

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

March 1, 2016

NOTICE AND ORDER

(Scheduling and Providing Instructions for Oral Argument)

Before this Board is a motion for summary disposition of Amended Contention 2.1 filed by Florida Power & Light (FPL) on December 15, 2015.¹ After reviewing the responses to FPL's motion for summary disposition,² the Board has determined that oral argument will assist it in resolving the issues presented. Oral argument will be held at the ASLBP's Hearing Room in Rockville, Maryland, on Tuesday, April 5, beginning at 10:00 a.m. EDT and concluding at around noon. This order includes instructions concerning the format of oral argument and also identifies topics that counsel should be prepared to address.

The Board will hear argument from counsel for the parties in the following order:

(1) FPL; (2) the NRC Staff; and (3) Mark Oncavage, Dan Kipnis, Southern Alliance for Clean

¹ See [FPL's] Motion for Summary Disposition of Joint Intervenors' Amended Contention 2.1 (Dec. 15, 2015).

² NRC Staff Answer to [FPL's] Motion for Summary Disposition of Joint Intervenors' Amended Contention 2.1 (Feb. 3, 2016); Joint Intervenors' Answer to [FPL's] Motion for Summary Disposition of Joint Intervenors' Amended Contention 2.1 (Feb. 3, 2016); Joint Intervenors' Response to NRC Staff's Answer to [FPL's] Motion for Summary Disposition of Joint Intervenors' Amended Contention 2.1 (Feb. 15, 2016).

Energy, and National Parks Conservation Association (“Joint Intervenors”). FPL and the NRC Staff will each have 30 minutes of argument time. Joint Intervenors will have 60 minutes of argument time. FPL and the NRC Staff may each reserve up to 10 minutes of their allotted time for rebuttal.

The following list provides topics on which the Board intends to ask questions during oral argument. This list is not intended to be exclusive.

- Whether there remains a genuine dispute of material fact regarding the reliability or accuracy of chemical concentrations in the wastewater
- The materiality of the disagreement between FPL and the NRC Staff concerning the chemical concentration of tetrachloroethylene
- The materiality of the disagreement between FPL and NRC Staff concerning the potential for upwelling of wastewater injectate out of the Boulder Zone
- Whether the sampling and test results from FPL’s exploratory well, EW-1, provide an adequate basis for concluding that the middle confining layer will prevent upward migration of wastewater injectate out of the Boulder Zone
- The expert testimony of Mark Quarles that the sampling and test results from EW-1 and regional studies (e.g., the Richardson and Reese Report, and the Cunningham, et al. study) do not support a finding that a confining layer will prevent upward migration of wastewater injectate out of the Boulder Zone
- Whether injection well construction and the groundwater monitoring system will ensure that (1) any upward migration of wastewater injectate into the underground system of drinking water will be detected; and (2) the impacts of any such upward migration will be small
- The effect on FPL’s motion of case law that counsels against granting summary disposition when the opposing party’s expert provides a reliable and reasonable opinion with factual support. E.g., Phillips v. Cohen, 400 F.3d 388, 399 (6th Cir.

2005); Entergy Nuclear Generation Co. & Energy Nuclear Operations, Inc.

(Pilgrim Nuclear Power Station), CLI-10-11, 71 NRC 287, 307 (2010)

On or before Friday, April 1, FPL, the NRC Staff, and Joint Intervenors must each provide by email to the Board and the service list the name of the attorney who will present oral argument. The Board's law clerk, Nicole Pepperl, will provide the parties with the dial-in number and passcode for the listen-only telephone line. Interested local governmental bodies, members of the public, or media who wish to hear the oral argument live on the listen-only telephone line may do so, and should contact Ms. Pepperl at Nicole.Pepperl@nrc.gov or (301) 415-6626 for the dial-in number and passcode.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

E. Roy Hawkens, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
March 1, 2016

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
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 **NOTICE AND ORDER (Scheduling and Providing Instructions for Oral Argument)** have been served upon the following persons by Electronic Information Exchange.

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop: O-7H4
Washington, DC 20555-0001
ocaamail@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop: O-16C1
Washington, DC 20555-0001
hearingdocket@nrc.gov

U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
Mail Stop: T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop: O-15 D21
Washington, DC 20555-0001

E. Roy Hawkens
Administrative Judge, Chair
roy.hawkens@nrc.gov

Sara Kirkwood, Esq.
sara.kirkwood@nrc.gov
Patrick Moulding, Esq.
patrick.moulding@nrc.gov
Michael Spencer, Esq.
michael.spencer@nrc.gov
Robert Weisman, Esq.
robert.weisman@nrc.gov
Christina England, Esq.
christina.england@nrc.gov
Anthony C. Wilson, Esq.
anthony.wilson@nrc.gov

Dr. Michael F. Kennedy
Administrative Judge
michael.kennedy@nrc.gov

Dr. William C. Burnett
Administrative Judge
william.burnett2@nrc.gov

Nicole Pepperl, Law Clerk, ASLBP
Nicole.Pepperl@nrc.gov

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

Jennifer E. Scro, Law Clerk, ASLBP
Jennifer.Scro@nrc.gov

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

NOTICE AND ORDER (Scheduling and Providing Instructions for Oral Argument)

Florida Power & Light Company
700 Universe Blvd.
Juno Beach, Florida 33408
Nextera Energy Resources
William Blair, Esq.
william.blair@fpl.com

Florida Power & Light Company
801 Pennsylvania Ave. NW Suite 220
Washington, DC 20004
Steven C. Hamrick, Esq.
steven.hamrick@fpl.com

Pillsbury, Winthrop, Shaw, Pittman, LLP
1200 Seventeenth Street, N.W.
Washington, DC 20036-3006
Kimberly Harshaw, Esq.
kimberly.harshaw@pillsburylaw.com
Michael G. Lepre, Esq.
michael.lepre@pillsburylaw.com
John H. O'Neill, Esq.
john.oneill@pillsburylaw.com
David R. Lewis, Esq.
david.lewis@pillsburylaw.com
Timothy J. V. Walsh

Counsel for Mark Oncavage, Dan Kipnis,
Southern Alliance for Clean Energy (SACE),
and National Parks Conservation Association
Everglades Law Center, Inc.
3305 College Avenue
Ft. Lauderdale, Florida 33314
Jason Totoiu, Esq.
jason@evergladeslaw.org

Counsel for Mark Oncavage, Dan Kipnis,
Southern Alliance for Clean Energy (SACE),
and National Parks Conservation
Association
Turner Environmental Law Clinic
Emory University School of Law
1301 Clifton Rd. SE
Atlanta, GA 30322
Mindy Goldstein, Esq.
magolds@emory.edu

Counsel for the Village of Pinecrest
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, FL 32308
William C. Garner, Esq.
bgarner@ngn-tally.com
Gregory T. Stewart, Esq.
gstewart@ngnlaw.com

Matthew Haber
Assistant City Attorney
The City of Miami
444 SW 2nd Avenue
Miami, FL 33130
mshaber@miamigov.com

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

Dated at Rockville, Maryland,
this 1st day of March, 2016