BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.	DOCKET NO. 100009-EI ORDER NO. PSC-10-0542-CFO-EI ISSUED: August 23, 2010

ORDER GRANITING REVISED CONFIDENTIALITY REQUEST BY FLORIDA POWER & LIGHT COMPANY (DOCUMENT NO. 06975-10)

On August 17, 2010, Florida Power & Light Company (FPL) filed responses to staff's Seventh Set of Interrogatories (Document No. 06789-10) and Staff's Fourth Request for Production of Documents (Document No. 06790-10). Included in those responses were an employee complaint letter filed in response to Production of Document Request Number 21 and an investigative report regarding that letter filed in Response to Production of Document Request Number 25. Discussion of the letter and report were contained in Commission staff's audit report attached as Exhibit FR-1 to the pre-filed joint testimony of Commission staff witnesses Lynn Fisher and David Rich. At the time of filing those responses to staff's discovery, FPL filed its Notice of Intent to Claim Confidential classification of portions of those responses and responsive documents.

On August 2, 2010, Order No. PSC-10-0482-PCO-EI was issued setting a Confidentiality Evidentiary Hearing for August 20, 2010, to consider confidentiality requests for all testimony and hearing exhibits that are to be used during the Nuclear Cost Recovery Hearing (main hearing). Pursuant to that Order, staff filed its list of issues to be considered at the August 20, 2010 Confidentiality Evidentiary Hearing. Included in its list of issues for that hearing was FPL's response to staff's discovery and to the Concentric Report.

During the Confidentiality Evidentiary Hearing, FPL stated that it withdrew its request for the confidential treatment of the FPL employee complaint letter, except for FPL employee names and positions. On August 23, 2020, FPL filed with the Commission Clerk the revised confidential document with FPL and FPL Group[1] employee names and titles highlighted to remain confidential (Document No. 06975-10). FPL asserted that the highlighted information is proprietary confidential business information within the meaning of Section 366.093(3), Florida Statutes (F.S.). FPL argued at the Confidentiality Evidentiary Hearing that the FPL employee names and positions should be kept confidential to protect FPL's competitive interests, since revealing names of FPL employees would impair FPL's ability to hire and retain certain highly-skilled individuals. FPL stated that FPL employee names and titles as they appear in the FPL employee complaint letter, are intended to be and are kept confidential by FPL. FPL also filed a revised redacted version of the FPL employee complaint letter (Document No. 06977-10). A copy of the revised redacted FPL employee complaint letter is attached to this Order as Attachment A.

[1] The Prehearing Officer takes exception to FPL's claim of confidentiality regarding the name of a FPL Group Corporate Officer as redacted in the FPL employee complaint letter.

Based on the foregoing, I find that the redacted information in the attached FPL employee complaint letter, with the exception noted in Footnote 1 to this Order, meets the requirements of Section 366.093(3), F.S. All prior requests for confidentiality of the FPL employee complaint letter are superseded by FPL's filing of Attachment A and are deemed withdrawn.

Pursuant to Section 366.093(4), F.S., the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless FPL or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Based on the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification of Document No. 06975-10, as shown in Attachment A to this Order, is granted except as noted in Footnote 1. It is further

ORDERED that the information in Document No. 06975-10 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 23rd day of August, 2010.

NATHAN A. SKOP
Commissioner and Prehearing Officer

(SEAL)

LCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

ATTACHMENT A

CONFIDENTIAL

FPL 152898
NCR-10

100009-EI

REDACTED

[redacted] Investigation Report

Prepared for

Florida Power & Light Company

June 21, 2010

ATTACHMENT A

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Executive Summary

This report is the result of an approximately two month long investigation undertaken by Concentric Energy Advisors at the request of Florida Power & Light's Law Department. Our investigation was triggered by a letter that was sent to FPL Group's CEO from a [redacted] within the nuclear division of FPL. This letter made several allegations relating to senior management's performance regarding the cost estimation and project controls functions of the Company's Extended Power Uprate projects, and raised concerns about the timeliness and reliability of FPL's internal and external reporting of EPU-related information.

Our investigation has focused on two separate sets of issues stemming from the letter and our subsequent information gathering process: 1) whether FPL's decision to continue pursuing the EPU Project in 2009 was prudent, and whether the costs that have been incurred for this project were all prudently incurred, and 2) what policies, procedures or practices within FPL's EPU Project may need to be revised or reinforced to address the concerns raised in this letter.

Our investigation has included 13 interviews and the review, or re-review, of thousands of pages of documentation produced by the EPU Project in 2008, 2009, and 2010. We have concluded that:

1. FPL's decision to continue pursuing the EPU Project in 2009 was prudent and was expected to be beneficial to FPL's customers; FPL properly considered an updated cost estimate in its updated feasibility analysis in July 2009, which reinforced the conclusion that significant benefits were expected from the Project.
2. All of FPL's expenditures on the EPU Project have been prudently incurred.
3. Certain information provided by FPL in the 2009 NCRC was out-of-date and did not represent the best information available at that time; FPL is currently taking steps that Concentric believes will address this concern for the future.
4. The EPU Project management did not consistently follow certain procedures that were intended to govern this project in 2009; in addition, the Project's senior management in the first half of 2009 was slow to respond to concerns that were raised regarding the Project's cost estimates; these issues are currently being addressed by the senior management team that was installed in the second half of 2009.
5. FPL should consider taking certain actions that are discussed in the body of this report to strengthen the Project Controls organization and to better ensure compliance with existing procedures.

CONFIDENTIAL

I. Introduction

On February 19, 2010 Mr. Lewis Hay, the Chairman and Chief Executive Officer of FPL Group, Inc ("FPL Group") received a letter from [redacted] Letter"), an employee within the [redacted] of Florida Power & Light Company ("FPL").[1] The [redacted] Letter included concerns about the "cost performance in Nuclear Projects and Extended Power Uprate in 2009" and allegations related to the reporting of this performance to FPL's executive management and the Florida Public Service Commission ("FL PSC")

Concentric Energy Advisors, Inc ("Concentric") was provided an electronic copy of this letter by FPL's Law and Regulatory Affairs Departments on March 10, 2010. A copy of the letter is attached as Exhibit 1. Following initial discussions between Concentric and FPL, Concentric was retained by FPL's Law Department on March 15, 2010 to conduct an independent investigation of the claims and matters set forth in the [redacted] Letter.[2] A copy of Concentric's engagement letter is included as Exhibit 2. Pursuant to Concentric's engagement by FPL, Concentric is reporting directly to FPL's Law Department, and specifically to [redacted] All data requests were sent directly to [redacted] or his designee, [redacted] Similarly, Concentric's findings and recommendations in this matter are being provided directly to [redacted]

Concentric's investigation of the allegations raised in the [redacted] Letter explicitly excluded matters related to the performance review of [redacted] and all other human resources related matters. Concentric understands that these matters are being and will continue to be handled internally by FPL's Human Resources Department.

The remainder of our report is organized into eight sections. Section II presents a summary of Concentric's work plan that was used to perform this investigation. Section III includes a summary response to the [redacted] Letter, including reference to an interlineated copy of the [redacted] Letter. Section IV presents a chronology of key events related to the [redacted] Letter occurring between January 2008 and March 2010. Section V reviews Concentric's findings related to FPL's decision to proceed with the Extended Power Uprate Projects at the Company's St. Lucie ("PSL") and Turkey Point ("PTN") Nuclear Power plants ("EPU Projects"). As discussed further in this section, Concentric has focused its attention in this matter on the nuclear units in Florida due to the state regulatory structure. Section VI reviews the implications of the [redacted] Letter and Concentric's investigation of FPL's activities in the Nuclear Cost Recovery Clause ("NCRC") dockets in 2008 and 2009.[3] A review of Concentric's findings related to the flow of information from FPL to the FL PSC and its staff ("FL PSC Staff") can be found in Section VII. Similarly, a review of the flow of information within FPL can be found in Section VIII. Finally, a review of Concentric's findings and specific recommendations can be found in Section IX. These recommendations should be read in conjunction with the pre-filed direct testimony of Mr. John J. Reed, filed with the Florida Public Service Commission on March 1st and May 3rd in Docket 100009-EI.

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1 [redacted] title as of the date of the [redacted] Letter is [redacted]

2 Engagement Letter from [redacted] to John Reed, Re: Independent Investigation of February 19, 2010 correspondence to Mr. Lewis Hay, FPL Group Chairman and CEO, March 15, 2010.

3 FL PSC Dockets 080009-EI & 090009-EI, In Re: Nuclear Cost Recovery Clause.

II. Concentric Overview and Workplan

Concentric is a management and economic consulting firm based in Marlborough, MA. Concentric has previously been retained by FPL to provide regulatory support on a variety of matters including testimony before the FL PSC. A list of Concentric's prior work for FPL is provided in Exhibit 3. Concentric's work plan for this investigation is provided below.

A. Overview of Scope

Concentric's scope of work regarding the investigation of allegations contained in the [redacted] letter included a factual review of the events between August 2007 and March 31, 2010. Concentric then sought to determine how this set of events supported or contradicted the allegations contained in the [redacted] letter and affected the distribution of information within FPL and to the FL PSC. Finally we have provided our recommendations for improvements that will help prevent similar issues from occurring in the future .

As outlined below, the assertions outlined in the [redacted] Letter largely fall within two categories: 1) the prudence of FPL's actions and the distribution of information to the FL PSC and; 2) the internal distribution of EPU Project-related information.

B. Sources of information

Concentric's investigation into this matter relied upon two primary pathways for information. First, Concentric submitted a number of requests for documentation to FPL in order to deepen our knowledge of the allegations set forth in the [redacted] Letter and to independently confirm details provided to us in the interviews described below. A log of Concentric's document requests can be found in Exhibit 4.

Concentric also requested and conducted 13 separate interviews. Eight of Concentric's interviews were conducted in person at the offices of FPL or at an off-site location, depending on the location of the interviewee. The remaining five interviews were conducted via telephone. All of Concentric's interviews occurred between the weeks of March 15 and April 12. Concentric selected specific individuals to be interviewed based upon the allegations contained in the [redacted] Letter, our prior interviews, and Concentric's understanding of the EPU Project organization. Concentric considers the names of the individuals we interviewed to be confidential. Prior to beginning each interview, Concentric reviewed the FPL Code of Business Conduct and Ethics (the "Code") with each interviewee. This review included a specific discussion of each employee's "responsibility to report any actual or suspected violation of a law or regulation, any actual or suspected fraud, and any other violation or suspected violation of this Code."[4] Similarly, Concentric reiterated the Company's non-retaliation commitment outlined in the Code.[5] At the conclusion of each interview, the interviewees were given an opportunity to raise any additional concerns they may have had.

The information Concentric relied upon in this investigation was supplemented by Concentric's existing knowledge of the EPU Projects' organization and activities.

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[4] FPL Group, Inc, Code of Business Conduct and Ethics, most recently revised October 16, 2009, p. 2.
[5] Ibid.

C. Independence

Throughout Concentric's investigation into the allegations contained within the [redacted] Letter, Concentric maintained our independence from FPL's Law and Regulatory Affairs Departments. Our approach to investigating the [redacted] Letter and the allegations contained therein is our own, and not the result of specific directions from FPL, its employees, or contractors. To this end, FPL did not place any constraints on Concentric's access to current and former employees. Lastly, Concentric was not constrained by budget or schedule expectations on the part of FPL.

Concentric's findings in this matter are based upon our review of original sources. Concentric did not rely solely upon statements by FPL employees or contractors. Instead, Concentric reviewed and verified assertions made in the [redacted] Letter and Concentric's interviews with contemporaneous documents produced by the EPU Project team whenever possible. The documents relied upon as part of this investigation are presented in Exhibit 5.

D. Report Organization

Concentric's report is divided into two major categories. First our report addresses those items which are directly related to the FL PSC and prudence of FPL's decisions and actions. Second, Concentric has reviewed and addressed the development and distribution of information within FPL. Concentric notes this division is necessary to differentiate those matters which may affect FPL's recovery of costs and interaction with the FL PSC, from those matters which represent best practices in the development and distribution of information within FPL.

Sections III and IV of the report provide factual backgrounds for both categories of this report. Sections V through VIII address the matters related to the FL PSC and the prudence of FPL's decisions and actions. Finally, Sections IX and X address FPL's development and internal distribution of information relating to the EPU Project forecast.

E. Key questions

Concentric's review of the allegations raised in the [redacted] Letter and our interviews, identified three key questions which are related to the prudence of FPL's actions. These key questions are intended to determine whether any imprudent costs were passed onto FPL's customers, or if FPL did provide relevant information from the FL PSC.

1. Did FPL make the correct decision to proceed with the EPU Projects in 2009 in light of the best information available at the time decision was made? This question is a threshold issue for assuring prudent conduct on the part of FPL.
2. Were *any* costs incurred that should not be passed on to FPL's customers on the grounds of imprudent decision-making?
3. Was the information provided to the FL PSC and the interveners in each of the NCRC dockets accurate, consistent, timely and reliable?

Concentric also identified two key questions which relate to the internal development and distribution of EPU Project-related information. These key questions are intended to determine if FPL's executive management were informed as to the direction of the EPU Project.

1. Was the information flowing from the EPU Projects to FPL's executive management accurate, timely, consistent, and reliable?
2. What polices, processes, and procedures, if any, need to be reviewed as a result of Concentric's findings?

III. Response to [redacted] Letter

Exhibit 6 presents a copy of the [redacted] Letter to which Concentric has added its summary-level observations that resulted from our investigation of the allegations contained therein. In addition, each observation contains a citation to this report.

As can be seen in Exhibit 6, most of the factual assertions raised in the [redacted] Letter were shown to be accurate. Specifically, Concentric has noted documentation which confirms [redacted] statements related to the timing of the initial scoping studies by Shaw and the ongoing changes in the overall project scope. However, Concentric believes the evolving scope of the EPU Projects to have been the predictable result of the regulatory and engineering factors which are inherent in any complex nuclear retrofit project.

Along these same lines, Concentric has reviewed certain reports relied upon by [redacted] to support his assertion that as of November 2009, the EPU Projects were continuing to measure their cost performance relative to the original 2007 cost estimates. These reports, the November PTN Total Project Cash Flow Report[6] and the PSL Annual Project Cash Flow Report[7], confirmed [redacted] assertion. However, all of the Executive Steering Committee ("ESC") presentations since July 25, 2009, and specifically in November 2009, used the updated cost forecast.[8]

Concentric also found evidence which indicates the [redacted] and the [redacted] were alerted to the potential for underestimated costs at PSL as early as April 2008.[9] Similar opportunities were noted throughout the second half of 2008, and specifically in December, 2008 when these individuals were presented with a preliminary revised forecast for PSL. This followed the award of an engineering, procurement and construction ("EPC") contract for the EPU Projects to Bechtel Corporation ("Bechtel"). At this time, the PSL Project Team was told to continue refining their forecast until February 2009 when it was reviewed again by the EPU senior management. As noted in Section IV, the forecast presented in February 2009 was significantly higher than the 2008 forecast.

Overall, Concentric found [redacted] to be credible. The basis of this finding includes Concentric's interview with [redacted], the fact that [redacted] chose to send his letter on a non-anonymous basis, and the supporting documentation produced or cited by [redacted]. Moreover, Concentric believes [redacted] is a capable project controls employee with a strong background within his function. [redacted] employment history includes the previous positions noted in the [redacted] Letter[10] and many years of prior project controls employment as a contractor at FPL's PTN site, as well as other nuclear facilities in the US. FPL had enough confidence in [redacted] capabilities to

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6 Total Project Cash flow, PTN EPU Project 2009, November 2009.
7 Annual Cash Flow, PSL EPU Project, October 2009.
8 Extended Power Uprates, Executive Steering Committee, St. Lucie and Turkey Point November 13, 2009, p. 5.
9 CR 2008-11443, April 3, 2008.
10 [redacted] Letter, p. 2.

give him responsibility for multiple major projects and a staff of approximately 100 people.[11] While [redacted] was not aware of all of the developments and documents relating to the preparation and presentation of cost estimates and his knowledge of the information flow for the EPU Projects ceased when he left the Project in July, 2009, his letter is largely factually accurate.[12]

IV. Chronology of Events

A chronology of the EPU Projects is presented in Exhibit 8. A summary of the chronology, including the major events relevant to Concentric's review are highlighted below. This chronology was used to more fully understand the ongoing dynamics of the EPU Projects and the precise timing of certain EPU Project activities. The summary presented below should not be used as a substitute for a review of the entire chronology presented in Exhibit 8.

A. Chronology

The EPU Projects began in 2007, at which time FPL undertook an initial scoping study to determine a rough order of magnitude ("ROM") cost estimate based upon a preliminary assessment of the components which would require replacement to operate PSL and PTN at the uprated conditions.[13] Concentric understands, as originally proposed, the EPU Projects were expected to commence operations post-2012, but the schedule was advanced following the FL PSC's rejection of the Glades Power Park Determination of Need in 2007.[14] FPL filed for a Determination of Need for the EPU Projects on September 17, 2007.[15]

In the winter of 2007 and 2008, FPL retained Shaw to review FPL's initial scoping study and to confirm or reject the results of this analysis. Concentric understands from our interviews that these studies generally confirmed the FPL scoping analysis, but some discrepancies related to the replacement or refurbishment of certain components existed for Turkey Point. The initial cost estimate included a contingency allocation of approximately 45%.[16]

In April 2008, the EPU Project team assigned to PSL (the "PSL Project Team") identified the potential to exceed the original FPL & Shaw scoping estimates. At this time, the PSL Project Team initiated Condition Report 2008-11443 (the "CR") which stated the "EPU Project Feasibility Study may not have captured the full spectrum of modifications necessary" for the uprate.[17] In response to this CR, the EPU Project team developed a "High Risk Mitigation Plan" which was attached to the CR.[18] The High Risk Mitigation Plan included a list of actions which were required to be

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[11] Ibid.

[12] Following our interview with [redacted] on March 17, 2010, [redacted] notified Concentric and FPL via email on March 19, 2010 of potential retaliation against him by his supervisor. A copy of this email is attached as Exhibit 7. Concentric reported this email to FPL's Law Department. It is Concentric's understanding this matter was addressed by the FPL Human Resources ("HR") Department.

[13] Florida Power & Light Company's Petition to Determine Need for Expansion of Electrical Power Plants and for Exemption from Rule 25-22.082, F.A.C., Docket No. 070602-EI, September 17, 2007.

[14] Florida Public Service Commission, Order No. PSC-08-0021-FOF-EI, January 7, 2008.

[15] Florida Power & Light Company's Petition to Determine Need for Expansion of Electrical Power Plants and for Exemption from Rule 25-22.082, F.A.C., Docket No. 070602-EI, September 17, 2007.

[16] Ibid.

[17] CR 2008-11443, "Detailed Description," April 3, 2008, p. 1.

[18] Ibid., p. 8.

completed by the EPU Project team including preparation and submission of a revised cost estimate to the [redacted] among other items. The High Risk Mitigation Plan was signed by the [redacted] and the [redacted] but not the [redacted] Concentric does not believe that this High Risk Mitigation Plan was ever completed. Concentric also requested a copy of the revised cost estimate described in the High Risk Mitigation Plan, but was told that this document could not be located, nor could its existence be confirmed.[19]

Throughout the period from August 2008 to November 2008, the PSL trend register indicated a potential for underestimation of the EPC costs for the PSL EPU. On November 7, 2008 the EPU Projects' EPC vendor submitted a revised forecast of $262MM for the PTN EPU.[20] This compares to the scoping analysis assumption of $225MM.[21]

In December 2008, the PSL Project Team again identified the potential to exceed the original forecast following the execution of the EPC agreement with Bechtel. A preliminary, revised forecast for PSL was prepared and provided to the EPU Project management at that time. EPU Project management, however, requested that the PSL Project Controls group further refine and develop the revised forecast.

CR-2008-37753 was written by the PSL Project Team in December 2008 and noted the EPU Project is a major change for PSL and should have a change management plan in place. In addition, CR-2008-37753 goes on to state that CR-2008-11443 was closed with several future actions contained within a risk mitigation plan and tracked separately within the EPU Risk Mitigation Program. CR-2008-37753 concluded that there was a "missed opportunity" to treat CR-2008-11443 as a change management plan.[22]

A second meeting to review the revised PSL forecast occurred in February 2009. This meeting was attended by the EPU Project management team and reportedly included [redacted] who was appointed the [redacted] as of January 2009, and the PSL Project Team. At this time EPU Senior Management was presented with a forecast of approximately $785 MM for PSL, an increase of approximately $129 million over the then current budget.[23] It was reported to Concentric that the [redacted] responded with a number of questions related to the basis for the revised forecast and requested additional refinement of the forecast.

A similar exercise was undertaken for PTN in March 2009, and PTN began to report its performance relative to this revised forecast. However, the PTN Project Team was instructed by the [redacted] to revise the initial reports, to measure cost performance relative to the original project baseline because the revised estimate still had to be "validated," and because an "extensive effort [was] about to begin to evaluate [PTN's] estimated cost to complete for the PTN EPU Project."[24]

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[19] The June 8, 2008 Risk Register includes an item which is similar to the High Risk Mitigation Plan, but the documents required to close out this High Risk Mitigation Plan could not be located.
[20] Extended Power Uprates, Project Update, Turkey Point, July 25, 2009, pp. 25-26.
[21] Ibid.
[22] CR 2008-37753, "Additional Information," December 10, 2008, p. 1.
[23] Summary Cash Flow EPU Total 090217 Reviewed.xls, "PSL EPU Project Total," February 17, 2009.
[24] Email of [redacted] to anonymous recipient, dated March 26, 2009.

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On May 1, 2009 the [redacted] submitted pre-filed, direct testimony in Docket 090009-EI before the FL PSC.[25] In this testimony, the [redacted] stated "The EPU Projects are progressing on schedule and within budget." Additionally, this pre-filed direct testimony stated "There are no changes at this time to the total non-binding cost estimate provided in May 2008 in Docket 080009-EI."[26] At the same time, FPL submitted the pre-filed, direct testimonies of [redacted] and Mr. John J. Reed, Chairman and CEO of Concentric.[27]

At the end of May 2009, the EPU Project management team reported to the ESC that the Bechtel EPC estimates had increased to a level in excess of Bechtel's indicative bid.[28] The ESC is charged with corporate governance of the EPU Project, and includes FPL's President, Chief Nuclear Officer, Chief Financial Officer, FPL Group's President, and several others. This increase was reported to be the result of higher than expected projections of field non-manual and manual labor hours.[29] Similarly, the current EPU estimates were reported to include redundant project management and oversight costs which the EPU Project management team believed may be able to be eliminated to reduce the EPC vendor's forecast.[30] Finally, it was reported that the EPU scope had grown larger than the indicative bid presented in November 2008. The EPU Project management team noted that the current estimates were based on preliminary design information, and that the project was in the process of refining new "level 1" estimates.[31] A target completion date of June 30, 2009 for the new "level 1" estimates was presented to the ESC at this meeting.[32]

Following the May 2009 ESC presentation, the EPU Project management team undertook an EPU Modification Scope Review for both PTN and PSL.[33] The results of these reviews were reported on June 16, 2009 and recommended the elimination of a substantial number of modifications as not necessary to operate in an uprated condition.[34]

The subsequent ESC meeting was held on June 23, 2009.[35] In this presentation, the EPU senior management team noted that the EPU Projects were completing "level 2" estimates and reiterated the concerns related to the EPC estimates since Bechtel's indicative bid in November 2008.[36] This presentation was relatively short and precipitated a much more detailed cost review in July 2009.

During the intervening period between the June and July 2009 ESC presentations, the EPU Project team expended considerable effort to produce a detailed, "line-by-line" cost review for both the PSL and PTN project. Concurrently, a decision to replace the EPU senior management team was made. As a result FPL's executive team recruited four employees for the EPU Project team including a new [redacted]

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25 Direct Testimony of [redacted], Docket No. 090009-EI, May 1, 2009.
26 Ibid. at pp. 2-3.
27 Florida Power & Light Company's Petition for Approval of Nuclear Power Plant Cost Recovery Amount for the Period January – December 2010, May 1, 2009.
28 Extended Power Uprates, Executive Steering Committee Update, Saint Lucie & Turkey Point, May 2009 p. 3.
29 Ibid., p. 14.
30 Ibid.
31 Ibid., p. 15.
32 Ibid., p. 18.
33 PTN EPU Scope Review dated June 2009, PSL EPU Modification Scope Review dated June 16, 2009.
34 Ibid.
35 Extended Power Uprates, Executive Steering Committee Meeting, Saint Lucie & Turkey Point, June 23, 2009.
36 Ibid., p. 12.

[redacted] These individuals were selected and recruited from within FPL between the end of June 2009 and July 25, 2009.

At the July 25, 2009 ESC presentation, the new EPU senior management team was introduced and the ESC was briefed in detail on the revised cost forecast. At this time, the forecast for PTN was revised upward by approximately $161 million from $749 million to $910 million.[37] Similarly, the PSL forecast was revised upward by approximately $140 million from $656 million to $796 million.[38] The slides which presented this information to the ESC noted that the "current budget" was being increased to the "current forecast."[39] Simultaneously, the ESC was advised that the May 1, 2009 NCRC feasibility filing had been based on included the original 2008 cost forecast, and revised feasibility scenarios were presented based upon the current forecast as of July 25, 2009.[40] These revised feasibility scenarios confirmed the continued cost effectiveness of the EPU Projects. FPL has reported that the ESC assigned additional action items related to the revised forecast to the EPU Project Management Team. These action items included continued negotiations to reduce Bechtel's costs.

Following the July 25, 2009 ESC meeting, [redacted] left the EPU Project and returned to FPL's Nuclear Projects Department.[41]

No ESC meeting was held in August 2009, but both EPU Projects produced a cash flow report. In the case of PTN, the Total Project Cash Flow report was not updated to reflect the revised forecast that had been presented to executive management on July 25, 2009.[42] In contrast, the PSL Annual Project Cash Flow report was reviewed, the budget performance indicator was changed to red, and the total project cost summary presented on this report continued to be shown as "under review."[43]

On September 8, 2009 the NCRC hearings in Tallahassee began. During these hearings the [redacted] testified that should he be asked the same questions contained within his pre-filed, direct testimony his answers would remain the same.[44]

On September 9, 2009, the ESC was presented with a newly revised forecast that further increased the cost the EPU Projects by approximately $104 MM total for both sites.[45] This presentation stated that approximately 30% of the total project costs have "high certainty."[46]

At the October 22, 2009 ESC meeting, the ESC was advised that the current forecast for the projects was unchanged, but that the contingency had decreased by approximately $12 million.[47] In addition, the AFUDC estimate was decreased by approximately $150 million to $200 million.[48] A footnote in the presentation indicates the AFUDC was reduced to reflect FPL's pro-rata share of

[37] Extended Power Uprates, Project Update, Turkey Point, July 25, 2009, p. 5.
[38] Extended Power Uprates, Project Update, Saint Lucie, July 25, 2009, p. 8.
[39] Ibid., p. 11 *and* Extended Power Uprates, Project Update, Turkey Point, July 25, 2009, p. 8.
[40] Ibid. p. 50.
[41] [redacted]
[42] Total Project Cash Flow, PTN EPU Project 2009, August 2009.
[43] Annual Cash Flow, PSL EPU Project, August 1, 2009.
[44] Transcript of Direct Examination of [redacted] September 8, 2009, pp. 208-209.
[45] Extended Power Uprates, Executive Steering Committee, St. Lucie and Turkey Point, September 9, 2009.
[46] Ibid., p. 9.
[47] Extended Power Uprates, Executive Steering Committee, St. Lucie and Turkey Point, October 22, 2009.
[48] Ibid., p. 6.

PSL Unit 2.[49] The remaining values shown in this presentation are depicted as the full cost of the EPU Projects regardless of ownership.

Also in October, PSL produced two different Annual Project Cash Flow Reports with different budget performance indicators and different total project cost summaries. The first of these reports is dated October 1, 2009.[50] This report includes a red performance indicator and the total project cost summary is listed as "under review". The second report is dated October 2009. The budget performance indicator in this report is listed as yellow and the total project cost summary is changed to $651 million.[51] No one with whom Concentric spoke could explain the difference or the reason for the two reports.

B. Key Conclusions from Chronology

Concentric has developed the following conclusions which are relevant to the three key questions noted in Section II to be relevant to the prudence of FPL's management decisions and the two key questions related to the information development and distribution within FPL:

- The original FPL and Shaw scoping studies provided the basis for FPL's decision to proceed with the EPU Projects in 2007.
- The EPU senior project management was alerted to the potential for the forecast to increase as early as April 2008 through CR-2008-11443.
- The EPU senior project management reviewed a preliminary, revised forecast for PSL as early as December 2008 and a more refined version of this analysis in February 2009.
- The EPU senior management prepared the July 25, 2009 ESC presentations with the intent of providing a detailed, line-by-line review of the changes to the forecast.
- As of July 25, 2009, FPL believed the EPU Projects continued to be economic based on the revised forecast and projected incremental output.
- The [redacted] was aware of and had assisted in the presentation of a revised cost estimate to FPL's executive managers on July 25, 2009.

V. FPL's Decision to Proceed with the EPUs

In determining whether EPU Project costs were prudently incurred, the FL PSC will be concerned with two items. First is whether the decision to proceed with the project was prudent based on the expected economic and other benefits to FPL's customers. That question is addressed below. Second, the FL PSC will be concerned with whether the EPU Project's costs were prudently incurred. This question is addressed in Section VI.

The initial decision to proceed with the EPU Projects was made in August 2007 on the basis of FPL's preliminary scoping analysis which predicted, at a high level, which plant components would require replacement or modification to support the increased output of the plants.[52] As was

[49] Ibid., pp. 6, 18.
[50] Annual Cash Flow, PSL EPU Project, October 1, 2009.
[51] Annual Cash Flow, PSL EPU Project, October 2009.
[52] Shaw Stone & Webster, Inc., Turkey Point Nuclear Plant, Balance of Plant, Extended Power Uprate Scoping Study, February 2008 *and* Shaw Stone & Webster, Inc., St. Lucie Nuclear Plant, Balance of Plant, Extended Power Uprate Scoping Study, February 2008.

necessarily the case, this work was completed absent any detailed design work. The information presented in this study was used as one component of a feasibility analysis which compared the operating cost of FPL's portfolio of generating resources with and without the EPU Projects.[53] In addition to the estimated cost to complete the EPU Projects, this analysis relied upon the projected level of incremental output, the commercial operations dates of the EPU Projects and the duration of the outages. To the extent the resource portfolio that included the EPU Projects was projected to be cheaper to operate than the generating portfolio absent the EPU Projects, it was deemed the EPU Projects were in the best interest of FPL and its customers. Thus the question becomes would reporting of the revised forecast to FPL's Executive Management have materially affected the feasibility analysis and influenced FPL's executive management's decision to proceed with the EPU Projects in 2008 or again in 2009?

It would not be appropriate to assume FPL's executive management should have become aware of the revised cost estimate in December 2008. The estimate that was prepared at this time was preliminary in nature and warranted additional review by the EPU Project team to further align it to the EPU senior management's objectives for the EPU Projects. Virtually all interviewees agreed with this conclusion.

It is Concentric's conclusion that, at-best, awareness of a revised forecast could have been improved by five months. Concentric believes the five month timeframe is appropriate given the February 2009 meeting between the EPU senior management and the PSL project team. As noted above, this meeting followed an initial review of the PSL cost estimate in December 2008. Following a conclusion as to how much awareness of the revised forecast could have improved in the "best case scenario," Concentric evaluated whether this would have affected FPL's decision to proceed with the EPU Projects. In this regard, it is important to note that roughly contemporaneous with the revision to the cost estimate, FPL also learned that a higher level of incremental output may be produced by the EPU Projects. This additional output was the result of more detailed engineering which had been completed since the original scoping studies in 2007.[54]

As noted above, FPL's decision to proceed with the EPU Projects was based on an economic feasibility analysis which relied upon the expected incremental output of the facilities as well as the expected cost, among other items. Due to the increase in the projected output of the EPU Projects, the economic feasibility analysis was not substantially affected by the revised cost estimate. Indeed the July 25, 2009 ESC presentation for PSL indicates that, when both the higher costs and greater output are considered, the EPU Projects continued to be economic, although approximately 14-59% less so, as compared to the information submitted on May 1, 2009 to the FL PSC.[55] Advanced awareness of the increased cost estimate in the best case scenario would not have altered FPL's decision to proceed with the EPU Projects. Further, Concentric notes that prudence is defined by a range of reasonable actions, not by perfect or even significantly above average performance. Thus, EPU Senior Management did not act imprudently by presenting the revised forecast to the ESC in July 2009 rather than February 2009.

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[53] Florida Power & Light Company's Petition to Determine Need for Expansion of Electrical Power Plants and for Exemption from Rule 25-22.082, F.A.C., Docket No. 070602-EI, September 17, 2007.
[54] Extended Power Uprates, Project Update, Turkey Point, July 25, 2009 *and* Extended Power Uprates, Project Update, Saint Lucie, July 25, 2009.
[55] Extended Power Uprates, Project Update, Saint Lucie, July 25, 2009, Pg. 50.

VI. The Review and Approval of EPU Costs in the NCRC

Concentric's review of the [redacted] Letter has illustrated the distinction between the cost estimation process and the incurrence of specific costs. The former is the projection of future costs without the actual expenditure of company or customer dollars. The latter is more critical to the FL PSC's review and involves the actual expenditure of company and customer dollars or the commitment to do so at a later date.

The [redacted] Letter indicates [redacted] concerns are specific to the cost estimation process within the EPU Projects and more specifically the reporting of revised cost estimates to FPL's executive management and the FL PSC. The [redacted] Letter does not identify any costs which are the result of an imprudent action by FPL. Concentric confirmed this understanding of the [redacted] Letter during our interview with [redacted]

Similarly, Concentric found no indications of costs that were the result of imprudent decisions or actions on the part of FPL's management. This conclusion was reinforced by all interviewees. When asked whether they were aware of any costs that should not be passed along, the unanimous answer was "no". Indeed, [redacted] acknowledged during our interview that "the costs will be what they [are]" and his concerns are related to what information would be presented to the FL PSC. As a result, Concentric believes there are no costs which should be subject to disallowance by the FL PSC on the basis of imprudent decision-making.

VII. The Flow of Information to the FL PSC

A. Scope of Inquiry

The chronology of events presented in Section IV of this report led Concentric to focus on the 2009 NCRC proceedings[56] in order to assess whether the information presented by FPL in those proceedings relating to the EPU cost estimates, schedule, and cost-effectiveness was accurate and consistent with the standards expected for testimony before, and submissions made to, a regulatory agency. This includes ensuring that approved changes to the project forecast were clearly communicated to the FL PSC in a timely manner.

There were three separate sets of activities in the 2009 NCRC proceedings in which information about the status of the EPU was presented: 1) pre-filing of testimony, both direct and rebuttal, 2) production of documents and answering of interrogatories in the discovery processes, and 3) testimony at the hearings. In the 2009 NCRC proceedings, pre-filed testimony on these matters was submitted on May 1, 2009 (direct) and August 10, 2009 (rebuttal); documents were provided and interrogatories were responded to from January, 2009 through the hearing; the hearings on these issues were held on September 8, 2009.[57] Since an important element of this investigation has been about the timeliness of internal and external information flow, we have chosen to examine FPL's actions in the three separate timeframes discussed above.

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[56] FL PSC Docket No. 090009-EI.
[57] Ibid. Pre-filed testimony was also filed on March 2, 2009. That testimony related to 2008 costs. Given Concentric's conclusions in Section VI, the testimony is not addressed in this section.

B. Pre-filed Testimony

FPL presented four witnesses in the 2009 NCRC proceedings on issues relating to the EPU:

[redacted]

Mr. John J. Reed, Chairman and CEO of Concentric[60], and

[redacted]

The issues within the scope of this investigation, *i.e.*, the projected cost to completion, schedule, and cost-effectiveness of the EPUs, were presented in [redacted] direct testimony[62], and the exhibits sponsored by him, and that information was used in [redacted] cost-effectiveness analyses.[63] Mr. Reed's testimony related to nuclear project controls, procedures, policies, and practices, and the prudence of FPL's costs. He offered no estimate of the projected costs to completion or opinions on the cost effectiveness of the EPUs. [redacted] testimony related to the accounting for FPL's incurred costs and the 2009-2010 projected costs.[64] She did not offer any estimate of the projected costs to completion or opinions on the cost effectiveness of the EPUs. Therefore, our review has focused on the testimony of [redacted], and, to a lesser extent, [redacted]

The pre-filed Direct Testimony filed by [redacted] on May 1, 2009 included the following statements:

> *"The EPU Projects are progressing on schedule and within budget, to deliver the substantial benefits of additional nuclear generating capacity to customers from FPL's existing St. Lucie (PSL) units 1 & 2 and Turkey Point (PTN) Units 3 & 4 nuclear power plants."*[65]
>
> *"There are no changes at this time to the total non-binding cost estimate provided in May 2008 in Docket 080009-EI. And, as demonstrated by FPL witness [redacted] the uprate project continues to be cost effective when compared to the addition of other generation alternatives."*[66]
>
> *"Appendix 1 includes the TOR schedules that compare the current projections to FPL's originally filed St. Lucie and Turkey Point costs ... At this time, FPL has not identified any need to revise the total non-binding cost estimate provided last May in Docket 080009-EI. As would be expected, the Company continues to evaluate the costs associated with this project. As activities such as final engineering analyses and design, associated NRC requirements and reviews, and construction planning are more clearly defined, the Company will make any necessary revisions to the*

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58 Direct Testimony of [redacted], Docket No. 090009-EI, May 1, 2009. [redacted] left the EPU Project in July, 2009, and left FPL in January, 2010.
59 Direct Testimony of [redacted] Docket No. 090009-EI, May 1, 2009.
60 Direct Testimony of John J. Reed, Docket No. 090009-EI, May 1, 2009.
61 Direct Testimony of [redacted] Docket No. 090009-EI, May 1, 2009.
62 Direct Testimony of [redacted], Docket No. 090009-EI, May 1, 2009.
63 Direct Testimony of [redacted] Docket No. 090009-EI, May 1, 2009.
64 Direct Testimony of [redacted] Docket No. 090009-EI, May 1, 2009.
65 Direct Testimony of [redacted] Docket No. 090009-EI, May 1, 2009, p. 2.
66 Ibid., pp. 2-3.

original cost estimate. The TOR schedules provide the best information currently available for the cost recovery period through 2010."[67]

The TOR (True-Up to Original) schedules include Schedule TOR-7, which was sponsored by [redacted] and which continued to rely on the cost estimate submitted in Docket 080009-EI, along with a restatement of the caveat that the Company continued to evaluate the costs of the project.[68]

As of May 1, 2009 (the date the prefiled testimony quoted above was filed), the following events had transpired:

- A Condition Report (CR-2008-11443) dated 4/3/08 raised concerns about the validity and reliability of the EPU cost estimate that was used in Docket 070602-EI[69] and that [redacted] continued to use in May 2009[70]
- The PSL EPU trend reports for August 2008 through November 2008 had raised concerns about substantial underestimation of the PSL project costs[71]
- On November 7, 2008, Bechtel informed FPL that its estimate of costs for the PTN EPUs had increased by $37 million; this higher value was used in the Bechtel contract
- In early December, 2008 the EPU's Project Controls Group identified that the May 2008 cost estimate was likely to be too low given the Bechtel contract and cost
- A Condition Report dated 12/10/08 concluded that the resolution of the 4/3/08 Condition Report was a "missed opportunity"[72]
- On February 17, 2009, [redacted] was presented with an analysis prepared by Project Controls and the PSL site that their forecast for PSL was $129 million above the May, 2008 estimate[73]
- By March 26, 2009 the PTN site team had also concluded that the cost estimate should be raised above the May 2008 estimate; a decision was made to not use the higher cost estimate because it was considered "preliminary"[74]
- [redacted] participated in developing a presentation in late April/early May 2009 informing the ESC that while Bechtel had estimated higher costs, the forecasts for PSL and PTN were unchanged from the May 2008 estimates; the Projects' cost status is shown as "green."[75]

As shown by this chronology, the EPU's cost estimates were clearly in a state of rapid flux by May 1, 2009. While there was mounting evidence to indicate that an upward revision to the cost estimate was likely, as of May 1, 2009 [redacted] had not reported such an increase to the ESC nor had

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67 Ibid., p. 24.
68 Direct Testimony of [redacted] Docket No. 090009-EI, Exhibit 1, May 1, 2009, p. 104.
69 Florida Power & Light Company's Petition to Determine Need for Expansion of Electrical Power Plants and for Exemption from Rule 25-22.082, F.A.C., Docket No. 070602-EI, September 17, 2007.
70 Extended Power Uprates, Project Update, Turkey Point, July 25, 2009 *and* Extended Power Uprates, Project Update, Saint Lucie, July 25, 2009.
71 PSL Trend Register
72 CR 2008-37753, "Additional Information," December 10, 2008, p.1.
73 Summary Cash Flow EPU Total 090217 Reviewed.xls, "PSL EPU Project Total," February 17, 2009.
74 Email from [redacted] to anonymous recipient, March 26, 2009.
75 Extended Power Uprates, Executive Steering Committee Meeting, Saint Lucie & Turkey Point, May 1, 2009, p. 8.

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an increase been approved. What [redacted] had reported to the ESC was consistent with what his Direct Testimony reported to the FL PSC. Additionally, Schedule TOR-7 appropriately indicated the Company continued to evaluate the costs of the EPU Projects.

C. Interrogatory Responses and Production of Documents

Concentric requested, received and reviewed all documents produced and interrogatory responses submitted by FPL in Docket 090009-EI and pertaining to the EPU budget, schedule and cost effectiveness. Our review led us to follow up on one interrogatory response, submitted in response to Staff's Fifth Set, No. 53, for further analysis.[76] This interrogatory response, which is attached as Exhibit 9, sought a listing of each analysis that FPL was offering to satisfy the requirements of Section 366.93(5) F.S., which requires an annual comparison of the budgeted and actual costs as compared to the estimated in-service cost of nuclear projects. The response, which was submitted on August 17, 2009, refers to Schedule TOR-7 which contains the Company's annual comparison of budgeted and actual cost. Schedule TOR-7 was submitted on May 1, 2009, and is described as a "snapshot" of a continuous process.[77]

Between May 1, 2009 and August 17, 2009, major changes were made to the forecast for the EPU Projects. On May 31, 2009, the PTN EPU budget indicator was shown as red, indicating a serious challenge to meeting the existing budget.[78] On June 3, 2009, Bechtel submitted a "P50" (mean value) cost estimate for PTN that was $108 million above the May, 2008 estimate.[79] On June 23, 2009, [redacted] advised the ESC of the Bechtel estimate[80], and the ESC instructed him to prepare a "line-by-line" updated forecast for the projects to be reviewed at the next ESC meeting. This updated estimate was prepared at the direction of [redacted] by several staff reportedly working seven days a week for a month and was presented to the ESC at an all-day, Saturday meeting on July 25, 2009. In the week leading up to that meeting, the EPU leadership team was replaced, and [redacted] was reassigned to a position outside of the EPU, although he actively participated in the July 25, 2009 presentation. That presentation established new cost estimates for the EPU Projects which were approximately 21% higher than the May 2008 estimates.[81] Therefore, Schedule TOR-7, which is referred to but not attached to the response to Staff 5-53, was out of date by August 17, 2009.

However, the interrogatory only asked for a *listing* of the responsive analyses, not for FPL's current or updated analyses. Concentric views the response to Staff 5-53 as being accurate, reliable, and responsive, even though the document referred to was out-of-date. The respondent answered the question in a forthright fashion based on all of the information known to this person at the time.

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[76] Response to Docket No. 090009-EI, Staff's Fifth Set of Interrogatories, Interrogatory No. 53.
[77] Ibid.
[78] Total Project Cashflow, PTN EPU Project 2009, May 31, 2009.
[79] Extended Power Uprates, Project Update, Turkey Point, July 25, 2009, pp. 25-26.
[80] Extended Power Uprates, Executive Steering Committee Meeting, Saint Lucie & Turkey Point, June 23, 2009, p. 12.
[81] Extended Power Uprates, Project Update, Turkey Point, July 25, 2009 *and* Extended Power Uprates, Project Update, Saint Lucie, July 25, 2009.

D. Testimony at Hearing

As stated earlier, [redacted] and [redacted] appeared at the NCRC hearings on September 8, 2009. At the hearing, the following exchange took place between [redacted] and counsel for FPL[82]:

BY MR. ANDERSON:

Q. If I asked you the same questions contained in your prefiled direct testimony, would your answers be the same?

A. Yes, they would be.

MR. ANDERSON: FPL asks that the prefiled direct testimony be inserted into the record as though read.

The exchange with counsel had the effect of asserting that all of the statements in the pre-filed testimony, and the exhibits sponsored by [redacted] remained truthful and accurate as of September 8, 2009. This followed [redacted] introducing several corrections to errata in his pre-filed testimony, and updating his prefiled testimony to reflect his new title and responsibilities with FPL.

As of September 8, 2009 [redacted] had participated in the development of highly detailed cost projections for the EPU Projects, and had presented these new estimates to several senior FPL and contractor personnel on July 25, 2009.[83] The new estimates for PSL were caveated as still being "at the conceptual level[84]" (as were the May, 2008 estimates[85]) and the comment was made that the full scope was still not known. However, the new values were clearly labeled as the "Current Forecast," and the statement was clearly made that the "Current Budget" (the May, 2008 values) was being increased to the "Current Forecast."[86] The July 25, 2009 presentation offers an extensive perspective on the shortcomings of the May, 2008 estimates and the lessons that should be learned from this experience.[87] Concentric also notes that the ESC was explicitly advised that the new cost estimates were inconsistent with the May, 2008 and May, 2009 data that had been presented to the FL PSC and that several new economic feasibility analyses had been performed, which updated those analyses that had been submitted to the FL PSC eleven weeks earlier.[88] The new feasibility analyses continued to show that the projects were beneficial to customers, although less so than in the May 1, 2009 filing.[89]

Based on the information presented above, Concentric has concluded that by the time [redacted] took the stand on September 8, 2009, the information presented on Schedule TOR-7, and the testimony related to it, was out-of-date. By this time, [redacted] had presented revised

[82] Transcript of Direct Examination of [redacted] September 8, 2009, pp. 208-209.
[83] Meeting request for EPU Saturday Session, July 25, 2009, 8:00 AM to 3:30 PM.
[84] Extended Power Uprates, Project Update, Saint Lucie, July 25, 2009.
[85] Florida Power & Light Company's Petition to Determine Need for Expansion of Electrical Power Plants and for Exemption from Rule 25-22.082, F.A.C., Docket No. 070602-EI, September 17, 2007.
[86] Extended Power Uprates, Project Update, Turkey Point, July 25, 2009 *and* Extended Power Uprates, Project Update, Saint Lucie, July 25, 2009.
[87] Ibid., pp. 38-40 and pp. 51-52, respectively.
[88] Extended Power Uprates, Project Update, Saint Lucie, July 25, 2009, pp. 44-49.
[89] Ibid., p. 50.

cost estimates to the ESC, and the EPU Project management team had begun relying on the revised cost estimates. Our opinion in this regard is also supported by the statements of nearly all of the EPU Project personnel we interviewed (other than the two EPU Project personnel that participated in the decision to not update the testimony).

In our interview with him, [redacted] defended the September 8, 2009 reaffirmation of his pre-filed testimony on the grounds that the July 25, 2009 cost estimates were prepared assuming the validity of many unapproved scope changes and manpower estimates, and that they were no better than a "guess" with little support. He also indicated that he does not recall any discussion with regard to whether the updated estimate should be presented to the FL PSC.

Concentric agrees that the new cost estimates were based on only partially completed engineering and design information, and that they were still subject to revision as new information became available. However, that is always the case with a construction program such as the EPU Project, and continues to be the case today. These facts do not support the continued use of information that was based on even earlier conceptual designs and out-of-date manpower and material estimates and which did not take into account executed major contracts. The new estimates were the product of more than a dozen people working extended hours for a month and had been reviewed by every level of management in the EPU organization. They reflected far more knowledge about the scope of the EPU Projects than had been used in the 2007-2008 Shaw scoping analysis, materials cost estimates that were based on more recent data and manpower estimates that reflected the revised scope and loading estimates prepared by Bechtel. Most importantly, they were presented to the executives of FPL in charge of EPU governance (and who were responsible for approving budget changes for the projects) as the best "line-by-line" estimates available at the time, were materially different from the 2008 estimates, and have continued to serve as the reference point for all subsequent revisions to the cost estimates, including those that were submitted to the FL PSC in May 2010. In short, while the July 25, 2009 and subsequent cost forecasts are and were preliminary, they represented the best information available at that time, were relied upon by FPL, and were more advanced that the 2007/2008 cost projections.

The documents we have reviewed, and our interviews, indicate that there was considerable uncertainty among the project staff in September 2009 as to whether the new cost estimates were approved or not, and internal reports were inconsistent in their use or non-use of the updated forecast (see Section VIII for additional details). The EPU staff had experienced significant turnover and was also undergoing a major reorganization at that time, which appears to have contributed to the lack of clarity on this point.

Concentric's discussions with Company personnel have also indicated that the fact that the updated feasibility analyses presented to the ESC on July 25, 2009 confirmed that the projects still offered significant value to customers may also have been a consideration in the decision to not update [redacted] testimony. While Concentric agrees that the new analyses confirmed the conclusions in [redacted] testimony, we believe that a $300 million, or 27%, increase in the projected cost of the EPU Project should have been discussed in the live testimony on September 8, 2009.

Concentric found no evidence to suggest that [redacted] on the cost effectiveness of the EPU Projects, had any knowledge that updated cost estimates were presented to the ESC. It is our understanding that he relied on the cost estimates provided on Schedule TOR-7, as sponsored by [redacted] and [redacted] was not in the EPU organization or the Nuclear Division of FPL.

VIII. Recommendations for Improvements Related to the NCRC

Concentric's investigation into this matter has produced the below recommendation for process improvement. These recommendations are intended to improve the distribution of information within FPL, the NCRC docket team and to the FL PSC.

1. Concentric recommends that the process be changed in order to provide timely and ongoing information within the NCRC docket team throughout each NCRC review cycle. This will help to ensure that any updated information is fully discussed within the NCRC docket team and prevent future concerns related to flow of information to the FL PSC. Concentric has been informed that this change has already been implemented.

2. Similar to the recommendation above, FPL and the FL PSC staff should revisit the issue of intra/inter-cycle document production. The ongoing production of a limited number of key project documents could enhance the FL PSC staff's understanding of the projects and how they are developing on an on-going basis.

3. The NCRC docket team has included and continues to include a number of first time witnesses or witnesses with limited experience serving in this role. As a result, it is vitally important that FPL's Law and Regulatory Affairs Departments continue to provide explicit instruction and guidance to these individuals. It is our understanding that the importance of updating one's pre-filed testimony and exhibits is an explicit part of the witness training program, which we believe should be conveyed through written instructions.

4. As part of our investigation Concentric reviewed the list of invitees to the ESC presentations. Noticeably absent from these lists of invitees in 2009 was a representative from FPL's Regulatory Affairs and Law Departments. Given the importance and scale of the EPU Projects, and the alternative cost recovery treatment being afforded to these projects, a relatively senior member of Regulatory Affairs Department should attend each future ESC presentation. It is our understanding that this change has recently been implemented.

IX. Information Development and Distribution within FPL

The below discussion relates specifically to FPL's internal distribution of EPU Project-related information and forecast. In Concentric's view, the below discussion should not be misconstrued to determine the prudence of FPL's decision making processes and therefore should not impact the recovery of costs through the NCRC.

As described in Section IV, the initial EPU Project budget was established by the FPL and Shaw scoping studies in 2007 and early 2008. The EPU Projects also established a variety of project instructions which identified the process for addressing changes or risk to this initial forecast. These Extended Power Uprate Project Instructions ("EPPIs") were first developed in spring 2008 and were updated at various points in the project, including following the introduction of a new senior management team in July 2009. Concentric's review of the EPPI's have identified three which are relevant to the reporting of revisions to the cost estimates within FPL: 1) EPPI-300, EPU Project Change Control; 2) EPPI-320, Cost Estimating; 3) EPPI-340, EPU Project Risk Management

Program. For purposes of our review of these instructions, Concentric has segmented our review into the period preceding July 25, 2009 and that after July 25, 2009.

A. Pre-July 25, 2009 Information Flow

As early as April 2008, the EPU management team was made aware of concerns about the adequacy of the Shaw scoping analysis and associated budget. These concerns re-surfaced after the Bechtel contract was awarded in November 2008 and were brought to the attention of the EPU senior management in December 2008 and February 2009. By February 2009 the EPU Project Controls employees had developed a revised cost estimate, albeit in preliminary form, that projected a $129 million cost increase for PSL. The revised estimate was within 2% of the values presented to the ESC in July 2009. Similar estimates had been developed for PTN by March 2009, but the EPU staff was directed to discontinue use of this estimate until management had reviewed it further. Throughout late 2008 and the first six months of 2009, Bechtel submitted several revisions to its cost estimates, all of which were substantially higher than its indicative bid and higher than the estimate developed as part of the Shaw scoping analysis.

These events followed the publication of EPPI-300 on March 4, 2008. This project instruction established a formal process for identifying and tracking potential changes to the initial project budget. EPPI-300 describes the purpose of the trend program as follows:

> "This document shall be used for scope changes to Capital and O&M sub-projects within the EPU Project. Changes to the approved budget will be made using the approved Scope Change/Trend Notice form (SCN/TN) which shall become part of the budget records."[90]

These potential changes were divided into scope changes (i.e., additional plant modifications) or trends (i.e., increased costs of completing approved scope). In order to address a trend, EPPI-300 dictates that the trend should be identified on a formal "Trend Register" and a SCN/TN should be completed to request changes to the project forecast. The SCN/TN was then routed to the [redacted] for approval. The process for addressing scope changes is similar, but requires additional review of the potential scope change to ensure it is necessary for the EPU Projects. Once an SCN/TN is initiated, EPPI-300 requires the EPU Project Cost Engineer to establish a tracking number and the potential budget impact of the SCN/TN. The Project Scheduler is responsible for indicating the potential schedule impact. Once this information is added to the SCN/TN, it is routed to the EPU Project team member with the appropriate approval authority for the potential cost impact. Upon approval, the SCN/TN is supposed to be incorporated into the project budget and all future project reports.[91]

Concentric requested the EPU Projects' Trend Registers and all SCN/TNs since January 1, 2008 and received many, but not all, of the SCN/TNs prior to issuing our report. Based on our review of the Trend Register and SCN/TNs between January 1, 2008 and July 25, 2009 it would appear that the EPU Projects only partially complied with this EPPI-300. For PSL, a detailed and conscientiously maintained Trend Register was maintained between summer 2008 and at least June 2009. However, it appears that the process for reviewing and approving trends was not

[90] EPPI-300, Project Change Control, Pg 3, Rev 00.
[91] Ibid at 4-6.

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appropriately implemented at PSL. Many of the same trends were identified each month without resolution or incorporation into the budget. As an example, in nearly every month between August 2008 and June 2009 a trend was noted with regard to the EPC budget. These trend impacts ranged between $10 million and $140 million. The EPC budget was only increased by $20 million during this period. Similarly, the PSL Project Team did not prepare SCN/TN forms for trends that were included on the trend register. For PTN, it would appear that the trend register was kept up to date during this period and some of the trends or scope changes were outstanding for several months.

Finally, many potential scope changes or trends appear to have been captured on the Risk Register, which, as discussed below was not synchronized with the project forecast, rather than the Trend Register. For example, the CR discussed in Section IV above, resulted in a "High Risk Mitigation" plan, but does not appear to have been included on the trend register. Thus potential scope changes or trends were not adequately reflected within the forecast. Concentric also noted that prior to July 25, 2009, the [redacted] failed to identify a source of the funds on the SCN/TNs for nearly every form.

EPPI-320 provides the project instruction for cost estimating, including the development and inclusion of contingencies and the estimates to be used on the SCN/TNs described above. This instruction was established in March 2008 and remains in effect today. Specifically, this instruction states that "estimates should include project risks, uncertainties, and contingency. These should be documented along with the methods for determining the percentage of risk and the amount of money associated with the contingency." EPPI-320 also indicates that it is supplemental to the Nuclear Projects Department Instruction – 304 ("NPDI-304").

FPL has defined the contingency as "an amount added to an estimate to allow for additional costs that experience shows will likely be required. This may be derived either through statistical analysis of past project costs, or by applying experience gained on similar projects."[92] NPDI-304 provides additional guidance on the development of contingencies and states:

> 4.7.6. As a general rule, conceptual estimates should have a 25-30% contingency, Level 1 or preliminary estimates should have 15-25% contingency and Level 2 or definitive estimates a 5-10% contingency. The exact percentage is determined on a case by case basis.

The EPU Projects' cost estimates fit the criteria for a conceptual estimate in 2008 and appear to have achieved Level 1 status by the end of 2009. FPL's practice prior to July 25, 2009 was to label the contingency as "Scope Not Defined", or "Scope Not Estimated." This line item, although it referenced the EPU Projects' risk matrices, was then used as a balancing variable to show a flat overall forecast trend and was not based upon project risk. As a result, the contingency was depleted month-by-month, the Risk Register was never synchronized with the project forecast and the EPU Projects no longer maintained a level of contingency that is consistent with FPL's guidelines. In other words, the EPU senior management used the initial contingency as an "allowance" that was to be used to meet increases in scope or cost rather than a value which reflects the risk remaining in the project, including those identified by the Risk Registers. This practice was acknowledged in the lessons learned sections of the July 25, 2009 ESC presentations by the statements that "...undefined scope depletion not dealt with in a timely fashion...undefined scope

[92] NPDI-304, Estimate Preparation, Pg 9, Rev 0.

allowance used in establishing base contracts and work left little for emergent items or increased scope…must include undefined scope allowance based on level of risk/progress on project."

EPPI-340 was first initiated in February 2008 and establishes a process to ensure that each "identified risk is recorded in a risk matrix, and evaluated for probability, consequence, cost, schedule and project impact." The process set forth within EPPI-340 does not include a clear link to the EPU Projects' forecasts, but rather is an evaluation tool for determining the level of uncertainty remaining in the project. Indeed, the July 25, 2009 PSL ESC presentation states "current undefined scope allowance is not aligned to the risk matrix…looked at the project only from a high level risk." Because the EPU senior management used the contingency as a balancing variable to depict a flat forecast trend, the Risk Management Program was never used as prescribed by EPPI-340. At best, by early 2009, the risk registers became little more than a repository for project risks and with little or no connection to the EPU Projects' forecast.

With regard to the risk management process, the EPU's assessment of its own performance during this period, as presented to the ESC on July 25, 2009, was that:

- It "underestimated the risk and costs associated with the fast track project,"
- It "did not assess [the] capacity of [the] organization and costs," and
- "Early warning on cost overruns and undefined scope depletion were not dealt with in a timely manner."

Concentric concurs with these assessments, and notes that many of these issues have been remedied through changes in procedures and the organizational structure since July 25, 2009.[93]

B. Post-July 25, 2009 Information Flow

As part of its transition, the new EPU senior management team has undertaken a process to revise many of the EPPIs to address many of the lessons learned that were identified in the July 25, 2009 ESC presentations. As described below, this process has included extensive revisions to EPPIs-300 and 340.

With regard to EPPI-300, this instruction has undergone at least four revisions since July 2009 and has been updated to include more rigorous trend identification, to more clearly define the roles of each person involved with the trend program and to define the timeframes for review and approval of these forms. These revisions included a revision to the SCN/TN forms. This revision changed the name of the form to explicitly include forecast variations. Similarly, the SCN/TN forms being issued by the Project today dictate the source of the funds for each scope change or forecast variance. The options for these funds include: 1) No change to project budget; 2) Contingency; 3) Variance to approved budget; 4) Other. Nonetheless, the EPU Project continues to use the contingency allowance to fund scope changes, rather than maintaining the contingency at a level that appropriately reflects the risk to the cost forecast. Concentric believes scope changes should be funded through a forecast variance to eliminate the use of contingency as a forecast balancing variable. This is consistent with NPDI-304 which states the following:

[93] EPU lessons learned PPL from April 2010.

> "Contingency usually does not include changes in scope, schedule or unforeseen major events such as strikes, tsunamis, hurricanes or earthquakes."

Lastly, the use of the trend program is improving with greater alignment between the Risk Register and the Trend Register.

Concentric notes that issues of the project contingencies, risk register, and the relationship of each to the cost projections are being addressed by the work soon to be completed by High Bridge. Furthermore, on May 1, 2010 FPL filed an updated cost estimate range and feasibility analysis with the FL PSC. This updated cost estimate range included increased allowances for undefined scope and risk. It is our understanding that EPU management considers its current approach to be an interim solution until the High Bridge results have been received and reviewed, and that the High Bridge results will be used to compare against FPL's current cost estimate range.

C. Conclusions Related to Flow of Information within FPL

Concentric has concluded that the EPU Project team did not adequately comply with its and FPL's published procedures for developing, estimating, approving, and tracking revisions to the cost estimates and/or budget prior to July 2009. It is clear that the process required for releasing funds from the contingency was not followed, and that all revisions to the cost estimates have not been tracked through the trend program. These facts have resulted in widespread confusion within the organization regarding what the current approved budget or cost forecast is at any point in time, who has to approve changes to that budget or cost forecast, whether there is a meaningful difference between the terms budget, cost estimate and cost forecast (all of which are used in different standard reports), and how to measure and report variances from the budget/estimate/forecast. Many of these same points were acknowledged by EPU management in the lessons learned sections of the July 25, 2009 ESC presentations. Here the comments were made that "Individual Modification Budgets and Site Department budgets [were] not established...did not use formal process such as Plant Review Board to approve scope growth during design process prior to 01/01/09...no formal cost benefit was performed on design changes."[94]

Finally, due in large part to the confusion discussed above, our review of the EPU's standard reports and presentations has made us aware of several reports that were issued with some incorrect or out-of-date information. These problems persisted after July 25, 2009 in the Monthly Operating Reports (MOPRs), monthly cash flow reports, and ESC presentations. However, post-July 25, 2009, the correct and updated information was available in the EPU Project's presentations to the ESC. We also received reports from individuals within FPL that documents they were responsible for preparing were changed, after the originator had issued them, by someone else in the organization and often with no explanation as to why the changes were made. In other instances, individuals were told to make changes by someone else within FPL. These accounts are difficult to verify, but they do not represent a single account or example. In addition, Concentric has received some documentation to corroborate these accounts. Some of these actions are attributed to managers that are no longer in the EPU organization, but they demonstrate the need for more definitive document control and ownership procedures.

[94] Ibid.

X. Recommendations for Improvements Related to FPL's Internal Distribution of Cost Estimates

Concentric's investigation into FPL's internal distribution of EPU Project-related Information produced the below list of recommendations for process improvements. Many of these recommendations are intended to improve the distribution of information within FPL, and the NCRC docket team. In certain of the recommendations listed below, Concentric has noted that changes to the EPU Projects since July 2009 may have already addressed these recommendations. In those instances, we are stating the recommendation to demonstrate that all of the issues raised in this report are being, or have been, adequately addressed.

1. To ensure that FPL and the EPU Project team should establish and implement explicit report owners (by report). In addition, FPL and the EPU Project team should establish and implement an explicit report sign off or dissent procedure that is analogous to the "blue sheet" sign-off procedure used for information sourced from outside the business unit. In addition, the report sign-off and dissent process should include a link to a company program for anonymously notifying superiors in the event of a concern with project reporting.

2. To the extent that a performance indicator (e.g., green, yellow, red) relies upon a calculation in order to produce a particular indicator, the result of the underlying calculation should be reported along with the performance indicator (e.g., budget or forecast performance). By providing the result of the underlying calculation, a report preparer or reviewer can quickly identify any discrepancy between the performance indicator and the calculation that produced that indicator.

3. FPL should consider changing the reporting relationship of the EPU Project Controls Director. While the change in reporting from the EPU Project Director to the Vice President of Power Uprate in 2009 was a positive development, the reporting relationship of the EPU Project Controls Director may be improved by including either a solid or dotted line outside of the EPU Projects. This could improve the independence of the Project Controls Director and his staff. Concentric notes that future, large scale projects could benefit from an independent project controls organization that incorporate best practices from across the organization.

4. FPL's current approach to establishing the EPU's contingency (Scope Not Defined) uses the contingency as the balancing variable to maintain the projects within their cost estimates. This is not consistent with FPL's EPPI-300 or with sound project management practices. The contingency should be based on the level of uncertainty in the project, which is best captured through a probabilistic analysis of the cost estimate. Reductions in the contingency should not typically be used to fund scope changes, and the contingency should only be released if the uncertainty associated with the project has declined. Concentric notes that the appropriate level of the contingency is an issue that is being addressed by High Bridge in its current independent review of the project cost estimate. In addition, the EPU Project has established a revised cost estimate range which was used in the Company's feasibility analysis and provided to the FL PSC on May 1, 2010. The EPU Projects should establish a formal internal process to approve and communicate EPU budget, forecast or estimate changes on a total project basis each month (i.e., not annual). This process should include a distribution checklist to make certain all reports are updated consistently once a new budget, forecast or

estimate is approved. Concentric notes that EPPI-300 has been revised twice since July 2009. If implemented thoroughly, these changes should address this recommendation.

5. To the extent CRs are utilized to document potential budget or cost estimate challenges, the CR closure processes should be revised to prevent the closure of a CR prior to the completion of a risk mitigation plan. In the alternative, risk mitigation plans can be tracked separately, but must not be closed until each of the action items listed on the risk mitigation plan are completed. Additionally, the completion of all action items must be documented and those documents should be preserved in a central location. Concentric notes that the EPU management team is already planning to address this change within the EPU action item list.

6. FPL should continue to maintain EPU Project staffing as a high priority. A sufficient number of staff members are required to maintain adequate project control, including the updating and production of project reports. Throughout our investigation it was noted to Concentric that many within the organization were overwhelmed with the amount of work that must be accomplished given the "fast-tracked" status of the project. At times, this may have contributed to the inconsistency or inaccuracy of certain project reports.

7. The EPU Project team should document the names of each ESC presentation attendee and maintain this list of attendees with the ESC Presentations. This will increase the overall transparency into the EPU Projects and document that the proper level of oversight is being provided to the EPU Projects.

8. The results of this investigation should be provided to the Corporate Responsibility Officer for use in improving employee confidence throughout the organization. Our limited sample of interviews indicates that there are, or have been, concerns about the uniform adherence to the non-retaliation provision of the Code of Conduct.

9. Concentric suggests FPL institute a procedure for conducting organizational readiness assessments prior to commencing new complex, large-scale projects. This procedure should include a documented review of the Project Plan to ensure that it adequately details how the project is expected to evolve over time and ensure proper expectations related to performance reporting and measurement are communicated throughout the project teams. In addition, these assessments should include a detailed review of executive management's expectations regarding the development and updating of the project schedule, cost estimate, budgets and reports.

10. Concentric and the EPU Project management team should conduct an investigation close-out meeting at the end of this investigation. This meeting will review Concentric's findings in this investigation, address management's response to those findings and discuss ways in which processes or procedures could be improved to prevent similar project challenges.

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NCR-10

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Exhibit 1: [redacted] Letter

February 19, 2010

Mr. Lewis Hay
Florida Power and Light
FPL Group Chairman and CEO
700 Universe Blvd.
Juno Beach, FL 33408

Dear Mr. Hay:

I am writing to you with my concerns about cost performance in Nuclear Projects and Extended Power Uprate (EPU) in 2009. With the exodus of the entire Sr. EPU Project Management Team, I am being cited as one of many targets in the failure of EPU in 2009.

As a brief history, I was hired as [redacted] in May 2008 by [redacted] In December of 2008 my counterpart for EPU was released. I was told by the [redacted] I would have to assume the EPU responsibility as well as my current roll. In January 2009 I filled both positions reporting to [redacted]. I had over 100 people (contractors and FPL) reporting to me at five sites and a Corporate Project Controls group. From July 2009, which is when I left EPU, until late November 2009, I reported again to [redacted]. While reporting to [redacted], he told me a number of times he thought I was doing a good job. During the time I worked for [redacted] he took me to dinner and expressed his appreciation for my support while working for him.

In my review I am accused of not providing adequate information or forecasting for both the EPU Project and Nuclear Projects in 2009. To my knowledge there was never a major issue with a Monthly Variance Report or a Site Project Status Report for Nuclear Projects. From a Project standpoint, all projects were on target or explained in variances. I do not believe any cited issues were a result of a Project Controls shortcoming. For Power Uprate, my Project Controls Team developed extensive project indicators in February of 2009 and patterned them after those used to support the "Big Dig" Boston Artery. These indicators included Earned Value Metrics. These indicators were approved by the Project Team and presented to [redacted] in March 2009. The original indicators are still on the EPU SharePoint website for you to view. The issues effecting project performance for EPU were the fact that the EPU Project Teams could not support update of the indicators due to continuing baseline reviews and scope additions that were not previously identified. The scoping study and budget estimates were completed by the Shaw Company and were commissioned by the [redacted] and completed before I joined the Project. These estimates were not adequate and Sr. Management continued changing philosophy on what was to be included and not included in these estimates. As a result there was no Project baseline established and overall Project performance was very poor. The [redacted] would complain about having poor performance indicators however as Project Controls, we could not deliver a positive message if there was none to deliver. The situation continued to worsen through the spring of 2009. Project Managers and Engineers were not correcting issues and the Sr. Managers would not accept the poor performance messages. The [redacted] was told in late 2008 before I was assigned to EPU that the projects were in trouble. My Team continued to deliver this message along with poor weekly performance reviews. Finally in July of 2009, Sr. Management decided it was time to inform Executive Managers of the poor condition of EPU which precipitated the replacement of the entire EPU Project Sr. Management Team. My Project Controls group prepared detailed reviews that were presented to [redacted] late in July 2009 on the poor condition of EPU.

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Exhibit I: [redacted]tter

At the time, the cost overview for PSL was: Original Budget $656MM, Current Forecast $795MM showing a negative variance of ($139MM). For PTN: Original Budget was $749MM, Current Forecast $909MM with a negative variance of ($160MM). [redacted]. These numbers clearly show the gravity of BPU negative performance. To my knowledge, these numbers have continued to worsen with the new Project Team to where for PTN and PSL, the Team does not have a clear idea of what the final costs will be.

I am concerned about how FPL will report these findings at the upcoming PSC hearings. Any information from BPU other than which was presented to Management last summer will be a manipulation of the truth. Current reporting for PTN and PSL does not contain information showing there is serious trouble with these Projects. The trouble was enough to replace the entire Sr. Project Team.

Enclosed with this letter are the presentations given to [redacted] last July. If you investigate current estimates for PTN and PSL, they were stated in November 2009 as being the original Shaw estimates. Currently the numbers are in review. [redacted] That's almost 2 times the original Shaw budget estimate.

My team delivered the correct message to Sr. Management. Sr. Management did not want to accept the message. My Final Evaluation for 2009 is the only poor evaluation I've ever had in my entire career having worked in Project Controls for some 30 years. My former positions before coming to FPL were with ARES Corporation, Burlingame, CA where I was Project Controls Consultant/Manager for NASA in Houston working with the Program Management Division of the International Space Station. Also with ARES, I was a Project Consultant for the DARHT Project (Dual Axis Radiographic Hydrotest Facility) at Los Alamos National Laboratory where I was part of a Project Team that earned the DOE Excellence award for Defense Systems. For the record, my Team told the truth about the EPU financial condition and that truth did not meet FPL expectations.

Finally, I know this letter comes at a time when FPL has ordered the investigation of employee concerns stemming from the Jan. 20th and Feb. 4th letters. I am in no way associated with those letters. I only seek to express my concern about upcoming PSC hearings and my unjustified negative employee review. I have copied my supervisor and human resources.

Thank you for taking the time to read this letter.

[redacted]

Cc: [redacted]
Cc: [redacted]

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NCR-10

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Exhibit 2: Engagement Letter

Florida Power & Light Company, P. O. Box 14000, Juno Beach, FL 33408-0420
Law Department
[redacted]
(561) 691-7135 (Facsimile)
e-mail: [redacted]

March 15, 2010

John Reed
Chief Executive Officer
Concentric Energy Advisors
293 Boston Post Road West
Suite 500
Marlborough, MA 01752

Re: Independent Investigation of February 19, 2010 Correspondence to Mr. Lewis Hay, FPL Group Chairman and CEO

Dear Mr. Reed:

The purpose of this letter is to request that your company conduct an independent factual investigation with respect to the statements and subject matter contained in the referenced correspondence, a copy of which is attached, with the exception of matters pertaining to the employee performance review of the author of the correspondence.

The engagement should be handled subject to the terms and conditions of the consulting services agreement amendment that applies to your company's work for FPL through December 31, 2010, and billed to FPL separately from other work performed under that amendment.

Please direct any requests for support or information required to support your work to me, and report the results of your investigation to me. I would appreciate it if you would sign and return a copy of this letter to me acknowledging agreement to perform the above-referenced scope of work subject to the terms stated herein.

[redacted]

Enclosure

ACCEPTED AS OF March 15, 2010

Concentric Energy Advisors, Inc.

By: [signature]

Its: CEO

an FPL Group company

ATTACHMENT A

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NCR-10

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Exhibit 3: Previous Concentric Projects for FPL

Project List for Florida Power and Light

NAME	START DATE	DESCRIPTION
FPL Regulatory Advisory	4/1/2005	Witness training to help FPL prepare for the cross- examination phase of their rate case
FPL New Nuclear Filings	7/25/2007	Provided Florida Power & Light Company with regulatory support services and expert testimony associated with its Need Study filed with the Florida Public Service Commission and follow-on support as needed at the NRC
FPL New Nuclear Cost Recovery Clause Filing	4/12/2008	Prepared expert testimony on behalf of FPL to support the reasonableness of their project management, risk management and cost estimation practices.
FPL Rate Proceedings Support/Benchmarking	4/22/2008	Retained as a consulting expert in anticipation of possible future FPL rate proceedings
FPL Renewable Portfolio Standard	12/31/2008	Assisted FPL with an assessment of various mechanisms that have been developed both nationally and internationally to promote renewable technologies
FPL 2009 New Nuclear Cost Recovery Clause Filing	1/1/2009	Prepared expert testimony on behalf of FPL to support the reasonableness of their project management, risk management and cost estimation practices.
FPL Securitization Testimony	1/15/2009	Provided testimony commenting on state issuance of securitization bonds for new nuclear plants.
FP&L 2010 Nuclear Cost Recovery Clause Filing	1/1/2010	Prepared expert testimony on behalf of FPL to support the reasonableness of their poejct management, risk management, and ocst estimation practices.

ATTACHMENT A

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Exhibit 4 - Concentric Data Requests

Request #	Request	Received
1	All data request responses or production of documents related to the EPU Projects from Docket 090009-EI, including those related to the testimonies of [redacted] &[redacted]	3/26/2010
2	A list of all FPL employees or contractors working on the EPU or related projects who were involuntarily terminated, reassigned or transferred between July 2008 and today, including a list of the reasons for each employee's or contractor's involuntary termination, reassignment or transfer. This list should include the reasons for the involuntary termination of [redacted]	4/8/2010 4/19/10 (Contractors)
3	Any employee concerns or condition reports issued between July 2008 and today, and related to the EPU cost estimate or schedule, and all employee letters to FPL employees or Board members expressing concerns or allegations pertaining to the FPCS nuclear cost recovery proceedings.	3/26/2010
4	All executive management reports, briefings or presentations related to the EPU since December 28, 2009.	4/1/2010
5	All EPU MOPRs since 1/1/2010	4/1/2010
6	A list of the EPU employees or contractors and the dates of all training on the FPL Code of Conduct and Employee Concerns Program. Please include all materials used during this training.	
7	Would it be possible to get a copy of CR-2008-11443? This was referenced in CR-2008-37753	3/30/2010
8	The last page of this document includes a document entitled "High Risk Mitigation Plan". That document includes a list of 6 mitigation actions, responsibility for completing those actions and a due date for each action. Would it possible to find each of the documents that were developed in response to mitigation actions and determine when each mitigation action was completed?	3/30/2010
9	With regard to the attached 2009 DR response, would it be possible to get the amounts that are redacted from the table on Pg. 2-3	3/31/2010
4/6/2010	calculations for all AFUDC amounts (i.e., ~$350, $370, $200 MM, etc) presented to FPL's executive management between January 1st, 2009 and today.	

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Exhibit 4 - Concentric Data Requests

Request #	Request	Received
4/6/2010	the lessons learned documented in the July 25, 2009 Executive Steering Committee presentations. These lessons learned can be found on pages 51-52 of the PTN presentation and pages 38-40 of the PSL presentation. This is written confirmation of a request given to [redacted] orally.	4/7/2010
4/6/2010	Please confirm whether there was an August Executive Steering Committee meeting/presentation. If there was, please provide a copy of the presentation or report used during the meeting.	4/6/2010
4/6/2010	PSL EPU Sensitivity Analysis from February, 2009 from [redacted]	4/6/2010

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Exhibit 5: Documents Relied Upon

1. Annual Cash Flow, PSL EPU Project, August 1, 2009
2. Annual Cash Flow, PSL EPU Project, October 1, 2009
3. Annual Cash Flow, PSL EPU Project, October 2009
4. CR 2008-11443, April 3, 2008
5. CR 2008-37753, December 10, 2008
6. Direct Testimony of John J. Reed, Docket No. 090009-EI, May 1, 2009
7. Direct Testimony of [redacted] Docket No. 090009-EI, Exhibit 1, May 1, 2009
8. Direct Testimony of [redacted] Docket No. 090009-EI, May 1, 2009
9. Direct Testimony of [redacted], Docket No. 090009-EI, May 1, 2009
10. Email from [redacted] to anonymous recipient, March 26, 2009:
11. Email from [redacted] dated March 19, 2010, to [redacted] John Reed, Sam Eaton, re: For your consideration
12. Email from [redacted] to Samuel Eaton, Project Manager, dated March 10, 2009.
13. Engagement Letter from [redacted] to John Reed, Re: Independent Investigation of February 19, 2010 correspondence to Mr. Lewis Hay, FPL Group Chairman and CEO, March 15, 2010
14. EPPI-300, Project Change Control, Rev 00
15. EPU lessons learned FPL from April 2010
16. Extended Power Uprates, Executive Steering Committee Meeting, Saint Lucie & Turkey Point, May 1, 2009
17. Extended Power Uprates, Executive Steering Committee Meeting, Saint Lucie & Turkey Point, June 23, 2009
18. Extended Power Uprates, Executive Steering Committee, St. Lucie and Turkey Point September 9, 2009
19. Extended Power Uprates, Executive Steering Committee, St. Lucie and Turkey Point, October 22, 2009
20. Extended Power Uprates, Executive Steering Committee, St. Lucie and Turkey Point, November 13, 2009
21. Extended Power Uprates, Project Update, Saint Lucie, July 25, 2009
22. Extended Power Uprates, Project Update, Turkey Point, July 25, 2009
23. FL PSC Docket 080009-EI In Re: Nuclear Cost Recovery Clause
24. FL PSC Docket 090009-EI, In Re: Nuclear Cost Recovery Clause
25. FL PSC Docket 100009-EI, FPL Notice of Intent to Retain Party Status, January 6, 2010
26. Florida Power & Light Company, Code of Business Conduct and Ethics, most recently revised October 16, 2009
27. Florida Power & Light Company's Petition for Approval of Nuclear Power Plant Cost Recovery Amount for the Period January – December 2010, May 1, 2009
28. Florida Power & Light Company's Petition to Determine Need for Expansion of Electrical Power Plans and for Exemption from Rule 25-22.082, F.A.C., Docket No. 070602-EI, September 17, 2007
29. Florida Public Service Commission, Order No. PSC-08-0021-POF-EI, January 7, 2008
30. [redacted] Letter
31. Meeting request for EPU Saturday Session, July 25, 2009, 8:00 AM to 3:30 PM
32. NPDI-304, Estimate Preparation, Rev 0

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Exhibit 5: Documents Relied Upon

33. PSL EPU Modification Scope Review dated June 16, 2009
34. PTN EPU Scope Review dated June 2009
35. Response to Docket No. 090009-EI, Staff's Fifth Set of Interrogatories, Interrogatory No. 53
36. Shaw Stone & Webster, Inc., St. Lucie Nuclear Plant, Balance of Plant, Extended Power Uprate Scoping Study, February 2008
37. Shaw Stone & Webster, Inc., Turkey Point Nuclear Plant, Balance of Plant, Extended Power uprate Scoping Study, February 2008
38. Summary Cash Flow EPU Total 090217 Reviewed.xls, "PSL EPU Project Total," February 17, 2009
39. Total Project Cash Flow, PTN EPU Project 2009, May 31, 2009
40. Total Project Cash Flow, PTN EPU Project 2009, August 2009
41. Total Project Cash flow, PTN EPU Project 2009, November 2009
42. Transcript of Direct Examination of [redacted], September 8, 2009

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Exhibit 6: [redacted] Letter, Interlineated

February 19, 2010

Mr. Lewis Hay
Florida Power and Light
FPL Group Chairman and CEO
700 Universe Blvd.
Juno Beach, FL 33408

Dear Mr. Hay:

I am writing to you with my concerns about cost performance in Nuclear Projects and Extended Power Uprate (EPU) in 2009. With the exodus of the entire Sr. EPU Project Management Team, I am being cited as one of many targets in the failure of EPU in 2009.

As a brief history, I was hired as [redacted] in May 2008 by [redacted]. In December of 2008 my counterpart for EPU was released. I was told by the [redacted], I would have to assume the EPU responsibility as well as my current roll. In January 2009 I filled both positions reporting to [redacted]. I had over 100 people (contractors and FPL) reporting to me at five sites and a Corporate Project Controls group. From July 2009, which is when I left EPU, until November 2009, I reported again to [redacted]. While reporting to [redacted] he told me a number of times he thought I was doing a good job. During the time I worked for [redacted] he took me to dinner and expressed his appreciation for my support while working for him.

In my review I am accused of not providing adequate information or forecasting for both the EPU Project and Nuclear Projects in 2009.

Concentric has found no reason to dispute any of the assertions above. Concentric's scope of work does not include any issues related to the employee's performance appraisal. It is our understanding that FPL has independently initiated corrective action regarding [redacted] review. See Section I of the report.

To my knowledge there was never a major issue with a Monthly Variance Report or a Site Project Status Report for Nuclear Projects. From a Project standpoint, all projects were on target or explained in variances. I do not believe any cited issues were a result of a Project Controls shortcoming. For Power Uprate, my Project Controls Team developed extensive project indicators in February of 2009 and patterned them after those used to support the "Big Dig" Boston Artery. These indicators included Earned Value Metrics. These indicators were approved by the Project Team and presented to [redacted] in March 2009. The original indicators are still on the EPU SharePoint website for you to view. The issues effecting project performance for EPU were the fact that the EPU Project Teams could not support update of the indicators due to continuing baseline reviews and scope additions that were not previously identified.

Concentric generally concurs with these assertions; while we raise concerns regarding certain procedures within the Project Controls group, we do not believe that the EPU's Project Controls personnel or work product is or has been deficient. Concentric agrees that prior to July, 2009 the ongoing baseline reviews and scope additions were the principal drivers of cost uncertainty. See Section IV of the report.

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Exhibit 6: [redacted] Letter, Interlineated

The scoping study and budget estimates were completed by the Shaw Company and were commissioned by the [redacted] and completed before I joined the Project.

Concentric note: Shaw's scoping estimates were completed in February 2008. [redacted] joined FPL in May 2008 and the EPU Project in January 2009.

These estimates were not adequate and Sr. Management continued changing philosophy on what was to be included and not included in these estimates. As a result there was no Project baseline established and overall Project performance was very poor. The [redacted] would complain about having poor performance indicators however as Project Controls, we could not deliver a positive message if there was none to deliver. The situation continued to worsen through the spring of 2009. Project Managers and Engineers were not correcting issues and the Sr. Managers would not accept the poor performance messages.

With the benefit of hindsight, it is clear that the Shaw analysis did not include all of the scope required for the uprates; however, Concentric has not developed an opinion as to whether it was reliable or adequate when it was prepared. Concentric did find evidence of concerns with the study's completeness shortly after it was prepared (see Report Section IV) and of frequent scope changes throughout the history of the EPU project. We view these scope changes as the predictable result of more detailed engineering analyses, which were the principal cause of the poor performance indicators.

Our interviews provided credible evidence that prior to July, 2009 EPU senior project management was slow to respond when presented with revised cost forecasts and concerns about the reliability of the Shaw study. See Report Section VIII.

The [redacted] was told in late 2008 before I was assigned to EPU that the projects were in trouble.

Concentric was able to confirm through the course of its interviews, that the [redacted] was alerted to the potential for increased cost estimates at PSL & PTN in late 2008. In addition, Concentric noted and reviewed two PSL Condition Reports from 2008 which indicated the potential for additional scope and cost challenges. See Section IV of the report.

My Team continued to deliver this message along with poor weekly performance reviews. Finally, in July of 2009, Sr. Management decided it was time to inform Executive Managers of the poor condition of EPU which precipitated the replacement of the entire EPU Project Sr. Management Team.

Concentric has confirmed that the Project Controls group continued to present EPU senior management with documented concerns about the project's cost forecast in the first few months of 2009 (see Section IV of the report) This information, after being briefly raised in the June, 2009 ESC meeting, was presented in detail to the ESC in July, 2009. It is also Concentric's understanding that during the time period between June and July 2009, executive management made the decision to change much of the EPU senior project management.

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Exhibit 6: [redacted] Letter, Interlineated

My Project Controls group prepared detailed reviews that were presented to [redacted] late in July 2009 on the poor condition of EPU.

The July 25, 2009 ESC presentations presented detailed cost reviews. Concentric's interviews confirmed the attendance of [redacted] and representatives from Bechtel, amongst others. See Section IV of the report.

At the time, the cost overview for PSL was: Original Budget $656MM, Current Forecast $795MM showing a negative variance of ($139MM). For PTN: Original Budget was $749MM, Current Forecast $909MM with a negative variance of ($160MM).

Concentric has confirmed these values. See Section IV of the report.

For PBN: Original Budget was $357MM, Current Forecast $497MM with a negative variance of ($140MM). These numbers clearly show the gravity of EPU negative performance. To my knowledge, these numbers have continued to worsen with the new Project Team to where for PTN and PSL, the Team does not have a clear idea of what the final costs will be.

Concentric's scope of work focused on the Florida EPU projects, not Point Beach in Wisconsin. Following the July 25, 2009 ESC presentations, the EPU project team has reported additional cost escalation at PTN & PSL in ESC presentations. The forecast as of December 2009 was $831 MM for PSL and $1012 MM for PTN. The current forecast for both PTN & PSL remain under review pending a third party cost analysis for PTN U3. See Report Section VIII.

I am concerned about how FPL will report these findings at the upcoming PSC hearings. Any information from EPU other than which was presented to Management last summer will be a manipulation of the truth, Current reporting for PTN and PSL does not contain information showing there is serious trouble with these Projects. The trouble was enough to replace the entire Sr. Project Team.

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Exhibit 6: [redacted] Letter, Interlineated

Enclosed with this letter are the presentations given to [redacted] last July. If you investigate current estimates for PTN and PSL, they were stated in November 2009 as being the original Shaw estimates. Currently the numbers are in review.

[redacted] stated that his concerns about reporting to the PSC were generated by his review of the November PSL Annual Project Cash Flow and PTN Total Project Cash Flow reports. Concentric has reviewed the reports cited by [redacted] and has determined that he is correct that they incorrectly relied upon the original need determination cost estimates. These inaccuracies were corrected on a going forward basis prior to this investigation commencing. [redacted] did not seem aware of the post-July 2009 ESC presentations or the revised cost forecast presented therein. Concentric has confirmed that the correct information about the post-July 2009 status of the cost estimates, including the July ESC presentations attached by [redacted] to his letter, was provided by FPL to the PSC staff as part of its review for the 2010 NCRC. See Section IV of the report.

For PBN, the estimate was stated in December 2009 as being $552MM and currently I believe it is over $600MM. That's almost 2 times the original Shaw budget estimate.

My team delivered the correct message to Sr. Management. Sr. Management did not want to accept the message. My Final Evaluation for 2009 is the only poor evaluation I've ever had in my entire career having worked in Project Controls for some 30 years. My former positions before coming to FPL were with ARES Corporation, Burlingame, CA where I was Project Controls Consultant/Manager for NASA in Houston working with the Program Management Division of the International Space Station. Also with ARES, I was a Project Consultant for the DARHT Project (Dual Axis Radiographic Hydrotest Facility) at Los Alamos National Laboratory where I was part of a Project Team that earned the DOE Excellence award for Defense Systems. For the record, my Team told the truth about the EPU financial condition and that truth did not meet FPL expectations.

Finally, I know this letter comes at a time when FPL has ordered the investigation of employee concerns stemming from the Jan. 20th and Feb. 4th letters. I am in no way associated with those letters. I only seek to express my concern about upcoming PSC hearings and my unjustified negative employee review. I have copied my supervisor and human resources.

Thank you for taking the time to read this letter.

[redacted]

Cc: [redacted]
Cc: [redacted]

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Exhibit 7: March 19, 2010 [redacted] Email

Sam Eaton

From: [redacted]
Sent: Friday, March 19, 2010 8:21 AM
To:
Cc: [redacted]; John Reed; Sam Eaton
Subject: For your consideration

Importance: High

[redacted]

In my opinion, my relationship with [redacted] is becoming increasingly strained. I don't feel I have a success path to developing a professional relationship with him that can benefit FPL. He has been cordial in public but in the one-on-one closed door "touch base" session we had yesterday he continued to tell me how dissatisfied he is with my performance. He has not put me on a formal A-PIP that I'm aware of (as I discussed with you) however, he has given me exercises (with changing verbal expectations) that makes me suspect he thinks he's established me in the program. I feel, especially with [redacted] early departure yesterday, that I am the next target for elimination from [redacted] organization. He told me in private that he does not intend being fired as his predecessors for poor performance and he will not let a few "stupid" people affect his management effectiveness.

I feel it's time for me to develop an exit strategy from FPL. I need to discuss this with you at our next meeting since I still have financial commitments from when I was hired. I need to minimize my financial exposure in leaving the company. Also, as a part of my own professional attitude, I want to make sure there is an adequate turnover for someone chosen to be my successor.

Thank you in advance for your help with this and I look for to speaking with you soon. Hopefully we can have this discussion early next week.

[redacted]

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Exhibit 8: Chronology

DATE	EVENT	SOURCE
2/08	Shaw Scoping Studies completed for PTN & PSL.	Shaw BOP Scoping Studies for PTN & PSL, 2/2008
4/3/08	CR 2008-11443 initiated: "EPU Project Feasibility Study may not have captured the full spectrum of modifications necessary ...", [redacted] notified; High Risk Mitigation Plan developed; no follow-up reports found in file.	CR 2008-11443
5/08	[redacted] hired as [redacted]	[redacted] Letter dated February 19, 2010; Interviews
5/15/08	EPC costs for PTN EPU estimated to be $225.2MM, based on Shaw estimates; included in scoping analysis.	7/25/09 ESC Briefing, PTN, p. 26
8/08	PSL EPC trend would increase budget for EPC from $74 MM to $84 MM with the note "Potential significant overrun-detailed proposal evaluation required."	PSL Trend Register
9/08	PSL EPC trend would increase budget for EPC from $74 MM to $138 MM with the note [redacted] forecast based upon current contract scoping strategy."	PSL Trend Register
10/08	PSL EPC trend would increase budget for EPC from $74 MM to $139 MM with the note [redacted] forecast".	PSL Trend Register
10/15/08	EPC costs for PTN EPU estimated to be $212.9MM, based on Bechtel indicative staffing.	7/25/09 ESC Briefing, PTN, p. 26
11/08	PSL EPC trend would increase budget from $74 MM to $138 MM with the note [redacted] Forecast".	PSL Trend Register
11/7/08	EPC costs for PTN EPU now forecast to be $262MM vs. $225MM in scoping analysis.	7/25/09 ESC Briefing, PTN, p. 26
11/22/08	[redacted] leaves project.	[redacted] Letter dated February 19, 2010; Interviews; EPU_Movement Out Of EPU Since July 2008.XLS
12/1/08	PSL project controls identifies potential cost over-run following award of Bechtel EPC agreement. Preliminary forecast provided to EPU senior project management.	Interview
12/10/08	CR 2008-37753 initiated: PSL EPU should have Change Management Plan developed and documented; CR 2008-11443 raised issue but was closed with no additional activity traced; "missed opportunity".	CR 2008-37753
1/1/09	[redacted] assumes additional role of [redacted]	[redacted] Letter dated February 19, 2010; Interviews

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Exhibit 8: Chronology

DATE	EVENT	SOURCE
2/09	PSL EPC trend would increase budget from $95 MM to $234 MM with note "Forecast based upon all data received from Bechtel to date-additional clarification will follow with agreements on target prices."	PSL Trend Register
2/17/09	Meeting of [redacted] to discuss changes to the PSL forecast. Draft analysis indicates PSL cost estimate is $785 MM, $134MM above scoping estimate.	SUMMARY CASHFLOW EPU TOTAL 090217 REVIEWED.XLS
2/28/09	[redacted], [redacted] resigns for performance issues.	Interview; EPU_Movement of out EPU Project Since July 2009.XLS
3/2009	PSL EPC trend would increase budget for EPC from $95 MM to $235 MM with note "Forecast based upon most recent data received from Bechtel. Bechtel to provide total project forecast by 5/15/2009."	PSL Trend Register
3/26/09	[redacted] asked to remove preliminary forecast from PTN EPU Site Monthly Cost Report and to replace the preliminary forecast with the original need determination forecast until the preliminary forecast is more certain. Interviews indicate [redacted] was not satisfied with this outcome.	Interviews; Email from [redacted] dated March 26, 2009.
4/30/09	Last date of documents typically provided to FL PSC Internal Controls auditors.	Interview
5/09	PSL EPC trend would increase EPC budget from $95 MM to $235 MM with note "Forecast based upon all data received from Bechtel to date-Additional efforts underway to reduce forecast."	PSL Trend Register
5/09	ESC advised that Bechtel estimate is greater than bid; cost forecasts for PSL ($682MM) and PTN ($770MM) remain unchanged; cost indicators for PSL are all green; cost indicators for PTN are mixed red and green.	5/09 ESC Briefing, pp. 3, 4, 27, 28
5/1/09	[redacted], [redacted], resigns from EPU project.	Interview; EPU_Movement Out of EPU Since July 2009.XLS

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Exhibit 8: Chronology

DATE	EVENT	SOURCE
5/1/09	[redacted] pre-filed direct testimony submitted to FL PSC. States "The EPU projects are progressing on schedule and within budget" and "At this time, FPL has not identified any need to revise the total non-binding cost estimate provided last May in Docket 080009-EI. " Sponsors Schedule TOR-7 which includes $1.4 B project costs or $1.7 B in-service costs. States this represents the current estimated in-service costs. FPL also submitted the pre-filed, direct testimony of [redacted], and Mr. John J. Reed, Chairman and CEO of Concentric.	Pre-Filed Direct Testimony of [redacted], Pg 2, Appendix I, Pg. 104
5/1/09	PSL Annual Cash Flow Report includes green performance indicator for budget forecast. Notes: "Cost status is based on the current approved Project funding. Detail forecast at Completion is underway." Total Project Cost Summary listed as under review.	PSL Annual Cash Flow Report, 5/1/2009
5/31/09	PTN Total Project Cash Flow Report includes red performance indicator for budget forecast. Notes: "Cost status is based on the current approved Project funding. Status will be reset upon approval of additional fund as applicable." Total Project Cost Summary listed as $747 MM.	PTN Total Project Cash Flow Report, 5/31/2009
Late May 09	Work on revised PTN & PSL cost forecast begins following 2-3 weeks of intensive review of PBN forecast and re-estimation.	Interview
6/09	PSL EPC trend. Would increase budget for EPC from $95 MM to $235 MM with note "Forecast based upon all data received from Bechtel to Date-Additional Efforts Underway to Reduce Forecast."	PSL Trend Register
6/09	PTN Total Project Cash Flow Report includes red performance indicator for budget forecast. Notes: "Cost status is based on the current approved Project funding. Status will be reset upon approval of additional fund as applicable. Total Project Cost Summary listed as $745MM.	PTN Total Project Cash Flow Report, 6/2009
6/09	PTN EPU Scope Review. Recommended deleting steam generator FP replacement, replacement of No.1-4 feedwater heaters, replacement of 1 SFP HX, exciter rewinds, and SDV replacement from EPU scope. Downsized 1 new SFP HX.	PTN EPU Scope Review, June 2009

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Exhibit 8: Chronology

DATE	EVENT	SOURCE
6/1/09	PSL Annual Cash Flow Report includes yellow performance indicator for budget forecast. Notes: "Cost status is based on the current approved Project funding. Detail forecast at Completion is underway." Total Project Cost Summary listed as "In Review".	PSL Annual Cash Flow Report, 6/1/2009
6/3/09	Bechtel submits P50 forecast for PTN EPC costs at $333.6MM vs. $225.2MM in 5/08 scoping analysis.	7/25/09 ESC Briefing, PTN, p. 26
6/17/09	PSL EPU Modification Scope Review. Recommended deleting U1 exciter rewind, No. 5 feedwater heater, repowering condensate pump C, purchase of one circulating water pump rotating assembling and refurbishment of others, and DEH constant pressure pumps from EPU scope. Limited pneumatic controls replacement.	6/17/09 PSL EPU Modification Scope Review
6/23/09	ESC advised that Bechtel estimate is greater than indicative bid, but that PSL and PTN cost estimates remain unchanged at $682MM and $770MM; SNE (contingency) has declined from $182MM to $14MM for PSL and from $204MM to $28MM for PTN.	6/23/09 ESC Briefing, pp. 3, 4
7/09	PTN Total Project Cash Flow Report includes red performance indicator for budget forecast. Notes: "Cost status is based on the current approved Project funding. Status will be reset upon approval of additional fund as applicable. Total Project Cost Summary listed as $745MM.	PTN Total Project Cash Flow Report, 7/2009
7/1/09	Bechtel submits revised P50 cost forecast for PTN at $337.3MM vs. $225.2MM in 5/08 scoping analysis.	7/25/09 ESC Briefing, PTN, p. 26
7/1/09	PSL Annual Cash Flow Report includes yellow performance indicator for budget forecast. Notes: "Cost status is based on the current approved Project funding. Detail forecast at Completion is underway." Total Project Cost Summary listed as "In Review".	PSL Annual Cash Flow Report, 7/1/2009
7/14/09	Bechtel reduces P50 cost forecast for PTN to $277.5MM as result of scope reductions.	7/25/09 ESC Briefing, PTN, p. 26
7/20/09	[redacted] transferred back to Nuclear Projects Organization.	[redacted] Letter dated February 19, 2010
7/20/09	New [redacted] and [redacted] announced for EPU Project.	Interviews;
7/25/09	ESC advised that PSL EPU cost forecast is now $796.0MM, up 21.3% from 5/08 original estimate.	7/25/09 ESC Briefing, PSL, p.8

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Exhibit 8: Chronology

DATE	EVENT	SOURCE
7/25/09	ESC advised that Needs filing is based on $651MM PSL cost estimate vs. current estimate of $796MM; ESC also informed that CVPRR is still highly positive.	7/25/09 ESC Briefing, PSL, pp. 44, 50
7/25/09	ESC briefed that PTN 3&4 uprates are now targeted to have LAR submittals delayed by 10 months, outage durations targeted have increased by 112 to 160 days, and in-service dates have slipped by 1 month (U-3) and 2 months (U-4); while outage durations are to be approved by [redacted] longer durations have been included in business model.	7/25/09 ESC Briefing, PTN, p. 3
7/25/09	ESC briefed that current cost estimates for PTN EPU have increased by 21.4% from $749.2MM to $909.7MM; risk register not synchronized with cost estimate, and carries EV of $147.1MM.	7/25/09 ESC Briefing, PTN, p. 5
8/2009	PTN Total Project Cash Flow Report includes green performance indicator for budget forecast. Notes: "Cost status is based on the current approved Project funding. Status will be reset upon approval of additional funds as applicable." Total Project Cost Summary changed to $750MM.	PTN Total Project Cash Flow Report, 8/2009
8/1/09	PSL Annual Project Cash Flow Report includes red performance indicator for budget forecast. Notes: "Cost status is based on current approved project funding. Detail Forecast at Completion is underway." Total Project Cost Summary remains "under review".	PSL Annual Project Cash Flow Report, 8/1/2009
8/17/09	FPL answers Staff Interrogatory 3-53 with reference to Schedule TOR-7. States "the cost to complete each project is subject to constant consideration and revision, and will be subject to continuous analysis until each project is placed in service. For the reporting obligations described above, FPL takes a "snapshot" of this continuous process at a particular point in time."	Staff Interrogatory 3-53.
9/2009	PTN Total Project Cash Flow Report includes yellow performance indicator for budget forecast. Notes: "Cost status is based on the current approved Project funding. Status will be reset upon approval of additional funds as applicable." Total Project Cost Summary remains $750MM.	PTN Total Project Cash Flow Report, 9/2009

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Exhibit 8: Chronology

DATE	EVENT	SOURCE
9/1/09	PSL Annual Project Cash Flow Report includes red performance indicator for budget forecast. Notes: "Cost status is based on current approved project funding. Detail Forecast at Completion is underway." Total Project Cost Summary remains "under review".	PSL Total Project Cash Flow Report, 9/2009
9/8/09	FL PSC Hearings in Tallahassee, FL. [redacted] confirms that the same answers contained within his pre-filed direct testimony would be given today if he was asked the same questions.	Electronic transcript of hearing in Docket 090009-EI, Vol 2, Pg 209
9/9/09	ESC advised that cost estimate has increased by $144MM ($1.85B vs. $1.71B) since last ESC briefing 6 weeks earlier; PSL is now at $831.2MM and PTN is at $1019MM; risk and contingency components have supplanted scope not defined as budget category.	9/9/09 ESC Briefing, p. 4, 9
10/1/09	There are two PSL October 2009 Annual Project Cash Flow Reports with different budget performance indicators. PSL Annual Project Cash Flow Report includes red performance indicator for budget forecast. Notes: "Cost status is based on current approved project funding. Detail Forecast at Completion is underway." Total Project Cost Summary remains "under review". The second PSL Annual Project Cash Flow Report includes yellow performance indicator in one and red in another. Notes: "Preliminary engineering analyses are identifying additional project scope. Engineering is evaluating options and budget impacts." Total Project Summary is changed to $651MM.	PSL Annual Project Cash Flow Report, 10/1/2009, PSL Annual Project Cash Flow Report, 10/2009
10/09	PTN Total Project Cash Flow Report includes yellow performance indicator for budget forecast. Notes: "Preliminary engineering analysis are indentifying additional project scope." Total Project Cost Summary remains $750MM.	PTN Total Project Cost Summary, 10/2009.
10/22/09	ESC advised that cost forecast is unchanged at $1.843B; contingency (balancing variable) has decreased by $12MM; AFUDC estimate has been revised downwards by $200MM, and now reflects only FPL share (all other costs presented are full plant cost); total EPU cost estimate at $2.078B, with transmission and AFUDC; cost per kW is roughly same as needs filing.	10/22/09 ESC Briefing, p. 3

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Exhibit 8: Chronology

DATE	EVENT	SOURCE
10/22/09	ESC given tables for PSL and PTN where "Total Project Cost Summary" uses original 5/08 cost estimates not current estimates; indicator for budget is yellow, but should have been red per report owner.	10/22/09 ESC Briefing, pp. 30, 31; interview notes
11/2009	PTN Total Project Cash Flow and PSL Annual Cash Flow Reports include yellow performance indicator for budget performance and the Total Project Cost Summaries are the original 5/08 Need Determination values.	PTN Total Project Cash Flow and PSL Annual Cash Flow Reports, 11/2009
11/13/09	ESC advised that cost forecast remains unchanged at $1.843B; contingency has been reduced by $7.7MM.	11/13/09 ESC Briefing, p. 3
11/13/09	ESC presented with tables for PSL and PTN where total project cost shown is 5/08 estimate, not current estimate; budget forecast indicator is shown as yellow, but should have been red per report owner.	11/13/09 ESC Briefing, pp. 40, 41; interview notes.
12/09	PTN Total Project Cash Flow and PSL Annual Cash Flow Reports include red performance indicator for budget performance and the Total Project Cost Summaries are listed as under review.	PTN Total Project Cash Flow and PSL Annual Cash Flow Reports, 12/2009
12/5/09	[redacted], former [redacted] resigns as a result of performance issues.	Interview; EPU_Movement of out EPU Project Since July 2009.XLS
12/8/09	High Bridge Associates retained to provide 3rd party estimate of PTN U3.	FPL Purchase Order 00127777, 12/08/09
12/28/09	ESC provided with tables for PSL and PTN where project cost summary shows 5/08 estimates, not current estimates, and budget forecast indicator is mistakenly shown as yellow, not red. However, in balance of the report, the current cost forecast is $1.843B; cost contingency category has been eliminated and "scope not defined" ("SND") has been re-established; SND has decreased by $4.8MM; Support of Point Beach is placing additional strain on PSL and PTN resources; LAR analysis is driving scope/cost increases.	12/28/09 ESC Briefing, pp. 2, 5, 8, 13, 18, 19
1/15/10	Annual cash flow slides for ESC presentation modified to clearly state what relates to the total project forecast and the annual forecast.	1/15/10 ESC Briefing
1/21/10	Risk register for PTN increased by $9.5MM, with equal reduction in contingency.	PTN risk register, 3/4/10, changes tab
2/8/10	Risk register for PTN increased by $10.1MM, with equal reduction in contingency.	PTN risk register, 3/4/10, changes tab

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Exhibit 8: Chronology

DATE	EVENT	SOURCE
2/15/10	February 2010 ESC Presentation presents a white annual budget indicator for PSL and a green annual budget indicator for PTN. Total project cost are listed as under review.	2/15/10 ESC Briefing
2/19/10	Letter sent by [redacted] to Lewis Hay.	[redacted] Letter dated February 19,
2/23/10	[redacted] Briefing indicates three PTN U3 fall outage modification shave the potential to exceed the 35 days allotted to this outage.	2/23/10 [redacted] Update, p. 15
2/23/10	[redacted] Briefing states no "significant change in total weighted risk cost."	2/23/10 [redacted] Update, pp. 19-22
2/23/10	PTN main steam pressure drop concern identified to [redacted] No recovery cost provided.	2/23/10 PTN Main Steam Pressure Drop and Reduce Turbine Inlet Pressure presentation
3/1/10	[redacted] Update states "no significant change in total weighted risk cost."	3/1/10 [redacted] Update, pp. 19-22
3/4/10	Risk register for PTN increased by $42.7MM, due primarily to potential for increased staffing; equal reduction in contingency. Project is working to complete 29 pre-outage modifications to expedite workload.	PTN risk register, 3/4/10, changes tab
3/10/10	Concentric's receipt of [redacted] letter dated February 10, 2010.	Email from [redacted] to Samuel Eaton dated March 10, 2010
3/18/10	March 2010 ESC briefing cancelled.	3/19/10 ESC briefing
3/22/10	[redacted] Updates indicated $30.2MM added to risk register for PTN main steam pressure loss recovery. Additional $28MM & $9MM added to risk register for additional PTN Field Non Manual ("FNM") support and startup and testing. Update later indicates High Bridge Associates believes FNM may be undervalued. PSL annual budget performance indicator changed to yellow.	3/22/10 [redacted] Update, pp. 3, 13-14, 32
3/29/10	Additional $14.1MM added to PTN risk summary (weighted). $13.8MM relates to additional LLW disposal due to previous S/G tube leaks. Note that this is in addition to $11.2 MM already in budget.	3/29/10 [redacted] Update, p. 19
4/8/10	[redacted] Update indicates LAR reevaluation may require addition of check value to mitigate PTN main steam pressure drop. Cost increase is listed as $5MM. Risk register is updated with $19.1MM of weighted risk costs include $5MM for main steam check valve.	4/8/10 [redacted] Update, pp. 3, 21

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Exhibit 9: Response to Staff DR 5-53

Florida Power & Light Company
Docket No. 090009-EI
Staff's Fifth Set of Interrogatories
Interrogatory No. 53
Page 1 of 1

Q.
Section 366.93(5) F.S., states: The utility shall report to the commission annually the budgeted and actual costs as compared to the estimated inservice cost of the nuclear or integrated gasification combined cycle power plant provided by the utility pursuant to s. 403.519(4), until the commercial operation of the nuclear or integrated gasification combined cycle power plant. The utility shall provide such information on an annual basis following the final order by the commission approving the determination of need for the nuclear or integrated gasification combined cycle power plant, with the understanding that some costs may be higher than estimated and other costs may be lower.

Please provide a listing of each analysis you believe is contemplated by Section 366.93(5) F.S. and should be included in a utility's annual NCRC filings. Include in your response estimates of the cost and time required to prepare each listed analysis.

A.
Section 366.93(5) requires the annual reporting of the actual and budgeted costs to complete the project as compared to the estimated in service cost provided pursuant to 403.519(4), F.S. FPL provides this information in Page 464 of the annual FERC Form 1 filing. It is FPL's understanding that the FPSC developed Page 464 (contained within the FPSC section of FERC Form 1) to satisfy the requirement of this statute. Additionally, FPL includes this information as part of its Nuclear Cost Recovery filing as TOR-7. These filings satisfy the requirement of Section 366.93(5).

The cost to complete each project is subject to constant consideration and revision, and will be subject to continuous analysis until each project is placed in service. For the reporting obligations described above, FPL takes a "snapshot" of this continuous process at a particular point in time. This is a data gathering exercise which utilizes the output of existing processes that would be performed regardless of this reporting requirement. It takes professionals throughout the FPL organization several weeks of work to gather and prepare this information.

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FPL 152946
NCR-10

June 21, 2010

I have completed a review of the report entitled [redacted] Investigation Report" prepared by Concentric Energy Advisors (CEA). While I agree with many of the recommendations, there is one area of the report in particular that I believe warrants clarification: the assertion in section D that "a 300M, or 27% increase in the projected cost of the [Extended Power Uprate] project should have been discussed in the live testimony of Sept. 8, 2009." On the surface, the timeline presented seems to support this as a reasonable conclusion. However, the investigative report does not reflect the series of discussions that occurred between various members of executive management between the time of the award of the Engineering, Procurement, and Construction (EPC) contract to Bechtel Power Corporation (Bechtel) and the Florida Public Service Commission (FPSC) hearing on EPU project cost recovery in September 2009.

In summary, it was well known that Bechtel has a reputation for taking narrow views of contracts, excluding legitimate scope, and generally being difficult to work with after having won a bid as the low cost bidder. Indeed, FPL Group had previous experience with this type of business practice on the Marcus Hook project several years before awarding the EPU EPC contract to Bechtel. Prior to awarding the EPU EPC contract, senior FPL management had extensive discussions on this point, and were prepared to "push back" if and when we observed the pattern. Not surprisingly, following the contract award Bechtel in late 2008 and through the winter of 2009, FPL began to receive forecasts for both Turkey Point and St. Lucie that reflected significant increases in costs for the projects. While there was acknowledgement that as detailed engineering proceeded, there would be additional scope, and therefore cost, there were also indications that there were opportunities to eliminate scope and reduce costs as well, that simply were not being acted upon. The interactions between FPL and the major vendors on the EPU project continued during the first half on 2009 with little progress made on reducing costs, with the major focus being on Bechtel.

This culminated in the July 25, 2009 meeting discussed in the CEA report. During that meeting, which included FPL executive management (including myself) and Bechtel executive management, along with staff from both organizations, there was a principal focus on cost. During the meeting, there was an acknowledgement that there were, in fact, opportunities to eliminate costs that had not been acted upon, and some anecdotal examples were discussed. In summary, the meeting ended with Bechtel agreeing at FPL's request to dedicate resources in conjunction with FPL to identify and eliminate unnecessary costs, including duplicative overhead. It was agreed that the team would report its results following completion to FPL EPU management, which in turn would be provided to FPL executive management.

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NCR-10

The CEA report asserts that the new estimates developed after the EPC contract award to Bechtel were more reflective of current cost projections and should have been discussed in September 2009 at the FPSC hearings. While it is true that more was known about the ultimate scope in September 2009, the Bechtel cost projections had not been fully vetted or challenged by FPL, including executive management, at that time. In fact, Bechtel had already agreed during the July 25 meeting that opportunities existed to reduce scope and cost. Bechtel's track record at managing costs was not good and FPL had an obligation to fully understand and challenge each and every cost increase, line by line, before agreeing to the increased projections. This work had not been completed as of September 2009.

From my perspective, as of September 2009, Bechtel projected costs during the period of time in question were not fully validated, and the projections were not ripe for presentation to the FPSC knowing that more work remained to be completed. Therefore, I disagree with the assertion in the CEA report that FPL should have updated the project cost estimate during the September 2009 hearings before the FPSC.

[redacted]

CONFIDENTIAL

June 21, 2010

I have reviewed the [redacted] Investigation Report prepared by Concentric Energy Advisors (CEA). In my view, the CEA Report provides only a limited perspective from a project controls standpoint. The CEA Report is incomplete because it does not provide my perspective as the incoming [redacted] particularly in the July-September 2009 timeframe. The following provides that perspective.

In the summer of 2009, I had concerns about the total EPU project cost forecast.

- First, the scope of the project was continuing to change based on the progress of the engineering analysis required to support the Nuclear Regulatory Commission (NRC) license amendment requests (LAR) and the design engineering that was just beginning. As a point of comparison, at this time (one year later), only one LAR for one of the four FPL units has been submitted to NRC and design engineering is only approximately 13 percent complete.

- Second, the more significant driver causing the project controls organization to forecast a higher cost to EPU senior management was information provided by Bechtel Power Corporation (Bechtel) in regards to their forecast of the necessary resources to staff, manage, and implement the uprates. At this time, senior FPL management had significant concerns about the accuracy of the Bechtel forecast.

The EPU senior management team reported to the Executive Steering Committee (ESC) that it had evaluated what it would cost to self-perform the uprate for a given site and compared this estimate to the Bechtel forecast. The EPU senior management team determined that the Bechtel estimate was significantly higher in comparison. This position taken by the EPU management team was the catalyst for the detailed review conducted and presented to the ESC on July 25, 2009. During that meeting it was evident that Bechtel senior management and EPU senior management were very far apart on the resources required based on the current scope, to engineer, procure, and implement the EPU projects. Senior management considered the Bechtel position to be a "no risk" proposition for Bechtel and, accordingly, believed the Bechtel estimate to be unreasonably conservative. As a result, senior management did not accept Bechtel's position and the higher forecast.

FPL senior management then directed the EPU management team to take a number of actions, including potential removal of Bechtel from all or a portion of the project; consideration of other engineering, procurement, and construction (EPC) vendors to perform all or part of the work; and pursuit of a strategy to resolve the delta between FPL and Bechtel. FPL senior management also reemphasized its expectation that the EPU team was to continue to challenge the scope of the project.

During August-September 2009, the EPU management team's priorities were to reorganize the EPU project team and structure, conduct an orderly transition, and

evaluate options to leverage the Company's position relative to Bechtel. During this time, my direct reports and I initiated a number of activities. One initiative was the engagement of URS/Washington Group (URS) as to their availability and capability in regards to EPUs. URS wanted to know if FPL intended to terminate Bechtel's role in the project. The EPU management team told URS that although FPL was not happy with Bechtel, no conclusions had been reached with regard to staying with Bechtel, switching to self-perform all or part of the work, or switching to a different EPC contractor in whole or in part.

I requested and received a proposal from URS as to the scope and cost for an independent estimate for the EPU project. At this same time the EPU senior team reviewed the capability of a number of independent organizations that could provide a "bottom up" cost estimate and risk analysis for major projects. The purpose was to bring a range to the project estimate, quantify the risk, and validate and or leverage the Bechtel input into the total project estimate. In parallel with the aforementioned activities, the EPU management team was working with Bechtel to eliminate any redundancy and identify opportunities to streamline the project to reduce the Bechtel estimate. Ultimately, the option of changing vendors was eliminated due to a number of factors (e.g., demobilization and start-up costs, schedule impacts, organizational distractions).

Given this factual backdrop, when reading the CBA report it should be considered that during September and October 2009, there was activity ongoing to review, challenge, and consider alternatives to Bechtel's project cost forecast, and to develop alternatives to Bechtel as the EPC contractor.