

**UNITED STATES OF AMERICA  
U.S. NUCLEAR REGULATORY COMMISSION  
BEFORE THE 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	)	
	)	Docket Nos. 52-040-COL
	)	and 52-041-COL
Turkey Point Units 6 and 7	)	
	)	
Combined License Application	)	

August 11, 2011

Citizens Allied for Safe Energy, Inc. Motion For  
Reconsideration of Amended Contentions 1,2 and 5 And  
New Contentions Following Fukushima Near-Term  
Task Force Recommendations

INTRODUCTION

On April 18, 2011 Citizens Allied for Safe Energy, Inc., (CASE) submitted three amended contentions from its revised petition to intervene in Florida Power and Light Company's COL for Turkey Point 6 & 7 licensure filed on August 17, 2010. Contentions 1,2 and 5 from that petition were amended to reflect events on and after March 18, 2010 in Japan. Although the submission was deemed to be timely, the June 29, 2011 Memorandum and Order Denying CASE's Motion to Admit Newly Proffered Contentions recharacterized the contentions as newly proffered and denied all three. However, at 2, the Memorandum and Order states:

*“If the Task Force’s recommendations result in changes to regulations that are relevant to Florida Power & Light Company’s (FPL’s) Combined License (COL) application, FPL’s compliance with those regulations would become part of the NRC Staff’s technical review. ... Additionally, such changes, or any other new and material information that emerges from the Fukushima event and its aftermath, might give rise to an opportunity to proffer new contentions in this proceeding.”*

CASE now contends that The Near-Term Task Force Review Of Insights From The Fukushima Dai-Ichi Accident and the Recommendations for Enhancing Reactor Safety in the 21<sup>st</sup> Century issued on July 12, 2011 are relevant to FPL’s COL for Turkey Point 6 & 7 and do merit the proffering of Contentions 1,2 and 5, as well as two new contentions, 9 and 10, so numbered to avoid confusion with earlier contention numbers.

writing, FPL has responded indicating that it would oppose all such motions and NRC Staff has stated it did not have sufficient information to support or oppose the motions and would await the filing of the motion to do so.

#### Untimely Filing

On August 11, 2011 CASE advised all parties of difficulties regarding its attempt to renew its EIE Certificate and prepared this motion: CITIZENS ALLIED FOR SAFE ENERGY MOTION REQUESTING A ONE DAY FILING DELAY FOR A FILING RELATED TO THE FUKUSHIMA TASK FORCE REPORT. CASE was unable to access the EIE system on August 11, 2011 so all documents, including the referenced motion, related to this filing were filed on August 12, 2011 although the motion was sent to all parties on August 11, 2011. FPL and the NRC staff indicated that they would not oppose the motion.

#### Good Faith Consultation

As directed in the ASLB Initial Scheduling Order of March 30, 2011, at 9, CASE, as a Good Faith Consultation, advised all parties on August 10, 2011 that it will soon be filing motions regarding its Contentions 1,2 and 5, as well as new

contentions, in light of The Near-Term Task Force Review of Insights from the Fukushima Dai-Ichi Accident requesting if any of the parties to the subject COL's wish to discuss CASE's forthcoming filings, to please contact CASE. FPL responded: "FPL will strongly oppose any motions seeking to relitigate twice-dismissed CASE Contentions 1, 2 and 5, and will also oppose any new CASE contentions relating to the NRC Fukushima Task Force recommendations." (Matias F. Travieso-Diaz | Pillsbury Winthrop Shaw Pittman LLP). NRC, by email and a phone call, said they did not have sufficient information to oppose or support CASE's motion and would suspend such determination after it was submitted.

## BACKGROUND

The lessons to be learned from the tragic events on March 11, 2011 in Japan and their aftermath in relation to the production and management of nuclear energy will certainly continue to emerge well into the future and beyond the Task Force Review issued on July 12, 2011. However the Report, at 69 - 70, does draw some insightful and important conclusions related specifically to physical aspects of reactors as well as giving general direction for re-evaluation of existing regulations and for the process of establishing new regulations. These recommendations seem to apply to CASE's Contentions :

### *Clarifying the Regulatory Framework*

*1. The Task Force recommends establishing a logical, systematic, and coherent regulatory framework for adequate protection that appropriately balances defense-in-depth and risk considerations. (Section 3)*

### *Enhancing Mitigation*

*4. The Task Force recommends that the NRC strengthen SBO mitigation capability at all operating and new reactors for design-basis and beyond-design-basis external events.  
(Section 4.2.1)*

*7. The Task Force recommends enhancing spent fuel pool makeup capability and instrumentation for the spent fuel pool. (Section 4.2.4)*

*8. The Task Force recommends strengthening and integrating onsite emergency response capabilities such as EOPs, SAMGs, and EDMGs. (Section 4.2.5)*

#### *Strengthening Emergency Preparedness*

*9. The Task Force recommends that the NRC require that facility emergency plans address prolonged SBO and multiunit events. (Section 4.3.1)*

*10. The Task Force recommends, as part of the longer term review, that the NRC pursue additional EP topics related to multiunit events and prolonged SBO. (Section 4.3.1)*

*11. The Task Force recommends, as part of the longer term review, that the NRC should pursue EP topics related to decisionmaking, radiation monitoring, and public education. Section 4.3.2)*

#### *Improving the Efficiency of NRC Programs*

*12. The Task Force recommends that the NRC strengthen regulatory oversight of licensee safety performance (i.e., the ROP) by focusing more attention on defense-in-depth requirements consistent with the recommended defense-in-depth framework. (Section 5.1)*

Some of the above recommendations are already relevant to the three contentions under consideration; some (10 and 11) will become relevant when the Longer Term Review is completed. In this motion CASE will review the substance of each contention as related to the Near-Term recommendations and will submit a similar analysis in a motion following the issuance of the longer term report. The many statements and points of information provided by CASE in these submittals will highlight the failures and short comings at every turn in these concerns.

## **CONTENTIONS**

**CONTENTION 1 -- FAILURE AND OMISSION OF THE FPL COL FOR THE PROPOSED TURKEY POINT NUCLEAR REACTORS 6&7 TO PROVIDE FOR AN ADEQUATE PUBLIC SAFETY PLAN**

**CONTENTION 2 -- FAILURE AND OMISSION OF THE FPL COL FOR THE PROPOSED TURKEY POINT NUCLEAR REACTORS 6&7 TO PROVIDE FOR THE SAFE AND ORDERLY EVACUATION OF THE POPULATION DURING OR FOLLOWING A NUCLEAR EVENT (UNUSUAL NUCLEAR OCCURANCE)**

**CONTENTION 5 – FAILURE AND OMISSION OF THE FPL COL FOR THE PROPOSED TURKEY POINT NUCLEAR REACTORS 6&7 ANALYSIS TO CONSIDER OR INCORPORATE ANY SCIENTIFICALLY VALID PROJECTION FOR SEA LEVEL RISE AND CLIMATE CHANGE THROUGH THE END OF THIS CENTURY AND BEYOND.**

**CONTENTION 9 (A New Contention) – ALL PENDING LICENSURE PROCEDURES FOR ALL UNLICENSED NUCLEAR REACTORS SHOULD BE SUSPENDED FOR AT LEAST TWO YEARS OR UNTIL THE NRC BOARD OF COMMISSIONERS ACCEPTS THE TASK FORCE REPORT AND ALL NEAR-TERM AND LONGER TERM RECOMMENDATIONS ARE FULLY DEFINED AND IMPELMENTED**

**CONTENTION 10 (A New Contention) – THE COMMISSION MUST ESTABLISH AND ENFORCE NEW GUIDELINES FOR THE SEPERATON OF THE NUCLEAR INDUSTRY FIRMS AND REPRESENTATIVES FROM PARTICIPATION IN STAFF DELIBERATIONS, DECISIONS AND ACTIONS.**

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### **SUBSTANCE OF CONTENTIONS:**

**CONTENTION 1 -- FAILURE AND OMISSION OF THE FPL COL FOR THE PROPOSED TURKEY POINT NUCLEAR REACTORS 6&7 TO PROVIDE FOR AN ADEQUATE PUBLIC SAFETY PLAN**

To prepare a full and comprehensive critique of the Review in relation to all of CASE'S Contentions would be a monumental task. We can only hope that the Contentions will be admitted so that this can occur thoroughly and objectively. We will comment on some statements from the Review and relate them to

previous CASE statements in these proceedings to support our contentions.

From its first filing on this Contention on August 17, 2010, CASE has been concerned with two basic issues, timely evacuation of the almost 200,000 people in the area and the proper pre-distribution of potassium iodide (PI).

From Revised Petition August 17, 2011, at 14:

*1. Evacuation plans are not adequate for timely evacuation of all the people who could be affected in an accidental radiation release.  
2. Evacuation screening and shelter provisions lack capacity for the number of people living in the evacuation zone.  
3. Potassium iodide (KI) cannot be delivered in a timely manner to provide best protection from thyroid cancer.  
4. Reactor design proposed for TPN 6 & 7 elevates risk of radiation release and makes effective evacuation and KI plans more critical.  
In the Task Force Review, these subjects are not discussed as direct NRC concerns.*

For this discussion, we will address Potassium Iodide distribution and general health and safety concerns under Contention 1. We will discuss evacuation concerns under Contention 2.

**Current evacuation plans by offsite officials and emergency planners cannot work.** On August 4, 2011, CASE executive, Dr. Philip Stoddard, a biologist and Mayor of South Miami, Florida (18 miles from Turkey Point) met with Mr. Curtis Somerhoff, Director, M-D County Dept. Emergency Management. A transcript of the meeting is available but here are Dr. Stoddard's summary notes relating to potassium iodide (PI): (Attachment 1)

Mayor Stoddard's statement:

3. County has no plan to get potassium iodide (KI) to children and pregnant women before radiation exposure in a radiological emergency, as is necessary to prevent thyroid damage.

Mayor Stoddard that the World Health Organization calls for predistribution. In

Miami, all the KI is to be distributed at the ERCs after an emergency is already in progress. In North Carolina, KI is mailed to people in their houses.

Mr. Somerhoff says pre-distribution options have been tried before, allowing people to pick up KI in advance at distribution points, but that public response was very limited.

Mayor Stoddard suggested distributing KI through annual checkups with family doctors and pediatricians who can make sure people receive it, and that anyone allergic to iodine is excluded.

Mr. Somerhoff commented on the difficulties getting people to take the H1N1 flu vaccine.

Mayor Stoddard observed the extreme effectiveness of pediatric vaccination programs, and pointed out that the flu vaccines are usually late, limited in quantity, and require a special appointment. Most children (the most vulnerable to radioiodines) get an annual medical checkup and that would be an excellent and reliable distribution point.

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This is the Task Force's final statement on these issues: (at 62)

*11.4 Conduct training in coordination with the appropriate Federal partners, or radiation, radiation safety and the appropriate use of KI in the local community*

At the very least Contention 1 should be admitted to permit considered and full review of the related issues.

**CONTENTION 2 -- FAILURE AND OMISSION OF THE FPL COL  
FOR THE PROPOSED TURKEY POINT NUCLEAR REACTORS  
6&7 TO PROVIDE FOR THE SAFE AND ORDERLY EVACUATION  
OF THE POPULATION DURING OR FOLLOWING A NUCLEAR  
EVENT (UNUSUAL NUCLEAR OCCURANCE)**

As a general statement on planning for a nuclear incident, we read in the Task Force Review, at 60:

*The current regulatory approach for the evaluation of offsite EP following a natural disaster is robust and **has proven its effectiveness following recent hurricanes**, including Hurricane Katrina. An NRC task force*

*examined the lessons learned from the active 2005 hurricane season in a report dated March 30, 2006 (ADAMS Accession No. ML060900005).*

Having lived in Miami, within 25 miles of Turkey Point since 1969, this writer can testify that preparing for **a hurricane has no comparison to** preparing for **a nuclear event**. We knew for days about Hurricane Andrew and had every opportunity to prepare for it. Such a comparison is specious, wrong and dangerous. Any planning order that adopts that premise will not be worth the paper on which it is written.

### **Conflicting information between The Task Force Review and FPL statements:**

The Task Force Review, under Emergency Preparedness (at 50 – 62) states:

***ETEs are currently recalculated when the population around a nuclear plant either increases or decreases significantly. (at 60)***

This statement seem to be **at variance** with the following statement from FPL's September 13, 2010 Response to CASE, at 28: Much of the discussion in

*Contention 2 centers on a prediction that the population in the Plume Exposure Pathway EPZ will increase significantly during the term of the licenses for Turkey Point Units 6 & 7. Revised Petition at 17-18. However, **CASE fails to point to any requirement for incorporating potential population increases when evaluating the ability to conduct a timely evacuation. Indeed, U.S. Census data or other reliable data should be made current by adjusting them for population growth as necessary, but NUREG-0654 only "requires adjustment of census data that is not current and accurate, and not projected evacuation time estimates for future populations."** Public Service Co. of New Hampshire (Seabrook Station, Units 1 and 2), LBP-83-32A, 17 NRC 1170, 1179 (1983) (emphasis added). An ETE is an estimate based upon the snapshot of the population at the time the ETE study is prepared;<sup>14</sup> there is no requirement that it incorporate a forecast of the population as of a later date, and CASE has not alleged any such requirement.*

**Clearly, the Task Force and FPL cannot both be correct.** There may have been a change in the regulations since FPL made the statement above. Barring that this is an example of the need to review the guidelines. Too



much is at stake here. We are talking about a realistic and possible plan to escape a nuclear disaster; right now it does not exist.

In the statements below, the Task Force seems to have taken the position that real planning for evacuation is not possible, to too far from CASE's position that for Turkey Point 6 & 7 at Homestead, Florida, it is impossible:

*As supported by the proposed EP rule, the scenarios described in NUREG/CR-7002 provide a basis for licensees to develop a comprehensive set of ETEs. Performing additional time estimates for natural disasters with unpredictable damage would offer no corresponding benefit to licensee personnel in providing appropriate protective action recommendations to offsite officials or to offsite emergency planners in developing evacuation and other protective action strategies. (at 60)*

*The Task Force acknowledges that every situation will differ, so detailed preplanning in this area is not plausible." (at 61).*

It is impossible to evacuate the almost 200,000 people in Homestead on three roads on 35 degrees of the compass in time to avoid contamination; it will take less than an hour to cover 10 miles under normal wind speed and usual direction. FPL ETE says it will take 2 to 11 hours to evacuate plus 1 to 6 hours to prepare. FPL and NRC never, repeat, never, directly addressed or acknowledged those numbers nor did they accept the Contention so it could be properly discussed. And shadow evacuation north of Homestead will block the northward movement so any one in Homestead will be trapped.

In the Memorandum and Order (Denying CASE's Motion to Admit Newly Proffered Contention) of June 29, 2011 it is stated (at 6) in regard to Contention 1

"CASE's newly proffered Contention 1 alleges that FPL's COL application "does not adequately protect public health of people in the Turkey Point Plume Exposure Zone following an accidental radiation release . . . ." CASE Petition at 3. In addition to grounding this contention on the same arguments previously considered and rejected by this Board (see supra note 6 and accompanying text),<sup>14</sup> CASE advances the following

two new arguments: (1) “[i]t is not clear that critical emergency communications will be viable in the event of a loss of power and back-up power at the site” (CASE Petition at 10); and (2) in the event of a core melt accident, FPL’s Emergency Plan should “order an evacuation” of persons within a 10-mile radius of the Turkey Point facility. Id., Exh. 7, Attachment C-1 Risk – 10-Mile [Emergency Planning Zone] and Probability Shenanigans [hereinafter CASE Petition, Exh.7].<sup>15</sup> In our view, CASE has not shown that the two “new” arguments underlying Contention 1 – i.e., ***(1) FPL’s emergency communications might not be viable in the event of a station blackout, and (2) in the event of a core melt accident, FPL’s Emergency Plan should order an evacuation of persons within a 10-mile radius of the Turkey Point facility – are based on new information that is materially different from previously available information.***” (emphasis added)

CASE now contends that the Near-Term Review specifically and strongly supports CASES contention and these issues. The Review states(at ix):

#### *Enhancing Mitigation*

*In evaluating the expected frequency of loss of offsite power, the guide addresses the expected frequency of high winds, including those from tornadoes not addressed. Nor does the guide address the concurrent consequences on the facility of the external hazards impacting offsite power. Consequently, and hurricanes, and the expected annual snowfall. The impact of other external hazards (e.g., seismic and flooding) on the frequency of loss of offsite power is common-cause failures of all onsite and offsite power resulting from a naturally*

*4. The Task Force recommends that the NRC strengthen station blackout mitigation capability at all operating and new reactors for design-basis and Further, at 33, Section 4.2.1, Prolonged Loss of Alternating Current Power, it is stated: Beyond-design-basis External Events. (Section 4.2.1) occurring external event are not considered. (at 33)*

*The Task Force concludes that revising 10 CFR 50.63 to expand the coping capability to include cooling the spent fuel, preventing a loss-of-coolant accident, and preventing containment failure would be a significant benefit. The Task Force also concludes that a strategy is needed to provide these functions for a prolonged period without ac power from the normal offsite or emergency onsite sources without the vital ac distribution systems within the plant. (at 35).*

***These recommendations for revision to 10 CFR 50.63 would provide additional safety margins for a prolonged SBO as a part of the overall risk-informed, defense-in-depth regulatory framework providing adequate***

*protection of public health and safety. (emphasis added) (At 37).*

**How much clearer can it be that the Review totally supports CASE's contention on this subject? Many possibilities exist for creating a SBO; the Review addressed some. Only a comprehensive analysis of the Fukushima incident plus an objective and thorough of all possible eventualities is warranted.**

What are we missing? Apparently, on one hand, the Review says that the NRC must get more involved with matters beyond the plants and on the other it passes off the details of evacuation and PI distribution to others. A review of Existing regulations, procedures and processes are faulty and must, as the Review contends, be re-revised and changed. A new reactor licensing process based on the existing regulations is, in the Task Force's view, inadequate and, CASE's contention, all new licenses should be subjected to the new procedures and regulations once they are established.

*The Task Force applied this conceptual framework during its deliberations. The result is a set of recommendations that take a balanced approach to defense-in-depth as applied to low-likelihood, high-consequence events such as prolonged station blackout resulting from severe natural phenomena. These recommendations, taken together, are intended to clarify and strengthen the further mitigation capability. The Task Force observes that this collection of approaches is largely the product of history; it was developed for the purpose of reactor licensing in the 1960s and 1970s and supplemented as necessary to address significant events or new issues. **This evolution has resulted in a patchwork regulatory approach.** (at 20)*

*The Task Force has concluded that the situation is somewhat different in terms of beyond-design-basis **flooding**. First, flooding can be caused by a number of different phenomena: river flooding; dam failure; precipitation; **storm surge**; tsunami; or internal failures of pipes, pumps, or tanks within the plant. Second, flooding can have a cliff-edge effect; that is, **a small increase in flooding level** regulatory framework for protection against natural disasters, mitigation, and emergency preparedness, and to improve the effectiveness of the NRC's programs. (at viii)*

*The Policy Statement on Safety Goals for the Operations of Nuclear Power Plants (Federal Register in August 1986 (51 FR 30028)) sets forth two qualitative safety goals, which are supported by two quantitative supporting objectives. **The following are the qualitative safety goals:***

***Individual members of the public should be provided a level of protection from the consequences of nuclear power plant operation such that individuals bear no significant additional risk to life and health.***

*Societal risks to life and health from nuclear power plant operation should be comparable to or less than the risks of generating electricity by viable competing technologies and should not be a significant addition to other societal risks.*

***The Task Force concludes that the NRC's safety approach is incomplete without a strong program for dealing with the unexpected, including severe accidents. Continued reliance on industry initiatives for a fundamental level of defense-in-depth similarly would leave gaps in the NRC regulatory approach. accidents, both of which involve external challenges or multiple failures beyond***

*The Commission has clearly established such defense-in- depth severe accident requirements for new reactors (in 10 CFR 52.47(23), 10 CFR 52.79(38), and each design certification rule), thus bringing unity and completeness to the defense-in-depth concept. **Taking a similar action, within reasonable and practical bounds appropriate to operating plants, would do the same for operating reactors. (at 20)***

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#### **REPORT ON A RECENT CASE MEETING WITH THE MIAMI-DADE COUNTY DIRECTOR OF THE DEPARTMENT OF EMERGENCY MANAGEMENT:**

**Current evacuation plans by offsite officials and emergency planners cannot work.** On August 4, 2011, CASE executive, Dr. Philip Stoddard, a biologist and Mayor of South Miami, Florida (18 miles from Turkey Point) met with Mr. Curtis Somerhoff, Director, M-D County Dept. Emergency Management. A transcript of the meeting is available but here are Dr. Stoddard's summary notes relating to evacuation: (Attachment 1)

Below, in black, are the concerns I raised at out meeting. Participant responses are in colored italics.

1. Projected evacuation times are invalid. “Shadow evacuation” calculations in Evacuation Time Estimate (ETE) study include no one living farther north than roads cannot handle actual likely evacuation.

Mr. Somerhoff questioned whether studies of evacuation following Three Mile Island in 1979 are still valid in predicting behavior of people today because have so much more information about actual risks of radiation.

Mayor Stoddard stated that scientific studies of prior behavior are the best predictors of future behavior. Further, because the public now understands that areas 25-45 miles from Fukushima became uninhabitable, he would expect the shadow evacuation area to increase, not decrease from Three Mile Island.

Mr. Somerhoff does not believe gridlock will occur on Florida’s Turnpike and other major egress roads (e.g., US 1, Krome Ave.) because emergency managers can exercise highly effective options for traffic control.

Mayor Stoddard believes the artificial boundary of the existing Turkey Point shadow evacuation area produces an unrealistically small estimate of the shadow evacuation population and that actual evacuees would put far more cars on the road than estimated, leading to complete gridlock.

Mr. Somerhoff stated that the County is seeking to become the contracting agent for future ETEs to make them more reliable and accountable

Mayor Stoddard says it can’t happen too soon. The current ETE is not realistic and leaves us vulnerable to catastrophe.

2. In one hour, under average winds, radiation plume would escape 10-mile Emergency Planning Zone (EPZ) around Turkey Point. A decision to notify public following a radiological emergency is projected to take 70 minutes.

Mr. Somerhoff explained nuclear accidents do not happen all at once, and that we have time to get people out of the way of a radiation plume.

Mayor Stoddard observed that in every major radiological release from a nuclear plant, people have been exposed faster and farther than the government was aware at the time, that extensive radiation was detected only after fallout had landed, and that most people were warned after they were exposed rather than before. Further, winds wander, and radiation plumes swept over wide arcs following both Chernobyl and Fukushima accidents.

4. The County’s radiological plan annex lists radiological shelter space for less than 1/3 of potential evacuees from 10-mile radius Emergency Planning Zone (EPZ) around Turkey Point.

Mr. Somerhoff noted that the County has considerable flexibility in adjusting the number of shelters to match the demand. Other shelters can be opened anywhere in the County, and that Broward and Palm Beach Counties can provide shelters for displaced residents of Miami-Dade County. Mr. Somerhoff's department expects far fewer people than the ~204,000 residents of the EPZ would evacuate to local shelters, and that most would drive farther.

Mayor Stoddard noted that studies of prior radiological evacuations showed that most evacuees did indeed drive farther, typically 75-100 miles. He asked how many people were expected to actually use designated radiation emergency shelters.

Mr. Somerhoff did not have that number at hand.

5: The County has made no provision for protection or evacuation of people living farther than 10 miles from Turkey Point (including South Miami, Coral Gables, Pinecrest, Miami, Miami Beach, etc.).

Commissioner Suarez noted that this area included his entire district, and felt this matter was very serious.

Mr. Somerhoff pointed out that the 10 miles circle is stipulated in the federal guidelines. He mentioned that the NRC is looking at mandating wider evacuation zones in the future.

Mayor Stoddard noted that the current Federal evacuation guidelines are only a minimum requirement, and they do nothing to protect residents of his city. As for future changes in NRC guidelines, he noted that Congress is being heavily lobbied by the nuclear power industry to delay implementing recommendations of the NRC Fukushima Taskforce.

6. The County has only one Emergency Reception Center (ERC), which could be in fallout path and which cannot handle the full evacuation population of over 200,000 people.

Mr. Somerhoff stated that the equipment was mobile so the County

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Mayor Stoddard noted that the current Federal evacuation guidelines are only a minimum requirement, and they do nothing to protect residents of his city. As for future changes in NRC guidelines, he noted that Congress is being heavily lobbied by the nuclear power industry to delay implementing recommendations of the NRC Fukushima Taskforce.

6. The County has only one Emergency Reception Center (ERC), which could be in

CASE Comments on the meeting with Mr. Somerhof:  
fallout path and which cannot handle the full evacuation population of over 200,000 people.

Mr. Somerhoff stated that the equipment was mobile so the County could relocate the ERC to any of several alternate locations on a moment's notice.

Mayor Stoddard wanted to see the alternate locations mentioned in the text of the actual plan.

7. Processing of 200,000 evacuees at Tamiami ERC would be too slow. This concern was expressed in confidence by first responders after a practice drill.

Mayor Stoddard asked for details on the screening of evacuees.

Mr. Somerhoff stated that they could open 6 screening stations on short order, and eventually 50 stations. It takes 30 seconds on average to screen an evacuee for radiation exposure

**There is more to the interview but these excerpts are sufficient to make CASE's point. Miami-Dade County's emergency evacuation plans are perfunctory and superficial. We are in trouble.**

CASE's comments on the meeting with Mr. Somerhof:

This meeting is reported extensively here because so much of the NRC's program depends on local agencies to plan and carry out programs to protect the local population. CASE contends that this responsibility is not affectively executed or planned with sufficient cognizance of the seriousness of the situation.

Regarding Mr. Somerhoffs statements, how much more does the public need about the risks of radiation? Enough to know that if there is a nuclear event you run like hell. If Mr. Sommerhoff does not believe gridlock can occur at U.S.1 and Southwest 344<sup>th</sup> Street,

and that you can control 200,000 people fleeing for their lives, he's a better than I, Gunga Din. And, if, as he say, the current ETE's are unreliable and unaccountable, how does that effect FPL's projections and estimates. Back to the drawing boards, right?

**“NUCLEAR ACCIDENTS DO NOT HAPPEN ALL AT ONCE”** He actually said that? No comment necessary.

An objective reading of this meeting report leads CASE to believe that this emergency manager is more satisfied with his plans than CASE is. How much knowledge does one Florida, Miami-Dade County and others cavalierly said they would be there. I don't think we saw too many support staff running toward Fukushima. Please admit this contention so we can discuss these issues.

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At 61, the Review states: *“The Task Force acknowledges that every situation will differ, so detailed preplanning in this area is not plausible.”*

***Exactly! Which is why not only should Turkey Point 6 & 7 not be built at Turkey Point, 3 & 4 should not be there either.***

The only emergency response agency which seems to be on the correct page is the U.S. Coast Guard. In CASE's August 17, 2010 filing, a letter attached states that the Coast Guard would not send its forces into a radiological situation. FEMA, The State of

**CONTENTION 5 – FAILURE AND OMISSION OF THE FPL COL FOR THE PROPOSED TURKEY POINT NUCLEAR REACTORS 6&7 ANALYSIS TO CONSIDER OR INCORPORATE ANY SCIENTIFICALLY VALID PROJECTION FOR SEA LEVEL RISE AND CLIMATE CHANGE THROUGH THE END OF THIS CENTURY AND BEYOND.**

The Task Force Review make many statements regarding flooding, storm surge and other meteorological events and the need to prepare for them. However, sea level rise and climate change are not mentioned once.

*In summary, the major elements of the NRC regulatory approach relevant to the Fukushima accident, or a similar accident in the United States, are seismic and*



***flooding** protection (well established in the design-basis requirements); SBO protection (required, but beyond the design-basis requirements); and severe accident mitigation (expected but neither the severe accident mitigation features nor the SAMGs are required). In addition, U.S. facilities could employ EDMGs as **can produce a large effect in terms of equipment failure and potential plant damage.**(emphasis added)a With respect to this issue, the experience at Fukushima Dai-ichi Units 5 and 6 appears more informative than that at Fukushima Dai-ichi Units 1, 2, 3, and 4. Units 5 and 6 are sited at an elevation of 13 meters (43 feet) above sea level and, based on the information available, the tsunami reached a level of 14 meters (46 feet), producing about 1 meter (3 feet) of flooding on the site. In contrast, Units 1 through 4 appear to have been inundated by about 5 meters (16 feet) of sea water. The extensive damage at Units 1 through 4 is therefore not surprising. However, Units 5 and 6 also experienced extensive damage of critical safety equipment as a result of about 1 meter (3 feet) of flooding, leaving the units at significant risk of core damage. Only one air-cooled diesel generator remained available at Unit 6 and functioned with significant operator action to maintain cooling at the two units. This circumstance illustrates the concept of a cliff-edge effect. (At 36).*

***A beyond-design-basis flood could be established through extensive, probabilistic hazards analysis.** As a practical matter, and to prevent undue delays in implementing additional SBO protections, the Task Force concludes that locating SBO mitigation equipment in the plant one level above flood level (about 5 to 6 meters (15 to 20 feet)) or in watertight enclosures would provide sufficient enhanced protection for this level of defense-in-depth.*

*These recommendations for revision to 10 CFR 50.63 would provide additional safety margins for a prolonged SBO as a part of the overall risk-informed, defense-in-depth regulatory framework providing adequate protection of public health and safety. (At 37).*

#### *Enhancing Mitigation*

*4. The Task Force recommends that the NRC strengthen station blackout mitigation capability at all operating and new reactors for design-basis and beyond-design-basis external events. (Section 4.2.1)*

*8. The Task Force recommends strengthening and integrating onsite emergency response capabilities such as emergency operating procedures, severe accident management guidelines, and extensive damage mitigation guidelines. (Section 4.2.5)*

#### *Strengthening Emergency Preparedness*

*9. The Task Force applied this conceptual framework during its deliberations. The result is a set of recommendations that take a balanced approach to*

*defense-in-depth as applied to low-likelihood, high-consequence events such as prolonged station blackout resulting from severe natural phenomena. **These recommendations, taken together, are intended to clarify and strengthen the regulatory framework for protection against natural disasters, mitigation, and emergency preparedness, and to improve the effectiveness of the NRC's programs.** (at viii)*

**Given this concern regarding natural disasters, it is difficult to understand why neither the Task Force, the NRC Staff nor FPL has ever acknowledged the Climate Change Study commissioned by the Miami-Dade County Board of County Commissioners and directed by Dr. Harold Wanless, a distinguished professor of Biology at the University of Miami. We live here, not a thousand miles away. Building two new reactors in a flood zone, on land already below sea level subject to storm surge, hurricanes, sea level rise, not to mention that sits on top of the water supply for the entire Florida Keys, can hardly be the result of a functioning administrative regulatory system divorced from industry influence.**

**CONTENTION 9 (A New Contention) – ALL PENDING LICENSURE PROCEDURES FOR ALL UNLICENSED NUCLEAR REACTORS SHOULD BE SUSPENDED FOR AT LEAST TWO YEARS OR UNTIL THE NRC BOARD OF COMMISSIONERS ACCEPTS THE TASK FORCE REPORT AND ALL NEAR-TERM AND LONGER TERM RECOMMENDATIONS ARE FULLY DEFINED AND IMPELMENTED**

Existing regulations, procedures and processes are, as stated frequently in the Review, wanting and, must, as the Review contends, be re-revised and changed. A new reactor licensing process based on the existing regulations is, in the Task Force's view, inadequate and, it is CASE's contention, all new licenses

should be subjected to the new procedures and regulations once they are established. Here are statements from the Review which speak directly to this Contention:

*• ... the Task Force observes that **for new reactor designs**, the Commission's expectations that beyond-design-basis and severe accident concerns be addressed and resolved at the design stage are largely expressed in policy statements and staff requirements memoranda, only reaching the level of rulemaking when each design is codified through design certification rulemaking. (at 19-20)*

CASE is suggesting that at least two years be the minimum time period to suspend licensure proceedings based, partially, on this Task Force statement (at x):

*Recognizing that rulemaking and subsequent implementation typically take **several years** to accomplish, the Task Force recommends interim actions to enhance protection, mitigation, and preparedness while the rulemaking activities are conducted. (at x).*

Further:

***In the Task Force's deliberations, it became apparent that the existing guidance does not present a completely clear and consistent framework for decisionmaking. (at 4).***

*Starting in the 1980s and continuing to the present, the NRC has maintained the design-basis approach and expanded it to address issues of concern. The NRC added requirements to address each new issue as it arose **but did not change the fundamental concept of design-basis events or the list of those events; nor did the NRC typically assign the concept of adequate protection to these changes.** (emphasis added). (at 15)*

*The NRC has inspected the guidelines and strategies that licensees have implemented to meet the requirements of 10 CFR 50.54(hh)(2). However, there are no specific quality requirements associated with these requirements, and the quality assurance requirements of 10 CFR Part 50, Appendix B, do not apply. The EDMGs are requirements for addressing events well beyond those historically considered to be the design basis and **were implemented as adequate protection backfits.** In order to address the changing security threat environment, the Commission effectively redefined what level of protection should be regarded as adequate. This is a normal and reasonable, **albeit***

*infrequent, exercise of the NRC's responsibilities of **protecting public health and safety**.*

*This (current) regulatory approach, established and supplemented piece-by-piece over the decades, has addressed many safety concerns and issues, using Task Force provide the Commission with its best insights and vision for an improved regulatory framework.*

*The Task Force finds that the Commission's longstanding defense-in-depth philosophy, supported and modified as necessary by state-of-the-art probabilistic risk assessment techniques, should continue to serve as the primary organizing principle of its regulatory framework. The Task Force concludes that the application of the defense-in-depth philosophy can be strengthened by including the best information and techniques available at the time. **The result is a patchwork of regulatory requirements and other safety initiatives**, (emphasis added) all important, but not all given equivalent consideration and treatment by licensees or during NRC technical review and inspection. Consistent with the NRC's organizational value of excellence, the Task Force believes that improving the NRC's regulatory framework is an appropriate, realistic, and achievable goal. (at vii).*

*... the Task Force also concludes that a more balanced application of the Commission's defense-in-depth philosophy using risk insights would provide an enhanced regulatory framework that is logical, systematic, coherent, and better understood. Such a framework would support appropriate requirements for increased capability to address events of low likelihood and high consequence, thus significantly enhancing safety. Excellence in regulation demands that the Improving the Efficiency of NRC Programs*

*12. The Task Force recommends that the NRC strengthen regulatory oversight of licensee safety performance (i.e., the Reactor Oversight Process) by focusing more attention on defense-in-depth requirements consistent with the recommended defense-in-depth framework. (Section 5.1) (at ix). explicit requirements for beyond-design-basis events.*

*... The Task Force has concluded that a collection of such "extended design-basis" requirements, with an appropriate set of quality or special treatment standards, should be established.*

*The Task Force recommendation for an enhanced regulatory framework is intended to establish a coherent and transparent basis for treatment of the Fukushima insights. It is also intended to provide lasting direction to the staff regarding a consistent decisionmaking framework for future issues.*

*Clarifying the Regulatory Framework*

*1. The Task Force recommends establishing a logical, systematic, and coherent regulatory framework for adequate protection that appropriately balances defense-in-depth and risk considerations. (Section 3) (at ix).*

*Recognizing that rulemaking and subsequent implementation typically take several years to accomplish, the Task Force recommends interim actions to enhance protection, mitigation, and preparedness while the rulemaking activities are conducted. (at x).*

***As new information and new analytical techniques are developed, safety standards need to be reviewed, evaluated, and changed, as necessary, to insure that they continue to address the NRC's requirements to provide reasonable assurance of adequate protection of public health and safety.***

*The Task Force believes, based on its review of the information currently available from Japan and the current regulations, that the time has come for such*

*....the Task Force concludes that continued operation and continued licensing activities do not pose an imminent risk to the public health and safety and are not inimical to the common defense and security. (AT 18)*  
*change.*

- In response to the Fukushima accident and the insights it brings to light, the Task Force is recommending actions, some general, some specific, that it believes would be a reasonable, well-formulated set of actions to increase the level of safety associated with adequate protection of the public health and safety.*

- The Commission has come to rely on design-basis requirements and a patchwork of beyond-design-basis requirements and voluntary initiatives for maintaining safety. (At 18).*

***The Task Force therefore concludes that the future regulatory framework should be based on the defense-in-depth philosophy, supported and modified as necessary by state-of-the-art PRA techniques. The Task Force also concludes that the application of defense-in-depth should be strengthened by formally establishing, in the regulations, an appropriate level of defense-in-depth to address requirements for "extended" design-basis events. (at 20)***

Existing regulations, procedures and processes are faulty and must, as the Review contends, be re-revised and changed. A new reactor licensing process based on the existing regulations is, in the Task Force's view, inadequate and,

CASE's contention, all new licenses should be subjected to the new procedures and regulations once they are established.

**CONTENTION 10 (A New Contention) – THE COMMISSION MUST ESTABLISH AND ENFORCE NEW GUIDELINES FOR THE SEPERATON OF THE NUCLEAR INDUSTRY FIRMS AND REPRESENTATIVES FROM PARTICIPATION IN STAFF DELIBERATIONS, DECISIONS AND ACTIONS.**

In the year that CASE has been an Intervenor in the FPL licensure of Turkey Point 6 & 7, it has become apparent that there is a close relationship between the Company and the NRC staff. Responses to petitions from the two entities arrive simultaneously and are frequently almost verbatim copies of each other.

Apparantly Charman Jaczko anticipated the problematical relationship between the NRC and the nuclear industry. In his Tasking Memorandum of March 23,2011 on of his issues for Near Term Review stated:

“The task force efforts should be informed by some stakeholder input but should be independent of industry efforts.” (at 77).

Even the adversarial posture assumed by FPL is reflected in the NRC Staff response. As a naïve pro se intervenor, this writer originally assumed thatwe are all in this together, working for the public good. After all, FPL is a public utility. It is not necessary to spell out here the many ways in which nuclear companies can and do influence nuclear policy and procedures.

To relate the events at Fukushima to the Task Force Review, the following report is enlightening. On April 28, 2011 the following report was published:

*Japan: Industry-government collusion in Fukushima?*

Via Slate.com: [Japan's nuclear disaster and industry-government collusion: the price of compromised safeguards](#). Excerpt:

“As Japan struggles to regain control of its Fukushima Daiichi power plant, there's lots of talk about which technical safeguards the plant lacked and which should be required in future nuclear facilities. But a new report points to another kind of safeguard that failed: public institutions.

Nuclear power plants are designed for what the industry calls defense in depth: the inclusion of backup safeguards in case the primary safeguards fail. No single layer of protection should be trusted entirely.

The same is true of people. No power plant operator should be trusted to maintain the safety of its reactors. We need multiple layers of scrutiny—inspectors, regulators, independent nuclear experts—to double- and triple-check the operator's work.

These layers of scrutiny failed in Japan, according to a story in Wednesday's *New York Times*. The report, by Norimitsu Onishi and Ken Belson, details a web of collusion among Japanese regulators, politicians, and power companies.

It's a sobering illustration of what can happen when institutions that should be checking one another merge into a complacent team.”

April 28, 2011 at 09:39 PM in [Disasters](#), [Politics and health](#), [Radiation](#) | [Permalink](#)

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## INDUSTRY INFLUENCE

It is well known that some industry organizations actually draft legislation and laws that are passed by governmental agencies which regulate those industries. Also, many functions in the nuclear industry are passed off to quasi governmental agencies, sometimes with dire results. One such agency was fined heavily in Florida when they passed off actual supervision to FPL when a systemwide blackout occurred. Needless to say, things have gone too far. The NRC operates almost with no higher level supervision when it should actually be more closely aligned with the Department of Energy. Nuclear energy should be one seat at the energy table with an administrative body determining the best balance of energy sources for any given situation.

**It should be noted that, although several industry organizations were consulted in the preparation of the Task Force Review, there was no provision for public input.**

*The principles of “independence” and “openness” focus on the importance of obtaining inputs from the full range of stakeholders, **including consideration of many and possibly conflicting public interests**, and open channels of communication. The duration and scope of the Task Force’s effort have necessarily limited the degree of stakeholder interaction that was possible. The implementation of Task Force recommendations will require additional effort by the NRC staff to conduct stakeholder outreach through its normal processes (e.g., rulemaking, licensing, public meetings, and workshops). (at 5)*

The Review states:

- *The primary responsibility for safety rests with licensees, and the NRC holds licensees accountable for meeting regulatory requirements. In addition, voluntary safety initiatives by licensees can enhance safety if implemented and maintained effectively, but should not take the place of needed regulatory requirements. The NRC inspection and licensing programs give less attention to beyond-design-basis requirements and little attention to industry voluntary initiatives since there are no requirements to inspect against. Because of this, the NRC gives much more attention to design-basis events than to severe accidents.*
- *With the exception of a few special cases, licensees of operating reactors are not required to develop or maintain a PRA, although all licensees currently have a PRA. These PRAs are of varying scope and are generally not required to meet NRC-endorsed quality standards. New reactor applications must include a description of a design-specific PRA and its results and must address severe accident protection and mitigation features.*
- *Lastly, the Task Force observes that for new reactor designs, the Commission’s expectations that beyond-design-basis and severe accident concerns be addressed and resolved at the design stage are largely expressed in policy statements and staff requirements memoranda, **only reaching the level of rulemaking when each design is codified through design certification rulemaking.** (at 19-20)*



***The Task Force concludes that the NRC's safety approach is incomplete without a strong program for dealing with the unexpected, including severe accidents. Continued reliance on industry initiatives for a fundamental level of defense-in-depth similarly would leave gaps in the NRC regulatory approach. The Commission has clearly established such defense-in- depth severe accident requirements for new reactors (in 10 CFR 52.47(23), 10 CFR 52.79(38), and each design certification rule), thus bringing unity and completeness to the defense-in-depth concept. Taking a similar action, within reasonable and practical bounds appropriate to operating plants, would do the same for operating reactors. (at 20)***

## CONCLUSION

Taken together, the many cautionary, advisory, forward looking and sometimes totally negative statements by the Task Force can only lead us to the conclusion that the NRC and its supervision of the nuclear industry have arrived where they are with questionable guidelines and standards. To go forward using the same regulatory standards and tools hardly seems prudent. One must question how, with all of the negative observations in the Review, the following statement can be made:

***...the Task Force concludes that continued operation and continued licensing activities do not pose an imminent risk to the public health and safety and are not inimical to the common defense and security.***

CASE submits that in making this statement, the Task Force was over reaching. Such a conclusion should only come after a full and comprehensive review not only of the implications of the Fukushima incident, but also after a soul searching analysis of the NRC, the way it does business and its relation to the nuclear industry. Possibly the most important lesson to be learned from Fukushima is the danger of having a situation where the government and industry are so intertwined and dominant in providing energy. In Japan, 80% of their energy comes from nuclear. The truth is, Fukushima was not an accident. It was the result of one form of energy being, in reality, the only form of energy.

Putting six reactors together in a Tsunami prone area does not make for an accident; it makes for an actuarial inevitability. It was only a matter of time. Putting two more reactors at Turkey Point is preparation for exactly the same senerio; it is only a matter of time.

Please admit CASE's contentions and permit a real dialogue on nuclear energy in this nation.

and resolved at the design stage are largely expressed in policy statements and staff requirements memoranda, only reaching the level of rulemaking when each design is codified through design certification rulemaking.

Respectully submitted,

Dated: August 12, 2011

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

Before the Licensing Board:

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Dr. Michael F. Kennedy

Dr. William C. Burnett

In the Matter of )  
 ) Docket No. 52-040 and 52-041  
Florida Power & Light Company )  
 )  
Combined License Application for )  
Turkey Point Units 6 & 7 )  
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**CERTIFICATE OF SERVICE**

I, Barry J. White, hereby certify that copies of the document above and all documents related to this motion were served upon the following persons by Electronic Information Exchange and/or electronic mail.

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