

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of:

Florida Power & Light Co
Turkey Point Units 6 & 7,

Lower Docket Nos. M-52-040 &
52-041

Combined Construction and License
Applications

**AN APPEAL FROM AN ORDER OF THE
ATOMIC SAFETY LICENSING BOARD**

**APPENDIX TO INITIAL BRIEF OF
APPELLANT, CITY OF SOUTH MIAMI**

Thomas F. Pepe, Esquire
City Attorney
Counsel for City of South Miami
1450 Madruga Avenue, Suite 202
Coral Gables, Florida 33146
T: 305-667-2564
F: 305-341-0584
E: thomaspepe@pepenemire.com

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**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE COMMISSION**

| | | |
|-----------------------------------|---|--------------------|
| In the Matter of |) | |
| |) | Docket Nos. 52-040 |
| Florida Power & Light Co. |) | 52-041 |
| Turkey Point Units 6 & 7 |) | |
| |) | April 18, 2017 |
| Combined Construction and License |) | |
| Application |) | |
| _____ |) | |

**PETITION FOR LEAVE TO INTERVENE IN A HEARING ON
FLORIDA POWER & LIGHT COMPANY'S COMBINED CONSTRUCTION
AND OPERATING LICENSE APPLICATION FOR TURKEY POINT
UNITS 6 & 7 AND FILE A NEW CONTENTION**

On June 30, 2009, Florida Power & Light Co. (“FPL” or “the company”) filed a Combined License (“COL”) Application under 10 C.F.R. Part 52, for Turkey Point Units 6 and 7 in Miami-Dade County, Florida. The Nuclear Regulatory Commission (“NRC” or “the Commission”) and U.S. Army Corps of Engineers made available the Final Environmental Impact Statement (“FEIS”) on October 28, 2016 and published a notice of availability of the FEIS on November 2, 2016 in the Federal Register. Pursuant to the Atomic Safety and Licensing Board’s (“ASLB”) Final Scheduling Order, the deadline for filing new or amended contentions to the FEIS was Tuesday, November 22, 2016.¹ The Final Safety Evaluation Report (“FSER”) was made available on November 10, 2016. Pursuant to the ASLB’s Final Scheduling Order, the deadline for filing new or amended contentions to the FSER was Friday, December 9, 2016.²

¹ *Turkey Point Units 6 & 7*, Order (Amending Final Scheduling Order), ML16327A189 (November 22, 2016).

² *Id.*

Petitioners, the City of Miami (“the City”), a Florida municipality;³ the Village of Pinecrest (“Pinecrest”), a Florida municipality;⁴ and the City of South Miami (“South Miami”) (collectively, “Petitioners”) meet the requirements for standing to intervene in the Commission’s action on FPL’s application, offer at least one admissible contention, and have demonstrated good cause for filing new or amended contentions, and therefore seek leave to intervene.

³ The City is currently permitted to participate in these proceedings as an interested local governmental body pursuant to 10 C.F.R. § 2.315(c). *See Turkey Point Units 6 & 7, Memorandum and Order (Denying the City of Miami’s Petition to Intervene, But Granting Its Request to Participate as an Interested Local Governmental Body)*, LBP-15-19 (June 10, 2015).

⁴ Pinecrest is currently permitted to participate in these proceedings as an interested local governmental body pursuant to 10 C.F.R. § 2.315(c). *See Turkey Point Units 6 & 7, Memorandum and Order (Ruling on Petitions to Intervene)*, LBP-11-06 (February 28, 2011).

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I. STANDING

Pursuant to 10 C.F.R. § 2.309, in addition to proposing at least one admissible contention, a petitioner wishing to intervene in a licensing proceeding must have standing. When a local government seeks to participate in an NRC licensing proceeding, the Commission grants standing under the “proximity presumption.”⁵ A municipality establishes standing under the “proximity presumption” if a municipality’s residents live within fifty (50) miles of the facility.⁶ The proximity presumption effectively dispenses of the need for a petitioner to make an affirmative showing of injury, causation, and redressability.⁷

The City is a Florida municipal corporation incorporated in 1896 and located twenty-five (25) miles from Turkey Point. Additionally, FPL’s proposed transmission corridor originating at the company’s Davis substation and terminating at the FPL’s Miami substation is located directly within the City’s limits. It is worth noting that this Commission has already held, and NRC Staff has acknowledged, that the City of Miami has sufficiently established standing because it is a Florida municipal corporation located

⁵ See Florida Power and Light Co. (Turkey Point Nuclear Generating Plant, Units 6 and 7), 73 N.R.C. 149, 170 (2011); Calvert Cliffs 3 Nuclear Project LLC, and Unistar Nuclear Operating Services, LLC (Combined License Application for Calvert Cliffs, Unit 3), 2009 WL 3297553 at *2 (Oct. 13, 2009) (“In practice, we have found standing based on this ‘proximity presumption’ if a petitioner (or a representative of a petitioner organization) resides within approximately 50 miles of the facility in question.”); Shaw AREVA MOX Servs. (Mixed Oxide Fuel Fabrication Facility), 66 N.R.C. 169, 182-83 (2007) (“In nuclear power reactor construction permit and operating license proceedings, a 50-mile proximity presumption is recognized for standing purposes . . .”).

⁶ See Florida Power and Light Co. (Turkey Point Nuclear Generating Plant, Units 6 and 7), 73 N.R.C. 149, 170 (2011) (“[A] municipality satisfies Commission standing requirements in a reactor licensing proceeding by showing either that its residents live within 50 miles of the facility, or that its boundaries extend to within 50 miles of the facility.”).

⁷ See *Turkey Point Units 6 and 7*, Memorandum and Order (Denying the City of Miami’s Petition to Intervene, But Granting Its Request to Participate as an Interested Local Governmental Body), LBP-15-19 at 4 (June 10, 2015).

twenty-five (25) miles from Turkey Point and because FPL's transmission corridor is located within the City's limits.⁸

Pinecrest is a Florida municipal corporation, established on March 12, 1996, by vote of the qualified electors of the area adopting the Village Charter. The entirety of the municipality is situated less than twenty (20) miles from Turkey Point and is located directly within FPL's proposed transmission corridor originating at the company's Davis substation located to the west of the southwestern corner of the municipal limits and terminating at FPL's Miami substation approximately eight (8) to ten (10) miles northeast of Pinecrest's northern-most border. It is worth noting that this Commission has already held, and neither NRC Staff nor FPL disputed, that Pinecrest established standing because it is a Florida municipal corporation populated by about 20,000 residents and situated in its entirety within twenty (20) miles of the Turkey Point site.⁹

South Miami is a Florida municipal corporation established on June 24, 1927 and is located approximately twenty (20) miles from Turkey Point. South Miami is also located directly within FPL's proposed transmission corridor originating at the company's Davis substation located to the west of the southwestern corner of the municipal limits and terminating at FPL's Miami substation approximately seven (7) miles northeast of South Miami's northern-most border.

Based on the foregoing, the Petitioner's have standing to intervene in this proceeding as a matter of right.

⁸ *Id.* ("Miami is a 'Florida municipal corporation . . . located 25 miles from Turkey Point' and 'FPL's proposed transmission corridor . . . is located directly within [Miami's] limits.' As the NRC Staff acknowledges, this alone is sufficient for Miami to establish standing under the proximity presumption.").

⁹ *See Turkey Point Units 6 & 7, Memorandum and Order (Ruling on Petitions to Intervene), LBP-11-06 at 114 (February 28, 2011) ("[W]e conclude Pinecrest has standing to intervene in this proceeding.").*

II. LEGAL STANDARDS FOR CONTENTIONS

Pursuant to 10 C.F.R. § 2.309, “[a]ny person whose interest may be affected by a proceeding and who desires to participate as a party must file a written request for hearing and a specification of the contentions which the person seeks to have litigated in the hearing.” A proposed new contention must satisfy the following six-factor contention admissibility standard:

1. Provide a specific statement of the issue of law or fact to be raised or controverted;
2. Provide a brief explanation of the basis for the contention;
3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;
4. 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;
5. Provide a concise statement of the alleged facts or expert opinions which support the petitioner's position on the issue along with references to the specific sources and documents; and
6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including 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

Generally, new or amended contentions shall be filed on or before deadlines established under 10 C.F.R. § 2.309(b) or by the Commission. However, upon a showing of good cause, the presiding officer may entertain a new or amended contention filed after the deadline.¹¹ Good cause is established when the petitioner demonstrates that:

¹⁰ 10 C.F.R. § 2.309(f).

¹¹ 10 C.F.R. § 2.309(c).

1. The information upon which the filing is based was not previously available;
2. The information upon which the filing is based is materially different from information previously available; and
3. The filing has been submitted in a timely fashion based on the availability of the subsequent information.¹²

III. CONTENTION

Contention 1: The FSER is deficient in concluding that FPL has demonstrated that it possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction costs and related fuel cycle costs and FPL has failed to indicate source(s) of funds to cover these costs.

The Commission may issue a COL if it makes six (6) findings as outlined in 10 C.F.R. § 52.97. One finding that must be made by the Commission is that “[t]he applicant is technically and *financially qualified* to engage in the activities authorized”¹³ In order to demonstrate that the applicant is financially qualified, an electric utility applicant must submit information sufficient to demonstrate to the Commission the financial qualifications of the applicant to carry out the activities for which the permit or license is sought.¹⁴ If the application is for a combined operating license, the applicant shall submit, among other items, information that demonstrates that the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction costs and related fuel cycle costs.¹⁵ The applicant is also required to indicate the sources of funds necessary to cover the estimated construction and fuel cycle costs.¹⁶

¹² *Id.*

¹³ 10 C.F.R. § 52.97(a)(1)(iv) (emphasis added).

¹⁴ 10 C.F.R. § 50.33(f).

¹⁵ 10 C.F.R. § 50.33(f)(1).

¹⁶ *Id.*

The FSER states, in relevant part, that “FPL expects to recover the cost of constructing the facility in accordance with Florida Statute 366.93, ‘Cost Recovery for the Siting, Design, Licensing, and Construction of Nuclear and Integrated Gasification Combined Cycle Power Plants,’ and Florida Administrative Code R.25-6.0423, ‘Nuclear or Integrated Gasification Combined Cycle Power Plant Cost Recovery.’”¹⁷ The FSER further states that “FPL expects to finance this project through a mixture of internally generated cash and external funding” and clarifies that “[t]he external funding will come from a mix of debt and equity capital.”¹⁸ The NRC Staff ultimately concluded that FPL had sufficient capacity to fund this project through “internally generated operating cash flows, commercial paper and bank facilities, and long-term debt and equity capital markets; and will recover the cost of constructing the facility in accordance with Florida Statute 366.93 and Florida Administrative Code R.25-6.0423.”¹⁹

However, on March 29, 2017, Westinghouse Electric Company LLC (“Westinghouse”), as well as its parent company and subsidiaries, filed for Chapter 11 Bankruptcy.²⁰ Westinghouse designs and builds the AP1000 nuclear reactors that are the subject of the current COL application and proceedings. FPL executed a Reservation Agreement with Westinghouse for the:

reservation of manufacturing space for the manufacture of long lead time forgings, consisting of twenty-three (23) total long lead time forgings for each AP1000 unit including nine (9) for each steam generator and five (5)

¹⁷ FSER at 1-38.

¹⁸ *Id.*

¹⁹ *Id.* at 1-39.

²⁰ *In re Westinghouse Elec. Co.*, No. 17-10175-mew (Bankr. S.D.N.Y. filed Mar. 29, 2017) (hereinafter, “Exhibit A”).

for the reactor vessel (the “Components”) for [FPL’s] proposed Turkey Point Nuclear Plant Units 6 and 7²¹

Paragraph 4(b) of the Reservation Agreement states that the Reservation Agreement automatically terminates upon the filing of a petition or application for bankruptcy by FPL or Westinghouse.²² Paragraph 2 of the Reservation Agreement contemplates that FPL and Westinghouse will negotiate and execute a Definitive Agreement for the purchase and sale of the Components prior to the expiration of the Reservation Agreement.²³ However, as of March 1, 2017, the expiration of the Reservation Agreement was extended and there is no evidence that FPL entered into a Definitive Agreement or any other Agreement with Westinghouse for the construction of Turkey Point Units 6 and 7.²⁴ The Petitioners are unaware of any other agreements entered into between FPL and Westinghouse.

Further, reports have indicated that Toshiba and Westinghouse are moving away from the business of constructing nuclear reactors.²⁵ While Toshiba and Westinghouse have indicated that they intend to complete the construction of the nuclear reactors currently under construction in Georgia and South Carolina, they have also indicated that Toshiba and Westinghouse’s future involvement with nuclear plants will be limited to selling its designs.²⁶

²¹ Reservation Agreement between Westinghouse Electric Company and Florida Power & Light Company (hereinafter, “Exhibit B”).

²² Exhibit B.

²³ Exhibit B.

²⁴ See Testimony of Steven D. Scroggs, March 1, 2017, Document No. 02627-17, Docket No. 170009-EI at 16-17 (available at <http://www.psc.state.fl.us/library/filings/17/02627-17/02627-17.pdf>).

²⁵ Russell Gold and Takashi Mochizuki, *Toshiba to Exit Nuclear Construction Business*, Wall St. J. (Jan. 31, 2017), <http://www.wsj.com/articles/toshibatoexitnuclearconstructionbusiness1485887107> (hereinafter, “Exhibit C”).

²⁶ See Exhibit C.

Without any agreements for the construction of Turkey Point Units 6 and 7, FPL will be unable to recover any costs for the construction of these nuclear units through Nuclear Advanced Cost Recover under Section 366.93, Florida Statutes (“F.S.”). Section 366.93, F.S., allows FPL to annually petition the Florida Public Service Commission (“FPSC”) to allow FPL to recover costs through its rates. In order for the FPSC to approve FPL’s petition, FPL must demonstrate that its expenditures in furtherance of the Turkey Point Units 6 & 7 project are reasonable and prudent.²⁷ The FPSC further requires FPL to demonstrate that the Turkey Point Units 6 & 7 project remains feasible.²⁸ Specifically, the electric utility company is required to submit,

[F]or [FPSC] review and approval a detailed analysis of the long-term feasibility of completing the power plant. Such analysis shall include evidence that the utility intends to construct the nuclear or integrated gasification combined cycle power plant by showing that it has committed sufficient, meaningful, and available resources to enable the project to be completed and that its intent is realistic and practical.²⁹

If the electric utility fails to demonstrate that the expenditures are reasonable and prudent, and that the project is still feasible, then the FPSC cannot allow FPL to recover costs through its rates.

FPL failed to file a feasibility study in the 2016 Nuclear Cost Recovery Docket and subsequently requested to defer any cost recovery to the 2017 Nuclear Cost Recovery Docket and noted that it plans to file a feasibility analysis in the 2017 Nuclear Cost Recovery Docket.³⁰ Due to FPL’s failure to file a feasibility study, as of 2016 there has

²⁷ FLA. ADMIN. CODE r.25-6.0423(6)(c)(2)

²⁸ FLA. ADMIN. CODE r.25-6.0423(6)(c)(5).

²⁹ *Id.*

³⁰ *In re Nuclear cost recovery clause* (Order Granting Florida Power and Light Company’s Motion to Defer Consideration of Issues and Cost Recovery), Order No. PSC-16-0266-PCO-EI, Docket No. 160009-EI (available at <http://www.psc.state.fl.us/library/filings/16/04478-16/04478-16.pdf>).

been no determination that the costs incurred by FPL for this project are reasonable or prudent, nor is there any indication that the project remains feasible.

With no agreements for the construction of Turkey Point Units 6 and 7, the filing of bankruptcy by Westinghouse and its parent company and subsidiaries, and reports that Westinghouse will not be constructing any new reactors in the U.S., it has become abundantly clear that as of March 29, 2017 the project is no longer feasible and that any further expenditures by FPL towards the construction of these units are no longer reasonable or prudent. Consequently, the ability for FPL to recover any costs through Nuclear Advanced Cost Recover under Section 366.93, F.S., has vanished and a major source of funding the construction of the nuclear facilities has disappeared as well.

Moreover, of the four funding sources identified by staff in the FSER for the construction of the nuclear reactors, the external funding sources (commercial paper and bank facilities, and long-term debt and equity capital markets) will be more difficult to secure, if at all, without any guarantee that the nuclear reactors will get built and generate electricity and revenue. Further, there is no evidence that an entity or entities are currently retained or readily available to construct a project that has high risk³¹ and that is already on the high-end of the estimated project cost range (\$20.0 Billion).³²

Therefore, despite the FSER's finding that FPL is financially qualified to carry out this project, as of March 29, 2017, a genuine dispute exists as to whether FPL is still financially qualified to carry out this project. As of March 29, 2017, the FSER lacks

³¹ Exhibit C ("Toshiba's future involvement with nuclear plants will be limited to selling its designs; it will let other companies handle the risk of building the facilities . . .").

³² Testimony of Steven D. Scroggs, April 27, 2016, Document No. 02544-16, Docket No. 160009-EI, at 9 (available at <http://www.psc.state.fl.us/library/filings/16/02544-16/02544-16.pdf>) ("[T]hrough 2017, FPL estimates it will have spent approximately 1.5% of the high end of the estimated project cost range (\$20.0 billion).").

sufficient information to demonstrate that the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction costs and related fuel cycle costs. For the aforementioned reasons, the Petitioners submit that the FSER is deficient in concluding that FPL has demonstrated that it possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction costs and related fuel cycle costs and FPL has failed to indicate source(s) of funds to cover these costs.

IV. THE PETITIONERS HAVE ESTABLISHED GOOD CAUSE TO FILE A NEW CONTENTION

A petitioner must establish good cause to file new or amended contentions subsequent to the filing deadline.³³ Although the deadline to file new contentions on the FSER was December 9, 2016, Westinghouse did not file for bankruptcy until March 29, 2017 and this new information did not become available until the date of filing.

Moreover, as is discussed in detail in Section III of this filing, the information is materially different from information previously available because upon Westinghouse filing for bankruptcy, FPL's Reservation Agreement automatically terminated, FPL no longer has any guarantees that the nuclear reactors will be constructed, and FPL no longer can demonstrate that it possesses or has reasonable assurance of obtaining the funds necessary to cover the estimated construction costs and related fuel cycle costs.

Finally, this filing has been submitted in a timely fashion based on the availability of the subsequent information. Westinghouse filed for bankruptcy on March 29, 2017 and the filing was docketed on the same day at 3:05 P.M. EST.³⁴ The Petitioners could not

³³ 10 C.F.R. § 2.309(c).

³⁴ Exhibit A.

have filed this by the deadline established in the Commission's November 22, 2016 Order³⁵ and has electronically filed this petition in a timely fashion ensuring compliance with all the requirements set forth in 10 C.F.R. § 2.309.

V. CONCLUSION

Wherefore, the Petitioners have demonstrated standing as required by 10 C.F.R. § 2.309, have proposed at least one admissible contention, and have demonstrated good cause, the Petitioners should be granted leave to intervene as a full party and be granted a hearing on its contention.

Respectfully submitted this 18th day of April, 2017.

Signed electronically by: /s/ Xavier E. Albán
VICTORIA MÉNDEZ, City Attorney
KERRI L. MCNULTY, Assistant City Attorney
XAVIER E. ALBÁN, Assistant City Attorney
Counsel for the City of Miami
444 SW 2nd Avenue, Suite 945
Miami, FL 33130
(305) 416-1800
(305) 416-1801 (facsimile)
xealban@miamigov.com

³⁵ *Turkey Point Units 6 & 7*, Order (Amending Final Scheduling Order), ML16327A189 (November 22, 2016).

VI. NOTICE OF APPEARANCE OF DESIGNATED REPRESENTATIVE

For the purposes of compliance with 10 C.F.R. §§ 2.314(b) and 2.315(c), the

City designates as its representative at hearing:

Xavier E. Albán
(Fla. Bar No. 113224)
Assistant City Attorney
The City of Miami
444 SW 2nd Avenue
Miami, FL 33130
(305) 416-1800
(305) 416-1801 (facsimile)
xealban@miamigov.com

Mr. Alban, appearing in a representative capacity for the City, when necessary, shall be the person designated to introduce evidence, interrogate witnesses where cross-examination by the parties is permitted, advise the Commission with respect to issues raised in the proceeding, file proposed findings of fact if any be permitted, and petition for review by the Commission under § 2.341 with respect to admitted contentions.

Signed electronically by: */s/ Xavier E. Albán*
VICTORIA MÉNDEZ, City Attorney
KERRI L. MCNULTY, Assistant City Attorney
XAVIER E. ALBÁN, Assistant City Attorney
Counsel for the City of Miami
444 SW 2nd Avenue, Suite 945
Miami, FL 33130
(305) 416-1800
(305) 416-1801 (facsimile)
xealban@miamigov.com

For the purposes of compliance with 10 C.F.R. §§ 2.314(b) and 2.315(c),

Pinecrest designates as its representative at hearing:

William C. Garner
(Fla. Bar No. 577189)
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, FL 32308
(850) 224-4070
(850) 224-4073 (facsimile)
bgarner@ngnlaw.com
Attorney for the Village of Pinecrest

Mr. Garner, appearing in a representative capacity for Pinecrest, when necessary, shall be the person designated to introduce evidence, interrogate witnesses where cross-examination by the parties is permitted, advise the Commission with respect to issues raised in the proceeding, file proposed findings of fact if any be permitted, and petition for review by the Commission under § 2.341 with respect to admitted contentions.

Executed in Accord
with 10 CFR 2.304(d):

/s/ William C. Garner
William C. Garner
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, FL 32308
(850) 224-4070
(850) 224-4073 (facsimile)
bgarner@ngnlaw.com
Attorney for the Village of Pinecrest

For the purposes of compliance with 10 C.F.R. §§ 2.314(b) and 2.315(c), South Miami designates as its representative at hearing:

Thomas F. Pepe
(Fla. Bar No. 183230)
City Attorney
City of South Miami
1450 Madruga Avenue, Suite 202
Coral Gables, FL 33146
(305) 667-2564
tpepe@southmiamifl.gov

Mr. Pepe, appearing in a representative capacity for South Miami, when necessary, shall be the person designated to introduce evidence, interrogate witnesses where cross-examination by the parties is permitted, advise the Commission with respect to issues raised in the proceeding, file proposed findings of fact if any be permitted, and petition for review by the Commission under § 2.341 with respect to admitted contentions.

Executed in Accord
with 10 CFR 2.304(d):

/s/ Thomas F. Pepe
THOMAS F. PEPE, City Attorney
Counsel for the City of South Miami
1450 Madruga Avenue, Suite 202
Coral Gables, FL 33146
(305) 667-2564
tpepe@southmiamifl.gov

VII. CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2017, I electronically filed the foregoing petition with the electronic filing system of the U.S. Nuclear Regulatory Commission and that persons and parties of record were electronically served.

Signed electronically by: /s/ Xavier E. Albán
VICTORIA MÉNDEZ, City Attorney
KERRI L. MCNULTY, Assistant City Attorney
XAVIER E. ALBÁN, Assistant City Attorney
Counsel for the City of Miami
444 SW 2nd Avenue, Suite 945
Miami, FL 33130
(305) 416-1800
(305) 416-1801 (facsimile)
xealban@miamigov.com

Exhibit A

| Fill in this information to identify the case: | | |
|--|-------------|------------|
| United States Bankruptcy Court for the: | | |
| Southern | District of | New York |
| | (State) | |
| Case number (If known): | | Chapter 11 |

Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy

04/16

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's name Westinghouse Electric Company LLC

2. All other names debtor used in the last 8 years
Include any assumed names, trade names, and *doing business as* names

3. Debtor's federal Employer Identification Number (EIN) 52-2140933

| 4. Debtor's address | Principal place of business | Mailing address, if different from principal place of business |
|---------------------|---|--|
| | <u>1000 Westinghouse Drive</u> Number Street | _____ Number Street |
| | <u>Cranberry Township Pennsylvania 16066</u> City State ZIP Code | _____ P.O. Box |
| | <u>Butler</u> County | _____ City State ZIP Code |
| | | Location of principal assets, if different from principal place of business |
| | | _____ Number Street |
| | | _____ City State ZIP Code |

5. Debtor's website (URL) www.westinghousenuclear.com

6. Type of debtor
 Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
 Partnership (excluding LLP)
 Other. Specify: _____

7. Describe debtor's business

A. Check one:

- Health Care Business (as defined in 11 U.S.C. § 101(27A))
- Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- Railroad (as defined in 11 U.S.C. § 101(44))
- Stockbroker (as defined in 11 U.S.C. § 101(53A))
- Commodity Broker (as defined in 11 U.S.C. § 101(6))
- Clearing Bank (as defined in 11 U.S.C. § 781(3))
- None of the above

B. Check all that apply:

- Tax- entity (as described in 26 U.S.C. § 501)
- Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See <http://www.uscourts.gov/four-digit-national-association-naics-codes>.

5413 – Architectural, Engineering, and Related Services;
5419 – Other Technical Services

8. Under which chapter of the Bankruptcy Code is the debtor filing?

Check one:

- Chapter 7
- Chapter 9
- Chapter 11. Check all that apply:
 - Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,566,050 (amount subject to adjustment on 4/01/19 and every 3 years after that).
 - The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
 - A plan is being filed with this petition.
 - Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
 - The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11 (Official Form 201A) with this form.
 - The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

No

- Yes District _____ When _____ Case number _____
MM/ DD/ YYYY
- District _____ When _____ Case number _____
MM / DD/ YYYY

If more than 2 cases, attach a separate list.

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

No

- Yes Debtor See attached Schedule 1 Relationship _____
District _____ When _____
Case number, if known _____ MM / DD/ YYYY

List all cases. If more than 1, attach a separate list.

11. Why is the case filed in this district?

Check all that apply:

- Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

- No
Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)

- It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.
It needs to be physically secured or protected from the weather.
It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

Other See attached Schedule 2

Where is the property?

See attached Schedule 2

Number Street

City State ZIP Code

Is the property insured?

- No
Yes. Insurance agency See attached Schedule 2
Contact Name
Phone

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

- Funds will be available for distribution to unsecured creditors.
After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

- 1-49 1,000-5,000 25,001-50,000
50-99 5,001-10,000 50,001-100,000
100-199 10,001-25,000 More than 100,000
200-999

15. Estimated assets

- \$0-\$50,000 \$1,000,001-\$10 million \$500,000,001-\$1 billion
\$50,001-\$100,000 \$10,000,001-\$50 million \$1,000,000,001-\$10 billion
\$100,001-\$500,000 \$50,000,001-\$100 million \$10,000,000,001-\$50 billion
\$500,001-\$1 million \$100,000,001-\$500 million More than \$50 billion

16. Estimated liabilities

- \$0-\$50,000 \$1,000,001-\$10 million \$500,000,001-\$1 billion
\$50,001-\$100,000 \$10,000,001-\$50 million \$1,000,000,001-\$10 billion
\$100,001-\$500,000 \$50,000,001-\$100 million \$10,000,000,001-\$50 billion
\$500,001-\$1 million \$100,000,001-\$500 million More than \$50 billion

Request for Relief, Declaration, and Signatures

WARNING – Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 03/29/2017
MM / DD / YYYY

x /s/ Lisa J. Donahue Lisa J. Donahue
Signature of authorized representative of debtor Printed name

Chief Transition and Development Officer
Title

18. Signature of attorney

x /s/ Gary T. Holtzer Date 03/29/2017
Signature of attorney for debtor MM / DD / YYYY

Gary T. Holtzer
Printed Name

Weil, Gotshal & Manges LLP
Firm Name

767 Fifth Avenue
Number Street

New York, NY 10153
City/State/Zip

(212) 310-8000
Contact phone

Gary.Holtzer@weil.com
Contact email address

2401859 NY
Bar Number State

Schedule 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the affiliated entities listed below, including the debtor in this chapter 11 case, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of New York (the “**Court**”). A motion will be filed with the Court requesting that the chapter 11 cases of the entities listed below be consolidated for procedural purposes only and jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure. Additional information about the relationship between each entity is contained in the *Declaration of Lisa J. Donahue Pursuant to Rule 1007-2 of the Local Bankruptcy Rules for the Southern District of New York*, which has been filed contemporaneously herewith.

| COMPANY | CASE NUMBER | DATE FILED | DISTRICT | JUDGE |
|--|-------------|----------------|----------|---------|
| Toshiba Nuclear Energy Holdings (UK) Limited | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| Westinghouse Electric Company LLC | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| CE Nuclear Power International, Inc. | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| Fauske and Associates LLC | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| Field Services, LLC | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| Nuclear Technology Solutions LLC | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| PaR Nuclear Holding Co., Inc. | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| PaR Nuclear, Inc. | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| PCI Energy Services LLC | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| Shaw Global Services, LLC | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| Shaw Nuclear Services, Inc. | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| Stone & Webster Asia Inc. | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| Stone & Webster Construction Inc. | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| Stone & Webster International Inc. | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| Stone & Webster Services LLC | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| TSB Nuclear Energy Services Inc. | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| WEC Carolina Energy Solutions, Inc. | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| WEC Carolina Energy Solutions, LLC | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| WEC Engineering Services Inc. | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| WEC Equipment & Machining Solutions, LLC | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| WEC Specialty LLC | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| WEC Welding and Machining, LLC | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| WECTEC Contractors Inc. | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |

| COMPANY | CASE NUMBER | DATE FILED | DISTRICT | JUDGE |
|---|--------------------|-------------------|-----------------|--------------|
| WECTEC Global Project Services Inc. | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| WECTEC LLC | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| WECTEC Staffing Services LLC | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| Westinghouse Energy Systems LLC | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| Westinghouse Industry Products International Company LLC | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| Westinghouse International Technology LLC | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |
| Westinghouse Technology Licensing Company LLC | 17-_____() | March 29, 2017 | S.D.N.Y. | Pending |

Schedule 2

Property Requiring Attention

The Debtors own and lease certain real property and personal property at sites that (i) are or have been used in connection with nuclear materials or for other activities that require, or in the future will require, remediation or decommissioning, or (ii) are otherwise used to produce and/or store potentially hazardous materials used in the production of nuclear fuel, including uranium. Accordingly, out of an abundance of caution, the Debtors have identified below such sites as holding real property or personal property that may require immediate attention.

For the avoidance of doubt, the Debtors do not believe that such property poses, or is alleged to pose, any threat of imminent and identifiable hazard to public health or safety. To the best of their knowledge and belief, the Debtors are in full compliance with all applicable environmental laws and regulations, and only possess and utilize in their operations radiological or other hazardous materials for which they have acquired the necessary permits and/or licenses pursuant to the applicable laws and regulations.

Each of the properties listed herein is insured by one or more of the following insurance providers:

- i. American Nuclear Insurers (“**ANI**”) provides nuclear liability insurance.
- ii. NRI Insurance Services (“**NRI**”), Northcourt Limited (“**Northcourt**”), and the European Mutual Association for Nuclear Insurers (“**EMANI**”) insure real or personal property under the Debtors’ care, custody, or control.
- iii. A number of insurance providers provide general liability coverage (“**General Liability**”), including American International Group, Mitsui Sumitomo Insurance USA, Inc. and others.

The point of contact for the insurance providers listed above is Andrew Ainscough, Senior Client Executive at Marsh & McLennan, (617) 838-5413, andrew.ainscough@marsh.com. Below is a list of the applicable sites and relevant insurers.

| Properties Needing Immediate Attention | | |
|---|---|--|
| Site | Address | Insurance |
| Columbia Fuel Fabrication Facility | 5801 Bluff Road Hopkins, SC 29061 | ANI, NRI, Northcourt, EMANI, and General Liability providers |
| Western Zirconium Project | 10,000 West 900 South Ogden, Utah 84404 | NRI, Northcourt, EMANI, and General Liability providers |
| Blairsville Specialty Metals Plant | 559 Westinghouse Road, Blairsville, PA 15717 | NRI, Northcourt, EMANI, and General Liability providers |
| Hematite Decommissioning Project | 3300 State Road P Festus, MO 63028 | ANI, NRI, Northcourt, EMANI, and General Liability providers |
| Materials Center of Excellence, Chemistry Center of Excellence, Technical Services Center | 1332 Beulah Road Pittsburgh, PA 15235 | ANI, NRI, Northcourt, EMANI, and General Liability providers |
| Waltz Mill Decommissioning Site | 680 Waltz Mill Road Madison, PA 15663 | ANI, NRI, Northcourt, EMANI, and General Liability providers |
| Richland Service Center | 2939 Richardson Road Richland, WA 99354 | ANI, NRI, Northcourt, EMANI, and General Liability providers |

**PROPOSED RESOLUTIONS FOR
CONSIDERATION AT A MEETING OF THE BOARD OF DIRECTORS OF
WESTINGHOUSE ELECTRIC COMPANY LLC**

To be considered at a meeting of the Board of Directors (the “**Board of Directors**”) of Westinghouse Electric Company LLC (the “**Company**”) on March 29, 2017 at 1:30 am ET:

WHEREAS, the Board of Directors has reviewed and had the opportunity to ask questions about the materials presented by the management and advisors of the Company regarding the liabilities and liquidity of the Company, the strategic alternatives available to it and the impact of the foregoing on the Company’s businesses;

WHEREAS, the Board of Directors has had the opportunity to consult with the management and the legal and financial advisors of the Company to fully consider, and has considered, the strategic alternatives available to the Company;

WHEREAS, the Board of Directors has been advised by representatives of Toshiba Corporation (“**Toshiba**”) that the Owner Board (as defined in the Company’s Limits of Authority Policy, adopted by the Board of Directors on February 15, 2007, and last updated November 1, 2016) has approved the actions contemplated by the below resolutions; and

WHEREAS, the Board of Directors desires to approve the following resolutions.

II. Commencement of Chapter 11 Case

NOW, THEREFORE, BE IT RESOLVED, that, the Board of Directors has determined, after consultation with the management and the legal and financial advisors of the Company, that it is desirable and in the best interests of the Company, its creditors, and other parties in interest that a petition be filed by the Company seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”); and be it further

RESOLVED, that, each Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, to negotiate, execute, deliver, and file, in the name and on behalf of the Company, and under its corporate seal or otherwise, all plans, petitions, schedules, statements, motions, lists, applications, pleadings, papers, affidavits, declarations, and other documents (the “**Chapter 11 Filings**”) in the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”) (with such changes therein and additions thereto as any such Authorized Person may deem necessary, appropriate or advisable, the execution and delivery of any of the Chapter 11 Filings by any such Authorized Person with any changes thereto to be conclusive evidence that any such Authorized Person deemed such changes to meet such standard); and be it further

RESOLVED, that, each Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed to take and perform any and all further acts and deeds which such Authorized Person deems necessary, appropriate, or desirable in connection with the Company’s chapter 11 case (the “**Chapter 11 Case**”) or Chapter 11

Filings, including, without limitation, (i) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (ii) negotiating, executing, delivering, performing and filing any and all documents, motions, pleadings, applications, declarations, affidavits, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with, or in furtherance of, the Chapter 11 Case with a view to the successful prosecution of the Chapter 11 Case (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

III. Commencement of Chapter 11 Cases of Subsidiaries

RESOLVED, that, the Board of Directors has determined, after consultation with the management and the legal and financial advisors of the Company, that, in connection with the Chapter 11 Case, it is desirable and in the best interests of the Company for each of its wholly owned subsidiaries (the “**Subsidiaries**”) to file a petition seeking relief under the provisions of the Bankruptcy Code (the “**Subsidiary Chapter 11 Cases**”) and to negotiate, execute, deliver, and file all plans, petitions, schedules, motions, lists, applications, pleadings, and other documents (the “**Subsidiary Chapter 11 Filings**”) in the Bankruptcy Court; and be it further

RESOLVED, that each Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of the Company, in its capacity as a member, shareholder or partner, as the case may be, of each of its Subsidiaries, to consent to, authorize and/or approve any such Subsidiary Chapter 11 Cases and/or the Subsidiary Chapter 11 Filings which such Authorized Person deems necessary, appropriate, or desirable in connection with the Subsidiary Chapter 11 Cases (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

RESOLVED, that each Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed to take and perform any and all actions, including the negotiation, execution, delivery, and filing of all documents, agreements, resolutions, motions and pleadings as are necessary, appropriate, or advisable to enable each such Subsidiary to carry out its Subsidiary Chapter 11 Cases and the Subsidiary Chapter 11 Filings (with such changes therein and additions thereto as any such Authorized Person may deem necessary, appropriate or advisable, the execution and delivery thereof by any such Authorized Person with any changes thereto to be conclusive evidence that any such Authorized Person deemed such changes to meet such standard); and be it further

IV. Debtor-in-Possession Financing

RESOLVED, that in connection with the Chapter 11 Case, it is in the best interest of the Company to engage in, and the Company will obtain benefits from, the lending transactions, under that certain superpriority secured debtor-in-possession credit facility in an aggregate principal amount of approximately \$800,000,000 to be evidenced by that certain Commitment Letter, dated on or about March 28, 2017, to be entered into by and among the Company and the commitment parties thereto (together with the attached Indicative Debtor-in-

Possession Credit Facility Term Sheet and any other Annexes annexed thereto, the “**DIP Commitment Letter**”) and a senior secured superpriority debtor-in-possession credit agreement, to be entered into by and among the Company, as borrower, certain of the Company’s wholly-owned subsidiaries as guarantors, the lenders from time to time party thereto (the “**Lenders**”), and Citibank, N.A., as administrative agent (in such capacity, including any successor thereto, the “**Administrative Agent**”) for the Lenders (together with any Annexes annexed thereto, the “**DIP Credit Agreement**”) (capitalized terms used in this section with respect to debtor-in-possession financing and not otherwise defined herein shall have the meanings ascribed to such terms in the DIP Commitment Letter or the DIP Credit Agreement, as applicable); in each case subject to approval by the Bankruptcy Court, which is necessary and appropriate to the conduct, promotion and attainment of the business of the Company (the “**Debtor-in-Possession Financing**”); and be it further

RESOLVED, that the form, terms and provisions of each of (i) the DIP Commitment Letter, including the use of proceeds to provide liquidity for the Company throughout the Chapter 11 Case, substantially in the form presented to the Board of Directors, (ii) the DIP Credit Agreement, including the use of proceeds to provide liquidity for the Company throughout the Chapter 11 Case, substantially on the terms and conditions set forth in the Commitment Letter, (iii) the Liquidity Facility Agreement, substantially in the form presented to the Board of Directors, (iv) the Pledge, Assignment and Control Agreement to be entered into among Citibank, N.A. and the Company and (v) any and all of the other agreements, including, without limitation, any guarantee and security agreement, certificates, documents and instruments authorized, executed, delivered, reaffirmed, verified and/or filed in connection with the Debtor-in-Possession Financing (together with the DIP Commitment Letter and the DIP Credit Agreement, collectively, the “**DIP Financing Documents**”) and the Company’s performance of its obligations thereunder, including the borrowings of funds, the on-lending of such funds to subsidiaries of Westinghouse Electronic Company UK Holdings Limited (“**WEC UK**”) and the granting of security interests contemplated thereunder, are hereby, in all respects confirmed, ratified and approved; and be it further

RESOLVED, that any Authorized Person is hereby authorized, empowered, and directed, in the name and on behalf of the Company, to cause the Company to negotiate and approve the terms, provisions of and performance of, and to prepare, execute and deliver the DIP Financing Documents to which it is a party, in the name and on behalf of the Company under its corporate seal or otherwise, and such other documents, agreements, instruments and certificates as may be required by the Agent or required by the DIP Commitment Letter, the DIP Credit Agreement and any other DIP Financing Documents; and be it further

RESOLVED, that the Company be, and hereby is, authorized to incur the obligations and to undertake any and all related transactions contemplated under the DIP Financing Documents including the borrowing of funds, the on-lending of such funds to subsidiaries of WEC UK and the granting of security thereunder (collectively, the “**DIP Financing Transactions**”); and be it further

RESOLVED, that any Authorized Person is hereby authorized to grant security interests in, and liens on, any and all property of the Company as collateral pursuant to the DIP Financing Documents to secure all of the obligations and liabilities of the Company thereunder

to the Lenders and the Agent, and to authorize, execute, verify, file and/or deliver to the Agent, on behalf of the Company, all agreements, documents and instruments required by the Lenders in connection with the foregoing; and be it further

RESOLVED, that any Authorized Person is hereby authorized, empowered, and directed, in the name and on behalf of the Company, to take all such further actions including, without limitation, to pay all fees and expenses, in accordance with the terms of the DIP Financing Documents, which shall, in such Authorized Person's sole judgment, be necessary, proper or advisable to perform the Company's obligations under or in connection with the DIP Financing Documents and the transactions contemplated therein and to carry out fully the intent of the foregoing resolutions; and be it further

RESOLVED, that any Authorized Person is hereby authorized, empowered, and directed, in the name and on behalf of the Company, to execute and deliver any amendments, supplements, modifications, renewals, replacements, consolidations, substitutions and extensions of the DIP Commitment Letter, the DIP Credit Agreement and/or any of the DIP Financing Documents which shall, in such Authorized Person's sole judgment, be necessary, proper or advisable; and be it further

V. Retention of Advisors

RESOLVED, that, in connection with the Chapter 11 Case, each Authorized Person, acting singly or jointly, be, and each hereby is, authorized, empowered and directed to employ and retain all assistance by legal counsel, accountants, financial advisors, investment bankers and other professionals, on behalf of the Company and its subsidiaries, which such Authorized Person deems necessary, appropriate, or desirable in connection with, or in furtherance of, the Chapter 11 Case, with a view to the successful prosecution of the Chapter 11 Case (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

RESOLVED, that the law firm of Weil, Gotshal & Manges LLP, located at 767 Fifth Avenue, New York, New York 10153, is hereby retained as attorneys for the Company and its subsidiaries in its Chapter 11 Case, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of AlixPartners, LLP, located at 909 Third Avenue, New York, New York 10022, is hereby retained as financial advisor for the Company and its subsidiaries in its Chapter 11 Case, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of PJT Partners Inc., located at 280 Park Avenue, New York, New York 10017, is hereby retained as investment banker for the Company and its subsidiaries in its Chapter 11 Case, subject to Bankruptcy Court approval; and be it further

RESOLVED, that each Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed to take and perform any and all further acts and deeds, including, without limitation, (i) the payment of any consideration, (ii) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (iii) negotiating, executing, delivering, performing, and filing any and all documents, motions, pleadings, applications, declarations, affidavits, schedules, statements, lists,

papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with the engagement of professionals contemplated by the foregoing resolutions (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

VI. General

RESOLVED, that each Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed to take and perform any and all further acts or deeds, including, but not limited to, (i) the negotiation of such additional agreements, amendments, modifications, supplements, reports, documents, instruments, applications, notes or certificates not now known but which may be required, (ii) the execution, delivery and filing (if applicable) of any of the foregoing, and (iii) the payment of all fees, consent payments, taxes and other expenses as any such Authorized Person, in his or her sole discretion, may approve or deem necessary, appropriate or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Authorized Person deemed the same to be so necessary, appropriate or desirable; and

RESOLVED, that any and all past actions heretofore taken by any Authorized Person, any director, or any member of the Company in the name and on behalf of the Company in furtherance of any or all of the preceding resolutions be, and the same hereby are, ratified, confirmed, and approved in all respects.

Fill in this information to identify the case:

Debtor name: Westinghouse Electric Company LLC
 United States Bankruptcy Court for the: Southern District of New York
(State)
 Case number (If known): _____

Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders

12/15

A list of creditors holding the 30 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 30 largest unsecured claims.

| | Name of creditor and complete mailing address, including zip code | Name, telephone number, and email address of creditor contact | Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts) | Indicate if claim is contingent, unliquidated, or disputed | Amount of unsecured claim | | |
|---|--|--|---|--|-----------------------------------|---|-----------------|
| | | | | | Total claim, if partially secured | Deduction for value of collateral or setoff | Unsecured claim |
| 1 | FLUOR ENTERPRISES INC (FEI) 100 Fluor Daniel Drive Greenville, SC 29607 | Name: Pat Selvaggio Tel: Email: Pat.Selvaggio@Fluor.com | Trade Debts | | | | \$193,891,735 |
| 2 | CB&I One CB&I Plaza, 2103 Research Forest Drive The Woodlands, TX 77380 | Name: Lee Pressley Tel: (815) 342-3905 Email: lpressley@CBI.com | Deferred Purchase Price | Contingent | | | \$145,000,000 |
| 3 | CB&I LAURENS INC 366 Old Airport Rd Laurens, SC 29360 | Name: Rick Crow Tel: 864-683-3962 Email: Rick.crow@cbi.com | Trade Debts | | | | \$32,806,489 |
| 4 | NEWPORT NEWS INDUSTRIAL CORP 182 Enterprise Dr Newport News, VA 23603-1368 | Name: Steve Napiecek Tel: 757-870-2463 Email: Steve.Napiecek@hii-nns.com | Trade Debts | | | | \$18,463,053 |
| 5 | NUCLEAR FUEL SERVICES INC 1205 Banner Hill Rd Erwin, TN 37650-9318 | Name: Frank Masseth Tel: 423-735-5661 Email: fxmasseth@nuclearfuelservices.com | Trade Debts | | | | \$10,086,210 |
| 6 | VIGOR 9460 SE Lawnfield Rd. Clackamas, OR 97015 | Name: Corey Yraguen Tel: 503-314-0859 Email: Corey.Yraguen@vigor.net | Trade Debts | | | | \$8,345,458 |
| 7 | THOMPSON CONSTRUCTION GROUP INC. 100 North Main Street Sumter, SC 29150 | Name: William Gryant Tel: 864-643-9592 Email: bbryant@thompsonind.com | Trade Debts | | | | \$8,027,241 |

Debtor Westinghouse Electric Company LLC

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Case number (if known)

Name

| 8 | Name of creditor and complete mailing address, including zip code | Name, telephone number, and email address of creditor contact | Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts) | Indicate if claim is contingent, unliquidated, or disputed | Amount of unsecured claim | | |
|---|--|--|---|--|---|--|-------------|
| | | | | | If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim. | | |
| | RSCC WIRE & CABLE LLC 20 Bradley Park Rd East Granby, CT 06026-9789 | Name: Mark St. Onge Tel: 203-645-2275 Email: Mark.stonge@r-scc.com | Trade Debts | | | | \$7,931,485 |
| | CURTISS WRIGHT 13925 Ballantyne Corporate Place, Suite 400 Charlotte, NC 28277 | Name: David C. Adams Tel: 704-869-4667 Email: dadams@CURTISSWRIGHT.com | Trade Debts | | | | \$7,782,122 |
| | SSM INDUSTRIES INC 3401 Grand Ave Pittsburgh, PA 15225-1507 | Name: Matt Gorman Tel: 412-777-2101, ext 320 Email: mgorman@ssmi.biz | Trade Debts | | | | \$5,479,722 |
| | AECON INDUSTRIAL 150 Sheldon Drive Cambridge, UK N1R7K9 | Name: Ian Turnbull Tel: 519-240-5487 Email: iturnbull@aecon.com | Trade Debts | | | | \$5,465,543 |
| | WILLIAMS SPECIALTY SERVICES LLC 100 Crescent Centre Parkway Tucker, GA 30084 | Name: Douglas Page Tel: 770-595-7691 Email: dpage@wisgrp.com | Trade Debts | | | | \$5,153,942 |
| | GEXPRO 1000 Bridgeport Ave Shelton, CT 06484 | Name: Dan Collins Tel: 412-877-0267 Email: Dan.Collins@gexpro.com | Trade Debts | | | | \$5,087,626 |
| | SMCI 4015 Drane Field Rd Lakeland, FL 33811-1290 | Name: Bob Marshall Tel: 423-413-1582 Email: Bob.marshall@metalltek.com | Trade Debts | | | | \$5,012,335 |
| | RESEARCH COTTRELL COOLING INC 58 East Main Street Somerville, NJ 08876 | Name: John Urbaniak Tel: Email: John.urbaniak@rc-cooling.com | Trade Debts | | | | \$4,386,505 |
| | GARNEY COMPANIES INC 5895 Shiloh Road, Suite 114 Alpharetta, GA 30004 | Name: Greg Harris Tel: (770) 754-4141 Email: gharris@garney.com | Trade Debts | | | | \$3,762,101 |
| | ACCENTURE LLP K&L Gates Center 210 6th Ave, 25th Floor Pittsburg, PA 15222-2614 | Name: Mark Sobota Tel: 724-787-9807 Email: mark.sobota@accenture.com | Trade Debts | | | | \$3,494,139 |
| | OWEN INDUSTRIES INC 501 Avenue H, Carter Lake, IA 51510 | Name: Tyler Owen Tel: 402-290-1481 Email: towen@owenind.com | Trade Debts | | | | \$3,410,946 |
| | DUBOSE NATIONAL ENERGY SERVICE 900 Industrial Dr Clinton, NC 28328-8068 | Name: Richard Rogers Tel: 910-590-2151 Email: Richard.rogers@dubosenes.com | Trade Debts | | | | \$3,358,718 |
| | STEELFAB INC 8623 Old Dowd Rd. Charlotte, NC 28214 | Name: Glen Sherrill Tel: 704-604-6603 Email: GSherrill@steelfab-inc.com | Trade Debts | | | | \$3,151,617 |

Debtor Westinghouse Electric Company LLC

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Case number (if known)

Name

| Name of creditor and complete mailing address, including zip code | Name, telephone number, and email address of creditor contact | Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts) | Indicate if claim is contingent, unliquidated, or disputed | Amount of unsecured claim | | |
|---|--|---|--|---|--|-------------|
| | | | | If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim. | | |
| 21 CSC COMPUTER SCIENCES CORP 1775 Tysons Blvd McLean, VA 22102-4284 | Name: Rick Beroth Tel: 336-399-9825 Email: rberoth@csc.com | Trade Debts | | | | \$3,090,237 |
| 22 ENVIROVAC HOLDINGS LLC 486 Old Louisville Road Garden City, GA 31408 | Name: Ann Brown Tel: 912-964-0660 Email: ann@envirovac.us | Trade Debts | | | | \$3,040,135 |
| 23 AMERICAN EQUIPMENT CO 2106 Anderson Road Greenville, SC 29611 | Name: Dean Smith Tel: 864.354.9520 Email: dean.smith@ameco.com | Trade Debts | | | | \$3,018,565 |
| 24 VALLEN 900 Sunset Blvd West Columbia, SC 29169-6860 | Name: Cantey Haile Tel: Email: Cantey.Haile@vallen.com | Trade Debts | | | | \$2,948,212 |
| 25 HERC RENTALS 6230 S Loop E Houston, TX 75265 | Name: James Fiscus Tel: 832-414-0236 Email: james.fiscus@hercrentals.com | Trade Debts | | | | \$2,846,014 |
| 26 SIEMENS INDUSTRY INC 4620 Forest Ave Cincinnati, OH 45212-3306 | Name: Scott Conner Tel: 540-314-7009 Email: scott.conner@siemens.com | Trade Debts | | | | \$2,824,817 |
| 27 CALVERT COMPANY INCORPORATED 3100 West 7th Street, Suite 500 Fort Worth, TX 76107 | Name: Douglas Calvert Tel: (912) 293-2278 Email: sambarr@azz.com | Trade Debts | | | | \$2,614,441 |
| 28 JONES LANG LASALLE AMERICAS INC 200 E Randolph St Ste. 4300 Chicago, IL 60601-6519 | Name: Matt Gonterman Tel: 312 228 2142 Email: matt.gonterman@am.jll.com | Trade Debts | | | | \$2,582,841 |
| 29 EATON CORP 8609 Six Forks Rd Raleigh, NC 27615-2966 | Name: Heath B. Monesmith Tel: (440) 523-4488 Email: heathbmonesmith@eaton.com | Trade Debts | | | | \$2,475,281 |
| 30 MARTIN MARIETTA MATERIALS Dbm Martin Marietta Aggregates Columbia, SC 29033 | Name: Roselyn R. Bar Tel: (919) 783-4603 Email: roselyn.bar@martinmarietta.com | Trade Debts | | | | \$2,434,753 |

Fill in this information to identify the case:

Debtor name: Westinghouse Electric Company LLC
United States Bankruptcy Court for the: Southern District of New York
(State)
Case number (if known): _____

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors

12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- Schedule A/B: Assets—Real and Personal Property (Official Form 206A/B)
- Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- Schedule H: Codebtors (Official Form 206H)
- Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- Amended Schedule _____
- Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- Other document that requires a declaration _____

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 03/29/2017
MM/DD/YYYY

x

/s/ Lisa J. Donahue
Signature of individual signing on behalf of debtor

Lisa J. Donahue
Printed name

Chief Transition and Development Officer
Position or relationship to debtor

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

----- X
In re: : **Chapter 11**
: :
WESTINGHOUSE ELECTRIC COMPANY : **Case No. 17- _____ ()**
LLC, et al., : :
: :
Debtors.¹ : **(Joint Administration Requested)**
: :
----- X

**CONSOLIDATED LIST OF EQUITY SECURITY HOLDERS PURSUANT TO
RULE 1007(a)(3) OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

| Debtor | Equity Holder | Percentage of Ownership | Last Known Address of Equity Holder |
|--------------------------------------|-----------------------------------|--------------------------------|--|
| Westinghouse Electric Company LLC | TSB Nuclear Energy Services Inc. | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| CE Nuclear Power International, Inc. | Westinghouse Electric Company LLC | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| Fauske and Associates LLC | Westinghouse Electric Company LLC | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, if any, are: Westinghouse Electric Company LLC (0933), CE Nuclear Power International, Inc. (8833), Fauske and Associates LLC (8538), Field Services, LLC (2550), Nuclear Technology Solutions LLC (1921), PaR Nuclear Holding Co., Inc. (7944), PaR Nuclear, Inc. (6586), PCI Energy Services LLC (9100), Shaw Global Services, LLC (0436), Shaw Nuclear Services, Inc. (6250), Stone & Webster Asia Inc. (1348), Stone & Webster Construction Inc. (1673), Stone & Webster International Inc. (1586), Stone & Webster Services LLC (5448), Toshiba Nuclear Energy Holdings (UK) Limited (2348), TSB Nuclear Energy Services Inc. (2348), WEC Carolina Energy Solutions, Inc. (8735), WEC Carolina Energy Solutions, LLC (2002), WEC Engineering Services Inc. (6759), WEC Equipment & Machining Solutions, LLC (3135), WEC Specialty LLC (N/A), WEC Welding and Machining, LLC (8771), WECTEC Contractors Inc. (4168), WECTEC Global Project Services Inc. (8572), WECTEC LLC (6222), WECTEC Staffing Services LLC (4135), Westinghouse Energy Systems LLC (0328), Westinghouse Industry Products International Company LLC (3909), Westinghouse International Technology LLC (N/A), and Westinghouse Technology Licensing Company LLC (5961). The Debtors' principal offices are located at 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066.

| Debtor | Equity Holder | Percentage of Ownership | Last Known Address of Equity Holder |
|--|--|--------------------------------|--|
| Field Services, LLC | WECTEC Global Project Services Inc. | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| Nuclear Technology Solutions LLC | WECTEC Global Project Services Inc. | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| PaR Nuclear Holding Co., Inc. | Westinghouse Electric Company LLC (100%) | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| PaR Nuclear, Inc. | PaR Nuclear Holding Co., Inc. | 100% | 899 Highway 96 West, Shoreview, Minnesota 55126, United States |
| PCI Energy Services LLC | WEC Welding & Machining, LLC | 100% | One Energy Drive, Lake Bluff, Illinois 60044, United States |
| Shaw Global Services, LLC | WECTEC Global Project Services Inc. | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| Shaw Nuclear Services, Inc. | WECTEC Global Project Services Inc. | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| Stone & Webster Asia Inc. | WECTEC Global Project Services Inc. | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| Toshiba Nuclear Energy Holdings (UK) Limited | IHI Corporation | 3% | 1, Shin-Nakahara-cho, Isogo-ku, Yokohama 235-8501, Japan |
| | National Atomic Company Kazatomprom | 10% | 168, Bogenbai batyr st. 050012, Almaty, Republic of Kazakhstan |
| | Toshiba Corporation | 87% | [1-1, Shibaura 1-chome,, Minato-ku, Tokyo 105-8001, Japan] |
| TSB Nuclear Energy Services Inc. | TSB Nuclear Energy USA Group Inc. | 100% | 1105 N. Market Street, Suite 1126, Wilmington, Delaware 19801, United States |
| Stone & Webster Construction Inc. | WECTEC Global Project Services Inc. | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |

| Debtor | Equity Holder | Percentage of Ownership | Last Known Address of Equity Holder |
|--|-------------------------------------|--------------------------------|--|
| Stone & Webster International Inc. | WECTEC Global Project Services Inc. | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| Stone & Webster Services LLC | WECTEC Global Project Services Inc. | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| WEC Carolina Energy Solutions, LLC | WEC Welding & Machining, LLC | 100% | One Energy Drive, Lake Bluff, Illinois 60044, United States |
| WEC Carolina Energy Solutions, Inc. | WEC Carolina Energy Solutions, LLC | 100% | 244 East Mount Gallant Road, Rock Hill, South Carolina 29730, United States |
| WEC Engineering Services Inc. | Westinghouse Electric Company LLC | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| WEC Equipment & Machining Solutions, LLC | WEC Welding & Machining, LLC | 100% | One Energy Drive, Lake Bluff, Illinois 60044, United States |
| WEC Specialty LLC | Westinghouse Electric Company LLC | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| WEC Welding and Machining, LLC | Westinghouse Electric Company LLC | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| WECTEC Contractors Inc. | WECTEC Global Project Services Inc. | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| WECTEC Global Project Services Inc. | WECTEC LLC | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| WECTEC LLC | Westinghouse Electric Company LLC | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| WECTEC Staffing Services LLC | WECTEC LLC | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |

| Debtor | Equity Holder | Percentage of Ownership | Last Known Address of Equity Holder |
|--|-----------------------------------|--------------------------------|--|
| Westinghouse Energy Systems LLC | Westinghouse Electric Company LLC | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| Westinghouse Industry Products International Company LLC | Westinghouse Electric Company LLC | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| Westinghouse International Technology LLC | Westinghouse Electric Company LLC | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |
| Westinghouse Technology Licensing Company LLC | Westinghouse Electric Company LLC | 100% | 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066, United States |

Fill in this information to identify the case:

Debtor name: Westinghouse Electric Company LLC
United States Bankruptcy Court for the: Southern District of New York
(State)
Case number (if known): _____

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors

12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- Schedule A/B: Assets—Real and Personal Property (Official Form 206A/B)
- Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- Schedule H: Codebtors (Official Form 206H)
- Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- Amended Schedule _____
- Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- Other document that requires a declaration Consolidated List of Equity Security Holders

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 03/29/2017
MM/DD/YYYY

x

/s/ Lisa J. Donahue

Signature of individual signing on behalf of debtor

Lisa J. Donahue

Printed name

Chief Transition and Development Officer

Position or relationship to debtor

Exhibit B

Westinghouse Proprietary Class 2



Westinghouse Electric Company
Nuclear Power Plants
4350 Northern Pike
Monroeville, PA 15146

Mr. Kelly Shaw
Sourcing Manager, New Nuclear
Florida Power & Light Group
NPP/JB
700 Universe Blvd.
Juno Beach, FL 33408

Telephone: (412) 374-6119
Fax: (412) 374-6677
Email: hanahakb@westinghouse.com

Our Reference: APC/SBD0023

May 16, 2008

Subject: Reservation Agreement for manufacture of long lead time forgings

Dear Mr. Shaw,

Enclosed are two (2) copies of the subject Agreement that have been executed by Westinghouse. Please sign both copies and return an original document to me for Westinghouse's records.

This offer, as delineated in the Agreement, remains valid until May 30, 2008. Once the document has been executed by FPL we will need to receive a purchase order reference to allow invoicing and the transfer of funds per the Agreement.

Thank you for your team's efforts to develop this Agreement. Westinghouse looks forward to a continued and growing relationship with the FPL new nuclear plant team.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kerry B. Hanahan'.

Kerry B. Hanahan
U.S. AP1000 Business Development
Nuclear Power Plants

Attachment

cc: P. Leonbruni – WEC VP Customer Relations and Sales
M. Wohlschlegal – TIC VP Business Development
D. Lipman – WEC Sr. VP Nuclear Power Plants
K. Quinn – WEC Director Supply Chain

Electronically approved records are authenticated in the Electronic Document Management System. This document is the property of and contains Proprietary Information owned by Westinghouse Electric Company LLC and/or its subcontractors and suppliers. It is transmitted to you in confidence and trust, and you agree to treat this document in strict accordance with the terms and conditions of the agreement under which it was provided to you.

**RESERVATION AGREEMENT
BETWEEN
WESTINGHOUSE ELECTRIC COMPANY
AND FLORIDA POWER & LIGHT COMPANY**

This manufacturing space reservation agreement ("Reservation Agreement") is effective April 21, 2008 ("Effective Date") by and between Westinghouse Electric Company ("WEC") and Florida Power & Light Company ("Purchaser")(individually referred to as a "Party" and collectively referred to as the "Parties", as appropriate).

The purpose of this Reservation Agreement is to set forth the Parties' understandings regarding Purchaser's desire to purchase and WEC's desire to sell a reservation of manufacturing space for the manufacture of long lead time forgings, consisting of twenty-three (23) total long lead time forgings for each AP1000 unit including nine (9) for each steam generator and five (5) for the reactor vessel (the "Components") for Purchaser's proposed Turkey Point Nuclear Plant Units 6 and 7 (the "Project").

In consideration of the foregoing, and agreeing to be bound by the terms contained herein, the Parties agree and covenant as follows:

1. Manufacturing Space Reservation and Reservation Fee

To reserve Components manufacturing space, Purchaser shall pay to WEC a reservation fee ("Reservation Fee") in the amount of \$10,860,960. The Reservation Fee shall be paid by wire transfer no later than 10 business days after execution of this Reservation Agreement. The Reservation Fee is not refundable except to the extent shown in the following chart and except as otherwise provided in this Reservation Agreement:

| <u>Termination Date</u> | <u>% Refundable</u> |
|-------------------------|-------------------------|
| Prior to July 1, 2008 | 100% (fully refundable) |
| After July 1, 2008 | 0% |

In exchange for Purchaser's payment of the Reservation Fee, WEC will reserve the manufacturing space required at Japan Steel Works ("JSW") for deliveries to equipment fabricator/suppliers selected for the Project of the Components on or prior to a mutually agreed delivery date to be determined, provided, however, that in no event shall the forging fabrication window be later than (a) between June, 2012 and May 2014 for the Turkey Point Unit 6 forgings and (b) between August, 2014 and May, 2016 for the Turkey Point Unit 7 forgings. WEC's reservation obligation shall commence upon WEC's receipt of the Reservation Fee and shall, subject to prior termination in accordance with Paragraphs 3 or 4 below, continue until the Parties execute an agreement for the procurement of the Components containing all mutually agreeable terms and conditions (the "Definitive Agreement"), as more specifically set forth in Paragraph 2 below, collectively the "Work," but shall expire on December 31, 2009 (Reservation Agreement Expiration Date). The parties can mutually agree to extend this date if they are continuing to negotiate in good faith on the Definitive Agreement. In this event, one party may provide written notice to the other of its desire to extend this date based on the parties' on-going good faith negotiations on or prior to the original expiration date. At Purchaser's request, WEC shall provide to

Purchaser written evidence of WEC's contractual arrangement with JSW for reservation of the manufacturing space required by this Paragraph 1.

For the purposes of this Reservation Agreement, the term "Delivery" shall be defined as the forging Ex-Works dates as specified in the Definitive Agreement.

2. Definitive Agreement

The Parties intend to negotiate and execute a Definitive Agreement for the purchase and sale of the Components prior to the Reservation Agreement Expiration Date. The Definitive Agreement may be an engineering and procurement agreement, or similar agreement for the purchase and sale of the Components and other equipment comprising the AP1000 units. The Definitive Agreement terms shall be negotiated between Purchaser and WEC. The scope of supply shall be mutually agreed upon. The Parties agree to negotiate in good faith the Definitive Agreement for the Project during the term of this Reservation Agreement. This Reservation Agreement is not intended to be, and shall not be construed as, a contract for the purchase and sale of Components. The validity and enforceability of any agreement for the purchase and sale of Components between the Parties is subject to and conditioned upon the Parties' agreeing upon and reducing to a Definitive Agreement all terms and conditions deemed necessary or advisable by them. No contract for the purchase and sale of Components shall exist between the Parties unless and until the Parties negotiate, document, execute, and deliver a Definitive Agreement. Notwithstanding the Parties entering into this Reservation Agreement, there shall be no agreement as to the establishment of a commercial operation date for either AP1000 unit until such time that the Parties negotiate, document, execute, and deliver the Definitive Agreement.

3. Termination by Purchaser

Purchaser may, upon providing written notice to WEC in accordance with Paragraph 8 below, terminate this Reservation Agreement at its sole discretion at any time prior to the Reservation Agreement Expiration Date at no cost to Purchaser and without penalty or liability to WEC other than the refund provisions of Paragraph 1.

In the event FPL Terminates this Agreement for its convenience at any time after July 1, 2008 and prior to the Reservation Agreement Expiration Date, WEC shall use commercially reasonable efforts to reassign FPL's Component's manufacturing slot reservation space to a third party. WEC shall provide to FPL, within ninety (90) days of the completion of any such reassignment their Reservation Fee less a 15% service fee to cover the costs incurred by WEC to market or otherwise facilitate such reassignment.

4. Automatic Termination

This Reservation Agreement shall terminate on the earlier of:

- (a) The Reservation Fee not being received by WEC from Purchaser within the time limit specified in Paragraph 1;
- (b) The filing by Purchaser or WEC of a petition or application for any proceeding relating to Purchaser or WEC as debtor under any bankruptcy or insolvency law of any jurisdiction;
- (c) Purchaser terminating this Reservation Agreement pursuant to Paragraph 3;

- (d) The Parties not executing a Definitive Agreement by the Reservation Agreement Expiration Date; or
- (e) The Parties entering into a Definitive Agreement.

In the event of termination of this Reservation Agreement pursuant to subsections (a), (c) or (d) above, or in the event of termination of this Reservation Agreement by WEC pursuant to subsection (b), WEC may retain the Reservation Fee received subject to the refund provisions of Paragraph 1 above. In such case, neither Party shall have any further liability nor obligation to the other except as provided in Paragraph 5. In the event of termination of this Reservation Agreement by Purchaser pursuant to subsection (b), Purchaser shall be entitled to a refund of all monies paid to WEC by Purchaser up to the date of termination.

In the event of termination of this Reservation Agreement pursuant to subsection (e) above, the Reservation Fee shall be credited against amounts due from Purchaser to WEC under the Definitive Agreement, and the Parties' obligations to each other shall be as set forth in the Definitive Agreement.

5. Confidentiality

Project related technical and financial information the Parties choose to exchange with respect to or in connection with this Reservation Agreement shall be regarded by the receiving Party as confidential and proprietary information subject to the terms of this Paragraph 5 if it is: (i) provided in writing and marked confidential or proprietary, (ii) disclosed orally and identified at the time of disclosure as being confidential or proprietary, or (iii) provided on a computer disk, photographic, or other tangible media, which is marked confidential or proprietary ("Confidential Information"). Confidential Information shall be handled by the receiving Party in accordance with the terms of the Confidentiality Agreement among Westinghouse Electric Company LLC, Stone & Webster, Inc. and Florida Power & Light Company effective on January 25, 2008 (the "Confidentiality Agreement"), including the obligations and restrictions contained in the Confidentiality Agreement with respect to disclosure of Confidential Information to third parties. In particular, the receiving Party may disclose Confidential Information and either Party may disclose this Reservation Agreement to its attorneys and auditors on a confidential basis without the consent of the other Party. However, neither this Reservation Agreement nor the Confidential Information shall be disclosed to any other third party without obtaining prior written permission from the disclosing Party, provided, however, that Purchaser may disclose this Reservation Agreement and Confidential Information on a confidential basis without the prior consent of WEC in regulatory proceedings relating to the Project before the Florida Public Service Commission and that WEC may disclose this Reservation Agreement and Confidential Information on a confidential basis without the prior consent of Purchaser to JSW provided in all cases such disclosure is on a confidential basis in accordance with the Confidentiality Agreement.

6. No Partnership.

The Parties intend by this Reservation Agreement to establish the basis upon which they will cooperate together, but on an independent basis. This Reservation Agreement does not constitute or create a joint venture, partnership, or any other similar arrangement between the Parties. Each Party is an independent company and neither of them is the agent of, nor has the authority to bind the other Party for any purpose. Neither Party shall bind the other Party, or represent that it has the authority to do so.

7. Disclaimer of Liability

Notwithstanding anything to the contrary elsewhere in this Reservation Agreement, in no event shall either Party be liable to the other, whether based in contract, in tort (including negligence and strict liability), under warranty, or otherwise, for: any special, indirect, incidental, or consequential loss or damage whatsoever; loss of use of a Party's equipment or power system; loss of profits or revenue or loss of use thereof; loss of opportunity; increased costs of any kind, including, but not limited to, capital cost, fuel cost and cost of purchased or replacement power; or claims of any customers. Each Party's total liability under this Reservation Agreement whether based in law, tort (including strict liability), equity, contract or otherwise shall not exceed the Reservation Fee. Purchaser agrees that this Paragraph 7 does not alter FPL obligations as defined in Paragraph 1.

8. Notices

Any notice hereunder, to be effective, shall be in writing, and shall be delivered to a Party at the applicable address set forth below by hand, registered, certified or express mail, or recognized national overnight delivery service:

To WEC:

Westinghouse Electric Company, LLC
c/o Mr. Jack Lanzoni, VP Supply Chain Management
4350 Northern Pike
Monroeville, PA 15146

Phone: (412) 374-4089
Fax: (412) 374-4060

To Purchaser:

Florida Power & Light Company
c/o Kelly Shaw
700 Universe Boulevard
Juno Beach, FL 33408

Phone: (561) 694-4704
Fax: (561) 691-7573

9. Governing Law, Jurisdiction, and Venue

This Reservation Agreement shall be governed by and construed in accordance with the laws of the State of New York, excluding its rules governing conflicts of law. The Parties hereby irrevocably submit to the exclusive jurisdiction of the United States District Court for the Southern District of New York, solely in respect of the interpretation and enforcement of the provisions of this Agreement, and in respect of the transactions contemplated hereby, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof or of any such document, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in said court or that the venue thereof may not be appropriate or that this Agreement may not be enforced in or by such court, or that the action has been brought in an inconvenient forum, and the parties hereto irrevocably agree that all claims with respect to such action or proceeding shall be heard and determined in such a court.

10. Assignment

Neither of the Parties may assign this Reservation Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the previous sentence, Purchaser and WEC agree that the interest in the manufacturing space may be assigned or transferred to the applicable fabricator(s) selected to supply the equipment for the AP1000 units

11. Amendment

No amendment or modification of this Reservation Agreement, nor waiver of any provision contained herein, shall be effective unless set forth in a written instrument or instruments executed by duly authorized representatives of both Parties, with said instrument or instruments possessing at least the same formality as this Reservation Agreement.

12. Entire Agreement

This Reservation Agreement represents the entire understanding of the Parties with respect to the subject matter contained herein and supersedes all prior discussions, understandings and agreements between the Parties with respect thereto.

FLORIDA POWER & LIGHT COMPANY

By: Marty W. Gettler

Title: Vice Pres New Nuclear Projects

Date: May 22, 2008

WESTINGHOUSE ELECTRIC CORPORATION

By: David A. Lynn

Title: Senior Vice-President

Date: 15 May 2008

Exhibit C

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers visit <http://www.djreprints.com>.

<http://www.wsj.com/articles/toshiba-to-exit-nuclear-construction-business-1485887107>

BUSINESS

Toshiba to Exit Nuclear Construction Business

Facing billions of dollars in losses after ill-fated bet, Westinghouse unit will limit future nuclear business to selling reactor designs



The Plant Vogtle nuclear power plant in Waynesboro, Ga., is one of the two U.S. facilities where Westinghouse is in the process of building additional reactors. PHOTO: JOHN BAZEMORE/ASSOCIATED PRESS

By *Russell Gold and Takashi Mochizuki*

Jan. 31, 2017 1:25 p.m. ET

Toshiba Corp. [TOSYY 6.47% ▲](#) plans to stop building nuclear power plants after incurring billions of dollars in losses trying to complete long-delayed projects in the U.S., a move that could have widespread ramifications for the future of the nuclear-power industry.

The Japanese industrial conglomerate is set to announce plans to exit nuclear construction by the middle of February, according to a Toshiba executive familiar with the matter. The executive also said Toshiba's chairman, Shigenori Shiga, and Danny Roderick, a Toshiba executive and the former head of its Pittsburgh-based nuclear power unit, Westinghouse Electric Co., are expected to step down.

Toshiba's decision deals a fatal blow to its ambitions to become a major player in the nuclear construction business. The company has bet aggressively on Westinghouse's AP1000 reactor design, which it hoped would anchor a new generation of nuclear power plants that were supposed to be easier to build and to deliver on time. But signs emerged that the AP1000 wasn't as easy to build as hoped, and yet Toshiba remained confident and took on added financial risk, according to legal filings and interviews with people involved with the construction process.

Toshiba declined to comment. The company previously said it would disclose the size of Westinghouse's losses on Feb. 14. In December, it said it was likely to take a write-

down of several billion dollars, and people familiar with the situation say the losses could approach \$6 billion—plunging the company into a new crisis just as it was seeking to move away from an earlier accounting scandal.

Westinghouse will continue to design nuclear reactors, the Toshiba executive said, and is expected to complete construction work at two U.S. nuclear facilities it is still in the process of building—in Georgia and South Carolina, commissioned by utilities Southern Co. and Scana Corp., respectively.

RELATED

- Toshiba Considers Spinning Off Core Semiconductor Business (Jan. 18, 2017)
- Troubled Chinese Nuclear Project Illustrates Toshiba's Challenges (Dec. 29, 2016)
- Toshiba Expects Write-Down of as Much as Several Billion Dollars (Dec. 29, 2016)
- Toshiba Accounting Scandal Draws Record Fine From Regulators (Dec. 7, 2015)

Toshiba's future involvement with nuclear plants will be limited to selling its designs; it will let other companies handle the risk of building the facilities,

an approach it already takes in China.

“We are closely monitoring [Westinghouse's] financial status, as well as that of Toshiba,” a Scana spokeswoman said.

Southern officials said they are confident shareholders and customers are protected through a \$920 million letter of credit from Westinghouse and a fixed-price contract which transfers responsibility for cost overruns to Westinghouse.

In October 2015, as Toshiba faced a very public accounting scandal centered on its computer business, it was quietly dealing with another crisis in nuclear power-plant construction—and made a series of bold moves in an attempt to fix it.

The company bought out a partner in a nuclear-construction consortium, settled lawsuits and renegotiated contracts with Southern and Scana, which put Toshiba overwhelmingly on the hook if the two construction projects continued to run over budget.

Toshiba's decision to exit the nuclear construction business could have widespread ramifications. Nuclear power appears to be “too big, too expensive, and most of all, too slow to compete effectively in what is an increasingly ferocious competition,” said Mycle Schneider, a nuclear expert based in Paris.



Toshiba's Danny Roderick, left, and Shigenori Shiga, second right, are expected to step down when the company announces plans to exit nuclear construction in February. PHOTO: KAZUHIRO NOGI/AGENCE FRANCE-PRESSE/GETTY IMAGES

The nuclear construction business, led by a General Electric Co. -Hitachi Ltd. venture and France's Areva SA, has been under pressure since the 2011 Fukushima nuclear-plant meltdowns in Japan.

Toshiba plunged into the business in 2006, when it won a bidding war to acquire Westinghouse. Analysts worried at the time that it had overbid. But within a couple of years the bet appeared to be paying off: Southern chose Westinghouse's design for the first new nuclear plant to be built in the U.S. in 30 years, and the next month Scana also chose the AP1000 for a plant in South Carolina.

The U.S. government approved the designs in early 2012 and work began. Within a few months, legal disputes arose between Westinghouse, its construction consortium partner, Stone & Webster, and Southern over who would pay for unexpected costs resulting from post-Fukushima tougher safety standards, according to filings.

Relations between Westinghouse and Stone & Webster's owner, Chicago Bridge & Iron NV, broke down by 2015, according to filings. William Jacobs, the independent construction monitor for the plant Southern is building, said Westinghouse and CB&I were "incurring very large costs beyond those being publicly reported" due in part to having so many employees for a project that was years behind schedule.

In March 2015, CB&I broached a possible sale of Stone & Webster to Toshiba. As the talks intensified, Toshiba became mired in the accounting scandal, prompting it to acknowledge it padded profits in its personal computer and other businesses.

Toshiba worried that if the lawsuits with Southern and CB&I over the Fukushima-related safety-cost overruns continued, Toshiba might have had to acknowledge that Westinghouse faced big liabilities, according to company executives. A large write-down at that stage threatened to wipe out the company's capital.

'I don't see how Southern and Scana are confident they won't be responsible for any further cost increases.'

—Sara Barczak, Southern Alliance for Clean Energy

To end the litigation, Toshiba made several deals in October 2015. It acquired Stone & Webster for \$229 million in deferred payments and became the only guarantor on the engineering contract, releasing CB&I. Scana agreed to push back the completion date for the South Carolina plant, but negotiated a deal where it would pay Toshiba \$505 million in exchange for switching to a fixed-price contract. Toshiba agreed.

Southern faced up to \$1.5 billion in liability in the lawsuits over post-Fukushima safety-cost overruns, and settled for about \$350 million in October 2015. The deal restricted Westinghouse's ability to "seek further increases in the contract price," Southern said—meaning that if the nuclear plant couldn't be completed in a timely manner, Toshiba would shoulder the costs.

As problems continued, Westinghouse and CB&I last year sued each other in a dispute over the Stone & Webster sale. Then Toshiba said it might need to take a write-down of several billion dollars related to the value of Stone & Webster, caused by cost overruns.

While Southern said it is insulated from cost overruns, it is unclear if the \$920 million line of credit from Westinghouse would be sufficient to complete its two generating units if Westinghouse's financial problems prevent it from fulfilling its contract.

"I don't see how Southern and Scana are confident they won't be responsible for any further cost increases," said Sara Barczak, a critic of the projects who works for the Southern Alliance for Clean Energy, a nonpartisan advocacy group.

Write to Russell Gold at russell.gold@wsj.com and Takashi Mochizuki at takashi.mochizuki@wsj.com

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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 31, 2017

MEMORANDUM AND ORDER

(Denying Petition to Intervene and File a New Contention, and Terminating Proceeding)

Pending before this Licensing Board is a petition to intervene challenging a combined license (COL) application filed by Florida Power & Light Company (FPL) for two AP1000 nuclear reactors, Turkey Point Units 6 and 7, to be located near Homestead, Florida. See Petition for Leave to Intervene in a Hearing on [FPL's] [COL] for Turkey Point Units 6 & 7 and File a New Contention (Apr. 18, 2017) [hereinafter Petition]. Three Florida municipalities—the City of Miami, the Village of Pinecrest, and the City of South Miami (referred to collectively as Petitioners)—allege that, in light of changed circumstances arising from Westinghouse Electric Company's (Westinghouse's) recent bankruptcy filing, FPL's COL application no longer demonstrates that FPL is financially qualified to cover the construction and fuel cycle costs for Units 6 and 7, as required by 10 C.F.R. § 50.33(f)(1). See Petition at 7.

For the reasons discussed below, we conclude that, although Petitioners have standing to intervene and have proffered a timely contention, their contention fails to satisfy the admissibility standards in 10 C.F.R. § 2.309(f)(1). We therefore deny their petition to intervene.¹

I. BACKGROUND

A. In June 2009, FPL submitted a COL application to the NRC to construct two new AP1000 reactors (Units 6 and 7) at the Turkey Point site. Consistent with the requirements of 10 C.F.R. § 50.33(f)(1),² FPL's application included information to demonstrate that FPL was financially qualified to carry out the construction and first fuel loading of Turkey Point Units 6

¹ On July 10, 2017, this Licensing Board issued a decision that disposed of all pending matters in this contested proceeding with the exception of Petitioners' petition to intervene. See LBP-17-05, 85 NRC ___, ___, ___ n.23 (slip op. at 3, 16 n.23) (July 10, 2017). Our denial of their petition terminates this proceeding at the Licensing Board level. The uncontested, mandatory adjudication of FPL's COL application remains pending before the Commission. See Florida Power and Light Company; Turkey Point, Units 6 & 7, 82 Fed. Reg. 34,995 (July 27, 2017).

² 10 C.F.R. § 50.33(f)(3) specifies that COL applicants must submit the financial qualification information described in section 50.33(f)(1), which states in relevant part:

[T]he applicant shall submit information that demonstrates that the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction costs and related fuel cycle costs. The applicant shall submit estimates of the total construction costs of the facility and related fuel cycle costs, and shall indicate the source(s) of funds to cover these costs.

10 C.F.R. § 50.33(f)(1); see also id. § 52.77 ("The [COL] application must contain all of the information required by 10 C.F.R. § 50.33.").

Appendix C to 10 C.F.R. Part 50 provides guidance regarding how a COL applicant should establish its financial qualification. "In determining an applicant's financial qualification," states Appendix C, "the Commission will require the minimum amount of information necessary for that purpose." 10 C.F.R. Part 50, App. C. If the applicant is an "established organization[]" such as FPL, it need only provide (1) an estimate of construction costs; (2) the source of construction funds; and (3) its most recent annual financial statement. See id. Regarding the source of construction funds, Appendix C states that

[t]he application should include a brief statement of the applicant's general financial plan for financing the cost of the facility, identifying the source or sources upon which the applicant relies for the necessary construction funds, e.g., internal sources such as undistributed earnings and depreciation accruals, or external sources such as borrowings.

Id.

and 7. See Turkey Point Units 6 & 7 COL Application, Part 1—General and Financial Information, Rev. 8, at 4–5 (ADAMS Accession No. ML16250A266) [hereinafter COL Application Part 1]. Specifically, FPL represented that the estimated total construction cost for Turkey Point Units 6 and 7 would range between \$13,700,498,919.00 and \$19,994,061,325.00. See id., App. 1A. FPL stated that “[t]he sources of long-term construction funding for Units 6 & 7 will be a mixture of internally generated cash and external funding. The external funding will come from a mix of debt and equity capital. FPL currently uses first mortgage bonds and equity contributions from NextEra Energy, Inc. to finance long-term utility assets.” Id. at 5. NextEra Energy, Inc. is FPL’s parent company. See id. at 4–5.

FPL’s application also stated that FPL planned to recover the costs of constructing the facility via cost recovery in accordance with Florida Statute section 366.93 and Florida Administrative Code r. 25-6.0423. See COL Application Part 1 at 5.³

In November 2016, the NRC Staff issued the Final Safety Evaluation Report (FSER) in which it assessed FPL’s financial qualification to construct Turkey Point Units 6 and 7. See Division of New Reactor Licensing, Office of New Reactors, [FSER] for [COLs] for Turkey Point Nuclear Plant Units 6 and 7, Ch. 1 at 1-39 (Nov. 10, 2016) (ADAMS Accession No. ML16253A219) [hereinafter FSER]. First, the NRC Staff found that the estimated total construction costs presented in FPL’s COL application were reasonable. See id. at 1-37 to 1-38. Second, the NRC Staff found that FPL was “financially qualified to construct the facilities” because it had “demonstrated that it possesses or has reasonable assurance of obtaining the

³ Pursuant to Florida Statute section 366.93, the Florida Public Service Commission can grant a utility’s request for advanced nuclear cost recovery for preconstruction and construction activities if the utility shows that (1) “[t]he plant remains feasible;” and (2) “[t]he projected costs for the plant are reasonable.” Fla. Stat. § 366.93(3)(e) (2016). To make a “feasibility” showing, a utility must demonstrate that “it has committed sufficient, meaningful, and available resources to enable the project to be completed and that its intent is realistic and practical.” Fla. Admin. Code r. 25-6.0423(6)(c) (2014).

funds necessary to cover estimated construction costs and related fuel cycle costs.” Id. at 1-39.

With regard to its financial qualification finding, the NRC Staff stated that

FPL expects to finance this project through a mixture of internally generated cash and external funding. The external funding will come from a mix of debt and equity capital. FPL currently uses first mortgage bonds and equity contributions from NextEra Energy, Inc. to finance long-term utility assets. The [NRC Staff] concludes that both FPL and NextEra Energy have sufficient financing capacity to fund this project from the following sources: internally generated operating cash flows, commercial paper and bank facilities, and long-term debt and equity capital markets; and will recover the cost of constructing the facility in accordance with Florida Statute [section] 366.93 and Florida Administrative Code R. 25-6.0423.

Id. at 1-38 to 1-39.

B. In accordance with 10 C.F.R. Part 52, Appendix D, IV.A.2.a, FPL’s COL application also incorporated Westinghouse’s AP1000 design control document by reference. See Turkey Point, Units 6 & 7 COL Application, Part 2–Final Safety Analysis Report, Rev. 8 passim (ADAMS Accession No. ML16264A045). As the sole manufacturer for the AP1000 design, Westinghouse entered into a Reservation Agreement with FPL in May 2008 to reserve space for the manufacture of certain components for the construction of Turkey Point Units 6 and 7. See Petition, Ex. B, Reservation Agreement Between [Westinghouse] and [FPL] at 1 (May 22, 2008). The Reservation Agreement states that it is “not intended to be, and shall not be construed as, a contract for the purchase and sale of components.” Id. at 2. Rather, it expresses FPL’s and Westinghouse’s intent to execute a “Definitive Agreement” for the purchase and sale of the components prior to the expiration or termination of the Reservation Agreement. See id. It also provides that the Reservation Agreement would automatically terminate if, among other things, Westinghouse were to file for bankruptcy. See id.

On March 29, 2017, Westinghouse filed for Chapter 11 bankruptcy in the United States Bankruptcy Court for the Southern District of New York, see Petition, Ex. A, [Westinghouse] Voluntary Petition for Non-Individual Filing for Bankruptcy (Mar. 29, 2017), thereby terminating the Reservation Agreement between FPL and Westinghouse.

II. PROCEDURAL HISTORY

On April 18, 2017, Petitioners filed the petition to intervene that we now consider, arguing that, due to Westinghouse's bankruptcy and the corresponding termination of the Reservation Agreement, FPL is no longer financially qualified to construct Turkey Point Units 6 and 7. Specifically, their contention alleges:

The FSER is deficient in concluding that FPL has demonstrated that it possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction costs and related fuel cycle costs and FPL has failed to indicate source(s) of funds to cover these costs.

Petition at 7.

On May 15, 2017, FPL and the NRC Staff filed answers opposing Petitioners' request to intervene. See [FPL's] Answer Opposing [Petitioners'] Petition to Intervene and Request for Hearing Regarding the [COL] Application for Turkey Point Units 6 & 7 (May 15, 2017) [hereinafter FPL Answer]; NRC Staff Answer to Petition for Leave to Intervene and New Contention (May 15, 2017) [hereinafter NRC Staff Answer].

On May 22, 2017, Petitioners filed a reply to FPL's and the NRC Staff's answers. See Petitioners' Reply to NRC Staff and FPL's Answers to Petition for Leave to Intervene in a Hearing on [FPL's] [COL] Application for Turkey Point Units 6 & 7 and File a New Contention (May 22, 2017) [hereinafter Petitioners' Reply].

On June 1, 2017, the NRC Staff filed an unopposed motion for permission to file a response to Petitioners' reply, see NRC Staff's Unopposed Motion for Leave to File a Response to New Arguments Raised in Petitioners' Reply (June 1, 2017) [hereinafter NRC Staff Motion],

which we granted. See Licensing Board Order (Granting NRC Staff's Unopposed Motion) (June 6, 2017) (unpublished).

Also on June 1, 2017, FPL filed a motion seeking to strike portions of Petitioners' reply and an accompanying affidavit. See [FPL's] Motion to Strike Portions of Petitioners' Reply and Affidavit of Mark W. Crisp (June 1, 2017) [hereinafter FPL's Motion to Strike]. Petitioners opposed FPL's motion. See Petitioners' Response to FPL's Motion to Strike Portions of Petitioners' Reply and Affidavit of Mark W. Crisp (June 12, 2017) [hereinafter Petitioners' Response to FPL's Motion].

On June 20, 2017, this Board held oral argument on the parties' filings. See Licensing Board Order (Scheduling and Providing Instructions for Oral Argument) (June 8, 2017) (unpublished); see also Oral Argument Transcript at 910–98 (June 20, 2017) [hereinafter Tr.].

III. ANALYSIS

An entity seeking to intervene in an ongoing licensing proceeding must demonstrate standing and proffer a contention that is timely and that satisfies this agency's contention-admissibility standards. See 10 C.F.R. § 2.309(a)–(d), (f). As discussed below, we conclude that Petitioners have standing and that their contention is timely. Their contention fails, however, to satisfy the NRC's contention-admissibility standards.⁴

Before analyzing Petitioners' intervention request, we consider FPL's motion to strike portions of Petitioners' reply and the accompanying affidavit of Mark W. Crisp (Exhibit 8 to Petitioners' Reply). We agree with FPL that Mr. Crisp's affidavit should be struck in its entirety, see FPL's Motion to Strike at 6–7, because it improperly "attempt[s] to backstop elemental deficiencies in [Petitioners'] original petition to intervene." Entergy Nuclear Operations, Inc.

⁴ In their reply, in addition to arguing that their contention should be admitted, Petitioners advanced for the first time several requests for relief, including requests to issue a license condition and to stay this proceeding. See Petitioners' Reply at 13; see also Tr. 917–18. We reject their requests as untimely and meritless. See NRC Staff Motion, attach., NRC Staff's Response to New Arguments Raised in Petitioners' Reply at 2–4.

(Palisades Nuclear Plant), CLI-08-19, 68 NRC 251, 262 (2008) (internal quotation marks omitted). “While a petitioner need not introduce at the contention phase every document on which it will rely in a hearing, if the contention as originally pled did not cite adequate documentary support, a petitioner cannot remediate the deficiency by introducing in the reply documents that were available to it during the time frame for initially filing contentions.” Nuclear Mgmt. Co., LLC (Palisades Nuclear Plant), CLI-06-17, 63 NRC 727, 732 (2006). Petitioners do not assert that Mr. Crisp’s affidavit could not have been included as part of their original petition. See Petitioners’ Response to FPL’s Motion at 5–7. Accordingly, we will not consider the belated affidavit at this juncture.⁵ We decline, however, to strike the other material identified in FPL’s motion. See FPL’s Motion to Strike at 4–6, 8–12. In our view, that material bears a sufficient nexus to the facts and arguments in the initial petition to warrant being included in Petitioners’ reply.⁶

A. Petitioners Satisfy Standing Requirements

To participate in an NRC licensing proceeding, a petitioner must establish standing. See 10 C.F.R. § 2.309(a), (d). However, “[i]f the party or participant has already satisfied the requirements for standing . . . in the same proceeding in which the new or amended contentions are filed, it does not need to do so again.” Id. § 2.309(c)(4). As defined in NRC regulations, a “participant” includes “any interested . . . local governmental body . . . that seeks to participate in

⁵ Mr. Crisp’s affidavit concerns the substance of Petitioners’ contention by primarily discussing the construction problems and cost overruns experienced at other AP1000 reactor sites and how the Westinghouse bankruptcy exacerbated those issues. Thus, our decision to strike it does not run afoul of Commission precedent holding that a petitioner may, to an extent, use a reply brief to cure deficiencies in an original petition regarding a claim of standing. See, e.g., South Carolina Elec. & Gas Co. (Virgil C. Summer Nuclear Station, Units 2 & 3), CLI-10-01, 71 NRC 1, 7 (2010).

⁶ FPL states that if we do not grant in full its motion to strike, it “should be afforded an opportunity [to file a substantive answer] to demonstrate why nothing in [Petitioners’] reply renders the original contention admissible.” See FPL’s Motion to Strike at 12. FPL’s request to file a substantive answer is rendered moot by our determination that Petitioners’ proffered contention is not admissible.

a proceeding under § 2.315(c).” Id. § 2.4. Because the City of Miami and the Village of Pinecrest previously satisfied the requirements for standing in this proceeding, see LBP-15-19, 81 NRC 815, 818–19, 828 (2015); LBP-11-06, 73 NRC 149, 248 (2011), they “do[] not need to do so again.” 10 C.F.R. § 2.309(c)(4).⁷

Regarding the City of South Miami, as stated supra note 7, in licensing actions involving COL applications, “we presume that a petitioner has standing to intervene if the petitioner lives within approximately 50 miles of the facility in question.” Calvert Cliffs, CLI-09-20, 70 NRC at 915–16. Because the City of South Miami is located less than fifty miles from the Turkey Point site, see Petition at 5, it satisfies the requirements for standing pursuant to the agency’s proximity, or geographic, presumption.

B. Petitioners’ Contention Is Timely

Where, as here, a petitioner seeks to intervene in a licensing proceeding after the original deadline prescribed in 10 C.F.R. § 2.309(b) has lapsed, the petitioner must satisfy the “good cause” standard in section 2.309(c)(1) for its belated filing 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).

We agree with the NRC Staff that Petitioners’ newly proffered contention satisfies the “good cause” standard. See NRC Staff Answer at 10–12. First, the information on which the

⁷ The City of Miami and the Village of Pinecrest are located less than fifty miles from the Turkey Point site. See Petition at 4–5. Accordingly, even if they were required to make a fresh showing of standing, they could do so pursuant to the proximity, or geographic, presumption, which dispenses with the need for a petitioner who lives within fifty miles of the facility at issue to make an affirmative showing of injury, causation, and redressability in certain proceedings, including COL applications. See, e.g., Calvert Cliffs 3 Nuclear Project, LLC (Calvert Cliffs Nuclear Power Plant, Unit 3), CLI-09-20, 70 NRC 911, 915–16 (2009).

contention is based—i.e., Westinghouse’s recent declaration of bankruptcy—“was not previously available.” 10 C.F.R. § 2.309(c)(1)(i). Second, the fact that Westinghouse declared bankruptcy “is materially different from information previously available.” Id. § 2.309(c)(1)(ii). Third, Petitioners submitted their contention “in a timely fashion based on the availability” of the new information. Id. § 2.309(c)(1)(iii). Specifically, they filed their petition on April 18, 2017, or twenty days after Westinghouse filed for bankruptcy on March 29, 2017. See Petition at 12–13. The timing of their filing comported with this Board’s Scheduling Order, which specified that a newly proffered contention would be deemed timely if filed within thirty days of the date when the new and materially different information on which it is based became available. See Licensing Board Initial Scheduling Order and Administrative Directives (Prehearing Conference Call Summary, Grant of Joint Motion Regarding Mandatory Disclosures, Initial Scheduling Order, and Administrative Directives) (Mar. 30, 2011) at 8 (unpublished), amended by Licensing Board Notice (Granting Joint Motion to Modify Initial Scheduling Order) (Sept. 12, 2012) (unpublished).

FPL argues that the contention fails to satisfy the “good cause” standard because “Westinghouse’s March 2017 bankruptcy is not material to the substance of the contention, and, therefore does not justify the Petitioners’ late filing.” FPL Answer at 16–17. Restated, FPL argues that the “materially different” standard in section 2.309(c)(1)(ii) requires Petitioners to show that the new information is material to the substance of their contention. See id.; see also Tr. at 943–45. We disagree.

FPL’s argument is incompatible with the regulatory language, which does not require a petitioner to show that the new information is material to the contention. Rather, a petitioner satisfies section 2.309(c)(1)(ii) simply by showing that the new information upon which the contention is based is “materially different” from previously available information. “Materially” in this context describes the type or degree of difference between the new information and previously available information that a petitioner must establish, and it is synonymous with, for

example, “significantly,” “considerably,” or “importantly.”⁸ In arguing that section 2.309(c)(1)(ii) also requires a petitioner to show that the new information is material to the contention, FPL effectively asks this Board to engraft a new requirement onto the regulation. This we cannot do.⁹

C. Petitioners’ Contention Is Not Admissible

1. The Six-Factor Contention-Admissibility Standard

For a contention to be admissible, it must satisfy the six-factor admissibility standard in section 2.309(f)(1), which requires a petitioner to

- (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;

⁸ See Amendments to Adjudicatory Process Rules and Related Requirements, 77 Fed. Reg. 46,562, 46,566 (Aug. 3, 2012) (addressing concern that the good cause standard will allow petitioners to use old information re-packaged in a new document as a basis for a new contention by stating that petitioners must still show that “the new information . . . is ‘materially different from information that was previously available’”); see also S. Nuclear Operating Co. (Vogtle Elec. Generating Plant, Units 3 & 4), LBP-10-01, 71 NRC 165, 183 n.9 (2010) (Materiality in the context of section 2.309(c)(1)(ii) “relates to the magnitude of the difference between previously available information and currently available information.”).

⁹ FPL advances a policy argument in support of its interpretation of section 2.309(c)(1)(ii), asserting that such an interpretation is necessary to prevent petitioners from filing new contentions “[j]ust because some new event occurred.” Tr. at 944. FPL’s policy argument ignores that (1) the new contention must be “based” on the new information, see 10 C.F.R. § 2.309(c)(1)(i), (ii); and (2) the “materially different” standard in section 2.309(c)(1)(ii) will itself act as a check to prevent petitioners from filing new contentions based on new information that is insignificantly different from previously available information. See supra note 8. Additionally, the NRC’s strict contention-admissibility standard will prevent the admission of contentions that are not material to the findings the NRC Staff must make to support a licensing action. See 10 C.F.R. § 2.309(f)(1)(iv), (vi).

FPL advances several other arguments challenging the timeliness of Petitioners’ contention. See FPL Answer at 13–17. None of them provides a basis for rejecting Petitioners’ contention as untimely.

- (v) Provide a concise statement of the alleged facts or expert opinions which support the requestor's/petitioner's position on the issue . . . , together with references to the specific sources and documents on which the requestor/petitioner intends to rely to support its position on the issue; [and]
- (vi) . . . [P]rovide 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 . . . that the petitioner disputes and the supporting reasons for each dispute

10 C.F.R. § 2.309(f)(1). This standard is "strict by design," Dominion Nuclear Conn., Inc. (Millstone Nuclear Power Station, Units 2 & 3), CLI-01-24, 54 NRC 349, 358 (2001), and a licensing board must reject contentions that do not meet all six criteria. See USEC, Inc. (Am. Centrifuge Plant), CLI-06-09, 63 NRC 433, 437 (2006).

2. Petitioners' Contention Is Not Admissible Because Petitioners Fail To Show That A Genuine Dispute Exists On A Material Issue Of Law Or Fact

Petitioners' contention alleges that, in light of changed circumstances arising from Westinghouse's recent bankruptcy filing, FPL's COL application no longer demonstrates that FPL is financially qualified to cover the construction and fuel cycle costs for Units 6 and 7, as required by 10 C.F.R. § 50.33(f)(1). See Petition at 7.¹⁰ Petitioners advance two arguments in

¹⁰ As stated supra Part II, Petitioners' contention alleges:

The FSER is deficient in concluding that FPL has demonstrated that it possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction costs and related fuel cycle costs and FPL has failed to indicate source(s) of funds to cover these costs.

Petition at 7. Pursuant to Commission case law, safety-related contentions must challenge the adequacy of a license application, not the adequacy of the NRC Staff's review of that application. See, e.g., Private Fuel Storage, LLC (Indep. Spent Fuel Storage Installation), CLI-01-12, 53 NRC 459, 472 (2001). Despite that rule, Petitioners' contention alleges a deficiency in the FSER, which is an NRC Staff review document. Although the NRC Staff states that this Board could summarily reject Petitioners' contention on this ground, see NRC Staff Answer at 10, the NRC Staff nevertheless treats the contention as a challenge to FPL's showing of financial qualification in its COL application. See id. We will do the same, because notwithstanding the contention's improvident reference to the FSER, it is clear that Petitioners are challenging whether FPL is entitled to a COL, not whether the NRC Staff's safety review of the COL application was adequate. Under these circumstances, to summarily reject Petitioners'

support of their contention. First, they assert that Westinghouse's bankruptcy has jeopardized FPL's ability to recover construction costs under Florida law, thereby casting doubt on whether FPL continues to be financially qualified to cover construction costs. See Petition at 10–11. Second, they assert that Westinghouse's bankruptcy casts doubt on FPL's ability to secure external funding for construction costs, thus raising a genuine dispute about whether FPL remains financially qualified. See id. at 11–12.

As discussed below, we agree with FPL and the NRC Staff that Petitioners' contention is not admissible because, contrary to 10 C.F.R. § 2.309(f)(1)(vi), neither of the arguments underlying the contention raises a genuine dispute on a material issue of law or fact. See FPL Answer at 22–23; NRC Staff Answer at 12–16.¹¹

a. Petitioners' Claim that FPL Will Be Unable to Recover Construction Costs from Florida Does Not Raise a Genuine Dispute on a Material Issue Because FPL's COL Application Does Not Rely on Cost Recovery as Part of its Financial Qualification Statement. Petitioners assert that, as a result of Westinghouse's bankruptcy, "the ability for FPL to recover any costs . . . under [Florida Statute section 366.93] has vanished and a major source of funding the construction of the nuclear facilities has disappeared as well." Petition at 11. Petitioners therefore argue that "a genuine dispute exists as to whether FPL is still financially qualified to carry out this project." Id. We disagree.¹²

contention based solely on its reference to the FSER would, in our judgment, constitute an overly formalistic application of NRC regulations. See Consumers Power Co. (Midland Plant, Units 1 & 2), CLI-74-03, 7 AEC 7, 12 (1974) (stating that the Commission refuses to apply its rules of procedure in an "overly formalistic manner").

¹¹ Because Petitioners' failure to satisfy section 2.309(f)(1)(vi), standing alone, mandates the rejection of their contention, we need not address the other grounds advanced by FPL and the NRC Staff for rejecting Petitioners' contention as inadmissible. See FPL Answer at 18–22; NRC Staff Answer at 17–18.

¹² For a discussion of (1) the financial qualification standard established by NRC regulations; and (2) the cost recovery procedures in Florida Statute section 366.93 and its implementing regulations, see supra Part I.A.

Petitioners' argument is based on an erroneous interpretation of FPL's COL application, which—contrary to Petitioners' understanding—does not rely on cost recovery from Florida as a source of construction funding. FPL's COL application states in relevant part:

FPL will recover the cost of constructing the facility in accordance with Florida Statute [section] 366.93, Cost recovery for the siting, design, licensing, and construction of nuclear and integrated gasification combined cycle power plants . . . and Florida Administrative Code R. 25-6.0423, Nuclear or Integrated Gasification Combined Cycle Power Plant Cost Recovery

The sources of long-term construction funding for Units 6 & 7 will be a mixture of internally generated cash and external funding. The external funding will come from a mix of debt and equity capital. FPL currently uses first mortgage bonds and equity contributions from NextEra Energy, Inc. to finance long-term utility assets.

COL Application Part 1 at 5. Petitioners infer from the above paragraphs that FPL intends to rely on costs recovered from Florida pursuant to Florida Statute section 366.93 as a source of funding for construction costs. See Petitioners' Reply at 6–7. Based on this premise, Petitioners assert that, as a result of Westinghouse's bankruptcy, FPL's ability to recover construction costs from Florida is now in jeopardy and, accordingly, FPL's financial qualification to cover construction costs is questionable. See Petition at 10–11.

But FPL's COL application, properly construed, does not represent that FPL will rely on cost recovery from Florida as a source of construction funding. As explained supra Part I.A, NRC regulations state that an established organization (such as FPL) can demonstrate financial qualification by including in its COL application a brief statement identifying the sources of funds that the applicant will rely on for construction, namely, "internal sources such as undistributed earnings and depreciation accruals, or external sources such as borrowings." 10 C.F.R. Part 50, App. C; see supra note 2. The second paragraph of the above-quoted portion of FPL's COL application explicitly addresses "sources of long-term construction funding for Units 6 & 7," and it mirrors Appendix C's requirements, stating that such funding "will be a mixture of internally generated cash and external funding." COL Application Part 1 at 5. This paragraph does not

identify cost recovery from Florida as a source of construction cost funding for purposes of demonstrating financial qualification. FPL's application states that FPL intends to use Florida Statute section 366.93 as a source of construction cost recovery, not as a source of construction cost funding. See id.

We observe that Appendix C does not prohibit applicants from endeavoring to rely on cost recovery as a source of construction cost funding for purposes of demonstrating financial qualification. The salient point here is that, as explained above, FPL's COL application does not purport to rely on cost recovery to demonstrate that FPL is financially qualified to construct Units 6 and 7. See COL Application Part 1 at 5; see also Tr. at 951–52; FPL Answer at 22–23.¹³

In short, because FPL does not purport to rely on cost recovery from Florida as a source of construction funding, Petitioners' claim that FPL will be unable to recover construction costs from Florida does not controvert FPL's statement in its COL application regarding FPL's sources of construction funding. Thus, FPL's ability to recover such construction costs is not material to FPL's financial qualification pursuant to 10 C.F.R. § 50.33(f)(1). Because Petitioners' argument neither controverts FPL's COL application nor casts doubt on FPL's financial qualification, it does not create a genuine dispute on a material issue of law or fact. Petitioners' contention is therefore inadmissible pursuant to section 2.309(f)(1)(vi) to the extent it is grounded on that argument.

¹³ Notably, although the FSER acknowledges that FPL plans to recover the cost of constructing Units 6 and 7 pursuant to Florida Statute section 366.93, it determines that FPL's financial qualification to fund this project is unrelated to FPL's ability to recover construction costs from Florida. See FSER at 1-38 to 1-39. Rather, as the FSER concludes, "both FPL and NextEra Energy have sufficient financing capacity to fund this project from . . . internally generated operating cash flows, commercial paper and bank facilities, and long-term debt and equity capital markets." Id. at 1-39; see also Tr. at 965–66, 970. Although the FSER is not at issue here, see supra note 10, its conclusion that FPL's financial qualification is independent of FPL's ability to recover construction costs from Florida undercuts Petitioners' argument that FPL's COL application relies on cost recovery as part of its financial qualification statement.

b. Petitioners' Claim that Westinghouse's Bankruptcy May Impair FPL's Ability to Secure External Funding for Construction Costs Does Not Raise a Genuine Dispute on a Material Issue. Petitioners also argue that, as a result of Westinghouse's bankruptcy and the termination of the Reservation Agreement, it can reasonably be inferred that FPL's ability to secure external funding for construction costs will be impaired. See Petition at 11.¹⁴ In support of their argument, Petitioners cite to a January 31, 2017 newspaper article stating that Westinghouse is moving away from construction activities in the United States; specifically, that "Westinghouse will continue to design nuclear reactors . . . and it is expected to complete construction work at two U.S. nuclear facilities . . . in Georgia and South Carolina," but that going forward it would "let other companies handle the risk of building the facilities." See Petition, Ex. C, Wall St. J., Toshiba to Exit Nuclear Construction Business at 2 (Jan. 31, 2017). Petitioners allege that, with no current foreseeable way to construct Turkey Point Units 6 and 7, it will be more difficult for FPL to secure external sources of funding. See id. at 11–12.

Westinghouse's bankruptcy might, as Petitioners allege, impact some external funders' decisions to finance the project. However, the mere allegation that the external funding might be impacted is insufficient to raise a genuine dispute as to whether FPL is financially qualified to construct Units 6 and 7—that is, whether FPL "possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction costs and related fuel cycle costs." 10 C.F.R. § 50.33(f)(1).

In the context of section 50.33(f)(1), the Commission has stated that "reasonable assurance" does not mean a demonstration of near certainty that an applicant will never be pressed for funds in the course of construction," but instead must merely "have a reasonable financing plan in the light of relevant circumstances." Pub. Serv. Co. of N.H. (Seabrook Station, Units 1 & 2), CLI-78-01, 7 NRC 1, 18 (1978). Petitioners' claim that Westinghouse's bankruptcy

¹⁴ For a discussion of the now-terminated Reservation Agreement between FPL and Westinghouse, see supra Part I.B.

might jeopardize some external sources' willingness to fund the construction of Units 6 and 7 is insufficient to impugn the reasonableness of FPL's financial plan, which contemplates that the sources of construction funding will be (1) internally generated cash; and (2) external funding from a mix of debt and equity capital, including first mortgage bonds and equity contributions from its parent company, NextEra Energy, Inc. See COL Application Part 1 at 5. Petitioners have not presented direct support—by factual affidavits, expert declarations, or documentary evidence—for their assertion that Westinghouse's bankruptcy will necessarily jeopardize FPL's external sources of funding. Instead, they rely on “bare assertions and speculation” to support their proffered contention. GPU Nuclear, Inc. (Oyster Creek Nuclear Generating Station), CLI-00-06, 51 NRC 193, 208 (2000). “This is not enough to trigger an adversary hearing on [FPL's] financial qualifications.” Id.¹⁵

In short, Petitioners have not provided adequate facts to cast legitimate doubt on the reasonableness of FPL's financing plan or FPL's ability to implement that plan. Accordingly, their speculative claim that Westinghouse's bankruptcy will potentially impair FPL's ability to secure external funding for construction costs does not raise a genuine dispute on a material issue of law or fact.¹⁶

¹⁵ In its answer, the NRC Staff correctly states that “Petitioners fail to demonstrate the existence of a nexus between Westinghouse's bankruptcy and the financial capability of FPL.” NRC Staff Answer at 17. In particular, Petitioners do not provide any credible facts to support a conclusion that Westinghouse's bankruptcy will impair the financial capacity of FPL or its parent company, NextEra Energy, Inc. Any argument challenging FPL's financial capacity is particularly deficient in light of the assumed financial stability of established utilities under NRC regulations. See 10 C.F.R. Part 50, App. C at I.A.2; Seabrook Station, CLI-78-01, 7 NRC at 10 & n.14.

¹⁶ To the extent that new and materially different information were to come to light casting legitimate doubt on FPL's financial qualifications to construct Units 6 and 7, Petitioners would not be foreclosed from seeking to reopen the record. See 10 C.F.R. § 2.326. Alternatively, if FPL's COL application is ultimately granted, Petitioners may raise any concerns about putative safety deficiencies through a 10 C.F.R. § 2.206 petition. See Entergy Nuclear Vermont Yankee, LLC (Vermont Yankee Nuclear Power Station), CLI-15-20, 82 NRC 211, 230 (2015) (“[S]ection 2.206 provides a process for stakeholders to advance concerns and obtain full or partial relief, or written reasons why the requested relief is not warranted.”) (internal quotation marks omitted).

IV. CONCLUSION

For the foregoing reasons, this Board denies Petitioners' request to intervene and file a new contention, thereby terminating this proceeding at the Board level. See supra note 1.

Petitioners may file an appeal of this Memorandum and Order with the Commission within twenty-five days of service of this order. Any party opposing the appeal may file a brief in opposition within twenty-five days after service of the appeal. See 10 C.F.R. § 2.311(b).

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

E. Roy Hawkens, Chairman
ADMINISTRATIVE JUDGE

/RA/

Dr. Michael F. Kennedy
ADMINISTRATIVE JUDGE

/RA/

Dr. William C. Burnett
ADMINISTRATIVE JUDGE

Rockville, Maryland
July 31, 2017

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 **MEMORANDUM AND ORDER (Denying Petition to Intervene and File a New Contention, and Terminating Proceeding)** have been served upon the following persons by Electronic Information Exchange.

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop: O-16B33
Washington, DC 20555-0001
ocaamail@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop: O-16B33
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
ogcmailcenter@nrc.gov

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

Sara Kirkwood, Esq.
sara.kirkwood@nrc.gov
Patrick Moulding, Esq.
patrick.moulding@nrc.gov

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

Michael Spencer, Esq.
michael.spencer@nrc.gov
Robert Weisman, Esq.
robert.weisman@nrc.gov

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

Christina England, Esq.
christina.england@nrc.gov
Anthony C. Wilson, Esq.
anthony.wilson@nrc.gov

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

Maxine Segarnick
Maxine.Segarnick@nrc.gov

Kimberly Hsu, Law Clerk
kimberly.hsu@nrc.gov

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

MEMORANDUM AND ORDER (Denying Petition to Intervene and File a New Contention, and Terminating Proceeding)

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
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, Esq.
timothy.walsh@pillsburylaw.com
Anne Leidich, Esq.
ann.leidich@pillsburylaw.com

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 Mark Oncavage, Dan Kipnis,
Southern Alliance for Clean Energy (SACE),
and National Parks Conservation
Association
Harmon, Curran, Spielberg, & Eisenberg, LLP
1725 DeSales Street NW, Ste. 500
Washington, DC 20036
Diane Curran, Esq.
dcurran@harmoncurran.com

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, Esq., Assistant City Attorney
Kerri McNulty, Esq.
Xavier Alban, Esq.
The City of Miami
444 SW 2nd Avenue
Miami, FL 33130
mshaber@miamigov.com
Klmcnulty@miamigov.com
xealban@miamigov.com

[Original signed by Herald M. Speiser _____]
Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 31th day of July, 2017

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE COMMISSION**

| | | |
|-----------------------------------|---|--------------------|
| In the Matter of |) | |
| |) | Docket Nos. 52-040 |
| Florida Power & Light Co. |) | 52-041 |
| Turkey Point Units 6 & 7 |) | |
| |) | May 22, 2017 |
| Combined Construction and License |) | |
| Application |) | |
| _____ |) | |

**PETITIONERS’ REPLY TO NRC STAFF AND FPL’S ANSWERS TO
PETITION FOR LEAVE TO INTERVENE IN A HEARING ON FLORIDA
POWER & LIGHT COMPANY’S COMBINED CONSTRUCTION AND
OPERATING LICENSE APPLICATION FOR TURKEY POINT
UNITS 6 & 7 AND FILE A NEW CONTENTION**

I. INTRODUCTION

In response to the Petition, NRC Staff (“Staff”) and Florida Power & Light Company (“FPL”) generally assert that the Proposed Contention does not raise a material issue of law or fact pertinent to a finding that the NRC must make to support the licensing action. But, to clarify the Petitioner’s position, the information that FPL provided in its application to fulfil the financial qualifications requirement is *no longer* sufficient to provide the required “reasonable assurance” that FPL will be able to obtain necessary funding to construct the new nuclear reactors at issue. Petitioners do not assert that the information provided was inadequate at the time, or that Staff failed to properly analyze that information then. Rather, Petitioners assert based on the recent Westinghouse bankruptcy, which has brought to Petitioners’ attention the mounting difficulties that FPL now faces with the construction of the new reactors—both in terms of costs and the related practicality of obtaining a company to build the reactors, that the information FPL provided with its application is no longer current.

Although FPL and Staff take issue with the Petitioners' assertions that FPL cannot provide reasonable assurance that it will be able to recover construction costs from the advanced nuclear cost recovery process before the Florida Public Service Commission ("FPSC"), FPL's application made clear that such recovery was the *only* source of construction costs for the project. As such, the ability or inability of FPL to recover construction costs through that process is essential to any proper analysis of whether FPL has provided the reasonable assurance of financial qualifications required for licensure before the NRC.

II. DISCUSSION¹

A. THE CONTENTION IS TIMELY

The Staff concedes that the Petition is timely. FPL, however, challenges the timeliness of the Petition.² FPL asserts that the Petition is untimely because Petitioners are too late to challenge the types or scope of information provided by FPL to satisfy the financial qualification requirement in the application, and that the Westinghouse bankruptcy has not provided any materially different information that would justify intervention now. Petitioners are not challenging the information provided by FPL at the time of its application, or the Staff's assessment of the information. Rather, Petitioners assert that the bankruptcy has altered events such that the information originally supplied is no longer sufficient to provide the reasonable assurance required under the law.

As will be explained in greater detail below in addressing the merits of the admissibility of the Proposed Contention, the Petition is premised on FPL's

¹ Neither FPL nor the Staff challenge Petitioners' standing to intervene. As such, Petitioners rely on the arguments asserted in the Petition on this point.

² FPL Answer at 13-17.

representation that it will recover the cost of constructing the facility pursuant to Florida’s advanced nuclear cost recovery scheme. Historically in relation to this project, FPL has recovered such funds each year from its ratepayers after approval before the FPSC. So far, FPL has recovered more than \$280 million dollars from its ratepayers under this process—money that can never be recuperated by the ratepayers, whether the project is ultimately constructed or not. As part of FPL’s annual petition before the FPSC, FPL is required to establish that the project remains feasible and that the costs of the project will be reasonable.³ For years, FPL has been basing its representations to the FPSC to establish these two facts on the progress of construction on like-designed AP1000 nuclear reactors in Georgia and South Carolina.⁴ The Westinghouse bankruptcy was precipitated by enormous cost overruns on those projects, which had been hidden from the public and Westinghouse’s shareholders. Those cost overruns are estimated at over \$6 billion, combined between the two projects.⁵

³ § 366.93(e), Fla. Stat.

⁴ See *In Re: Nuclear Power Plant Cost Recovery for the Year Ending December 2016*, Docket No. 150009-EI (Fla. Public Service Commission 2015), Testimony & Exhibit of Steven D. Scroggs (hereinafter, “Exhibit 1”) at 27 (explaining that the cost range estimate for Units 6 & 7 provided to the FPSC is reasonable because of the comparison costs provided by the lead projects in the United States).

⁵ Bruce Henderson, *Utilities hope to finish SC nuclear plant despite Westinghouse bankruptcy*, Charlotte Observer (Mar. 29, 2017), <http://www.charlotteobserver.com/news/local/article141524724.html> (hereinafter, “Exhibit 2”) (Summer plant is \$3 billion over budget and years behind schedule); Russell Graham, *Georgia Power reaches tentative deal to take over Vogtle work*, The Atlanta Journal-Constitution (May 12, 2017) <http://www.ajc.com/business/georgia-power-reaches-tentative-deal-take-over-plant-vogtle-work/hM4YJABYA4RLgNXL2V212O/> (hereinafter, “Exhibit 3”) (Vogtle project is well over \$3 billion over budget).

Given the bankruptcy, the completion date and actual cost of the sister projects in Georgia and South Carolina are now uncertain.⁶ As such, FPL cannot rely on the progress of those projects as assurance that its project to construct the new reactors remains feasible, and, more so, that the cost of building the planned reactors remains reasonable. FPL failed to submit the required filings to establish feasibility and reasonableness before the FPSC during the 2016 docket. Instead, FPL asked for a deferral until this year's docket.⁷ Now, in the face of the uncertainty created by the Westinghouse bankruptcy, FPL has again failed to file the required proof of feasibility and reasonableness. Instead, FPL has asked for an indefinite deferral of its advanced nuclear cost recovery for this project.⁸ Because FPL's application for its combined operating license was premised on recovery of the cost of construction under Florida's advanced nuclear cost recovery scheme, the bankruptcy has eliminated any prior reasonable assurances of covering those costs that FPL had provided to the NRC.

For these reasons, the Proposed Contention, based on Westinghouse's bankruptcy filing, is timely.

⁶ See Diane Cardwell and Jonathan Soble, *Westinghouse Files for Bankruptcy, in Blow to Nuclear Power*, N.Y. Times (Mar, 29, 2017), <https://www.nytimes.com/2017/03/29/business/westinghouse-toshiba-nuclear-bankruptcy.html?mcubz=0&r=0> (hereinafter, "Exhibit 4") (discussing uncertainty of path forward for lead AP1000 projects in the United States).

⁷ See *In Re: Nuclear Power Plant Cost Recovery for the Year Ending December 2017*, Docket No. 160009-EI (Fla. Public Service Commission 2016), Florida Power & Light Company's Motion to Defer Consideration of Issues and Cost Recovery (hereinafter, "Exhibit 5").

⁸ See *In Re: Nuclear Power Plant Cost Recovery for the Year Ending December 2018*, Docket No. 170009-EI (Fla. Public Service Commission 2017), Florida Power & Light Company's Petition for Approval of 2018 Nuclear Power plant Cost Recovery Amount Reflecting Final 2015 and 2016 True-Ups and Approval to Defer Recovery Costs Beginning in 2017 (hereinafter, "Exhibit 6"), at 4-7.

B. THE CONTENTION MEETS THE STANDARDS FOR ADMISSIBILITY

Both the Staff and FPL assert that the Proposed Contention fails to meet the standards for admissibility, asserting that: (1) Petitioners have not provided support for their speculative assertion that the FPSC would deny FPL advanced nuclear cost recovery based on the recent Westinghouse bankruptcy; (2) there is no nexus between the Westinghouse bankruptcy and FPL's financial qualifications, because FPL has identified additional sources of funding for the project; and (3) a determination of whether the FPSC would award advanced nuclear cost recovery based on the project's continued "feasibility" is outside the scope of this licensing proceeding. Each of these points will be addressed below.

1. Westinghouse's bankruptcy impacts FPL's financial qualifications, because FPL only identified advanced nuclear cost recovery as the source of construction funds for the project in its application.

Both Staff and FPL assert that there is no nexus between the Westinghouse bankruptcy and FPL's financial qualifications. FPL asserts that it has identified other sources of funding for the project—FPL's internally generated operating cash flows, commercial paper and bank facilities, and long-term debt and equity capital markets.⁹ Staff asserts simply that the bankruptcy has no bearing on FPL's general financial qualifications, and, as such, does not impact its required analysis.¹⁰ But, as FPL recognizes in its response, 10 C.F.R. § 52.97 requires that "[t]he applicant is technically and financially qualified to engage in the activities authorized."¹¹

⁹ FPL Answer at 23.

¹⁰ Staff Answer at 17.

¹¹ 10 C.F.R. § 52.97(a)(1)(iv).

Specifically, FPL is required to provide information that “demonstrates that the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction costs and related fuel cycle costs.”¹² Here, FPL stated in its application that:

FPL will recover the cost of constructing the facility in accordance with Florida Statute 366.93, Cost recovery for the siting, design, licensing, and construction of nuclear and integrated gasification combined cycle power plants (Reference 1), and Florida Administrative Code R.25-6.0423, Nuclear or Integrated Gasification Combined Cycle Power Plant Cost Recovery (Reference 2).

The sources of long-term construction funding for Units 6 & 7 will be a mixture of internally generated cash and external funding. The external funding will come from a mix of debt and equity capital. FPL currently uses first mortgage bonds and equity contributions from NextEra Energy, Inc. to finance long-term utility assets.¹³

In response to these assertions, Staff stated in the Final Safety Evaluation Report (“FSER”) that:

According to the COL application, FPL expects to recover the cost of constructing the facility in accordance with Florida Statute 366.93, “Cost Recovery for the Siting, Design, Licensing, and Construction of Nuclear and Integrated Gasification Combined Cycle Power Plants,” and Florida Administrative Code R.25-6.0423, “Nuclear or Integrated Gasification Combined Cycle Power Plant Cost Recovery.” FPL expects to finance this project through a mixture of internally generated cash and external funding.¹⁴

Although FPL asserts that the FSER “did not rely on cost recovery” in its analysis that FPL is financially qualified,¹⁵ that is simply inaccurate. Both the application and the FSER make clear that, although other aspects of financing may be achieved “through a

¹² 10 C.F.R. § 50.33.

¹³ Combined Operating License Application for Turkey Points Unit 6 & 7, Revision 8, General and Financial Information, at 5 (hereinafter, “Exhibit 7”).

¹⁴ FSER at 1-38.

¹⁵ FPL Answer at 22-23.

mixture of internally generated cash and external funding,” “FPL expects to recover the cost of constructing the facility” under the advanced nuclear cost recovery process before the FPSC. Therefore, the only source of funding for the construction of the new reactors here is advanced nuclear cost recovery before the FPSC. The ability of FPL to recover those costs before the FPSC is a critical assumption supporting its assertion, and Staff’s correlating conclusion, that FPL has provided reasonable assurances of its financial qualifications. There is a nexus between Westinghouse’s bankruptcy and FPL’s financial qualifications, because the bankruptcy and its precipitating events, completely change the landscape of FPL’s ability to recover before the FPSC.¹⁶ And it is FPL’s burden, in light of these changed circumstances, to provide the NRC with reasonable assurances that it will still be able to recover the costs of constructing the new reactors through the advanced nuclear cost recovery process, as asserted in its application.¹⁷

2. Petitioners are not asserting that the NRC must undertake the review required by the FPSC for advanced nuclear cost recovery, but rather, that FPL must provide reasonable assurances that it can continue to recover advanced nuclear cost recovery dollars in order to satisfy the financial qualifications requirement before the NRC

FPL argues that predicting the outcome of the proceedings before the FPSC is “outside the scope” of these proceedings, asserting that the primary purpose of the NRC proceedings to conduct a safety review of the application.¹⁸ This assertion simply

¹⁶ See Affidavit of Mark W. Crisp, P.E. (hereinafter, “Exhibit 8”), at ¶ 16.

¹⁷ Even if FPL now asserts that its financial qualifications were not premised on recovering the entire cost of construction through advanced nuclear cost recovery, FPL would still be obliged to provide the NRC with reasonable assurance that it could cover the costs of construction through other financing methods, given the impact of the Westinghouse bankruptcy on the future construction of AP1000 units.

¹⁸ FPL Answer at 19-21.

confuses the purpose of the NRC license application review, generally, with the specific financial qualification requirement in the statutory scheme, as described above. FPL's Answer makes much of the history of the financial qualification requirement, and of its lack of relation to the NRC's primary task—ensuring safety.¹⁹ But even if the financial qualification provisions are entirely unrelated to the NRC's primary purpose in reviewing an application, as FPL admits, “the financial qualification regulation remains in place.”²⁰ Given that fact, FPL is required to satisfy the regulation, and the NRC is obligated to guarantee that FPL has done so prior to issuing its license.

As noted in the prior section, FPL has made its application contingent on its ability to recover the costs of construction from the FPSC, because the application makes clear that those costs will be recovered only through advanced nuclear cost recovery. Petitioners are not asking that the NRC undertake the review that would normally be relegated to the FPSC in order to consider the Proposed Contention. Rather, Petitioners are simply asking, in light of the changed circumstances related to costs and construction timeframes presented because of the Westinghouse bankruptcy, that FPL provide reasonable assurances to the NRC that it will still be able to recover the cost of construction of the two new reactors through advanced nuclear cost recovery. Petitioners assert that this must be done *prior* to the issuance of any license by the NRC.

It is not Petitioners' burden to prove that FPL will not be able to recover from the FPSC, but, rather, FPL's burden under existing regulations and based on the information provided in its application to provide reasonable assurance to this body that it will be able to recover the costs of construction through advanced nuclear cost recovery before the

¹⁹ FPL Answer at 9-13.

²⁰ FPL Answer at 13.

FPSC. And it is Petitioners' assertion, based on the status of proceedings before the FPSC, that FPL cannot provide any such reasonable assurance at this time.

3. It is not speculative, based on the status of proceedings before the FPSC, that the FPSC will not be awarding advanced nuclear cost recovery dollars to FPL for the new reactors anytime soon, and that any such recovery past that time will be impacted by the Westinghouse bankruptcy

Both FPL and Staff generally assert that Petitioners' claims that the Westinghouse bankruptcy will impact FPL's ability to recover advanced nuclear cost recovery dollars before the FPSC are speculative, or built upon "bald assertions" or "generalized suspicions."²¹ Petitioners' assertion, however, is based on the present course of the proceedings before the FPSC, and the representations that FPL has made in various filings before that body. A review of those circumstances can only lead to the irrefutable conclusion that: (1) FPL cannot collect, and has no intention of collecting, advanced nuclear cost recovery dollars for the new reactors anytime soon; (2) the ability of FPL to recover any such funds in the future will be greatly dependent on the outcome of the Westinghouse bankruptcy proceedings.

To begin with, it is not speculative that FPL will not be collecting any advanced nuclear cost recovery dollars from the FPSC in the near future—FPL has said so in their own filings. On May 1, 2017, FPL submitted its 2017 petition for advanced nuclear cost recovery before the FPSC.²² In that petition, FPL represents that it "will limit its activities over the next several years to completing licenses, maintaining compliance with approvals received, keeping those approvals current, and continuing to monitor the first

²¹ FPL Answer at 17-19; Staff Answer at 12.

²² See Exhibit 6.

wave of new nuclear construction projects.”²³ FPL expresses concern over the need to “learn from the first wave of nuclear construction projects currently underway in Georgia and South Carolina.”²⁴ Ostensibly for these reasons, FPL requests a deferral of all nuclear cost recovery costs beginning with those incurred in 2017 until such time as FPL makes a decision regarding initiation of preconstruction work.”²⁵ Even if FPL’s petition is granted as written, FPL will not be receiving any advanced nuclear cost recovery dollars from the FPSC anytime in the near future. But a deeper look at some of FPL’s other filings before the FPSC, and the statutory requirements for recovery under that process, show that FPL’s ability to recover any such funds in the future will be greatly dependent on the outcome of the Westinghouse bankruptcy proceedings.

FPL has made a number of filings before the FPSC that show that its future ability to recover advanced nuclear cost recovery dollars is dependent on the outcome of the Westinghouse bankruptcy proceedings. Under Florida’s advanced nuclear cost recovery statutory scheme, a party petitioning for advanced nuclear cost recovery dollars before the FPSC must file an annual long-term feasibility study.²⁶ The pertinent regulation states:

Along with the filings required by this paragraph, each year a utility shall submit for Commission review and approval a detailed analysis of the long-term feasibility of completing the power plant. Such analysis shall include evidence that the utility intends to construct the nuclear or integrated gasification combined cycle power plant by showing that it has

²³ *Id.* at 2.

²⁴ *Id.* at 5.

²⁵ *Id.* at 7-8.

²⁶ Fla. Admin. Code Ann. r. 25-6.0423(6).

committed sufficient, meaningful, and available resources to enable the project to be completed and that its intent is realistic and practical.²⁷

This study is necessary to the FPSC's execution of its statutory duties with respect to preconstruction costs. In regards to that duty, the statutory scheme provides that:

A utility must petition the commission for approval before beginning the construction phase.

1. The only costs that a utility that has obtained commission approval may recover before beginning construction work are those that are previously approved or necessary to maintain the license or certification.
2. In order for the commission to approve proceeding with construction on a plant, it must determine that:
 - a. The plant remains feasible; and
 - b. The projected costs for the plant are reasonable.²⁸

The two required findings by the FPSC each year in order to approve advanced nuclear cost recovery for preconstruction activities are that the plant remains feasible and projected costs are reasonable.²⁹ The feasibility study allows the FPSC to conduct that assessment. Notably, FPL has not filed a feasibility study with the FPSC for the past two years. And the last time FPL filed a feasibility study, in 2015, that study and its accompanying testimony heavily relied on the progress of the construction of the other AP1000 nuclear reactors by Westinghouse in Georgia and South Carolina as supportive of the feasibility of its planned reactors. For example, the 2015 filed testimony of Steven D. Scroggs indicates that “progress in other nuclear industry milestones (i.e., AP1000 U.S. construction) continues to provide positive indicators for the long term feasibility of

²⁷ Fla. Admin. Code Ann. r. 25-6.0423(6).

²⁸ § 366.93(e), Fla. Stat.

²⁹ *Id.*

new nuclear plant development.”³⁰ In asserting that the cost estimate range for the project continued to be reasonable, Scroggs stated:

The FPL cost estimate range continues to be reasonable based on the annual review of the Turkey Point 6 & 7 capital cost estimate, a comparison to other U.S. AP1000 project progress reports, and Concentric Energy Advisors’ review of U.S. AP 1000 project overnight and total estimated costs.

The comparison to other U.S. AP1000 projects provides confidence due to the advanced nature of the projects being reviewed. The costs being experienced by the lead projects at Vogtle and Summer are informed by committed contracts, are well into the construction cycle, and include significant equipment and material purchases. Therefore, the total project costs estimated for the projects in construction are more certain.³¹

The Westinghouse bankruptcy has revealed that the “costs being experienced by the lead projects at Vogtle and Summer” had been entirely misrepresented by Westinghouse, and that the projects were far over budget to the tune of \$6 billion.³² Further, as much as FPL makes light of the fact that Westinghouse will likely no longer be able to build its two new reactors, whether Westinghouse emerges from bankruptcy able to build the reactors or FPL is able to find another contractor to build the reactors,³³ the costs associated with building FPL’s two new reactors under either scenario will be impacted by the

³⁰ Ex. 1 at 3.

³¹ *Id.* at 27.

³² Ex. 2; Ex. 3 (\$3 billion cost overruns for each U.S. plant in progress).

³³ *See In Re: Nuclear Power Plant Cost Recovery for the Year Ending December 2018*, Docket No. 170009-EI (Fla. Public Service Commission 2017), FPL’s Response to COM’s First Set of Interrogatories, Interrogatory No. 4 (attached hereto as “Exhibit 9”) (FPL admits that it has not initialed any discussions with potential companies to build Units 6 & 7 because “[s]uch activity would be pre-construction activity, and would occur following approval of a petition by the FPSC to move forward with pre-construction work on the project,” and that a date for such activities does not exist).

bankruptcy.³⁴ FPL's cost projections for the two nuclear reactors were already on the "high end" for what would be considered reasonable, not accounting for the massive cost overruns at the "lead projects" that have recently come to light. The potential impacts to those costs that a change to a different contractor or even sticking with Westinghouse post-bankruptcy, if possible, would have must be properly analyzed before the FPSC will approve any further advanced nuclear cost recovery for this project. And until FPL can establish that the project is still feasible considering these changed circumstances, FPL cannot be said to have provided reasonable assurance to the NRC of its financial qualification with regard to the costs of construction.

III. CONCLUSION

For the foregoing reasons, Petitioners should be granted leave to intervene as a full party and be granted a hearing on their contention. Further, Petitioners request that the NRC condition the issuance of the license at issue on FPL's demonstrated ability to collect advanced nuclear cost recovery dollars under proceedings before the FPSC, such that these proceedings should take a correlating "pause" to the one taken by FPL in the FPSC proceedings, prior to license issuance here.³⁵

³⁴ Ex. 8 at ¶¶26-27 ("[t]he entire nuclear horizon has been shaken by the bankruptcy. . . It should be easily understood that schedules, costs, and commitments established in the 2010 timeframe have no basis or worth at this point in time."); Ex. 8 at ¶15 (describing a similar situation with the Vogtle 1 & 2 units, in which the power company took over management of construction of the units, which "resulted in significant cost overruns, delays and ultimately the disallowance of millions of dollars at the Georgia Public Service Commission.").

³⁵ See *In Re: Nuclear Power Plant Cost Recovery for the Year Ending December 2018*, Docket No. 170009-EI (Fla. Public Service Commission 2017), FPL's Response to COM's First Set of Interrogatories, Interrogatory No. 12 (attached hereto as "Exhibit 10") (FPL admits that it is possible for FPL to request a similar pause in the licensure proceedings before the NRC).

Respectfully submitted this 22nd day of May, 2017.

Signed electronically by: /s/ Kerri L. McNulty
VICTORIA MÉNDEZ, City Attorney
KERRI L. MCNULTY, Assistant City Attorney
XAVIER E. ALBÁN, Assistant City Attorney
Counsel for the City of Miami
444 SW 2nd Avenue, Suite 945
Miami, FL 33130
(305) 416-1800
(305) 416-1801 (facsimile)
klmcnulty@miamigov.com

WILLIAM C. GARNER
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, FL 32308
(850) 224-4070
(850) 224-4073 (facsimile)
bgarner@ngnlaw.com
Attorney for the Village of Pinecrest

THOMAS F. PEPE, City Attorney
Counsel for the City of South Miami
1450 Madruga Avenue, Suite 202
Coral Gables, FL 33146
(305) 667-2564
tpepe@southmiamifl.gov

CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2017, I electronically filed the foregoing petition with the electronic filing system of the U.S. Nuclear Regulatory Commission and that persons and parties of record were electronically served.

Signed electronically by: /s/ Kerri L. McNulty
VICTORIA MÉNDEZ, City Attorney
KERRI L. MCNULTY, Assistant City Attorney
XAVIER E. ALBÁN, Assistant City Attorney
Counsel for the City of Miami
444 SW 2nd Avenue, Suite 945
Miami, FL 33130
(305) 416-1800
(305) 416-1801 (facsimile)
klmcnulty@miamigov.com

Exhibit 1

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**DOCKET NO. 150009-EI
FLORIDA POWER & LIGHT COMPANY**

MAY 1, 2015

**IN RE: NUCLEAR POWER PLANT COST RECOVERY
FOR THE YEAR ENDING
DECEMBER 2016**

**TESTIMONY & EXHIBITS OF:
STEVEN D. SCROGGS**

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
FLORIDA POWER & LIGHT COMPANY
DIRECT TESTIMONY OF STEVEN D. SCROGGS
DOCKET NO. 150009-EI

May 1, 2015

Q. Please state your name and business address.

A. My name is Steven D. Scroggs. My business address is 700 Universe Boulevard, Juno Beach, Florida 33408.

Q. By whom are you employed and what is your position?

A. I am employed by Florida Power & Light Company (FPL or the Company) as Senior Director, Project Development. In this position I have responsibility for the development of power generation projects to meet the needs of FPL's customers.

Q. Have you previously provided testimony in this docket?

A. Yes.

Q. Are you sponsoring or co-sponsoring any exhibits in this case?

A. Yes. I am sponsoring or co-sponsoring the following exhibits:

- Exhibit SDS-8, Turkey Point 6 & 7 Site Selection and Pre-construction Nuclear Filing Requirement (NFR) Schedules consisting of the 2015 Actual/Estimated (AE) Schedules, the 2016 Projection (P) Schedules and the 2016 True-up to Original (TOR) Schedules. The NFR

1 Schedules contain a table of contents listing the schedules sponsored
2 and co-sponsored by FPL Witness Grant-Keene and me, respectively.

3 • Exhibit SDS-9, consisting of summary tables presenting the 2015
4 Actual/Estimated and 2016 Projected Pre-construction costs for the
5 Turkey Point 6 & 7 project.

6 • Exhibit SDS-10, Turkey Point 6 & 7 Project Benefits at a Glance

7 • Exhibit SDS-11, Turkey Point 6 & 7 Customer Savings from Nuclear
8 Cost Recovery Law

9 • Exhibit SDS-12, Remaining Steps in Turkey Point 6 & 7 Licensing

10 **Q. What is the purpose of your testimony?**

11 A. The purpose of my testimony is to provide a description of how the Turkey
12 Point 6 & 7 project is being managed and controlled. The project undertakes
13 the steps necessary to license, construct, and operate two Westinghouse
14 designed AP1000 nuclear reactors (AP1000) and associated transmission and
15 ancillary facilities at the Turkey Point site near the existing Turkey Point
16 3 & 4 nuclear units in southern Miami-Dade County. My testimony provides
17 insight into how project activities are managed given the near term focus on
18 obtaining all licenses, permits, and approvals and the factors influencing key
19 decisions affecting the nature, cost, and pace of that effort. I will also
20 describe the projected expenditures for 2015 and 2016 allowing FPL to
21 support and defend the required licenses, permits and approvals, and to
22 maintain those that have been obtained. FPL's 2015 and 2016 cost recovery

1 requests, as in past years, include only amounts that are associated with the
2 Licensing Phase currently underway.

3 **Q. Please summarize your testimony.**

4 A. FPL continues to carefully and methodically create the opportunity for
5 additional reliable, cost-effective and fuel diverse nuclear generation to
6 benefit FPL's customers. The approach applied to the management of the
7 Turkey Point 6 & 7 project provides control of cost risks while maintaining
8 progress through the intensive licensing period. The unique qualitative
9 benefits of fuel diversity, energy security and zero greenhouse gas emissions
10 offered by nuclear generation are unchanged from the origin of the project.
11 Quantitative benefits estimated for the project have decreased slightly with
12 improving economic factors, which on balance are beneficial for FPL's
13 customers. Notably, progress in other nuclear industry milestones (i.e.,
14 AP1000 U.S. construction) continues to provide positive indicators for the
15 long term feasibility of new nuclear plant deployment.

16

17 In 2015 and 2016 FPL will continue its progress on the project primarily by
18 defending an appeal of the state Site Certification Final Order and moving to
19 the final stages of the Nuclear Regulatory Commission's (NRC) Combined
20 License Application (COLA) review process.

21

22 The results of the annual feasibility analysis continue to support disciplined
23 pursuit of the project, and reaffirm that the project can provide unique

1 quantitative and qualitative benefits to FPL customers. FPL's stepwise
2 approach continues to provide FPL customers with the best opportunity to
3 make steady progress on the project. My testimony provides the Florida
4 Public Service Commission (FPSC) with the information necessary to
5 conclude that FPL's 2015 and 2016 project activities are reasonable and in the
6 interests of FPL customers and Floridians, in general.

7 **Q. Would you please provide an overview of the expected benefits of the**
8 **Turkey Point 6 & 7 project for FPL customers?**

9 **A.** Yes. Taking into account the updated project information provided in this
10 testimony, FPL expects the Turkey Point 6 & 7 project will:

- 11 • Provide estimated fuel cost savings for FPL's customers of
12 approximately \$570 million (nominal) in the first full year of operation
13 based on a Medium Fuel Cost forecast;
- 14 • Provide estimated fuel cost savings for FPL's customers of
15 approximately \$47 billion (nominal) over a 40 year operating life, and
16 approximately \$101 billion (nominal) over a 60 year operating life,
17 based on a Medium Fuel Cost forecast;
- 18 • Diversify FPL's fuel sources by decreasing reliance on natural gas by
19 approximately 13% beginning in the first full year of two unit
20 operation;
- 21 • Reduce annual fossil fuel usage by the equivalent of 29 million barrels
22 of oil or 184 million MMBTU of natural gas; and

1 A. Several key developments led to the establishment of the Nuclear Cost
2 Recovery statute as a means of resolving persistent issues in meeting the need
3 for stable and reasonably priced, reliable electricity for the state of Florida – in
4 a term “fuel diversity”. Primarily, the state’s reliance on natural gas-fueled
5 generation to meet the growing electricity needs of Floridians, highlighted by
6 volatile fossil fuel prices and supply reliability issues, created concern that
7 insufficient fuel diversity threatened the long term economic stability of the
8 state. These concerns were reinforced in 2005 by hurricanes Katrina and Rita,
9 which impacted natural gas production in the Gulf of Mexico, threatened
10 FPL’s fuel supply reliability, drove up natural gas prices and placed financial
11 strain on FPL customers. Florida’s significant and growing reliance on
12 natural gas fueled generation is a result of the difficulty in being able to
13 deploy non-gas baseload alternatives; most commonly fossil fuels (coal or oil
14 fueled generation) or nuclear generation. For example, FPL’s proposal in
15 2006 to build a clean coal power plant was denied by the FPSC. Nuclear Cost
16 Recovery was initiated to directly address some of the challenges associated
17 with deployment of nuclear generation to help improve fuel diversity and has
18 been successful for FPL customers, as more than 520 MW of new nuclear
19 capacity was successfully added to the system in 2013.

20 **Q. How did Florida’s reliance on natural gas develop?**

21 A. Throughout the last several decades, significant political, economic and
22 technology changes occurred to reshape the state’s generation portfolio away
23 from a dependence on foreign oil in the 1970s as existing plants were replaced

1 by plants operating on other fuel sources. During this period the nuclear
2 industry was dealing with significant regulatory, cost and schedule challenges
3 in deploying new nuclear units – essentially keeping new nuclear capacity
4 from being an option in the late 1980s and 1990s. The other traditional
5 baseload alternative, coal, had only been developed in limited amounts in
6 Florida because of the significant logistical challenges and expense in
7 delivering large quantities of coal from supply regions located in the country’s
8 interior and concerns related to emissions. These factors opened the door for
9 a new baseload technology. Deregulation of natural gas as a fuel for electric
10 generation and the introduction and continued improvement of large scale
11 combined cycle gas turbine technology evolved to provide a cost-effective,
12 efficient and low emissions alternative. As a result, combined cycle gas
13 turbine plants have been the technology of choice for most generation
14 additions in the state from the 1990s to today. While customers have
15 benefited from these choices, particularly the affordability and lower
16 emissions of domestic natural gas, recurrence of high and volatile fossil fuel
17 prices or supply reliability issues have impacted customers and the Florida
18 economy in the past and, unaddressed, could impact the state again in the
19 future.

20 **Q. What recent developments occurred to enable new nuclear generation as**
21 **a deployable alternative?**

22 **A.** In the late 1990s, the NRC instituted a refined regulatory framework for the
23 licensing of new nuclear generating units. This revised process places a high

1 focus on the rigor and detail applied during the licensing process, reducing the
2 opportunity for regulatory delays during construction or prior to operation;
3 complications that severely impacted the prior generation of nuclear power
4 plants. In this way, if regulatory delays occur they do so prior to significant
5 investment reducing the financial risk in the process. Also during the 1980s
6 and 1990s, a new generation of nuclear power plants were developed and
7 poised for U.S. and international deployment. The federal Energy Policy Act
8 of 2005 provided incentives and assurances that further motivated renewed
9 interest in nuclear generation. Consortiums were formed between potential
10 owners and manufacturers that furthered several key projects validating that
11 the new designs and licensing processes would be successful. By 2006, a host
12 of new nuclear projects had been proposed in the U.S. With the passage of
13 the Florida Energy Act of 2006 and the FPSC's adoption of the Nuclear Cost
14 Recovery rule, deployment of new nuclear capacity in Florida to address fuel
15 diversity concerns became a realistic option.

16 **Q. What specific considerations are included in the Nuclear Cost Recovery**
17 **rule as implemented by the FPSC?**

18 **A.** A core principle of the Nuclear Cost Recovery rule is that of transparency. In
19 order to satisfy that principle, applicants for cost recovery must satisfy a
20 number of extensive reviews. In order to enter the annual cost recovery
21 process, an applicant must first obtain an affirmative need determination
22 verifying that the proposed generation is required to provide cost-effective and
23 reliable electric generation. Annually, within the cost recovery process, the

1 applicant must provide a full accounting for all factors of the project,
2 including cost, schedule, decisions, and ongoing feasibility. This transparency
3 allows the FPSC to conduct in-depth oversight of the utility's actions in real
4 time -- as the project proceeds, rather than in hindsight years after decisions
5 are made and money is spent. The FPSC then makes a "reasonableness"
6 determination as to costs projected for the project (prior to any recovery of
7 those costs), and reviews historical costs for "prudence". Amendments to the
8 Nuclear Cost Recovery statute in 2013 provide for additional interim review
9 steps as the projects proceed from licensing to preparation and subsequently,
10 construction.

11 **Q. How does the existence of the Nuclear Cost Recovery process assist FPL**
12 **in bringing forward nuclear generation projects?**

13 A. The statute and associated rule provide the requisite regulatory certainty
14 necessary for FPL to undertake the complex and challenging task of adding
15 new nuclear capacity to its system. The process allows FPL to take the long-
16 lead steps of licensing and pre-construction and pays off interest costs during
17 construction, reducing costs to FPL's customers. Additionally, it enables FPL
18 to go to the financial markets and obtain competitive financing rates for the
19 large amount of capital required to fund the construction of the project.

20 **Q. Does the implementation of Nuclear Cost Recovery provide savings for**
21 **FPL customers?**

22 A. Yes. Nuclear Cost Recovery enables customers to avoid paying for
23 compounded interest during the approximately nine year construction period

1 and reduces the overall amount that would be recovered from customers under
2 normal rate base treatment by billions of dollars. As shown on Exhibit SDS-
3 11, the Nuclear Cost Recovery framework is projected to save FPL customers
4 about \$12.3 billion over the life of the Turkey Point 6 & 7 units.

6 PROJECT APPROACH

7
8 **Q. What is FPL's overall approach to developing Turkey Point 6 & 7?**

9 **A.** FPL continues to develop Turkey Point 6 & 7 through a deliberate and careful
10 process navigating through the four phases of project development:
11 Exploratory, Licensing, Preparation, and Construction. The project is
12 currently focused on the Licensing phase which allows FPL to make progress
13 on obtaining licenses and approvals without taking on the risks and
14 expenditures that would result from committing to a specific construction
15 schedule. For example, through 2016, FPL estimates it will have spent
16 approximately 1% of the high end of the estimated project cost range (\$20.0
17 billion).

18
19 A project of this complexity, particularly in the early stages, is subject to
20 external factors that are not under FPL's control. Therefore, FPL's approach
21 has been developed as a step-wise process. Routine monitoring of a wide
22 range of factors and events is accomplished to help increase certainty and
23 predictability, informing each subsequent step.

1 **Q. Please expand on the concept of the step-wise process and how the risks**
2 **related to the Turkey Point 6 & 7 project are controlled by key decisions.**

3 A. The project team monitors issues at local, state, and federal levels and across
4 technical, commercial, economic, and regulatory areas of interest. The impact
5 on cost, schedule, and quality are routinely assessed through a set of tools and
6 reviews. If review indicates the potential for a considerable cost or schedule
7 impact, mitigation actions are identified and are designed to eliminate, reduce,
8 or defer the impact. If the magnitude of the impact materially affects cost or
9 schedule, or changes the feasibility of the project, a decision is made as to
10 whether such impact is acceptable in light of all current information.
11 Alternative courses of action include continuing with a modified budget and
12 schedule along with available mitigation actions, or halting a portion of the
13 project temporarily while the issue is further assessed or resolved. The
14 alternative of slowing or halting a portion of the project in response to
15 significant events or uncertainties offers a high level of risk control for FPL
16 and its customers.

17
18 Recent schedule modifications to accommodate the effects of the revised NRC
19 COLA review schedule, and to incorporate the impacts of the 2013 Nuclear
20 Cost Recovery statutory amendments, demonstrates the implementation of the
21 stepwise approach. The new information was reviewed, and a revised project
22 schedule was developed and vetted.

23
24

1 recent success in the certification, NRC re-licensing, and permitting of
2 multiple power generation units in Florida and is complemented by our
3 national operating experience with renewable, natural gas, and nuclear
4 generation assets.

5

6 FPL also gives careful consideration to how it contracts for support of the
7 many license and permit applications. A combination of competitive bidding
8 and single/sole source procurement is used, in compliance with FPL policies,
9 to manage augmentation of FPL staff with qualified and experienced specialty
10 contractors and service providers.

11 **Q. What process and risk management tools does FPL apply to manage cost,
12 risk, and schedule objectives?**

13 A. FPL uses industry accepted project controls, systems, and practices to obtain a
14 high level of control over the expenditures incurred and projected for all
15 projects. The primary means of control are 1) the project budgeting and
16 reporting process, 2) project schedule and activity reporting processes, 3) the
17 contract management process for external service providers, and 4) internal
18 and external oversight processes. These processes were fully described in my
19 March 2, 2015 testimony and continue to be utilized in the oversight of the
20 project.

21 **Q. Please provide examples of specific tools used to manage the project.**

22 A. The PTN 6 & 7 Licensing Project Dashboard presents issues and the current
23 trends for those issues. Over time, if a problematic issue continues to trend

1 down or remains neutral, the effectiveness of the project management controls
2 are investigated to determine if changes in approach can create improvement,
3 or if mitigation measures are adequate. Additionally, a quarterly risk
4 summary tracks the assessment of project risks over time. This summary
5 qualitatively gauges the probability of occurrence and impacts to
6 implementation, cost, and schedule aspects of the project.

7 **Q. What activities are undertaken by the project to address industry issues**
8 **affecting the long term success and execution of the project?**

9 A. FPL is involved in a number of areas to address issues relevant to new nuclear
10 deployment. FPL participates in three specific groups comprised of new
11 nuclear industry owners and design vendor(s). These include the Design
12 Centered Working Group (DCWG), the AP1000 Owners Group (APOG), and
13 the Advanced Nuclear Technology group. The collective purpose of these
14 groups is to identify and resolve issues potentially affecting the licensing,
15 design, construction, operation, and maintenance of the AP1000 design.
16 Individually, each group provides a collaborative forum for owners to work
17 with each other, the design vendor and the NRC to achieve standardized
18 solutions to the issues facing all owners. This enables the industry to maintain
19 a high level of standardization from the earliest stages of new nuclear
20 deployment. Standardization of designs and processes provides benefits to
21 FPL customers in terms of efficiency and cost control.

22
23

1 For example, as discussed in my March 2, 2015 testimony, the NRC provided
2 an updated Review schedule for both safety and environmental aspects of the
3 Turkey Point 6 & 7 COLA in 2014. This revised schedule has provided
4 increased certainty regarding the timeline to complete the licensing phase, and
5 has allowed FPL to better estimate the earliest practicable project schedule.
6 NRC progress consistent with this new schedule will be closely tracked.

7
8 Additionally, the Atomic Safety and Licensing Board (ASLB) has reviewed
9 contentions to the Turkey Point 6 & 7 COLA over the past several years. All
10 contentions offered by opponents have been dismissed with the exception of
11 one related to certain constituents within waste water from the plant. FPL has
12 conducted additional analyses and will seek to have that contention dismissed.
13 If successful, the Turkey Point 6 & 7 COLA would not require a contested
14 hearing, reducing the time required to obtain a COL.

15 **Q. What factors at the state and local levels may affect the pace of the state**
16 **Site Certification process?**

17 **A.** Following the Siting Board Final Order in May 2014, four parties filed an
18 appeal in the Third District Court of Appeals. The appellate process will
19 involve briefing and ultimately a hearing before the tribunal. The timing of
20 the process is dependent on several administrative steps and the court's
21 calendar. It is anticipated that the Appellate court will rule within the next 12
22 months.

1 **Q. Does FPL monitor the progress of other U. S. new nuclear energy**
2 **projects?**

3 A. Yes. The new nuclear construction projects at Southern Company's
4 (Southern) Vogtle Electric Generating Plant (Vogtle) in Georgia and SCANA
5 Corporation's (SCANA) Summer AP1000 projects in South Carolina continue
6 to make progress but have experienced delays, primarily related to the
7 fabrication and delivery of modules. In 2014 both projects made progress
8 with the initial safety related construction. The advanced status of these
9 projects serves as a reference for FPL's cost estimates and post-licensing
10 schedule. In general, the status of these projects continues to demonstrate that
11 substantial and consistent progress is being made on deploying the next
12 generation of nuclear projects.

13 **Q. What is the status of a Department of Energy (DOE) Loan Guarantee for**
14 **the Vogtle and Summer projects?**

15 A. Georgia Power has entered into an agreement for a \$3.46 billion loan
16 guarantee for the company's 45.7% interest in the Vogtle 3 & 4 project.
17 Oglethorpe Power, owner of a 30% stake in the Vogtle project, also closed on
18 a \$3.06 billion loan guarantee. Municipal Electric Authority of Georgia is
19 pursuing finalization of a \$1.8 billion loan guarantee for its minority interest
20 in the Vogtle project. SCANA continues to discuss loan guarantees for the
21 Summer project, but has yet to commit to obtaining the guarantees.

22 **Q. What would be required to obtain a DOE Loan Guarantee for the**
23 **Turkey Point 6 & 7 project?**

1 A. Essentially, a new solicitation issued by the DOE Loan Guarantee Office
2 would be required. The solicitation would define the eligibility requirements
3 and terms of application which would guide FPL's actions. Upon submission
4 of an application, the Turkey Point 6 & 7 project would be evaluated for
5 eligibility and specific discussions defining the terms and conditions of a loan
6 guarantee would be initiated. FPL is prepared to pursue such a guarantee
7 should one be offered, and should FPL determine that participation would
8 benefit its customers.

9 **Q. What do recent developments related to the national and regional**
10 **economy indicate with respect to the continued pursuit of the Turkey**
11 **Point 6 & 7 project?**

12 A. The supply and demand balance in the natural gas industry has created a near
13 term reduction in natural gas prices and has maintained long range forecasts
14 for price at historically low levels. FPL Witness Brown addresses the effect
15 of changes in FPL demand forecasts and natural gas price forecasts on the
16 economic feasibility of Turkey Point 6 & 7.

17 **Q. What do recent developments related to national and regional energy**
18 **policy indicate with respect to the continued pursuit of the Turkey Point**
19 **6 & 7 project?**

20 A. National energy policy remains supportive of nuclear energy in general, and
21 new nuclear energy development in specific. Challenges to existing nuclear
22 generators in certain markets has become a focus of the administration as
23 these generators greatly assist in attaining emission reduction goals set by the

1 federal government. Further, the closing of the loan guarantees for Vogtle in
2 2014 underscores the desire of the federal government to promote generation
3 technologies that reduce or eliminate greenhouse gas emissions, maintaining
4 progress towards meeting policy goals. In general, while cautious,
5 policymakers continue to recognize the long term benefits of and need for
6 existing and new nuclear generation capacity.

7
8 Regionally, the legislature amended the Nuclear Cost Recovery statute in
9 2013. Notably, the amendments resulted in maintaining cost recovery as
10 originally envisioned, with added opportunities for the FPSC to review the
11 project prior to initiating major milestones. However, the additional reviews
12 required by the amended statute affect the project schedule and estimated total
13 project cost. Reliability, cost-effectiveness, fuel diversity, fuel supply
14 reliability, and price stability are still benefits to be delivered by increasing
15 nuclear generation capacity and are still needed by FPL's customers. A future
16 plan that does not include new nuclear capacity increases and prolongs
17 reliance on fossil fuels, increases exposure to fuel supply reliability and price
18 volatility, and is not as effective at reducing system emissions, including
19 greenhouse gas emissions, when compared to a plan that does include new
20 nuclear generation capacity.

21
22
23

1 **Q. Are there assumptions included in these estimates that may change, and**
2 **therefore affect the schedule?**

3 A. Yes. The NRC assumes that they will be provided the necessary resources to
4 execute the estimated plan. The NRC is addressing competing priorities to
5 resolve the NRC's response to Fukushima for the existing nuclear plants and
6 demands on resources necessary to complete the safety review. The
7 availability of NRC resources to complete the Turkey Point Unit 6 & 7 COLA
8 review will be impacted by the progress made in this important area, and other
9 potential developments.

10

11 At a project level, there are two specific assumptions that may offer an
12 opportunity to better the current milestone estimates. The SER timeline
13 assumes timely resolution of two additional rounds of Requests for Additional
14 Information of six months each, where only one round may be necessary.
15 Additionally, the overall timeline assumes the need for the ASLB (contested)
16 hearing. As discussed previously, if the last contention is dismissed, the
17 contested hearing would not be required and the overall schedule may gain six
18 months.

19 **Q. Did FPL anticipate that the NRC regulatory process could be extended?**

20 A. Yes. The potential for this schedule change was foreseen and this type of
21 change is at the core of how FPL has chosen to proceed on this important
22 project. As I indicated in 2013, "Things that are not under FPL's control are
23 federal budget issues, sequestration, and other items that affect the NRC's

1 resource and their resource allocation.” (See Transcript Docket 130009-EI,
2 page 609, lines 12-15). The NRC gives priority to emerging issues that affect
3 the existing nuclear fleet. FPL is making every prudent effort to deliver the
4 benefits of the project on the earliest practicable schedule, while being
5 mindful of the potential for and impact of delays. In fact, this has been FPL’s
6 position throughout this project.

7 **Q. What specific milestones are expected related to the USACE Section**
8 **404(b) process?**

9 A. As described in prior sections, the USACE will utilize the NRC EIS as its
10 Record of Decision for the Section 404(b) permits. Thus, the timing of these
11 permit activities closely follow the NRC process up to the point of the Final
12 EIS. When the Draft EIS was published for comment, the USACE published
13 a notice of the permit application. In parallel to the National Environmental
14 Policy Act based EIS process, the USACE will similarly complete a review
15 under the Clean Water Act to determine the Least Environmentally Damaging
16 Practicable Alternative. This will include a wildlife consultation with the U.S.
17 Fish & Wildlife Service. It is expected that the Section 404(b) permits could
18 be issued within four to six months following completion of the Final EIS in
19 2016.

20 **Q. What specific milestones are expected related to the state Site**
21 **Certification process in 2015 and 2016?**

1 A. As discussed earlier, the Third District Court of Appeals is expected to
2 address the appeal within the next 12 months. Also, FPL will take necessary
3 actions required by Conditions of Certification (CoC) to maintain compliance.

4 **Q. What type of activities are required by the CoC, and what is the timing
5 associated with these activities?**

6 A. The CoC identify specific activities (such as monitoring plans or reports,
7 management plans and wildlife surveys) necessary to demonstrate compliance
8 with the CoC and applicable regulatory requirements. The time requirements
9 for these activities vary based on the activity in question. Some are required
10 within a specified period of time following an event, such as Certification or
11 completion of construction. Some precede an event, such as commencement
12 of construction or commencement of operation. FPL will undertake those
13 activities necessary to maintain compliance with the terms and conditions of
14 the Certification.

15 **Q. Please provide an example of results associated with the state Site
16 Certification process that may affect the project cost or schedule.**

17 A. A monitoring program associated with the Radial Collector Well (RCW)
18 system was included as a CoC that will require significant groundwater and
19 ecological monitoring before, during, and after construction of the RCW
20 system. This is an example of the type of activity that could not be
21 specifically estimated prior to the Certification.

22 **Q. What specific milestones are expected for the Everglades National Park
23 Land Exchange process in 2015?**

1 A. The Draft EIS was published in January 2014 and comments were accepted
2 from the public through March 18, 2014. The U.S. National Park Service will
3 address the comments received and is expected to produce a Final EIS in
4 2015. Any agreement resulting in the land exchange would occur following
5 the Final EIS, and will likely include terms and conditions as established by
6 the Secretary of Interior.

7 **Q. Are there other specific milestones in the 2015-2016 timeframe that are**
8 **expected to enable FPL to proceed with pre-construction work after**
9 **receipt of the COL?**

10 A. Yes. FPL's current project schedule includes filing a request in 2016 to begin
11 pre-construction work, so that it can immediately begin such work upon
12 receipt of the COL. If FPL's request is made concurrent with its ordinary
13 May 2016 NCR filing, it would be considered by the FPSC in the fall and a
14 final order would likely be issued by the end of 2016. This timing aligns well
15 with the current NRC schedule discussed above, which assumes receipt of the
16 COL in the first part of 2017.

17 **Q. What work is FPL performing to obtain this necessary approval?**

18 A. FPL is conducting a number of initial assessments to inform a decision to
19 proceed to begin preconstruction work, as that term is used in Section 366.93,
20 Florida Statutes, and to support the related regulatory approval of such a
21 decision. These initial assessments are a collection of studies that are
22 necessary to compile a coordinated recommendation to continue to pre-
23 construction. These include engineering analyses that will help better define

1 the project schedule and construction scope, enhancing the accuracy of the
2 cost and schedule estimate to be used for the feasibility analysis that would be
3 presented in support of a decision to proceed to pre-construction. Due to the
4 nature of these initial assessments, some are required to be initiated up to
5 many months in advance of the decision to begin preconstruction.
6 Accordingly, it is reasonable that FPL undertake these activities in 2015 and
7 2016. FPL has chosen to defer requesting contemporaneous recovery of the
8 costs expended for these initial assessments until they are included in the
9 request for approval to proceed with pre-construction work.

10 **Q. Is there any pre-construction work anticipated in 2015 and 2016?**

11 A. No. Only activities that are related to obtaining or maintaining the necessary
12 licenses, permits or approvals, as discussed above, are planned to be
13 undertaken in 2015 and 2016.

15 PROJECT COST AND FEASIBILITY

17 **Q. What is the current non-binding cost estimate range for the project?**

18 A. The overnight capital cost estimate range is \$3,844/kW to \$5,589/kW. When
19 time-related costs such as inflation and carrying costs are included, and CODs
20 of 2027 and 2028 are assumed, the total project cost ranges from \$13.7 to
21 \$20.0 billion for the 2,200 MW project.

22 **Q. Please explain how the overnight cost estimate is constructed and how it**
23 **is used to help evaluate the feasibility of the project each year.**

1 A. An overnight cost is developed using the most current information available.
2 An overnight cost provides an estimate of the total project costs assuming all
3 costs occur at one point in time (“overnight”) and time-related costs
4 (escalation, interest during construction) are not included. Further,
5 recognizing many things could influence the overnight cost, additional
6 analysis is conducted on each component of the overnight cost to explore how
7 much it could vary, resulting in a cost estimate range. The overnight cost
8 provides an indication of the cost per kilowatt (\$/kW) for the project in a
9 given year reference. The 2014 cost estimate range was \$3,750/kW to
10 \$5,453/kW in 2014 dollars. Updating the cost estimate range provides a cost
11 estimate range of \$3,844/kW to \$5,589/kW in 2015 dollars. The cost estimate
12 range has been adjusted to current year dollars by assuming a 2.5% escalation
13 over the years between 2007 and present. While the actual escalation
14 experienced has been generally lower, retaining this simple assumption is
15 conservative and consistent with past year evaluations.

16
17 A breakeven cost analysis is developed by FPL’s Resource Assessment and
18 Planning Department, and is further discussed by FPL Witness Brown. This
19 breakeven cost is provided as an overnight cost and is directly compared to
20 the cost estimate range to assess the economic feasibility of the project.

21 **Q. Have there been any revisions to project features or design or any**
22 **industry-wide developments in the past year that suggest a revision to the**
23 **overnight capital cost estimate range?**

1 A. No. A review was conducted to capture any potential changes and estimate
2 the potential cost impact. No significant changes or developments have
3 occurred in the past year indicating any revisions are necessary to the project
4 cost estimate range. In general, the Final Order resulting from the SCA
5 preserved the project and ancillary features as proposed by FPL, and is
6 therefore consistent with the project as envisioned in the current cost estimate
7 range.

8 **Q. Does FPL's cost estimate range continue to be reasonable?**

9 A. Yes. The FPL cost estimate range continues to be reasonable based on the
10 annual review of the Turkey Point 6 & 7 capital cost estimate, a comparison to
11 other U.S. AP1000 project progress reports, and Concentric Energy Advisors'
12 review of U.S. AP1000 project overnight and total estimated costs.

13
14 The comparison to other U.S. AP1000 projects provides confidence due to the
15 advanced nature of the projects being reviewed. The costs being experienced
16 by the lead projects at Vogtle and Summer are informed by committed
17 contracts, are well into the construction cycle, and include significant
18 equipment and material purchases. Therefore, the total project costs estimated
19 for the projects in construction are more certain.

20 **Q. What future activities are anticipated that will provide information to
21 revise the overnight capital cost estimate range?**

22 A. Negotiations on the Engineering, Procurement and Construction contract will
23 provide more information including price, terms and schedules to support an

1 execution plan for project construction. That information will be integrated
2 with continued observations of the progress of preceding U.S. projects to
3 inform and revise the Turkey Point 6 & 7 non-binding cost estimate, as
4 warranted.

5 **Q. What factors may impact the overall project cost estimate, including**
6 **time-related costs such as price escalation and carrying costs?**

7 A. The primary factors affecting the total project cost will be the actual labor and
8 materials costs experienced during the Preconstruction and Construction
9 periods. The certainty around these costs will increase as preceding projects
10 move through the stages of construction and as FPL negotiates the principal
11 contracts for engineering, procurement, and construction of the project. The
12 pace of expenditures is also a critical factor that will impact total project costs.
13 Escalation of future costs and carrying costs on expended funds are time
14 related factors.

15 **Q. What are the most current Turkey Point 6 & 7 economic feasibility**
16 **analysis results?**

17 A. As discussed by FPL Witness Brown, the most current feasibility analysis
18 affirms the projected cost effectiveness and benefits associated with the
19 Turkey Point 6 & 7 project using the same basic analytical approach applied
20 in the Need Determination proceeding for the project and the six prior NCRC
21 filings. The analysis calculated a projected "break-even" cost for new
22 nuclear; a cost that results in the same life cycle costs (or cumulative present
23 value of revenue requirements) as an alternative plan relying on natural gas

1 combined cycle units assuming a 40 year operating life. The analysis was
2 conducted for seven scenarios comprised of combinations of three fuel and
3 three emission cost forecasts. The projected break-even costs were higher
4 than FPL's non-binding cost estimate range for its Turkey Point 6 & 7 project
5 in two of seven scenarios, and within the cost estimate range for the other five
6 scenarios. These results indicate that the Turkey Point 6 & 7 project is clearly
7 quantitatively superior to the combined cycle gas alternative plan in two
8 scenarios and within the non-binding cost estimate range in the other five
9 scenarios. The comparison to a natural gas facility must also recognize the
10 qualitative benefits offered only by a nuclear facility; fuel diversity, energy
11 security and zero greenhouse gas emissions.

12 **Q. Is a 40 year operating life assumption conservative?**

13 A. Yes. The term of forty years was chosen as a conservative estimate of the
14 operating life of the units based on the initial term of the NRC Combined
15 License. Historically, the initial license terms have been renewed for an
16 additional 20 years for many of the existing reactors in the U.S. today. FPL's
17 Turkey Point Units 3 and 4 and St. Lucie 1 and 2 units have successfully
18 extended the original license terms by 20 years. Therefore, it is reasonable to
19 assume that a 20 year extension would be attainable for the Turkey Point Unit
20 6 & 7 project.

21 **Q. How would the breakeven analysis results change if it is assumed that the**
22 **operating life of Turkey Point Units 6 and 7 is actually 60 years?**

1 A. The results indicate that the Turkey Point 6 & 7 project is quantitatively
2 superior to the combined cycle gas alternative plan in six scenarios, while one
3 scenario falls within the cost estimate range.

4 **Q. In February 2010, FPSC Staff provided a list of factors for consideration**
5 **in the feasibility analysis. Have those factors been considered?**

6 A. Yes. FPL Witness Brown discusses the economic factors and I discuss the
7 non-economic factors.

8 **Q. What non-economic factors affect the project's long term feasibility?**

9 A. Non-economic factors include the feasibility of obtaining all necessary
10 approvals (permits, licenses, etc.), the ability to obtain financing for the
11 project at a reasonable cost, and supportive state and federal energy policy.

12

13 Significant progress continues on the federal, state, and local approvals
14 required for the construction and operation of the project. During 2014, the
15 state certification process was completed, pending appeal. Similarly, the
16 federal licensing efforts are moving forward in 2015 and are estimated to be
17 complete by 2017 as discussed previously. While the review process has
18 taken longer than originally anticipated, the process is proceeding
19 substantively as expected.

20

21 Financing will be determined as the project proceeds through approvals to
22 construction. The lead projects, Vogtle and Summer, have successfully
23 obtained financing, and Vogtle has closed on a significant federal loan

1 guarantee. FPL will continue its dialogue with the financial community to
2 help maintain FPL's capability to obtain financing with reasonable terms.

3

4 As discussed earlier in this testimony, state and federal energy policy
5 continues to be generally supportive of new nuclear generation for a host of
6 reasons. Recent legislative activity in Florida sought to revise some aspects of
7 the Nuclear Cost Recovery statute, but preserve the opportunity it provides.
8 The high reliability, low and stable cost, and zero greenhouse gas emission
9 profile of nuclear generation technology remains highly compatible with key
10 energy policy objectives.

11 **Q. Does FPL intend to pursue completion of the Turkey Point 6 & 7 project?**

12 A. Yes. The critical path to completing Turkey Point 6 & 7 requires obtaining
13 the licenses and approvals necessary to construct and operate Turkey Point
14 6 & 7. Once the project is closer to obtaining the approvals, FPL will be able
15 to refine the economic assumptions and incorporate the experience of other
16 new nuclear projects as well as how state and federal energy policies have
17 evolved. The FPSC will continue to have the opportunity to review FPL's
18 plans through the NCRC process.

19 **Q. Does FPL have sufficient, meaningful, and available resources dedicated
20 to the Turkey Point 6 & 7 project?**

21 A. Yes. As demonstrated throughout this testimony, FPL has in place an
22 appropriate project management structure that relies on both dedicated and
23 matrixed employees, the necessary contractors for specialized expertise, and a

1 robust system of project controls. These resources enable the project to
2 progress through the current licensing phase.

3
4 **2015 & 2016 PROJECT COSTS**

5
6 **Q. How are the 2015 Actual/Estimated costs and the 2016 Projected costs**
7 **developed?**

8 A. FPL has a disciplined ground-up process to develop project budgets. This
9 process was used in the initial project budgeting activity and is routinely
10 reviewed and evaluated for adequacy and accuracy as additional information
11 becomes available. The estimates of the 2015 Actual/Estimated and 2016
12 Projected costs were completed in accordance with FPL's budget and
13 accounting guidelines and policies. Where services are contracted, rates are
14 provided by the contractor and reviewed to verify the charged rates are
15 consistent with FPL's experience in the broader industry. The cost estimates
16 were compared to other costs being incurred by the Company for similar
17 activities and found to be reasonable.

18 **Q. Please provide a high level summary of the 2015 Actual/Estimated and**
19 **the 2016 Projected costs presented in this filing.**

20 A. The costs associated with the Turkey Point 6 & 7 project in 2015 and 2016 are
21 focused on supporting the licensing and permit application reviews underway,
22 supporting compliance for permits and approvals obtained, and conducting the

1 necessary initial assessments to support decision making and necessary
2 approvals for proceeding to preconstruction work.

3 **Q. What changes may occur that could affect these cost projections?**

4 A. The pace and content of the application reviews may impact the actual costs in
5 2015 and 2016, however this is anticipated to be significantly less than
6 experienced in the past as the processes are coming to a close.

7 **Q. Please summarize the costs included in this filing for Turkey Point 6 & 7
8 Pre-construction activities.**

9 A. Schedule AE-6 of SDS-8 presents the 2015 Actual/Estimated costs in the
10 following categories: 1) Licensing \$15,377,764; 2) Permitting \$291,349;
11 3) Engineering and Design \$4,026,573; 4) Long Lead Procurement advance
12 payments \$0; 5) Power Block Engineering and Procurement \$0; 6)
13 Transmission \$0; and 7) Initial Assessments \$1,842,105.. Schedule P-6 of
14 SDS-8 presents the 2016 Projected costs in the following categories: 1)
15 Licensing \$17,047,175; 2) Permitting \$520,642; 3) Engineering and Design
16 \$4,684,208; 4) Long Lead Procurement \$0; 5) Power Block Engineering and
17 Procurement \$0; 6) Transmission \$0; and 7) Initial Assessments \$3,157,895.
18 Table 1 of Exhibit SDS-9 provides a summary of the Actual/Estimated 2015
19 and Projected 2016 Pre-construction costs. The descriptions in the Exhibit
20 SDS-9 tables are illustrative and do not provide full line item detail.

21 **Q. Please describe the activities included in the Licensing category for the
22 2015 Actual/Estimated costs and the 2016 Projected costs.**

1 A. For the period ending December 31, 2015, Licensing costs are estimated to be
2 \$15,377,764 as shown on Line 3 of Schedule AE-6 of SDS-8. For the period
3 ending December 31, 2016, Licensing costs are projected to be \$17,047,175
4 as shown on Line 3 of Schedule P-6 of SDS-8. Table 2 of Exhibit SDS-9
5 provides a detailed breakdown of the Licensing subcategory costs.

6
7 Licensing costs consist primarily of FPL employee and contractor labor and
8 specialty consulting services necessary to support the various license and
9 permit applications and maintain compliance with the conditions of the
10 approvals and permits obtained for the Turkey Point 6 & 7 project. For
11 example, upon receipt of a COL from the NRC, FPL will be required to have
12 the necessary resources in place to support the license. This will include
13 specialty software to maintain the required license documentation and the
14 necessary qualified professionals to administer the processes. These
15 expenditures result in an increase in NNP Team Costs in 2016 as compared to
16 2015.

17
18 In 2015 and 2016 Licensing costs are primarily related to the NRC COLA and
19 USACE 404(b) permit processes. Licensing costs are developed in accordance
20 with budget and accounting guidelines and policies. Further, these cost
21 estimates were compared to FPL's extensive experience with the development
22 and permitting of new generation projects in Florida and found to be
23 reasonable.

1 **Q. What are the major differences between the 2015 Actual/Estimated**
2 **values and those projected in the May 1, 2014 filing for the Licensing**
3 **category?**

4 A. The Actual/Estimated values for the Licensing category in 2015 are
5 \$4,350,513 more than the amount projected for 2015 in 2014. The principal
6 contributors to the increased requirements come from two areas. The new
7 forecast includes an increase of approximately \$3,200,000 in anticipated NRC
8 fees and a corresponding increase in technical support of approximately
9 \$2,000,000, partially offset by reductions in other cost categories. Both
10 expenditures are driven by the comprehensive review of seismic issues, as a
11 part of an overall heightened industry review of seismic-related areas.

12 **Q. Please describe the activities in the Permitting category for the 2015**
13 **Actual/Estimated costs and the 2016 Projected costs.**

14 A. For the period ending December 31, 2015, Permitting costs are estimated to be
15 \$291,349 as shown on Line 4 of Schedule AE-6 of SDS-8. For the period
16 ending December 31, 2016, Permitting costs are projected to be \$520,642 as
17 shown on Line 4 of Schedule P-6 of SDS-8. Table 3 of Exhibit SDS-9
18 provides a detailed breakdown of the Permitting subcategory costs, including
19 a description of items included within each category. Permitting costs include
20 costs for the Development team, in-house legal support, and resources to
21 conduct necessary outreach educating stakeholders about the project.

1 **Q. What are the major differences between the 2015 Actual/Estimated**
2 **values and those projected in the May 1, 2014 filing for the Permitting**
3 **category?**

4 A. The Actual/Estimated values for the Permitting category in 2015 are \$45,665
5 more than the amount projected for 2015 in 2014. The increased expenditures
6 are for continuing external legal support for the Land Exchange and
7 Development support beyond the time frame projected in the May 1, 2014
8 filing.

9 **Q. Please describe the activities in the Engineering and Design category for**
10 **the 2015 Actual/Estimated costs and the 2016 Projected costs.**

11 A. The Engineering and Design activities performed in 2015 and 2016 are
12 primarily related to participation in industry groups and engineering support
13 for the COLA review. For the period ending December 31, 2015, Engineering
14 and Design costs are estimated to be \$4,026,573 as shown on Line 5 of
15 Schedule AE-6 of SDS-8. For the period ending December 31, 2016,
16 Engineering and Design costs associated with preliminary engineering
17 activities are projected to be \$4,684,208 as shown on Line 5 of Schedule P-6
18 of SDS-8. Table 4 of Exhibit SDS-8 provides a detailed breakdown of the
19 Engineering and Design subcategory costs, including a description of items
20 included within each category.

21

22 Costs for participation in industry groups include the Electric Power Research
23 Institute Advanced Nuclear Technology working group (with annual fees of

1 \$250,000 in 2015 and \$275,000 in 2016) and the DCWG (no external charge
2 to participate in this group). The fee for participation in APOG is expected to
3 be \$3,000,000 in 2015 and \$3,000,000 in 2016. These costs are necessary to
4 obtain the benefits of membership described earlier in this testimony.

5 **Q. What are the major differences between the 2015 Actual/Estimated**
6 **values and those projected in the May 1, 2014 filing for the Engineering**
7 **and Design category?**

8 A. The Actual/Estimated values for the Engineering and Design category in
9 2015 are \$2,118,785 higher than the amount projected for 2015 in 2014. The
10 principal cause of this increase is the increase in APOG membership
11 contribution.

12 **Q. Please describe the activities in the Long Lead Procurement category for**
13 **the 2015 Actual/Estimated costs and the 2016 Projected costs.**

14 A. For the period ending December 31, 2015 and December 31, 2016, Long Lead
15 Procurement costs are projected to be \$0 as shown on Line 6 of Schedule AE-
16 6 of SDS-8 and line 6 of Schedule P-6 of SDS-8. Future Long Lead
17 Procurement costs are anticipated to be included in the Power Block
18 Engineering and Procurement cost category.

19 **Q. Please describe the activities in the Power Block Engineering and**
20 **Procurement category for the 2015 Actual/Estimated costs and the 2016**
21 **Projected costs.**

22 A. For the period ending December 31, 2015 and, Power Block Engineering and
23 Procurement costs are estimated to be \$0 as shown on Line 7 of Schedule AE-

1 6 of SDS-8. For the period ending December 31, 2016, Power Block
2 Engineering and Procurement costs are projected to be \$0 as shown on Line 7
3 of Schedule P-6 of SDS-8.

4 **Q. Please describe the activities in the Transmission category for the 2015**
5 **Actual/Estimated costs and the 2016 Projected costs.**

6 A. For the period ending December 31, 2015, Transmission expenditures are
7 estimated to be \$0 as shown on Line 25 of Schedule AE-6 of SDS-78. For the
8 period ending December 31, 2016, Transmission expenditures are projected to
9 be \$0 as shown on Line 25 of Schedule P-6 of SDS-8.

10

11 All 2015 and 2016 costs associated with Transmission planning are related to
12 the licensing and permitting activities, and therefore are appropriately
13 included in those categories, described above.

14 **Q. Please describe the activities in the Initial Assessments category for the**
15 **2015 Actual/Estimated costs and the 2016 Projected costs.**

16 A. For the period ending December 31, 2015, Initial Assessment expenditures are
17 estimated to be \$1,842,105 as shown on Line 8 of Schedule AE-6 of SDS-8.

18 For the period ending December 31, 2016, Initial Assessment expenditures are
19 projected to be \$3,157,895 as shown on Line 8 of Schedule P-6 of SDS-8.

20 These costs consist of studies required to further refine the revised schedule
21 and substantiate assumptions supporting the feasibility analysis. As discussed
22 previously, these costs are reasonable to support a decision to proceed to
23 preconstruction and to support the filings FPL will make to seek approval to

1 begin preconstruction. Nonetheless, FPL is not seeking to recover these costs
2 as part of its 2016 NCR amount. Therefore, they have been adjusted out of
3 FPL's request, as shown on Line 14 of Schedule AE-6 and Line 14 of
4 Schedule P-6.

5 **Q. Are FPL's Actual/Estimated 2015 and Projected 2016 Turkey Point 6 & 7**
6 **costs reasonable?**

7 A. Yes. FPL's 2015 expenditures of \$21,537,791 and 2016 expenditures of
8 \$25,409,920 are reasonable and necessary to obtain the licenses, permits and
9 approvals which will allow FPL to carefully and methodically create the
10 opportunity for additional reliable, cost-effective and fuel diverse nuclear
11 generation to benefit FPL customers. FPL uses a robust system of project
12 controls, systems, and practices to obtain a high level of control over the
13 expenditures incurred and projected. Together, these support a finding that
14 FPL's Actual/Estimated 2015 and Projected 2016 expenditures are reasonable.

15 **Q. Does this conclude your direct testimony?**

16 A. Yes.

Docket No. 150009-EI
Turkey Point 6 & 7 Site Selection and Pre-construction
Nuclear Filing Requirement Schedules
Exhibit SDS-8, Page 1 of 1

SDS-8 is in the Nuclear Filing Requirements Book

Table 1. 2015 Preconstruction Costs

| Category | 2015 Actual/ Estimated Costs (\$) | 2016 Projected Costs (\$) |
|--|---|---------------------------------|
| Licensing | 15,377,764 | 17,047,175 |
| Permitting | 291,349 | 520,642 |
| Engineering & Design | 4,026,573 | 4,684,208 |
| Long Lead Procurement | - | - |
| Power Block Engineering & Procurement | - | - |
| Total Preconstruction Costs | 19,695,685 | 22,252,025 |
| Transmission | - | - |
| Total Preconstruction Costs & Transmission | 19,695,685 | 22,252,025 |
| Initial Assessments | 1,842,105 | 3,157,895 |
| Total Preconstruction Costs, Transmission & Initial Assessments | 21,537,791 | 25,409,920 |

Note: Totals may not appear to add due to rounding.

Table 2. 2015 Licensing Costs

| Category | 2015 Actual/ Estimated Costs (\$) | 2016 Projected Costs (\$) |
|--|---|---------------------------------|
| NNP Team Costs - NNP FPL Payroll and Expenses, FPL Project Team Facilities, FPL Engineering, FPL Licensing | 3,439,461 | 6,102,657 |
| Application Production - COLA/SCA Contractor, Project Architecture & Engineering, NRC and Design Center Working Group fees | 8,188,773 | 5,881,139 |
| SCA Oversight | - | - |
| SCA Subcontractors: | | |
| • Transmission | 70,219 | - |
| • Environmental | 52,681 | 30,000 |
| • Underground Injection | - | - |
| Total SCA | 122,899 | 30,000 |
| Environmental Services - FPL Payroll and Expenses, External Support Expenses | 257,610 | 772,575 |
| Power Systems - FPL Payroll and Expenses, System Studies, Licensing and Permitting Support and Design Activities | 33,673 | 57,403 |
| Licensing Legal - FPL Payroll and Expenses, External Legal Services, Expert Witnesses | 1,069,688 | 1,267,019 |
| • Regulatory Affairs | 432,750 | 273,330 |
| • New Nuclear Accounting | 238,048 | 277,657 |
| Total Regulatory Support | 670,797 | 550,987 |
| Licensing Contingency | 1,594,863 | 2,385,395 |
| Total Licensing | 15,377,764 | 17,047,175 |

Note: Totals may not appear to add due to rounding.

Table 3. 2015 Permitting Costs

| Category | 2015 Actual/ Estimated Costs (\$) | 2016 Projected Costs (\$) |
|---|---|---------------------------------|
| Project Communication Support | 37,133 | 58,527 |
| Development - FPL Payroll and Expenses, Various Studies | 148,421 | 287,953 |
| Permitting - Legal Specialists Support | 77,155 | 105,193 |
| Permitting Contingency | 28,639 | 68,969 |
| Total Permitting | 291,349 | 520,642 |

Table 4. 2015 Engineering and Design Costs

| Category | 2015 Actual/ Estimated Costs (\$) | 2016 Projected Costs (\$) |
|--|---|---------------------------------|
| Engineering and Construction Team - FPL Payroll and Expenses, Preconstruction Project Management | 345,770 | 773,695 |
| Pre-construction External Engineering - Construction Planning | 20,000 | - |
| APOG Membership Participation | 3,000,000 | 3,000,000 |
| EPRI Advanced Nuclear Technology | 250,000 | 275,000 |
| FEMA Fees | 15,000 | 15,000 |
| Engineering and Design Contingency | 395,803 | 620,513 |
| Total Engineering and Design | 4,026,573 | 4,684,208 |

Table 5. 2015 Initial Assessment Costs

| Category | 2015 Actual/ Estimated Costs (\$) | 2016 Projected Costs (\$) |
|----------------------------------|---|---------------------------------|
| Total Initial Assessments | 1,842,105 | 3,157,895 |

Note: Totals may not appear to add due to rounding.

Turkey Point 6 & 7 Project Benefits at a Glance

Projected first year fossil fuel savings for customers

\$570 million

Projected lifetime fossil fuel savings for customers

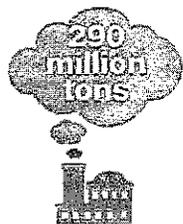
40 years:
\$47 billion
60 years:
\$101 billion



Enough energy to power
1,251,000
customer homes
without burning coal,
natural gas or foreign oil

Fewer greenhouse gas emissions

CO₂ reduction of



40 years

U.S. EPA annual equivalent of removing more than



Decreased reliance on natural gas and foreign oil

Annual fossil fuel reduction of the equivalent of
29 million barrels of oil
or
184 million mMBTU of natural gas

FPL's reliance on natural gas reduced by

13%
beginning in the first full year of operation

Higher electric grid stability

Turkey Point 6 & 7—more electricity where it is needed

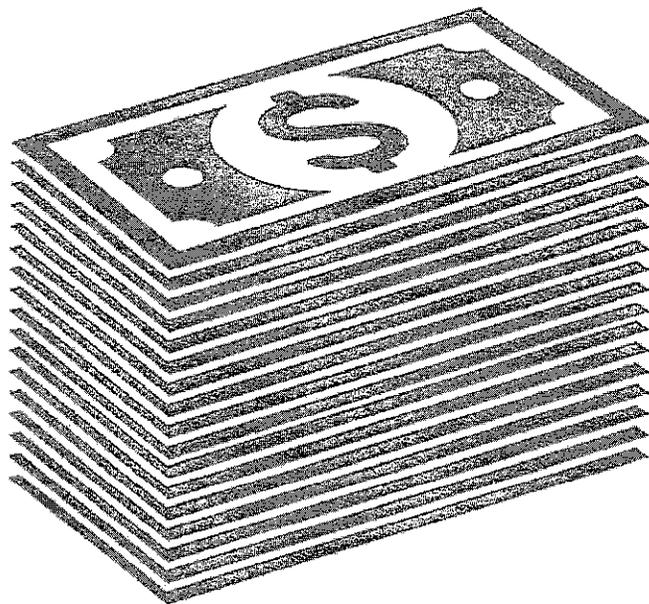


Docket No. 150009-El
 Turkey Point 6 & 7 Project Benefits at a Glance
 Exhibit SDS-10, Page 1 of 1



Florida's Nuclear Cost Recovery Law Saves FPL Customers Money

Recovery of carrying costs through the Nuclear Cost Recovery Clause reduces rates for customers over the life of the Turkey Point 6 & 7 plant



**FPL customers
save more than**

**\$12
billion***

**over the life
of the plant**

Docket No. 150009-EI
Turkey Point 6 & 7 Customer Savings from
Nuclear Cost Recovery Law
Exhibit SDS-11, Page 1 of 1

* Based on the high end of the non-binding cost estimate range and an assumed 40 year operating life
* Net present value in 2015 dollars is more than \$580 million



Remaining Steps to Obtain Key State and Federal Licenses for Turkey Point 6 & 7

| Licensing Activity | 2015 | 2016 | 2017 |
|---|------|------|------|
| Site Certification | | | |
| Siting Board/Certification | | | |
| Potential Appeal | | | |
| Final Unappealable Certification | | | |
| Army Corps of Engineers Application | | | |
| 404(b) Public Notice | | | |
| Least Environmentally Damaging Practicable Alternative Review | | | |
| Final Record of Decision | | | |
| Permit Issued | | | |
| Combined License Application (COLA) | | | |
| Revised COLA Schedule | | | |
| Safety Review | | | |
| Advanced Final Safety Evaluation Report (SER) | | | |
| Advisory Committee on Reactor Safeguards Meeting | | | |
| Final SER | | | |
| Environmental Review | | | |
| Draft Environmental Impact Statement (EIS) | | | |
| Completion of EIS | | | |
| Final EIS | | | |
| Atomic Safety and Licensing Board Hearing | | | |
| NRC COL Decision | | | |

Docket No. 150009-EI
 Remaining Steps in Turkey Point 6 & 7 Licensing
 Exhibit SDS-12, Page 1 of 1

All dates are estimated based on recent state or federal communications

**CERTIFICATE OF SERVICE
DOCKET NO. 150009-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing testimony and exhibits was served by electronic mail this 1st day of May, 2015 to the following:

Keino Young, Esq.
Kyesha Mapp, Esq.
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
kyoung@psc.state.fl.us
kmapp@psc.state.fl.us

Patricia A. Christensen, Esq.
Associate Public Counsel
Office of Public Counsel
The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399
christensen.patty@leg.state.fl.us
Attorney for the Citizens of the State of Fla.

J. Michael Walls, Esq.
Blaise N. Gamba, Esq.
Carlton Fields Jordan Burt, P.A.
P.O. Box 3239
Tampa, Florida 33601-3239
mwalls@cfjblaw.com
bgamba@cfjblaw.com
Attorneys for Duke Energy Florida, Inc.

Dianne M. Triplett, Esq.
299 First Avenue North
St. Petersburg, Florida 33701
dianne.triplett@duke-energy.com
Attorney for Duke Energy Florida, Inc.

Matthew Bernier, Esq., Sr. Counsel
106 East College Ave., Suite 800
Tallahassee, Florida 32301-7740
Matthew.bernier@duke-energy.com
Attorney for Duke Energy Florida, Inc.

James W. Brew, Esq.
Owen J. Kopon, Esq.
Laura A. Wynn, Esq.
Brickfield, Burchette, Ritts & Stone, P.C.
1025 Thomas Jefferson Street, N.W.
8th Floor, West Tower
Washington, D.C. 20007
jbrew@bbrslaw.com
owen.kopon@bbrslaw.com
laura.wynn@bbrslaw.com
*Attorneys for White Springs Agricultural
Chemicals, Inc., d/b/a PCS Phosphate-White
Springs*

Jon C. Moyle, Jr., Esq.
Moyle Law Firm, P.A.
118 North Gadsden Street
Tallahassee, Florida 32301
jmoyle@moylelaw.com
Attorney for Fla. Industrial Power Users Group

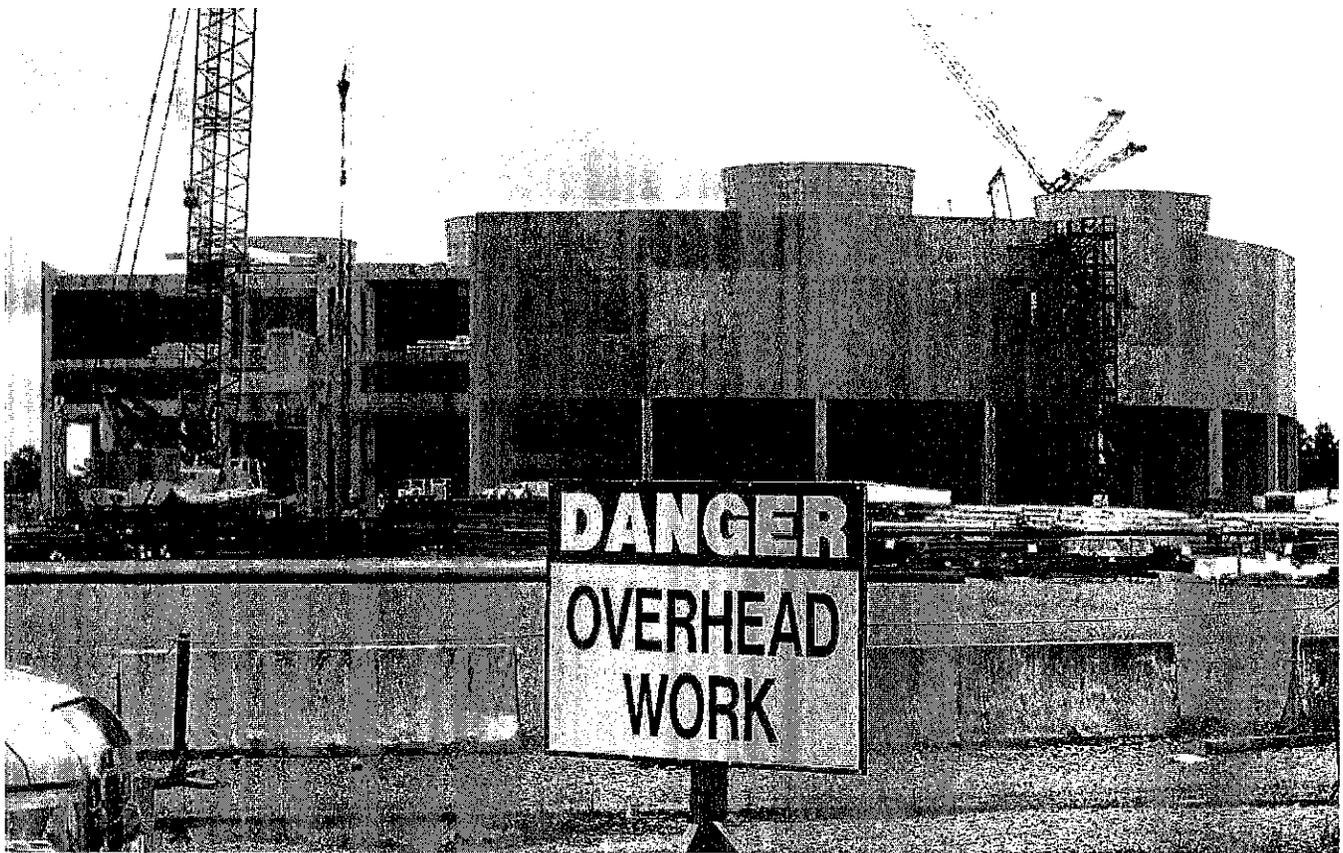
Robert Scheffel Wright, Esq.
John T. LaVia, III, Esq.
Gardner Bist Bowden Bush Dee
LaVia & Wright, P.A.
1300 Thomaswood Drive
Tallahassee, FL 32308
Schef@gbwlegal.com
Jlavia@gbwlegal.com
Attorneys for the Florida Retail Federation

Victoria Méndez, City Attorney
Matthew Haber, Assistant City Attorney
City of Miami
444 Southwest 2nd Avenue
Miami, FL 33130
vmendez@miamigov.com
mshaber@miamigov.com
yillescas@miamigov.com (secondary e-mail)
Attorneys for City of Miami

George Cavros, Esq.
120 E. Oakland Park Blvd., Suite 105
Fort Lauderdale, FL 33334
george@cavros-law.com
Attorney for Southern Alliance for Clean Energy

By: s/ Jessica A. Cano
Jessica A. Cano
Fla. Bar No. 0037372

Exhibit 2



LOCAL

MARCH 29, 2017 4:51 PM

Utilities hope to finish SC nuclear plant despite Westinghouse bankruptcy

BY BRUCE HENDERSON

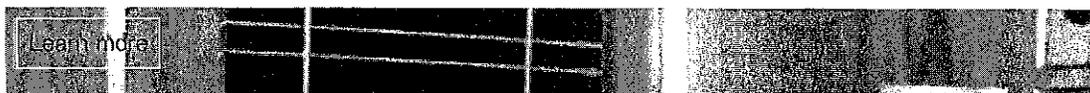
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The utilities building a new nuclear power plant in South Carolina say they hope to complete the \$14 billion project despite the bankruptcy Wednesday of contractor Westinghouse Electric Co.

SCANA has a 55 percent stake in the two nuclear reactors Westinghouse is in charge of building at the V.C. Summer power plant northwest of Columbia. State-owned Santee Cooper owns the other 45 percent.

The utilities said in a statement that, anticipating a bankruptcy, they have worked with Westinghouse on an agreement to continue work at Summer while the utilities decide how to move forward.

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“Our commitment is still to try to finish these plants; that would be my preferred option,” SCANA Chairman and CEO Kevin Marsh told financial analysts Wednesday. He added: “It’s early in the process (and) way too premature to say this is the option we’re going to end up with.”

If the plant is canceled, he said, the utility will still need the electricity the reactors would have generated.

The Summer plant is about \$3 billion over budget and years behind schedule, Columbia’s State newspaper reported.

Westinghouse, whose nuclear reactors are used worldwide, is also leading construction of two reactors at the Vogtle power plant in Georgia that is owned by Southern Co.

Both would use the new Westinghouse AP1000 reactor, which was touted as a safer, cheaper option to older designs. Duke Energy had also planned to use the AP1000 if it moves forward with the Lee nuclear plant in Cherokee County, S.C.

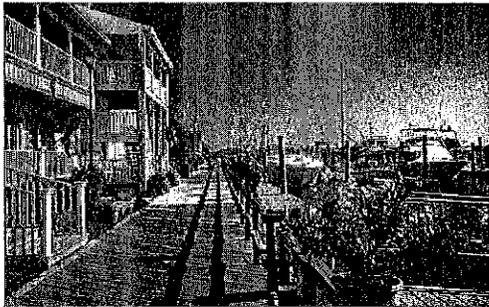
The industry had hoped the designs would usher in a nuclear renaissance to replace the aging U.S. fleet. Instead the Japanese company Toshiba Corp., which bought Westinghouse’s nuclear business in 2006, has written off \$6 billion in U.S. nuclear-related losses.

Bruce Henderson: 704-358-5051, @bhender



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Georgia Power reaches tentative deal to take over Plant Vogtle work

13



Russell Grantham - The Atlanta Journal-Constitution
 11:40 p.m Friday, May 12, 2017 Filed in Business and Money news



Construction of Plant Vogtle's Unit 3 reactor. Photo: Georgia Power

Georgia Power and Westinghouse Electric said they reached a tentative agreement for the Atlanta utility and Southern Nuclear to take over management of the troubled Plant Vogtle project indefinitely from the bankrupt contractor.

The new agreement, announced Friday night, will take effect "once the current ... construction contract is rejected in Westinghouse's bankruptcy proceeding," the companies said.



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The two companies said an existing interim agreement, which was set to expire Friday, will be extended to June 3 to give the parties time to finalize the new deal and get required approvals, including from the bankruptcy court. Atlanta-based Southern Company is the parent of both Georgia Power and Southern Nuclear.

Georgia Power did not indicate in its terse statement what its long-term plans are for the nuclear expansion project.

"Georgia Power will continue work to complete its full-scale schedule and cost-to-complete analysis and work with the project co-owners (Oglethorpe Power, MEAG Power and Dalton Utilities) and the Georgia Public Service Commission to determine the best path forward for customers," the company said in a press release.

Since the late-March bankruptcy of Westinghouse, the project's key contractor, Georgia Power has been spending about \$50 million a month under the extended contract to continue building two new nuclear reactors at the plant near Augusta.

Georgia Power and Southern told state regulators Thursday that they have been gathering information at the site and from Westinghouse to determine what to do in the wake of the bankruptcy filing.

Westinghouse, which is reorganizing under Chapter 11, provided the designs for the new reactors and had been overseeing construction.

Westinghouse is owned by Japanese conglomerate Toshiba. It is expected to seek to exit the Vogtle project as part of its bankruptcy reorganization. Georgia Power and Southern say they are looking at all options, including completing construction under different management, converting the project to another type of power plant, or abandoning it.

The project is well over \$3 billion over budget and more than three years behind schedule.

About 6,000 employees and contractors are working at the site, with about 43 percent of the construction completed, utility executives told the Georgia Public Service Commission at a hearing Thursday.

Georgia Power officials said the project slipped at least four months farther behind schedule in the second half of 2016, and has fallen farther behind this year. They said they no longer expect the project to be finished by the end of 2020, the latest date the company had projected.

Georgia Power and its partners such as Oglethorpe Power and MEAG are bankrolling the project with more than \$8 billion in federal loans and loan guarantees. Georgia Power has also collected nearly \$2 billion paid through "financing" surcharges that add about \$100 a year to residential customers' bills.

Critics say the \$20 billion project isn't needed because demand for electricity has been largely flat in Georgia since the PSC approved it in 2009, even though the state's population has grown about 6 percent since then.

Experts says the slowed electricity usage has resulted partly from more efficient lights, appliances and heating and cooling systems, and partly from slower economic growth since the Great Recession.

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ENERGY & ENVIRONMENT

Westinghouse Files for Bankruptcy, in Blow to Nuclear Power

By DIANE CARDWELL and JONATHAN SOBLE MARCH 29, 2017

Westinghouse Electric Company, which helped drive the development of nuclear energy and the electric grid itself, filed for bankruptcy protection on Wednesday, casting a shadow over the global nuclear industry.

The filing comes as the company's corporate parent, Toshiba of Japan, scrambles to stanch huge losses stemming from Westinghouse's troubled nuclear construction projects in the American South. Now, the future of those projects, which once seemed to be on the leading edge of a renaissance for nuclear energy, is in doubt.

"This is a fairly big and consequential deal," said Richard Nephew, a senior research scholar at the Center on Global Energy Policy at Columbia University. "You've had some power companies and big utilities run into financial trouble, but this kind of thing hasn't happened."

9 Westinghouse, a once-proud name that in years past symbolized America's
ARTICLES REMAINING in nuclear power, now illustrates its problems. **One subscription. Endless discovery.** Save 30% on one year of The Times.

Many of the company's injuries are self-inflicted, such as a disastrous deal for a construction business that was intended to control costs and instead precipitated the events that led to the filing on Wednesday. Over all, Toshiba has been widely criticized for overpaying for Westinghouse.

But some of what went wrong was beyond either company's control. Slowing demand for electricity and tumbling prices for natural gas have eroded the economic rationale for nuclear power, which is extremely costly and technically challenging to develop. Alternative-energy sources like wind and solar power are rapidly maturing and coming down in price. The 2011 earthquake in Japan that led to the nuclear disaster at the Fukushima Daiichi plant renewed worries about safety.

Westinghouse's problems are already reducing Japan's footprint in nuclear power, an industry it has nurtured for decades in the name of energy security. Even before the filing, Toshiba had essentially retired Westinghouse from the business of building nuclear power plants. Executives said they would instead focus on maintaining existing reactors — a more stable and reliably profitable business — and developing reactor designs.

That has made the already small club of companies that take on the giant, expensive and complex task of nuclear-reactor building even smaller. General Electric, a pioneer in the field, has scaled back its nuclear operations, expressing doubt about their economic viability. Areva, the French builder, is mired in losses and undergoing a large-scale restructuring.

Among the winners could be China, which has ambitions to turn its growing nuclear technical abilities into a major export. That has raised security concerns in some countries.

The shrinking field is a challenge for the future of nuclear power, and for Toshiba's revival plans. Its executives have said they would like to sell all or part of Westinghouse to a competitor, but with a dwindling list of potential buyers — combined with Westinghouse's history of financial calamity — that has become a difficult task.

9

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Toshiba still faces tough questions. The company is also divesting its profitable semiconductor business and plans to sell a stake to an outside investor to raise capital. Most of the companies seen as possible buyers are from outside Japan. Some Japanese business leaders have expressed fears that the sale will further erode Japan's place in an industry it once dominated.

After writing down Westinghouse's value, Toshiba said it expected to book a net loss of \$9.9 billion for its current fiscal year, which ends on Friday.

"We have all but completely pulled out of the nuclear business overseas," Toshiba's president, Satoshi Tsunakawa, said at a news conference. Of the huge loss, he added, "I feel great responsibility."

Bankruptcy will make it harder for Westinghouse's business partners to collect money they are owed by the nuclear-plant maker. That mostly affects the American power companies for whom it is building reactors, analysts say. Now, it is unclear whether the company will be able to complete any of its projects, which in the United States are about three years late and billions over budget.

The power companies — Scana Energy in South Carolina and a consortium in Georgia led by Georgia Power, a unit of Southern Company — would face the possibility of new contract terms, long lawsuits and absorbing losses that Toshiba and Westinghouse could not cover, analysts say. The cost estimates are already running \$1 billion to \$1.3 billion higher than originally expected, according to a recent report from Morgan Stanley, and could eventually exceed \$8 billion over all.

Dennis Pidherny, a managing director at Fitch Ratings who is sector head of the United States public power group, said that it was possible that the company's bankruptcy filing could terminate the contracts and that it could be difficult for the utilities to find another builder to take them over.

"There's still quite a bit of work that needs to be completed," he said. "The biggest challenge there is quite simply finding another suitable contractor who can complete the contract and have it completed at a quote-unquote reasonable cost."

9

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That is, if they are constructed at all. Stan Wise, chairman of the Georgia Public Service Commission, said the utilities developing the Alvin W. Vogtle generating station in the state would have to evaluate whether it made sense to continue.

“It’s a very serious issue for us and for the companies involved,” Mr. Wise said. “If, in fact, the company comes back to the commission asking for recertification, and at what cost, clearly the commission evaluates that versus natural gas or renewables.”

In a statement on Wednesday, Toshiba said Westinghouse and affiliated companies were “working cooperatively” with the owners to arrange for construction to continue. In recent days, the affected companies issued statements saying they were monitoring the situation and exploring their options, as did the Energy Department, which has authorized \$8.3 billion in federal loan guarantees for the Georgia project.

“We are keenly interested in the bankruptcy proceedings and what they mean for taxpayers and the nation,” said Lindsey Geisler, a Department of Energy spokeswoman. “Our position with all parties has been consistent and clear: We expect the parties to honor their commitments and reach an agreement that protects taxpayers, promotes economic growth, and strengthens our energy and national security.”

Toshiba said Westinghouse had total debt of \$9.8 billion. The Chapter 11 bankruptcy filing was made in federal bankruptcy court for the Southern District of New York.

A decade ago, Toshiba was dreaming of a big global expansion when it bought Westinghouse for a surprisingly high \$5.4 billion and made plans to install 45 new reactors worldwide by 2030.

At the same time, Westinghouse was trying to install a novel reactor design, the AP1000. Using simplified structures and safety equipment, it was intended to be easier and less expensive to install, operate and maintain. Its design also improves the ability to withstand earthquakes and plane crashes and is less vulnerable to a

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center of electricity, which is what set off the triple meltdown at Fukushima.

Nonetheless, it was inevitable that expansions at the Vogtle generating station in Georgia and the Virgil C. Summer plant in South Carolina would hit some bumps along the road to fruition, nuclear executives say. Not only was the design new, but, because nuclear construction had been dormant for so long, American companies also lacked the equipment and expertise needed to make some of the biggest components and construct the projects.

Indeed, that may ultimately have been at the root of the troubles. The contractor Westinghouse chose to complete the projects struggled to meet the strict demands of nuclear construction and was undergoing its own internal difficulties after a merger. As part of an effort to get the delays and escalating costs under control, Westinghouse acquired part of the construction company, which set off a series of still-unresolved disputes over who should absorb the cost overruns and how Westinghouse accounted for and reported values in the transaction.

In its bankruptcy filing, Westinghouse said that its top 30 unsecured creditors held over \$508 million in claims. Among those creditors are big engineering and construction companies like Fluor and CB&I, and Nuclear Fuel Services, a fuel supplier.

To shepherd its case through Chapter 11, Westinghouse has hired a number of advisers, including the investment bank PJT Partners, the law firm Weil, Gotshal & Manges, and the consulting firm AlixPartners.

Westinghouse also said in its bankruptcy filing that it had taken out an \$800 million loan from a group led by Citigroup to support itself through the bankruptcy process.

Diane Cardwell reported from New York, and Jonathan Soble from Tokyo. Michael J. de la Merced contributed reporting from New Orleans.

A version of this article appears in print on March 30, 2017, on Page B1 of the New York edition with the headline: Bankruptcy Rocks Nuclear Industry.

Exhibit 5

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Nuclear Cost)
Recovery Clause)

Docket No. 160009-EI
Filed: June 17, 2016

**FLORIDA POWER & LIGHT COMPANY'S MOTION TO
DEFER CONSIDERATION OF ISSUES AND COST RECOVERY**

Florida Power & Light Company ("FPL"), pursuant to Rule 28-106.204, Florida Administrative Code, hereby moves the Florida Public Service Commission ("Commission") to defer consideration of all FPL issues in this docket to the 2017 Nuclear Cost Recovery ("NCR") docket and to allow FPL to defer recovery of its requested 2017 NCR amount. In support of this Motion FPL states as follows:

1. On April 27, 2016, FPL filed a Petition for Waiver of Rule 25-6.0423(6)(c)5, Florida Administrative Code ("Petition for Waiver"), which requires FPL to file an annual feasibility analysis on its Turkey Point 6 & 7 project in the NCR docket. On May 16, 2016, several parties filed comments in opposition to FPL's Petition for Waiver.

2. It is clear from the parties' comments in opposition to the Petition for Waiver that there is a wide difference of opinion between FPL and parties who oppose FPL's waiver request as to the need for and practical usefulness of a quantitative feasibility analysis at this time.

3. In light of such disagreement, FPL is willing to defer consideration of its cost recovery request. Accordingly, FPL requests deferral of its issues¹ to the 2017 NCR cycle. FPL also requests approval to defer recovery of its requested 2017 NCR amount of \$22,081,049. FPL will seek to recover that amount, trued up for 2016 actual costs and trued up for 2017 actual/estimated costs, along with its allowance for funds used during construction, as part of the

¹ A final list of issues has not been determined for this year's hearing. FPL expects to discuss a new issues list with Staff and all parties as part of next year's NCR cycle.

2017 NCR docket. Upon approval of this motion, FPL will withdraw its Petition for Waiver and will plan to file a feasibility analysis in the ordinary course of the 2017 NCR cycle.

4. In accordance with Rule 28-106.204(3), Florida Administrative Code, FPL contacted counsel for each party in this docket to determine whether they object to this motion. FPL is authorized to represent that the Office of Public Counsel “does not object to deferring FPL issues including prudence review of these costs until the 2017 NCRC docket,” the City of Miami and the Southern Alliance for Clean Energy do not object to this motion, PCS White Springs takes no position and does not object to this motion, and the Florida Retail Federation and Duke Energy Florida take no position on this motion. FPL was unable to reach the Florida Industrial Power Users Group before filing this motion.

WHEREFORE, FPL requests the Commission to approve its motion to defer consideration of FPL’s issues to the 2017 NCR docket and to defer recovery of its 2017 NCR amount.

Respectfully submitted this 17th day of June, 2016.

Jessica A. Cano
Fla. Bar No. 37372
Kevin I.C. Donaldson
Fla. Bar No. 833401
Attorneys for Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
(561) 304-5226
(561) 691-7135 (fax)

By: s/ Jessica A. Cano
Jessica A. Cano
Fla. Bar No. 0037372

**CERTIFICATE OF SERVICE
DOCKET NO. 160009-EI**

I HEREBY CERTIFY that a true and correct copy of FPL's Motion to Defer Consideration of Issues and Cost Recovery was served electronically this 17th day of June, 2016, to the following:

Kyesha Mapp, Esq.
Margo Leathers, Esq.
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
kmapp@psc.state.fl.us
mleather@psc.state.fl.us

Patricia A. Christensen, Esq.
Associate Public Counsel
Office of Public Counsel
The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399
christensen.patty@leg.state.fl.us
Attorney for the Citizens of the State of Fla.

Matthew Bernier, Esq., Sr. Counsel
106 East College Ave., Suite 800
Tallahassee, Florida 32301-7740
Matthew.bernier@duke-energy.com
Attorney for Duke Energy Florida, Inc.

Dianne M. Triplett, Esq.
299 First Avenue North
St. Petersburg, Florida 33701
dianne.triplett@duke-energy.com
Attorney for Duke Energy Florida, Inc.

Jon C. Moyle, Jr., Esq.
Moyle Law Firm, P.A.
118 North Gadsden Street
Tallahassee, Florida 32301
jmoyle@moylslaw.com
Attorney for Fla. Industrial Power Users Group

Victoria Méndez, City Attorney
Xavier Albán, Assistant City Attorney
Christopher A. Green, Senior Assistant
City Attorney
Kerri L. McNulty, Assistant City Attorney
City of Miami
444 S.W. 2nd Avenue, Suite 945
Miami, FL 33130-1910
vmendez@miamigov.com
xealban@miamigov.com
cagreen@miamigov.com
klmcnulty@miamigov.com
yillescas@miamigov.com (secondary
email)
Attorneys for City of Miami

James W. Brew, Esq.
Laura A. Wynn, Esq.
Stone Mattheis Xenopoulos & Brew, P.C.
1025 Thomas Jefferson St., N.W.
Eighth Floor, West Tower
Washington, D.C. 20007
jbrew@smxblaw.com
law@smxblaw.com
*Attorneys for White Springs Agricultural
Chemicals, Inc. d/b/a PCS Phosphate – White
Springs*

Robert Scheffel Wright, Esq.
John T. LaVia, III, Esq.
Gardner Bist Bowden Bush Dee
LaVia & Wright, P.A.
1300 Thomaswood Drive
Tallahassee, FL 32308
Schef@gbwlegal.com
Jlavia@gbwlegal.com
Attorneys for the Florida Retail Federation

George Cavros, Esq.
120 E. Oakland Park Blvd., Suite 105
Ft. Lauderdale, FL 33334
george@cavros-law.com
*Attorney for Southern Alliance for Clean
Energy*

By: s/ Jessica A. Cano
Jessica A. Cano
Fla. Bar No. 0037372

Exhibit 6

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Nuclear Cost)
Recovery Clause)

Docket No. 170009-EI
Filed: May 1, 2017

**FLORIDA POWER & LIGHT COMPANY'S PETITION FOR APPROVAL OF
2018 NUCLEAR POWER PLANT COST RECOVERY AMOUNT
REFLECTING FINAL 2015 AND 2016 TRUE-UPS
AND APPROVAL TO DEFER RECOVERY OF COSTS BEGINNING IN 2017**

Florida Power & Light Company ("FPL"), pursuant to Section 366.93, Florida Statutes,¹ and Rule 25-6.0423, Florida Administrative Code, hereby petitions the Florida Public Service Commission (the "Commission") for (i) approval to include a \$7,305,202 over-recovery in the Capacity Cost Recovery Clause ("CCRC") during the period January – December 2018; (ii) a determination that it is reasonable and appropriate for FPL to take the final steps necessary to complete its licensing efforts for Turkey Point 6 & 7 ("the Project"); and (iii) approval to defer recovery of costs beginning with those incurred in 2017 and continuing through such time that FPL makes its decision regarding initiation of preconstruction work.

The Turkey Point 6 & 7 Project represents a valuable opportunity to significantly increase fuel diversity, reduce greenhouse gas emissions, and enhance reliability by helping to maintain a balance between generation and load in Southeastern Florida. FPL is nearing the completion of the licensing phase of this important Project, with the expectation that FPL will receive all federal licenses and approvals in 2017 or early 2018, and that FPL can resolve remaining state approvals within this same time frame. The cost to achieve such a significant milestone – the licensing of two new nuclear units – is comparatively modest, and annual costs associated with maintaining those approvals will decline over the next several years. Moreover,

¹ All Florida statutory references are to the 2016 Florida Statutes.

a license in-hand will represent a 20-year (or longer) option to add this potentially vital resource for customers.

At the same time, FPL recognizes that there is uncertainty inherent in the path forward to the construction of two new nuclear units. As a result, and as discussed in the testimony filed earlier this year by FPL witness Steven Scroggs, FPL will not petition the Commission for approval to begin preconstruction work immediately upon receipt of its Combined Operating License (“COL”) and other approvals.² Instead, FPL will limit its activities over the next several years to completing licensing, maintaining compliance with approvals received, keeping those approvals current, and continuing to monitor the first wave new nuclear construction projects. This period has been described as a Project “pause.”

The \$7.3 million over-recovery FPL seeks to return to customers through the CCRC in 2018 reflects the final true-up of licensing costs incurred in 2015 and 2016, as supported by the petition and testimony filed in this docket on March 1, 2017. However, given the near-term plan for a “pause,” FPL is not petitioning for recovery of actual/estimated 2017 or projected 2018 costs at this time. Instead, FPL seeks approval to defer recovery of these costs and future Project costs until such time as a decision is made regarding proceeding with preconstruction work, thus suspending FPL’s annual filing for cost recovery through the Nuclear Cost Recovery (“NCR”) process. In support of this petition, FPL states as follows:

INTRODUCTION

1. FPL is an investor-owned utility with headquarters at 700 Universe Boulevard, Juno Beach, Florida 33408, operating under the jurisdiction of the Commission pursuant to the provisions of Chapter 366, Florida Statutes. FPL is a wholly-owned subsidiary of NextEra

² See Section 366.93(3)(c), Fla. Stat., requiring that a utility petition the Commission for approval before proceeding with preconstruction work beyond those activities necessary to obtain or maintain a license.

Energy, Inc., a registered holding company under the Federal Public Utility Holding Company Act and related regulations. FPL provides generation, transmission, and distribution service to approximately 4.9 million retail customers.

2. Any pleading, motion, notice, order or other document required to be served upon FPL or filed by any party to this proceeding should be served upon the following individuals:

| | | |
|--|---|--|
| Kenneth A. Hoffman Vice President Regulatory Affairs Ken.Hoffman@fpl.com Florida Power & Light Company 215 S. Monroe Street, Ste 810 Tallahassee, FL 32301 850-521-3919 850-521-3939 (fax) | Jessica Cano Senior Attorney Jessica.Cano@fpl.com Florida Power & Light Company 700 Universe Boulevard Juno Beach, FL 33408 561-304-5226 561-691-7135 (fax) | Kevin I.C. Donaldson Senior Attorney Kevin.Donaldson@fpl.com Florida Power & Light Company 700 Universe Boulevard Juno Beach, FL 33408 561-304-5170 561-691-7135 (fax) |
|--|---|--|

3. This Petition is being filed consistent with Rule 28-106.201, Florida Administrative Code. The agency affected is the Florida Public Service Commission, located at 2540 Shumard Oak Blvd, Tallahassee, FL 32399. This case does not involve reversal or modification of an agency decision or an agency's proposed action. Therefore, paragraph (c) and portions of paragraphs (e), (f) and (g) of subsection (2) of such rule are not applicable to this Petition. In compliance with paragraph (d), FPL states that it is not known which, if any, of the issues of material fact set forth in the body of this Petition, or the supporting testimony, exhibits and Nuclear Filing Requirements ("NFRs") filed herewith, may be disputed by others planning to participate in this proceeding.

2018 NCR REQUEST

4. The Florida Legislature adopted Section 366.93, Florida Statutes, in 2006 to promote utility investment in nuclear power plants. Rule 25-6.0423, Florida Administrative

Code (“the Rule”), implements this statute and provides for the annual review of expenditures and annual recovery of eligible costs through the CCRC. The Project qualifies for NCR treatment pursuant to Section 366.93(3), Florida Statutes.³

5. On March 1, 2017, FPL petitioned the Commission to approve an over-recovery of \$1,306,211, reflecting the final true-up of 2015 costs, and an over-recovery of \$5,998,991, reflecting the final-true-up of 2016 costs. If approved, these amounts would be returned to customers through the CCRC in 2018. FPL also sought a prudence determination on its 2015 and 2016 project activities and the resulting costs incurred. As discussed in FPL’s March 1, 2017 testimony, FPL’s project activities have focused on obtaining and maintaining the approvals that would be necessary for future construction of Turkey Point 6 & 7. FPL continues to seek Commission approval of these final costs and to reflect the total over-recovery amount of \$7,305,202 in its 2018 CCRC factors.

REQUEST TO DEFER RECOVERY OF COSTS BEGINNING IN 2017

6. As summarized above, the addition of new nuclear generation has a range of potential benefits for FPL’s customers. Nuclear generation greatly adds to the reliability of a system by increasing fuel diversity, fuel supply reliability and energy security. It also produces power around the clock with zero greenhouse gas emissions. In addition, the location of baseload generation in Miami-Dade County helps to maintain a balance between generation and load in Southeastern Florida.

7. As discussed by FPL witness Scroggs in the testimony that accompanies this petition, FPL is in the final steps of the licensing phase. For example, FPL currently expects to

³ By Order No. PSC-08-0237-FOF-EI, issued April 11, 2008, the Commission made an affirmative determination of need for Turkey Point 6 & 7.

receive the COL from the Nuclear Regulatory Commission in late 2017 or early 2018. Completing these final licensing steps is the right thing to do to preserve the potential for a wide range of customer benefits that could be provided by new nuclear generation in the future. In fact, the ability to deliver the potential benefits of the Turkey Point 6 & 7 project to FPL customers at any time over the next 20 years is an opportunity that is available *only if* FPL completes and maintains the licenses and approvals necessary for the Project.

8. While it is clearly appropriate to complete licensing, the appropriate timing of Project next steps is less clear. FPL has determined that upon receipt of the required Project approvals, it will enter a period of reduced project spending in which it maintains compliance with the approvals received and keeps those approvals current. FPL will also continue to monitor the new nuclear construction industry primarily by participating in new nuclear licensing and construction-related industry groups, which will enhance efficiencies in the processing of ongoing License Amendment Requests and allow FPL to gather lessons learned to support future Project decision-making. The decision to “pause” by limiting Project activities and costs in this manner, as opposed to proceeding directly into preconstruction work, reflects FPL’s desire to learn from the first wave of new nuclear construction projects currently underway in Georgia and South Carolina. These activities, estimated to continue through 2021, and estimated costs are discussed by FPL witness Scroggs.

9. Consistent with the overall Project approach discussed above, FPL seeks Commission approval to defer the review and recovery of Project costs beginning with those incurred in 2017 through the time that FPL makes a decision concerning the initiation of preconstruction work. At that time, FPL would petition the Commission to review the costs

incurred in the interim for prudence and recovery. All parties to this proceeding would be entitled to challenge the prudence of costs incurred at that time.

10. From time to time, a utility utilizing the NCR process has sought approval to defer the cost recovery it otherwise would be entitled to seek. *See, e.g., In re: Nuclear cost recovery clause*, Docket No. 150009-EI, Order No. PSC-16-0266-PCO-EI, p. 3 (approving FPL's motion to defer and noting that "neither Section 366.93 F.S., nor Rule 25-6.0423, F.A.C., require a utility to seek recovery of nuclear project costs in any given year"); *see also, In re: Nuclear cost recovery clause*, Docket No. 120009-EI, Order No. PSC-12-0650-FOF-EI, p. 5 (deferring consideration of Duke Energy Florida's CR3 Uprate long-term feasibility analysis and then-current year and projected year costs). These requests are generally consistent with the optional nature of the Nuclear Cost Recovery statute and rule. Section 366.93(3)(a) states that "...a utility may petition the commission for cost recovery as permitted by this section and commission rules." Similarly, Rule 25-6.0423(6) states that a utility "may" petition the Commission for recovery of pre-construction costs.

11. Consistent with its request for deferral, FPL has not included with this filing detailed actual/estimated 2017 Nuclear Filing Requirements ("NFRs") or projected 2018 NFRs, nor has FPL included a feasibility analysis. *See*, Rule 25-6.0423(6)(c)1.b, (6)(c)1.c, and (6)(c)5, Fla. Admin. Code. In fact, during the deferral period all related NCR filings would be suspended.⁴ FPL would continue to capitalize its Project costs as incurred and accrue allowance for funds used during construction, and would record a return on the related deferred tax asset each year consistent with the manner in which Turkey Point 6 & 7 project costs have been recorded pursuant to Rule 25-6.0423, Fla. Admin. Code.

⁴ FPL would continue to make the annual filing required by Section 366.93(5), which appears to be independent of the cost recovery process.

12. In the event the Commission were to decline to grant this request for deferred cost recovery, FPL asks that the Commission defer all 2017 NCR docket issues related to 2017 and 2018 project activities and costs to the 2018 NCR docket. The prudence and final true-up of 2015 and 2016 costs should still be approved as filed in this docket.

CONCLUSION

13. FPL respectfully submits that it is appropriate and reasonable to complete licensing efforts to secure the potential to construct a clean and reliable source of baseload power in South Florida. Over the next few years, FPL plans to engage only in those activities necessary to maintain the approvals received and continue to monitor progress on other new nuclear construction projects in the U.S. FPL requests approval to defer the recovery of costs incurred (and future prudence reviews) in connection with these activities until such time as the Company makes a decision regarding petitioning for approval to begin "preconstruction work," pursuant to Section 366.93(3)(c), Fla. Stat. Consistent with this request being granted, FPL would suspend petitioning for CCRC recovery of Project costs during this period.

WHEREFORE, Florida Power & Light Company respectfully requests that the Commission enter an order (i) approving FPL's 2018 NCR over-recovery amount of \$7,305,202, reflecting the final true-up of 2015 and 2016 Project costs; (ii) finding that FPL's decision to complete licensing is appropriate and reasonable; and (iii) approving the deferral of NCR costs

beginning with those incurred in 2017 until such time as FPL makes a decision regarding initiation of preconstruction work.

Respectfully submitted this 1st day of May, 2017.

Jessica A. Cano
Fla. Bar No. 37372
Kevin I.C. Donaldson
Fla. Bar No. 833401
Attorneys for Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
(561) 304-5226
(561) 691-7135 (fax)

By: s/ Jessica A. Cano
Jessica A. Cano
Fla. Bar No. 0037372

**CERTIFICATE OF SERVICE
DOCKET NO. 170009-EI**

I HEREBY CERTIFY that a true and correct copy of FPL's Petition for Approval of 2018 NCR Amount Reflecting Final 2015 and 2016 True-Ups and Approval to Defer Recovery of Costs Beginning in 2017 was served electronically this 1st day of May, 2017, to the following:

Kyesha Mapp, Esq.
Margo Leathers, Esq.
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
kmapp@psc.state.fl.us
mleather@psc.state.fl.us

Matthew Bernier, Esq., Sr. Counsel
106 East College Ave., Suite 800
Tallahassee, Florida 32301-7740
Matthew.bernier@duke-energy.com
Attorney for Duke Energy Florida, Inc.

Jon C. Moyle, Jr., Esq.
Moyle Law Firm, P.A.
118 North Gadsden Street
Tallahassee, Florida 32301
jmoyle@moylelaw.com
Attorney for Fla. Industrial Power Users Group

Patricia A. Christensen, Esq.
Associate Public Counsel
Office of Public Counsel
The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399
Christensen.patty@leg.state.fl.us
Attorney for Citizens of the State of Florida

Dianne M. Triplett, Esq.
299 First Avenue North
St. Petersburg, Florida 33701
dianne.triplett@duke-energy.com
Attorney for Duke Energy Florida, Inc.

Victoria Méndez, City Attorney
Xavier Albán, Assistant City Attorney
Christopher A. Green, Senior Assistant
City Attorney
Kerri L. McNulty, Assistant City Attorney
City of Miami
444 S.W. 2nd Avenue, Suite 945
Miami, FL 33130-1910
vmendez@miamigov.com
xealban@miamigov.com
cagreen@miamigov.com
klmcnulty@miamigov.com
mgriffin@miamigov.com
Attorneys for City of Miami

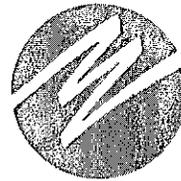
James W. Brew, Esq.
Laura A. Wynn, Esq.
Stone, Mattheis, Xenopoulos & Brew, P.C.
1025 Thomas Jefferson Street, N.W.
Eighth Floor, West Tower
Washington, D.C. 20007
jbrew@smxblaw.com
law@smxblaw.com
*Attorneys for White Springs Agricultural
Chemicals, Inc. d/b/a PCS Phosphate – White
Springs*

George Cavros, Esq.
120 E. Oakland Park Blvd., Suite 105
Ft. Lauderdale, FL 33334
George@cavros-law.com
*Attorney for Southern Alliance for Clean
Energy*

By: s/ Jessica A. Cano
Jessica A. Cano
Fla. Bar No. 0037372

Exhibit 7

PART 1



FPL

Florida Power & Light Company
Turkey Point Plant, Units 6 & 7
COL Application

COLA Table of Contents

- Part 1 — General and Financial Information
- Part 2 — Final Safety Analysis Report (FSAR)
- Part 3 — Applicant's Environmental Report (ER)
- Part 4 — Technical Specifications
- Part 5 — Emergency Plan
- Part 6 — Limited Work Authorization (LWA)/Redress Plan
- Part 7 — Departures and Exemption Requests
- Part 8 — Safeguards/Security Plans
- Part 9 — Withheld Information
- Part 10 — License Conditions (Including ITAAC)
- Part 11 — Enclosures

Turkey Point Units 6 & 7

COL Application

Revision 8

Part 1

General and Financial Information

Turkey Point Units 6 & 7
COL Application
Part 1 — General and Financial Information

1.0 INTRODUCTION

This Combined License (COL) application is submitted by Florida Power & Light Company (FPL), for construction and operation of two nuclear power generating plants designated as Turkey Point Units 6 & 7. FPL is an investor-owned utility, primarily engaged in the generation, transmission, and distribution of electricity. In addition to seeking a COL to construct and operate Units 6 & 7, this application also seeks, through the inclusion of appropriate provisions in the COL, authorization to possess and use such quantities of source, byproduct, and special nuclear material as are needed to construct and operate the new units.

Units 6 & 7 are based on the Westinghouse AP1000 advanced light water reactor design. This application presents descriptions and analyses of the station design and incorporates by reference, Appendix D to 10 CFR Part 52 as required by Section III.B of that Appendix.

Units 6 & 7 will be located on the Turkey Point plant property, comprised of approximately 9400 acres in unincorporated southeast Miami-Dade County, Florida, east of Florida City and the City of Homestead and bordered by Biscayne Bay to the east. Currently located on the Turkey Point plant property are five FPL power plants: two natural gas/oil steam electric generating units (Units 1 & 2), two pressurized water reactor nuclear units (Units 3 & 4), and one natural gas combined cycle steam electric generating unit (Unit 5). The new units would be constructed on an approximately 218-acre area (the Units 6 & 7 plant area) south of Units 3 & 4.

The application contains the following parts:

- Part 0 Cover letter, affidavits, etc.
- Part 1 General and Financial Information
- Part 2 Final Safety Analysis Report (FSAR)
- Part 3 Environmental Report (ER)
- Part 4 Technical Specifications
- Part 5 Emergency Plan
- Part 6 Limited Work Authorization (LWA)/Redress Plan — Not used
- Part 7 Departures and Exemption Requests
- Part 8 Physical Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan (provided under separate cover letter)
- Part 9 Withheld Information
- Part 10 License Conditions (including ITAAC)
- Part 11 Enclosures

1.1 Purpose of the Combined License Application

The purpose of this COL application is to obtain Nuclear Regulatory Commission (NRC) approval to construct and operate two nuclear power generating plants, to be known as Turkey Point Units

Turkey Point Units 6 & 7
COL Application
Part 1 — General and Financial Information

6 & 7. FPL's purpose is to provide additional baseload generation to maintain system reliability, increase fuel diversity, and allow progress toward meaningful CO₂ emissions reductions.

In support of this objective, FPL requests the following license actions:

- A class 103 license, under 10 CFR Part 52, subpart C, authorizing FPL to construct, own, possess, use, and operate as a utilization facility Turkey Point Unit 6 for the generation of electric energy to be transmitted over the respective electric systems of FPL.

In addition, this application is for the necessary licenses issued under 10 CFR Part 30, 10 CFR Part 40, and 10 CFR Part 70 to receive, possess, and use byproduct, source, and special nuclear material. Special nuclear material shall be in the form of reactor fuel and spent fuel, in accordance with limitations for storage and amounts required for reactor operation, as described in Part 2 of this application. Byproduct, source, and special nuclear material shall be in the form of sealed neutron sources for reactor startup and sealed sources for reactor instrumentation, radiation monitoring equipment, calibration, and fission detectors in amounts as required. In preparation for the initial fuel loading, limitations on byproduct material and Part 40 specifically licensed source material will be as described in this application. Following the 52.103(g) finding, byproduct, source, and special nuclear material in amounts as required, without restriction to chemical or physical form, shall be for sample analysis, instrument and equipment calibration, or associated with radioactive apparatus or components.

It is requested that the term of the above licenses be for a period of 40 years from the date upon which the NRC makes a finding that acceptance criteria are met under 10 CFR 52.103(g).

- A class 103 license, under 10 CFR Part 52, subpart C, authorizing FPL to construct, own, possess, use, and operate as a utilization facility Turkey Point Unit 7 for the generation of electric energy to be transmitted over the respective electric systems of FPL.

In addition, this application is for the necessary licenses issued under 10 CFR Part 30, 10 CFR Part 40, and 10 CFR Part 70 to receive, possess, and use byproduct, source, and special nuclear material. Special nuclear material shall be in the form of reactor fuel and spent fuel, in accordance with limitations for storage and amounts required for reactor operation, as described in Part 2 of this application. Byproduct, source, and special nuclear material shall be in the form of sealed neutron sources for reactor startup and sealed sources for reactor instrumentation, radiation monitoring equipment, calibration, and fission detectors in amounts as required. In preparation for the initial fuel loading, limitations on byproduct material and Part 40 specifically licensed source material will be as described in this application. Following the 52.103(g) finding, byproduct, source, and special nuclear material in amounts as required, without restriction to chemical or physical form, shall be for sample

analysis, instrument and equipment calibration, or associated with radioactive apparatus or components.

It is requested that the term of the above licenses be for a period of 40 years from the date upon which the NRC makes a finding that acceptance criteria are met under 10 CFR 52.103(g).

1.2 Combined License Application Format and Content

10 CFR 52.77 outlines the general information requirements for filing a COL application. An application must contain information required by 10 CFR 50.33, *Contents of Applications and General Information*, as it would apply to applicants for construction permits and operating licenses. This information is provided in Table 1 of this Part.

1.2.1 Format and Content

As specified by Appendix D to 10 CFR 52, IV.A.2.a, the plant-specific Final Safety Analysis Report (FSAR), has retained the organization and numbering of AP1000 Design Control Document (DCD), except where departures are taken and justified. Where departures are taken to section numbering to conform to RG 1.206 or the NRC's Standard Review Plan (SRP), a "roadmap" to the location of the descriptive material has been provided and left-hand margin notations are provided.

Throughout this application, the "referenced DCD" is the AP1000 DCD submitted by Westinghouse as Revision 19.

Financial information is provided consistent with the *Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance* (NUREG-1577, October 2003).

1.2.2 Labeling Conventions

Tables of data are identified by the section or subsection number followed by a sequential number. Tables are located at the end of a section immediately following the text. Drawings, pictures, sketches, curves, graphs, plots, and engineering diagrams are identified as figures and are numbered sequentially by section or subsection similar to tables, and follow at the end of the applicable section or subsection. Text pages are numbered sequentially within each section or subsection.

FSAR Table 1.1-202 describes the left margin annotations used in the FSAR to identify departures, supplementary information, COL items, and conceptual design information.

FSAR tables, figures, and references are numbered in the same manner as the DCD, but the first new FSAR item is numbered as 201, the second 202, the third 203, and consecutively thereafter.

Turkey Point Units 6 & 7
COL Application
Part 1 — General and Financial Information

When a table, figure, or reference in the DCD is changed, the change is appropriately left margin annotated as identified above.

When it provides greater contextual clarity, an existing DCD table or figure is revised by adding new information to the table or figure and replacing the DCD table or figure with a new one in the FSAR. In this instance, the revised table or figure clearly identifies the information being added, and retains the same numbering as in the DCD, but the table or figure number is revised to end with the designation “R” to indicate that the table or figure has been revised and replaced. For example, revised “Table 4.2-1” would become “Table 4.2-1R.”

1.2.3 Restricted Data and Classified National Security Information

The combined license application for Units 6 & 7 does not contain any Restricted Data or other Classified National Security Information, nor does it result in any change in access to any Restricted Data or National Security Information. In addition, it is not expected that activities conducted in accordance with the proposed combined license will involve such information. However, in the event that such information does become involved, and in accordance with 10 CFR 50.37, “Agreement limiting access to Classified Information,” FPL will not permit any individual to have access to, or any facility to possess, Restricted Data or National Security Information until the individual and/or facility has been approved for such access under the provisions of 10 CFR Part 25, “Access Authorization for Licensee Personnel,” and/or 10 CFR Part 95, “Facility Security Clearance and Safeguarding of National Security Information and Restricted Data.”

1.3 Financial Qualifications

Pursuant to the requirements of 10 CFR 50.33(f), an applicant for a COL is required to include information sufficient to demonstrate to the NRC the financial qualification of the applicant to carry out the construction and/or operation activities for which the application is sought. Entities that meet the definition of an “electric utility” in 10 CFR 50.2 are exempt from the requirement to demonstrate financial qualification to carry out operation activities and are required only to demonstrate financial qualification to carry out construction activities.

FPL is an electric utility as defined in 10 CFR 50.2. FPL generates and distributes electricity and recovers the cost of this electricity through cost-of-service based rates established by the Florida Public Service Commission and the Federal Energy Regulatory Commission (FERC). Thus, as addressed in 10 CFR 50.33(f), estimates of operating costs for the first five years of operation are not required to be submitted and FPL is required only to demonstrate financial qualification to carry out construction activities.

NextEra Energy, Inc. (which previously operated as FPL Group, Inc.) has two principal operating subsidiaries—FPL and NextEra Energy Resources. FPL is an investor-owned electric utility serving approximately 4.5 million customer accounts in the state of Florida. NextEra Energy Resources is

Turkey Point Units 6 & 7
COL Application
Part 1 — General and Financial Information

NextEra Energy, Inc's competitive energy subsidiary which produces the majority of its electricity from clean and renewable fuels.

FPL's common stock is held solely by NextEra Energy, Inc. NextEra Energy, Inc. (which previously operated as FPL Group, Inc.) is investor-owned, with 27,994 common stockholders on January 31, 2010.

FPL reports and filings to the Florida Public Service Commission and the U.S. Securities and Exchange Commission may be found at <http://www.floridapsc.com/dockets/index.aspx> and at <http://www.sec.gov>, respectively. NextEra Energy's 10-K Report (Reference 3) may be found at <http://www.nexteraenergy.com> to provide the information required by 10 CFR 50, Appendix C.

FPL will recover the cost of constructing the facility in accordance with Florida Statute 366.93, Cost recovery for the siting, design, licensing, and construction of nuclear and integrated gasification combined cycle power plants (Reference 1), and Florida Administrative Code R.25-6.0423, Nuclear or Integrated Gasification Combined Cycle Power Plant Cost Recovery (Reference 2).

The sources of long-term construction funding for Units 6 & 7 will be a mixture of internally generated cash and external funding. The external funding will come from a mix of debt and equity capital. FPL currently uses first mortgage bonds and equity contributions from NextEra Energy, Inc. to finance long-term utility assets.

In accordance with 10 CFR 50.33(f) and 10 CFR 50, Appendix C, the estimated total combined construction costs for Units 6 & 7 include plant costs ascribable to the nuclear plant itself, general and overhead plant costs (including any transmission and distribution costs ascribable to the plant), and nuclear fuel cost for the first core load. These costs are estimated in 2015 dollars. Licensing costs and preconstruction activities occur before actual construction and are included in the estimates. The breakdown of the estimated costs and their bases is described in Appendix 1A.

1.3.1 General Information

General information for the applicant is provided in Table 1. FPL is not a newly formed entity organized for the primary purpose of construction or operation of Units 6 & 7. FPL is not owned, controlled, or dominated by an alien, foreign corporation, or foreign government.

1.3.2 Decommissioning Costs and Financing

COL applicants are required to include, as part of their application, a report containing a certification that financial assurance for decommissioning will be provided in an amount that may be more, but not less, than the amount stated in the table in 10 CFR 50.75(a)(1).

Turkey Point Units 6 & 7
COL Application
Part 1 — General and Financial Information

1.3.2.1 Decommissioning Estimate

For Units 6 & 7, the calculation of the amount of decommissioning funds estimated to be required pursuant to 10 CFR 50.75 (c) is provided below.

Base amount for a pressurized water reactor greater than or equal to 3400 MWt:

$$\begin{aligned} 1986 \text{ Base Cost} &= \$105,000,000 \text{ (from 10 CFR 50.75(c)(1))} \\ \text{Estimated Cost (Year X)} &= (1986\$ \text{ Base Cost}) (A L_x + B E_x + C B_x) \\ &= (\$105,000,000) ((0.65 * 2.43) + (0.13 * 2.22) + (0.22 * 13.885)) \\ &= \$517,000,000 \text{ per unit (Note 1)} \end{aligned}$$

Note 1: Total is rounded to millions of dollars

Where:

- P = 3400 MWt (thermal power rating)
- A = 0.65 Fraction of 1986 dollars attributable to labor, materials, and service (NUREG-1307, Rev. 15)
- B = 0.13 Fraction of 1986 dollars attributable to energy and transportation (NUREG-1307, Rev. 15)
- C = 0.22 Fraction of 1986 dollars attributable to waste burial (NUREG-1307, Rev. 15)
- L_x = 2.43 Labor cost adjustment (Computed Below)
- E_x = 2.22 Energy cost adjustment (Computed Below)
- P_x = 1.88 U.S. Bureau of Labor Statistic's PPI of industrial electric power (Computed Below)
- F_x = 2.70 U.S. Bureau of Labor Statistic's PPI of light fuel oils (Computed Below)
- B_x = 13.885 LLW burial/disposition cost adjustment (NUREG-1307, Rev. 15)
- L_x = Base 2005 L_x * 4th Quarter 2014 ECI/100 = 1.98 * 122.7/100 = 2.43
- P_x = December 2014 industrial electric power PPI/January 1986 industrial electric power PPI = 214.7/114.2 = 1.88
- F_x = December 2014 Light Fuel Oils PPI/January 1986 Light Fuel Oils PPI = 221.0/82 = 2.70
- E_x = 0.58P_x + 0.42F_x = (0.58 * 1.88) + (0.42 * 2.70) = 1.09 + 1.13 = 2.22

1.3.2.2 Decommissioning Funding

Therefore, FPL certifies that financial assurance for decommissioning Units 6 & 7 will be provided in the amount of \$517,000,000 per unit. An external sinking fund in the form of a trust is the method that will be used to provide reasonable assurance of the availability of funds to decommission the facility. The cost of decommissioning will be recovered through electric rates. Amounts collected will be periodically transferred to the external trust. Such deposits along with trust fund earnings will provide an amount at least equal to the formula-derived decommissioning cost for the facility.

1.4 Radiological Emergency Response Plans

Radiological emergency response plans of state and local government entities that are wholly or partially within the plume exposure pathway emergency planning zone (EPZ), as well as the plans of the state and local government entities wholly or partially within the ingestion pathway EPZ are included in COL application, Part 5 - Emergency Plan.

1.5 Other Licenses Applied for or Issued

Environmental Report Table 1.2-1 lists the licenses and authorizations required for construction and operation of Units 6 & 7.

1.6 References

1. Florida Statute 366.93 Cost recovery for the siting, design, licensing, and construction of nuclear and integrated gasification combined cycle power plants. Available at <https://www.leg.state.fl.us>.
2. Florida Administrative Code R.25-6.0423 Nuclear or Integrated Gasification Combined Cycle Power Plant Cost Recovery. Available at <https://www.flrules.org>.
3. FORM 10-K, Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, for NextEra Energy, Inc. (which previously operated as FPL Group, Inc.) and Florida Power & Light Company. Available at <http://www.nexteraenergy.com>.
4. ABWR Cost/Schedule/COL Project at TVA's Bellefonte Site, DE-AI07-04ID14620, Tennessee Valley Authority, August 2005.

Turkey Point Units 6 & 7
COL Application
Part 1 — General and Financial Information

**Table 1 (Sheet 1 of 3)
Applicant General Information**

| | | | |
|--|-------------------------------|--|--------------------|
| Name of Applicant | | Florida Power & Light Company | |
| Address | | 700 Universe Boulevard Post Office Box 14000 Juno Beach, Florida 33408 | |
| Description of Business | | <p>FPL is a public utility incorporated under the laws of the state of Florida, with its principal office located in Juno Beach, Florida.</p> <p>FPL is an investor-owned utility, primarily engaged in the generation, transmission, and distribution of electricity. The service territory covers the southern third and almost the entire eastern seaboard of the state of Florida. FPL supplies electric service to approximately 4.5 million customer accounts.</p> | |
| Principal business location | | 700 Universe Boulevard Juno Beach, Florida 33408 | |
| Names, addresses, and citizenship of directors: | | | |
| Company | Name and Title | Address | Citizenship |
| FPL | Eric E. Silagy Director | Florida Power & Light Company 700 Universe Boulevard Post Office Box 14000 Juno Beach, Florida 33408 | USA |
| FPL | Moray P. Dewhurst Director | Florida Power & Light Company 700 Universe Boulevard Post Office Box 14000 Juno Beach, Florida 33408 | USA |
| FPL | James L. Robo Director | Florida Power & Light Company 700 Universe Boulevard Post Office Box 14000 Juno Beach, Florida 33408 | USA |

| | | | |
|---|---|---|--------------------|
| Names, addresses, and citizenship of principal officers: | | | |
| Company | Name and Title | Address | Citizenship |
| FPL | James L. Robo Chairman of the Board | Florida Power & Light Company 700 Universe Boulevard Post Office Box 14000 Juno Beach, Florida 33408 | USA |
| FPL | Eric E. Silagy President and Chief Executive Officer | Florida Power & Light Company 700 Universe Boulevard Post Office Box 14000 Juno Beach, Florida 33408 | USA |

Turkey Point Units 6 & 7
COL Application
Part 1 — General and Financial Information

**Table 1 (Sheet 2 of 3)
Applicant General Information**

| Company | Name and Title | Address | Citizenship |
|----------------|--|---|--------------------|
| FPL | William L. Yeager Executive Vice President, Engineering, Construction & Integrated Supply Chain | Florida Power & Light Company 700 Universe Boulevard Post Office Box 14000 Juno Beach, Florida 33408 | USA |
| FPL | Moray P. Dewhurst Executive Vice President, Finance and Chief Financial Officer | Florida Power & Light Company 700 Universe Boulevard Post Office Box 14000 Juno Beach, Florida 33408 | USA |
| FPL | Deborah H. Caplan Executive Vice President, Human Resources and Corporate Services | Florida Power & Light Company 700 Universe Boulevard Post Office Box 14000 Juno Beach, Florida 33408 | USA |
| FPL | Charles E. Sieving Executive Vice President | Florida Power & Light Company 700 Universe Boulevard Post Office Box 14000 Juno Beach, Florida 33408 | USA |
| FPL | Antonio Rodriguez Executive Vice President — Transition | Florida Power & Light Company 700 Universe Boulevard Post Office Box 14000 Juno Beach, Florida 33408 | USA |
| FPL | Manoochehr K. Nazar President, Nuclear Division & Chief Nuclear Officer | Florida Power & Light Company 700 Universe Boulevard Post Office Box 14000 Juno Beach, Florida 33408 | USA |
| FPL | Miguel Arechabata Executive Vice President, Power Generation Division | Florida Power & Light Company 700 Universe Boulevard Post Office Box 14000 Juno Beach, Florida 33408 | USA |

Turkey Point Units 6 & 7
COL Application
Part 1 — General and Financial Information

**Table 1 (Sheet 3 of 3)
Applicant General Information**

| Regulatory Agencies with Jurisdiction over Rates and Services | Address of Regulatory Agency |
|---|--|
| The Florida Public Service Commission | 2540 Shumard Oak Blvd., Tallahassee, FL 32399 |

| Trade and News Publications to give reasonable notice of the application | Address of Publication |
|--|---|
| Miami-Dade and Broward Counties | |
| el Nuevo Herald | 1 Herald Plaza Miami, Florida 33132 |
| Miami Herald | 1 Herald Plaza Miami, Florida 33132 |
| South Florida Sun-Sentinel | 200 E. Las Oias Blvd Fort Lauderdale, FL 33301 |
| Palm Beach and Martin Counties | |
| Palm Beach Post | P.O. Box 24700 West Palm Beach, Florida 33416 |
| Treasure Coast News (Scripps Treasure Coast Newspapers) | 1939 S Federal Highway Stuart, Florida 34994 |

Turkey Point Units 6 & 7
COL Application
Part 1 — General and Financial Information

**APPENDIX 1A ESTIMATED TOTAL CONSTRUCTION COST FOR TURKEY POINT
UNITS 6 AND 7**

| Turkey Point Nuclear Units 6 & 7 Cost Estimate Range | | | | |
|---|-------------------------|----------------|-------------------------|----------------|
| | Low Range | | High Range | |
| | Total Dollars | Cost per kW | Total Dollars | Cost per kW |
| Power Plant Island and Supporting Construction | \$6,679,486,952 | | \$9,729,206,579 | |
| Transmission and General Plant Costs | \$1,739,757,497 | | \$2,520,144,553 | |
| Nuclear Fuel Inventory Cost for the First Core ^(a) | \$39,598,094 | | \$48,370,595 | |
| Total Overnight Costs (2015\$) | \$8,458,842,544 | \$3,845 | \$12,297,721,727 | \$5,590 |
| Escalation | \$2,001,048,685 | | \$2,952,018,796 | |
| AFUDC | \$3,240,607,690 | | \$4,744,320,802 | |
| Total Estimated Project Cost (Year Spent \$) | \$13,700,498,919 | \$6,227 | \$19,994,061,325 | \$9,088 |

(a) Leased fuel assumed.

The cost estimate has been developed over the course of the project. The estimate was initially developed by coupling information in the 2005 TVA Bellefonte Study (Reference 4) for the ABWR technology with FPL site-specific information. This produced an overnight capital cost estimate that was not technology-specific. Sensitivities were explored for labor, materials and scope to develop an overnight cost estimate range. The overnight cost estimate range was then combined with an assumed spend curve and assumptions for escalation and interest during construction to produce a total project cost estimate range. Following preliminary negotiations with the Westinghouse/Shaw consortium, a technology-specific cost estimate was developed in 2010 to reflect current pricing and project features. This cost estimate was consistent with, and at the high end of, the original cost estimate range, following adjustment for the specific reactor technology and annual escalation. Based on that validation, FPL has chosen to retain the original cost estimate range, as adjusted, as its best estimate. The cost estimate range remains consistent with the publicly available cost estimates of other U.S. AP1000 projects.

Exhibit 8

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE COMMISSION**

| | | |
|-----------------------------------|---|--------------------|
| In the Matter of |) | |
| |) | |
| Florida Power & Light Co. |) | Docket Nos. 52-040 |
| Turkey Point Units 6 & 7 |) | 52-041 |
| |) | |
| Combined Construction and License |) | May 22, 2017 |
| Application |) | |
| _____ |) | |

AFFIDAVIT OF MARK W. CRISP, P.E.

1. I, Mark W. Crisp, hold engineering degrees in Civil and Electrical Engineering from the Georgia Institute of Technology (Ga. Tech). I am licensed as a Professional Engineer in Georgia and multiple states including Florida (FL-59683). My professional career has spanned 35 years plus years in the electric and water utility industries including employment (18 years and 3 years, respectively) with The Southern Company (Georgia Power and Southern Company Services) and Entergy-Arkansas Inc.

2. My private consulting career spans 15 years covering engagements in 30 states, and 12 international countries (CV Attached).

3. My involvement in the electric utility industry has included projects supporting and defining nuclear energy options, cost and scheduling, technology issues, licensing and compliance. My CV provides a list of nuclear generating plants I have provided consulting expertise on one or more of the topics listed above.

4. I am engaged by the City Attorney's office for the City of Miami to address issues with licensing of Florida Power & Lights ("FPL") Turkey Point Units 6 & 7. Previously, I have provided opinions and testimony on operating issues at Turkey Point including the salt water

intrusion into the groundwater and effectiveness of the cooling water system for Units 3&4. This Affidavit is based on my review of the filings submitted by Petitioners, the NRC Staff, and FPL, relevant portions of the Final Safety Evaluation Report, and other publicly available documents.

5. This Affidavit, herein, addresses ongoing issues with the plans to develop Units 6 & 7 at Turkey Point using the Westinghouse AP 1000 technology. These two units, if licensed and constructed, would be “sister” units to the Vogtle 3 & 4 units in Georgia and the Summer 2 & 3 Units in South Carolina.

6. The technology selected for deployment at Turkey Point is the Westinghouse AP 1000 Pressurized Water Reactor (“PWR”) identical to that chosen for deployment at the Vogtle and V. C. Summer sites. I was the Lead Consultant of a Team of industry experts providing review and analysis of the Baseload Review Act requirements to support the South Carolina Public Service Commission’s decision to approve the application of South Carolina Gas & Electric.

7. The AP 1000 technology owned by “Westinghouse” or “WEC,” interchangeably is a passive design, to be built in a modular format with individual systems and components to be manufactured by vendors from within the USA and vendors located around the world.

8. The significance and attractiveness of the AP 1000 was the plan of Westinghouse and the utility buyers to enter into what is referred to as an EPC contract. EPC being an Engineering, Procurement, Construction contract that WEC would perform all of these duties (including subcontractors) and, in effect, turning over a completed and functional plant at the date specified in the EPC contract.

9. FPL's 2015 filings before the Florida Public Service Commission contemplated the negotiation of an EPC contract, or a variation thereof, with Westinghouse for the construction of Turkey Point Units 6 & 7.¹

10. In order for the EPC contract to work in conjunction with all of the terms and conditions of a "turnkey" contract it was required to have several contracting mechanisms in place in the procurement chain for vendors to deliver large pieces of equipment, large forging, modular units, etc., on time to be installed without delays. In addition to the overall EPC contract between Westinghouse and the Owner (FPL) there was another contracting mechanism put in place between WEC and FPL in order for WEC to negotiate and schedule long lead time forgings. This mechanism was called the "Reservation Agreement." Neither the EPC nor the Reservation Agreement are formal components of the Combined Operating License ("COL") issued by the Nuclear Regulatory Commission ("NRC") but they are critical to the successful deployment of the AP 1000 on schedule and within budget.

11. On March 29, 2017, WEC filed for Chapter 11 Bankruptcy due to cost overruns and construction difficulties experienced at the Vogtle AP 1000 and the Summer AP 1000 construction sites.

12. The WEC filing focuses attention on the future of the only two AP 1000 construction sites in the USA. As of the filing date of March 29, 2017, every contract and agreement established by WEC is either breached or at a minimum in a state of flux, depending on the exact language within in each contract.

¹ See Testimony of Steven D. Scroggs, May 1, 2015, Document No. 02471-15, Docket No. 150009-EI at 28 (available at <http://www.psc.state.fl.us/library/filings/15/02471-15/02471-15.pdf>); Rebuttal Testimony of Steven D. Scroggs, July 7, 2015, Document No. 04173-15, Docket No. 150009-EI at 10 (available at <http://www.psc.state.fl.us/library/filings/15/04173-15/04173-15.pdf>).

13. The specific contract between the Owners (Southern Company and SCG&E) and WEC (Toshiba –owner of Westinghouse) is no longer in effect. Without this contract it is unclear how and who will direct construction to finish both sites construction.

14. WEC has formally rejected the existing construction contract in bankruptcy. This was a necessary step to enable the Southern Company to formally take over the construction of Vogtle Units 3 & 4. Southern announced on Friday, May 12, 2017, it would in fact take over the management of the construction with one provision and that is SCE&G must follow Southern's decision to take over management of construction with their own announcement that they too will take of management of construction of the V. C. Summer Units.²

15. The assumption of the management role Vogtle 3 & 4 is eerily familiar to the construction of Vogtle 1 & 2 over 30 years ago. The Southern Company made the same decision and while they successfully completed the units and have operated them for over 30 years, the immediate outcome of the decision was not as successful as Southern had hoped. The result of Southern's management resulted in significant cost overruns, delays and ultimately the disallowance of millions of dollars at the Georgia Public Service Commission.

16. At this point in time there is insufficient information available to determine the effect of the bankruptcy filing on the continued construction, the cost to finish construction, final dollars to be included in rate base that will burden the FPL customers. Is also unclear how Southern Company will employ, transfer, renegotiate, or cancel and enter into new contracts for materials, equipment, and labor and if this will have a material effect on the FPL project.

² Press Release, Georgia Power, New service agreement reached for Vogtle nuclear expansion (May 12, 2017), available at <http://www.prnewswire.com/news-releases/new-service-agreement-reached-for-vogtle-nuclear-expansion-300457135.html>.

17. The loss or cancellation of the Reservation Agreement, while not formally a part of the construction contract, is necessary for WEC to enter into contracts with material suppliers for long lead time equipment. This contract is now in question and the manufacturing position or que for long lead time equipment is certainly at risk.

18. In the instant bankruptcy filing of WEC the 30 highest unsecured claims amount to over \$600 Million US that must be adjudicated in the bankruptcy case. These are simply the Top 30 highest unsecured claims. There are an untold number of lesser claims that add to the final dollar amount.

19. The NRC has argued in their filing, "NRC STAFF ANSWER TO PETITION FOR LEAVE TO INTERVENE AND NEW CONTENTION" (Dockets 52-040 & 52-041) dated May 15, 2017, that the City of Miami has not entered a new contention that questions the ability of FPL to fund or provide reasonable assurances FPL can fund the construction of Turkey Point Units 6 & 7. Therefore, the NRC Staff argues the FSER is not deficient and therefore, the City's Leave to Intervene should be denied.

20. Unfortunately, the position of the NRC Staff could not be further from the truth. At this point with the construction delays, the cost overruns, and the management difficulties of WEC that has led them to declare bankruptcy, there is clear and undeniable evidence there is every reason to withhold approval of the FSER at least and until the bankruptcy case has been adjudicated and the decisions of Southern Company and SCE&G have evolved to a point that there is evidence that construction can proceed to a successful conclusion. The construction schedule has been delayed over 5 years at a minimum for Vogtle and Summer, the final costs cannot even be estimated with any accuracy and are further dependent on the findings of the bankruptcy court, renegotiations of contracts, new agreements with vendors assuming they still

want to continue in light of their probable losses in bankruptcy, and the most significant issue, that of FPL's ability to secure funding for two new units in light of the effect of bankruptcy on Wall Street's confidence to provide debt funding.

21. To further compound the constructability issue and the funding issue one needs to explore the "ownership" of the Certified Design Basis for the AP 1000. This is a technology owned by Westinghouse. It was the original plan for WEC to design, procure, and construct these units for the utility owners. As has been publically stated to date it is WEC's position they will continue to own and market the AP 1000 design but will no longer be in the EPC business. However, this is not necessarily the final outcome from this bankruptcy case. Until there is final adjudication of the case no one can be certain just how the technology ownership and marketing will evolve.

22. FPL is the licensee for Turkey Point Units 6 & 7 referencing the AP 1000 design. During the licensing process FPL is required to submit financial information to the NRC that provides assurances that FPL is financially able to construct and operate the licensed project (10 CFR 50.33(f)). The NRC also provides a further clarification that if the licensee meets the definition of an "electric utility" (10 CFR 50.2) then the licensee does not have to submit financial qualifications supporting its ability to carry out operations.

23. The Combined Operating License application requires FPL to submit estimates of costs for the AP 1000 units to be constructed at the Turkey Point site.

24. FPL's estimate of costs was developed in the 2008-2010 timeframe using a convoluted process of estimates from the TVA Bellefonte Plant Study and FPL site-specific information. Unfortunately the Bellefonte Plant is a totally dissimilar technology from the AP

1000 in that Bellefonte was to be a ABWR, Advanced Boiling Water Reactor design owned by General Electric-Hitachi. The AP 1000 units are Pressurized Water Reactors.

25. This difference is significant even though FPL claims they worked with WEC/Shaw to refine the cost estimate to be more technology specific. It is unfortunate for FPL that they chose this path to develop a cost estimate. At this same point in time both the Vogtle units and the Summer units were in process of hearings in their respective states by the Public Service Commissions and costs generated by WEC was a central discussion point. In other words the information on the costs of AP 1000 units was readily available and did not require this time consuming and convoluted approach taken by FPL. Certainly, the accuracy of the cost estimates for Vogtle and Summer would have provided a much more accurate picture of the financial requirements for proceeding (Reference Part 1 General and Financial Information, Appendix 1A, Estimated Total Cost for the Turkey Point Units 6 & 7 found in the FPL COL application to the NRC).

26. It is certainly questionable and worthy of a reopening of the FSER if not the COL itself to determine the escalated costs for the unfinished Vogtle and Summer units, the effect on rates, and most importantly, what is the financial markets appetite to fund bonds and at what interest rate to cover FPL's construction of Turkey Point Units 6 & 7.

27. The entire nuclear horizon has been shaken by the bankruptcy of WEC. It should be easily understood that schedules, costs, and commitments established in the 2010 timeframe have no basis or worth at this point in time. The "playing field" has been reoriented.

28. All of the forgoing information is crucial to Wall Street and the markets in their collective review of funding mechanisms available to FPL. Each of the points and issues sheds reasonable doubt on the funding ability to support the Turkey Point project. It is not one of the

financial ability of FPL to secure debt but one of reasonableness of Wall Street and the market to risk funding with some many unknown outcomes and the risk of failure to complete.

The above information is presented in this Affidavit is to provide reasonable and supportable documentation to show there is more than necessary cause supporting the position of the City of Miami.

I certify under penalty of law that the foregoing is true and correct.

A handwritten signature in cursive script that reads "Mark W. Crisp". The signature is written in black ink and is positioned to the right of the execution date.

Executed on this day: May 22, 2017

Mark W. Crisp, P.E.
Managing Consultant
Global Energy & Water Consulting, LLC
Florida PE – 59683

Exhibit 9

QUESTION:

Please refer to FPL's response to OPC's First Set of Interrogatories, Interrogatory No. 6. FPL stated that it has not initiated discussions on potential contracting arrangements for the construction of Turkey Point Units 6 & 7.

- a. As of the date of this response, has FPL initiated discussions with potential companies to construct the Turkey Point Units 6 & 7?
 - i. If yes, please identify the companies FPL has initiated discussions with?
 - ii. If no, when does FPL intend to initiate discussions with potential companies to construct Turkey Point Units 6 & 7?

RESPONSE:

a. No.

i. N/A

ii. Such activity would be a pre-construction activity, and would occur following approval of a petition by the Florida Public Service Commission to move forward with pre-construction work on the project. No specific date exists, as this activity is dependent on multiple factors discussed in Witness Scroggs' March 1, 2017 and May 1, 2017 Testimony.

Exhibit 10

QUESTION:

Can FPL place the COL process for the AP 1000 nuclear design on hold?

- a. If yes, is FPL planning on requesting such a pause in the COL process?
- b. If no, please explain why FPL cannot request a pause in the COL process, including what impacts if any a pause on the COL process?

RESPONSE:

Yes. It is possible for an applicant to request suspension of work related to its application.

a. No. The COL process is nearing completion, with limited activities remaining. Suspension of work would jeopardize the anticipated issuance of the COL, nullifying the value of the option created by obtaining a COL and would not be in the best interest of FPL customers.

b. N/A.