

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Michael M. Gibson, Chairman
Dr. Michael F. Kennedy
Dr. William W. Sager

In the Matter of

FLORIDA POWER & LIGHT COMPANY

(Turkey Point Nuclear Generating,
Units 3 and 4)

Docket Nos. 50-250-LA and 50-251-LA

ASLBP No. 15-935-02-LA-BD01

May 8, 2015

INITIAL SCHEDULING ORDER

This proceeding involves license amendments issued to the Florida Power & Light Company (FPL) that allow an increase in the ultimate heat sink water temperature limit for the cooling canals that serve Turkey Point Nuclear Generating Units 3 and 4.¹ On March 23, 2015, the Board granted Citizens Allied for Safe Energy, Inc.'s (CASE) petition to intervene and admitted one contention for resolution at an evidentiary hearing.² On April 13, 2015, the Board issued a tentative scheduling order.³ After a scheduling conference with the parties, during which the parties proposed changes to the schedule, the Board herein issues this initial scheduling order, pursuant to 10 C.F.R. § 2.332(a), to ensure proper case management moving forward.⁴ A summary of this schedule is included as Attachment A of this order.

¹ See LBP-15-13, 81 NRC __, __ (slip op. at 2-3) (Mar. 23, 2015).

² LBP-15-13, 81 NRC at __ (slip op. at 2).

³ Licensing Board Order (Providing Tentative Schedule and Case Management Information) at 1 (Apr. 13, 2015) (unpublished).

⁴ This order closely tracks the tentative scheduling order issued on April 13, 2015, including even those parts that have not changed in order to ensure all parties have convenient access to all necessary case management information.

The initial schedule that follows is in addition to the general deadlines and time frames applicable to Subpart L proceedings pursuant to 10 C.F.R. Part 2. Consistent with 10 C.F.R. § 2.306(a), if any deadline prescribed by this scheduling order would fall on a Saturday, Sunday, Federal legal holiday, or a day on which NRC headquarters is not open for business due to an emergency closure of the Federal Government in Washington, D.C., then such deadline will be considered to fall on the next day that is not a Saturday, Sunday, Federal legal holiday, or emergency closure.

On April 17, 2015, FPL moved to stay the hearing on CASE's admitted contention.⁵ The Board responds to this motion today by separate order.⁶

I. SCHEDULE FOR MANDATORY DISCLOSURES AND PRODUCTION OF HEARING FILE

The regulations specify that, within thirty (30) days of the Board's ruling admitting contentions, the parties must make certain mandatory disclosures.⁷ In addition, Subpart L proceedings require the NRC Staff to produce a hearing file and make it available to all parties.⁸ On March 26, 2015, the parties submitted a joint motion requesting certain changes to these mandatory disclosure requirements.⁹ On March 30, 2015, the Board responded to the first of these requests by extending until May 22, 2015, the deadline for all parties, including the NRC Staff, to make the initial disclosures required by 10 C.F.R. §§ 2.336(a)-(b) and 2.1203(a).¹⁰ Below, the

⁵ Florida Power & Light Company's Motion to Stay Hearing Pending Commission Review of Its Appeal (Apr. 17, 2015).

⁶ See Licensing Board Order (Denying FPL's Motion to Stay Hearing) (May 8, 2015) (unpublished).

⁷ 10 C.F.R. § 2.336(a), (b).

⁸ 10 C.F.R. § 2.1203(a).

⁹ Joint Motion Regarding Mandatory Disclosures (Mar. 26, 2015).

¹⁰ Licensing Board Order (Extending the Deadline for Submittal of Initial Disclosures) at 2 (Mar. 30, 2015) (unpublished). The Board failed to reference the disclosures required by 10 C.F.R. §§ 2.336(b)(4)-(5) and 2.1203(a) in its time extension order. These disclosures are also subject to the time extension and will be due May 22, 2015.

Board addresses the remainder of the parties' proposed additions and modifications to the disclosure requirements.

A. Updating of Disclosures

The regulations specify that the parties have a "continuing" duty to update their mandatory disclosures,¹¹ and that the NRC Staff has a "continuing" duty to update the hearing file.¹² Based on the joint motion of the parties,¹³ the Board directs the parties to update disclosures and the hearing file on June 26, 2015, and thereafter on the last Friday of each month. Each update shall cover all documents or other material or information required to be disclosed that are in the possession, custody, or control of each party (or its agents) at least two weeks prior to the due date.

B. Privilege Logs

1. The regulations require that the parties provide privilege logs, i.e., a "list of documents otherwise required to be disclosed for which a claim of privilege or protected status is being made, together with sufficient information for assessing the claim of privilege or protected status of the documents."¹⁴ Such logs are an important tool for preventing non-disclosure of relevant information,¹⁵ particularly in Subpart L proceedings, where discovery beyond mandatory disclosures is not allowed.¹⁶ Despite its importance, the parties have agreed to waive the

¹¹ 10 C.F.R. § 2.336(d).

¹² 10 C.F.R. § 2.1203(c).

¹³ Joint Motion at 3.

¹⁴ 10 C.F.R. § 2.336(a)(3); see also 10 C.F.R. § 2.336(b)(5).

¹⁵ See Robert J. Nelson, The Importance of Privilege Logs, Prac. Litigator, Mar. 2000, at 27.

¹⁶ 10 C.F.R. § 2.336(g). The Board cautions that, while parties often "tolerate privilege logs that merely identify documents" or waive privilege log production entirely, "[a]n inadequate privilege log is particularly problematic in Subpart L proceedings, where no other discovery is allowed, because without 'sufficient information' as to what allegedly makes the document 'deliberative,' the challenger is forced to shoot in the dark and face a substantive answer by the document withholder, without the right to reply." Entergy Nuclear Vt. Yankee, LLC, and Entergy Nuclear Operations, Inc. (Vt. Yankee Nuclear Power Station), LBP-05-33, 62, NRC 828, 839-40 (2005).

requirement in 10 C.F.R. §§ 2.336(a)(3) and 2.336(b)(5) to produce a privilege log.¹⁷ The parties have also agreed to produce as part of their disclosures a list of all documents withheld under a claim that they contain proprietary information.¹⁸ All otherwise discoverable documents, including non-privileged attachments to privileged documents, shall be disclosed as required by the applicable provisions of 10 C.F.R. Part 2. During the pendency of this proceeding, the parties shall preserve and maintain all documents withheld from production as privileged or proprietary.

2. Motions to Compel – If a party requests access to a document claimed to contain proprietary information, the parties shall have fourteen (14) days from the date of the request to negotiate a protective order and nondisclosure agreement and submit those documents to the Board for approval. In the absence of the party's agreement to make the disclosure, the party seeking full disclosure must file a motion to compel disclosure with the Board in accordance with 10 C.F.R. § 2.323. The ten (10) day period for filing a motion to compel disclosure of proprietary information shall be tolled until the earlier of (a) approval by the Board of a protective order and nondisclosure agreement, or (b) expiration of the fourteen day period set forth in this paragraph. There will be no time deadline for requesting to see non-proprietary documents. Nothing in this paragraph shall affect the timeliness requirements for the submittal of new contentions set forth in 10 C.F.R. § 2.309.

C. Scope of Disclosures and Hearing File

1. The Board accepts and adopts the agreement of the parties related to mandatory discovery disclosures in the following respects:

- a. A party need not identify or produce a document that has been served on the other parties to this proceeding.
- b. A party need not identify or produce press clippings.

¹⁷ Joint Motion at 3.

¹⁸ Id. See 10 C.F.R. § 2.390(a).

- c. If a document exists in both hard copy and electronic formats, a party may produce the electronic copy only.
- d. If the same relevant e-mail exists in multiple locations, each party may produce only one copy of that e-mail. If the e-mail exists in both sender and recipient e-mail folders, the party will produce the sender's copy of the e-mail.
- e. The parties need not produce documents that are publicly available, but the parties shall produce a log of such documents and where they can be obtained.
- f. All relevant documents available via the NRC's website, or the NRC's Agencywide Documents Access and Management System (ADAMS) will be identified by the NRC Staff as required by 10 C.F.R. §§ 2.336(b) and 2.1203. No party is otherwise required to identify or produce documents that are publicly available via the NRC's website or ADAMS.
- g. To the extent reasonably practicable, each party will provide electronic copies of requested documents. If the requested documents cannot be provided electronically, other arrangements will be made, including, if appropriate, in-person inspection. In the event that electronic delivery or in-person inspection is not possible, the party requesting the documents from another party will pay expenses related to the copying and delivery of hard copies of such documents.
- h. All parties may, at their option, update their disclosures under 10 C.F.R. § 2.336(d) through the use of e-mail alone.¹⁹ The Staff, however, will make the Hearing File available via the Electronic Hearing Docket.

2. The Board declines to accept and adopt the entirety of the agreement of the parties related to mandatory discovery of "draft" documents.²⁰ The Board directs the parties with regard to

¹⁹ As it did in the Turkey Point combined license proceeding, FPL will submit a monthly certification to the Board that its disclosures have been complete, in lieu of producing those documents monthly to the Board. See Initial Scheduling Order and Administrative Directives, Fla. Power & Light Co. (Turkey Point Units 6 & 7), Nos. 52-040-COL/52-041-COL, at 3 (Mar. 30, 2011) (unpublished); see also 10 C.F.R. § 2.336(c).

“draft” and “final” document disclosures as follows. Where a party has generated a particular document that otherwise would be required to be disclosed, it may limit its mandatory disclosures to its final version of such document and need not include internal drafts, including comments on drafts, resolution of comments, draft transmittals, or other similar documents. However, if a document, otherwise qualifying as a draft has been shown by one party (or its agents) to another party (or its agents), then that document does not qualify as an exempt draft and it must be promptly disclosed to the other parties. Examples of documents that must be disclosed and that do not qualify as an exempt draft include (a) a “draft” response to a request for additional information (RAI) that the Applicant has shown to the NRC Staff; (b) a draft guidance document that the NRC Staff has shown to the Applicant; or (c) a draft document that the NRC Staff reviewed during a conference with the Applicant.²¹ Provided, however, that non-docketed Applicant information that is reviewed by NRC Staff during an audit or inspection, but that is not removed from the Applicant’s site, need not be disclosed if it otherwise qualifies as a “draft” document. The duty to disclose such draft documents does not depend on whether the person with whom the document was shared took possession, custody, or control of the document, and does not depend on the locus where the sharing occurred. Further, if a party has legal possession, custody, or control of a document that it or its contractors did not generate or that is already publicly available, and which is otherwise subject to mandatory disclosure (e.g., relevant to a contention), then the party must produce that document (even if it is labeled “draft”).

D. Witnesses

As a part of its initial mandatory disclosures, each of the parties subject to the provisions of 10 C.F.R. § 2.336(a)(1) shall identify any person on whom it may call as a witness. Thereafter, should a party decide that it may call any additional witnesses, it shall identify such witnesses as

²⁰ Joint Motion at 2.

²¹ See 10 C.F.R. § 2.1203(b) (hearing file to contain “any correspondence between the applicant/licensee and the NRC that is relevant to the proposed action”).

part of its subsequent monthly disclosure updates. Depending on the testimony eventually filed by the parties, the parties reserve the right to present rebuttal witnesses not previously identified in these mandatory disclosures.

E. Termination

The duty to update mandatory disclosures and the hearing file shall terminate at the close of the evidentiary hearing. If a contention has been dismissed, the duty to update mandatory disclosures shall terminate with respect to that contention upon issuance of the Board order dismissing that contention. Pending appellate review of a Board decision disposing of a contention, all parties should preserve and maintain disclosures relating to that contention, despite termination of the duty to update the disclosures for that contention.

II. SCHEDULE FOR EVIDENTIARY HEARING

The Board has scheduled an evidentiary hearing on the admitted contention during the week of January 11, 2016, as indicated below. Pursuant to 10 C.F.R. § 2.1207, a number of documents must be filed prior to the evidentiary hearing. Since the NRC Staff has already completed its environmental review for the issued license amendments,²² the Board hereby establishes the following schedule for the filing of these documents in preparation for the hearing. While the Board's tentative schedule envisioned simultaneous filings of initial and rebuttal briefs and witness testimony, after consultation with the parties,²³ this schedule lays out a staggered briefing schedule with CASE filing first. Should any changes impacting this schedule occur, the Board will issue a supplemental scheduling order.

²² 10 C.F.R. § 2.332(d) prohibits the commencement of evidentiary hearings on environmental issues until after issuance of the NRC's environmental review document.

²³ Tr. at 216-18, 219, 229, 235. The Staff suggested that a staggered briefing schedule "would provide the most responsive and easiest to understand filings." Id. at 216.

A. Initial Statements of Position, Testimony, Affidavits, and Exhibits

By October 9, 2015,²⁴ CASE shall file its initial written statement of position, written testimony with supporting affidavits, and exhibits, pursuant to 10 C.F.R. § 2.1207(a)(1). On October 30, 2015, the NRC Staff and FPL shall file their initial written statements of position, written testimony with supporting affidavits, and exhibits. The initial written statements should be in the nature of a trial brief that (1) sets out affirmative arguments and applicable legal standards; (2) identifies witnesses and evidence; and (3) specifies the purpose for which such witnesses will be called and for which such evidence will be offered. The statements should state with particularity how the witnesses, exhibits, or evidences support a factual or legal position. The written testimony shall be under oath or by affidavit so that it is suitable for being received into evidence directly, in exhibit form, in accordance with 10 C.F.R. § 2.1207(b)(2). The exhibits shall include all documents that the party or its witnesses refer to, use, or rely upon for its statements or position.²⁵

B. CASE's Rebuttal Statement of Position, Testimony, Affidavits, and Exhibits

By November 20, 2015, CASE shall file its written response statement of position, rebuttal testimony with supporting affidavits, and rebuttal exhibits, pursuant to 10 C.F.R. § 2.1207(a)(2). The written response should be in the nature of a response brief that identifies the legal and factual weaknesses in an opponent's position, identifies rebuttal witnesses and evidence, and specifies the precise purpose of such rebuttal witnesses and evidence. The rebuttal testimony shall be under oath or by an affidavit so that it is suitable for being received into evidence directly, in exhibit

²⁴ The Board has delayed the initial filing to October in order to allow CASE the opportunity to incorporate any findings from state proceedings that will take place this summer related to the Turkey Point cooling canals. See Letter from Steven C. Hamrick, Counsel to FPL, to ASLBP (May 5, 2015). Although the state proceedings may not be complete by this point, further delay is unwarranted. Should additional relevant information come to light prior to the evidentiary hearing, the Board may allow the parties to enter such information into the record at the hearing.

²⁵ All exhibits should be numbered in accordance with section III.C, infra. In conjunction with its initial statement of position and witness testimony, each party should also submit an exhibit list, using the template included as Attachment B to this order.

form, in accordance with 10 C.F.R. § 2.1207(b)(2). The exhibits shall include all documents that CASE or its witnesses refer to, use, or rely upon for its statements or position.²⁶ Being in the nature of rebuttal, the response, rebuttal testimony and rebuttal exhibits are not to advance any new affirmative claims or arguments that were not included in the party's previously filed initial written statement.

C. List of Witnesses

By December 4, 2015, each party shall file its final list of the witnesses on whose testimony it intends to rely at hearing, in accordance with 10 C.F.R. § 2.336(a)(1).

D. Motions in Limine or to Strike

By December 4, 2015, each party shall file its motions in limine or motions to strike regarding the materials submitted under sections II.A and II.B. Answers to such motions shall be filed no later than seven (7) days after service of the subject motion.

E. Proposed Questions for Board to Ask²⁷

By December 11, 2015, each party shall file its proposed questions for the Board to consider propounding to direct or rebuttal witnesses, pursuant to 10 C.F.R. § 2.1207(a)(3)(i) and (ii). The questions should be accompanied by examination plans containing a brief description of the issue or issues on which the party seeks further examination, the objective of the examination, and the proposed line of questioning (including specific questions) that may logically lead to achieving the objective. Proposed questions and plans should be filed in camera and not served on any other party.

F. Motions for Cross-Examination

By December 11, 2015, each party shall file its motions to conduct cross-examination of a specified witness or witnesses, if any, together with the associated cross-examination plan(s),

²⁶ Any document submitted with the initial testimony need not be resubmitted as a new exhibit.

²⁷ A party should cover all essential points in the direct and rebuttal testimony that it prefiles for each of its own witnesses. The prefired proposed questions should not focus on a party's own witnesses, but should instead be directed to the witnesses of the other parties.

pursuant to 10 C.F.R. § 2.1204(b). Such motions to conduct cross-examination shall be filed with all parties, but the cross-examination plan itself should be filed in camera and not served on any other party.

G. Evidentiary Hearing

Although the specific time and date for the evidentiary hearing sessions will be determined later, the Board currently contemplates an evidentiary hearing lasting no more than two (2) days during the week of January 11, 2016.

H. Witness with Written Testimony Must be Available in Person

Unless the Board expressly provides otherwise, each party must, at its own expense and effort, assure that each of its direct and rebuttal witnesses attends the evidentiary hearing in person and is available to testify and to respond orally to questions.²⁸

I. Proposed and Reply Findings of Facts and Conclusions of Law

The parties shall file written post-hearing proposed findings of fact and conclusions of law on the contention addressed at the hearing no later than thirty (30) days after the close of the hearing, in accordance with 10 C.F.R. § 2.1209. Reply findings of fact and conclusions of law shall be filed no later than fifteen (15) days thereafter.

J. Initial Decision

The parties can expect an initial decision from the Board within ninety (90) days after the close of the record. The Board will notify the parties if it foresees any delay.

²⁸ If, after reading the pre-filed testimony, the Board concludes that it has no questions for a particular witness, it will so advise the parties and that individual will not need to attend the evidentiary hearing. Likewise, if the Board concludes that it has no questions for any witness concerning the admitted contention, it will so advise the parties and will resolve the contention pursuant to 10 C.F.R. § 2.1208.

III. FORMATTING AND PROCEDURAL CONSIDERATIONS

A. Pleadings and Motions

1. Page Limitation

Motions and answers to motions shall not exceed fifteen (15) pages in length.²⁹ A motion for leave to exceed this page limitation should be filed no less than three (3) business days before the motion or answer is due to be filed. A motion to exceed this page limitation must (i) indicate whether the request is opposed or supported by the other participants to the proceeding; (ii) provide a good faith estimate of the number of additional pages that will be filed; and (iii) demonstrate good cause for being permitted to exceed the page limitation.

2. Response to New Facts or Arguments in Answer Supporting a Motion

Except where there are compelling circumstances, the moving party has no right to reply to an answer or response to a motion.³⁰ However, if any party files an answer that supports a motion, then a party opposing the motion may, within ten (10) days after service of that answer, file a response to any new facts or arguments presented in that answer. Except as otherwise specified herein, no further supporting statements or responses thereto will be entertained.³¹

3. Motion for Leave to File Reply

If a party seeks to file a reply to an answer to a motion, it must first obtain leave of the Board. A motion for leave to file such a reply shall be submitted within four (4) business days after the filing of the answer to which the moving party seeks to reply.³² In addition to all other requirements, a motion for leave to file a reply to an answer to such motion must (i) indicate

²⁹ This page limit includes the signature page but excludes attachments. See infra section III.D.4.

³⁰ See 10 C.F.R. § 2.323(c).

³¹ This provision is modeled on 10 C.F.R. § 2.710(a).

³² Although the agency's rules of practice regarding motions do not provide for reply pleadings, the Board will deem a reply to be timely if filed within seven (7) days of the date of service of the response it is intended to address. See 10 C.F.R. § 2.309(i)(2).

whether the request is opposed or supported by the other participants to the particular proceeding; and (ii) demonstrate good cause for permitting the reply to be filed.

4. Motion for Extension of Time

A motion for extension of time should be submitted in writing at least three (3) business days before the due date for the pleading or other submission for which an extension is sought. In addition to all other requirements, a motion for extension of time must (i) indicate whether the request is opposed or supported by the other participants to the particular proceeding; and (ii) demonstrate appropriate cause that supports permitting the extension.

5. Answer Opposing a Motion to Exceed the Page Limitation, a Motion for Leave to File a Reply, or a Motion to Extend the Time for Filing a Pleading

An answer to a motion to exceed the page limit, to a motion for leave to file a reply, or to a motion to extend the time for filing a pleading shall be filed and served on the next business day after the filing of the request.

6. Motion Certification

In accordance with 10 C.F.R. § 2.323(b), an opposed motion will be rejected if it does not include the following certification by the attorney or representative of the moving party: "I certify that I have made a sincere effort to contact the other parties in this proceeding, to explain to them the factual and legal issues raised in this motion, and to resolve those issues, and I certify that my efforts have been unsuccessful."³³

7. Answer Certification

If the attorney or representative of a party is contacted pursuant to the consultation requirement of 10 C.F.R. § 2.323(b), counsel for the non-moving party must make a sincere effort

³³ Although in general the movant has only ten (10) days within which to file its motion under 10 C.F.R. § 2.323(a), the spirit of the rules is that such motions should be timely, *i.e.*, not initiated at the last minute, but rather commenced sufficiently in advance to provide enough time for the possible resolution of the matter or issues in question. See Entergy Nuclear Vt. Yankee, LLC, and Entergy Nuclear Operations, Inc. (Vt. Yankee Nuclear Power Station), LBP-06-5, 63 NRC 116, 128 (2006). If the consultation is initiated at a reasonable time and the parties are convinced that all or part of the matter may be resolved amicably if additional time for filing the motion is provided, the parties are encouraged to file a joint motion requesting such an extension of time.

to be available to consult and attempt in good faith to resolve the factual and legal issues raised in the motion. If counsel for the non-moving party is unaware of any attempt by the moving party to contact him or her, the answer to the motion shall so certify. Otherwise, an answer to a motion will be rejected if it does not include the following certification by the counsel for the non-moving party (or his or her alternate): "I certify that I have made a sincere effort to be available to consult with the moving party, and to attempt in good faith to resolve the factual and legal issues raised in the motion, and that my efforts to resolve the issues have been unsuccessful."

It is inconsistent with the dispute avoidance/resolution purposes of 10 C.F.R. § 2.323(b), and thus insufficient, for counsel for the non-moving party to fail or refuse to consider the substance of a consultation attempt, or for the non-moving party to respond that it takes no position on the motion (or issues) but reserves the right to file a response to the motion when it is filed.

8. Supplemental Information

The certifications specified in the foregoing two subsections may be supplemented with any additional information the representative or attorney deems necessary to ensure the accuracy of the certification or to explain any circumstances that impeded a good faith attempt to consult.

B. Clarification, Simplification, and Amendment of the Pleadings

The Board encourages the parties to pursue opportunities for the settlement of issues or contentions, as specified in 10 C.F.R. §§ 2.329(c)(1)-(3) and 2.338, including the potential:

(1) clarification, simplification, or specification of the issues; (2) necessity or desirability of amending the pleadings; (3) opportunities to develop stipulations or admissions of fact; and (4) opportunities for the settlement of issues or contentions.

The Board will revisit these issues throughout this proceeding. For example, if it appears that stipulations or admissions of fact can narrow or eliminate factual or legal disputes, the parties are encouraged to consult with each other and/or to file motions to pursue the same.

C. Exhibits

1. Exhibit Numbering

In accordance with 10 C.F.R. § 2.304(g), all prefiled testimony and proposed exhibits must be submitted via the agency's e-filing system, or if email filing was previously allowed, by email, as an individual electronic file. Each document must be marked with a three character party designation followed by a three character zero-filled number. The three character designations to be used by the parties are "NRC" for the NRC Staff, "FPL" for FPL, and "INT" for CASE. The numbering sequence for the parties' proposed exhibits should be, [Designation]-001, [Designation]-002, . . . [Designation]-999. For example, for the NRC Staff, the designations would be NRC-001, NRC-002, . . . NRC-999. Each party should attempt to order and number prefiled testimony and exhibits in the order in which it plans to identify and present them for inclusion in the record.

The exhibit number should be placed in the upper right hand corner of the first page of all prefiled testimony and exhibits. A party should only use a separate cover sheet if there is no available space on the page of the document where the exhibit number can be placed so that it is clear and legible. All pages in the exhibit should be numbered consecutively so that they can be referred to easily and quickly at the evidentiary hearing.

If a previously filed exhibit must be revised, the revised exhibit should be labeled with '-R' following the numbering sequence. For example, if exhibit NRC-005 must be revised, the revised exhibit would be labeled NRC-005-R. If this exhibit must again be revised, it would be labeled NRC-005-R2.

2. Large File Size Exhibits

If prefiled testimony or an exhibit needs to be separated into multiple segments to ensure that it does not exceed the agency's recommended file size for e-filing,³⁴ each segment should be labeled by adding a letter directly following the exhibit number to reflect the relationship of each

³⁴ See Guidance for Electronic Submissions to the NRC, rev. 6.1 at 15–16 (May 27, 2011), available at <http://www.nrc.gov/site-help/e-submittals/guide-electronic-sub.pdf> [hereinafter E-Filing Guidance Document].

part of the prefiled testimony or exhibit to the other parts. For example, if NRC Staff exhibit NRC-005 must be submitted in multiple parts, each portion should be assigned a different exhibit number: NRC-005A, NRC-005B, NRC-005C, etc.

3. Proposed Exhibit List

When prefiled testimony, proposed exhibits, or revisions are filed, each party should submit its prefiled exhibit list via the NRC's e-filing system, or by email if previously allowed. The exhibit list should be prepared using the exhibit list template included as Attachment B to this order.

4. Duplicate Exhibits

Only one copy of each document should be offered into evidence. Therefore, if one party offers a certain document, other parties should not offer the same document as evidence, but should instead rely on the document already filed. To facilitate this, the parties must discuss with one another to determine whether any of the exhibits one party intends to offer into evidence would be duplicated by another party. The parties must then coordinate to determine who will offer that exhibit into evidence. All parties should then reference this single filing of the exhibit. If a party recognized as the only party to offer a document later decides not to offer the document, that party must provide timely notice of its intent to the other parties.

D. Attachments to Filings

1. Documents Must Be Attached

If a motion or pleading, other than statements of position and written testimony, refers to a report, website, NUREG, guidance document, or any other document of any kind (other than a law, regulation, case decision, or other legal authority), then a copy of such document, or the relevant portion thereof, shall be submitted with and attached to the pleading. The pleading must cite to the specific page or section of the document that is relevant. All documents referred to in the pleadings shall be labeled and referred to as "Attachments," not as exhibits.³⁵

³⁵ The term "exhibit" is reserved for use as a designation for those items that are submitted pursuant to section III.C to be offered as evidence for the evidentiary hearing.

2. Exception

If the following documents are publicly available on ADAMS, they need not be attached to a motion or pleading: FPL's License Amendment Application, the NRC's Environmental Assessment and the NRC's Safety Evaluation Report. With regard to such documents, it is sufficient if the pleading clearly identifies the document (including its date and revision number, if any), provides its ADAMS ML number, and cites to the specific page or section that is relevant.

3. Designation and Marking of Attachments

A separate numeric designation shall be assigned to each attachment (e.g., Attachment 3). With regard to attachments covered by section III.D.1, the numeric designation shall be prominently marked either on the first page of the appended document or on a cover/divider sheet in front of the appended document.

4. Page Limits/Method of Electronic Submission

Attachments are not subject to the page limitation set forth in section III.A.1 above. All attachments associated with a pleading shall be submitted together via the E-Filing system as a single electronic file that consists of the pleading or other submission, the certificate of service, and all attachments thereto. If, however, the submission exceeds fifteen (15) megabytes in size, then the pleading should be separated into multiple submissions, each less than fifteen megabytes.³⁶

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Michael M. Gibson, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
May 8, 2015

³⁶ See E-Filing Guidance Document at 15-16.

Attachment A

Hearing Schedule

May 8, 2015

Event	Date
Petition to Intervene and Request for Hearing Granted – LBP-15-13	March 23, 2015
Mandatory Disclosures/Witness Lists	Within 60 days of Board Decision (May 22, 2015)
Initial Statement of Position and Written Testimony from CASE	October 9, 2015
Initial Statements of Position and Written Testimony from NRC Staff and FPL	October 30, 2015
CASE's Rebuttal Statement of Position and Written Testimony	November 20, 2015
Motion in Limine/Motions to Strike	December 4, 2015
Proposed Questions to Board	December 11, 2015
Motions for Cross-Examination	December 11, 2015
Evidentiary Hearing	During the Week of January 11, 2016
Proposed Findings of Fact/Conclusions of Law	Within 30 days of close of evidentiary hearing
Reply Findings of Fact/Conclusions of Law	Within 45 days of close of evidentiary hearing
Licensing Board Initial Decision	Within 90 days of close of record

Submitted/Revised: [Month/Day/Year]

[Party] Hearing Exhibits

[illegible]

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
FLORIDA POWER & LIGHT COMPANY)	Docket Nos. 50-250 and 50-251-LA
)	
)	
(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 Exchange or via electronic mail as indicated by an asterisk.

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

Michael M. Gibson, Chair
Administrative Judge
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[Original signed by Herald M. Speiser]
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Dated at Rockville, Maryland,
this 8th day of May, 2015