May 8, 2015

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	Docket Nos. 52-040-COL
Florida Power & Light Company	)	52-041-COL
	)	
Turkey Point Units 6 and 7	)	ASLBP No. 10-903-02-COL
(Combined License Application)	)	

FLORIDA POWER & LIGHT COMPANY'S ANSWER OPPOSING CITIZENS ALLIED FOR SAFE ENERGY PETITION TO INTERVENE AND REQUEST FOR HEARING REGARDING THE DRAFT EIS FOR TURKEY POINT 6 & 7 COL

I. INTRODUCTION

Pursuant to 10 C.F.R. § 2.309(i)(1), Applicant Florida Power & Light Company ("FPL") hereby answers and opposes the Petition to Intervene and Request for Hearing Regarding the Draft EIS for Turkey Point 6 & 7 COL ("Petition") filed on April 13, 2015 by Citizens Allied for Safe Energy ("CASE") in the combined license ("COL") proceeding for the proposed Turkey Point Units 6 & 7. The Petition proffers three contentions for consideration by the Atomic Safety and Licensing Board (the "Board"), which are purportedly prompted by the NRC Staff's publication of the draft Environmental Impact Statement for Combined Licenses (COLs) for Turkey Point Units 6 and 7, NUREG-2176 (Feb. 2015) (the "DEIS"). The Petition, however, makes no attempt to show that any of the proposed contentions are based on new information in the DEIS, and indeed, they are not. Further, none of the proposed contentions is adequately supported or demonstrates a genuine material dispute. Consequently, the proposed contentions meet neither the Commission's timeliness nor the admissibility standards, and must therefore be rejected.

II. PROCEDURAL BACKGROUND

FPL submitted an application to the NRC for a COL for Turkey Point Units 6 & 7 ("Application") on June 30, 2009, including an Environmental Report ("ER"), as required under the NRC's regulations implementing the National Environmental Policy Act ("NEPA"). FPL has submitted several revisions to the Application since the initial filing. The current version of the ER is Revision 6. All of the revisions are available on the NRC's website.[1]

The Board granted CASE's initial intervention in this proceeding, ruling that CASE proffered two contentions that were admissible in part concerning the environmental impacts and safe management of low-level radioactive waste.[2] Upon subsequent revision of the Application, the Board granted FPL's motions to dismiss one of the contention as moot, and for a favorable judgement as a matter of law on the second.[3] Soon thereafter, the Board rejected CASE's attempt to admit two new contentions. LBP-12-7, 75 N.R.C. at 520. Because at that time CASE no longer had a contention or unresolved pleading pending before the Board, the Board dismissed CASE as a party from this proceeding. *Id.* CASE subsequently sought to litigate a new contention concerning the storage and disposal of spent nuclear fuel at the proposed Turkey Point Units, which contention was held in abeyance pending the completion of a Commission rulemaking in August 2014.[4] Pursuant to the Commission's direction, the Board then denied CASE's contention. *Id.* That dismissal once again resulted in CASE having no contentions

---

1 *See* Combined License Application Documents for Turkey Point Units 6 and 7, Application, *available at* http://www.nrc.gov/reactors/new-reactors/col/turkey-point/documents.html#application.

2 *Florida Power & Light Company* (Turkey Point Nuclear Generating Plant, Units 6 and 7), LBP-11-6, 73 N.R.C. 149, 237-46 (2011).

3 *See Florida Power & Light Company* (Turkey Point Nuclear Generating Plant, Units 6 and 7), LBP-12-7, 75 N.R.C. 503, 507 (2012).

4 Order (Denying Waste Confidence Contention Motions and Dismissing CASE) (Sept. 10, 2014) (unpublished).

pending before the Board. Consequently, the Board dismissed CASE as a participant in this proceeding. *Id.*

In response to the NRC Staff's publication of the DEIS, CASE now petitions the Board to admit three new contentions. The contentions concern the environmental impacts of salt water drift from the proposed Units 6 & 7, the consideration of alternative heat dissipation systems to the one proposed by FPL (round mechanical draft cooling), and political and economic influence over regulatory agencies in the State of Florida. As will be shown in subsequent sections, each proposed contention is inexcusably untimely, and all fall far short of the Commission's stringent admissibility requirements.

III. APPLICABLE LEGAL STANDARDS FOR CONTENTIONS FILED AFTER THE INITIAL DEADLINE AND ADMISSIBLE CONTENTIONS

The NRC does not look with favor on amended or new contentions filed after the initial filing. *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear Power Station, Units 2 and 3), CLI-04-36, 60 N.R.C. 631, 638 (2004). As the Commission has repeatedly stressed,

> our contention admissibility and timeliness rules require a high level of discipline and preparation by petitioners "who must examine the publicly available material and set forth their claims and the support for their claims at the outset." There simply would be "no end to NRC licensing proceedings if petitioners could disregard our timeliness requirements" and add new contentions at their convenience during the course of a proceeding based on information that could have formed the basis for a timely contention at the outset of the proceeding. Our expanding adjudicatory docket makes it critically important that parties comply with our pleading requirements and that the Board enforce those requirements.

AmerGen Energy Co., LLC (Oyster Creek Nuclear Generating Station), CLI-09-7, 69 N.R.C. 235, 271-72 (2009) (footnotes omitted).

Accordingly, the Commission's rules of practice require that "[c]ontentions must be based on documents or other information available at the time the petition is to be filed, such as

the application, supporting safety analysis report, environmental report or other supporting document filed by an applicant or licensee, or otherwise available to a petitioner." 10 C.F.R. § 2.309(f)(2). With respect to NEPA-related issues, contentions are to be based on the applicant's environmental report. *Id.* New or amended environmental contentions may be filed after the initial filing deadline – for example, based on a draft or final NRC environmental impact statement – only "if the contention complies with the requirements in paragraph (c) of this section." *Id.* 10 C.F.R. 2.309(c)(1), in turn, requires that the contention "not be entertained" absent a demonstration of good cause by showing that:

> (i) The information upon which the filing is based was not previously available;
>
> (ii) The information upon which the filing is based is materially different from information previously available; and
>
> (iii) The filing has been submitted in a timely fashion based on the availability of the subsequent information.

10 C.F.R. § 2.309(c)(1)(i)-(iii).

In short, new or amended contentions – even when ostensibly based on recently issued NRC environmental review documents – "must be *based on new facts* not previously available." *Entergy Nuclear Generation Co.* (Pilgrim Nuclear Power Station), CLI-12-10, 75 N.R.C. 479, 493 n.70 (2012) (emphasis in original). *See also DTE Electric Company* (Fermi Nuclear Power Plant, Unit 3), CLI-15-01, 81 N.R.C. __, slip op. at 7, 8 (Jan. 13, 2015) ("our rules of practice require contentions to be raised at the earliest possible opportunity. . . . Our rules of practice require a material difference between the information on which the contention is based and the information that was previously available – for example a difference between the environmental report or the draft EIS"). Indeed, when promulgating the recently revised Section 2.309(c)(1), the Commission explained that, "in most cases where the NRC compiles or uses previously

available information in a new document, *the previously available information cannot be used as the basis for a new or amended contention filed after the deadline*." Final Rule, Amendments to Adjudicatory Process Rules and Related Requirements, 77 Fed. Reg. 46,562, 46,566 (Aug. 3, 2012) (emphasis added). This means, for example, that information in a draft environmental impact statement cannot form the basis for a timely new contention when substantially the same information was previously found in an applicant's environmental report or was otherwise previously available.

Further, as the proponent of an order admitting the proposed contention, CASE has the burden of demonstrating that it meets the good cause standards in 10 C.F.R. § 2.309(c)(1). 10 C.F.R. § 2.325. 10 C.F.R. § 2.309(c)(1) requires that the "*participant has demonstrated good cause*" by showing that the standards are met (emphasis added). The failure to comply with these pleading requirements constitutes sufficient grounds for rejecting the petition. *Florida Power & Light Co.* (Calvert Cliffs Nuclear Power Plant, Units 1 and 2, *et al.*) CLI-06-21, 64 N.R.C. 30, 34 (2006). *See also Nuclear Innovation North America LLC* (South Texas Project, Units 3 and 4), LBP-11-7, 73 N.R.C. 254, 279 (2011) ("Longstanding NRC practice dictates that an intervener's failure to affirmatively address the [former] section 2.309(c) factors serves as a sufficient basis for dismissal") (citing *Calvert Cliffs*, CLI-06-21, 64 N.R.C. at 33-34 and *Baltimore Gas & Electric Co.* (Calvert Cliffs Nuclear Power Plant Units 1 and 2), CLI-98-25, 48 N.R.C. 325, 347-48 (1998) (noting that the Commission has summarily dismissed petitioners who failed to address the factors for a late-filed petition).

In addition, new or amended contentions, including those based on NRC environmental review documents, must meet the admissibility standards that apply to all contentions under 10 C.F.R. § 2.309(f)(1):

> (i) Provide a specific statement of the issue of law or fact to be raised or controverted;
>
> (ii) Provide a brief explanation of the basis for the contention;
>
> (iii) Demonstrate that the issue raised in the contention is within the scope of the proceeding;
>
> (iv) Demonstrate that the issue raised in the contention is material to the findings the NRC must make to support the action that is involved in the proceeding;
>
> (v) Provide a concise statement of the alleged facts or expert opinions which support the requestor's/petitioner's position on the issue and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the requestor/petitioner intends to rely to support its position on the issue;
>
> (vi) In a proceeding other than one under 10 CFR 52.103, provide sufficient information to show that a genuine dispute exists with the applicant/licensee on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief.

10 C.F.R. § 2.309(f)(1)(i)-(vi). These standards also are enforced rigorously. "If any one . . . is not met, a contention must be rejected." *Arizona Public Service Co.* (Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3), CLI-91-12, 34 N.R.C. 149, 155 (1991) (citation omitted); *USEC, Inc.* (American Centrifuge Plant), CLI-06-9, 63 N.R.C. 433, 437 (2006) ("These requirements are deliberately strict, and we will reject any contention that does not satisfy the requirements." (footnotes omitted)). A licensing board is not to overlook a deficiency in a contention or assume the existence of missing information. *Palo Verde,* CLI-91-12, 34 N.R.C. at 155; *AmerGen Energy Co., LLC* (Oyster Creek Nuclear Generating Station), CLI-09-7, 69 N.R.C. 235, 260 (2009) (the contention admissibility rules "require the petitioner (*not the board*) to supply all of the required elements for a valid intervention petition." (emphasis added) (footnote omitted)).

Under these standards, a petitioner is obligated "to provide the [technical] analyses and expert opinion" or other information "showing why its bases support its contention." *Georgia Institute of Technology* (Georgia Tech Research Reactor, Atlanta, Georgia), LBP-95-6, 41 N.R.C. 281, 305, *vacated in part and remanded on other grounds*, CLI-95-10, 42 N.R.C. 1, *aff'd in part*, CLI-95-12, 42 N.R.C. 191 (1995). Where a petitioner has failed to do so, "the [Licensing] Board may not make factual inferences on [the] petitioner's behalf." *Id.*, citing *Palo Verde*, CLI-91-12, 34 N.R.C. 149. *See also Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), LBP-98-7, 47 N.R.C. 142, 180 (1998) (a "bald assertion that a matter ought to be considered or that a factual dispute exists . . . is not sufficient"; rather, "a petitioner must provide documents or other factual information or expert opinion" to support a contention's "proffered bases").

Further, admissible contentions "must explain, with specificity, particular safety or legal reasons requiring rejection of the contested [application]." *Dominion Nuclear Connecticut, Inc.*, (Millstone Nuclear Power Station, Units 2 and 3), CLI-01-24, 54 N.R.C. 349, 359-60 (2001) (citation omitted). In particular, this explanation must demonstrate that the contention is "material" to the NRC's findings and that a genuine dispute on a material issue of law or fact exists. 10 C.F.R. §§ 2.309(f)(1)(iv), (vi). The Commission has defined a "material" issue as meaning one where "resolution of the dispute *would make a difference in the outcome* of the licensing proceeding." 54 Fed. Reg. 33,168, 33,172 (Aug. 11, 1989) (emphasis added).

As the Commission has observed, this threshold requirement is consistent with judicial decisions, such as *Connecticut Bankers Association v. Board of Governors*, 627 F.2d 245, 251 (D.C. Cir. 1980), which held that:

> [A] protestant does not become entitled to an evidentiary hearing merely on request, or on a bald or conclusory allegation that . . . a dispute exists. The

> protestant must make a minimal showing that material facts are in dispute, thereby demonstrating that an "inquiry in depth" is appropriate.

651 F.2d at 251; *see also Baltimore Gas & Electric Co*. (Calvert Cliffs Nuclear Power Plant, Units 1 and 2), CLI-98-14, 48 N.R.C. 39, 41, *motion to vacate denied*, CLI-98-15, 48 N.R.C. 45, 56 (1998) ("It is the responsibility of the Petitioner to provide the necessary information to satisfy the basis requirement for the admission of its contentions"). A contention, therefore, is not to be admitted "where an intervenor has no facts to support its position and where the intervenor contemplates using discovery or cross-examination as a fishing expedition which might produce relevant supporting facts." 54 Fed. Reg. at 33,171.[5] As the Commission has emphasized, the contention rule bars contentions where petitioners have what amounts only to generalized suspicions, hoping to substantiate them later, or simply a desire for more time and more information in order to identify a genuine material dispute for litigation. *Duke Energy Corp.* (McGuire Nuclear Station, Units 1 and 2), CLI-03-17, 58 N.R.C. 419, 424 (2003).

Therefore, under the Rules of Practice, a statement "that simply alleges that some matter ought to be considered" does not provide a sufficient basis for a contention. *Sacramento Municipal Utility District* (Rancho Seco Nuclear Generating Station), LBP-93-23, 38 N.R.C. 200, 246 (1993), *review declined*, CLI-94-2, 39 N.R.C. 91 (1994). Similarly, a mere reference to documents does not provide an adequate basis for a contention. *Calvert Cliffs*, CLI-98-25, 48 N.R.C. at 348.

---

[5] *See also Duke Power Co.* (Catawba Nuclear Station, Units 1 and 2), ALAB-687, 16 N.R.C. 460, 468 (1982), *vacated in part on other grounds*, CLI-83-19, 17 N.R.C. 1041 (1983) ("[A]n intervention petitioner has an ironclad obligation to examine the publicly available documentary material pertaining to the facility in question with sufficient care to enable [the petitioner] to uncover any information that could serve as the foundation for a specific contention. Stated otherwise, neither Section 189a. of the [Atomic Energy] Act nor Section 2.714 [now 2.309] of the Rules of Practice permits the filing of a vague, unparticularized contention, followed by an endeavor to flesh it out through discovery against the applicant or staff.").

Rather, the NRC's pleading standards require a petitioner to read the pertinent portions of the license application, including the safety analysis report and the ER, state the applicant's position and the petitioner's opposing view, and explain why it has a disagreement with the applicant. 54 Fed. Reg. at 33,171; *Millstone*, CLI-01-24, 54 N.R.C. at 358. If the petitioner does not believe these materials address a relevant issue, the petitioner is "to explain why the application is deficient." 54 Fed. Reg. at 33,170; *Palo Verde*, CLI-91-12, 34 N.R.C. at 156. A contention that does not directly controvert a position taken by the applicant in the license application is subject to dismissal. *See Texas Utilities Electric Co.* (Comanche Peak Steam Electric Station, Unit 2), LBP-92-37, 36 N.R.C. 370, 384 (1992), *appeal dismissed*, CLI-93-10, 37 N.R.C. 192, *stay denied,* CLI-93-11, 37 N.R.C. 251 (1993). Furthermore, an allegation that some aspect of a license application is "inadequate" or "unacceptable" does not give rise to a genuine dispute unless it is supported by facts and a reasoned statement of why the application is unacceptable in some material respect. *Florida Power & Light Co.* (Turkey Point Nuclear Generating Plant, Units 3 and 4), LBP-90-16, 31 N.R.C. 509, 521 & n.12 (1990).

IV. NONE OF CASE'S CONTENTIONS IS TIMELY OR ADMISSIBLE

A. Proposed Contention 1 (Salt Water Drift) is Untimely and Inadmissible.

Proposed Contention 1 – which alleges cumulative long term environmental impact of up to 70 million gallons a day of chemical laden aerosol, as described in the DEIS, from six cooling towers is a threat to FPL workers and to the nearby protected habitat and will increase salinity and saltwater intrusion into the Biscayne Aquifer (Petition at 11[6]) – should be rejected because it is inexcusably late under 10 C.F.R. § 2.309(c)(1). The proposed Contention also falls far short of the Commission's stringent admissibility requirements, in particular its failures to demonstrate

[6] The Petition has two pages enumerated as "11." The second such page is referenced herein as "11a."

a genuine dispute and to provide any facts, expert opinion, or other support under 10 C.F.R. § 2.309(f)(1)(v) & (vi).

1. Proposed Contention 1 Is Inexcusably Untimely

Contention 1 must be rejected because CASE makes no demonstration that the Contention is based on information that is materially different from that previously available. CASE's failure to even address the standards in 10 C.F.R. § 2.309(c)(1) requires, by itself, that the Contention be dismissed.

Further, the ER contained ample discussion of the impacts of cooling tower drift to permit CASE to raise this issue at the outset of the proceeding. ER Revision 0, Section 3.1.2 described the close loop circulating water system, consisting of three mechanical draft cooling towers for each unit. That same section, along with ER (Rev. 0) Sections 3.3.1, 3.4.1.1.1 and 3.4.2.1.1, described the treatment and use of reclaimed water for circulating water system makeup, with additional saltwater makeup from radial collector wells when sufficient reclaimed water is unavailable. Section 5.3.3.2.2 of the ER (Rev. 0) analyzed the impacts from projected salt drift from the cooling towers, specifying the deposition rates, including the maximum values in the industrial waste water facility and adjacent canals and wetlands. ER (Rev. 0) Section 5.3.4.1 explained how the treatment of reclaimed water prior to its use would eliminate or minimize etiological agents.

Indeed, CASE's initial intervention petition proffered a contention alleging that the six cooling towers would release "tons of particulates" from treated waste water or sea water threatening the health and safety of employees, the surrounding population, and contamination of land and surface water. LBP-11-6, 73 N.R.C. at 232-33. While this contention was dismissed – because CASE admitted that the aerosol "will meet state air quality standards" and the

"particulate concentration will be . . . far below the State permitted limit" (LBP-11-6, 73 N.R.C. at 233) and provided no alleged facts or expert opinions showing a genuine dispute of material fact – its proffer demonstrates that CASE was afforded the opportunity to raise issues concerning cooling tower emissions based on the information in the ER. Because the ER contained information on salt drift "that could have formed the basis for a timely contention at the outset of the proceeding" (*Oyster Creek,* CLI-09-7, 69 N.R.C. at 271-72 (citations omitted)), the present proposed Contention 1 is untimely under 10 C.F.R. § 2.309(c)(1)(i).

Moreover, the few references to the DEIS in CASE's discussion of Contention 1 do not contain any information materially different from that previously available. For example, CASE refers twice to DEIS Figure 5.3 (DEIS at 5-33), Predicted Monthly Salt Deposition from Cooling-Tower Operation Using Makeup Water Only Supplied by the Radial Collector Wells. *See* Petition at 11a and 15. This is substantially the same figure as provided in Figure 5.3-1 of the ER (Rev. 0). Likewise:

- CASE quotes the DEIS at 5-93 concerning potential worker exposures from etiological agents in cooling tower drift. Petition at 11a. This same information is discussed in ER (Rev. 0) Section 5.3.4.1, Etiological Agents Impacts, which also explains that personnel protection measures would limit such exposures.
- CASE quotes the DEIS at 5-9 concerning operation of the reclaimed water cooling system at four cycles of concentration and of the RCW water at 1.5 cycles of concentration. Petition at 12. This same information is discussed in the ER (Rev. 0) at 3.4-2 to 3.4-3.

- CASE cites to DEIS Figure 2-26 concerning the location of protected areas near the Turkey Point site. Petition at 13. Essentially the same information is provided in ER (Rev. 0) Figures 2.1-3 and 2.1-4.

- On pages 15-16 of its Petition, CASE quotes portions of the DEIS at 5-58 and 5-9 that state that saltwater from the RCWs is used only when reclaimed water from Miami-Dade is unavailable; will be limited to 60 days per year under the State of Florida Conditions of Certification; and that salt drift is expected to occur. ER (Rev. 0) Section 5.3.1 provides the same discussion concerning the use of salt water from the RCWs when reclaimed water from Miami-Dade cannot supply the required amount. ER (Rev. 0) Section 5.3.3.2.2 discusses salt drift. While the discussion in the DEIS of the 60-day annual limit on RCW operation is new, it does not provide materially different information because that limitation *reduces* use of sea water for cooling and the resultant salt drift.

- CASE also references DEIS Section 2.3.3.1 concerning concentrations of contaminants found in Biscayne Bay. Petition at 16. ER (Rev. 0) Section 2.3.3.1.1 discusses Biscayne Bay water quality monitoring and the parameters monitored. ER (Rev.0) Table 2.3-31 summarizes the average Biscayne Bay water quality monitoring sampling results from 1993-2008, which has since been updated through 2010 in ER (Rev. 6).

2. Proposed Contention 1 Is Inadmissible

Independent from its inexcusable untimeliness, proposed Contention 1 must also be rejected because it also fails to meet the rigorous standards in 10 C.F.R. § 2.309(f)(1) for admissible contentions.

a. Proposed Contention 1 Fails to Raise a Genuine Dispute on a Material Issue

Proposed Contention 1 fails to raise a genuine dispute on a material issue of law or fact, as is required by 10 C.F.R. § 2.309(f)(1)(vi), for multiple reasons. Its initial failure to do so results from its mischaracterization of information contained in the Turkey Point 6 & 7 environmental documents. *Crowe Butte Resources, Inc.* (License Renewal for In Situ Leach Facility, Crawford Nebraska), CLI-09-9, 69 N.R.C. 331, 363 (2009) (ruling inadmissible a contention that mischaracterized the license application).[7] In particular, Proposed Contention 1 fails to distinguish between evaporative loss of water which will occur from operation of the proposed Units' cooling towers, with the much smaller quantity of aerosol drift containing particulate matter. There is simply no basis for the reference in Contention 1 to an impact from "70 million gallons a day of chemical laden aerosol" (Petition at 11) or CASE's subsequent suggestion that operating Turkey Point 6 & 7 will result in "depositing 70 [millions of gallons per day of] such high salinity water" onto the cooling water canals or anywhere else in or near the Turkey Point 6 & 7 site. *See* Petition at 17.

As explained in the DEIS,

> Excess heat in the cooling water would be transferred to the atmosphere by evaporative and conductive cooling in the cooling tower. In addition to evaporative losses, *a small percentage of water would be lost in the form of droplets (drift) from the cooling towers* . . .The [circulating water system (CWS)] normal and maximum evaporation rates would be both 28,800 [gallons per minute (gpm)]. The [service water system (SWS)] normal and maximum evaporation rates would be 366 and 1,248 gpm, respectively. *The combined drift rates for both new units would be 7 gpm for the CWS and 1 gpm for the SWS.*

---

[7] *See also Carolina Power & Light Co.* (Shearon Harris Nuclear Power Plant, Units 1 and 2), LBP-82-119A, 16 N.R.C. 2069, 2076 (1982); *Duke Power Co.* (Catawba Nuclear Station, Units 1 and 2), LBP-82-107A, 16 N.R.C. 1791, 1804 (1982); *Philadelphia Electric Co.* (Limerick Generating Station, Units 1 and 2), LBP-82-43A, 15 N.R.C. 1423, 1504-05 (1982).

DEIS at 3-31 (emphasis added). It is the relatively small amount of aerosol drift that contains the "salt along with any potential contaminants" that "could be deposited on the area surrounding the cooling towers." DEIS at 5-9. The combined drift rate from the CWS and SWS towers would be approximately 8 gpm, which translates to approximately 11,500 gallons per day (8 gpm x 60 minutes per hour x 24 hours per day), far less than the 70 million gallons per day figure asserted by CASE. *See* Petition at 11 & 17. In fact, CASE's Petition quotes a portion of the DEIS (at 5-9) that explicitly states the drift rate of 8 gpm. *See* Petition at 16.

CASE's remaining assertions also fail to provide sufficient information – or any information at all – genuinely disputing the detailed environmental analyses contained in the DEIS. CASE asserts that the DEIS failed to identify a safe level for every chemical and substance in the aerosol. *See* Petition at 12. This assertion does not raise a genuine material dispute because CASE admits that "the reported levels of chemicals which will remain in the reclaimed water after leaving the Reclaimed Water Treatment Facility (RWTF) plant will not be at dangerous levels." *Id.* And, as discussed above, CASE has previously acknowledged aerosol "will meet state air quality standards" and the "particulate concentration will be . . . far below the State permitted limit." LBP-11-6, 73 N.R.C. at 233 (citing CASE's initial intervention petition). The admissibility of CASE's chemical constituent concern "appears to be fatally undermined by CASE's own factual assertions" (LBP-11-6, 73 N.R.C. at 233). Stated differently, it is CASE's burden to show the significance and materiality of any alleged deficiency in the DEIS (which it admittedly does not do here) because the NRC's licensing boards "do not sit to 'flyspeck' environmental documents or to add details or nuances. If the ER (or EIS) on its face 'comes to grips with all important considerations, nothing more need be done." *Exelon Generation Company LLC* (Early Site Permit for Clinton ESP Site), CLI-05-29, 62 N.R.C. 801, 811 (2005).

Further, CASE does not address or provide any basis for disputing the statements in the DEIS that

> [a] previous evaluation of organic compounds and CECs within Miami-Dade wastewater was conducted. This evaluation included efforts to detect 129 different compounds, including 65 organic wastewater compounds, 24 pharmaceutical compounds, 37 antibiotic compounds, and 3 hormones. Effluent samples were analyzed, and compounds detected included 20 organic compounds, 11 pharmaceutical compounds, 8 antibiotic compounds, and 1 hormone . . . . Concentrations of nearly all detected compounds were either below EPA water quality criteria or toxicological benchmarks when criteria were not available . . . or reduced after conventional wastewater treatment . . . . [W]e conclude impacts on terrestrial species and habitats from reclaimed-water pollutants deposited from cooling-tower drift would be negligible.

DEIS at 5-34.

Similarly, CASE's assertion that the "DEIS does not mention, and indeed minimizes the actual environmental impact of the salt water the cooling towers will deposit in the area" (Petition at 16-17) simply cannot be squared with the DEIS's detailed discussion over the course of dozens of pages – *see* DEIS 5-5 to 5-63 – of the expected environmental impacts of salt in cooling tower drift, including the effect on the cooling canals and salt water intrusion – the issues with which CASE appears concerned. Other than its bare assertions, CASE nowhere provides any information to challenge the analyses contained in the DEIS.

Section 2.3.1 of the DEIS, from page 2-44 to 2-47, describes the Industrial Waste Water Facility for the existing units, including the hyper-salinity of the water in the canals, which typically exceeds ocean salinity by a factor or two or more, the movement of water from the canals into and out of the underlying aquifer, and the recently reported algal blooms, temperature increase, and increases in salinity and nutrients. The interaction of the cooling canals and aquifer is further discussed on pages 2-51 to 2-53. The extent of salt water intrusion into the aquifer systems is discussed at length in Sections 2.3.3.2 of the DEIS, from pages 2-66 to 2-69.

DEIS Section 5.2.1.1, at pages 5-9 to 5-12, examines the effect of drift deposition and calculates the concentrations and deposition rates of its constituents, including total dissolved solids and chlorides deposited in the cooling canals (*see* Table 5.1).[8] Section 5.2.1.4 of the DEIS explains how equilibrium concentrations of contaminants within the cooling canals from drift deposition were then calculated. With respect to the salinity of the cooling canals, the DEIS concludes:

> Based on the analysis described in Sections 5.2.1.4 and 5.2.1.5, salt drift from cooling towers during the use of the RCW system is expected to be extremely low, and the decision to use the RCWs primarily as a cooling-water backup that is limited to 60 days per year further reduces the impacts. Thus, salt deposition in the IWF, surface-water habitats within or adjacent to the Turkey Point site, or in nearshore areas of Biscayne Bay National Park, Biscayne Bay and Card Sound is expected to be undetectable.

DEIS at 5-56.[9] "[S]alt-drift deposition would not noticeably change the existing salinity in the IWF . . ." *Id.* at 5-60. This is hardly surprising, as "[t]he salinity of the cooling canal water is . . . about twice the average salinity of Biscayne Bay" (*id.* at 2-51), while the concentration of salt in the drift droplets is expected to be only 1.5 times the concentration of salt in seawater. *Id.*

---

[8] For chemical contaminants, the use of either reclaimed water or seawater results in "deposition rates of potentially associated chemical contaminants [that] are extremely low" for both the cooling canals and the surrounding habitat. DEIS at 5-11 to 5-12. Nevertheless, "with the extremely low contaminant-deposition rates (Table 5-1) and high tidal exchange rate, contaminant concentrations from drift deposition in the water column would be too small to detect." *Id.* at 5-12.

[9] The conclusions in the DEIS are consistent with those determined at the State of Florida administrative proceedings on the proposed Turkey Point 6 and 7. On December 5, 2013, the Administrative Law Judge ("ALJ") overseeing the State proceeding issued a Recommended Order with extensive findings of fact and conclusions of law, which the Florida Siting Board adopted on May 19, 2014. *See* Final Order on Certification, In Re Florida Power and Light Company Turkey Points Units 6 & 7 Power Plant Siting Application No. PA 03-45A3, State of Florida Siting Board, OGC Case No. 09-3107, Division of Administrative Hearings, Cos No. 09-03575 (May 19, 2014)(ADAMS Accession No. ML14345A291). The ALJ's Recommended Order is attached to the Siting Board's Final Order on Certification. With respect to salt drift when using reclaimed water, the ALJ determined that the concentrations of constituents deposited in the drift "will be negligible and immeasurable. Recommended Order at 57. When salt water is used as the back-up cooling source, the ALJ determined that adverse environmental impacts will not result from (1) constituents in the drift because "the resulting concentrations of these constituents could not be measured since their concentrations are extremely small compared to natural variation, and concentrations of many constituents would be well below the detection limits of analytical methods"; and (2) salt in the drift because vegetation in the area is salt tolerant and the "resultant concentration from deposition is much lower than the levels found in the environment and the use of saltwater would be short-term given the durational condition of certification to which FPL has agreed." *Id.*

at 5-30 to 5-31.[10] CASE provides no explanation how diluting the IWF water by adding less saline water to it would make it more saline.[11]

Finally, Section 7.2.2.2 discusses cumulative impacts and addresses proposed withdrawals of brackish groundwater to reduce the temperature, salinity and concentration of other constituents in the cooling canals. DEIS at 7-15. As the DEIS indicates, if this project is implemented to freshen the IWF water, potential impacts on the Biscayne aquifer would be reduced compared to the existing impacts. *Id.*

Simply put, the predicate of the claim underlying proposed Contention 1 – that the DEIS does not mention or minimizes the impacts to the cooling canals and surrounding waters from cooling tower drift – is not supported. The DEIS thoroughly details such impacts, and CASE nowhere identifies what specifically it finds objectionable. Consequently, just as this Board has ruled with respect to prior CASE contentions (LBP-11-6, 73 N.R.C. at 230-31), proposed Contention 1 fails to raise a genuine dispute on a material issue here.

CASE also fails to raise a genuine dispute on a material issue in expressing skepticism that the 60-day annual limitation on operation of the RCWs will not be modified. Petition at 19.

---

[10] Further, as the ER indicates, when normalized based on annual site rainfall, the resulting range in the salinity concentration is about 3 orders of magnitude lower than the existing salinity in the IWF. ER (Rev. 6) at 5.3-9.

[11] The DEIS also analyzes the impacts of drift on vegetation. With respect impacts to vegetation near the cooling canals from salt in the drift, the DEIS explains that "[a]lmost all of the area of high salt deposition would be developed and little vegetation is expected to remain. Some vegetation found on berms within the northern quarter of the IWF may be affected by salt deposition, but most plants occurring there would be salt-tolerant species because the industrial wastewater already contains elevated salt concentrations." *Id.* at 5-32. Salt deposition is expected to decrease rapidly with increasing distance from the cooling towers, and outside the site boundary, is not expected to occur at levels that might affect vegetation. *Id.* In addition, the DEIS examines the impact of drift on surface water habitats within, or adjacent to, the site, or in the nearshore areas of Biscayne Bay National Park, Biscayne Bay, and Card Sound and concludes that salt deposition in these areas is expected to be undetectable. *Id.* at 56. *See also id.* at 5-54 ("[c]hemicals associated with cooling-tower drift are unlikely to affect Biscayne Bay, Card Sound, Biscayne National Park or Everglades National Park because expected deposition patterns are generally to the southwest over the IWF, and any chemicals associated with cooling-tower deposition would likely be rapidly diluted and undetectable. Thus, the potential effects of reclaimed water use on the aquatic species [in] surface-water habitats near the Turkey Point site are expected to be minimal").

Such skepticism does not raise a material issue of fact. Contentions that are based on anticipated actions not reflected in the application currently before the NRC, or in this case the NRC Staff's environmental analysis, are not sufficient to support admission of a contention. *See Duke Energy Corp.* (McGuire Nuclear Station, Units 1 and 2; Catawba Nuclear Station, Units 1 and 2), CLI-02-14, 55 N.R.C. 278, 294 (2002); *USEC, Inc.* (American Centrifuge Plant), CLI-06-10, 63 N.R.C. 451, 480 (2006); *Shaw Areva MOX Services* (Mixed Oxide Fuel Fabrication Facility), LBP-08-11, 67 N.R.C. 460, 479 (2008) ("a contention dealing with changes that have not yet been presented to the agency (e.g., as an amendment to the Application) must fail because a possible future action must at least constitute a proposal pending before the agency to be ripe for adjudication.") (internal quotations omitted). Indeed, "an NRC licensing proceeding is not an occasion for far-reaching speculation about unimplemented and uncertain plans of applicants or licensees." *Duke Energy Carolinas, LLC* (Combined License Application for William States Lee III Nuclear Station, Units 1 and 2), LBP-08-17, 68 N.R.C. 431, 454-55 (2008), citing *McGuire/Catawba*, CLI-02-14, 55 N.R.C. at 293 (internal quotations omitted).

b. Proposed Contention 1 Is Inadequately Supported

Proposed Contention 1 also fails to "[p]rovide a concise statement of the alleged facts or expert opinions which support [the petitioner's] position on the issue and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which [the petitioner] intends to rely to support its position on the issue." 10 C.F.R. § 2.309(f)(1)(v). CASE's failure to present the factual information or expert opinions necessary to support its contention requires that the contention be rejected. *Yankee Atomic Electric Co.* (Yankee Nuclear Power Station), CLI-96-7, 43 N.R.C. 235, 262 (1996); *Palo Verde*, CLI-91-12, 34 N.R.C. at 155. "A petitioner's issue will be ruled inadmissible if the petitioner 'has offered

no tangible information, no experts, no substantive affidavits,' but instead only 'bare assertions and speculation.'" *Fansteel, Inc.* (Muskogee, Oklahoma, Site), CLI-03-13, 58 N.R.C. 195, 203 (2003) (quoting *GPU Nuclear, Inc.* (Oyster Creek Nuclear Generating Station), CLI-00-06, 51 N.R.C. 193, 208 (2000)).

Proposed Contention 1 makes multiple assertions unsupported by alleged facts, expert opinion, or other reference. For example, CASE's assertion that "salinity in the Cooling Canal System (CCS) for Turkey Point 3 & 4 is . . . already at alarming levels and that any additional deposits of salt from the cooling towers will only add to the problem," Petition at 15 (emphasis omitted), is speculation provided with no factual or expert support, or any other reference supporting its claims (and, as discussed above, refuted by the DEIS). CASE does not provide any basis, expert opinion, alleged facts, references to sources or documents, or other information demonstrating a genuine material dispute with the conclusions in the DEIS that salt deposition is expected to be undetectable and will not noticeably alter the salinity of the IWF (DEIS at 5-56, 5-60). As previously observed, CASE provides no explanation how diluting the IWF water by adding less saline water in the drift to it would make the IWF more saline

CASE also provides no support for the claim that "operation of Turkey Point 3 and 4 for over forty years has raised the salinity level in the area from freshwater to that of seawater." Petition at 20.[12] Similarly offered with no factual support, expert opinion, or other reference is the statement that "CASE contends that the vast volume of reclaimed water used and evaporated day in/day out, over time will present an accumulative health and ecological threat." Petition at

[12] As the DEIS explains, with supporting citations, "[t]he most important factors contributing to the regional intrusion of saltwater from the ocean into the aquifer are rerouting of sheet flow to drainage canals and groundwater pumping." DEIS at 2-66.

13. The Commission's contention admissibility standards require much more than these "generalized suspicions." *McGuire*, CLI-03-17, 58 N.R.C. at 424.

CASE points to a recently issued NRC licensing board decision[13] admitting a CASE contention in a license amendment proceeding for the Turkey Point Units 3 & 4 (Petition at 14-15). That decision offers proposed Contention 1 no support. In that decision, the admitted contention concerned whether the NRC Staff's environmental assessment for the license amendment granting a water temperature increase for the CCS (which will not be used by Turkey Point 6 & 7) adequately discussed the environmental impact of increased temperature and salinity in the CCS on saltwater intrusion arising from migration out of the CCS and the withdrawal of fresh water from surrounding aquifers to mitigate conditions within the CCS. *Turkey Point*, LBP-15-13, slip op. at 24. The Board's decision admitting the contention – which says nothing of the merits of the contention – makes no mention of expected salt drift from the Turkey Point 6 & 7 cooling towers, whether or not the drift will increase the alleged salinity of the cooling canal system, or whether or not it will result in any other impacts to the surrounding area including the adjacent sea. The Board's decision does not reflect any "concern of the ASLB Board" that "[s]alinity is killing the Biscayne Aquifer and saltwater intrusion, due to loss of freshwater which holds it in check, is threatening the entire water supply for South Miami-Dade County." Petition at 16. It merely reflects the Board's determination that CASE's pleading raised an admissible issue concerning the sufficiency of the discussion in the Staff's Environmental Assessment in that case.

[13] *Florida Power & Light Co.* (Turkey Point Nuclear Generating Station, Units 3 and 4), LBP-15-13, 81 N.R.C. __, slip op. (Mar. 23, 2015).

CASE also points to a document filed by Miami-Dade County before the Florida Department of Environmental Protection and a graph depicting increased salinity levels in the cooling canals. Petition at 17-18 and Exhibits 1-2. The documents related to conditions observed in monitoring following the uprate of Turkey Point Units 3 & 4, and set out Miami-Dade County's objections to the Florida Department of Environmental Protection's notice of intent to modify the Conditions of Certification for Turkey Point Units 3, 4, and 5.[14] *See* Petition, Exhibit 1 at 1. These documents say nothing about alleged environmental impacts from the operation of the proposed Turkey Point 6 & 7 reactors. CASE offers only the bare speculation that operation of Turkey Point 6 & 7 would contribute to any existing concerns with the IWF. Petition at 17. Such bare speculation is not sufficient support to admit the contention. *See, e.g., Turkey Point*, LBP-11-6, 73 N.R.C. at 196 (where this Board found inadmissible a contention which failed to provide facts or expert opinion demonstrating that the alleged defect was "reasonably foreseeable, rather than simply speculative").

For all of the above reasons, the Board must reject proposed Contention 1.

B. Proposed Contention 2 (Alternative Cooling System) is Untimely and Inadmissible.

Proposed Contention 2 – which alleges that "[e]xhaustive consideration of alternative technologies would have included among other findings, the fact that forty percent of nuclear reactors throughout the world and twenty percent of the reactors in the U.S. use once-through seawater for cooling; so should Turkey Point 6 & 7" (Petition at 22)[15] – must be rejected for the

[14] Ironically, the proposed modifications to which Miami Dade objected are authorizations to withdraw brackish groundwater and water from a canal discharging to Biscayne Bay *to reduce the salinity of the cooling canals*.

[15] CASE further "contends that the search for and evaluation of reasonable alternatives was not genuine and exhaustive which should have been the case in such a serious and massive project. But CASE, in Contention

same reasons as proposed Contention 1 – it is inexcusably untimely under 10 C.F.R. § 2.309(c)(1), and it is inadmissible because it fails to raise a genuine dispute on a material issue and is inadequately supported by facts or expert opinion under 10 C.F.R. § 2.309(v)-(vi).

1. Proposed Contention 2 is Inexcusably Untimely

Once again, CASE makes no effort to address the criteria in 10 C.F.R. § 2.309(c)(1) to demonstrate that its Contention is timely. This failure to affirmatively address the Section 2.309(c)(1) factors to make the requisite "demonstration" by itself requires dismissal of the Contention.

Moreover, proposed Contention 2 does not contain *a single* reference to the DEIS. Thus, it is obvious that this Contention is not based on anything new in the DEIS.

Finally, CASE cannot credibly dispute that it could have raised its alternative cooling system concerns at the outset of this proceeding. Chapter 9 of the Turkey Point Units 6 & 7 ER contains the discussion of alternatives, and Section 9.4.1, Heat Dissipation Systems, presents alternatives to the proposed heat dissipation system (six, round mechanical draft cooling towers, with the primary source of cooling water being reclaimed water from Miami-Dade County). The alternatives discussion has been available for review and challenge since the outset of this proceeding. ER Revision 0 considers once-through sea water cooling (CASE's preferred method), cooling ponds, spray ponds, dry cooling towers, and wet and hybrid (wet/dry) cooling towers, including natural draft cooling towers, rectilinear mechanical draft cooling towers, fan-assisted natural draft cooling towers, and hybrid cooling towers. ER (Rev. 0) at 9.4-1 to 9.4-6. ER Revision 0 explained that FPL had found that fan-assisted natural draft cooling towers were a

---

Two, will only address the selection of the method of cooling the two AP1000 reactors." Petition at 22. At bottom, CASE "suggests that all parties . . . actually consider all possible alternatives for cooling." *Id.* at 25.

suitable heat dissipation system alternative, but concluded that it was "not environmentally equivalent or preferable to the proposed design." ER (Rev. 0) at 9.4-5. This conclusion has not changed since, and is set forth in the most recent revision of the ER. *See* ER (Rev. 6) at 9.4-5. The NRC Staff conducted an essentially identical review of alternative heat dissipation systems and "identified no alternatives that were environmentally preferable to the proposed Turkey Point 6 and 7 plant systems design." DEIS at 9-257. For these reasons, CASE does not, and cannot, show that the information upon which proposed Contention 2 is based was not previously available, or that the information is materially different from information previously available. 10 C.F.R. § 2.309(c)(1)(i)-(ii).

2. Proposed Contention 2 is Inadmissible

Even if the Board were to consider proposed Contention 2, it is inadmissible because it fails to raise a genuine dispute on a material issue of law or fact, and it is supported by no alleged facts, expert opinion, or other information.

Proposed Contention 2 entirely ignores the extensive alternative heat dissipation system discussion in Section 9.4.1 of the DEIS. *See* Petition at 22-25. 10 C.F.R. § 2.309(f)(1)(iv) requires that the information submitted to demonstrate a genuine dispute "must include references to specific portions of the application . . . that the petitioner disputes and the reasons for each dispute." Where a contention purports to challenge the DEIS, a similar discussion should be provided explaining what part of the DEIS is wrong and why. Here, CASE does not identify or dispute any of the information in the DEIS.

Moreover, both the ER and the DEIS in fact do what CASE "suggests" – "actually consider all possible alternatives for cooling especially once-through seawater." Petition at 25. Indeed, both FPL and the NRC Staff considered once-through cooling and several closed-cycle

cooling systems. DEIS at 9-249 to 9-252. DEIS Section 9.4.1.3 expressly considers CASE's preferred option of once-through cooling, and sets forth the NRC Staff's bases for eliminating this alternative from further consideration. The NRC Staff considered that: (1) the elevated temperature of discharge water "can also adversely affect the biota of the receiving water body[;]" (2) the "large intake flows would result in impingement and entrainment losses; and (3) [b]ased on recent changes to implementation plants to meet Section 316(b) of the Clean Water Act . . . the review team has determined that once-through cooling systems for new nuclear reactors are unlikely to be permitted in the future, *except in rare and unique situations*." DEIS at 9-250 (emphasis added). In addition, the NRC Staff considered (and found further reason to eliminate once-through cooling from consideration) the fact that the "only waterbody in the vicinity of Units 6 and 7 that could supply this quantity of water [(1,700,000 gpm)] is Biscayne Bay, which is a National Park and has been designated as an aquatic preserve." *Id.* CASE does not address or provide any support to dispute any of these conclusions.

CASE claims that once-through cooling should have been chosen as the heat dissipation system, noting that other reactors in the U.S. and in other countries use once-through cooling, that "technology exists to reduce entrainment," and that any "disturbance to the seabed" could be addressed by "digging a tunnel under [Biscayne National Park] as far as necessary." Petition at 23-24. But, the mere fact that other reactors use once-through cooling has no bearing on whether this alternative is environmentally preferable (or even feasible under current standards) for Turkey Point 6 & 7. CASE otherwise presents no information on entrainment reduction technology, or any explanation of how that technology or any other impact reduction technology might result in a rare or unique circumstance where once-through cooling might be permitted. CASE offers no information or analysis on the feasibility of constructing a tunnel under

Biscayne Bay, how such a tunnel would avoid impacts to the seabed, whether such a tunnel might be permitted under a National Park, or whether such a tunnel would avoid impacts to any other of the aquatic resources that are protected by the designation of the Bay as a National Park. Once again, CASE's "generalized suspicions" (*McGuire*, CLI-03-17, 58 N.R.C. at 424) and bare speculation fall far short of the Commission's admissibility standards.

For all of the above reasons, the Board must reject proposed Contention 2.

C. Proposed Contention 3 (Political and Economic Influence) is Untimely and Inadmissible.

Proposed CASE Contention 3 – which alleges that "[c]urrent political and economic influence over regulatory agencies and giving two power companies energy monopolies in Florida might put the State in violation of the Atomic Energy Act" (Petition at 26)[16] – should be rejected out of hand because it raises issues beyond the scope of, and immaterial to, this proceeding, and otherwise fails to raise a genuine dispute on a material issue of law or fact with the COL Application or the NRC Staff's DEIS. 10 C.F.R. § 2.309(f)(1)(iii), (iv), (vi). Contrary to the contention admissibility requirements, proposed Contention 3 nowhere mentions, let alone disputes, the information contained in the Turkey Point Units 6 & 7 COL Application or the discussion and conclusions in the NRC Staff's DEIS, or otherwise raises issues within the scope of this combined license proceeding. This is simply not the appropriate forum to adjudicate the concerns raised in proposed Contention 3.

[16] CASE explains that the contention is intended as a means of making the NRC "aware of conditions in the State which could cloud decisions made by those to whom the NRC has delegated local regulatory authority and possible violations of the portion of the Act cited above which regulate the relationship." Petition at 27. In addition, CASE states that, "[t]o the extent that decisions regarding the production and distribution of all energy in the State is still a concern of the NRC, i[t] does seem not being fairly and objectively administered" [sic]. *Id.*

Rather than proffering an admissible contention, CASE argues that, because the State of Florida is an NRC Agreement State, and that the NRC has delegated certain regulatory authority to the State per that Agreement, the NRC should be "concerned" and presumably take some action because "the Governor of the State of Florida, the Legislature and lobbyists have taken control of the bodies which regulate electricity in the state resulting in regulations contrary to the best interests of the NRC in violation of the cited [Atomic Energy Act]." Petition at 27-28. CASE further claims that "there is reason to believe that the interests and responsibility of the NRC, as defined by the [Act] and delegated to the State of Florida, are not being well and objectively administered." *Id.* at 33. These statements, however, reflect CASE's fundamental misunderstanding of the NRC's Agreement State program and do not come anywhere close to raising an admissible contention.

Section 274 of the Atomic Energy Act authorizes the NRC to enter into an agreement with a State whereby the NRC will relinquish to the State portions of its regulatory authority to license and regulate byproduct materials (radioisotopes); source materials (uranium and thorium); and certain quantities of special nuclear materials. 42 U.S.C. § 2021(b). If such an agreement is executed with a State, the State "shall have authority to regulate the materials covered by the agreement for the protection of the public health and safety from radiation hazards." *Id.* Section 274 explicitly prohibits the NRC from relinquishing its regulatory authority over the construction and operation of any nuclear reactor. *Id.* at § 2021(c). The State of Florida and the NRC's predecessor agency, the Atomic Energy Commission, entered into such an agreement in 1964. Agreement Between Atomic Energy Commission and State of Florida, Discontinuance of Certain Commission Regulatory Authority and Responsibility Within State, 29 Fed. Reg. 9,463 (July 10, 1964).

Contrary to CASE's assertions, Agreement State agreements do not delegate to the State any NRC authority with respect to the production and distribution of electricity, Petition at 27, or with respect to CASE's alleged electricity monopoly concerns. Petition at 33-34. Even if the NRC had any such authority (which it does not), the Atomic Energy Act Section 274 agreement with Florida is limited to NRC's regulatory authority over specified radioactive materials.

Finally, even if proposed Contention 3 came anywhere close to meeting the Commission's admissibility requirements (which it does not), the Board must reject it as untimely. The concerns raised in the proposed Contention could have been raised long ago. First, Florida has been an NRC Agreement State for decades. Second, the information the Petition cites in the quoted news articles concerning campaign contributions and lobbying expenditures is more than a few years old. *See* Petition at 29-31. CASE nowhere demonstrates that it could not have raised these concerns sooner, which alone is sufficient grounds for rejecting the contention.

For all of the foregoing reasons, the Board must reject proposed Contention 3.

V. CONCLUSION

None of CASE's proposed contentions is timely raised, and all of them are inadmissible. Consequently, the Board must reject the Petition.

Respectfully submitted,

/Signed electronically by David R. Lewis/

William S. Blair
FLORIDA POWER & LIGHT COMPANY
700 Universe Blvd.
Juno Beach, FL 33408
Telephone: 561-304-5238
Facsimile: 561-691-7135
E-mail: willliam.blair@fpl.com

Steven Hamrick
FLORIDA POWER & LIGHT COMPANY
801 Pennsylvania Avenue, NW Suite 220
Washington, DC 20004
Telephone: 202-349-3496
Facsimile: 202-347-7076
E-mail: steven.hamrick@fpl.com

David R. Lewis
Michael Lepre
Timothy J. V. Walsh
Kimberly A. Harshaw
PILLSBURY WINTHROP SHAW PITTMAN LLP
1200 17th Street, NW
Washington, DC 20036-3006
Telephone: 202-663-8474
Facsimile: 202-663-8007
E-mail: david.lewis@pillsburylaw.com

May 8, 2015

Counsel for FLORIDA POWER & LIGHT COMPANY

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Commission

In the Matter of	)	
	)	
Florida Power & Light Company	)	Docket Nos. 52-040-COL
	)	52-041-COL
Turkey Point Units 6 and 7	)	
(Combined License Application)	)	ASLBP No. 10-903-02-COL
	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Florida Power & Light Company's Answer Opposing Citizens Allied for Safe Energy Petition to Intervene and Request for Hearing Regarding the Draft EIS for Turkey Point 6 & 7 COL has been served through the E-Filing system on the participants in the above-captioned proceeding, this 8th day of May, 2015.

/Signed electronically by David R. Lewis/

David R. Lewis