 to prove up the issue, as we would with any other issue

 8 that's put forward in a docket. But at this time, staff

 9 has not made any sort of final statement of position on

 10 the issue.

 11 CHAIRMAN CARTER: Commissioner Argenziano, are

 12 you there?

 13 COMMISSIONER ARGENZIANO: Yes, Mr. Chairman.

 14 CHAIRMAN CARTER: Were you able to hear

 15 Mr. Beck and staff's --

 16 COMMISSIONER ARGENZIANO: Yes. But with all

 17 due respect, nobody is telling me anything. Nobody is

 18 willing to commit to anything, and I guess I'm going to

 19 have to make up my own mind at some point. If OPC is

 20 not opposed to it or doesn't have a position, I don't

 21 know at what point when they will have one. And staff,

 22 everything sounds like, well, it could be this or it

 23 could be that. I don't hear anything. And I guess

 24 coming from the legislative realm, it's quite different

 25 there. It's either this or that.

 364

 1 I guess, Mr. Chairman, what I have concerns

 2 over is -- I mean, I understand prudence sometimes. If

 3 we are changing the course of the way we ordinarily do

 4 things -- and it may be for a good reason; I don't

 5 know -- I would like some kind of a backup as to why

 6 we're doing that. And I guess at this point, I'm so

 7 confused now that I'm not sure what to think of it. I

 8 just don't know.

 9 Commissioner Edgar brings up some points.

 10 Commissioner Skop, I really didn't hear much from him at

 11 this point other than directing OPC to look at the page

 12 number. And maybe Commissioner Skop could address it or

 13 somebody else give me a little bit more information to

 14 go on here as to why we're directing this now. And

 15 maybe I'm just not hearing it right.

 16 But I guess, Mr. Chair, that's about all I can

 17 say until I sit down and really go over it many more

 18 times and figure it out myself, because nobody is

 19 willing to commit an answer.

 20 CHAIRMAN CARTER: Okay. Commissioner,

 21 Commissioner Skop will yield for a moment. Commissioner

 22 Skop.

 23 COMMISSIONER ARGENZIANO: Thank you.

 24 COMMISSIONER SKOP: Thank you, Mr. Chair, and

 25 thank you, Commissioner Argenziano, and also,

 365

 1 Commissioner Edgar, for raising the issue. Again, if I

 2 could be indulged for a second to ask Mr. Butler one

 3 question, and then I'll explain my rationale for why

 4 this is in here.

 5 CHAIRMAN CARTER: You're recognized.

 6 COMMISSIONER SKOP: Thank you.

 7 With respect to my understanding of this

 8 issue, it is necessary to reserve a spot in the queue,

 9 and that's something that perhaps one may or may not

 10 have to do on their on, but -- is that correct?

 11 MR. BUTLER: That is correct.

 12 COMMISSIONER SKOP: Okay. And that's to

 13 preserve the in-service date; correct?

 14 MR. BUTLER: That's right. To be able to sort

 15 of keep the opportunity for those in-service dates, we

 16 really need to be sure that we have the ability to get

 17 those forgings made in a timely fashion.

 18 COMMISSIONER SKOP: And also, too, we're in

 19 the face of an untested cost recovery statute; is that

 20 correct also?

 21 MR. BUTLER: That is correct.

 22 COMMISSIONER SKOP: And failing to reserve a

 23 spot in the queue also would subject the ratepayers to

 24 cost escalation risk if such a spot was not reserved and

 25 you had to reserve it potentially later; is that

 366

 1 correct?

 2 MR. BUTLER: That's right. If it has to be

 3 built later, you not only have the escalation risk, but

 4 as you mentioned earlier, you have the potential of

 5 losing the opportunity bring them in at the scheduled

 6 in-service dates.

 7 COMMISSIONER SKOP: Mr. Chair, just a few more

 8 questions, and then I'll give you my rationale.

 9 CHAIRMAN CARTER: Sure.

 10 COMMISSIONER SKOP: Essentially, I think it's

 11 also important to lend some perspective to this to the

 12 extent that we've looked at the decline of the domestic

 13 nuclear manufacturing capability, and I think that it

 14 would important to flesh that part out. The reason why

 15 Japan Steel Works is involved in this is, strictly

 16 speaking, they're the only one in the world that can do

 17 these type of forgings, ultra-heavy forgings? There's

 18 no U.S. provider that exists today?

 19 MR. BUTLER: That's my understanding. Not

 20 only no U.S.; I don't believe there is another facility

 21 elsewhere in the world that is fully capable of making

 22 these sorts of components.

 23 COMMISSIONER SKOP: Thank you.

 24 Okay. Based on the above, again, you know, as

 25 always, I appreciate and welcome hearing the perspective

 367

 1 of my colleagues and certainly respect alternate

 2 viewpoints. You know, as Prehearing Officer, this fell

 3 squarely on my shoulders. I certainly could have

 4 deferred to the entire Commission to do that, but I

 5 stepped up to the plate and made a difficult decision,

 6 which is typically afforded great deference by the

 7 Commission.

 8 But with respect to my specific rationale,

 9 although I do stand by the decision I made -- and

 10 certainly we can tee this up and vote it out of here if

 11 we need to. But basically, in the face of uncertainty,

 12 of an untested statute that was enacted by the Florida

 13 Legislature, there is substantial uncertainty, and it's

 14 important to have a stable regulatory environmental for

 15 nuclear construction in Florida.

 16 This issue was pled by FPL. There was a

 17 substantial nexus in relation to the need determination.

 18 I think legal staff would agree with both of these

 19 issues. The decision is predicated upon a condition

 20 precedent, i.e., an affirmative finding of need by this

 21 Commission, and we would never get to this issue until

 22 we addressed the issue of need. And again, it's not

 23 predisposed one way or another. It's just this is a

 24 collateral issue with supplemental jurisdiction. I used

 25 my discretion as the Prehearing Officer to address it,

 368

 1 again, in the public interest.

 2 To the extent -- and there have been some

 3 points raised. But again, you're trying to do a

 4 multitude of things here. You're trying to avoid cost

 5 escalation risk, you're trying to provide a stable

 6 regulatory environment, and you're trying to constrain

 7 costs. And again, it was a judgment call on my part,

 8 and I stand by my decision.

 9 And based on the aforementioned and the fact

 10 that OPC at the prehearing conference -- and again,

 11 Mr. Beck, I don't want to put words in our mouth, but I

 12 think the position of OPC at the prehearing conference

 13 was that OPC was not opposed to Issue -- then numbered

 14 as Issue 10 coming in, and they were comfortable with

 15 the revised language for the reasons that you suggested,

 16 to the extent that it was only an affirmation that they

 17 should commit to making a payment without a full-blown

 18 prudency determination. And my understanding of the

 19 prudency process before the Commission is that the

 20 Commission will not render a prudency decision until it

 21 has all facts before it.

 22 Again, I sufficiently narrowed the issue.

 23 When it was under consideration, it was in broad terms.

 24 We discussed this at length with the parties and OPC,

 25 and we got it down to a discrete one-time payment to a

 369

 1 specific vendor for a specific purpose that should be

 2 readily discernible as to what it is for. It's not

 3 nebulous. Again, I'm not in the process of writing

 4 blank checks. I would not put this Commission in that

 5 position.

 6 But again, what I attempted to do is

 7 definitize the issue to a discrete issue that my

 8 colleagues could consider. And again, I thought it was

 9 important enough to bring in as a collateral issue under

 10 supplemental jurisdiction. Again, predicated upon a

 11 condition precedent of an affirmative finding of need by

 12 this Commission, again, you will never you get to this

 13 issue until there's need. But again, that nexus is so

 14 strong, again, it's a decision I made. I stand by the

 15 decision. I have no regrets, and I'll leave it in the

 16 hands of the Commission. Thank you.

 17 COMMISSIONER ARGENZIANO: Mr. Chair.

 18 CHAIRMAN CARTER: Commissioner Argenziano,

 19 you're recognized.

 20 COMMISSIONER ARGENZIANO: This has nothing to

 21 do with the Prehearing Officer or any of you. The

 22 Prehearing Officer made a decision, and that's fine.

 23 That's what you do. That is not the purpose of me

 24 asking the questions. Asking the questions is because I

 25 heard no responses to the questions that Commissioner

 370

 1 Edgar was bringing up. The points that she was making

 2 are valid concerns. And I didn't hear any response

 3 other than, you know -- and you never have to defend

 4 your position, Commissioner Skop. It was your decision.

 5 I'm just trying to understand what was taking place.

 6 What I was hearing for one instance was we're

 7 possibly directing to one entity for procurement. I

 8 understand now, since somebody has described what the

 9 answer was, that there aren't any other entities that

 10 can do this. But it wasn't mentioned prior, so you can

 11 understand the vacancy in my mind not knowing the answer

 12 to that procurement issue. That's gone. That's off the

 13 table for me. I understand that.

 14 And not understanding the importance -- I

 15 guess what I'm hearing is that things need to be done in

 16 a timely manner or this can't be done. Is that what I'm

 17 hearing? Mr. Chair, if I may have that answered one

 18 more time, because it seems like I have to extract

 19 information. And I don't know if everybody is

 20 tip-toeing around or whatever. And I'm not trying to

 21 play politics or anything else. I just want the facts.

 22 And it seems to me the hardest thing is to get the

 23 facts, and that's what I'm trying to get. And once

 24 people start talking about the issues instead of

 25 skirting around them, I get it, and then I can make my

 371

 1 own decision.

 2 So, you know, to respect of the Prehearing

 3 Officer, nothing meaning in any sense of the way of your

 4 decisions you made at that time. That's not even where

 5 I'm going. I just want the information to make my

 6 decisions. And maybe, you know, if it's a timely thing

 7 that needs to be done, if it could have been recovered

 8 after, as we normally would do, I guess, that's fine

 9 with me, if I just have the answers to the questions

 10 instead of having to -- and excuse me. I'm not an

 11 attorney. I just speak plain old English, and that's

 12 the way I want to hear it so I can better understand it

 13 to make my decisions.

 14 CHAIRMAN CARTER: Commissioner Argenziano, I

 15 think where you are is where Commissioner Edgar was. I

 16 think it's substantially the same question. Of course,

 17 she's ready to ask for further illumination, and I'm

 18 about to recognize her for some questions kind of

 19 further, because I think what you're asking goes to

 20 what's so unique about this and whether or not we're

 21 doing a prior approval or dealing with prudency and

 22 those matters, and you're probably where she is. And so

 23 I'm going to recognize Commissioner Edgar, and maybe you

 24 can kind of listen in, and this may help also to

 25 illuminate the question further. If we still –

 372

 1 Commissioner, if we're still at the question and don't

 2 get there, we'll have to decide on where we go from

 3 there.

 4 So at this point in time, Commissioner Edgar,

 5 you're recognized.

 6 COMMISSIONER EDGAR: Thank you. I do have one

 7 or two questions, and maybe a couple of brief comments.

 8 First off, Commissioner Skop, I find it very

 9 interesting to hear you talk about deference to other

 10 members. But more importantly, I think that I have

 11 heard FPL testify today that approval of Issue 9 is not

 12 required to reserve a spot in the queue, and I think I

 13 have also heard you say that approval of Issue 9 is

 14 required, and so I would like clarification on that

 15 point.

 16 MR. BUTLER: What I had said earlier in

 17 response to a question from you whether, if the

 18 Commission did not reach a conclusion on Issue 9, you

 19 know, would we nonetheless go forward and make the

 20 payment, was that, you know, we would obviously have to

 21 do the right thing to preserve for the customers and our

 22 shareholders the sort of appropriate decisions on

 23 proceeding with the plant. I'm not sure what the other

 24 part, the sort of other side of the answer you're

 25 referring to.

 373

 1 COMMISSIONER EDGAR: I thought it was in

 2 response one of the questions just a few moments ago

 3 from Commissioner Skop.

 4 MR. BUTLER: Well, if I -- what I was trying

 5 to answer there, what I thought the question was is

 6 actually whether the payment itself, whether one would

 7 have to make the payment to Japan Steel Works in order

 8 to get the spot in the queue, and I was saying yes, you

 9 would have to do that. And if you didn't --

 10 COMMISSIONER EDGAR: But for us to direct that

 11 payment is not determinative of the utility's evaluation

 12 of whether that is the best step to take at whatever

 13 time for this project to move forward if the project is

 14 granted the need determination?

 15 MR. BUTLER: Obviously, we're going to have to

 16 decide, with whatever the decision is by Commission,

 17 what is the appropriate thing to do. You know, if the

 18 guidance was, "Gosh, this is a terrible idea," I suppose

 19 we would certainly have to take that into account. But

 20 I don't think there is a direct connection there. I was

 21 not trying to suggest that it's kind of you make the

 22 decision and we make the advance payment, you don't make

 23 the decision and we don't. That's something --

 24 obviously, I'm the attorney for the company. You know,

 25 our company's management would have to take whatever

 374

 1 decision you reached and account and decide what was the

 2 appropriate course of action.

 3 What I was trying to respond to Commissioner

 4 Skop was really I guess one step further up line from

 5 that, which is just if you don't make the payment to

 6 Japan Steel Works, then I think it's pretty clear you

 7 don't get the spot in line, and there are negative

 8 consequences to it. That was the question I was trying

 9 the answer for Commissioner Skop.

 10 COMMISSIONER EDGAR: If you don't pay for fuel

 11 that's required, do you receive fuel?

 12 MR. BUTLER: No.

 13 COMMISSIONER EDGAR: Why is this different? I

 14 mean, we don't preapprove the -- I'm just not

 15 understanding. And again, I am not trying to be

 16 argumentative. It has nothing to do with the discussion

 17 at the prehearing conference. I've read the transcript.

 18 I've read the positions. I am just not hearing anything

 19 that tells me why this particular item is so special and

 20 so unique. And it may be. I'm just not hearing it as

 21 to why a direction from this Commission for one

 22 financial piece of this project, albeit critical, is

 23 necessary at this time. I'm just not hearing the answer

 24 to that, or not a convincing one.

 25 MR. BUTLER: Okay. Well, I was going to say.

 375

 1 I think that the best I can do -- let me try pretty much

 2 again, but hopefully provide a little bit more

 3 clarifying direction to it. When FPL was looking at

 4 putting together the petition and was looking at, you

 5 know, where it was in this new distinct process, a

 6 couple of things that are significant. One, it is a

 7 project that is -- you know, we are seeking a need

 8 determination for it much, much earlier than you would

 9 normally be seeking. And that obviously doesn't lead to

 10 you say that this particular item is unusual or

 11 distinct.

 12 But then when you couple that with the fact

 13 that there is an extraordinary, if not completely

 14 unique, lead time for these items, what we saw and what

 15 led to a concern is that, gosh, we were going to be

 16 making payments for pieces of equipment, or in this

 17 instance, really just for the opportunity to use a

 18 facility to make the piece of equipment many years in

 19 advance of when we would need that piece of equipment,

 20 when it would be delivered, and then when it would

 21 ultimately be incorporated into this plant.

 22 COMMISSIONER EDGAR: But, Mr. Butler, it says

 23 in the testimony that there is a remarket value to that

 24 equipment, and it says that to do it at this point in

 25 time is a risk mitigation step.

 376

 1 MR. BUTLER: That is our view, and that's what

 2 we are asking you to agree with us is the case. That's

 3 probably in some ways the easiest way to say it, because

 4 otherwise, one could look at this and say, "Well, no,

 5 maybe that's not the right way of looking at it. Maybe

 6 you ought to play your cards closer to your vest, not

 7 make any of these payments in advance, wait till you're

 8 further down the road, wait till you have more certainty

 9 on the licensing issues, et cetera, and then start

 10 making payments."

 11 What we're saying here is that because of the

 12 long lead, because of the need to get in the queue,

 13 there is an opportunity. You have pay for it. It gives

 14 you benefits in terms of the risk mitigation you just

 15 mentioned. But it has the downside that you're putting

 16 money on the table for something that -- sure, you may

 17 be able to resell it. It's by no means clear you could

 18 resell it for as much as you paid for it, whatever it is

 19 you that you buy as an advance pavement. You know,

 20 obviously, that will just depend on what the market is

 21 at the time that there is an attempt to resell it.

 22 COMMISSIONER EDGAR: Okay. Let me come back

 23 to that point. By no means you could resell the entire

 24 equipment for the amount of an advance payment, by no

 25 means, realizing what we keep hearing is how long in

 377

 1 advance you have to get in line for it?

 2 MR. BUTLER: What I meant is any particular

 3 option, any particular element of payment that has been

 4 made, if you turned around and said, "I no longer need

 5 the option that I have bought for the money that I

 6 paid," or, "I no longer need the piece of equipment for

 7 which I have partially paid through some sort of advance

 8 payments," and you turn around and say, "Okay. Who else

 9 would be willing to step into my position here?"

 10 It just depends on what the market was at that

 11 time for those particular services. You may find that

 12 it's extremely valuable, and I suppose in theory you

 13 could end up having something that was more valuable

 14 than what you had paid for it. But it might very well

 15 also be the case that the market has diminished, that

 16 people decide they're not going to be building the

 17 plants they thought they were going to, there's no

 18 particular rush to get into the queue, and just looking

 19 at this particular payment, it wouldn't worth much at

 20 all. I mean, that's something one can't tell at this

 21 point in time.

 22 COMMISSIONER EDGAR: But that's not the same

 23 thing as by no means.

 24 MR. BUTLER: Then my apologies for the choice

 25 of words. There is uncertainty about what level of

 378

 1 repayment one could get. Even with the opportunity to

 2 repay, there is certainly the possibility that FPL would

 3 have made a net out-of-pocket payment for something it

 4 turns out it doesn't use because of subsequent decisions

 5 about licensing problems or other problems of that

 6 nature, and that -- in our mind, that put this into an

 7 unusual circumstance.

 8 I would agree with you, it's not a unique

 9 circumstance. I would still, though, strongly suggest

 10 it is a highly unusual circumstance, very distinct to

 11 this project. And it seemed to us, because it put us in

 12 this unusual position of putting money on the table well

 13 in advance of some of the types of steps where you would

 14 normally wait until those had already occurred, that it

 15 was appropriate to bring it to you, bring it to you for

 16 your attention and hopefully have your concurrence that

 17 we were taking the right step to go ahead and make those

 18 payments.

 19 COMMISSIONER EDGAR: Okay. Mr. Chairman,

 20 again, thank you all for your indulgence. Just a few, I

 21 hope, brief comments to kind of wrap up. I would like

 22 to reserve the right to maybe ask questions related to

 23 this issue with future witnesses. I think there's at

 24 least one more witness later in the proceeding that is

 25 listed as a witness for this issue.

 379

 1 I agree with Commissioner Argenziano. It

 2 seems like we're dancing around a lot of things. I've

 3 heard that if Issue 9 is approved, it is not a finding

 4 of prudence. I've heard that if Issue 9 is approved, it

 5 is not a finding of prudence. I would be shocked,

 6 shocked if when we got to the prudence review forum that

 7 if this Commission looked like it might be leading to a

 8 later decision to not approve prudence, if we would not

 9 hear that we had directed you to make the payment, and

 10 that is a box that I have some concerns about being put

 11 in. So I'm just going to lay that out. And again, I do

 12 recognize that some of this is more of a legal issue

 13 than necessarily a question of fact perhaps, and so I

 14 look forward to reading the nexus to the statute on this

 15 in the briefs.

 16 I have -- I believe that the phrase regulatory

 17 certainty and/or regulatory uncertainty has been given a

 18 lot of lip service in this room and in other forums

 19 lately, and I personally do not believe that if Issue 9

 20 were to not go forward -- and I have no idea. I haven't

 21 even made up my mind. That's why I'm asking the

 22 questions. But if it were to not go forward and it were

 23 to be characterized as a lack of support for this

 24 project, I think that that would be a gross

 25 mischaracterization, and I will reserve the right to

 380

 1 comment on that at some point in the future. Thank you.

 2 CHAIRMAN CARTER: Commissioner Skop.

 3 Commissioner Argenziano, I haven't forgotten you. I'm

 4 going to Commissioner Skop, unless you want to be heard

 5 before I do that.

 6 COMMISSIONER ARGENZIANO: No, no. Thank you,

 7 Mr. Chair. That's fine.

 8 CHAIRMAN CARTER: Commissioner Skop.

 9 COMMISSIONER SKOP: Thank you, Mr. Chair, and

 10 thank you, Commissioner Argenziano for deferring.

 11 Again, I wanted to add one more additional

 12 point. Maybe I didn't make it clear, but I do think the

 13 rationale -- I know this isn't about the rationale of

 14 why this is here. It's about getting to the heart of

 15 the matter and justifications. But putting that into a

 16 little bit more perspective, notwithstanding the need to

 17 reserve the queue, the cost escalation risk, the fact

 18 that the industrial base for long lead -- I mean heavy

 19 forging has deteriorated substantially in the United

 20 States, the fact that we're in the midst of what some

 21 have framed as being called a nuclear renaissance, where

 22 everyone is trying to get into the queue to prevent cost

 23 escalation risk -- and I think that we've clearly seen

 24 in public comment testimony that some of the public

 25 comment has provided illustrative examples of how

 381

 1 quickly costs have risen in such a short period of time.

 2 But nevertheless, beyond all that, recognizing we're

 3 also in the face of an untested statute, and certainly,

 4 rightfully or wrongfully, there's apprehension on the

 5 part of regulated utilities, and accordingly, you know,

 6 it seems maybe they are seeking assurances. But again,

 7 addressing this issue sooner rather than later perhaps

 8 provides assurance in the face of a yet untested statute

 9 lending itself to the stable regulatory environment that

 10 we all hope to attain.

 11 And again, I think it's definitely a judgment

 12 call on the merits, but I think it boils down to what

 13 type of message do we want to send for the right

 14 reasons, knowing that we have some discrete facts to

 15 consider. Again, it's not a blank check. We know where

 16 the payment is going. We know its purpose. We know the

 17 pro and con of not reserving a position in the queue.

 18 So again, I would have never let the issue

 19 before this Commission come before us that was not

 20 sufficiently definitized. And we spent considerable

 21 length at the prehearing on drafting that language very,

 22 very narrowly, so I would hope that it would have been

 23 palatable to the Commission. But again, that's some of

 24 the thought process that went into that, right or wrong.

 25 But again, I stand by the decision I made. I

 382

 1 do think that there is some compelling public interest

 2 reasons to take a strong look at this. Again, it's

 3 predicated upon a finding of need. We'll never get to

 4 it until and unless we find a need. But again, it's a

 5 question, a timing question that is extremely relevant,

 6 has a strong nexus to -- if need were determined, it

 7 should be logical to say, you know, this is kind of the

 8 right thing to do, even if perhaps they should be doing

 9 that on their own. I mean, apprehension when you're

 10 dealing with billion-dollar projects is part of the

 11 corporate mantra. And again, I'm not -- I'm just trying

 12 to do the right things to protect the consumers.

 13 And I'll leave it at that. But again, I think

 14 it's important to try and explain some of my rationale

 15 to the colleagues and also try and put it in

 16 perspective, not only with the declining nuclear base --

 17 again, the nuclear base has eroded because there has

 18 been no nuclear construction in the past 30 years, as

 19 correctly pointed out by some of the witnesses. Again,

 20 OPC was not adamantly opposed to this. They have not

 21 taken a position. So that all came into the process.

 22 But I do appreciate the discussion and debate and

 23 vetting of this issue, because it is an important issue

 24 for this Commission to consider. Thank you.

 25 CHAIRMAN CARTER: Commissioner Argenziano.

 383

 1 COMMISSIONER ARGENZIANO: Thank you,

 2 Mr. Chair. I appreciate the discussion also, because it

 3 helps me to better understand. Rather than just beating

 4 around the bush, sometimes it just takes, you know, an

 5 explanation, simply, you know, is time critical, is the

 6 procurement going to one company. I mean, those things

 7 -- that has been answered quite simply. It just took

 8 forever to get there, because no one said, "Hey, there's

 9 only one company that can do this," until 20 minutes

 10 after, you know, the discussion.

 11 And I guess maybe if I can ask Commissioner

 12 Skop a question. I guess I'm not certain how to phrase

 13 the question.

 14 Let's say the company doesn't need the option

 15 and they're worried that if they don't really need the

 16 option, we would -- let's say later down the line we

 17 would say you shouldn't have spent the money. I mean,

 18 can you give to me just -- and I'll ask you to do this

 19 real concisely if you can. If time is of the essence,

 20 because I heard you say something, and I heard it a few

 21 times, but for some reason, I couldn't extract the real

 22 reason. And if you can make it as clear and as down to

 23 earth as you can as to why we would change positions and

 24 how I guess the Commission has done it in the past. And

 25 I understand the importance of getting these things

 384

 1 on-line. I'm just trying to extract the information.

 2 COMMISSIONER EDGAR: Commissioner Skop, you're

 3 recognized.

 4 COMMISSIONER SKOP: Thank, Commissioner Edgar.

 5 And thank you, Commissioner Argenziano. Again, I don't

 6 view it as necessarily departing from the core issues in

 7 the need determination. Again, the need determination

 8 is a condition precedent to reaching this issue as a

 9 collateral issue under supplemental jurisdiction. But

 10 again, it has been prominently pointing out that people

 11 are trying to get in the queue. There is cost

 12 escalation risk. Time is of the essence. There is only

 13 one source to go to. It would be a different story if

 14 you could go to multiple sources.

 15 But to be concise, again, the statute -- and I

 16 would defer to staff. There are a lot of decision

 17 points, and the statute strives to adequately protect

 18 investments that are being made. But again, the statute

 19 is not tested yet, and I think that's where perhaps the

 20 apprehension lies.

 21 And again, the payment amount is discrete.

 22 It's for a discrete purpose. You know, if it has

 23 intrinsic value to be wheeled and dealed later if the

 24 project did not go forward, then, you know, it's a

 25 mitigation measure.

 385

 1 But at the end of the day, it's something I

 2 clearly felt that the Commission could consider, and I

 3 do think that there is some substantial compelling

 4 public interest reasons for taking a strong look at

 5 this, primarily due to meeting the in-service date and

 6 the inherent cost escalation risk if this is not done.

 7 Again, could the utility do this on their own?

 8 Absolutely. I think Commissioner Edgar has duly pointed

 9 that out. But again, I think that perhaps they need --

 10 they have apprehension, and maybe they're seeking some

 11 certainty, and I can understand that certainly in the

 12 face of an untested statute when you're being asked to

 13 commit money up front without any certainty on how the

 14 statute and the cost recovery rule may or may not be

 15 interpreted.

 16 So hopefully that was discrete enough, and I

 17 apologize if it wasn't, but I tried to encompass

 18 everything you asked. Thank you.

 19 COMMISSIONER ARGENZIANO: Yes. Mr. Chair.

 20 COMMISSIONER EDGAR: Commissioner Argenziano.

 21 COMMISSIONER ARGENZIANO: That gave me more

 22 information than I heard you say before when you were

 23 speaking. I understand. I heard several different

 24 points there that helped answer some of my questions, so

 25 thank you.

 386

 1 COMMISSIONER SKOP: You're welcome.

 2 COMMISSIONER EDGAR: Thank you. Chairman

 3 Carter had to step away. He had pointed out or had told

 4 us that he had planned to go until about five o'clock,

 5 so he has asked me to continue and see if we can

 6 continue and wrap up this round with this witness, and

 7 then we will break for the evening.

 8 Commissioners, any other questions for this

 9 witness?

 10 COMMISSIONER SKOP: I have one, Commissioner.

 11 COMMISSIONER EDGAR: Commissioner Skop.

 12 COMMISSIONER SKOP: Thank you.

 13 Good afternoon, Mr. Scroggs.

 14 THE WITNESS: Good afternoon, sir.

 15 COMMISSIONER SKOP: Just one quick question,

 16 just as a point of information. I saw this in response

 17 to a question that was posed by Mr. Krasowski.

 18 MR. KRASOWSKI: Excuse me, Commissioners.

 19 And, please, I apologize for interrupting, but we have

 20 not had an opportunity to cross-examine this witness,

 21 and we have quite an extensive -- may I go on?

 22 COMMISSIONER EDGAR: You may now, yes.

 23 MR. KRASOWSKI: Thank you. And we have quite

 24 an extensive list of questions, which you might

 25 understand, because this witness represents so many

 387

 1 issues.

 2 COMMISSIONER EDGAR: That's fine,

 3 Mr. Krasowski. I did not realize that you had questions

 4 for this witness. So what I would ask is that we will

 5 go ahead and see if there are other questions from

 6 Commissioners for this witness, and then realizing the

 7 time, we will then break, and we will start up -- well,

 8 I will let Chairman Carter figure out where we will

 9 start, but I'm sure he will give you the time to ask

 10 your questions on cross.

 11 MR. KRASOWSKI: Tomorrow morning?

 12 COMMISSIONER EDGAR: Tomorrow.

 13 MR. KRASOWSKI: Wonderful.

 14 COMMISSIONER EDGAR: Okay?

 15 MR. KRASOWSKI: Thank you, ma'am.

 16 COMMISSIONER EDGAR: Commissioner Skop.

 17 COMMISSIONER SKOP: Thank you, Commissioner

 18 Edgar. Just one quick question. And there may be some

 19 time for cross. I know we've got about three minutes

 20 left. But on Exhibit -- I want to make sure I'm on the

 21 right tab. SDS-2, I believe it is, on page 6 of 174.

 22 THE WITNESS: Yes, sir.

 23 COMMISSIONER SKOP: Just as a point ever

 24 information, I notice that they looked at potential site

 25 selection, and they also identified mid-page potential

 388

 1 greenfield sites that were developed, or considered, and

 2 one of those was Glades. And just as a point of

 3 information, I was wondering whether that was the same

 4 property as was considered for the Glades power plant

 5 project.

 6 THE WITNESS: It's actually a property that's

 7 in the same area, but it's not the specific parcel.

 8 COMMISSIONER SKOP: Thank you. That's all the

 9 questions I have.

 10 COMMISSIONER EDGAR: Any other questions for

 11 this witness? No. Okay. And so -- excuse me.

 12 Mr. Beck, had you completed your questioning?

 13 MR. BECK: Yes, I had. Thank you,

 14 Commissioner.

 15 COMMISSIONER EDGAR: So where we are, we will

 16 ask you to come back in the morning, and we will pick up

 17 with this witness. Before we break for the evening, are

 18 there any other matters that we should raise or address?

 19 No?

 20 COMMISSIONER SKOP: I don't think so.

 21 COMMISSIONER EDGAR: Staff?

 22 MS. FLEMING: We're not aware of any other

 23 matters at this time.

 24 COMMISSIONER EDGAR: Okay. Then thank you

 25 all. We look forward to seeing you all again tomorrow.

 389

 1 We will pick up at 9:30, and we are on break for the

 2 evening.

 3 (Proceedings recessed at 5:00 p.m.)

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 1 CERTIFICATE OF REPORTER

 2

 3 STATE OF FLORIDA:

 4 COUNTY OF LEON:

 5 I, MARY ALLEN NEEL, Registered Professional

 6 Reporter, do hereby certify that the foregoing

 7 proceedings were taken before me at the time and place

 8 therein designated; that my shorthand notes were

 9 thereafter translated under my supervision; and the

 10 foregoing pages numbered 215 through 389 are a true and

 11 correct record of the aforesaid proceedings.

 12 I FURTHER CERTIFY that I am not a relative,

 13 employee, attorney or counsel of any of the parties, nor

 14 relative or employee of such attorney or counsel, or

 15 financially interested in the foregoing action.

 16 DATED THIS 31st day of January, 2008.

 17

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