BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 120009-EI

In the Matter of:

NUCLEAR COST RECOVERY CLAUSE.
_____/

VOLUME 3

Pages 357 through 466

PROCEEDINGS: HEARING

COMMISSIONERS PARTICIPATING: CHAIRMAN RONALD A. BRISÉ
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER ART GRAHAM
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

DATE: Monday, September 10, 2012

TIME: Commenced at 10:58 a.m.
Concluded at 11:55 a.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: LINDA BOLES, RPR, CRR
Official FPSC Reporter
(850) 413-6734

APPEARANCES: (As heretofore noted.)

I N D E X

WITNESSES

EXHIBITS

NUMBER:	ID.	ADMTD.
125	437	
126	455	

P R O C E E D I N G S

(Transcript follows in sequence from Volume 2.)

MR. WALLS: Progress calls Mr. Elnitsky.

CHAIRMAN BRISÉ: All right.

Just so that everyone is aware, we plan to break at noon for lunch, from 12:00 to 1:00. I'm trying to see if I can get my court reporter's attention.

Can we forge through 'til 12:00? Will that work?

THE COURT REPORTER: Yes, sir.

CHAIRMAN BRISÉ: Okay. Thank you very much.

So we will work through 'til 12:00.

Whereupon,

JOHN ELNITSKY

was called as a witness on behalf of Progress Energy Florida, Inc., and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WALLS:

Q Will you please introduce yourself to the Commission and provide your business address.

A Good morning, Commissioners. My name is John Elnitsky. My business address is 299 First Avenue North, St. Petersburg, Florida.

Q And, Mr. Elnitsky, have you already been sworn as a witness?

A Yes, I have.

Q And can you explain to the Commission who you work for and what your position was at the time you prefiled your direct testimony in April of 2012.

A At the time I filed my testimony, I worked for Paula Sims, who was the Executive Vice President for Corporate Development.

Q And has your title or position changed since the merger with Duke Energy?

A Yes, it has.

Q And what is your current title?

A My current title is Vice President of Project Management and Construction, reporting to Mr. Lyash in the energy supply organization.

Q Have your job responsibilities with respect to the Levy Nuclear Project stayed the same, or have they changed since the merger?

A They have effectively stayed the same.

Q And do you have your prefiled direct testimony on April 30th, 2012, in this proceeding with you?

A I do.

Q And other than the changes you describe with respect to your title, do you have any other changes to

make to this prefiled direct testimony?

A Yes, I do.

Q Can you explain what that is?

A Yes. Commissioners, in general in my testimony we refer -- and I'll take you, for example, to page 10, which I think is the first instance -- we talk about the Levy nuclear COLA expecting to be obtained from the NRC in mid 2013.

As a result of the actions by the courts and the Commission over the last week, we now understand that pending resolution of the Waste Confidence Rule we would not expect to get our license until likely 2014. And we can talk about that in more detail.

Q Okay. Other than the changes you have described, if I asked you the same questions that I asked in this prefiled direct testimony today, would you give the same answers?

A Yes, I would.

MR. WALLS: We request that the April 30th, 2012, prefiled direct testimony of Mr. Elnitsky be moved into evidence as if it was read in the record today.

CHAIRMAN BRISÉ: All right. We will move Mr. Elnitsky's prefiled testimony into the record as though read.

IN RE: NUCLEAR COST RECOVERY CLAUSE

BY PROGRESS ENERGY FLORIDA

FPSC DOCKET NO. 120009-EI

DIRECT TESTIMONY OF JOHN ELNITSKY

I. INTRODUCTION AND QUALIFICATIONS.

Q. Please state your name and business address.

A. My name is John Elnitsky. My business address is 299 1st Avenue North, St. Petersburg, Florida.

Q. Who do you work for and what is your position with that company?

A. I am currently employed by Progress Energy, Inc. as the Vice President of New Generation Programs and Projects ("NGPP"). As the Vice President of NGPP, I am responsible for the licensing and construction of the Levy Nuclear power plant project ("LNP"), including the direct management of the Engineering, Procurement, and Construction ("EPC") Agreement with Westinghouse and Shaw, Stone & Webster (the "Consortium"). In this role I am also responsible for the LNP base load transmission project, and the program coordination and support teams for the LNP. Representatives from these program coordination and support teams include project controls, business and financial management services, contract management and administration, and other support functions that make up the Program Management Team ("PMT") that I lead to manage the EPC Agreement and the related projects under the LNP.

Q. In your role as Vice President of NGPP, are you involved in the senior management review of the LNP?

A. Yes, as the Vice President of NGPP, I report on the LNP directly to the Senior Management Committee ("SMC"). The SMC has corporate responsibility for the LNP and includes Progress Energy's Chief Executive Officer ("CEO"), Chief Financial Officer, the Executive Vice President ("EVP") and General Counsel for Administration and Corporate relations, the EVP-Energy Supply, the CEOs of PEF and Progress Energy Carolinas, the Senior Vice President ("SVP") for Corporate Development and Improvement, the SVPs for PEF and PEC Energy Delivery, and the Chief Nuclear Officer. I update the SMC with respect to the LNP, the EPC Agreement, the Consortium discussions and negotiations, project and enterprise risk updates, and the LNP quantitative and qualitative feasibility analysis.

As Vice President of NGPP, I also lead the Levy Program Performance Review and report directly to Jeff Lyash, the EVP-Energy Supply for Progress Energy, who has senior management oversight responsibility for the LNP. Under the Levy Program Governance Policy (MGT-NPDF-00001), Mr. Lyash is the Executive Sponsor of the Levy Program Performance Review. The Levy Program Performance Review includes the following functional areas with respect to the LNP: transmission planning; finance; regulatory; external relations; communications; and nuclear operations, safety, and quality.

II. PURPOSE AND SUMMARY OF DIRECT TESTIMONY.

Q. What is the purpose of your direct testimony?

A. My testimony supports the Company's request for cost recovery for the Company's LNP actual/estimated 2012 and projected 2013 costs pursuant to the nuclear cost recovery statute and rule. I will also explain the Company's feasibility and implementation analyses for the LNP and the LNP PMT recommendation to the SMC with respect to the Company's LNP implementation decision. I will provide and explain the Company's long-term feasibility analyses consistent with Commission Order No. PSC-09-0783-FOF-EI in Docket No. 090009-EI. I will explain that the LNP PMT determined that the LNP is feasible, both from a qualitative and quantitative perspective, but there is increased near term uncertainty and, thus, increased near term enterprise risks with respect to immediate implementation of a decision to construct the LNP.

I will explain the Company's further determination of the most beneficial implementation of the LNP for the Company and its customers. As a result of this determination, I will explain that the LNP PMT evaluated whether implementation of the LNP consistent with the 2010 and 2011 LNP program of record, or an extension of the current project suspension, was in the best interests of the Company's customers. Based on this determination, the LNP PMT recommended that the Company implement an extension of the current project suspension. The SMC accepted the recommendation and decided that a longer term project suspension is in the best interests of the Company and its customers. The SMC decision is reflected in the approval of the Integrated Project Plan

("IPP"), Revision 4, for the LNP. The SMC decision is also explained by Mr. Jeff Lyash in his pre-filed direct testimony in this nuclear cost recovery clause ("NCRC") proceeding.

Q. Do you have any exhibits to your testimony?

A. Yes. I am sponsoring the following exhibits:

- Exhibit No. ___ (JE-1), a copy of the confidential IPP Revision 4 for the LNP;
- Exhibit No. ___ (JE-2), PEF's updated cumulative life-cycle net present value revenue requirements ("CPVRR") calculation for the LNP compared to the cost-effectiveness analysis presented in the Need Determination proceedings for Levy Units 1 and 2;
- Exhibit No. ___ (JE-3), the Florida Legislative Office of Economic and Demographic Research ("EDR") March 2012 Florida Economic Overview;
- Exhibit No. ____ (JE-4), a copy of the Stipulation and Settlement Agreement approved by the Commission in Order No. PSC-12-0104-FOF-EI;
- Exhibit No. ___ (JE-5), the Nuclear Regulatory Commission ("NRC") review schedule for the LNP Combined Operating License Application ("COLA");
- Exhibit No. ___ (JE-6), an updated, graphic illustration of the steps and timing of the PEF LNP COLA review hearing process; and
- Exhibit No. ___ (JE-7), a confidential chart of the Company's long lead equipment ("LLE") purchase order ("PO") disposition status.

These exhibits were prepared by the Company, or they are public, government reports generally used and relied on by the public and regularly used by the Company in the regular course of its business, and they are true and correct.

I am also sponsoring or co-sponsoring portions of the schedules attached to Thomas G. Foster's testimony. Specifically, I am co-sponsoring portions of Schedules AE-4, AE-4A, and AE-6 and sponsoring Schedules AE-6A through AE-7B of the Nuclear Filing Requirements ("NFRs"), included as part of Exhibit No. __ (TGF-1) to Thomas G. Foster's testimony. I will also be co-sponsoring portions of Schedules P-4 and P-6 and sponsoring Schedules P-6A through P-7B included as part of Exhibit No. ___ (TGF-2) to Mr. Foster's testimony, and co-sponsoring Schedules TOR-4, TOR-6, TOR-6A, and TOR-7, which is Exhibit No. ___ (TGF-3) to Mr. Foster's testimony. A description of these Schedules follows:

- Schedule AE-4 reflects Capacity Cost Recovery Clause ("CCRC") recoverable Operations and Maintenance ("O&M") expenditures for the period.
- Schedule AE-4A reflects CCRC recoverable O&M expenditure variance explanations for the period.
- Schedule AE-6 reflects actual/estimated monthly expenditures for site selection, preconstruction, and construction costs for the period.
- Schedule AE-6A reflects descriptions of the major tasks.
- Schedule AE-6B reflects annual variance explanations.
- Schedule AE-7 reflects contracts executed in excess of $1.0 million.

- Schedule AE-7A reflects details pertaining to the contracts executed in excess of $1.0 million.
- Schedule AE-7B reflects contracts executed in excess of $250,000, yet less than $1.0 million.
- Schedule P-4 reflects CCRC recoverable O&M expenditures for the projected period.
- Schedule P-6 reflects projected monthly expenditures for preconstruction and construction costs for the period.
- Schedule P-6A reflects descriptions of the major tasks.
- Schedule P-7 reflects contracts executed in excess of $1.0 million.
- Schedule P-7A reflects details pertaining to the contracts executed in excess of $1.0 million.
- Schedule P-7B reflects contracts executed in excess of $250,000, yet less than $1.0 million.
- Schedule TOR-4 reflects CCRC recoverable actual to date and projected O&M expenditures.
- Schedule TOR-6 reflects actual to date and projected annual expenditures for site selection, preconstruction and construction costs for the duration of the project.
- Schedule TOR-6A reflects descriptions of the major tasks.
- Schedule TOR-7 reflects total project costs exclusive of carrying costs and fuel costs.

These schedules are true and accurate.

Q. Please summarize your direct testimony.

A. The Company can complete construction of the Levy nuclear power plants. The LNP is, therefore, feasible. The LNP Combined Operating License ("COL") and necessary permits for construction of the LNP can be obtained. The LNP is feasible from a regulatory perspective. The LNP is also feasible from a technical perspective because the AP1000 nuclear reactor design can be installed at the Levy site. The LNP is economically feasible despite lower near term natural gas prices and delayed carbon cost impacts. From a qualitative perspective, however, there is increased near term uncertainty and, therefore, increased near term enterprise risks associated with the commencement of LNP construction activities in 2013. As a result of this current uncertainty and increased near term enterprise risks, the Company had to decide if commencing construction next year was in the customers' and Company's best interests. This assessment led the Company to decide to shift the projected in-service dates for the LNP to 2024 and 2025.

The Company determined the best decision for PEF and its customers was to build the LNP at a later date, with expected commercial in-service dates for Levy Unit 1 in 2024 and Levy Unit 2 in 2025. This decision mitigates near term uncertainty and increased enterprise risks. It allows more time for the Florida economy to recover, for Florida economic conditions to improve for PEF's customers and the Company, for natural gas demand to meet market supply conditions, and for federal and state energy, environmental, and nuclear policy to develop. As a result, the decision provides PEF and its customers additional time for increased certainty to develop with respect to the project's enterprise risks.

The decision further provides the Company the flexibility to commence construction sooner than currently planned if prudent to do so. The decision to extend the commencement of construction of the LNP next year to build the LNP in 2024 and 2025 is in the customers' and Company's best interests and, therefore, the prudent management decision for the LNP.

III. LNP EVALUATION.

Q. How did the Company evaluate the LNP?

A. The LNP PMT evaluates the LNP each year with any major change in the project enterprise risks or project schedule, scope, or cost as part of its on-going project management for the Company. This evaluation is consistent with the way the Company has performed its review since the Commission approved the need for the LNP in 2008, and which the Commission has found reasonable and prudent for the past three years. This evaluation includes the analyses used to determine the feasibility of completing the Levy nuclear units. The Company also takes a broader view to determine how to implement the LNP in the best interests of the Company and its customers. In this broader view, the Company weighs the LNP costs and benefits, including the long-term benefits of additional nuclear generation for the Company and the State of Florida such as fuel diversity, reduced reliance on foreign fossil fuels, base load capacity needs, and the reduction in environmental emissions from clean nuclear energy generation. The Florida Legislature recognized these longer-term, nuclear generation benefits in the 2006 legislation that included adoption of the nuclear cost recovery statute and

required the Commission to consider them in need determinations for proposed nuclear power plants. This Commission granted the Company's LNP need determination based on this legislation.

Q. What did the Company consider in this year's project evaluation?

A. As it has in each of the past three years, the Company evaluated the project status, the feasibility of completing the Levy nuclear units, including enterprise and project risks, and the short- and long-term LNP costs and benefits. This evaluation ensures that the Company aligns the LNP plan with the best interests of the Company and its customers. Based on this evaluation, as explained below, the LNP PMT considered both a short- and longer-term extension of the current partial suspension of the LNP.

Q. What is the current LNP project status?

A. The EPC Agreement for the LNP was partially suspended in 2009. The original schedule contemplated certain preconstruction site work under a Limited Work Authorization ("LWA") issued by the NRC in advance of the COL for the LNP. The NRC determined that it would review the LWA on the same schedule as the COL under the Company's COLA. This determination meant that preconstruction site work contemplated under the LWA could not be performed early, before COL issuance, but would have to be performed after COL issuance. The subsequent impact of the NRC LWA determination to the original LNP schedule was a minimum twenty (20) month schedule shift. As a result of this

NRC determination, the Company evaluated implementation of the LNP and decided to focus LNP work on obtaining the Combined Operating License ("COL") for the LNP from the NRC while minimizing near term costs until after the LNP COL was obtained. As a result of this decision, the Company amended the EPC Agreement to extend the partial suspension of the EPC Agreement for the project until the COL was obtained. This decision was explained in detail in the Company's 2010 NCRC testimony and exhibits in Docket No. 100009-EI. The Commission determined that PEF's decision to continue pursuing a COL for the LNP was reasonable in Order No. PSC-11-0095-FOF-EI. Since 2010, the Company has implemented this decision by focusing work on obtaining the LNP COL and minimizing other project costs until after the NRC issues the LNP COL.

Q. What were the results of the Company's LNP evaluation this year?

A. The LNP PMT determined that a longer term project suspension is in the best interests of the Company and its customers. IPP Revision 4 was prepared based on the recommendation that a longer term project suspension should be implemented and presented to the SMC for approval. The SMC approved the LNP PMT recommendation in IPP Revision 4 and decided to implement a longer term suspension of the project. See Exhibit No. ___ (JE-1) to my testimony.

Continuation of the LNP is still in the customers' best interests. The LNP is feasible from a regulatory, technical, and economic perspective. The LNP COL can be obtained and is still expected from the NRC in mid-2013. The LNP can be built at the Levy site. Even with lower natural gas price forecasts, the LNP is projected to be economically beneficial to PEF's customers over the sixty-year

life of the Levy nuclear units. The LNP still fulfills the Florida legislative objectives of enhanced State and Company fuel diversity, reduced reliance on fossil fuels especially from foreign sources, reduced environmental emissions through clean energy generation, and enhanced base load capacity. The long-term LNP fuel savings and other, long-term benefits for PEF's customers exist and, therefore, justify completion of the LNP. Accordingly, PEF still intends to build the LNP.

At this time, however, ending the partial suspension, issuing the full notice to proceed ("FTNP"), and ramping up engineering and construction for the LNP are not in the best interests of PEF's customers. The increased near term enterprise risks resulting from continuing, near-term economic uncertainty, and legislative and regulatory uncertainty regarding federal and state energy and environmental policy require, in the exercise of the Company's reasonable management judgment, an extension of the current project suspension. Accordingly, the Company decided not to commence construction, but instead decided to obtain the LNP COL and build the LNP at a later time than previously planned.

IV. FEASIBILITY.

A. <u>The Company's 2012 Evaluation of the LNP Feasibility Analyses.</u>

Q. Did the Company prepare updated LNP feasibility analyses?

A. Yes. The Company prepared the current feasibility analyses consistent with the feasibility analyses previously performed for the LNP that were reviewed and approved by the Commission in the prior three NCRC dockets. The Company

employs both a qualitative and quantitative feasibility analysis. The qualitative analysis is an analysis of the technical and regulatory capability of completing the plants, the enterprise risks, and the short- and long-term costs and benefits of completing the Levy nuclear power plants. The quantitative analysis is an updated CPVRR economic analysis that includes comparisons to the cost-effectiveness CPVRR analysis in the Company's need determination proceeding for the LNP described in Order No. PSC-08-0518-FOF-EI. The Company's updated CPVRR economic analysis for the LNP is included as Exhibit No. ___ (JE-2) to my testimony. I explain the results of the Company's feasibility analysis for the LNP in my testimony and the exhibits to my testimony.

Q. How does the Company evaluate the LNP enterprise risks?

A. The Company's qualitative analysis of the enterprise risks facing the LNP is more of a holistic analysis rather than a pure measurable or computable analysis. As I explained in previously filed testimony, the effects of most enterprise risks cannot be quantified or measured in mathematical terms, they cannot realistically be weighed against other enterprise risks, and, therefore, they cannot be compared based on a quantifiable or measureable standard. The Company must instead evaluate the enterprise risks by identifying events or circumstances that have changed and then use its reasonable, business judgment to determine if those events or circumstances represent fundamental changes in the enterprise risks that impact the project. The Company continued this process for evaluating the LNP enterprise risks as part of its qualitative feasibility analysis this year.

Q. What were the Company's conclusions when the Company evaluated the LNP enterprise risks this year?

A. The Company concluded from its qualitative analysis of the LNP enterprise risks this year that the LNP is still feasible, both qualitatively and quantitatively, over the long-term life of the Levy nuclear units, however, near term there is greater uncertainty and, thus, increased near term enterprise risks. As a result, prudent project management requires that the Company plan to mitigate the increased near term enterprise risks. The LNP PMT plan to mitigate the increased near term enterprise risks extends the current project suspension to build the LNP later instead of right now. Issuance of the FTNP next year to commence full scale LNP construction is not supported by near term, lower natural gas prices and delayed carbon cost impacts due to legislative and regulatory energy and environmental policy uncertainty. Extending the time for the commencement of the LNP construction provides more time for the Florida economy to recover, for economic conditions for Florida customers to improve, for federal and state energy and environmental policy to develop, and therefore, for more certainty to develop with respect to the project's enterprise risks. As a result, this LNP PMT plan mitigates the increased near term LNP enterprise risks. The Company will continue under this project plan to move forward with the LNP on a slower pace with work focused on obtaining the LNP COL and other, required permits for the project. As explained in more detail below, this project plan was presented by the LNP PMT to the SMC in IPP Revision 4 and the SMC approved this LNP plan to mitigate the near term increased project enterprise risks.

B. Increased Near Term Enterprise Risks.

Q. How did the Company assess the Florida economic conditions in its evaluation of the LNP enterprise risks?

A. Economic conditions have been flat last year and this year in Florida with growth expected at a rate that is far below the rate of growth experienced prior to the recession. The rate of economic growth in Florida is anemic and it follows the worst economic recession since the Great Depression. The effects of this recession continue in Florida. The Florida unemployment rate, while recently declining, is still more than a full percentage point higher than the national average. It remains among the nation's highest unemployment rates. And, despite a recent decline in the Florida unemployment rate, the number of employed people in the state actually decreased because people have given up and are no longer looking for employment or have moved elsewhere where economic conditions are better. The Florida Legislative Office of Economic and Demographic Research ("EDR") concluded in March 2012 that it will take a long time for the Florida job market to recover. Florida lost nearly 800,000 jobs in the recession and needs to create over one million jobs for the same percentage of the total population to be working at peak employment prior to the recession. See Exhibit No. ___ (JE-3) to my testimony.

Florida's housing and construction industries, which led past Florida economic recoveries, have not yet recovered from the recession. Florida's home vacancy rate leads the nation and Florida continues to be among the nation's leading states in foreclosures. In 2009, 2010, and 2011, Florida had the second highest number of foreclosure filings in the nation. Additionally, Florida has the

third longest foreclosure resolution period in the nation at a little over two years from filing to resolution. Home inventories are declining, but they do not reflect vacant houses that are foreclosed on but not yet listed for sale or that have been pulled from the market because of continuing low prices, nor do they reflect existing, delinquent mortgages. See Exhibit No. ___ (JE-3). Even so, existing home vacancies and foreclosures have saturated the Florida housing market, holding down the need for new residential construction, depressing existing home sales, and holding flat existing home prices. Significant commercial foreclosures in Florida have also increased commercial space vacancies. Florida real estate and construction employment were devastated by the recession, and as a result of the residential and commercial foreclosures and vacancies, the real estate and residential and commercial construction industry remain weak. The Company was equally affected, as new meter sets declined dramatically during the recession and have only recently leveled off. Consequently, Florida's housing, real estate, and construction industries have not rebounded from the recession and will not soon lead the economic recovery in Florida.

It will take additional time for the Florida economy to recover from the recent recession. This recession is the nation's longest recession since the Great Depression, and the nation has not yet recovered. So far, the recovery has been half as strong as the average economic gain from prior recessions. See Exhibit No. ___ (JE-3). Florida's economic recovery is lagging behind the national recovery. The EDR concluded in March 2012 that Florida growth rates are slowly returning to more typical levels, but drags are more persistent than in past

recessions, and it will take years to climb completely out of the hole left by the recession. See Exhibit No. ___ (JE-3).

Q. Have these economic conditions also affected the Company?

A. Yes, as we explained last year PEF was not immune to the recession, or to the subsequent effects that represent a drag on Florida's economic recovery. PEF lost customers during and immediately following the recession. Between 2009 and 2010, PEF experienced twenty-one straight months of negative year-over-year retail customer growth. PEF experienced dramatic declines in customer energy use and a dramatic increase in low use, vacant, but active accounts. PEF's retail energy sales also declined.

Residential and commercial vacancies and foreclosures, depressed real estate and construction industries, and high unemployment slow the Florida economic recovery and adversely affect the Company. PEF's customer growth has returned and is expected to continue to grow, but at a rate below the Company's pre-recession customer growth rates. Near term customer energy use and retail energy sales remain flat. Continuing difficulties in the Florida economy adversely impact growth in energy consumption, retail sales, and sales revenues in the near term.

Over the long term, customer growth, customer energy use and, thus, retail energy sales and load are expected to increase. Near term, however, customer growth, customer energy use, and energy sales remain at levels well below pre-recession growth rates.

Q. What conclusions did the Company draw from its evaluation of the Florida economic conditions?

A. We expected that it would take time for the Florida economy to recover. We explained last year that we expected the Florida economy to slowly improve in 2011 and 2012, but we did not expect a return to pre-recession growth. We now recognize it is taking even longer for the Florida economy to rebound from the recession than we expected last year. We did not see the expected improvement in 2011 until this year and the improvement is even more sluggish than anticipated. The economic recovery in Florida is simply going to take more time.

We further understand that the near-term Florida economic conditions continue to affect our customers. These conditions diminish customer support for and ability to pay for construction of the LNP. This is one of the reasons for the levelized LNP costs in the recent settlement between PEF and the customer group representatives that was approved by the Commission. See Exhibit No. ___ (JE-4) to my testimony. This settlement reduces the near-term impact of the LNP costs on customer bills until the Florida economy can more fully recover from the recession.

The Company has long sought to balance the customers' ability to pay for the LNP and the need to develop new nuclear generation with the LNP to achieve the long-term fuel savings, fuel diversity, and clean energy benefits for PEF's customers. The Company took steps in 2008 and again in 2009, during the height of the recession, to mitigate the impact of nuclear cost recovery on customer bills. The Company's Commission-approved proposals deferred the recovery of prudent nuclear costs from 2009 to 2010, and then amortized them over a five

year period commencing in 2010, thus reducing customer bills due to the LNP costs. The Company's 2010 decision to extend the partial suspension of the LNP under the EPC Agreement and proceed with the project work on a slower pace, focusing on obtaining the LNP COL, also reduced the near term project costs resulting in lower customer bills. The recent settlement continues the Company's efforts to balance the customers' ability to pay for the LNP and the need to develop the LNP for the customers' long term benefit as the Florida economy continues to slowly recover from the recession.

Q. Can you summarize how the Company's assessment of the current Florida economic conditions influenced its LNP enterprise risk evaluation?

A. Yes. The Florida economic recovery is fragile, with significant near term problems that can easily impair the current recovery. These economic circumstances represent an increased risk for the Company with respect to the significant, near term capital investments required to commence construction of the LNP next year.

Q. Were there other increased enterprise risks in your qualitative evaluation of the LNP enterprise risks this year?

A. Yes. As I explained last year, we observed a trend in the federal and state energy and environmental policy to delay climate control and greenhouse gas ("GHG") legislation and regulation. There remains continued, near term uncertainty with respect to the impact of federal and state energy and environmental policy, affecting the immediate development of the LNP.

There is no federal or state climate control legislation or GHG legislation that implements a cap-and-trade system or carbon tax on fossil fuel generation. Congress did not take action on any climate control or GHG emission bill. A clean energy bill that includes nuclear energy generation was introduced this year. With the elections in 2012, however, action on clean energy or climate legislation that implements some form of a cap-and-trade system or carbon tax is not expected this year. All Congressional climate control and clean energy efforts have stalled.

In Florida, the Legislature passed legislation this year to repeal the Florida Climate Protection Act. This Act was created in 2008 to implement Governor Crist's Executive Order No. 07-127 establishing GHG emission reduction targets for the State of Florida. The Act granted the Florida Department of Environmental Protection ("DEP") the authority to adopt rules for a cap-and-trade regulatory program to reduce GHG emissions from electric utilities. The Florida Legislature directed DEP in the Act to delay the adoption of any carbon emissions rule until 2010 subject to further approval by the Florida Legislature. Subsequently, the DEP chose not to promulgate a cap-and-trade rule. This year, the bill repealing the Act was introduced and passed by the Florida Legislature and signed by the Governor. No state climate control or GHG legislation or regulation is imminent.

Q. Has the Environmental Protection Agency implemented its regulation of GHG emissions from existing electric utility power plants?

A. No. As we explained last year, the federal Environmental Protection Agency ("EPA") was aggressively pursuing the regulation of GHG emissions under the Clean Air Act, even though Congress and the Florida Legislature had not acted on climate control legislation or regulation. In 2010, EPA implemented the Tailoring Rule under the stationary provisions of the Clean Air Act. The Tailoring Rule requires limits on GHG emissions in air permits for new, large industrial sources and other, major new and modified sources. As of January 2011, these sources had to obtain Prevention of Significant Deterioration ("PSD") permits requiring them to comply with GHG emission limits using best available control technology ("BACT"). EPA also issued a guidance document entitled "PSD and Title V Permitting Guidance for Greenhouse Gases" to address the PSD applicability to GHG, BACT, and other requirements. EPA also imposed GHG reporting requirements on certain facilities and EPA expected to propose new source performance standards ("NSPS") that set the level of GHG emissions for new and existing power plants.

The aggressive EPA action in 2010 and early 2011 to regulate GHG emissions has now stalled. The deadline for GHG reporting requirements was extended. EPA recently proposed a carbon emission standard for new power plants, but EPA has not yet issued a NSPS for GHG emissions for existing power plants, and it is unclear when EPA will issue the NSPS for GHG emissions from existing power plants. While congressional legislation and litigation to delay EPA's efforts to regulate GHG emissions stalled, as we explained last year, EPA

has not pursued the regulation of GHG emissions as aggressively since these actions commenced. With an election in 2012, further aggressive action this year by EPA to regulate GHG emissions is not expected. EPA regulation of GHG emissions from existing power plants, therefore, is not imminent.

Q. What conclusion did you draw this year from your evaluation of federal and state energy and environmental policy?

A. We continue to believe that federal and state energy and environmental policy is a fundamental enterprise risk to the LNP from both a qualitative and quantitative perspective. Quantitatively, the effect of climate control or GHG legislation or regulation is reflected in an estimated carbon cost impact in the Company's economic, CPVRR feasibility analysis. Qualitatively, climate control or GHG legislation or regulation promotes nuclear generation because nuclear energy generation produces no GHG emissions. The current lack of federal and state energy and environmental policy with respect to GHG emissions increases the near term uncertainty regarding the qualitative and quantitative benefits of nuclear energy generation. In the near term, as we explained last year, the lack of certainty regarding what this legislation will be and when it will impact the Company represents an increased enterprise risk in our qualitative analysis.

Q. Does the Company still expect there to be climate control or GHG emission legislation or regulation?

A. Yes. PEF still expects some form of climate control or GHG emission legislation or regulation. There is no general movement to abandon climate control or GHG

emission legislation or regulation at the federal level despite such action recently at the state level. EPA, for example, has not abandoned the regulation of GHG emissions even though it appears EPA cannot do so without congressional action, which has not occurred and is currently unlikely to occur. Despite this fact, EPA regulation of GHG emissions is still expected. EPA, in fact, recently proposed the first Clean Air Act standard for carbon emission from new power plants. This action demonstrates that future carbon and other GHG emission regulation can be expected. Near term, however, there is increased uncertainty regarding GHG regulation. There is no clear federal or state legislative GHG emission policy and without that legislative direction, what form GHG emission regulation for all power plants will take and when that regulation will be implemented, remains unclear. The fact that a uniform climate control or GHG emission policy remains unsettled this year increases this enterprise risk for the LNP.

Q. Were there any other federal or state legislative or regulatory policies that you evaluated in your enterprise risk analysis for the LNP?

A. Yes. PEF continues to follow the potential development of a renewable portfolio standard ("RPS") at the federal level and in Florida. A RPS for Florida utilities impacts customers because RPS resource options and resource alternatives that must be available when RPS resources are unavailable generally are more costly than conventional generation resource options. Despite the actual adoption of RPS in various jurisdictions across the country, there still is no federal RPS for electric utilities. There also is no state RPS in Florida. The Florida Legislature has not considered the Commission's proposed RPS rule in four straight

legislative sessions after the Commission approved the rule, which the Commission was required to develop and present to the Florida Legislature for approval as a result of 2008 legislation. At the federal level, legislation including federal RPS for utilities has stalled and more recently Congress has moved toward a "Clean Energy" standard, which would include new nuclear, clean coal, and other non-traditional renewable resources not typically included in RPS. However, there has been no Congressional action on a "Clean Energy" standard and none is expected this year because of the elections.

The Company also follows other Florida legislation that may potentially impact the LNP. This includes repeated attempts by the same state legislators to repeal the nuclear cost recovery statute, which so far, have proved unsuccessful. Since the near unanimous support for the enactment of the nuclear cost recovery statute in 2006, individual legislators have introduced legislation nearly every year to repeal this statute. In addition, in 2010 and again in 2011, purported class action lawsuits were filed in state and then federal court challenging the constitutionality of the nuclear cost recovery statute. Currently, a group opposed to new nuclear development has appealed the Commission's decision in the 2011 NCRC docket to the Florida Supreme Court, apparently challenging the decision and constitutionality of the nuclear cost recovery statute. The same state legislators who have sought to repeal the nuclear cost recovery statute are seeking to be heard in this appeal to the Florida Supreme Court. The Company does not believe that these legal challenges are well founded, and the state and federal courts have so far agreed. The existence of these efforts to undermine the nuclear

cost recovery statute, however, creates additional risk and uncertainty for the LNP.

As we explained last year, these repeated legislative and now legal attempts to repeal or overturn the nuclear cost recovery statute contradict the express State energy policy to increase fuel diversity and reduce Florida's dependence on fossil fuels subject to supply interruptions and price volatility that led to the enactment of the nuclear cost recovery statute. We continue to believe that this express State energy policy cannot be met without continued legislative support for the nuclear cost recovery statute and other legislation that promotes this State energy policy. Continued legislative support is necessary to the development of new nuclear generation in Florida.

Federal support for new nuclear development is also important. However, federal support for new nuclear generation remains unclear. Despite continued opposition at the federal and state level, including opposition by the National Association of Regulatory Utility Commissioners ("NARUC"), the current Administration still appears to support the abandonment of Yucca Mountain as the federal nuclear waste storage option. The current Administration's support for the development of new nuclear generation remains uncertain and ill defined. That situation is not expected to change in an election year.

Near term, then, there is no reason to expect significant movement at the federal or state level on energy, environmental, or nuclear generation policies that can affect the LNP one way or the other. The lack of federal or state legislative or regulatory direction, however, increases the near term uncertainty and thus, the

near term enterprise risks associated with the immediate construction of the LNP within the next year.

Q. Were there any other changes in the LNP enterprise risks that affected your qualitative feasibility analysis this year?

A. Yes. Natural gas fuel prices have fallen to near historic low prices over the last three years and they have remained low. As we explained last year, the recession significantly contributed to these low natural gas fuel prices. Short-term natural gas prices remain depressed, reflecting over supply conditions and current natural gas storage running at near capacity. The economy, historically mild winter weather conditions in the winter of 2011/2012, and the development of unconventional shale gas resources have contributed to recent over supply conditions. As a result of these near term conditions, natural gas prices declined in recent natural gas forecasts, reflecting a down-ward trend in the forecasts.

This trend in natural gas prices is quantified in the Company's economic CPVRR feasibility analysis. Natural gas prices are a key driver in the CPVRR analysis. Generally, lower natural gas price forecasts reduce, and higher natural gas price forecasts increase, the cost-effectiveness of new nuclear generation. With the recent, lower natural gas price forecasts we have observed a decline in the economic feasibility of the LNP, although we think the LNP remains feasible even if the Company decided to implement the project plan commencing construction of the LNP next year. Qualitatively, however, we must evaluate the decline in natural gas prices in the near term forecasts to determine if this decision is the best implementation of the LNP. This qualitative assessment of the natural

gas price forecasts considers a broader time period than the annual quantitative feasibility analysis update.

While we have observed a downward trend in natural gas prices, this trend does not appear to represent a long-term trend in natural gas price forecasts. The recession is certainly still having an impact on the near term natural gas prices, but long-term, continuous recessionary conditions cannot reasonably be expected. The downward trend in natural gas prices also corresponds to the development of additional natural gas supplies from shale gas reserves in the United States. This development contributes to the oversupply conditions and near term natural gas storage capacity. Likewise, mild weather conditions have contributed to the oversupply and natural gas storage capacity conditions.

There are supply and demand factors that could put upward pressure on natural gas prices over time. On the demand side these factors include but are not limited to the potential for the continued acceleration in coal plant retirements that will be replaced with gas generation given the aging coal fleet and proposed EPA regulations such as the Clean Water Act 316b, Maximum Achievable Control Technology ("MACT"), and Cross State Air Pollution Rule ("CSAPR"); the on-going developments by domestic LNG liquefaction projects looking for capabilities to export domestic U.S. gas; and increased industrial demand. On the supply side, there is risk of new regulations around gas production associated with hydraulic fracturing and there have already been announcements to shut in or reduce dry gas production given the current low gas price environment.

Over the long-term, natural gas prices are forecasted to increase. As a result, we do not believe there has been a fundamental shift in fuel prices

reflecting a longer-term trend of natural gas prices at the prices experienced over the last three years and still expected in the near term such that these historically low natural gas prices will continue over the expected sixty-year life of the Levy nuclear units.

Q. What were the results of the Company's qualitative feasibility analysis?

A. As I have explained, our qualitative analysis of the LNP enterprise risks indicates greater near term uncertainty and increased near term enterprise risks. This increase in uncertainty and increased enterprise risk coincides with the Company's plan last year to commence construction of the LNP next year to implement the LNP. The increased near term enterprise risks, however, required the Company to determine if the plan to implement the LNP by commencing construction next year was the best implementation plan for the Company's customers. Based on the factors that I have discussed above, the Company determined that commencing construction of the LNP next year is not in the best interests of the Company or its customers.

C. <u>Regulatory Feasibility.</u>

Q. Is the LNP feasible from a regulatory perspective?

A. Yes. All legal and regulatory licenses and permits for the LNP can be obtained, including the LNP COL. I have attached as Exhibit No. ___ (JE-5) the current NRC review schedule for the LNP COLA. The Company filed its COLA with the NRC in July 2008 and it was docketed with the NRC for acceptance review in October 2008. This acceptance review initiated a period of NRC Requests for

Additional Information ("RAIs") to respond to NRC questions about the LNP COLA. This period for NRC RAIs officially ended in 2010 with the successful completion of the NRC RAIs.

There are three parts to the NRC COLA review process, (i) the environmental review process, (ii) the safety review process, and (iii) the formal hearing process. All three parts of the NRC's review for the LNP COLA must be complete before the NRC will issue a COL for the LNP. All three parts of the review are on target for completion with a schedule for issuance of the LNP COL in the second quarter of 2013. See Exhibit No. ___ (JE-5) to my testimony.

Q. What is the status of the environmental review process?

A. The environmental review process involves the issuance of a draft environmental impact statement ("DEIS") followed by a public comment period before issuance of a final environmental impact statement ("FEIS"). The LNP DEIS was issued in August 2010, the public comment period on the DEIS ended in October 2010, and the NRC Staff completed its responses to the public comments on the LNP DEIS in late 2011. PEF also completed responses to all identified U.S. Army Corps of Engineers ("USACE") information needs for the FEIS. As a result, the LNP FEIS is expected in April 2012.

Q. What is the status of the safety review process?

A. The second part of the NRC COLA review is the review and issuance of a Final Safety Evaluation Report ("FSER"). This is preceded by NRC review of the LNP COLA and the NRC's issuance of an Advanced Safety Evaluation Report

("ASER") with no open items. Completion of the ASER signifies that the NRC Staff has completed the required safety review. The LNP ASER was completed on September 16, 2011.

The next step is review of the ASER by the Advisory Committee on Reactor Safeguards ("ACRS"). The ACRS is independent of the NRC staff and reports directly to the NRC Commissioners. The ACRS is an advisory body that is structured to provide a forum for experts representing different technical perspectives. The ACRS provides independent advice to the NRC Commissioners for consideration in their licensing decisions. Progress Energy and the NRC Staff met with the ACRS committee in December 2011 and the ACRS completed review of the LNP ASER, ahead of the January 2012 milestone.

The ACRS review and report is followed by NRC review and issuance of the FSER. Following the ACRS review, the NRC Staff determined that certain recommendations from the Fukushima Near Term Task Force should be implemented for new reactors prior to licensing. This was the basis for an additional RAI that was issued for the LNP COLA on March 15, 2012 that will require update of seismic information to incorporate the Central-Eastern U.S. ("CEUS") source data and computer model. Plans are to address other information requests in the RAI by establishment of license conditions.

The requirement to perform a seismic update prior to COL may delay conduct of the mandatory hearing, however, issuance of the COL is still expected in the second quarter of 2013.

Q. Can you generally explain the NRC Fukushima Near Term Task Force recommendations that are relevant to the LNP COL?

A. Yes. The Fukushima Near Term Task Force recommendations that are relevant to the NRC's review of the LNP COLA include a seismic update to adopt CEUS model information. The NRC issued a RAI on March 15, 2012 and the response to this RAI will require the update of seismic information to incorporate the CEUS source data and computer model. These recommendations also include post COL license conditions for emergency planning, severe accident mitigating actions, and spent fuel pool instrumentation design upgrades. The emergency planning recommendations require the evaluation of staffing levels and communication to address such factors as multi-unit, prolonged events. The spent fuel pool instrumentation design updates require instrumentation that can withstand design basis natural events and provide remote indications of event impacts.

Q. Will the NRC Fukushima Near Term Task Force recommendations adversely affect issuance of the LNP COL?

A. We do not think so. As I explained last year, the events in Japan as a result of the March 2011 earthquake and tsunami were expected to result in additional review of existing and new nuclear generation units in the United States as a natural part of the NRC review process. Further delays in parts or all of the existing AP1000 nuclear reactor or design reviews, like the additional delay in issuance of the LNP FSER, were expected as a result of this process of incorporating lessons learned into the NRC licensing review processes.

As I further explained last year, the United States nuclear industry also has a long history of continuously incorporating lessons learned from the operating experience of nuclear power plants around the world. We expected the NRC and the nuclear industry to carefully analyze the Japanese accident at Fukushima and incorporate lessons learned into United States reactor designs and operating practices. The NRC formed the Fukushima Near Term Task Force for this purpose shortly after the nuclear incidents at Fukushima. The Task Force issued new rules in March 2012 requiring United States commercial nuclear reactors to enhance planning and safety equipment to address accidental and natural disaster damage similar to that experienced at Fukushima in the wake of the earthquake and tsunami last year. Progress Energy and other nuclear power plant operators were also taking steps to analyze and incorporate lessons learned from the Fukushima nuclear incidents in concert with the Task Force's review and analysis of the Japanese accident.

This is the way the United States nuclear industry operates to ensure safety at existing and planned nuclear power plants. The process of incorporating lessons learned, including the Task Force recommendations, into the nuclear industry licensing reviews and operating practices, however, does not mean that regulatory approval of the LNP COL will not ultimately be granted or significantly delayed following the completion of this process.

Q. Why are you confident that the LNP COL can be issued by the NRC when the NRC Fukushima Task Force recently issued its recommendations?

A. As I also explained last year, all existing and planned nuclear power plants, including plants employing the AP1000 nuclear reactor design, must be designed to deal with a wide range of natural disasters, whether they are earthquakes, tsunamis, tornados, hurricanes, storm surges, floods, or other extreme seismic or weather events. In this regard, the AP1000 is a passive design that does not rely on emergency diesel generators for safety related power to ensure core cooling. This passive system relies on internal condensation and natural recirculation, natural convection and air discharge, and stored water all contained within the robust structures of the containment and its shield building to cool the reactor even without electrical power. For safety related cooling the damaged Japanese nuclear units depended on electrical power from diesel generators that were inoperable as a result of the tsunami. Unlike the Japanese reactors, the AP1000 design will automatically place itself in a safe shutdown state, cooling the reactor passively without reliance on an external power source for some time until power is restored to the active coolant systems.

Additionally, the Fukushima reactors were in a high seismic risk area on the coast and located on the same power plant site. The LNP site is located in an area of low seismic risk, it is located away from the Crystal River site therefore avoiding the concentration of generation at one site, and the LNP site is located approximately eight miles inland at an elevation of fifty feet. Still, the LNP AP1000 reactors will be designed and built to withstand natural disasters, including earthquakes, tsunamis, and the more likely hurricanes and storm surges.

As I also explained last year, the AP1000 design and LNP COLA addresses extreme conditions resulting from potential man-made dangers. The AP1000 shield building design was revised to address concerns regarding possible aircraft impact and the LNP COLA incorporates strategies to address beyond design basis events in response to 9/11 security considerations. These strategies also provide additional protection against beyond design basis events regardless of the initiating event. The LNP COLA specifically contains Mitigative Strategies Description and Plans that the Levy plant will implement in the event that a large area of the facility is lost due to beyond design basis events.

As these examples illustrate, the AP1000 nuclear reactor design and its application to the Levy site under the LNP COLA will meet all requirements for operation under all potential conditions or circumstances. These include the operating conditions and circumstances addressed in the Fukushima Near Term Task Force recommendations.

Q. Does the Company still expect to receive the COL for the LNP from the NRC?

A. Yes. The NRC is still proceeding with the LNP COLA review process even with the issuance of the Fukushima Near Term Task Force recommendations. The LNP FSER is expected in September 2012, not April 2012, but the LNP FEIS is still expected in April 2012, and the LNP COL is still expected in the second quarter of 2013, after completion of the formal hearing process this year, which is the third part of the NRC COLA review process.

In addition, the NRC's issuance of the LNP COL is dependent on the issuance of both the final rule approving the AP1000 design certification amendment and the reference COL ("R-COL") for the AP1000 design. The R-COL is the Georgia Power Company Vogtle AP1000 plant site. The NRC and the Advisory Committee on Reactor SafeGuards ("ACRS") reviewed the AP1000 nuclear reactor design and declared that it is safe and meets all regulatory requirements. In December 2011, the NRC completed the AP1000 Design Control Document ("DCD") review and issued the final rule approving the AP1000 nuclear reactor design. In February 2012, the NRC voted to approve the R-COL for the Vogtle AP1000 plant site. Both conditions precedent to issuance of the LNP COL have now been met and both were satisfied when the Fukushima Near Term Task Force was completing its work and preparing its recommendations. Therefore, we see no reason to think that the issuance of the Task Force recommendations will further delay issuance of the LNP COL.

Q. What is the status of the NRC formal hearing process for the LNP COLA?

A. The contested hearing is conducted by the NRC Atomic Safety and Licensing Board ("ASLB") for any contentions to the LNP COLA admitted by the ASLB. In 2009, the ASLB allowed three private anti-nuclear groups, the Nuclear Information and Resource Service ("NIRS"), the Ecology Party of Florida ("EPF"), and the Green Party of Florida ("GPF"), to intervene in PEF's NRC LNP COLA docket. The ASLB ruled on their contentions and admitted parts of three contentions to the LNP COL. One of the three admitted contentions was dismissed by the ASLB in 2010. During the fourth quarter of 2011, the ASLB

completed its review of the pending and revised contentions for the LNP COLA and, based on additional information provided by the Company, the ASLB dismissed another admitted contention. Only one environmental contention remains for consideration in the ASLB hearing. The ASLB has scheduled the contested hearing later this year in October, 2012.

There is also a mandatory hearing for the LNP COL. The mandatory hearing is conducted by the NRC Commissioners. The focus of the mandatory hearing is on the adequacy of the NRC Staff review of the LNP COLA. The NRC has already conducted mandatory hearings for the R-COLA for the Vogtle AP1000 nuclear power plants and the COLA for the V.C. Summer AP1000 nuclear power plants. As I explained above, the NRC has issued the R-COL for the Vogtle nuclear power plants. The NRC also recently issued the COL for the V.C. Summer AP1000 nuclear power plants.

The commencement of the LNP COLA mandatory hearing process is expected to be delayed by later issuance of the LNP FSER, but this delay in issuance of the LNP FSER is not expected to impact completion of the contested hearing before the ASLB this year. Exhibit No. ___ (JE-6) to my testimony graphically illustrates the steps and timing of the LNP COLA that I have addressed in my testimony. As indicated in that exhibit, the LNP COL is still expected from the NRC in the second quarter of 2013.

Q. Does the Fukushima nuclear incident affect in any way your assessment of the feasibility of completing the LNP?

A. No. The Fukushima event naturally led to increased interest globally in the safe design and operation of existing nuclear units and those that will be developed in the future. A reduction in the support for new nuclear development occurred as a result of the public reaction last year to the nuclear operating experience in Japan following the extreme earthquake and tsunami at Fukushima. Certain countries, in particular Germany, expressed the intent to abandon nuclear generation. Other countries, for example China and India, continue to develop new nuclear generation. In the United States, as I explained above, the Fukushima event did not upset or delay regulatory licensing reviews for the Vogtle and Summer new nuclear generation projects. The NRC approved the AP1000 DCD for the AP1000 nuclear reactor design and approved the R-COL for the AP1000 nuclear reactor.

I think that the NRC licensing review of new nuclear reactors has continued after Fukushima in large part because, as I testified earlier, the United States nuclear industry has a long history of continuously incorporating lessons learned from the operating experience of nuclear power plants around the world. The nuclear industry will continue to carefully analyze the Japanese accident and how reactors, systems, structures, components, fuel, and operators performed and incorporate lessons learned into United States reactor designs and operating practices. This is the way the nuclear industry in the United States operates to ensure safety at existing and planned nuclear power plants.

Also we are, of course, continuing to closely monitor international and national responses to the Fukushima event. PEF is also actively involved in industry groups, such as the Nuclear Energy Institutes ("NEI") New Plant Working Group, NEI New Plant Oversight Committee, and the Institute of Nuclear Power Operations ("INPO") New Plant Deployment Executive Working Group, which are working with the NRC to respond to emerging issues like the issues in Japan. These groups follow and help establish consistent direction around industry and regulatory issues associated with new nuclear projects. These groups will continue to be directly involved in addressing the implications from the Fukushima event in Japan and will continue to assist in shaping potential regulation. There is, therefore, no reason to believe now that the nuclear industry cannot successfully incorporate the lessons learned from Fukushima into its operating practices for existing nuclear generation and its licensing activities for new nuclear generation and sustain public support for nuclear energy generation.

D. <u>Technical Feasibility.</u>

Q. Is the LNP feasible from a technical standpoint?

A. Yes, it is. Completion of the LNP is technically feasible because the AP1000 nuclear reactor design can be successfully installed at the Levy site. The AP1000 nuclear reactor design remains a viable nuclear reactor technology. The NRC has approved the AP1000 design, the AP1000 DCD, and the AP1000 R-COL. The NRC also approved the AP1000 COLA for the SCANA V.C. Summer nuclear power units in South Carolina. SCANA is moving forward with the preconstruction work for its AP1000 nuclear reactors at Summer. Southern

Company also is moving forward with preconstruction and construction work for its Vogtle nuclear units using the AP1000 design. China is constructing AP1000 nuclear reactors at Haiyang and Sanmen and the Chinese government decided last year to focus its nuclear generation development on the AP1000 nuclear reactor design. The NRC is continuing its review of the LNP COLA with the understanding that the AP1000 nuclear reactor design will be used at the Levy site. The NRC has not indicated that the AP1000 nuclear reactor design cannot be used at the Levy site. As a result, there is no reason to believe that the AP1000 nuclear reactor design cannot be successfully installed at the Levy site.

V. LNP PMT RECOMMENDATION AND SMC DECISION.

Q. What were the results of the PMT's evaluation of the LNP this year?

A. The LNP PMT determined that the LNP is both qualitatively and quantitatively feasible. The Company can complete the Levy nuclear power plants. The LNP PMT determined that the LNP is feasible from a regulatory perspective. The LNP COL and other necessary permits to construct the LNP have been or can be obtained. The LNP is technically feasible because the AP1000 nuclear reactor design can be installed at the Levy site. The LNP PMT determined that lower near term natural gas prices and delayed carbon cost impacts diminish but do not eliminate the economic feasibility of the LNP. The LNP remains economically feasible for customers over the expected sixty-year life of the Levy nuclear units. Qualitatively, however, the LNP PMT determined that there is greater near term uncertainty and increased near term enterprise risks for the LNP. This greater near term uncertainty and increased near term enterprise risk necessarily affected

the Company's implementation of the LNP. Once the LNP PMT determined that the near term LNP enterprise risks had increased, prudent project management required mitigation of the increased enterprise risks associated with the project. Accordingly, the LNP PMT developed a recommendation to mitigate the increased near term LNP enterprise risks.

Q. What was the LNP PMT recommendation to mitigate the increased near term LNP enterprise risks?

A. The LNP PMT recommended that the Company consider an extension of the current suspension of the EPC agreement to build the LNP later instead of implementing the plan to commence construction of the LNP next year. This recommendation was discussed with SMC members of senior management at the March 16, 2012 Levy Program Performance Review meeting. As a result of this meeting, the LNP PMT was directed to proceed with this recommendation and develop a plan to build the LNP later for presentation to and approval by the SMC in a revised IPP for the LNP. This plan included the development of later in-service dates for Levy Units 1 and 2, a revised LNP total project cost estimate, and an updated economic feasibility analysis. The recommended plan extended the current EPC agreement suspension and provided for the later construction of the LNP to place Levy Unit 1 in service in 2024 and Levy Unit 2 in service eighteen months later in late 2025. The updated economic analysis demonstrated that this plan was economically feasible with the revised total project cost estimate and the later in-service dates for the Levy units. This plan was presented

to SMC for approval in IPP Revision 4. The SMC approved IPP Revision 4 in April of this year.

Q. Why did the LNP PMT recommend this later date for construction of the LNP?

A. As I explained above, the LNP PMT determined that the LNP is still qualitatively and quantitatively feasible even if the Company proceeded with the commencement of construction next year. The LNP still represents the best long-term, base load generation resource for PEF's customers. It will provide long-term fuel savings benefits to customers from a low-cost and clean energy fuel source. The LNP will also improve fuel diversity for the Company and the State and reduce their reliance on fossil fuels, especially fossil fuels from foreign sources, to generate electrical energy. The LNP will provide customers with a reliable, long-term source of base load generation. For all these reasons, the prudent decision for PEF's customers in 2010 and now is to build the LNP.

However, commencement of construction of the LNP next year is not supported by current Florida economic conditions for PEF's customers or for PEF. Near term natural gas prices and delayed carbon cost impacts further diminish the incentive to commence the construction of the LNP next year. The immediate construction of the LNP, therefore, is not in the best interests of PEF's customers or the Company.

Extending the commencement of construction of the LNP provides more time for the Florida economy to recover, for economic conditions for PEF's customers and for PEF to improve, for federal and state energy and environmental

policy to develop and, therefore, for more certainty to develop with respect to the project's enterprise risks. Extending the commencement of construction of the LNP, therefore, mitigates the near term increased enterprise risks for the project while preserving the long term benefits of new nuclear generation for PEF's customers.

VI. TRUE UP TO ORIGINAL COST FILING FOR 2012.

Q. Has the Company filed schedules to provide information truing up the original estimates to the actual costs incurred?

A. Yes. The true up to original cost ("TOR") schedules are attached as Exhibit No. ___ (TGF-3) to Mr. Foster's testimony. I am co-sponsoring schedule TOR-6 and sponsoring schedule TOR-7 attached as Exhibit No. ___ (TGF-3) to Mr. Foster's testimony.

Q. Do these schedules reflect the revised LNP total project cost estimate based on the Company's decision approved by the SMC in IPP Revision 4?

A. Yes. The updated project baseline estimate is consistent with the Company's decision to build the LNP later, with an estimated in-service for Levy Unit 1 in 2024 and an estimated in-service for Levy unit 2 in 2025, that was approved by the SMC in IPP Revision 4. The current LNP total project cost estimate for the LNP is still premised on a conservative Class 5 estimate consistent with the best practices of the Association for the Advancement of Cost Engineering ("AACE"), fundamental terms and conditions of the existing EPC Agreement and current market conditions, and the current project schedule for the LNP with the in-

service dates for Levy Units 1 and 2 in 2024 and 2025. The current total project cost estimate is dependent however, upon among other things, future Consortium negotiations to amend, modify, or alter the EPC agreement, or enter into some other contractual mechanism to implement the Company's decision. As a result of the 2010 EPC Amendment that implemented the current long term partial suspension, the Company is required to amend the EPC agreement anyway to end the current partial suspension and issue the FTNP to commence construction of the LNP next year. As a result, the Company's current decision does not place the Company in a significantly different negotiation position regarding the EPC contract with the Consortium. We think, then, that the current total project cost estimate for the LNP is reasonable and in line with our prior estimate for construction of the LNP, albeit on a later schedule for the in-service dates for the Levy nuclear units.

VII. QUANTITATIVE FEASIBILITY ANALYSIS.

Q. Did the Company prepare a quantitative feasibility analysis based on the Company's decision to build the LNP at a later date?

A. Yes. PEF prepared a CPVRR analysis consistent with the economic analysis approved by the Commission in Commission Orders No. PSC-09-0783-FOF-EI, No. PSC-11-0095-FOF-EI, and No. PSC-11-0547-FOF-EI. The CPVRR analysis includes the required updated fuel, environmental, and carbon compliance cost estimates. The CPVRR analysis also includes a project cost estimate based on the Company's decision to build the LNP later with the current, estimated 2024 (U1) and 2025 (U2) future in-service dates for the Levy nuclear power plants. Similar

to our prior CPVRR analyses, the updated CPVRR economic analysis compares the LNP to an all natural gas-fired base load generation scenario using a range of fuel forecasts and a range of potential carbon compliance cost estimates. Likewise, the current CPVRR analysis includes CPVRRs for PEF ownership levels of the LNP of 100 percent, 80 percent, and 50 percent. And, the current CPVRR analysis also includes total LNP project cost sensitivities for cases ranging from 15 percent less to 25 percent greater than the current, estimated total project cost. Accordingly, this is the same approach that the Company used to prepare the CPVRR cost-effectiveness analysis in the need determination proceeding for the LNP and in the 2009, 2010, and 2011 NCRC proceedings. See Exhibit No. __ (JE-2) to my testimony.

Q. What were the results of the Company's quantitative feasibility analysis?

A. The updated CPVRR analysis shows that the LNP overall is more cost effective than the all natural gas generation resource plan. The CPVRR analysis shows that the LNP generation resource plan is more cost effective in 10 out of 15 cases at the 100 and 80 percent ownership levels, and 9 out of 15 cases at the 50 percent ownership level. See Exhibit No. __ (JE-2), p. 7. The CPVRR analysis this year demonstrates similar to prior CPVRR analyses that forecasted fuel prices are a significant driver in the analysis with lower forecasted fuel prices decreasing the benefits of the LNP resource plan and higher forecasted fuel prices favoring the LNP generation resource plan. Even with the shift in the in-service dates for Levy Units 1 and 2 to 2024 and 2025, however, the CPVRR analysis demonstrates that the LNP resource plan remains cost-effective.

Q. How does this updated CPVRR compare to the CPVRR provided in the LNP need case?

A. The results in the updated CPVRR analysis are similar to the results in the CPVRR analysis in the LNP need case. At the 100 percent ownership level, the LNP is more favorable than the all natural gas resource plan in 10 out of 15 potential fuel and carbon cost emission scenarios in the updated CPVRR analysis and in the CPVRR analysis in the LNP need determination proceeding. The difference is that the LNP is more cost effective in the current CPVRR analysis in all of the high and mid-fuel reference cases except the no carbon, mid-fuel reference case, and in only the highest carbon, low fuel reference case, while the LNP is more cost effective in the CPVRR analysis in the LNP need case in all of the high and mid-fuel reference cases, except the lowest carbon and no carbon cases, and more cost effective in the highest and second highest carbon cases in the low fuel reference case. See Exhibit No. ___ (JE-2), pp. 7-8. Both CPVRR analyses indicate that the LNP is more cost effective than the all natural gas resource plan in more potential fuel and carbon cost emission scenarios at the 100 percent, 80 percent, and 50 percent ownership levels. See Exhibit No. ___ (JE-2), pp. 7-8. The updated CPVRR analysis produces similar results to the CPVRR analysis results in the LNP need case even though the updated CPVRR analysis includes the current 2024 and 2025 in-service dates for the Levy nuclear units and a corresponding higher total project cost than the need case CPVRR analysis.

Q. What conclusions were drawn from the updated CPVRR feasibility analysis?

A. The updated CPVRR analysis continues to indicate that the LNP is cost effective and, therefore, an economically viable future generation resource. The updated CPVRR analysis confirms the Company's preference for the LNP as a future base load generation resource. The LNP continues to have the potential to provide PEF and its customers with billions of dollars of savings over the expected sixty-year life of the project. As I have explained before, the CPVRR analysis, however, is not a litmus test for the LNP. The CPVRR analysis is a snapshot of the project's estimated economic viability and the Company continues to believe that the long term projections upon which the CPVRR analysis are based on are necessarily uncertain and subject to change from year-to-year. Consequently, this type of analysis cannot be the sole basis for the Company to determine when to proceed with construction of the project. Instead, the CPVRR is one factor among many factors that must be considered in making a decision about moving forward with construction of the project.

Q. What did the Company conclude with respect to the economic feasibility of completing the LNP based on the Company's current decision to begin construction of the LNP at a later date?

A. Completion of the LNP in 2024 and 2025 based upon the Company's current decision to build the LNP later is economically feasible. Later construction of the LNP with estimated in-service dates for Levy Units 1 and 2 in 2024 and 2025 further mitigates the increased near term enterprise risks and is, therefore, feasible based upon the Company's qualitative feasibility analysis. Accordingly, based on

the Company's quantitative and qualitative feasibility analyses, the LNP continues to be feasible based on the Company's decision to extend the current suspension of the EPC agreement and build the LNP at a later time.

VIII. IMPLEMENTATION OF LNP DECISION.

Q. What does the Company have to do to implement its decision?

A. Near term, there is little that needs to be done to implement this decision. The EPC agreement is already in an extended partial suspension and the Company slowed work on the project in 2010 based on its decision then to proceed with the LNP on a slower pace until the COL is obtained. PEF, therefore, expects to continue work to obtain the LNP COL, which is expected in the second quarter of 2013. Thereafter, PEF must incur additional licensing and engineering work to maintain the LNP COL.

The benefit of this decision is the flexibility it provides the Company with respect to the ultimate decision to construct the LNP. If near term project uncertainty and enterprise risks decrease, the Company has the flexibility to implement a decision to move up the construction of the LNP. Absent a change in the near term enterprise risks, the Company can defer the decision to commence construction of the LNP and the implementation of the necessary contractual mechanism to carry out that decision.

Q. What work will be performed for the LNP in 2012 and 2013?

A. As I have explained, the Company will continue work necessary to obtain the LNP COL from the NRC in 2012 and 2013. This work includes licensing and

engineering work to address the NRC Fukushima Near Term Task Force recommendations. It also includes the licensing and engineering work to support the Company during the contested and mandatory hearing process. After this process is complete, and the Company obtains the LNP COL from the NRC, additional licensing and engineering work is necessary to maintain the COL. This will include licensing and engineering work associated with the review of standard design changes, and updates to the license to reflect design changes. We also expect licensing and engineering work to maintain the COL to include updates to incorporate emergency plan rule changes and other response actions as a result of the Fukushima Near Term Task Force recommendations.

Licensing and engineering work is also necessary in 2012 and 2013 to continue to support environmental permitting and implementation of conditions of certification ("CoC"). The environmental permitting work includes work on the USACE Section 404 permit for the LNP. Work supporting the completion of the Section 404 Permit includes consultations with other federal agencies regarding cultural resources, threatened and endangered species, and finalizing the Wetland Mitigation Plan to support the Section 404 Permit. We anticipate receiving the Section 404 Permit later in 2012. Work in 2012 and 2013 is also necessary to ensure compliance with the Site Certification CoC. Environmental work scope will include preconstruction environmental monitoring, wetland mitigation plan implementation, aquifer performance testing, and other site CoC.

Some work on strategic land acquisitions for transmission lines will also continue in 2012 and 2013 and the Company will incur a residual real estate acquisition payment required upon receipt of the LNP COL. The Company will

further incur some incremental LLE disposition and storage costs based on the schedule extension, and continued LLE milestone payments and Quality Assessment ("QA") and vendor oversight activities associated with the continued LLE for the LNP. Additional Consortium Project Management Organization ("PMO") costs are also expected in 2012 and 2013 as a result of this continued work scope.

The Company further continues its participation in industry groups to advance the AP1000 design and operation. This includes the AP1000 owners group ("APOG") engineering committee participation. The Company will also continue its active involvement in industry groups such as the NEI New Plant Working Group, NEI Nuclear Plant Oversight Committee, and INPO New Plant Deployment Executive Working Group. The Company is also continuing its evaluation and disposition of AP1000 operating experience ("OE") in China and with the domestic Vogtle and Summer AP1000 projects. This will involve benchmarking and monitoring of licensing activities at these other plants including the assignment of Company engineering, project controls, and construction personnel at the Vogtle and/or V.C. Summer projects in 2012 and 2013. PEF will continue to provide project management for all these work tasks and activities for the LNP in 2012 and 2013.

Q. Does PEF have nuclear generation preconstruction costs in 2012 and 2013 as a result of the planned work scope and activities on the LNP?

A. Yes. PEF has 2012 actual/estimated and 2013 projected preconstruction costs for the LNP. Schedule AE-6 of Exhibit No. ___ (TGF-1) to Mr. Foster's testimony,

shows actual/estimated generation preconstruction costs for 2012 in the following categories: License Application development costs of [redacted] and Engineering, Design & Procurement costs of [redacted]. Schedule P-6 of Exhibit No. __ (TGF-2) to Mr. Foster's testimony breaks down the 2013 projected generation preconstruction costs into the following categories: License Application costs of [redacted] and Engineering, Design & Procurement costs of [redacted].

Q. What are the License Application costs?

A. The License Application costs are necessary to support the on-going LNP licensing, environmental, and permitting activities that I have described above. These License Application costs are necessary for the LNP. PEF developed the preconstruction License Application cost estimates on a reasonable licensing and engineering basis, using the best available information to the Company, and consistent with utility industry and PEF practices. For the costs associated with the COLA review and other permit processes, PEF used the terms of its existing contracts, approved change orders, as well as updated forecasts, which are provided on a monthly basis by the contractors, to estimate the costs they will incur for the technical and engineering support necessary for these license and permit review processes. In addition, PEF based its projections on known project milestones necessary to obtain the requisite approvals. PEF is using actual or expected contract costs, NRC estimates, and its own experience including industry lessons learned, therefore, PEF's cost estimates for the preconstruction License Application work are reasonable.

Q. Please describe the Engineering, Design & Procurement preconstruction costs.

A. As I described above, the Engineering, Design & Procurement preconstruction costs in 2012 and 2013 are for defined PMO activities and shared AP1000 module program development work, implementation and oversight of the LLE change order terms and conditions, and site development for the LNP CoC. PEF developed the preconstruction Engineering, Design & Procurement cost estimates on a reasonable engineering basis, using the best available information. To develop the cost estimates, PEF utilized cost information from the EPC Agreement and information obtained through negotiations with the Consortium. In addition, PEF based its projections on the project schedule and staffing requirements as well as known project milestones necessary for the LNP CoC. Because PEF is using actual or expected contract costs and its own experience, PEF's cost estimates for the preconstruction Engineering, Design & Procurement work are reasonable.

Q. Does PEF have LNP generation construction costs in 2012 and 2013?

A. Yes. PEF will have 2012 actual/estimated and 2013 projected construction costs for nuclear generation for the LNP. Schedule AE-6 of Exhibit No. __ (TGF-1) to Mr. Foster's testimony breaks down the 2012 actual/estimated generation construction costs into the following categories: Real Estate Acquisitions costs of [redacted] and Power Block Engineering, Procurement, and related costs of [redacted] Schedule P-6 of Exhibit No. __ (TGF-2) to Mr. Foster's testimony

breaks down the 2013 projected generation construction costs into the following categories: Real Estate Acquisitions costs of [redacted] and Power Block Engineering, Procurement, and related costs of [redacted]

Q. Please describe the Real Estate Acquisition costs.

A. For 2012, LNP real estate acquisition costs will be incurred to convey the bike trail state lands easement. Costs will also be incurred in 2013 for a deferred payment on the Levy plant site land acquisition required upon receipt of the COL, payment for a portion of the remaining barge slip easement acquisition, and to acquire land for a portion of the Blowdown pipeline easement.

The NGPP Real Estate Governance Document (REI-NGPF-00001) provides guidance for the acquisition of land needed for PEF's nuclear plant development. This document identifies participants; outlines the acquisition procedure and payment process; and outlines document tracking, approval, filing, reporting and document management and retention procedures. It was developed to define and formalize the management and execution of acquiring land and land rights and to provide for cost oversight and management concerning land acquisition. This document was updated in December 2010 to incorporate NGPP organization changes and payment process refinements. Utilizing these procedures, PEF developed these construction Real Estate Acquisition cost estimates on a reasonable basis, using the best available information, consistent with utility industry and PEF practice.

Q. Please describe the Power Block Engineering, Procurement, and related costs.

A. LNP Power Block Engineering, Procurement, and related costs in both 2012 and 2013 consist primarily of contractual milestone payments and incremental storage and shipping, insurance, and warranty costs on select LLE items. For example, in 2012, these LLE contractual milestone payments include [redacted] and incremental costs include [redacted]. In 2013, LLE contractual milestone payments include [redacted], and incremental costs include [redacted]

PEF developed these cost estimates utilizing cost information from the EPC Agreement and executed LLE change orders with the Consortium. PEF's cost estimates for the construction Power Block Engineering and Procurement work are reasonable.

Q. Did the Company's decision to build the LNP at a later date, with Levy Unit in-service dates in 2024 and 2025, change the disposition of LLE PO items?

A. No. The Company worked with the Consortium and its vendors in 2010 and 2011 to disposition the LLE POs in accordance with the Company's 2010 decision to extend the partial suspension to proceed with the work on a slower pace until the COL is obtained. This LLE PO disposition work involved a detailed disposition

methodology that combined quantitative and qualitative criteria to meet the Company's objectives to minimize the near term costs and impact to customers while maintaining optimal flexibility for the future LNP construction. These objectives ensure that the LLE PO disposition decisions made by the Company and negotiated with the Consortium and its vendors are still prudent and in the customers' best interests even with the Company's current decision to build the LNP at a later date, with in-service dates for Levy Units 1 and 2 in 2024 and 2025 instead of 2021 and 2022. In other words, the LLE PO dispositions provide the Company the flexibility to build the LNP at a later date as currently planned. There is, therefore, no reason to revisit these LLE PO disposition decisions now, before the Company has obtained the COL and entered into negotiations with the Consortium to amend or modify the EPC Agreement, or to enter into some other contractual mechanism to implement the Company's current decision. Exhibit No. ___ (JE-7) to my testimony is a chart of the LLE PO disposition decisions for all fourteen LLE PO items.

Q. Does PEF have transmission-related preconstruction costs for the LNP in 2012 and 2013?

A. No.

Q. Does PEF have transmission-related construction costs for the LNP in 2012 and 2013?

A. Yes. PEF will have 2012 actual/estimated and 2013 projected transmission-related construction costs for the LNP. Schedule AE-6 of Exhibit No. ___ (TGF-1) to Mr. Foster's testimony shows transmission construction costs for 2012 actual/estimated in the following categories: Real Estate Acquisition costs of [redacted] and Other costs of [redacted]. Schedule P-6 of Exhibit No. __ (TGF-2) to Mr. Foster's testimony breaks down the 2013 projected transmission construction costs into the following categories: Real Estate Acquisition costs of [redacted] and Other. Costs of [redacted]

Q. What are the LNP transmission-related Real Estate Acquisition and Other costs?

A. In 2012 and 2013, Real Estate Acquisition activity for the LNP includes ongoing costs related to strategic Right-of-Way ("ROW") acquisition for the transmission lines during the partial suspension period. These costs are necessary to ensure that the ROW and other land upon which the transmission facilities will be located are available for the LNP. For 2012 and 2013, the Other LNP transmission costs include labor and related indirect costs, overheads, and contingency in support of strategic transmission ROW acquisition activities. They also include general project management, project scheduling, and cost estimating, legal services and external community relations outreach to local, state, and federal agencies. These construction costs are necessary for the transmission project work in support of the LNP.

PEF developed these LNP Real Estate Acquisition and Other transmission construction cost estimates on a reasonable engineering basis, in accordance with the Association for the Advancement of Cost Engineering International ("AACEI") standards, using the best available construction and utility market information at the time, consistent with utility industry and PEF practice. Real estate costs within the project estimates are based on an expected dollar per acre amount based on the type and location of the property using current route selection analysis. The management and indirect costs within the project estimates were developed based on the project schedule and staffing requirements. Costs include labor and related overheads and indirect costs, contingency, and escalation related to the inherent risk associated with a conceptual and preliminary design. These estimates reasonably reflect the necessary LNP transmission project work for 2012 and 2013.

Q. Is all of this work in 2012 and 2013 necessary for the LNP?

A. Yes. All of this work is reasonable and necessary in 2012 and 2013 to move the LNP forward on a schedule with the expected in-service dates for Levy Units 1 and 2 in 2024 and 2025, respectively. PEF currently intends to build the LNP and to build the LNP with the current 2024 and 2025 estimated in-service dates for Levy Units 1 and 2. All of this work in 2012 and 2013 is reasonable and necessary to meet that schedule.

Q. Must the Company amend or modify the EPC Agreement to implement its current decision?

A. Yes, or the Company must enter into some other contractual mechanism with the Consortium to implement its decision to build the LNP at a later date, with the commercial in-service for Levy Units 1 and 2 in 2024 and 2025. The Company's 2010 decision to proceed with the LNP on a slower pace, however, also required another amendment to the EPC Agreement to terminate the partial suspension terms, issue the FNTP, and establish a contract schedule for the work necessary to complete Levy Units 1 and 2. The Company's current decision and schedule to build the LNP, therefore, places PEF in the same position it was in prior to this decision with respect to the need for EPC contract negotiation preparations and negotiations. The Company also has the flexibility to negotiate an earlier commencement of construction, if conditions warrant that decision, or to negotiate for the commencement of construction in time to place the Levy Units in service in 2024 and 2025.

Q. Are there other issues that need to be addressed during future negotiations with the Consortium?

A. Yes. I discussed last year existing EPC Agreement design change proposals that must be addressed in any contractual negotiations with the Consortium. These design change proposals reflect changes to the AP1000 design identified during Westinghouse design finalization activities in response to the NRC AP1000 DCD review. These design changes occurred after PEF executed the EPC Agreement,

therefore, they need to be incorporated into any future EPC Agreement amendment or modification, or other contractual mechanism for construction of the LNP with the NRC-approved AP1000 nuclear reactor design. The Design Change Proposal negotiations will include a determination of financial responsibility for the changes between the Consortium and the Company and, consequently, they may impact the LNP total project cost. The current LNP total project cost estimate contains a contingency for some design change cost impacts but the final cost impact cannot be determined at this time.

IX. JOINT OWNERSHIP.

Q. Has PEF's position on joint ownership changed as a result of its current implementation decision for the LNP?

A. No. PEF continues to believe that joint ownership in the LNP provides PEF and its customers the benefits of sharing the costs and risks of the LNP with other potential joint owners. Accordingly, PEF will continue to pursue joint ownership opportunities in the LNP.

Q. Has the status of joint ownership in the LNP changed?

A. No. The Company has continued and will continue joint ownership discussions and meetings with potential joint owners. There is continued interest in joint ownership participation in the LNP because potential joint owners still value the fuel diversity and clean energy production that new nuclear generation provides in a future that includes increasing fossil fuel environmental regulations and carbon

and other GHG emission constraints. Florida utilities continue to view new nuclear generation as a prudent future generation resource for Florida.

X. PROJECT MANAGEMENT AND COST CONTROL OVERSIGHT.

Q. Has the Company implemented any additional project management and cost control oversight mechanisms for the LNP since the testimony you filed on March 1, 2012?

A. The Company has not implemented any additional project management or cost control oversight policies or procedures for the LNP since the discussion of these procedures in Mr. Daryl O'Cain's March 1, 2012 testimony. The Company continues to utilize the Company policies and procedures described in Mr. O'Cain's March 1, 2012 testimony to ensure that costs for the LNP are reasonably and prudently incurred.

The Company continues to review policies, procedures, and controls on an ongoing basis and makes revisions and enhancements based on changing business conditions, organizational changes, and lessons learned, as necessary. This process of continuous review of our policies, procedures, and controls is a best practice in our industry and is part of our existing LNP project management and cost control oversight.

Q. Are these the same policies and procedures that the Commission has previously reviewed for the LNP?

A. Yes. The Commission has previously determined that the LNP project management and cost oversight controls were reasonable and prudent. The Company's current LNP management and cost oversight controls policies and procedures are substantially the same as the policies and procedures reviewed and previously determined to be reasonable and prudent by the Commission.

Q. Are these LNP management and cost controls policies and procedures consistent with best practices in the industry?

A. Yes. We believe that our LNP project management and cost oversight policies and procedures are consistent with best practices for capital project management in the industry. We believe the project management, contracting, and cost control policies and procedures that we have implemented for the LNP are reasonable and prudent and consistent with industry best practices.

XI. CONCLUSION.

Q. Was the Company's 2012 LNP evaluation and LNP decision prudent?

A. Yes. PEF's decision to extend the commencement of construction of the LNP next year to complete the Levy units in 2024 and 2025 is the prudent decision at this time. This decision allows the Company and its customers additional time prior to construction of the LNP for economic conditions to improve for the Company's customers and the Company, for federal and state energy and

environmental legislation and regulation to develop, and for natural gas prices to react to conditions approaching market equilibrium. This decision further provides the Company the flexibility to respond to changes in these near term enterprise risks by advancing the implementation of the LNP or continuing on the current path to build the LNP in 2024 and 2025. Given this flexibility, the Company's decision simply makes the most sense for the Company and its customers.

Q. Does this conclude your direct testimony?

A. Yes.

BY MR. WALLS:

Q Mr. Elnitsky, do you have a summary of your prefiled direct testimony?

A Yes, I do.

Q Will you please provide that to the Commission.

A Yes.

Again, good morning. As the Vice President of Project Management and Construction at Duke Energy, I'm responsible for the leadership and management of the Levy Nuclear Project. My direct testimony supports the reasonableness of the company's 2012 actual and estimated costs and the 2013 projected costs for the Levy Nuclear Project.

My direct testimony also provides and explains the company's long-term quantitative and qualitative feasibility analysis for completing the Levy Nuclear Project, consistent with the company's decision to build the Levy nuclear units and place them in service in 2024 and 2025.

I'm, I'm available to answer any questions you may have regarding the company's actual estimated and projected costs for the Levy Nuclear Project, the company's determination that the Levy Nuclear Project is feasible, and the, and the company's management of the

project overall.

Thank you.

MR. WALLS: We tender Mr. Elnitsky for cross-examination.

CHAIRMAN BRISÉ: Thank you.

Mr. Rehwinkel?

MR. REHWINKEL: Mr. Chairman, based on the stipulation and settlement that was approved earlier this year, Public Counsel has agreed to no cross-examination for Mr. Elnitsky.

CHAIRMAN BRISÉ: Okay.

Mr. Brew?

MR. BREW: Commissioner, no questions for this witness.

CHAIRMAN BRISÉ: Mr. Moyle?

MR. MOYLE: I have, I have just a few. That settlement agreement, I think, runs out in 2017 and the nuclear plants are coming in in 2024, 2025, so I have a few questions about, about the change.

CROSS EXAMINATION

BY MR. MOYLE:

Q Good morning, Mr. Elnitsky.

A Good morning, Mr. Moyle.

Q So last year when you were before the Commission you indicated that the projected in-service

dates for these units were what?

A Last year we, our program of record was 2021 and 2022.

Q And so that has now slipped by three years for each; is that right?

A That's correct.

Q And have you done a revised cost estimate relative to the impact that the three-year deferral could have on the cost?

A Yes, we have.

Q And what were the results of that?

A Those were provided as part of our integrated project plan. The expected cost in our estimate is 18.8 billion.

Q And how did that compare to your projected costs when you were here last year?

A The expected case last year was 17.6 billion.

Q So a 1.2, if my math is right, increase in the projected costs?

A That's correct.

Q Okay. And I, in reviewing your testimony, I don't know that I need to refer you to it, but just have a discussion about it.

Am I correct in understanding that because of certain concerns about qualitative short-term risk, that

was a key ingredient in your decision to suspend or postpone the in-service date of these two units?

A Yes, that's basically correct.

Q And in the factors that, that you considered -- I say you, I'm talking about the company and senior management -- was the lack of a robust recovery for Florida's economy; is that, is that fair?

A That's one factor. Yes, sir.

Q Okay. And the natural gas low market price, was that another factor?

A Yes, sir. Current near-term low costs of natural gas.

Q Okay. And then also I guess uncertainty about state and federal regulatory policy?

A No. At the time that we did the, our annual review of enterprise risk, we saw no substantial change in state or regulatory policy from what we had seen the previous year.

Q Okay. And am I clear that, that to the extent that either the state or the federal government moves forward with imposing some kind of quantifiable cost on carbon, that that makes the nuclear project more attractive?

A Yes. With -- as you'll see in part of the feasibility analysis, carbon has an impact on the

overall feasibility of the project.

Q Okay. Do you know if, if at the federal level that Duke has taken a position relative to a carbon tax?

A I don't know about a position. I do know that the estimates we're using for projections of carbon pricing are consistent.

Q I'm sorry. That --

A The estimates that we are using in Duke Energy, whether it's in the Carolinas or for our Florida projects, for forward-looking carbon costs are consistent.

Q Okay. And relative to the qualitative risk on, on natural gas, have you done analysis or studies as, as to indicate when you think that may change?

A We provide as part of our feasibility analysis our projections of both near-term and long-term fuel costs.

Q And have those fuel costs considered what the natural gas price may be in 2024 or 2025?

A Yes, sir.

Q You're proceeding with the efforts to obtain the licensure, the COL; is that right?

A That's correct.

Q Okay. And, and when do you expect to obtain that?

A Based on some information we received last week from staff as a result of their work associated with the Waste Confidence Rule, we now expect that we'll receive that license in late 2014.

Q Okay. And was that the change that your counsel asked you about?

A Yes, sir.

Q So to put a little more specificity on it, you expect it late, late 2014; correct?

A That's correct.

Q Okay. Do you know what the shelf life for a license would be? And when I say shelf life, I mean how long it is -- can be used.

A Technically there is no shelf life on a combined operating license.

Q Is that practically how it works, that if you were to obtain a license and, you know, technologies were to improve and you could put it on the shelf for ten years and still pull it off and use it, is that your understanding?

A As the statutes currently exist, that's my understanding.

Q I'm tempted to tweak you about your, your engineering background and the legal opinion you gave me, but I'll refrain.

A Yes, sir. I won't tweak you either.

Q So is it, is it correct then to say that, with respect to the decision that senior management and the company has made, that it decided to suspend the continued forward activity related to the Levy project?

A No.

Q It didn't? Suspend is not the right word?

A No. We've continued the project plan commensurate with the long-term partial suspension we put in place in 2010, which gave us flexibility around when to restart work.

Q All right. In order to meet the, the new projected dates of 2024, 2025, do you have months for those dates or just the year?

A What we did -- yes, we have months. And you'll see in our feasibility analysis and our integrated project plan that we would, based on our current project schedule, expect the first unit to come in service in June of 2014, with the second in December of 2015. I'm sorry, 2024, with the second in December of 2025.

Q Okay. And when would you have to begin construction in earnest on those units for, for you to achieve those dates?

A You would have to start site-specific

engineering work and site mobilization, site preparation in 2016.

Q For the June 2024 in-service projected date?

A That's correct.

Q All right. And then one, one final question. You had indicated, I think, I have it on page 22, line 15 of your testimony, I don't know that you need to go there, but you talked about consideration of an RPS as being a factor, a qualitative factor that, that you all look at; is that right?

A Yes, sir.

Q Okay. The same question I asked you with respect to Duke as it relates to a carbon tax. Are you aware of, of the position of Duke relative to a national RPS?

A I am not.

Q Maybe Mr. Lyash would be a better person to ask that question of?

A Perhaps.

MR. MOYLE: Okay. Thank you. That's all I have.

CHAIRMAN BRISÉ: Okay. Thank you.

FEA?

LIEUTENANT COLONEL FIKE: FEA has no questions for this witness.

CHAIRMAN BRISÉ: Okay. SACE?

MR. WHITLOCK: Thank you, Mr. Chairman.

CROSS EXAMINATION

BY MR. WHITLOCK:

Q Good morning, Mr. Elnitsky.

A Good morning, Mr. Whitlock.

Q How are you today?

A Good.

Q Just for a point of clarification, your new title with, with the merged company is Vice President of Project Management and Construction?

A That's correct.

Q And I believe you said that you still report directly to Mr. Lyash?

A That's correct.

Q Okay. And are you still in charge of licensing and construction of the Levy project?

A Yes, I am. One minor change we have made as part of the merger is that we now have a dedicated department for nuclear plant development that will carry the licensing efforts going forward.

Q Okay. Are you still responsible for direct management of the engineering, procurement, construction agreement with the consortium?

A Yes, I am.

Q Okay. Okay. Just to follow up a little bit on, on what Mr. Moyle asked you about in regards to the scheduling delay and the corresponding cost increase. I believe you testified it was a three-year delay since last year; correct?

A That's correct.

Q Since -- do you recall what the projected in-service dates were in 2008?

A With our -- in 2008, I think with our original filing was 2016 and 2017.

Q Okay. So that would be eight years in delays since 2008; correct?

A That's correct.

Q Okay. And what -- same question on the, on the estimated cost in 2008. Do you recall what that was?

A I'd have to go back and check. I think it, I think the pre-AFUDC number was 14.6 billion. I seem to remember with the AFUDC it was 17.2, but I'd have to go back and look at that IPP.

Q Okay. So would you agree with me the cost of the project increased by about $5 billion over the past four years?

A That's correct.

Q And I believe you testified the current number

was 18.8 billion. That excludes AFUDC; correct?

A That's correct.

Q And including that, what's your, what's your estimated cost?

A Including?

Q AFUDC.

A I'd say 24 billion.

Q Okay.

A That's an estimate of carrying cost calculations.

Q Thank you. In your April 30th testimony you talk about a longer term suspension of the, of the current partial suspension. You just addressed that with Mr. Moyle. I just wanted to make sure I was clear on that.

So in 2009, after the LWA decision came down from the NRC, was it at that time that the partial suspension was put into effect; correct?

A That's correct. We immediately, when the, when the Commission informed us that the LWA would proceed on the same schedule as the COLA, put in place per the existing provisions of the contract a partial suspension.

Q And so the decision this year was to continue that?

A Not exactly.

Q Or is it an additional? That's what I'm trying to get at.

A Now, remember, in -- if I can.

Q Sure.

A In -- if you remember, in 2010, when we were in front of this Commission, we discussed at length the implementation of what we called a longer term partial suspension that was beyond the scope originally envisioned in the contract. That was what we negotiated successfully as part of Amendment 3 that basically tied the restart and the full notice to proceed and agreement termination fees to receipt of the COLA.

Q So to effectuate the, what's referred to in your testimony as a longer term suspension this year, did that require any changes to the -- or amendment to the EPC agreement?

A No, it did not, other than some minor discussions with some of our long-lead equipment providers.

Q Okay. I believe you also referenced in your testimony that the project management team also considered a shorter term suspension last year?

A That's correct.

Q And how long was that suspension? I don't

think your testimony went into detail about that.

A We looked at a range of one to three years as potential changes in the schedule.

Q And why did you ultimately decide on the three?

A The three year was more consistent with what we saw as the near-term trends in carbon legislation, fuel forecasts, economic recovery in Florida, and load growth. That seemed to best fit the near-term needs of the project.

Q But as we sit here today, you certainly don't have any assurances that three years is going to be enough time for, for these near-term risk and uncertainty to resolve favorably, do you?

A No.

Q Now, I believe IPP revision 4, which is included in your testimony as JE, Exhibit JE-1, so that, that revision, as approved by the senior management committee, implements the company's decision to implement this longer term suspension; correct?

A That's correct.

Q Okay. And if I could ask you to look at JE-1 for me, please, sir.

A Sure.

Q If you go to page 3 of 32, up at the top about

the second line, it talks about an authorization to spend additional funds.

A Yes, sir.

Q Do you see that?

A Yes, I do.

Q And I certainly don't want to get into specific numbers here, but is -- so is that the amount that the senior management committee approved for Levy this year?

A That's correct. That was for the period through April 2013.

Q Okay. And just so I'm clear, I'd asked Mr. Foster, and I believe we came up with about 102 million in revenue requirements for 2012 and 2013. So is the difference in those two numbers that this number here just goes through April of 2013?

A I don't know for sure, but just to clarify. So this number is an increment of funding for the period between May of 2012 and April of 2013. I would not quite directly align with 2012 actual estimate and 2013. So it's probably where the little bit of difference is.

Q Okay. Now, you've already, you've already addressed this, and I know it was in the IPP and also in your testimony, but the company no longer expects to receive its combined operating license in the second

quarter of 2013; correct?

A That's correct.

Q Okay.

MR. WHITLOCK: Mr. Chairman, I'd like to mark an exhibit, if I could.

CHAIRMAN BRISÉ: Sure. We're at 125.

MR. WHITLOCK: 125?

CHAIRMAN BRISÉ: Yes.

MR. WHITLOCK: Thank you. For the record, the short description on this exhibit will be the NRC directive regarding the Waste Confidence Rule.

CHAIRMAN BRISÉ: Okay.

(Exhibit 125 marked for identification.)

BY MR. WHITLOCK:

Q Mr. Elnitsky, you're probably familiar with this, but if you're not, I'll give you a minute to --

A I've seen this before.

Q Okay. Okay. So am I correct in short, based on the recent ruling of, of a federal court, the NRC has directed its staff to conduct a two-year environmental study and a revision to the Waste Confidence Rule?

A That's correct.

Q Okay. And I believe at the bottom of this document it references the fact that the Commission issued an order on August 7th that the NRC will not

issue licenses dependent on the Waste Confidence Rule until the court's remand is appropriately addressed. Is that the basis for the change in the expected receipt of the COLA date?

A That, as well as our discussions with NRC staff on Friday.

Q Okay. And what were the discussions with, with staff on Friday?

A Regarding sequencing of events, such as contested hearings, issuance of the final safety evaluation report, and when we would expect to go to mandatory hearings. So there's a little bit of an assumption that we'll be able to do mandatory hearings in parallel with the Waste Confidence Rule resolution.

Q So I guess we -- so we pushed out the expected receipt of the COL date by about a year, perhaps a little bit more?

A Sure.

Q But I believe you told Mr. Moyle y'all still, are still sticking with the 2024, 2025 projected in-service dates?

A That's correct.

Q Okay. So the over a year delay in receipt of the operating licenses is not going to affect the projected in-service dates?

A Actually, you could have an even more substantial delay in the license and not affect the critical path of the schedule.

Q And that's because construction would need to start in 2016?

A That's correct.

Q At what point in 2016; do you know?

A Let me look real quick. We plan for mobilization in mid 2016.

Q Now, the Waste Confidence Rule, as I understand it, applies to the storage of spent fuel on sites at, at reactors; correct?

A Yes, sir.

Q Okay. And what's your understanding of what the court's, the court found deficient with the Waste Confidence Rule?

A I think it's -- my understanding is pretty much as laid out in here, is the concern is in the event that a long-term storage solution is not available, the court asks the Commission to go back and revisit the storage of fuel at site in terms of the environmental impacts, and also involving consideration for leaks and fires and spent fuel assemblies.

Q And as we sit here today, there is no permanent repository for disposal of spent nuclear fuel;

correct?

A That's correct.

Q Okay. And I guess, just to clarify, is it your understanding that the NRC will not be issuing COLs until the, there's a, this two-year environmental study has been completed and there's a revision to the Waste Confidence Rule?

A Yes, with one clarification. Whether or not that actually ends up taking two years is -- it's a minimum of two years is what, or a max of two years is what they were directed to do by the Commissioners.

Q Thank you.

Backing up a little bit, I believe you testified that you, that you are in charge of the, or you're responsible for the direct management of the engineering, procurement, construction agreement with the consortium?

A That's correct.

Q Okay. I wanted to ask you to look at Exhibit JE-4 to your testimony.

A Okay.

Q Which was the stipulation and settlement agreement approved by the Commission. And if you'll go to page 6 of that order, or page 3 of 29, as it's labeled in your exhibit.

A I'm there.

Q Okay. And is it accurate to say paragraph 3, or at least starting with paragraph 3 reflects the parties, the parties to the agreement's agreement regarding the Levy project?

A That's correct.

Q Okay. And in paragraph 3 it says, The parties do not oppose PEF obtaining the LNP combined operating license and terminating the LNP engineering, procurement, construction contract and recovering the costs associated with those activities and so forth; correct?

A That's correct.

Q So those were the two, kind of the two major components of the Levy. Would it be accurate to say those were the two major components of the Levy piece of this settlement agreement?

A That's correct.

Q Okay. And the, the settlement agreement estimates a cost of about 350 million to accomplish these two tasks; correct?

A The reason I hesitate, I think the settlement agreement used a $350 million number as a potential, or an estimate of project cancellation costs, as I understand it. I don't know if you could say those are

directly COLA and/or EPC work.

Q So, and I'm sorry, just to clarify, the 350 million was, was simply an estimation of, of EPC cancellation costs?

A I think it was an estimation of project cancellation costs.

Q Project cancellation costs.

And the agreement provides for the recovery of that 350 million over five years; is that your understanding?

A That's correct.

Q Okay. And also sets the Levy cost recovery factor at $3.45 per a thousand kilowatt hours for the next five years?

A That's correct.

Q Okay. Now, I'm interested in the, in the project cancellation cost estimate. Why is, why is the company in this, in this agreement estimating the cost of cancellation of the project? Does the company intend to cancel the project?

A No, sir.

Q Okay. Then why is the 350 million figure used in this agreement?

A My understanding is the -- and we provided some input to this in terms of numbers. The intent of

the agreement, as I understood it, was to provide for a couple of paths. One, to continue on the program of record, to potentially go faster, but limit -- understanding what the recovery limitations would be and, if it was necessary, to cancel the project and cancel the EPC contract.

Q Does the company intend to cancel the EPC contract?

A Not presently. However, we reserve that as a negotiation option. We may need to protect the interests of the customers as we go forward.

Q Do you have some -- does the company have some general unhappiness with the EPC contract?

A No, I would not say that. We still think that the general terms and conditions of the EPC are favorable. However, we have carried in our risk register over the last several years a desire to improve the cost certainty in that contract at the point where we go forward with a full notice to proceed. In the event we're not able to do that, then we would look at the potential to cancel the contract and enter into a different arrangement.

Q When do you expect to start talking about a full notice to proceed?

A That work would need to start in 2015, from a

contract negotiation perspective.

Q This settlement agreement kind of strikes me as kind of an exit strategy. Do you agree with that?

A No, I do not.

Q Why -- how so?

A I think it provides flexibility, as I previously described, to go a couple of paths, either to go faster, stay on the current track, or to cancel if that's what's ultimately in the best interest of the customers. It provides a structure to allow us to do that here over the interim period.

Q So cancellation of the project is certainly a possibility?

A We continue to evaluate each year as part of our feasibility analysis and part of our review of the project whether we, it is in the best interest of the customers and the shareholders to move forward with the project, yes.

Q I assume there's been discussions with the consortium regarding termination of the EPC agreement by virtue, if for nothing else, by virtue of its inclusion in the settlement agreement?

A Yes, we have.

Q What can you tell me about those discussions?

A Just --

MR. WALLS: I'm going to object to that. I mean, that's confidential. He's asking the witness to explain confidential settlement or contract negotiations.

MR. WHITLOCK: I asked him what can he tell me it, Mr. Chairman. If it's con -- if it's all confidential, he can tell me that.

CHAIRMAN BRISÉ: I think it's a fair question.

MR. WALLS: I'll, I'll be satisfied with that.

THE WITNESS: Yeah. Without going into specific details of terms, we have addressed with the consortium that ultimately for the project to go forward one of the options we are considering is whether we would cancel the contract and renegotiate.

BY MR. WHITLOCK:

Q Did the company have a concern that if it chose to cancel the EPC, the Commission might find that imprudent?

A The Commission certainly could find any of our actions imprudent, but we would continue to proceed in a manner that we thought was prudent and in the best interest of the customers.

Q Was there a particular concern, though, that the Commission might found -- might find termination of the EPC agreement imprudent?

A Not to my understanding.

Q That wasn't the reason for the settlement agreement?

A No.

Q Was it one of the reasons for the settlement agreement?

A Not to my understanding.

Q Never was discussed?

MR. MOYLE: Mr. Chairman, I mean, some of this is getting into the background of a settlement discussion and, you know, what was talked about. And, you know, I know we historically have not allowed what was talked about at the negotiating table in a settlement agreement to be the subject of, you know, of cross-examination.

So, you know, there's been some questions. I'm not sure this is broaching it, but I guess I would make that point and object to the extent it gets into what was behind certain settlement discussions.

MR. WHITLOCK: Mr. Chairman, I'm, I'm not sure who Mr. Moyle is representing here today. I'm asking about internal discussions with the company, not the company's discussions with other parties regarding the settlement agreement. I'm trying to get at what was the impetus for the company to enter into the settlement

agreement.

CHAIRMAN BRISÉ: Okay.

MR. WHITLOCK: I mean, I certainly understand settlement negotiations between parties are, is, you know, it's not admissible under the federal, under the rules of evidence, federal or the Florida rules of evidence.

CHAIRMAN BRISÉ: Okay. Thank you.

Dealing with that issue, I think Mr. Moyle just sort of didn't raise a specific objection per se, just sort of, sort of a cautionary comment.

MR. WHITLOCK: Sure.

CHAIRMAN BRISÉ: But beyond that, I think you posed the same question three times. So if we could move on to the next question.

MR. WHITLOCK: Thank you, Mr. Chairman.

BY MR. WHITLOCK:

Q Mr. Elnitsky, I asked you before if you considered this an exit strategy. You said no. Maybe it's more accurately characterized as kind of a hedging strategy; would you agree with that?

A No.

Q Why not?

A I think I, as I previously described, I think it provides for a couple of different paths for the

project, and I think it is consistent with the risks that the company faces as well as the customers face in moving forward with the project. I think it struck an even balance, as I described in my testimony.

Q And, and regardless of which one of those paths the company chooses, it's assured of recovery of the costs through this agreement; correct?

A Provided that our actions are reasonable and prudent.

Q Moving on, I believe it starts about page 14 of your testimony, I don't know if you necessarily need to go there, but that's what I had in my notes here. You started talking about the increased near-term enterprise risks.

A That's correct.

Q Do you see that? Okay. And Mr. Moyle went through some of this. I think first you talked about economic recovery in Florida; correct?

A That's correct.

Q Okay. The Levy project isn't needed today to meet demand in Florida, is it?

A Not to meet demand today.

Q If I could direct you over to page 17, line 11, it starts, it says, These conditions, talking about Florida economic conditions, diminish customer support

for and ability to pay for construction of the LNP. This is one of the reasons for the levelized costs in the recent settlement agreement between PEF and customer group representatives. Is that an accurate representation of your testimony?

A That is correct.

Q Okay. So essentially the settlement agreement provides for levelized costs through 2017; correct?

A I think that's correct.

Q Okay. And that's at $3.45 per thousand kilowatt hour?

A That's correct.

Q And I'm sorry I don't have a copy of this, and I know you probably don't have it in front of you. This is your response to staff's interrogatory number 14, and it's a chart showing rate impacts.

And, according to this, in 2018 the residential rate will jump from $3.45 to $23.47. Does that sound accurate?

A I'd have to see that exhibit. I'm not sure what you're referring to.

Q Okay. Well, I'd represent to you that's what, that's what the chart says, 23.47.

A Okay.

Q And I guess I'm wondering, wouldn't spreading

out those costs over the next five years make more economic sense for your ratepayers?

A I don't think that's for me to address. That's really a company decision. But that recovery strategy is consistent with the current statute, with the current recovery rules.

Q Doesn't it seem like you're giving your customers a false sense of security?

A No.

Q Well, you know, you're, you're telling them that, hey, we're going to levelize costs for you, you know, through 2017, they're getting their bills every month, and then all of a sudden in 2018, bam, a $20 increase. Doesn't that appear to you that might be creating a false sense of security for them?

A It's not as false as a sense of security we would create if we deferred those costs even further, in which case the rate impacts become even larger.

Q On page 18, I think, of your, starting at page 18 of your testimony, and going on over, I think, through page 20, you talk about greenhouse gas legislation or a lack thereof; correct?

A That's correct.

Q And as we sit here today, there is, there's no cost of carbon; correct?

A That's correct.

Q Okay. And would you agree with me that a cost of carbon or a lack thereof is a key driver in an economic feasibility analysis?

A It is one of the key drivers. Yes, sir.

Q Okay. And that's because the absence of the cost of carbon adversely affects the cost-effectiveness of new nuclear generation; correct?

A That's correct.

Q Okay. And then next, I believe around page 25, you start talking about natural gas prices. And would you agree with me natural gas prices are at historical lows or near historical lows?

A That's correct.

Q Okay. And it's in large part the shale drilling, fracking; would you agree with me on that?

A Yeah, as well as a current imbalance between supply and demand.

Q Okay. And the same questions I asked you before on, on greenhouse gas legislation, cost of carbon or a lack thereof, you'd agree with me that natural gas prices are a key driver in an economic feasibility analysis; correct?

A That's correct.

Q And that's, again, because lower natural gas

prices adversely affect the cost-effectiveness of new nuclear generation?

A That's correct.

Q Okay. So I guess what I'm trying to get at here is based, based on, on that, on page 13, I think you note that issuance of the final notice to proceed next year to commence full scale construction is not supported by near-term lower natural gas prices and delayed carbon cost impacts; correct?

A Show me where you were. I'm sorry.

Q Okay. I'm sorry. It's page 13, starting at line 10.

A Okay.

Q And it's that sentence, Issuance of the final notice to proceed next year is not supported by the things we've just talked about.

A That's correct.

Q Okay. And so I assume that rationale would extend to a scenario where gas prices stay low and there continues to be no cost of carbon; correct?

A In -- if you mean in the near term, yes, that's correct.

Q Okay. Well, I mean even in the long term. If, if gas prices stay low and there's no cost of carbon, is it -- it's still not, it's still not,

issuance of a final notice to proceed is not going to be the prudent thing for the company to do; correct?

A I would agree, with one caveat. You have to kind of look at all the factors that we look at in the feasibility analysis, including things like fuel diversity and reduction or reliance on single sources. But you're right that the, in general, as with lower fuel costs and no carbon, it does not strengthen the feasibility argument.

Q Going over to page 25, I have a question about a statement in your prefiled testimony. Starting on about page -- or, excuse me, line 19.

A Okay.

Q You talk about the recent lower natural gas forecast: We have observed a decline in the economic feasibility of the LNP, although we think the LNP remains feasible even if the company decided to implement the project plan commencing construction next year. Correct?

A That's correct.

Q Okay. And I guess I'm just, I'm confused as to, you know, right now we've established we've got low fuel costs and no cost of carbon. Why would it be prudent if the company went ahead and decided to start construction next year? How would that be a prudent

decision?

A In the long term we still anticipate that we will see an increase in fuel costs and some amount of carbon legislation that ultimately makes the Levy plant feasible, as well as the benefit it brings in terms of reliable baseload generation and increased fuel diversity.

Q So it's based on, based on long-term projections.

A Yes, sir.

Q And projections that differ from current reality.

A I would -- no. It's long-term projections that are based on extrapolation from current reality.

Q Well, current reality, for example, in your, in your CPVRR would be low gas, would be the low gas case; correct?

A Not exactly.

Q How so?

A The, in the CPVRR analysis, the low gas case anticipates a future world where gas remains low forever.

Q Okay. So as we sit here today, though, would it be accurate to say today would be the low fuel reference case?

A Today we're in, we start at the low fuel reference case, yes.

Q Okay. And also today we're at no cost of carbon; correct?

A That's correct.

Q Okay. Has gas become permanently cheap, in your opinion?

A We don't think so.

MR. WHITLOCK: Mr. Chairman, I'd like to mark another exhibit.

CHAIRMAN BRISÉ: Sure. We're at 126.

(Exhibit 126 marked for identification.)

MR. WHITLOCK: Mr. Chairman, for the record, this is a *Financial Times* article. The short description I've given it is Is Nuclear Hard to Justify, which is the title of the article.

CHAIRMAN BRISÉ: Okay. Before you begin asking questions, let's see if the attorneys from Progress take a look at it and then see if they have any objections from the outset.

MR. WHITLOCK: In the interim, Mr. Elnitsky, if you'll just look at the first three paragraphs or so, that's all I have any questions about.

THE WITNESS: Okay.

MR. WALLS: This is hearsay, but we have no

objection.

CHAIRMAN BRISÉ: Okay.

MR. WHITLOCK: Thank you, Mr. Walls.

Thank you, Mr. Chairman.

BY MR. WHITLOCK:

Q Mr. Elnitsky, would you agree with General Electric's CEO, Mr. Immelt, and I'm not sure if I'm pronouncing that right, you probably know better than I do, with the first sentence here that nuclear power is so expensive compared with other forms of energy that it has become, quote, unquote, really hard to justify?

A I would say I only agree in the near term.

Q And, again, that would be based on your forecasts, your long-term forecasts?

A That's correct.

Q Okay. And in the second paragraph, Mr. Immelt says, It's really a gas and wind world today, referring to two sources of electricity, he said, most countries are shifting towards as natural gas becomes permanently cheap. Do you agree with that?

A No.

Q And, again, that's based on your forecasts --

A It's based on --

Q -- of gas prices moving forward?

A -- various sources that we use as part of our

forecasting for gas prices.

Q Does General Electric use different sources, to your knowledge?

A No. I would just say that General Electric has other motivations.

Q Does your company buy nuclear equipment from General Electric?

A Yes, for some of our existing facilities.

Q Anything from Levy come from General Electric?

A No.

Q Okay. It's kind of a General Electric or Westinghouse decision?

A No. But the decision we made several years ago, back when we selected technology, was the Westinghouse solution.

MR. WHITLOCK: Mr. Chairman, I'd like to mark another exhibit at this time, if I could.

CHAIRMAN BRISÉ: Sure. 127.

MR. WHITLOCK: Actually, Mr. Chairman, I believe this was previously marked as Exhibit Number 117 during Mr. Reed's testimony last week.

CHAIRMAN BRISÉ: Okay.

MR. WHITLOCK: I'm not sure if this was admitted last, last week.

CHAIRMAN BRISÉ: You're referring to the

Exelon letter to NRC?

MR. WHITLOCK: Correct. Correct.

CHAIRMAN BRISÉ: It was not admitted.

MR. WHITLOCK: Okay. Mr. Chairman, just for housekeeping, before we get into this, could I ask that exhibits I believe that I've marked 124, 125, and 126 be entered into the record at this time?

CHAIRMAN BRISÉ: 124?

MR. WHITLOCK: Correct. I believe so. No. I apologize. 125 and 126.

CHAIRMAN BRISÉ: You know, we'll do that after we're done with the, with the witness.

MR. WHITLOCK: Okay. Okay. Okay.

BY MR. WHITLOCK:

Q Mr. Elnitsky, are you familiar with what's been, what was previously marked as Exhibit 117?

A I haven't seen this exact letter before, but I am familiar with the issue.

Q Okay. And if you turn over to Exhibit 1 or, excuse me, Attachment 1 to this letter, it's got the Exelon Generation letterhead there at the top.

A I'm there.

Q Okay. If you would, would you read the, the first sentence of the second paragraph, Exelon has reassessed?

A Exelon has reassessed the economic viability of new nuclear plant construction in the merchant generation market, and based on several factors contributing to an unfavorable economic outlook, Exelon has made the decision to cancel the VCS ESP project.

Q Are you aware of the Exelon cancellation of its ESP for the Victoria County site?

A Yes, I was.

Q Okay. And are you aware that permanent cheap natural gas was one of the economic factors cited in this letter?

A No, I was not in terms of permanent, but I understand.

Q Okay. Do you have any reason to dispute that?

A It's a different market, different situation. I can't comment on how Exelon drew their conclusions.

Q Okay. I guess what I'm trying to get at is, is what, what do y'all know that GE and Exelon don't know?

A I know that if you go out today and you try to ask the gas markets to guarantee $2 gas for the next 20 years, they'll laugh at you, and they say they'll be happy to sell it to you for $10 for the next 20 years.

Q Now, we've already established the role of cost of gas and cost of carbon in the, in the economic

feasibility analysis; correct?

A That's correct.

Q Okay. If I could get you to look over at Exhibit JE-2.

A JE-2. Okay.

Q And I believe it's page 7 of that exhibit. Is that your most updated, or the summary of your most updated CPVRR analysis?

A That's correct.

Q Okay. So, and I think we've also already established that today would, today would represent the low fuel reference case; correct? Conditions today.

A Conditions today, that's correct.

Q And that conditions today would be the no CO2; correct?

A Let me just, if I could, step back just a minute just to make sure we're clear.

So the low fuel reference case as is laid out in these CPVRR analyses, consistent with what we've done every year, is just to lay out a case where that low fuel scenario stays in place for the duration of the life of the Levy project. So although it also is indicative of where price is today, it also makes the assumption that that price remains at that low level, or, in fact, in the way the model works, actually even

lower than today as you go forward.

Q Okay. And so as, as conditions stand today, would you agree with me that the Levy project is only economically feasible or the preferred resource plan in three out of 15 cases?

A No, I would not agree.

Q Let me restate that. It's only the preferred resource plan as conditions stand today -- let me back up. I'm sorry. I got ahead of myself there.

So in the low fuel reference case where we stand, where conditions stand today, correct, Levy is only economically feasible or the preferred resource plan if you assume a high cost of carbon; correct?

A Correct. For a long-term low fuel case it's only feasible if there is a high cost of carbon.

Q And other utilities think that, that low gas prices are going to be long term; correct?

A Some utilities do.

Q Okay. And, and kind of similarly, if there's no cost of carbon, you have to have high fuel prices to make the economics work; correct?

A That's correct.

Q Okay. Has, has the company assessed, you know, done an assessment of the relative likelihoods of each of these different scenarios?

A No, we have not. And, you know, as sort of we discussed last year, we continue to use this same consistent method year over year to give sort of a spectrum of potential future outcomes, but we don't try to put a probability on one box versus another.

Q High cost of carbon is not likely, is it?

A I don't know.

Q Do you agree with me that the most likely scenario presented in this analysis would be the low fuel, low cost of carbon?

A No.

Q What would be the most likely scenario, in your opinion?

A In my opinion, not -- and, again, as we did our assessment for the company, we look at all these scenarios and say that, you know, as you look across the spectrum of potential future outcomes, does the plant still make sense? And our answer was yes.

MR. WHITLOCK: Mr. Chairman, give me one minute here and I think I'll be able to wrap up.

(Pause.)

BY MR. WHITLOCK:

Q Mr. Elnitsky, I believe in your testimony you, you talk about the work in 2012 and 2013 will be focused solely on obtaining a combined operating license from

the NRC; correct?

A Not exactly. I think I say primarily focused on the work associated with the license. There's a few other activities associated with long-lead equipment, quality oversight, some of the other work that we have to do consistent with the conditions of certification that was granted by the state. So there's a small set of related activities that go along with continuing the license activity.

Q Okay. No construction activities; correct?

A Correct, other than procurement activities associated with long lead.

Q And, in fact, I believe some planned construction work was pushed out as a result of the longer term suspension; is that accurate?

A Construction work per the 2021 plan was deferred based on the change in schedule. That's correct.

MR. WHITLOCK: Okay. Mr. Elnitsky, those are all my questions. Thank you, sir.

CHAIRMAN BRISÉ: Mr. Wright?

MR. WRIGHT: Thank you, Mr. Chairman. I just have a couple of questions.

CHAIRMAN BRISÉ: Sure. Go right ahead.

CROSS EXAMINATION

BY MR. WRIGHT:

Q Just following up on a response you gave to Mr. Whitlock, will gas suppliers really sell you 20 years' worth of gas for $10 a million?

A I wish.

Q You said you wish?

A Yes.

Q Okay. So the answer is you don't know what they'll sell it to you --

A I know that they won't -- when you try to approach gas suppliers with long-term contracts at low prices, you can't make that happen.

Q I really just had one, one other question. In response to some questions from Mr., I think Mr. Moyle and, and Mr. Whitlock, you talked about the projected cost of the unit, and I think you gave the figures of $18.8 billion excluding AFUDC, and $24.1 billion including AFUDC?

A That's correct.

Q Okay. And my question for you is very simple. The company is not in a position to guarantee or put a limit on, on what it would ultimately charge customers at either of those values, is it?

A I'm not sure I understand your question.

Q Will you, will you guarantee either of those

costs?

A We pro -- that would be unreasonable from a project perspective. We actually provide a range of costs in our IPP and in our cost estimates based on our best understanding of the market going forward today.

Q I understand that. But the answer to my question is no, and you believe it's unreasonable. Is that correct?

A No. We can't guarantee the costs today, if that's the question.

MR. WRIGHT: That is the question. Thank you.

CHAIRMAN BRISÉ: Staff?

MS. BENNETT: No questions.

CHAIRMAN BRISÉ: Okay. Commissioners?

Okay. So, considering that there may be a lot of questions from, from the Commission, we will go ahead and take our, our lunch recess at this time, and we will reconvene at 1:00.

(Recess taken.)

(Transcript continues in sequence with Volume 4.)

STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 17th day of September, 2012.

Linda Boles

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