

**Official Transcript of Proceedings**  
**NUCLEAR REGULATORY COMMISSION**

Title: In the Matter of: Florida Power & Light Company  
(Turkey Point, Units 6 and 7)

Docket Number: 52-040-COL & 52-041-COL

ASLBP Number: 10-903-02-COL-BD01

Location: Teleconference

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## P R O C E E D I N G S

11:01 a.m.

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2  
3 CHAIR HAWKENS: We're conducting a  
4 prehearing telephone conference in a case entitled  
5 Florida Power and Light Company, Turkey Point Units 6  
6 and 7, docket numbers 52-040-COL and 52-041-COL. My  
7 name is Roy Hawken. I'm the Chairman of this  
8 licensing board.

9 I'm joined by Judge Mike Kennedy. We are  
10 here in the NRC Headquarters in Rockville. And a  
11 third judge, Bill Barnett, is participating remotely  
12 from Florida. Would Counsel for the parties and the  
13 local government bodies please introduce themselves  
14 for the record, starting with the joint intervenors?  
15 Joint intervenors, you on the line?

16 MS. CURRAN: Yes. This is Diane Curran for  
17 the joint intervenors. And I believe Mindy Goldstein  
18 and Caroline Reiser are on the line too.

19 CHAIR HAWKENS: All right. Thank you.  
20 Florida Power and Light?

21 MR. LEPRE: This is Mike Lepre with  
22 Pillsbury Law Firm for Florida Power and Light. Anne  
23 Leidich is on the line with me as well from the firm.

24 CHAIR HAWKENS: Thank you. NRC staff?

25 MR. ORR: This is Dan Orr, NRC Senior

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1 Resident Inspector at the Turkey Point site.

2 CHAIR HAWKENS: Is counsel for NRC staff on  
3 the line?

4 MR. WEISMAN: Okay. I'm sorry, I must have  
5 been on mute. It's Robert Weisman for the NRC staff.  
6 With me, I have Anthony Wilson and Megan Wright, who  
7 are co-counsel. And we also have several members of  
8 the NRC staff who are listening to the prehearing  
9 conference.

10 CHAIR HAWKENS: Thank you, Mr. Weisman.  
11 Village of Pinecrest?

12 MR. GARNER: Yes. This is William Garner  
13 with the law firm Nabors, Giblin, and Nickerson, for  
14 the Village of Pinecrest.

15 CHAIR HAWKENS: Thank you. Finally, City  
16 of Miami? Is counsel for City of Miami on the line?  
17 Did any of the other participants hear City of Miami's  
18 counsel come onto the line beforehand?

19 MR. WEISMAN: NRC staff did not.

20 MR. TOTOIU: Good morning. This is Jason  
21 Totoiu, also with the joint intervenors.

22 CHAIR HAWKENS: Good morning, Mr. Totoiu.  
23 All right.

24 MR. TOTOIU: Good morning.

25 CHAIR HAWKENS: Well, not having heard from

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1 counsel of City of Miami, we'll proceed without their  
2 participation in this teleconference. The purpose of  
3 this prehearing is to discuss the evidentiary hearing  
4 that will convene on Tuesday, May 2 at 9:30 in the  
5 City of Homestead Council Chambers.

6 There are four topics the Board would like  
7 to address and then, we'll give counsel the  
8 opportunity to raise any questions or concerns they  
9 may have. First item is, we wish to confirm that the  
10 witnesses of each party will be available for both  
11 days, if necessary. Joint intervenors?

12 MS. CURRAN: Yes.

13 CHAIR HAWKENS: All right, thank you.  
14 Florida Power and Light, Mr. Lepre?

15 MR. LEPRE: Yes.

16 CHAIR HAWKENS: NRC staff, Mr. Weisman?

17 MR. WEISMAN: Yes, your honor.

18 CHAIR HAWKENS: Okay, thank you. If there  
19 are any changes in the availability of witnesses,  
20 please let the Board know as soon as possible. Second  
21 item, the Board plans to admit all the pre-filed  
22 exhibits into evidence at the outset of the  
23 proceeding, by reference to the parties' exhibit  
24 lists. And we wish to do that for efficiency. That  
25 will require that the lists are accurate and complete.

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1           For the information of the parties, our  
2 law clerks have identified some potential problems or  
3 issues with some numbering of the exhibits, so later  
4 this week, they're going to email the parties  
5 identifying these possible issues and getting them  
6 reconciled so that we can get the exhibit lists in  
7 good shape for ease of introducing the exhibits into  
8 the record. At this point, does any party anticipate  
9 revising an exhibit or supplement its exhibit list  
10 between now and the hearing? Ms. Curran?

11           MS. CURRAN: No.

12           CHAIR HAWKENS: Mr. Lepre?

13           MR. LEPRE: No, we don't, your honor.

14           CHAIR HAWKENS: Thank you. And Mr.  
15 Weisman?

16           MR. WEISMAN: Your honor, the Office of the  
17 Secretary has informed me that there may be an issue  
18 with one of our exhibits. So, to the extent that we  
19 need to resolve that issue, we may need to revise the  
20 exhibit list. But other than that, we do not intend  
21 to revise our exhibit list.

22           CHAIR HAWKENS: Thank you, Mr. Weisman.  
23 And our law clerks will be working with you and the  
24 other parties and will make sure that there are no  
25 outstanding issues by the time we convene the hearing.

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1 MS. CURRAN: Judge Hawkens, this is Diane  
2 Curran. Before we move on, I noticed that the other  
3 parties put their testimony in as exhibits and  
4 numbered, gave the testimony an exhibit number. We  
5 did not do that. And if the Board would like us to  
6 treat testimony as exhibits, we're happy to give it  
7 exhibit numbers, both direct and rebuttal testimony.

8 CHAIR HAWKENS: Thank you, Ms. Curran. I  
9 think for both consistency and ease of reference, it  
10 would be well if they were numbered as pre-filed  
11 exhibits, so we will coordinate, our law clerks will,  
12 as I say, in the coming week coordinate with you in  
13 effecting that.

14 MS. CURRAN: Okay.

15 CHAIR HAWKENS: I also want to bring to  
16 counsel's attention that we may have the ability in  
17 the Homestead facility to display exhibits on a  
18 hearing room monitor.

19 Assuming we do have that ability and if  
20 counsel wished to display any exhibits for purposes of  
21 their witnesses' testimony, it would help if you were  
22 able to promptly identify the exhibit number and the  
23 page number that you do wish to exhibit and we will  
24 have a clerk of court, our IT expert on the panel  
25 there, who will be, assuming we have that ability,

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1 putting them on the screen.

2 Third item is, the Board currently  
3 contemplates allotting up to ten minutes for counsel  
4 who wish to make an opening or a closing statement.  
5 So, I'd like to poll the counsel at this point to see  
6 if they wish to preserve that opportunity to make an  
7 opening and/or a closing statement. Ms. Curran?

8 MS. CURRAN: Thank you. The joint  
9 intervenors would like to make both opening and  
10 closing statements.

11 CHAIR HAWKENS: Thank you. Mr. Lepre?

12 MR. LEPRE: Your honor, we'd like to make  
13 both opening and closing statements, assuming the  
14 other parties intend to as well. We'd be fine if  
15 everybody wanted to waive opening and closing  
16 statements, but we would like to make them if the  
17 other parties are as well.

18 CHAIR HAWKENS: Understand, thank you. Mr.  
19 Weisman?

20 MR. WEISMAN: Yes, the staff would also  
21 like to reserve the opportunity to make opening and  
22 closing statements.

23 CHAIR HAWKENS: Thank you. And, Mr.  
24 Garner, on the behalf of the Village of Pinecrest,  
25 would you like to preserve that opportunity?

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1 MR. GARNER: Yes, judge, I would like to.

2 CHAIR HAWKENS: All right, thank you.

3 Fourth and final item, we'd just like to advise the  
4 parties that we will, and the participants, that we  
5 will be giving them the opportunity during the  
6 evidentiary hearing, if they'd like to, provide any  
7 additional proposed questions arising from the  
8 testimony that's given at the hearing.

9 And we'll give you two opportunities, one  
10 during lunch and also another opportunity after  
11 questioning the final witness and prior to closing  
12 statements, we'll give the parties and the  
13 participants the opportunity to provide our law clerks  
14 with those written questions.

15 And it's important, we'll reiterate this  
16 at the evidentiary hearing, but to the extent you do  
17 provide the law clerks with additional proposed  
18 questions, you need to identify who is sponsoring  
19 them, make sure they're legible, and indicate that  
20 witness that you want us to address the question or  
21 questions to.

22 MS. CURRAN: Judge Hawken, this is Diane  
23 Curran. I just want to understand better what you're  
24 saying. So, during the lunch break and then, at the  
25 end of the entire hearing, that's what you're --

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1 CHAIR HAWKENS: We're flexible. We'll do  
2 it certainly at the lunch break. If we go into a  
3 second day, Ms. Curran, you can, if you have the  
4 questions written and want to provide them to the law  
5 clerk at that point, you will, but we will definitely  
6 do it prior, immediately prior to closing statements  
7 so that before closing statements, we would have the  
8 opportunity to review them and to ask them, if we  
9 think it's appropriate.

10 MS. CURRAN: Okay, thank you.

11 CHAIR HAWKENS: That --

12 MR. LEPRE: Your honor --

13 CHAIR HAWKENS: Go ahead.

14 MR. LEPRE: Sorry, your honor, this is Mike  
15 Lepre for FPL. I just want to clarify, will we be  
16 entitled to propose questions to both the joint  
17 intervenors' witnesses as well as our own witnesses as  
18 well as the NRC staff's witnesses?

19 CHAIR HAWKENS: If you wish to, Mr. Lepre,  
20 yes.

21 MR. LEPRE: Thank you.

22 CHAIR HAWKENS: Any other questions or  
23 concerns from counsel? Let's go right down the list,  
24 Ms. Curran?

25 MS. CURRAN: I do not have any. If the

1 other counsel for intervenors do, go. We're not on  
2 the same phone, so --

3 MS. GOLDSTEIN: No, we're good, Diane.

4 CHAIR HAWKENS: Okay.

5 MS. CURRAN: Okay, thanks.

6 CHAIR HAWKENS: Mr. Totoiu? Are you on  
7 there, have any questions or concerns?

8 MR. TOTOIU: I do not, thank you.

9 CHAIR HAWKENS: Let me ask you, are you  
10 fully recovered from your automobile accident?

11 MR. TOTOIU: I am on the mend, thank you  
12 for asking. It's been somewhat of a slow recovery,  
13 but things are improving. I appreciate it.

14 CHAIR HAWKENS: Glad to hear that. Let me  
15 go to Mr. Lepre, do you have any questions or concerns  
16 you wish to raise?

17 MR. LEPRE: Your honor, I have two if I  
18 could. One is on your order, one of the issues that  
19 you had listed was the anticipated extent of  
20 participation in the hearing by the local governmental  
21 bodies. I'm not sure we covered that.

22 I know we covered that for opening and  
23 closing statement, but I just want to ensure that  
24 that's the extent to which those folks will  
25 participate. And I just thought maybe -- just wanted

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1 to point that out, if there was some further  
2 discussion you wanted to have around that point.

3 CHAIR HAWKENS: All right. Well, Mr.  
4 Garner, you indicated that you would like to preserve  
5 the opportunity for opening and closing statements.  
6 In addition to that, you would have, under our  
7 regulations, the opportunity to submit proposed  
8 questions.

9 Following that, after the evidentiary  
10 hearing, under our regulations, you could file for  
11 post findings of fact and conclusions of law. I don't  
12 think it's essential at this point that you declare  
13 what you're going to do, but you should take a look at  
14 the regulation, it's Section 2.315(c). Anything you  
15 want to say about that at this time?

16 MR. GARNER: No, thank you, judge. I'm  
17 aware of that and I anticipate taking advantage of  
18 those opportunities.

19 CHAIR HAWKENS: All right. Back to you,  
20 Mr. Lepre. Does that address your concern?

21 MR. LEPRE: Yes, thank you, your honor.  
22 The other question I had was, we intend to or we would  
23 like to present our witnesses in a panel, all four in  
24 the same panel. I'm wondering if we should have some  
25 discussion around that, whether that's your intent or

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1 how you anticipate the witnesses testifying.

2 CHAIR HAWKENS: I'm happy to discuss that  
3 now. The Board has not made a final determination of  
4 whether it wants to examine witnesses individually or  
5 in panel or a combination of both at this point, Mr.  
6 Lepre. But let's take this opportunity and poll the  
7 other two parties on if they have a preference at this  
8 point and we can take that into consideration. Let's  
9 start with Ms. Curran.

10 MS. CURRAN: Well, my -- in the past, the  
11 NRC typically empanels the whole group of witnesses  
12 and I would guess that's the most efficient thing to  
13 do.

14 CHAIR HAWKENS: It can be, certainly. And  
15 you would have no objection to that, would that be  
16 your preference? It sounds like it's the preference  
17 of Mr. Lepre.

18 MR. LEPRE: Yes, it is.

19 MS. CURRAN: I'd like to consult with my  
20 Co-counsel.

21 CHAIR HAWKENS: That would be fine and if  
22 you -- well, can you -- you're on different lines, so  
23 you cannot easily consult privately, can you?

24 MS. CURRAN: Yes, if we could send the  
25 Board an email to your clerks? Would that be --

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1 CHAIR HAWKENS: That would be terrific and  
2 if you would copy the other parties and participants,  
3 we'd be grateful.

4 MS. CURRAN: Okay, thank you.

5 CHAIR HAWKENS: Thank you, Ms. Curran. Mr.  
6 Weisman?

7 MR. WEISMAN: The staff's preference would  
8 be to put our witnesses on in a single panel. We  
9 agree with the joint intervenors that that's the most  
10 efficient way to conduct the hearing.

11 CHAIR HAWKENS: All right. Thank you. So,  
12 we have an expressed preference from Mr. Lepre and Mr.  
13 Weisman to empanel the witnesses and Ms. Curran, we'll  
14 stand by to hear from joint intervenors when you've  
15 made a determination on that.

16 MS. CURRAN: Thank you.

17 CHAIR HAWKENS: Mr. Lepre, anything else?

18 MR. LEPRE: Nothing else, thank you, your  
19 honor.

20 CHAIR HAWKENS: Mr. Weisman?

21 MR. WEISMAN: Yes. I just want to make  
22 sure that I understand your response to Mr. Lepre  
23 about proposing questions to our own witnesses. So,  
24 do I understand that -- will that take the place of a  
25 redirect or will we have an opportunity to ask the

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1 witnesses questions ourselves on redirect?

2 CHAIR HAWKENS: I don't anticipate Counsel  
3 asking questions. I understand Mr. Lepre to inquire  
4 whether the written proposed questions would be  
5 limited to opposing witnesses or whether they could  
6 also propose questions for his witnesses and your  
7 witnesses. Was that correct, Mr. Lepre?

8 MR. LEPRE: Correct. Since it's Subpart L,  
9 we don't anticipate that Counsel will be asking  
10 questions, so I just wanted to see if you were  
11 receptive to us drafting proposed questions for the  
12 Board to ask of our witnesses --

13 CHAIR HAWKENS: Correct.

14 MR. LEPRE: -- on redirect.

15 MR. WEISMAN: And that would be perfectly  
16 acceptable to the staff, I just wanted to clarify it  
17 and make sure that I understood how it was going to  
18 work.

19 CHAIR HAWKENS: All right. Anything else,  
20 Mr. Weisman?

21 MR. WEISMAN: I don't have anything else.

22 CHAIR HAWKENS: Thank you. Mr. Garner, do  
23 you have any --

24 MR. GARNER: Yes, Judge Hawkens. I had a  
25 question regarding the process for proposing questions

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1 for the panel to ask. I understand that we provide  
2 those in camera rather than sharing with all the  
3 parties, is that correct or am I mistaken?

4 CHAIR HAWKENS: That is correct.

5 MR. GARNER: Okay.

6 CHAIR HAWKENS: And to the extent you do  
7 provide them at the hearing to our law clerks, we  
8 would treat them like the proposed questions we'll be  
9 receiving next week. We would keep them confidential  
10 until we issued our initial decision, at which point,  
11 we would make them part of the record.

12 MR. GARNER: Okay, great.

13 CHAIR HAWKENS: And let me just make sure  
14 that nobody from the City of Miami has joined us.  
15 Hearing nothing, we will assume they are not on the  
16 line. If there's nothing else from Counsel, we are  
17 adjourned. Thank you.

18 (Whereupon, the above-entitled matter went  
19 off the record at 11:18 a.m.)  
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