

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

E. Roy Hawkens, Chairman  
Dr. Michael F. Kennedy  
Dr. William C. Burnett

In the Matter of  
FLORIDA POWER & LIGHT COMPANY  
(Turkey Point Units 6 and 7)

Docket Nos. 52-040-COL  
and 52-041-COL

ASLBP No. 10-903-02-COL-BD01

July 2, 2015

NOTICE AND ORDER

(Scheduling and Providing Instructions for Oral Argument)

On April 13, 2015, Southern Alliance for Clean Energy, National Parks Conservation Association, Dan Kipnis, and Mark Oncavage (collectively, Joint Intervenors) moved for leave to file a new contention in this proceeding involving the combined license (COL) application of Florida Power & Light Company (FPL) for Turkey Point Units 6 and 7.<sup>1</sup> Joint Intervenors' proffered contention alleges that:

The [Draft Environmental Impact Statement (DEIS)] for Turkey Point Units 6 & 7 does not comply with [the National Environmental Policy Act (NEPA)] because its determination of the project's environmental impacts, rejection of other project alternatives, and staff's recommendation that the COL be issued, are based on impermissibly speculative mitigation measures, the effectiveness of which have not been adequately evaluated.<sup>2</sup>

On May 8, 2015, FPL<sup>3</sup> and the NRC Staff<sup>4</sup> each filed answers opposing Joint Intervenors'

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<sup>1</sup> Joint Intervenors' Motion for Leave to File a New Contention Concerning the NRC's Reliance on Speculative Mitigation Measures and Failure to Adequately Examine the Effectiveness of These Proposed Mitigation Measures in the [DEIS] for the Turkey Point Nuclear Power Plant Units 6 & 7 (Apr. 13, 2015) [hereinafter Motion].

<sup>2</sup> Motion at 2.

<sup>3</sup> FPL's Answer Opposing Joint Intervenors' Motion to File New Contention (May 8, 2015).

motion. On May 15, 2015, Joint Intervenors filed their reply.<sup>5</sup>

Because oral argument will assist the Board in determining the admissibility of Joint Intervenors' contention, oral argument will be held on July 16, 2015 at 1:00 PM EDT, in the Atomic Safety and Licensing Board Panel's Hearing Room, located within the Nuclear Regulatory Commission's Headquarters at 11555 Rockville Pike, Rockville, Maryland 20852.<sup>6</sup> All participants, as well as members of the public who wish to observe, should arrive at least 15 minutes early to pass through security at One White Flint North and proceed to the Hearing Room, located on the third floor of Two White Flint North.

The Board will hear argument in the following order: (1) Joint Intervenors; (2) FPL; and (3) the NRC Staff. Joint Intervenors will have 45 minutes of argument time. FPL and the NRC Staff will each have 30 minutes of argument time. Joint Intervenors may elect to reserve a portion of their allotted argument time for rebuttal. No other rebuttal will be permitted.

Participants should be prepared to answer the Board's questions concerning the following, non-exclusive, list of topics.

- Timeliness of Joint Intervenors' newly proffered contention, including location in DEIS of new and material information
- Details of the NRC's review of FPL's proposed mitigation measures
- Location in DEIS of Staff's conclusions concerning which mitigation options will reduce impacts and to what extent
- Extent to which the U.S. Army Corps of Engineers (USACE), as part of the review team, participated in developing the DEIS

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<sup>4</sup> See NRC Staff Answer to [Motion] (May 8, 2015).

<sup>5</sup> Reply by Joint Intervenors to Oppositions by FPL and NRC Staff to Motion to Admit New Contention Regarding NRC's Reliance on Speculative Mitigation Measures and Failure to Adequately Examine the Effectiveness of These Proposed Mitigation Measures in the [DEIS] for Turkey Point Units 6 & 7 (May 15, 2015).

<sup>6</sup> On June 30, 2015, the Board held a prehearing telephone conference with the parties to determine their availability for an oral argument. During that conference, the parties expressed their ability to present argument in Rockville.

- Extent to which USACE's failure to have completed a 33 C.F.R. Part 332 evaluation of FPL's proposed compensatory mitigation plan is relevant to NRC's compliance with its NEPA obligations in the DEIS
- Origin, and scope of acceptability, of (1) the Wetland Assessment Technique for Environmental Review; and (2) the Uniform Mitigation Assessment Method
- Basis for the 1:1 mitigation ratio for the wetland function lost
- NEPA's requirements related to discussion of mitigation in an environmental impact statement

On or before July 10, 2015, Joint Intervenors, FPL, and the NRC Staff shall provide by email to the Board and the service list the name of counsel who will present oral argument. No witnesses, other representatives of the parties, or members of the public will be heard during the argument.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

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E. Roy Hawkens, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
July 2, 2015

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
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FLORIDA POWER & LIGHT COMPANY ) Docket Nos. 52-040 and 52-041-COL  
(Juno Beach, Florida) )  
 )  
(Turkey Point, Units 6 & 7) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **NOTICE AND ORDER (Scheduling and Providing Instructions for Oral Argument)** have been served upon the following persons by Electronic Information Exchange, and by electronic mail as indicated by an asterisk.

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OGC Mail Center: Members of this office have received a copy of this filing by EIE service.

Turkey Point, Units 6 and 7, Docket Nos. 52-040 and 52-041-COL

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[Original signed by Clara Sola \_\_\_\_\_]  
Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 2<sup>nd</sup> day of July, 2015