

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

Before Administrative Judges:

E. Roy Hawken, Chairman  
Dr. Michael F. Kennedy  
Dr. Sue H. Abreu

In the Matter of

FLORIDA POWER & LIGHT COMPANY

(Turkey Point Nuclear Generating Units 3 and 4)

Docket Nos. 50-250-SLR & 50-251-SLR

ASLBP No. 18-957-01-SLR-BD01

March 21, 2019

INITIAL SCHEDULING ORDER

In the above-captioned proceeding, this Licensing Board granted hearing requests filed by (1) Southern Alliance for Clean Energy (SACE), and (2) Friends of the Earth, Inc., Natural Resources Defense Council, Inc., and Miami Waterkeeper, Inc. (collectively, Joint Petitioners), challenging the subsequent license renewal application by Florida Power & Light Company (FPL) for two nuclear power reactors, Turkey Point Units 3 and 4, at FPL's facility near Homestead, Florida. See LBP-19-3, 89 NRC \_\_ (2019).

On March 19, 2019, SACE, Joint Petitioners, FPL, and the NRC Staff filed a joint motion regarding the hearing schedule, mandatory disclosures, and hearing file obligations in this proceeding. See Joint Motion Regarding Hearing Schedule, Mandatory Disclosures, and Hearing File Obligations (Mar. 19, 2019). This motion confirmed that the NRC Staff expects to issue the Draft Supplemental Environmental Impact Statement (DSEIS) in March 2019, and it also indicated that the NRC Staff expects to issue the Final Supplemental Environmental Impact Statement (FSEIS) in August 2019. See id. at 3. Consistent with these expectations, the

parties requested that the Board approve a unanimously agreed-upon disclosure protocol and hearing schedule.

We grant the requested disclosure protocol, as follows:

Disclosure Protocol

1. The parties are not required to identify or produce privileged documents (e.g., attorney-client communications, attorney work product, deliberative process). However, the parties will identify proprietary documents;<sup>1</sup>
2. The parties are not required to identify or produce any document that has been served on all other parties to this proceeding;
3. The parties are not required to identify or produce press clippings;
4. The parties are not required to identify or produce draft documents (including comments on drafts, resolutions of comments, draft transmittals, or similar documents). However the parties will identify (and produce, if requested) any relevant final revisions of documents, i.e., Rev. 1, Rev. 2.
5. The NRC Staff will combine its mandatory disclosures and hearing file disclosures, and will identify the location where all non-privileged documents that it is required to disclose are available via the NRC's website or the NRC's Agencywide Documents Access and Management System (ADAMS), as required by 10 C.F.R. §§ 2.336(b) and 2.1203. The parties are not otherwise required to identify or produce documents available via the NRC's website or ADAMS.
6. The parties are not required to produce documents that are publicly available. However, the parties will identify such documents (other than documents available via the NRC's website or ADAMS, which are covered in item 5 above), along with information regarding the location of such documents (e.g., web address).
7. If an identical document is found in multiple locations or in multiple formats (e.g., hardcopy and electronic), the parties are only required to identify or produce one instance of the document; and
8. All required productions shall be provided in a text-searchable electronic format, to the extent practicable.

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<sup>1</sup> Any request for the production of proprietary documents would be governed by the terms of an appropriate protective order to be issued by this Licensing Board. Within 14 days of initial disclosures, the parties will submit a joint proposal for this Board's consideration regarding the issuance of a protective order.

We grant in part the requested hearing schedule, as follows:

Issuance of DSEIS ( <b>D</b> ) (expected March 2019)		
May 10, 2019		Initial Disclosures Due ( <b>I</b> ) (Disclosures shall be supplemented by each party on the last working day of each month thereafter).
D + 30		Deadline for dispositive motions based on DSEIS.
D + 50		Deadline for answer supporting or opposing a dispositive motion.
[Later of D or I] + 45		Deadline for new ( <b>N</b> ) or amended contentions based on DSEIS.
N + 25		Answers to new or amended contentions based on DSEIS.
N + 32		Replies to answers to new or amended contentions based on DSEIS.
N + 77		Board Order on admission of new or amended contentions based on DSEIS (if oral argument or supplemental briefing is not required).
Issuance of FSEIS ( <b>F</b> ) (expected August 2019)		
YES	NO	[NEW OR AMENDED CONTENTIONS ON FSEIS]
F + 30	---	Deadline for new or amended contentions based on FSEIS.
F + 55	---	Answers to new or amended contentions based on FSEIS.
F + 62	---	Replies to answers to new or amended contentions based on FSEIS.
F + 107	---	Board Order ( <b>O</b> ) on admission of new or amended contentions based on FSEIS (if oral argument or supplemental briefing is not required).
O + 14	F + 44	Complete mandatory disclosures. <sup>2</sup>
O + 30	F + 60	Deadline for dispositive motions based on FSEIS.
O + 50	F + 80	Deadline for answer supporting or opposing a dispositive motion.
O + 70	F + 100	Deadline for initial written statements of position, written direct testimony, and proposed exhibits [10 C.F.R. § 2.1207(a)(1)].
O + 110	F + 140	Deadline for written responses, written rebuttal testimony, and proposed exhibits [10 C.F.R. § 2.1207(a)(2)].
O + 125	F + 155	Proposed questions (filed <u>in camera</u> ) for the Board to consider propounding at the evidentiary hearing [10 C.F.R. § 2.1207(a)(3)(i) & (ii)].
O + 150	F + 180	Evidentiary Hearing ( <b>HRG</b> ).
HRG + 24		Deadline for proposed findings of fact & conclusions of law.
[later of HRG or close of record] + 90		Initial Decision.

<sup>2</sup> We note that the duty to disclose is “continuing” and only “ends when the [Board] issues a decision resolving the contention, or at such other time as may be specified by the [Board] or the Commission.” 10 C.F.R. § 2.336(d).

In LBP-19-3, this Board referred to the Commission our ruling that 10 C.F.R. § 51.53(c)(3) applies to the preparation of environmental reports in subsequent license review proceedings. See LBP-19-3, 89 NRC at \_\_\_, n.46 (slip op. at 25 n.46). It is to be acknowledged that the Commission's decision on our referred ruling could impact this hearing schedule.

Any objection to this order must be filed within five days after service of this order. See 10 C.F.R. § 2.329(e).

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

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E. Roy Hawkens, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
March 21, 2019

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
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FLORIDA POWER & LIGHT COMPANY	)	Docket Nos. 50-250-SLR
	)	50-251-SLR
(Turkey Point Nuclear Generating	)	
Units 3 & 4)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **INITIAL SCHEDULING ORDER** have been served upon the following persons by Electronic Information.

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

Dated at Rockville, Maryland,  
this 21<sup>st</sup> day of March, 2019