UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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| ANDREA ROSSI and LEONARDO CORPORATION,<br><br>Plaintiffs,<br><br>VS.<br><br>THOMAS DARDEN; JOHN T. VAUGHN; INDUSTRIAL HEAT, LLC; IPH INTERNATIONAL B.V.; and CHEROKEE INVESTMENT PARTNERS, LLC,<br><br>Defendants.<br>INDUSTRIAL HEAT, LLC and IPH INTERNATIONAL B.V.,<br><br>Counter-Plaintiffs,<br><br>vs.<br><br>ANDREA ROSSI and LEONARDO CORPORATION,<br><br>Counter-Defendants,<br>and<br><br>J.M. PRODUCTS, INC.; HENRY JOHNSON; FABIO PENON; UNITED STATES QUANTUM LEAP, LLC; FULVIO FABIANI; and JAMES BASS,<br><br>Third-Party Defendants. | No. 1:16-cv-2119-CMA |

HIGHLY CONFIDENTIAL

Videotaped Deposition of JOSEPH ALAN MURRAY
(Taken by Plaintiff)
Raleigh, North Carolina
Friday, February 17, 2017

Reported in Stenotype by
Lauren M. McIntee, RPR
Transcript produced by computer-aided transcription

Q. But your average applies -- I'm sorry. I'm looking at your baseline --

**A. Yeah.**

Q. -- power.

**A. So there are, I need to be careful. There are two things -- it's, it's actually energy per day. There are two things being shown here. There is a line, a dotted line shown at zero, right, meaning that anything below zero is, is indicative of the power absorbed by the reactor being higher than the power available from Florida Power and Light, and that's a problem. And why, and as I said, whether it's a problem with Florida Power and Light or with Penon's measurements or something else, we don't know at this point.**

**Then the other line is, if you consider that the building, which is the explanation in this previous plot, the explanation for the difference between what Penon and Fulvio Fabiani measured and what Florida Power and Light said they delivered, that difference would be the amount of power used outside of the reactors for whatever purpose.**

Q. Okay.

**A. Office, whatever. So that difference right there is reflective of the nominal power absorbed in, in**

**the building. But what we did was instead of using that, because that's really difficult to say because we don't know if, what was going on over in JM Products. What we did is we just looked at the windows outside of those periods of time to establish a very conservative number and drew that very conservative number on this. And so that's indicative of that number that I just described. Does that make sense?**

Q. To be honest, not really.

**A. Okay.**

Q. But I, I'm not going to ask you to do it again.

**A. Okay.**

Q. The cumulative energy absorption, FP&L minus Penon, what does that tell you?

**A. So what we're doing is for each one of these data points --**

Q. I'm going to back you up for a second. What conclusion were you able to draw from --

**A. Again --**

Q. -- that graph?

**A. -- this was included in here. The, the only area of concern is actually right here where the cumulative energy is actually decreasing in that period of time. So there's a slight decrease in the cumulative**

**energy when you compare Florida Power and Light to Penon, which indicates that one of those measurements is clearly in error because you can't give energy back.**

Q. But you don't know which one?

**A. No, we don't.**

Q. So what does this, what does this tell you other than there's an error in one of the measurements?

**A. What this tells us is anywhere that the value is below zero is a, is an impossibility in the case where the measurements are correct. If the measurements are incorrect, then that may be described by an error in the data.**

Q. Okay. So it says that there is an error in the data, whether manipulated or --

(Conference call interruption.)

Q. So sir, that just tells you that there's an error, there's an error or inaccuracy in one of the data sets, correct?

**A. Yes.**

Q. Okay.

**A. I think that's fair to say, yes.**

Q. So you've got two data sets that report one thing consistently, fairly equivalent to each other, and one data set that is different. And of those three data sets, at least one of them is incorrect?

**A. I would agree with that, yes.**

Q. Okay. But you don't know which one?

**A. No, not at this point.**

Q. And the investigation you've done doesn't tell you whether it was Penon's or FP&L's or Fabiani's?

**A. Penon, FPL -- yes.**

Q. Okay. How did you decide on what data to review?

**A. In what context? What are you --**

Q. In, in doing this analysis.

**A. Oh, in this?**

Q. Yes.

**A. I took the, the data from the final report. I took the data that Fulvio Fabiani had provided us, and then I took the data from the, the Florida Power and Light subpoena. That data were the only sources that I was aware of for power absorption data.**

Q. Okay. Who provided you that data?

**A. These three sources of data? Well, I received a copy of the final report from I, I believe I may have even been on the distribution from Mr. Penon. The data from Fulvio Fabiani was what he provided when he met with us in Jones Day office. And the Florida Power and Light data was provided to me by counsel.**

Q. So ultimately based on the graphs that you