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090009-EI

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Subject: Electronic Filing - Docket # 090009

Attachments: FPL's Post-Hearing Brief.pdf; FPL's Post-Hearing Brief.doc

Electronic Filing

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b. Docket No. 090009-EI

IN RE: Nuclear Power Plant Cost Recovery Clause

c. The documents are being filed on behalf of Florida Power & Light Company.

d. There are a total of ____ (___) pages.

e. The document attached for electronic filing is:

FLORIDA POWER & LIGHT COMPANY'S POST-HEARING BRIEF

(See attached file(s): ________________________________)

Regards,
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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Power Plant) Cost Recovery Clause)	Docket No. 090009-EI Filed: September 18, 2009

FLORIDA POWER & LIGHT COMPANY'S POST-HEARING BRIEF

Florida Power & Light Company ("FPL" or the "Company") hereby files with the Florida Public Service Commission (the "PSC" or the "Commission") its Post-Hearing Brief in the above-referenced docket, pursuant to Order No. PSC-09-0604-PHO-EI, and states as follows[1]:

INTRODUCTION AND OVERVIEW

In 2006, the Florida Legislature enacted Section 366.93, Florida Statutes, which directed the Commission to "establish, by rule, alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing and construction of a nuclear power plant." Section 366.93(2), Fla. Stat. The Legislature stated that the purpose of such mechanisms is to "promote utility investment in nuclear … power plants and allow for the recovery in rates of all prudently incurred costs…." *Id.* During April, 2007, as directed by the Legislature, the Commission enacted rules establishing "alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of nuclear … plants in order to promote electric utility investment in nuclear … plants and allow for the recovery in rates of all such prudently incurred costs." Rule 25-6.0423(1), Fla. Admin. Code.

As authorized by Section 366.93 and Rule 25-6.0423(1), FPL is requesting cost recovery via the Nuclear Power Plant Cost Recovery ("NPPCR") process (also referred to as the Nuclear Cost Recovery Clause, or "NCRC") for specific costs provided for in the Commission's rules

[1] FPL takes no position on the issues identified for Progress Energy Florida ("PEF") in this docket. The PEF issues are numbered 19 through 32B in the Prehearing Order, Order No. 09-0604-PHO-EI (issued Sept. 4, 2009).

with respect to eligible FPL nuclear power plant projects for which need determinations have been granted. These projects are the Extended Power Uprate Projects at the St. Lucie and Turkey Point nuclear generating stations ("EPU Project" or "Uprate Projects") and the Turkey Point 6 & 7 new nuclear project. Each of these projects is expected to provide large amounts of baseload capacity and energy on existing Company property, without using fossil fuel, and with zero greenhouse gas emissions. *See In re: Petition for determination of need for expansion of Turkey Point and St. Lucie nuclear power plants*, Docket No. 070602-EI, Order No. PSC-08-0021-FOF-EI (Fla. P.S.C. 2008); *In re: Petition to determine need for Turkey Point Nuclear Units 6 and 7 electrical power plant*, Docket No. 070650-EI, Order No. PSC-08-0237-FOF-EI (Fla. P.S.C. 2008).

The Turkey Point 6 & 7 project and the Uprate Projects continue to be projected to be cost-effective and in the best interests of FPL's customers. Tr. 285, 287 (Sim). FPL provided updated long-term economic analyses of these projects in satisfaction of Rule 25-6.0423(5)(c)5, Florida Administrative Code, which requires a utility to analyze and report on the continued long-term feasibility of each project. Tr. 275 (Sim). The best information currently available continues to support the non-binding capital cost estimate range developed by FPL for Turkey Point 6 & 7 in the need determination for that project, as well as the total cost estimate for the Uprate Projects provided last year in Docket 080009-EI. Tr. 114 (Scroggs); 266 (Kundalkar). FPL's other inputs into the analyses included updated capital cost expenditure schedules and current inputs related to load, fossil fuel costs, environmental compliance costs, capital costs of competing combined cycle units, and discount rates to reflect the most current information available at the time of the analysis. Tr. 277, 712 (Sim).

FPL's resource plan that includes the Uprate Projects continues to be projected as cost-effective in nine of nine economic scenarios. Tr. 285 (Sim). The Turkey Point 6 & 7 project also continues to be projected as the cost-effective choice. The projected "breakeven" capital costs for new nuclear – the capital cost amount FPL could spend on new nuclear and breakeven with what it would spend for a combined cycle resource addition on a cumulative present value of revenue requirement ("CPVRR") basis – continues to be higher than the non-binding capital cost estimate range for Turkey Point 6 & 7 in eight of nine scenarios. In the ninth scenario, the breakeven capital cost amount is projected to be at the upper end of this capital cost estimate range. Tr. 287 (Sim). All in all, the projected economic advantages of each of these projects continue to be promising based on the updated analyses, fully supporting the continued feasibility of the projects.

The Southern Alliance for Clean Energy ("SACE") has taken the position that changed circumstances require the Company to stop evaluating the addition of new nuclear generating capacity. Specifically, Witness Cooper takes the position that "[s]pending more on nuclear reactors and allowing the utilities to recover those costs from ratepayers would be imprudent." Tr. 587 (Cooper); *see also* Tr. 550 (Cooper). If FPL were to stop making the expenditures necessary to secure its NRC licensing, the new nuclear option would essentially be foreclosed. *See,* Tr. 836 (Reed). SACE failed to present any compelling evidence supporting its recommendation to abandon the continued evaluation of the new nuclear option.

The NPPCR amount for which FPL seeks approval is comprised of 2006-2008 actual costs, 2009 actual/estimated costs, and 2010 projected costs. Rule 25-6.0423(5)(c)2, Fla. Admin. Code, sets forth the process by which the Commission is to review the prudence of past expenditures and the reasonableness of estimated or projected expenditures. In making its determinations of prudence and reasonableness, the Commission is required to apply the standard provided in Section 403.519(4)(e), Florida Statutes, which reads in pertinent part:

> ...the right of a utility to recover any costs incurred prior to commercial operation... shall not be subject to challenge unless and only to the extent the commission finds, based on a preponderance of the evidence adduced at a hearing before the commission under s. 120.57, that certain costs were imprudently incurred.

FPL has demonstrated that the costs it seeks to recover are prudent and reasonable, as applicable, through the testimony, exhibits, and other evidence presented in this proceeding.[2] No party has produced evidence "that certain costs were imprudently incurred," let alone shown by a preponderance of the evidence that any costs were imprudent, as required by Section 403.519(4)(e), Florida Statutes.

FPL prudently incurred reasonable construction costs for the Uprate Projects in 2008. Tr. 233, 241 (Kundalkar). Those 2008 costs were for activities that are necessary to the Uprate Projects, and were undertaken to help maintain the schedule for delivering the projects' benefits to customers. Tr. 241 (Kundalkar). FPL's 2009 actual/estimated and 2010 projected construction costs and carrying charges are reasonable. Tr. 251, 260 (Kundalkar). FPL performed a careful engineering-based process to ensure that only nuclear uprate costs that are "separate and apart" from other nuclear plant costs, such as those for base rate nuclear projects, are in the NCRC. Tr. 238-40, 258, 264 (Kundalkar). FPL's approach to determining which costs are "separate and apart" is consistent with its obligations pursuant to the Commission-approved stipulation on this matter in Docket No. 080009-EI. *See*, Order No. 08-0749-FOF-EI, Docket No. 080009-EI (issued Nov.12, 2008).

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[2] A utility decision is "prudent" if it is consistent with what a reasonable utility manager would have done in light of conditions and circumstances which were known or reasonably should have been known at the time the decision was made. *See Re Progress Energy Florida, Inc.*, 260 P.U.R. 4th 306, Order No. PSC-07-0816-FOF-EI (Fla. P.S.C. 2007) citing *City of Cincinnati v. Public Utilities Commission*, 620 N.E. 2d 826 (Ohio 1993).

FPL prudently incurred site selection and preconstruction costs for Turkey Point 6 & 7 in 2006-2008. Activities in 2006 focused on identifying candidate sites, conducting due diligence on the various reactor designs available, and developing a high level project budget and schedule of milestones. Tr. 43 (Scroggs). Activities in 2007 focused on completing site selection, investigating issues related to specific candidate designs, obtaining local zoning approvals and preparing a Need Petition. *Id.* Activities in 2008 were dedicated to selecting a candidate design, identifying the key procurement activities required, and developing the applications for licenses, permits and approvals needed for construction and operation of the project. Tr. 43-44 (Scroggs). FPL's 2009 actual/estimated and 2010 projected pre-construction costs for Turkey Point 6 & 7 relate to the completion and support of project license and permit applications at the local, state and federal level. Tr. 110 (Scroggs).

FPL utilizes industry accepted project controls to help ensure the reasonableness of expenditures incurred and projected. *See*, Tr. 95 (Scroggs). FPL continues to evaluate and develop the Turkey Point 6 & 7 project through a deliberate, stepwise decision making process. Tr. 91 (Scroggs). One example of this deliberate process is evident in FPL's approach to pursuing the Engineering, Procurement and Construction ("EPC") scope or scopes of work necessary for the project. As described by Witness Scroggs, this approach ensures that progress is made in the pursuit of the option of new nuclear without unnecessarily binding FPL to an EPC arrangement at this time. *See,* Tr. 610-11 (Scroggs). This approach also offers the benefit of enhancing competition for the construction portion of the EPC scope, which could save customers millions of dollars. Tr. 64 (Scroggs).

In conclusion, FPL's costs are prudent and reasonable, as supported by the record in this case and detailed in FPL's positions below. No party to this proceeding has demonstrated or even asserted that any of FPL's costs were imprudently incurred or unreasonably estimated or projected. Therefore, FPL requests that the total amount of $62,789,984 be approved for recovery through the 2010 Capacity Cost Recovery Clause as provided for pursuant to Rule 25-6.0423, Florida Administrative Code.

ISSUES AND POSITIONS

Policy and Legal Issues (1-3)

ISSUE 1: Should over or under collections in the Capacity Cost Recovery Clause be included in the calculation of recoverable costs in the NCRC?

CATEGORY II STIPULATION BETWEEN STAFF, FPL AND PEF (APPROVED SEPT. 8, 2009)

No. Rule 25-6.0423 defines the appropriate costs to be recovered in the NCRC. That definition does not include CCRC over or under collections.

Over and under collections in the CCRC should remain in the CCRC, because they are the result of over/under collections of actual sales revenues that are greater than or less than costs to be recovered in the CCRC, and will incur interest at the commercial paper rate. Prospectively, if the Commission approves deferral of collection of certain NCRC costs and thereby removes them from rates, they should not be reflected in the Capacity Cost Recovery Clause over or under recovery. Differences between the NCRC actual costs incurred and the actual/estimated or projected costs will be included in the calculation of recoverable costs in the NCRC, and will accrue a carrying charge at the fixed rate provided for pursuant to Section 366.93, F.S., until recovered in a future period.

The Capacity Cost Recovery Clause ("CCRC") is the designated recovery clause for NCRC costs. Over and under collections in the CCRC should remain in the CCRC since they are the result of over/under collections of actual sales revenues that are greater than or less than costs to be recovered in the CCRC, as is the practice with current capacity charge over and under recoveries. Tr. 766 (Powers).

As explained by Witness Powers, Rule 25-6.0423 ("the Rule") defines the appropriate costs to be recovered in the NCRC. FPL files its projected costs and/or carrying costs eligible for recovery according to the Rule and Section 366.93, Fla. Stat., using the Nuclear Filing Requirement ("NFR") Schedules. Tr. 766 (Powers). Through the NFRs, carrying costs are calculated at the fixed FPL rate of 7.42% (pre-tax 11.04%) provided for pursuant to Section 2(b)2 of Rule 25-6.0423. Projected costs and/or carrying costs determined through the NFRs for the NCRC are recovered in the following year in the CCRC. Tr. 766 (Powers).

Once NCRC costs have been approved for recovery in the CCRC, any differences between actual sales revenues collected through the CCRC and the projected costs approved for recovery in the NCRC would result in an over or under recovery. Tr. 766 (Powers). Such over or under recovery should remain in the CCRC, where it will incur interest at the commercial paper rate. *Id.*

Differences between the NCRC actual costs incurred and the actual/estimated or projected costs will be included in the calculation of recoverable costs in the NCRC and will accrue a carrying charge at the fixed FPL rate of 7.42% (pre-tax 11.04%) provided for pursuant to Section 2(b)2 of Rule 25-6.0423, through the NCRC until recovered in a future period. Tr. 767 (Powers).

ISSUE 2: When a utility elects to defer recovery of some or all of the costs that the Commission approves for recovery through the Capacity Cost Recovery Clause, what carrying charge should accrue on the deferred balance?

FPL: *If a utility elects to defer recovery, the deferred balance should remain in the NCRC as a regulatory asset and accrue carrying charges at the June 2007 pre-tax AFUDC rate. Deferred amounts do not contribute to over/under recoveries subject to interest at the commercial paper rate applied to the CCRC.*

Rule 25-6.0423 establishes the procedures for the Commission to conduct current (annual) prudence and reasonableness reviews, to determine whether costs are appropriate for NCRC recovery. If a utility requests deferral of approved costs, and the Commission approves such deferral, then the Commission has effectively created a regulatory asset for future recovery through the CCRC. Tr. 767 (Powers). The regulatory asset should remain in the NCRC and continue to accrue carrying charges at the pre-tax Allowance for Funds Used During Construction ("AFUDC") rate as of June 2007. *Id.*

As explained by Witness Powers, the Commission in the past has allowed a return on items that have been deferred, both regulatory assets and regulatory liabilities, which are not reflected in rates. For example, by Order No. 10306, Docket No. 810002-EU, the Commission created regulatory assets related to Martin dam costs and expanded fuel storage facilities at Turkey Point and authorized FPL to charge AFUDC to the deferred amounts. Similarly, per Order No. PSC-94-0393-FOF-EI, Docket No. 940042-EI, the Commission directed FPL to create a regulatory liability for gains associated with emission allowances. As a result, FPL credits its Environmental Cost Recovery Clause with amounts based on the pre-tax cost of capital applied to the regulatory liability. Tr. 767-68 (Powers). Deferred amounts (i.e., regulatory assets in the NCRC) do not contribute to over or under recoveries that are subject to interest at the commercial paper rate applied to the CCRC. Tr. 768 (Powers). Accordingly, deferred balances should remain in the NCRC and continue to accrue carrying charges at the pre-tax AFUDC rate as of June 2007. No party presented evidence in this proceeding supporting a different approach or questioned the reasonableness of the approach described by Witness Powers.

ISSUE 3: Should FPL and PEF be permitted to record in rate base the incremental difference between Allowance for Funds Used During Construction (AFUDC) permitted by Section 366.93, F.S. and their respective most currently approved AFUDC, for recovery when the nuclear plant enter commercial operation?

FPL: *Yes. As defined by applicable Rule and Law, "cost" includes, but is not limited to, all capital investments including rate of return. Recording the incremental or decremental difference would enable recovery of the Commission-approved carrying cost through the NCRC, while ensuring customers only pay for actual financing costs.*

The Nuclear Cost Recovery Rule 25-6.0423(2)(d) and Section 366.93(1)(a), Fla. Stat., both clearly state that "cost" includes, but is not limited to, all capital investments including rate of return. It follows, both logically and legally, that utilities should be allowed to recover the approved carrying costs under the Rule while tracking the incremental/decremental difference between the carrying charge rate required by Section 366.93(2)(b), Fla. Stat., and the most current Commission-approved AFUDC rate. The incremental/decremental difference should be accumulated and recorded to Construction Work in Progress ("CWIP") and recovered/returned through base rates over the useful life of the related plant assets placed in service. Tr. 768 (Powers). Such an approach will ensure that customers are responsible only for actual financing costs incurred by the utility – no more and no less. Tr. 769 (Powers).

For example, in April 2008, the FPSC approved the change in the Company's AFUDC rate from 7.42% to 7.65% effective January 1, 2008. Tr. 768 (Powers). FPL's statutory fixed rate for NPPCR purposes is 7.42%. *Id.* FPL has recorded the resulting increment of 0.23% in CWIP. Tr. 768 (Powers). In May 2009, the FPSC approved the change in the Company's AFUDC rate from 7.65% to 7.41% effective January 1, 2009. The resulting decrement of 0.01%, when compared to the statutory fixed FPL rate for the NCRC of 7.42%, is being credited to CWIP, reducing the amount of AFUDC increment previously recorded. Tr. 768-69 (Powers).

The net amount will continue to remain in CWIP and be adjusted each period until the related plant goes into service and is recovered through base rates. This method allows for recovery of the Company's Commission-approved carrying cost through the NCRC, while ensuring the customer ultimately only pays for the actual financing costs incurred. Tr. 768-770, 773 (Powers). As demonstrated by FPL in this proceeding, this approach is "fair to both customers and to the Company." Tr. 772 (Powers).

During the deposition of FPL witness Winnie Powers, Staff explored the alternative view by focusing solely on Section 366.93(2)(b) without giving due consideration to the definition of "cost" described above, additional provisions within the Statute and the Rule, or the overall purpose of both the Statute and the Rule. A question posed by Staff directed the witness to 366.93(2)(b), after which she was asked: "Let me ask you this, yes or no, does the statute say the applicable AFUDC rate is whichever rate the Commission approves?" Ms. Powers acknowledged that it does not, but in response, and throughout the deposition, repeatedly returned to the definition of "cost" discussed above and the inclusion of "rate of return" within that definition. (Composite Ex. 2, No. 8, pp. 27-28). Ms. Powers further testified that consistent with the stated purpose of both the statute and the rule (i.e., to promote electric utility investment in nuclear), the utility is entitled to recover all "prudently incurred costs", and that such "prudently incurred costs" include the utility's actual rate of return. (Composite Ex. 2, No. 8, p. 37). Ms. Powers' deposition concluded with the following comment: "The ultimate result [of adopting FPL's position on this issue] would be that the company recovers its actual rate of return and the customer pays only the actual rate of return on these construction projects. No more and no less." (Composite Ex. 2, No. 8, p. 51).

FPL's position is consistent with the statutory purpose of encouraging development of additional generation to benefit FPL's customers. By ensuring that only the financing costs actually incurred are recovered, no more and no less, adopting FPL's position reduces risk for FPL, investors, and customers while alternative positions do not.

FPL's position also prevents the very real likelihood of windfall gains or losses to FPL or customers which would arise over time under other parties' interpretations, as a utility's actual AFUDC financing costs vary, either higher or lower, than the carrying cost amount provided by statute and rule for NCRC collections. This needlessly unfair result – for either the utility or customers – can be easily avoided by the simple approach explained by Witness Powers, reflected in FPL's NFRs, and as abundantly supported by the nuclear cost recovery Statute and Rule.

Section 366.93(2) requires that the Commission's rules "allow the recovery of all prudently incurred costs and shall include but not be limited to … (b) [r]ecovery through an incremental increase in the utility's capacity cost recovery clause rates of the carrying costs on the utility's projected construction cost balance associated with the nuclear … plant." Section 366.93(2), Fla. Stat. (emphasis added). It is important that "cost" defined in Section 366.93(1)(a) expressly includes "all capital investments, including rate of return". Section 366.93(1)(a) Fla. Stat.

This means that utilities are entitled to recover all carrying costs ultimately through the clause or in rates, and that it is not lawful to disallow or exclude any prudently incurred carrying costs. Yet other parties' positions would violate this provision by fostering either a permanent over or underrecovery of such costs, depending on the difference between a utility's AFUDC rate from time to time and the financing rate provided for clause recovery in Rule 25-6.0423(5)8(b)(1).

Moreover, Rule 25-6.0423 expressly contemplates and allows for recovery or credit of the incremental/decremental difference between a utility's actual AFUDC rate from time to time and the rate for computation of clause recovery provided for in Rule 25-6.0423(5)(b)(1) (namely the pretax AFUDC rate in effect for the utility on June 19, 2006). Specifically, Rule 25-6.0423(5)(b)(1) provides that:

> The actual carrying costs recovered through the Capacity Cost Recovery Clause shall reduce the allowance for funds used during

construction (AFUDC) that would otherwise have been recorded as a cost of construction eligible for future recovery as plant in service.

Thus, the only way to give meaning to the requirement of the Statute and Rule is to adopt FPL's position of computing and recovering the rule-specified carrying cost amount through the nuclear cost recovery clause mechanism, while recording the increment/decrement "as a cost of construction eligible for future recovery as plant in service" as required by the above-referenced rule.

Rule 25-6.0423(5)(b), implementing Section 366.93(2), clearly supports FPL's position. The rule states in relevant part that "[a] utility is entitled to recover, through the utility's Capacity Cost Recovery Clause, the carrying costs on the utility's annual projected construction cost balance associated with the nuclear power plant."

In deciding this issue and the appropriate interpretation of the controlling Statute and Rule, the Commission must view the Statute and the Rule in their entirety and harmonize the various provisions to give meaning to the law as a whole. In *Florida Department of Environmental Protection v. Contractpoint Florida Parks, LLC*, 986 So. 2d 1260 (Fla. 2008) at pages 1255-1266, the Florida Supreme Court, relying on a long line of Florida case law, recently wrote as follows: "[I]f a *part* (of a statute) appears to have a clear meaning if considered alone but when given that meaning is inconsistent with other parts of the *same statute* or others in pari materia, the Court will examine the entire act and those in *pari materia* in order to ascertain the overall legislative intent."

The following excerpt from that same Florida Supreme Court opinion is perhaps even more instructive on the issue before the Commission:

> In interpreting section 11.066, however, we cannot read subsection (3) in isolation, but must read it within the context of the entire section in order to

> ascertain legislative intent for the provision. *Id* at 455. ("Every statute must be read as a whole with meaning ascribed to every portion and due regard given to the semantic and contextual interrelationship between its parts." (quoting *Fleischman v. Dep't. of Prof'l. Reg.*, 441 So. 2d 1121, 1123 (Fla. 3d DCA 1983))). A "statute should be interpreted to give effect to every clause in it, and to accord meaning and harmony to all of its parts" and is not to be read in isolation, but in the context of the entire section. *Jones v. ETS of New Orleans, Inc.*,793 So. 2d 912, 914-15 (Fla. 2001) (quoting *Acosta v. Richter,* 671 So. 2d 149, 153-54 (Fla. 1996)).

Fla. Dep't. of Environmental Protection, 986 So. 2d 1260 at 1265.

In rendering its decision on Issue 3, the Commission should follow the principles outlined above and avoid reading Section 366.93(2)(b) in isolation. The only appropriate way to give meaning to the entire Statute and Rule, and to "to accord meaning and harmony to all of its parts," is to adopt FPL's position on this issue.

Florida Power & Light Company's Specific Issues (4-18)

ISSUE 4: Should the Commission find that for the years 2006 and 2007, FPL's accounting and costs oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project?

CATEGORY II STIPULATION BETWEEN STAFF AND FPL (APPROVED SEPT. 8, 2009):

For the years 2006 and 2007, FPL's accounting and costs oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project.

As described in detail by FPL witnesses, FPL employs extensive accounting and cost oversight controls for the Turkey Point 6 & 7 project. FPL relies on its comprehensive corporate and overlapping business unit controls for recording and reporting transactions associated with all of its capital projects including the Turkey Point 6 & 7 project. Tr. 315 (Powers). These comprehensive and overlapping controls include FPL's Accounting Policies and Procedures, financial systems and related controls including FPL's general ledger and construction asset tracking system (CATS), FPL's annual budgeting and planning process, and Business Unit specific controls and processes. Tr. 315 (Powers).

These controls are regularly assessed and audited. Sarbanes-Oxley processes are identified, documented, tested and maintained, including specific processes for planning and executing capital work orders and acquiring and developing fixed assets. Tr. 316 (Powers) Certain key financial processes are tested during the Company's annual test cycle. *Id.* In addition, Deloitte & Touche, LLP, as a part of its annual audit, assesses the Company's internal controls over financial reporting and expresses an opinion as to the effectiveness of those controls. *Id.* The audit procedures performed by Deloitte & Touche, LLP include tests of general computer controls and of those policies and procedures that pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company. Tr. 316 (Powers). Internal audits focusing on Turkey Point 6 & 7 financials are also conducted. Tr. 57 (Scroggs).

The project-level internal controls are comprised of various financial systems, department procedures, work/desktop instructions and best practices providing governance and oversight of project cost and schedule processes. Tr. 47 (Scroggs). With respect to the financial systems, FPL utilizes a Financial Management Information Process for project report generation. The Engineering & Corporate Services Division also utilizes an Electronic Approval Database system to initiate and record the management approval process for the commitment of project funds. *Id.*

FPL follows a comprehensive list of procedures and work instructions that governs the internal controls processes and expectations. Tr. 47 (Scroggs). These procedures and work instructions are employed by dedicated and experienced project controls personnel who provide project oversight and analysis. *Id.* The internal controls organization helps to ensure appropriate management decisions are made based upon assessment of available information, leading to reasonable costs. Tr. 48 (Scroggs). Accountability is clear and understood throughout the controls organization and is a cornerstone of the services they provide. *Id.*

FPL engaged Concentric Energy Advisors, Inc. to perform an independent review of the internal controls utilized by the Company for the Turkey Point 6 & 7 project. As explained by Witness Reed, FPL's practices "include a series of documented, overlapping processes that ensure the Company's system of internal control is being implemented within the Projects and the appropriate level of senior level oversight." Tr. 417 (Reed).

The evidence shows that FPL's accounting and cost oversight controls are reasonable and prudent. FPL's controls consist of corporate-level and project-level processes, and are routinely tested and audited. No party has disputed the adequacy of FPL's accounting and cost controls.

ISSUE 5: Should the Commission find that for the years 2006 and 2007, FPL's project management, contracting, and oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project?

CATEGORY II STIPULATION BETWEEN STAFF AND FPL (APPROVED SEPT. 8, 2009)

Yes. For the years 2006 and 2007, FPL's project management, contracting, and oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project.

FPL routinely and methodically evaluates the risks, costs, and issues associated with the Turkey Point 6 & 7 project using a system of internal controls, routine project meetings and communication tools, management reports and reviews, internal and external audits and an annual feasibility analysis. Tr. 47 (Scroggs). During 2006-2007, FPL's internal controls supported the step-wise approach the Company is taking and helped to ensure prudent decision-making and reasonable costs.

As described by Witness Scroggs, the project is staffed by a combination of employees fully dedicated to the project, matrixed employees from FPL business units who devote a portion of their time to the project, and a select group of contractors and subcontractors whose subject matter expertise and skills are required to complete the considerable tasks related to this undertaking. Tr. 45 (Scroggs). Leading the staff is a project management team charged with monitoring the day-to-day execution and strategic direction of the project. *Id.* The project management team provides routine, dedicated oversight of the project including a determination of the timing and appropriateness of external reviews. *Id.* The project management team is supported by project controls professionals that execute the day-to-day project activities and provide direct oversight of procedural compliance. *Id.* Standing weekly or monthly meetings and reports are utilized to review forward looking analyses with project managers. Tr. 48 (Scroggs); Ex. 8.

Within the Engineering & Corporate Services Division, the New Nuclear Project team was developed to manage the complex and specialized nature of the Combined Operating License Applications ("COLA") process and the engineering, procurement and construction activities. Tr. 46 (Scroggs). Together, the Project Development and New Nuclear Project teams are responsible for the execution of the project. The project also benefits from routine review, supervision and direction provided by FPL executive management (Tr. 45 (Scroggs)) as well as periodic review by the FPL Corporate Risk Committee (Tr. 52 (Scroggs)).

FPL utilizes many internal control processes. Many of the internal controls consist of procedures, processes or work instructions which were pre-existing within the Company or the department. Tr. 49 (Scroggs). However, FPL has also developed processes specific to new nuclear deployment. *Id.* These processes generally involve conducting business in compliance with FPL General Operating procedures, but also recognize project-specific requirements. Direction for specific areas of focus is provided to project staff through New Nuclear Project –

Project Instructions ("NNP-PIs"). *Id.* These instructions provide guidance, set expectations, and drive consistency. Tr. 50 (Scroggs); Ex. 9.

In 2006-2007, and continuing through today, the preferred approach for the procurement of materials or services is to use competitive bidding. FPL maintains a strong market presence allowing it to leverage corporate-wide procurement activities to the specific benefit of individual project procurement activities. Tr. 54 (Scroggs). Single or sole source procurement, however, is in the best interest of the Company and its customers in certain situations. *Id.* In some cases there is a limited pool of qualified entities to perform certain services or provide certain goods and materials. Additionally, a provider may be engaged to perform a particular scope of work based upon a competitive bid, and additional scope is subsequently identified that the vendor can efficiently provide. Tr. 54 (Scroggs). General Operations Procedure 705.3 requires proper documentation and senior-level approval of single or sole source procurement. Tr. 55 (Scroggs). FPL abides by these procedures and has taken steps to improve upon its documentation as directed by Order No. 08-0749-FOF-EI, Docket No. 080009-EI (issued Nov.12, 2008). Tr. 55-56 (Scroggs).

All project expenditures must be formally input and approved in the Electronic Approval Database, which serves as the communication between the project team and the Integrated Supply Chain ("ISC") identifying the need to contract for goods and services. Tr. 53 (Scroggs). This database is used to record procurement activities and obtain the appropriate level of management authorization. *Id.* Initial Commitments and Contract Change Orders require appropriate authorizations and documentation. *Id.* Additionally, FPL has contractually placed significant reporting requirements on subcontractors by requiring trend, tracking and performance indicators. Tr. 49 (Scroggs). This allows the internal controls team to monitor events and trends on a forward-looking basis. *Id.*

Concentric determined that FPL has adequately followed its internal controls processes and procedures, and decisions that have been made consistent with these processes and procedures appear to be prudent. Tr. 361 (Reed). No party presented evidence or asserted that FPL's internal controls for the Turkey Point 6 & 7 project were not reasonable or prudent for 2006-2007.

ISSUE 6: Should the Commission find that for the year 2008, FPL's accounting and costs oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project and the Extended Power Uprate project?

CATEGORY II STIPULATION BETWEEN STAFF AND FPL (APPROVED SEPT. 8, 2009)

Yes. For the year 2008, FPL's accounting and costs oversight controls were reasonable and prudent for Turkey Point Units 6 & 7 project and the Extended Power Uprate project.

In 2008, FPL continued to utilize its comprehensive corporate and overlapping business unit controls for recording and reporting transactions associated with Turkey Point 6 & 7 and the Uprate Project. These comprehensive and overlapping controls include FPL's Accounting Policies and Procedures, financial systems and related controls including FPL's general ledger and construction asset tracking system (CATS), FPL's annual budgeting and planning process and reporting and monitoring of plan costs to actual costs incurred and Business Unit specific controls and processes. Tr. 315 (Powers).

These controls are regularly assessed and audited. Sarbanes-Oxley processes are identified, documented, tested and maintained, including specific processes for planning and executing capital work orders and acquiring and developing fixed assets. Tr. 316 (Powers) Certain key financial processes are tested during the Company's annual test cycle. *Id.* In addition, Deloitte & Touche, LLP, as a part of its annual audit, assesses the Company's internal controls over financial reporting and expresses an opinion as to the effectiveness of those controls. *Id.* The audit procedures performed by Deloitte & Touche, LLP include tests of general computer controls and of those policies and procedures that pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company. Tr. 316 (Powers).

The Company continues to undergo specific project related internal audits. The objective of these audits is to test the process of recording and capturing costs related to the Turkey Point 6 & 7 and Uprate Projects in the pre-established work orders to ensure compliance with the Commission's Rule. Tr. 325 (Powers). The 2008 costs and controls related to the Turkey Point 6 & 7 and Uprate Projects were audited, and FPL will continue to ensure these projects are audited on an ongoing basis.

Turkey Point Units 6&7

The Turkey Point 6 & 7 project accounting and cost controls are comprised of various financial systems, department procedures, work/desktop instructions and best practices providing governance and oversight of project cost and schedule processes. Tr. 47 (Scroggs). FPL utilizes FMIP for project report generation, and the Engineering & Corporate Services Division utilizes an Electronic Approval Database ("EAD") system to initiate and record the management approval process for the commitment of project funds. Tr. 47 (Scroggs).

FPL follows a comprehensive list of procedures and work instructions that governs the internal controls processes and expectations. Tr. 47 (Scroggs); Ex. 7. These procedures and work instructions are employed by dedicated and experienced project controls personnel who provide project oversight and analysis. The internal controls organization helps to ensure appropriate management decisions are made based upon assessment of available information leading to reasonable costs. Accountability is clear and understood throughout the controls organization and is a cornerstone of the services they provide. Tr. 47-48 (Scroggs).

The Project Controls Group reports through the Director of Construction and provides structural leadership, governance and oversight for the project. On a monthly basis, the group completes a thorough review of all costs to ensure they are appropriately charged to the project. Tr. 321 (Powers). Additionally, monthly variance reports are generated against budgeted information and meetings are held with team members and project management to review and understand existing budget variances and any projected variances. *Id.* The Group's Business Manager is supported by business, finance and accounting degreed staff with nuclear and construction experience. Tr. 321 (Powers).

When a potential expenditure greater than $5,000 is identified, project personnel input the expenditure request detailing the need, justification, estimated cost and documentation into the EAD. Tr. 322 (Powers). The request is sent to the Project Controls Group which inputs all pertinent budget information, verifies appropriate accounts charged and verifies the budgeted resources for the proposed transaction are available. *Id.* This information is sent through the EAD to the Project Manager of the functional area who verifies the expense is applicable to the project. Tr. 322-23 (Powers). After the goods have been received or services rendered, and an invoice is received by the functional area, it is reviewed, determined if appropriate, approved and input into the SAP payment processing system. Tr. 323 (Powers). In SAP, online approvals based on authorization levels are required for any expenditure greater than $250 prior to the invoice being paid. *Id.*

In the spring of 2008, Concentric Energy Advisors was engaged to conduct a review of the project internal controls, with a focus on management processes. The review identified a strong project management and internal control structure. Tr. 58 (Scroggs). Also, the FPSC

Staff conducted two audits in 2008. These audits included a financial audit of the project ledger and accounts, and an internal controls audit. The results of the FPSC Staff audits conducted during the 2008 Nuclear Cost Recovery process validated FPL's processes. Specifically, the FPSC internal controls audit staff identified that the project processes "appear to have been reasonable and in keeping with good business practices." Tr. 58-59 (Scroggs)

EPU

FPL utilizes a variety of mutually reinforcing schedules and cost controls and draws upon the expertise provided by employees within the project team, employees within the separate Nuclear Business Operations ("NBO") group, and executive management. Tr. 215 (Kundalkar). NBO provides accounting and regulatory oversight for the EPU Project. This organization is independent of the EPU Project team and reports to the Nuclear Controller, and its primary responsibilities include the review, approval, and recording of monthly accruals; conducting monthly detail transaction reviews; creating monthly variance reports; ensuring that costs are appropriately allocated to the correct Capital Expenditure Requisitions; and providing oversight and guidance to the EPU Project Team in development and maintenance of accounting related project instructions, to name a few. Tr. 216-27 (Kundalkar).

Throughout the month, general ledger detail transactions are monitored by the EPU Project Controls Team and NBO to ensure that costs charged to the uprates are appropriate and are accurately classified as capital or O&M. Tr. 320 (Powers). Site cost engineers perform reviews to ensure invoices are accurately coded to the appropriate activity/scope work order. *Id.* NBO reviews internal labor costs to ensure that only appropriate payroll is charged to the uprates. *Id.* In addition, all steps in this process are subject to internal and external audits and reviews. *Id.*

The NBO group drafts monthly variance reports that compare actual expenditures incurred to the originally estimated budget and report year end forecast estimates. Tr. 320 (Powers). The draft reports are sent to the St. Lucie and Turkey Point Uprate Project Controls Teams responsible for providing variance explanations and forecast updates, then NBO reviews the variance explanations and forecast numbers for reasonableness and accuracy prior to compilation and inclusion in the Nuclear Business Unit corporate variance report. *Id.* NBO is also responsible for reviewing numbers reported to the FPL Executive Steering Committee to ensure consistency with corporate variance reports and for providing the Accounting Department with project numbers for inclusion in the NFR schedules. Tr. 320-21 (Powers).

Concentric also reviewed FPL's EPU project, and determined that the costs FPL is seeking to recover are reasonable and were developed using the Company's robust set of corporate policies and division and project procedures. Tr. 431 (Reed); Ex. 43. The evidence shows that FPL's accounting and cost oversight controls for both its Turkey Point 6 & 7 project and its Uprate Projects are reasonable and prudent. FPL's controls consist of corporate-level and project-level processes, which are routinely tested and audited. No party has disputed the adequacy of FPL's accounting and cost controls.

ISSUE 7: Should the Commission find that for the year 2008, FPL's project management, contracting, and oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project and the Extended Power Uprate project?

FPL: *Yes. FPL's practices include a series of well-documented, highly developed, overlapping processes that ensure the Company's system of internal controls is being implemented within the projects and ensure the appropriate levels of senior management oversight.*

<u>Turkey Point 6 & 7</u>

FPL routinely and methodically evaluates the risks, costs, and issues associated with the Turkey Point 6 & 7 project using a system of internal controls, routine project meetings and communication tools, management reports and reviews, internal and external audits and an annual feasibility analysis. Tr. 47 (Scroggs).

The project is staffed by a combination of employees fully dedicated to the project, matrixed employees from FPL business units who devote a portion of their time to the project and a select group of contractors and subcontractors whose subject matter expertise and skills are required to complete the considerable tasks related to this undertaking. Tr. 45 (Scroggs). Leading the staff is a project management team charged with monitoring the day-to-day execution and strategic direction of the project. The project management team provides routine, dedicated oversight of the project including a determination of the timing and appropriateness of external reviews. *Id.* The project management team is supported by project controls professionals that execute the day-to-day project activities and provide direct oversight of procedural compliance. The project also benefits from routine review, supervision and direction provided by FPL executive management (Tr. 45 (Scroggs)) and periodic review by the FPL Corporate Risk Committee (Tr. 52 (Scroggs)).

FPL utilizes a variety of internal controls processes. Many of the internal controls consist of procedures, processes or work instructions which were pre-existing within the Company or the department. Tr. 49 (Scroggs). However, FPL has also developed processes specific to new nuclear deployment. *Id.* These processes generally involve conducting business in compliance with FPL General Operating procedures, but also recognize project-specific requirements. Direction for specific areas of focus is provided to project staff through New Nuclear Project – Project Instructions ("NNP-PIs"). *Id.* These instructions provide guidance, set expectations, and drive consistency. Tr. 50 (Scroggs); Ex. 9.

The preferred approach for the procurement of materials or services is to use competitive bidding. FPL maintains a strong market presence allowing it to leverage corporate-wide procurement activities to the specific benefit of individual project procurement activities. Maintaining a relationship with a range of service providers offers the opportunity to assess capabilities, respond to changing resource loads and remain knowledgeable of current market trends and cost of service. Tr. 54 (Scroggs). FPL also utilizes single or sole source procurement, when its in the Company's and customers' best interest to do so. In some cases there is a limited pool of qualified entities to perform services or provide certain goods. Tr. 54 (Scroggs). In other cases, a provider may be engaged to conduct a specific scope of work based on a competitive bid, and additional scope is identified that that vendor can efficiently provide. *Id.* General Operations Procedure 705.3 requires proper documentation and senior-level approval of single or sole source procurement. Tr. 55 (Scroggs). FPL abides by this procedure and, consistent with this Commission's decision in Order No. PSC-08-0749-FOF-EI, FPL has improved upon its documentation practices for single or sole source procurements. Tr. 55-56 (Scroggs).

Concentric has found that FPL has acted prudently while incurring costs related to the Turkey Point 6 & 7 project from the beginning of the projects through year-end 2008. These actions were specifically designed to methodically preserve the option to pursue new nuclear generating capacity at the Company's Turkey Point site while delaying a commitment to build this capacity for as long as is reasonably feasible. By doing so, the Company is preserving its customers' ability to receive the substantial economic benefits of nuclear power at a future date while minimizing the near term expenditures required to maintain this option. Tr. 403 (Reed).

EPU

FPL has robust project planning, management, and execution processes in place, and these efforts are spearheaded by personnel with significant experience in project management within the nuclear industry. Tr. 213 (Kundalkar). FPL has a separate Uprate Organization within the Nuclear Division, responsible for monitoring and managing the uprate project, schedule, and costs. Tr. 213-214 (Kundalkar). Through the beginning of December 2008, the EPU Project Director and EPU Engineering Director shared oversight responsibility for both the PSL and PTN uprate projects. Tr. 214 (Kundalkar). Both reported directly to the Vice President of Nuclear Power Uprates. *Id.* Separate PSL and PTN EPU Project Managers directed the uprate work at each plant site, and reported to the Uprate Project Director, while separate PSL and PTN Project Engineers reported to the EPU Engineering Director. *Id.* Teams are located on-site to support the projects at each plant. This framework provided appropriate oversight through 2008. *Id.*

The EPU Project Controls Manager records schedule changes, project delays, project costs, and supports project management and contract administration. Tr. 215 (Kundalkar). FPL's efforts to meet the desired completion date of each uprate is being tracked through the use of Primavera P-6 scheduling software, enabling FPL to track the schedule daily and update the schedule weekly. *Id.* FPL's use of this system allows management to examine the project status at any time as well as request the development and generation of specialized reports. *Id.* When FPL identifies a risk that a scheduled milestone date may be missed, a mitigation plan is prepared, reviewed, approved, and implemented with increased management attention to restore the scheduled milestone date or reduce any impact of missing the scheduled date. Tr. 216 (Kundalkar).

FPL employs an Uprate Cost Engineer at each site to monitor and report project costs associated with the Uprate Projects. The Cost Engineer receives contractor invoices and forwards them to technical representatives to ensure the scope of work has been completed and the deliverables have been accepted. Tr. 216 (Kundalkar). For fixed-price contracts, the Cost Engineer matches up the invoice amount and the deliverable work received from the subject matter expert, which is then sent to the appropriate personnel for approval and payment. Accruals and variance reports are prepared monthly for each of the sites to monitor and document expenditures and commitments to the approved budget. Tr. 216 (Kundalkar). Extended Power Uprate Project Instruction Number EPPI-230, Project Invoice, details the flow of the invoice through the approval, receipt and payment process at the sites and establishes responsibilities at each stage of the process. Tr. 319 (Powers).

With respect to contractor selection, the standard approach for the procurement of materials or services with a value in excess of $25,000 is to use competitive bidding. Tr. 220 (Kundalkar). This preference is codified within General Operating Procedure 705 as well as Nuclear Policy NP-1100. *Id.* However, FPL also uses single source, sole source, and Original Equipment Manufacturer procurements in certain situations. Tr. 220 (Kundalkar). FPL's applicable policies require proper documentation of justifications and senior-level approval of such procurements. *Id.* Consistent with this Commission's decision in Order No. 08-0749-FOF-EI, FPL has improved upon its documentation practices for single or sole source procurements. Tr. 220, 249 (Kundalkar).

Concentric has determined that the EPU Project, as a general matter, has followed FPL's processes and procedures, and that the resultant decisions that were made consistent with these processes and procedures appear to be prudent. The appropriate level of oversight has been included to ensure that reasonable and prudent decisions are being made. Tr. 409-10 (Reed). No party has disputed the adequacy of FPL's project management, oversight, and internal controls.

ISSUE 7A: Is FPL's decision in 2008 to pursue an alternative to an Engineering Procurement Construction (EPC) contract for the Turkey Point 6 & 7 project prudent and reasonable?

FPL: *Yes. FPL chose to create the option to pursue separate EP and C contracts while preserving the option of pursuing an EPC contract for Turkey Point 6 & 7. FPL's approach creates greater flexibility and optionality for itself and its customers, as well as the potential for significant cost savings.*

In 2008, FPL decided to explore the potential for an alternative contracting strategy for Turkey Point 6 & 7 – one which would separate the Construction ("C") scope of work from the Engineering and Procurement ("EP") scope of work – while maintaining the option to enter into a consolidated EPC contract. As described by Witness Scroggs, FPL's approach offers five specific benefits: it maintains the option to enter into an EPC contract; it maintains project progress; it creates competition where there otherwise would be none; it defers expenditures until more information is known; and it helps provide clarification of roles and responsibilities associated with the project. Tr. 620-21, 640 (Scroggs).

As explained by Witness Scroggs, FPL has chosen to defer the commitment associated with either contracting approach because a compelling proposal of scope, schedule, price and terms has not been offered to FPL. In the absence of a compelling contract offer, FPL has chosen to pursue further resolution of key uncertainties, including those related to commercial negotiations. Tr. 616-17 (Scroggs). Contrary to Witness Jacobs's assertion that FPL "has separated the construction function from engineering and procurement" (Tr. 478 (Jacobs)), the option of choosing an EPC contract has not been abandoned. *See*, Tr. 640 (Scroggs); 816 (Reed).

The vendor-proposed business model for new nuclear project deployment of the AP-1000 design involves an EPC contract with Westinghouse/Shaw with defined scope and schedule responsibility. FPL challenged this business model based on several key observations, including a limited ability for Westinghouse/Shaw to provide cost and schedule certainty as to key project elements (such as construction labor) that are not included in the EPC contract scope and pricing. FPL's step-wise, incremental approach to contracting is supported by the fact that the market place has not yet presented FPL with EP or EPC contract opportunities that are sufficiently advantageous to FPL and its customers in terms of cost and risk. Tr. 611 (Scroggs).

Additionally, the proposed EPC approach does not provide opportunities for other engineering and construction firms to compete directly for components of the work. In order to create a more competitive option for the construction phase of the project, FPL selected BVZ (an engineering firm independent of Westinghouse/Shaw) to conduct certain construction planning and design work. This scope of work is not dependent upon specific, detailed knowledge of the AP-1000 design, and is similar to work BVZ has successfully conducted for other FPL projects. Tr. 614-15 (Scroggs); Ex. 71. The potential benefit of this strategy could be on the order of hundreds of millions of dollars through having fostered competition for large, later stages of the project. Tr. 63-64, 610 (Scroggs).

Concentric reviewed FPL's contracting strategy, and agreed that at this time FPL should be preserving the option to later competitively bid the construction contract. Specifically, Witness Reed testified as follows:

> FPL's decision to contract with BVZ is <u>unquestionably prudent</u> based on the circumstances surrounding the decision. FPL carefully made this decision to heighten competition for future contracting for PTN 6 & 7, with the goal of producing lower costs for FPL's customers. This approach preserves significant optionality and flexibility, while keeping the project on schedule.

Tr. 787 (Reed) (emph. added).

Witness Jacobs on behalf of OPC attempted to cast doubt on the appropriateness of FPL's strategy. In doing so, he made one important mistake: he assumed that EPC contracts with suitable scope, pricing, schedule and risk protection are available to FPL, and that FPL has chosen to pass them up. Tr. 618 (Scroggs). As described by Witness Scroggs, this is simply not the case. Accordingly, FPL's decision to also explore other contracting alternatives while the market continues to develop is prudent. *See,* Tr. 781 (Reed)

Moreover, Witness Jacobs's attempt to put FPL on notice that there is a "potential for increased costs" is inappropriate. Tr. 478 (Jacobs). Putting FPL on notice today that its approach could be found to be imprudent at a later date is precisely the type of hindsight regulatory review that this Commission should reject. Tr. 779, 816 (Reed). Indeed, using the ultimate result of the decision in the future to judge the prudence of an act, rather than information known and knowable at the time the decision was made, is the epitome of the use of hindsight. Tr. 823 (Reed).

ISSUE 8: Should the Commission approve what FPL has submitted as its annual detailed analyses of the long-term feasibility of completing the Turkey Point 6 & 7 project, as provided for in Rule 25-6.0423, F.A.C.?

FPL: *Yes. FPL's analyses consider different fuel cost and environmental compliance cost forecasts to examine the economics of the project in a variety of future scenarios. These assumptions, as well as forecasted load and other inputs, are updated annually. FPL's non-binding cost estimate used in these analyses continues to be valid.*

The 2009 feasibility analyses are presented to satisfy the requirement of Subsection 5(c)5 of the Florida Administrative Code Rule 25-6.0423, Nuclear Power Plant Cost Recovery which states "By May 1 of each year, along with the filings required by this paragraph, a utility shall submit for Commission review and approval a detailed analysis of the long-term feasibility of completing the power plant." Tr. 275 (Sim).

The analytical approach that was used in the 2009 feasibility analysis for Turkey Point 6 & 7 is the same as the approach used in the 2007 Determination of Need filing and the 2008 feasibility analyses. Tr. 276 (Sim). Using this approach, FPL calculates the "breakeven" overnight capital costs for the new nuclear units in a variety of fuel cost and environmental compliance cost scenarios. *See,* Tr. 277 (Sim). FPL updated key assumptions in this analysis, including forecasted peak and annual loads, forecasted natural gas costs, forecasted oil costs, and forecasted uranium costs. Tr. 279-81 (Sim); Ex. 30. Additionally, FPL incorporated updates for the projected amount of capacity from the uprates, the projected cost of a greenfield 3x1 G CC unit (which would be the alternative generation source added), firm gas transportation costs, and the projected average annual planned outage days for the four existing nuclear units. Tr. 282-83 (Sim).

FPL then determines a breakeven overnight capital cost by comparing the Cumulative Present Value of Revenue Requirements ("CPVRR") for a Resource Plan without Turkey Point 6 & 7 and the Resource Plan with Turkey Point 6 & 7, which does not include capital costs. *See,* Tr. 286 (Sim); Ex. 33. The breakeven overnight capital cost for each fuel cost and environmental compliance cost scenario is then compared to the non-binding cost estimate range for Turkey Point 6 & 7 of $3,108/kw to $4,540/kw. In eight of nine scenarios, the breakeven capital cost is above FPL's cost estimate range. Tr. 286-87 (Sim). In the ninth, it is within the upper end of the range. Tr. 287 (Sim). This calculation of overnight "breakeven" costs continues to be the appropriate approach to use at this time. In later years, as more information becomes available regarding the cost and other aspects of the new nuclear units, another analytical approach may emerge as more appropriate. Tr. 277 (Sim).

Witness Cooper for SACE attempted to demonstrate that certain of FPL's inputs were flawed. However, each of his misguided assertions was easily rebutted by Witness Sim. Witness Cooper implies that the recent reduction in consumption was not fully accounted for by FPL's analysis. Tr. 557-58 (Cooper). However, this is simply not the case. The 2009 load forecast used in this year's feasibility analysis is significantly different from the load forecasts previously used and includes a significant drop in projected load growth, particularly in the near term. Tr. 690 (Sim). This changed assumption did affect the resource plans analyzed by FPL. Tr. 691-92 (Sim). Witness Cooper also claims that because natural gas prices have recently dropped, FPL's forecast for natural gas costs is too high. Tr. 560 (Cooper). Despite this recent trend, it should not be relied upon as an accurate indicator of natural gas commodity prices for the next 50 years. Tr. 704 (Sim). Further, it fails to account for increases in firm gas transportation costs. *Id.*

Witness Cooper also claims FPL's projected environmental compliance costs are too high and that FPL should somehow account for the "elaborate scheme of allowances" proposed by HR 2454. Tr. 563 (Cooper).[3] This version of the proposed legislation did not exist at the time of FPL's analysis. Tr. 707 (Sim). And, although the Company tracks and considers the impact of this and other proposed legislation, such consideration fails to evidence any reliance on the proposed bill for purposes of evaluating Turkey Point 6 & 7. Ultimately, it would not be productive to attempt to include in FPL's resource analyses this single proposed, contentious piece of legislation (or the myriad of other competing bills) when addressing potential CO_2 compliance costs. Tr. 707 (Sim). FPL's analysis assumes a wide range of potential

[3] Recently, in the Demand Side Management Goals Docket (Docket No. 080407-EI), another SACE witness contended that FPL's environmental compliance costs were too high. At best, this evidences disagreement within SACE as to the proper level of future compliance costs. At worst, this evidences a willingness to assert whatever position on this topic would be beneficial to SACE's position in the docket at hand. *See*, Tr. 708-09 (Sim).

environmental compliance costs. Tr. 708 (Sim). This approach ensures that FPL accounts for and considers environmental compliance costs until legislation is signed into law and accompanying implementing regulations are determined. *Id.* Finally, Witness Cooper's suggestion that FPL should or could rely on greater contributions from energy efficiency and renewable resources was similarly unsupported and unconvincing. Tr. 699-701 (Sim).

The non-binding cost estimate range used by FPL continues to be supported by the best information available today. Certain intervenors attempted to cast doubt on the appropriateness of FPL's cost-estimate range, but did so without presenting any compelling evidence that disputed the accuracy of FPL's estimate. OPC's Witness Jacobs criticized FPL for not updating its cost estimate. Tr. 480 (Jacobs). However, this criticism overlooks the fact that FPL did re-evaluate its capital cost estimate range and determined that it continues to be reasonable. Tr. 635 (Scroggs). For example, FPL's cost-estimate is reasonable when compared to current cost estimates for other AP-1000 projects. Tr. 396 (Reed); 624 (Scroggs); Ex. 42. SACE Witness Cooper similarly takes issue with FPL's capital cost estimate. However, his testimony failed to reflect any understanding of the function of FPL's non-binding cost estimate in the need determination and NCRC proceedings. Tr. 635 (Scroggs). As the project has evolved, FPL has reviewed the adequacy of its cost estimate to represent the anticipated costs of the AP-1000 project at the Turkey Point site. *Id.* FPL's cost estimate range incorporates the best information available and continues to be valid for economic feasibility analysis. *Id.* No intervenor witness offered evidence in support of a different cost estimate range.

Witness Gunderson tried to attack the feasibility of the Turkey Point 6 & 7 project as well – not by taking issue with FPL's analysis, but by discussing, in general terms, uncertainties in the regulatory and execution aspects of deploying new nuclear generation. Tr. 600 (Scroggs). All of these uncertainties have been identified and discussed by FPL in its preceding Need Determination and cost recovery filings, and continue to be addressed in FPL's planning. Tr. 611; 626-32 (Scroggs).

ISSUE 8A: If the Commission does not approve FPL's long term feasibility analyses of Turkey Point 6 & 7, what further action, if any, should the Commission take?

FPL: *No Commission action is necessary. FPL's annual detailed analysis of the long-term feasibility of completing the Turkey Point 6 & 7 project complies with Rule 25-6.0423, F.A.C, and should be approved.*

As discussed above in response to Issue 8, FPL's long-term economic feasibility analyses fully comply with Rule 25-6.0432, Fla. Admin. Code, and should be approved. No further action is necessary.

ISSUE 9: Should the Commission approve what FPL has submitted as its annual detailed analyses of the long-term feasibility of completing the EPU project, as provided for in Rule 25-6.0423, F.A.C.?

CATEGORY II STIPULATION BETWEEN STAFF AND FPL (APPROVED SEPT. 8, 2009)

Yes. The analyses support a conclusion that completing the EPU project is feasible.

The 2009 feasibility analyses are presented to satisfy the requirement of Subsection 5(c)5 of the Florida Administrative Code Rule 25-6.0423, Nuclear Power Plant Cost Recovery which states "By May 1 of each year, along with the filings required by this paragraph, a utility shall submit for Commission review and approval a detailed analysis of the long-term feasibility of completing the power plant." Tr. 275 (Sim).

The analytical approach that was used in the 2009 feasibility analyses for the EPU Project was the same as the approach used in the 2007 Determination of Need filing and the 2008 feasibility analysis. Tr. 276 (Sim). FPL's long-term economic feasibility analysis directly compares resource plans with and without the nuclear uprates. *Id.* FPL updated key assumptions in this analysis, including forecasted peak and annual loads, forecasted natural gas costs, forecasted oil costs, and forecasted uranium costs. Tr. 279-81 (Sim); Ex.30. Additionally, FPL incorporated updates for the projected amount of capacity from the uprates, the projected cost of a greenfield 3x1 G CC unit (which would be the alternative generation source added), firm gas transportation costs, and the projected average annual planned outage days for the four existing nuclear units. Tr. 282-83 (Sim).

As explained by Witness Sim, the Resource Plan with Nuclear Uprates is projected to have a lower CPVRR cost compared to the Resource Plan without Nuclear Uprates in nine of nine fuel cost and environmental compliance cost scenarios. Tr. 285 (Sim). These results indicate that the nuclear uprates are still projected to be a solidly cost-effective capacity and energy addition for FPL's customers. *Id.* No party to this proceeding disputed the adequacy of FPL's long-term economic analysis of the EPU Project or its results.

ISSUE 10: What system and jurisdictional amounts should the Commission approve as FPL's final 2008 prudently incurred costs for the Extended Power Uprate project?

CATEGORY II STIPULATION BETWEEN STAFF AND FPL (APPROVED SEPT. 8, 2009)

The 2008 prudently incurred system EPU costs are $99,754,304 in expenses and $269,184 in O&M expenses. The resultant jurisdictional costs, net of joint owner and other adjustments, are $95,097,049 for capital expenses, $2,357,995 in carrying charges, and $256,091 in O&M expenses.

For purposes of the CCRC, the final 2008 NCRC true up amount, is an over estimate of $1,375,009 in carrying costs plus an under estimate of $256,091 in O&M expenses. The net amount of -$1,118,918 should be included in setting the allowed 2010 NCRC recovery.

FPL's prudently incurred 2008 expenditures total $99,754,304 in construction costs and $269,184 in Operations and Maintenance ("O&M") expenses on a system-wide basis. Tr. 310-11 (Powers); Ex. 17 (App. 1, pp. 15 and 13); Ex. 36. After accounting for the St. Lucie 2 participants and applying the retail jurisdictional factor, this equates to $95,097,049 in construction costs and $256,091 in O&M expenses. Tr. 311 (Powers); Ex. 17 (App. 1, pp. 15, 13); Ex. 35; Ex. 36.

As described by Witness Kundalkar, FPL's 2008 expenditures were incurred in the following cost categories: License Application; Engineering and Design; Permitting; Project Management; Power Block Engineering, Procurement, Etc.; Non Power Block Engineering, Procurement, Etc.; and recoverable O&M. Tr. 233-37 (Kundalkar). Expenditures were made in furtherance of several key activities, including (i) engineering evaluation and analyses in support of the license amendment preparation for Nuclear Regulatory Commission ("NRC") approval; (ii) the progress in the forging of two main generator rotors; (iii) the selection of vendors and execution of contracts for long lead procurement; (iv) the selection of the EPC vendor and execution of the EPC contract; and (v) the finalization of project plans and procedures and the continuation of project staffing. Tr. 224 (Kundalkar).

All of FPL's uprate costs and management decisions were well-founded and prudent. Tr. 241 (Kundalkar). Furthermore, they were supported by the robust system of internal controls discussed above in response to Issues 6 and 7. No party in this proceeding disputed the prudence of any of FPL's 2008 uprate expenditures.

ISSUE 11: Are FPL's 2008 actual, 2009 actual/estimated and 2010 projected EPU project costs separate and apart from the nuclear costs that would have been necessary to provide safe and reliable service had there been no EPU project?

FPL: *Yes. FPL employs a rigorous engineering-based process to ensure that only costs that are "separate and apart" from those that would have been incurred otherwise have been included in its NCRC request. FPL is in full compliance with the stipulation on this issue, entered into in Docket 080009-EI.*

FPL employs a rigorous, in-depth engineering-based process to ensure that only costs that are "separate and apart" from those that would have been incurred absent the EPU project have been included in determining the amount of FPL's NCRC request. Tr. 661-62 (Kundalkar). FPL's "separate and apart" analysis focuses on (i) determining the scope of modifications required for the uprate conditions through detailed engineering analyses; (ii) reviewing historical nuclear division plans for plant expenditures to validate that none of the modifications necessary for the EPU project were included in prior plans; (iii) reviewing Nuclear Regulatory Commission (NRC) license renewal commitments to validate that none of the modifications necessary for the uprate conditions were included in FPL's existing license renewal commitments; (iv) establishing a cross-functional review team including engineering, accounting, business operations, and others to review uprate activities and confirm these activities are separate and apart from nuclear costs that would have been necessary to provide safe and reliable service had there been no uprate project; and (v) the careful process of recording costs and compiling its Nuclear Filing Requirements, and the many processes and procedures attendant thereto. Tr. 664 (Kundalkar).

Based on the scope of modifications identified, to conduct the separate and apart analysis, FPL reviewed the Nuclear Division 2005 Business Plan to validate that modifications necessary for the uprate conditions were not included in prior plans. Tr. 665-66 (Kundalkar). The Nuclear Division 2005 Business Plan includes planned O&M expenditures for 2005 – 2009 and the seven year plan of capital expenditures for 2004 – 2010. Tr. 666 (Kundalkar). FPL's Nuclear Policy 703, Long Range Plan requires each site to maintain such properly approved seven year plans for major outage and non-outage projects. *Id.*; Ex. 73. Upon review of the Business Plan, no duplication with EPU activities was found. *Id.* Similarly, FPL completed a thorough examination of its license renewal commitments. Tr. 666 (Kundalkar). The license renewal process resulted in FPL's commitment to perform numerous aging management programs on an ongoing basis, and constitute just some of FPL's comprehensive equipment inspection, surveillance, and monitoring activities to ensure the plant is operated safely and reliably. Tr.

667 (Kundalkar). FPL's review of the license renewal commitments confirmed that the EPU modifications are separate and apart from the license renewal commitments. *Id.*

FPL continues at every stage to scrutinize the scope of necessary activities. This exemplifies FPL's aggressive management of the project and desire to correctly identify only those costs that are necessary for the uprate and are separate and apart from nuclear costs that would have been necessary to provide safe and reliable service had there been no uprate project. Tr. 665 (Kundalkar).

Without discussing or criticizing any specific aspect of FPL's extensive, careful management controls and processes that support FPL's "separate and apart" determination, Witness Jacobs repeats the same claim he made in last year's NCRC case – that the only way to satisfy the "separate and apart" standard is to conduct a time consuming and speculative 20 year-study forecasting the performance of each component if, hypothetically, the EPU project did not occur. Tr. 662, 667 (Kundalkar). Not only is such an approach impractical, but it would increase costs to customers. Tr. 670 (Kundalkar). First, the cost of the study itself would increase project costs for customers. *Id.* Second, any capital expenditures moved out of the clause would simply be moved into a Construction Work in Progress account, where they would accrue AFUDC until the uprated units enter commercial operation. *Id.* This would result in higher total costs for recovery in rates. Accordingly, even if Witness Jacobs's approach could be used and applied, and if certain costs were identified as candidates for removal from clause recovery, the shift in accounting would increase – not decrease – costs to customers. *Id.*

Concentric reviewed the process that the FPL used to make this determination as well as the information that was relied upon by the team to make their decisions. Based on this review, Concentric determined that the results are reasonable and that the appropriate costs have been included in this Nuclear Cost Recovery proceeding. Tr. 376 (Reed). The evidence, therefore, clearly supports the appropriateness of FPL's approach to the "separate and apart" issue – not OPC's.

ISSUE 12: What system and jurisdictional amounts should the Commission approve as FPL's reasonable actual/estimated 2009 costs for the Extended Power Uprate project?

FPL: *The Commission should approve $258,926,772 ($252,317,529 jurisdictional, net of participants) plus related carrying charges of $20,297,390 as reasonable 2009 EPU construction costs. Additionally, recoverable O&M expenses in the amount of $568,000 ($544,467 jurisdictional, net of participants) and base rate revenue requirements of $83,651 are reasonable and should be approved.*

FPL has demonstrated the reasonableness of 2009 actual/estimated EPU construction costs on a total system basis of $258,926,772. Tr. 331, 337 (Powers). After deducting the St. Lucie Unit 2 participants' portion and applying the retail jurisdictional factor to the remainder, the net 2009 jurisdictional EPU construction expenditures equal $252,317,529, along with related carrying charges of $20,297,390. Tr. 331, 338 (Powers); Ex. 38. FPL has also demonstrated that $568,000 ($544,467 jurisdictional, net of participants) in recoverable O&M expenses is reasonable. Tr. 331, 338 (Powers); Tr. 257 (Kundalkar); Ex. 22, (App. 1, p. 15); Ex. 38. And, as explained by Witness Kundalkar, base rate revenue requirements in the amount of $83,651 related to the Gantry Crane going into plant in service at St. Lucie Unit 2 in October 2009 is reasonable. Tr. 331, 340, 348, 352 (Powers). The 2009 actual/estimated costs presented are reasonable and "separate and apart" from other nuclear plant expenditures. Tr. 258 (Kundalkar).

In 2009, FPL will be in the final design and planning stage for implementation of the engineered modification packages for outages scheduled in 2010. Tr. 258 (Kundalkar). Additionally, FPL will continue preparation of its License Application Requests for submittal to the NRC. *Id.* Certain equipment installations will also take place during outages at Turkey

Point, and the Gantry Crane at St. Lucie Unit 2 will be transferred to plant in service. *Id.* The expenditures described above will support these and other activities necessary to the project. *See,* Tr. 251-59 (Kundalkar).

FPL's actual costs through March 2009 were determined using vendor invoices that have been paid or accrued, while estimated costs were developed by using actuals to forecast through year end 2009 and adding long lead material milestone or other scheduled payments and planned procurements. Tr. 251 (Kundalkar). FPL's 2009 actual/estimated construction expenditures, O&M expenses, and base rate revenue requirements are supported by comprehensive procedures, processes and controls which help ensure that these costs are reasonable. No party disputed the reasonableness of FPL's actual/estimated 2009 EPU costs

ISSUE 13: What system and jurisdictional amounts should the Commission approve as FPL's reasonably projected 2010 costs for the Extended Power Uprate project?

FPL: *The Commission should approve $391,614,248 (376,703,895 jurisdictional, net of participants) plus related carrying charges of $41,594,586 as reasonable 2010 EPU construction costs. Additionally, recoverable O&M expenses in the amount of $2,209,376 ($2,147,983 jurisdictional, net of participants) and base rate revenue requirements of $15,991,104 are reasonable and should be approved.*

The Commission should approve the amount of $391,614,248 (376,703,895 jurisdictional, net of participants) as FPL's reasonable 2010 projected construction costs, along with related carrying charges of $41,594,586, and the amount of $2,209,376 ($2,147,983 jurisdictional, net of participants) as FPL's reasonably projected O&M costs for the EPU project. Tr. 331, 348, 339 (Powers); Ex. 22, (App. 1, pp. 62, 64, 53); Ex. 38. In addition, base rate revenue requirements in the amount of $15,991,104 related to St. Lucie Unit 1, Turkey Point Unit 3 and transmission plant going into service in 2010 is reasonable. Tr. 331, 341, 348 (Powers). The 2010 cost projections presented are reasonable and "separate and apart" from other nuclear plant expenditures. Tr. 264 (Kundalkar).

In 2010, implementation of the engineered modification packages will begin, additional systems will be placed in service, and engineering modification packages will be prepared to support implementation during 2011 outages. Tr. 260 (Kundalkar). The costs identified above are projected for these activities. FPL developed its 2010 projected costs by using vendor contracts with scheduled payments and estimating costs for the modification package engineering and implementation being performed by the EPC vendor. *Id.* FPL's 2010 projected construction expenditures are supported by comprehensive procedures, processes and controls which help ensure that these projected costs are reasonable. No party disputed the reasonableness of FPL's projected 2010 EPU costs.

ISSUE 14: What system and jurisdictional amounts should the Commission approve as FPL's final 2006 and 2007 prudently incurred costs for the Turkey Point Units 6 & 7 project?

CATEGORY II STIPULATION BETWEEN STAFF AND FPL (APPROVED SEPT. 8, 2009)

The 2006 and 2007 prudently incurred system Turkey Point Units 6 & 7 costs are $8,651,370 ($8,615,263 jurisdictional) in expenses and $0 in O&M expenses. The resultant jurisdictional carrying costs are $155,189.

For purposes of the CCRC, the final 2007 NCRC trueup amount, is an over estimate of $304,739 in expenses and $7,216 in carrying costs. The net amount of -$311,955 should be included in setting the allowed 2010 NCRC recovery.

In 2006-2007, FPL spent $6,118,106 ($6,092,571 jurisdictional) on site selection costs, and incurred $134,642 in carrying charges. Tr. 313 (Powers); Ex. 35. Additionally, FPL incurred $2,533,265 ($2,522,692 jurisdictional) in preconstruction costs, along with $20,547 in carrying charges. Tr. 314, 342 (Powers); Ex. 35. FPL has demonstrated that these expenditures were prudently made, and accordingly, they should be approved by the Commission.

Turkey Point 6 & 7 activities in 2006 focused on identifying candidate sites, conducting due diligence on the various reactor designs available, and developing a high level project budget and schedule of milestones. Tr. 43 (Scroggs). Work in 2007 focused on activities such as completing site selection, investigating issues related to specific candidate designs, and obtaining local zoning approvals. *Id.* Site selection activities ended, and pre-construction activities began, on October 16, 2007, when FPL submitted its request for a determination of need. *Id.* The costs identified above were expended in furtherance of these activities and were supported by the robust system of internal controls discussed above in response to Issues 4 and 5.

Concentric determined that FPL acted prudently while incurring the costs it examined from the beginning of the project through year-end 2008. Tr. 410 (Reed). These actions were specifically designed to methodically preserve the option to pursue new nuclear generating capacity at the Company's Turkey Point site while delaying a commitment to build this capacity for as long as is reasonably feasible. *Id.* By doing so, the Company is preserving its customers' ability to receive the substantial economic benefits of nuclear power at a future date while minimizing the near term expenditures required to maintain this option. *Id.* No party disputed the prudence of any 2006-2007 Turkey Point 6 & 7 expenditures.

ISSUE 15: What system and jurisdictional amounts should the Commission approve as FPL's final 2008 prudently incurred costs for the Turkey Point Units 6 & 7 project?

CATEGORY II STIPULATION BETWEEN STAFF AND FPL (APPROVED SEPT. 8, 2009)

The 2008 prudently incurred system Turkey Point Units 6 & 7 costs are $47,215,633 ($47,049,854 jurisdictional) in expenses and $0 in O&M expenses. The associated 2008 jurisdictional carrying costs are $2,886,482.

For purposes of the CCRC, the final 2008 NCRC true up amount, is an over estimate of $22,658,001 in expenses and $1,171,701 in carrying costs. The net amount of -$23,829,702 should be included in setting the allowed 2010 NCRC recovery.

In 2008, FPL incurred $686,727 in carrying charges on site selection costs. Tr. 313 (Powers); Ex. 5, (App. III, Schedule T-1, p. 2 of 2); Ex. 35. Additionally, FPL spent $47,215,633 ($47,049,854 jurisdictional) in preconstruction costs, and incurred $2,199,754 in carrying charges. Tr. 314 (Powers); Ex. 5 (App. II, Schedule T-6); Ex. 35. FPL has demonstrated that these expenditures were prudently made, and accordingly, they should be approved by the Commission.

FPL's 2008 preconstruction activities were dedicated to selecting a candidate design, identifying the key procurement activities required, and developing the applications for licenses, permits and approvals needed for construction and operation of the project. Tr. 43-44 (Scroggs). Also during 2008, several key decisions were made regarding how FPL would pursue the commercial aspect of the project. *Id.* The costs identified above were expended in furtherance of these activities and were supported by the robust system of internal controls discussed above in response to Issues 6 and 7.

As indicated above in response to Issue 14, Concentric determined that FPL acted prudently while incurring the costs it examined from the beginning of the project through year-end 2008. Tr. 410 (Reed). These actions were specifically designed to methodically preserve the option to pursue new nuclear generating capacity at the Company's Turkey Point site while delaying a commitment to build this capacity for as long as is reasonably feasible. *Id.* By doing so, the Company is preserving its customers' ability to receive the substantial economic benefits of nuclear power at a future date while minimizing the near term expenditures required to maintain this option. *Id.* No party presented evidence disputing the prudence of FPL's 2008 Turkey Point 6 & 7 expenditures.

ISSUE 16: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2009 costs for FPL's Turkey Point Units 6 & 7 project?

FPL: *The Commission should approve $45,640,661 ($45,444,468 jurisdictional) in preconstruction costs, $3,560,771 in related carrying charges and $472,938 as carrying charges on prior years' unrecovered site selection costs. FPL's 2009 actual/estimated expenditures are supported by comprehensive procedures, processes and controls which help ensure that these costs are reasonable.*

FPL has demonstrated that the following actual/estimated amounts are reasonable for the Turkey Point 6 & 7 project in 2009: preconstruction expenditures of $45,640,661 ($45,444,468 jurisdictional) and related carrying charges of $3,560,771; and site selection carrying charges of $472,938. Tr. 332, 342, 345 (Powers); Ex. 13 (App. II, p. 17); Ex. 38). These costs are necessary to continue progress on the project.

FPL applies an adaptive and disciplined management approach to the complex challenge of deploying new nuclear generation, and at present, the focus is on completing and defending the necessary license and permitting applications. Tr. 90-91 (Scroggs). The primary project milestones for 2009 are related to the submittal and docketing/acceptance of these license and permit applications. Tr. 111 (Scroggs).

As described by Witness Scroggs, FPL is taking the necessary steps to maintain progress toward delivering the benefits of new nuclear generation to FPL's customers, without taking unnecessary cost or schedule risks. Tr. 91 (Scroggs). To that end, FPL determined that it was able to defer approximately $71 million in the Power Block Engineering and Procurement category related to a large percentage of the anticipated Engineering and Procurement contract, while it continues to monitor key issues in state legislation, commercial negotiations, and the licensing and permitting timeline. Tr. 109 (Scroggs).

Aside from Witness Cooper's unsupported claim that FPL should stop spending any money in the pursuit of the new nuclear option, no party to this proceeding disputed the reasonableness of any particular 2009 expenditures. Furthermore, these estimates are based on FPL's close monitoring of potential challenges to the project and subject to the robust internal controls discussed above in response to Issues 6 and 7. Accordingly, the evidence supports a determination that FPL's actual/estimated 2009 expenditures are reasonable.

ISSUE 17: What system and jurisdictional amounts should the Commission approve as reasonably projected 2010 costs for FPL's Turkey Point Units 6 & 7 project?

FPL: *The Commission should approve $91,730,615 ($90,654,124 jurisdictional) in preconstruction costs, $973,735 in related carrying charges and $233,136 as carrying charges on prior years' unrecovered site selection costs. FPL's 2010 projected expenditures are supported by comprehensive procedures, processes and controls which help ensure that these projected costs are reasonable.*

FPL has demonstrated that the following projected amounts are reasonable for the Turkey Point 6 & 7 project in 2010: preconstruction expenditures of $91,730,615 ($90,654,124 jurisdictional) and related carrying charges of $973,735; and carrying charges on Site Selection expenditures of $233,136. Tr. 332, 343, 345 (Powers); Ex. 13 (App. II, p. 50); Ex. 38. These expenditures will be necessary for continued progress on the Turkey Point 6 & 7 project.

In 2010, FPL will continue to develop Turkey Point 6 & 7 through its deliberate, stepwise decision making process and will continue to monitor and respond to key issues that could affect the project. Key milestones in 2010 include the expected publication of a draft Environmental Impact Statement from the NRC, which will be utilized by the Army Corps of Engineers in the wetland permit application process. Tr. 112 (Scroggs). Additionally, FPL expects to complete all Power Plant Siting Act activities in 2010. *Id.* FPL also plans to pursue engineering and construction activities that will help define the sequence and logistical requirements for the construction period. These activities will allow FPL to develop a refined project construction schedule that will be combined with the expected licensing and permitting timeline to better establish the overall project schedule. Tr. 112-13 (Scroggs). Continued commercial negotiations will also assist in refining the capital cost estimate range. Tr. 113 (Scroggs).

Aside from Witness Cooper's unsupported claim that FPL should stop spending any money in the pursuit of the new nuclear option, no party to this proceeding disputed the reasonableness of any particular 2010 expenditures. Furthermore, these projections are based on

FPL's close monitoring of potential challenges to the project and subject to the robust internal controls discussed above in response to Issues 6 and 7. Accordingly, the evidence supports a determination that FPL's projected 2010 expenditures are reasonable.

ISSUE 18: What is the total jurisdictional amount to be included in establishing FPL's 2010 Capacity Cost Recovery Clause factor?

FPL: *The total amount to be included is $62,789,984. This includes site selection costs, pre-construction costs and carrying charges for Turkey Point 6 & 7; and carrying charges on construction costs, O&M costs and base rate revenue requirements for EPU – all as provided for in Section 366.93 and the Rule.*

The record shows that FPL's actual 2006-2008 Turkey Point 6 & 7 costs and actual 2008 EPU costs were prudently incurred. Additionally, FPL's actual/estimated 2009 costs and projected 2010 costs for both projects are reasonable. Accordingly, the Commission should approve a NPPCR amount of $62,789,984 on a jurisdictional adjusted basis to be recovered through the 2010 CCRC. Tr. 330, 348, 351 (Powers).

Respectfully submitted this 18th day of September, 2009,

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