

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 080009-EI  
ORDER NO. PSC-08-0581-PHO-EI  
ISSUED: September 8, 2008

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on August 27, 2008, in Tallahassee, Florida, before Commissioner Katrina J. McMurrin, as Prehearing Officer.

APPEARANCES:

R. WADE LITCHFIELD, ESQUIRE, BRYAN S. ANDERSON, ESQUIRE, and CARLA PETTUS, ESQUIRE, 700 Universe Boulevard, Juno Beach, Florida 33408-0420

On behalf of Florida Power & Light Company (FPL).

R. ALEXANDER GLENN, ESQUIRE, JOHN T. BURNETT, ESQUIRE, Progress Energy Service Company, LLC, 299 First Avenue, N PEF-151, St. Petersburg, Florida 33701, JAMES MICHAEL WALLS, ESQUIRE, and DIANNE M. TRIPLETT, ESQUIRE, Carlton Fields, P.A., Post Office Box 3239, Tampa, Florida 33601-3239

On behalf of Progress Energy Florida, Inc. (PEF).

MICHAEL B. TWOMEY, ESQUIRE, Post Office Box 5256, Tallahassee, Florida 32314-5256

On behalf of AARP (AARP).

JOHN W. MCWHIRTER, JR., ESQUIRE, Post Office Box 3350, Tampa, Florida 33601-3350

On behalf of Florida Industrial Power Users Group (FIPUG).

JAMES W. BREW, ESQUIRE and F. ALVIN TAYLOR, ESQUIRE, Brickfield, Burchette, Ritts & Stone, P.C., 1025 Thomas Jefferson St., NW, Eighth Floor, West Tower, Washington, DC 20007

On behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS Phosphate)

JOSEPH A. MCGLOTHLIN, ESQUIRE and STEPHEN C. BURGESS, ESQUIRE, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400

On behalf of the Citizens of the State of Florida (OPC).

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

LISA C. BENNETT, ESQUIRE, and KEINO YOUNG, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

On behalf of the Florida Public Service Commission (Staff).

## **PREHEARING ORDER**

### **I. CASE BACKGROUND**

In 2006, the Florida Legislature adopted legislation encouraging the development of nuclear energy in the state, Section 366.93, Florida Statutes (F.S.). In that section, the Legislature directed the Commission to adopt rules providing for alternate cost recovery mechanisms that will encourage investor-owned electric utilities to invest in nuclear power plants. The Commission adopted Rule 25-6.0423, F.A.C., which provides for a clause recovery proceeding annually to consider investor-owned utilities' requests for cost recovery for nuclear plants.

Both Florida Power & Light Company (FPL) and Progress Energy Florida, Inc. (PEF) initially petitioned the Commission for recovery of costs through the Nuclear Cost Recovery Clause (NCRC) on March 3, 2008, and February 29, 2008, respectively. FPL filed an additional petition for its actual/estimated and projected costs on May 1, 2008. Because neither Section 366.93, F.S., nor Rule 25-6.0423, F.A.C., permit a utility to seek cost recovery through the NCRC until a determination of need has been made by the Commission, PEF initially provided testimony regarding its proposed new nuclear plant, Levy Units 1 & 2, in Docket No. 080149-EI pending the outcome of its need determination for the project.<sup>1</sup> Following the Commission's approval of PEF's determination of need for the Levy Units 1 and 2 Nuclear Project, PEF's request to amend its petition for cost recovery to include the Levy Units 1 & 2 Nuclear Project and move all documents from the Discovery Docket to the NCRC docket was approved by Order No. PSC-08-0550-PCO-EI, issued August 19, 2008.

This is the first year of this newly established roll-over docket, which is set for hearing September 11-12 and 17-18, 2008. The Office of Public Counsel (OPC), AARP, the Florida Industrial Power Users Group (FIPUG), and White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (White Springs) have each been granted intervention in this docket.

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<sup>1</sup> Docket No. 080149-EI (the Discovery Docket) was established on March 11, 2008. The purpose of the Discovery Docket was to assist the Commission and Commission staff in reviewing costs which may be recoverable through the NCRC if PEF's petition for the need determination was approved by the Commission, and to allow discovery and review by staff and intervenors in connection with the Levy Units 1 and 2 Nuclear Project.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, F.S. This hearing will be governed by said Chapter and Chapters 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

The order of witnesses is as follows:

**PROGRESS ENERGY FLORIDA, INC**

<u>Witness</u>	<u>Proffered By</u>	<u>Issue #s</u>
<u>Direct</u>		
*Will Garrett	PEF	7A-G, 13
Lori Cross	PEF	5B-C, 9A-G, 11A-G, 13

*Garry Miller	PEF	7B, 7D, 13
*Dale Oliver	PEF	3A-B, 5B-C, 7A, 7D, 9A-B, 9D, 11A-B, 11D, 13

<u>Witness</u>	<u>Proffered by</u>	<u>Issue #s</u>
Daniel L. Roderick	PEF	3A-B, 5B-C, 7A, 7D-E, 7G, 9A-B, 9D-E, 9G, 11A-B, 11D, 13

Staff and Intervenor

*William R. Jacobs, Jr. PH.D.	OPC	2A, 4A, 6A, 6F, 7H, 8A, 8B, 8C, 10A, 10B, 10C, 10D, 11E, 11F, 11G
*Jeffery A. Small	Staff	3B
*Panel Testimony of Carl Vinson and Robert Lynn Fisher	Staff	3A,

Rebuttal

Daniel L. Roderick	PEF	3A-B, 9E, 9G, 13
*Will Garrett	PEF	7A-D, 13

**FLORIDA POWER & LIGHT COMPANY**

<u>Witness</u>	<u>Proffered by</u>	<u>Issue #s</u>
<u>Direct</u>		
Kim Ousdahl	FPL	1A, 1B, 1D, 2B, 4A-B, 6A-E, 8A-E, 10A-E, 12
William P. Labbe, Jr. [Adopting the testimony of Stephen T. Hale]	FPL	2A(1), 2B(1), 6C-E
Steven D. Scroggs	FPL	1C, 2A, 4A-B, 6A-B, 8A-B, 10A-B

*Steve R. Sim	FPL	
John J. Reed	FPL	2A, 2B, 6F

<u>Witness</u>	<u>Proffered by</u>	<u>Issue #s</u>
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Staff and Intervenor

William R. Jacobs, Jr. PH.D.	OPC	2A, 4A, 6A, 6F, 7H, 8A, 8B, 8C, 10A, 10B, 10C, 10D, 11E, 11F, 11G
*Kathy L. Welch	Staff	2B
Panel Testimony of Carl Vinson and Robert Lynn Fisher	Staff	2A

Rebuttal

William P. Labbe, Jr.	FPL	2A, 6C-F, 8C-E, 10C-E
Steven D. Scroggs	FPL	1C, 2A, 4A-B, 6A-B, 8A-B, 10A-B
John J. Reed	FPL	2A, 2B, 6F

\*Witnesses identified by an asterisk may be excused if all parties agree and if Commissioners have no questions for the witnesses. Witnesses will be notified prior to the hearing if they are to be excused.

VII. BASIC POSITIONS

**FPL:** These Petitions pertain to two projects that qualify for cost recovery via the Nuclear Power Plant Cost Recovery (NPPCR) process: Turkey Point 6 & 7 and the Extended Uprate Power Project at the St. Lucie and Turkey Point Nuclear Units (Uprate) (collectively the "Projects"). The NPPCR amount for which FPL seeks approval is comprised of 2006-2007 actual costs, 2008 actual/estimate costs, and 2009 projected costs.

Rule 25-6.0423 sets forth the mechanics of the NPPCR process. It establishes an alternative cost recovery mechanism for the recovery of costs incurred in the

siting, design, licensing, and construction of nuclear power plants in order to promote electric utility investment in nuclear power generation and allow for the recovery in rates of all such prudently incurred costs.

The 2006-2007 Actual Costs were prudently incurred. They consisted of site selection and preconstruction costs for Turkey Point 6 & 7 and Uprate costs in 2007. The site selection costs for Turkey Point 6 & 7 were necessarily and prudently incurred in order to determine the most appropriate and cost-effective site on which to build two new nuclear units, conduct preliminary engineering reviews, establish the project plan and obtain local zoning approvals for the proposed site. Pre-construction costs for Turkey Point 6 & 7 were related to the licensing and permitting of the project and were necessarily and prudently incurred for that purpose. Likewise, the construction cost expenditures for the Uprate Project were prudently incurred; however, FPL did not begin recording carrying charges on those expenditures until 2008. Accordingly, there are no costs for FPL to recover through the NPPCR with respect to the Uprate Project in 2007.

FPL has incurred and expects to incur pre-construction costs for Turkey Point 6 & 7 in 2008, which relate to licensing and permitting activities, engineering and design work and long lead procurement. All of these costs are necessary to the project and are reasonable. Further, FPL has incurred or expects to incur construction costs for the Uprate Project in 2008 and carrying charges for the Uprate project. These costs are necessary to the project and are reasonable.

FPL projects that it will incur pre-construction costs for Turkey Point 6 & 7 in 2009. Those costs are primarily related to licensing and permitting activities, engineering design and scheduled payments associated with the anticipated Engineering and Procurement contract with Westinghouse/Shaw, the vendor of the preferred AP 1000 design. All of the costs are necessary to the project and are reasonable. FPL projects construction costs for the Uprate Project in 2009 as well as carrying charges. All of the costs are necessary for the Uprate Project and are reasonable.

Each Project satisfies the statutory requirements for NPPCR recovery. FPL requests that the total amount of \$258,406,183, as detailed in its positions below, be approved for recovery through the Capacity Cost Recovery Clause as provided for pursuant to Rule 25-6.0423, F.A.C.

**PEF:**            **CR3 Uprate Project**

This Commission granted the need determination for the Crystal River 3 (“CR3”) Uprate on February 8, 2007. The CR3 Uprate will provide an additional 180 MW of beneficial nuclear generation to PEF’s customers and provide fuel savings that offset the cost of the project. Pursuant to Section 366.93, Florida Statutes, and

Rule 25-6.0423, F.A.C., PEF filed a petition on February 29, 2008, for cost recovery of its CR3 Uprate project costs. PEF also filed certain Nuclear Filing Requirement ("NFR") schedules, specifically Schedules T-1 through T-10, in support of PEF's actual costs for years 2006 and 2007. PEF then filed, on May 1, 2008, additional testimony and NFR schedules AE-1 through AE-10 and P-1 through P-10, for years 2008 and 2009, respectively, in support of PEF's actual/estimated and projected costs. PEF also filed supplemental testimony on July 1, 2008 in further support of its actual/estimated and projected costs, as well as information regarding the Company's project management policies and procedures.

Phase 1, the Measurement Uncertainty Recapture ("MUR") Phase was completed during the 2007 refueling outage and went online on January 31, 2008, resulting in the addition of approximately 12 megawatts of nuclear generation to PEF system. Actual costs associated with the MUR phase totaled approximately \$9.3 million. PEF has proposed that the MUR costs be included in the Nuclear Cost Recovery Clause ("NCRC") until the next portion of the project, the work being done during the 2009 refueling outage, goes in-service. At that time, PEF will request a base rate increase, pursuant to Rule 25-6.0423(7), of the costs for both the MUR and this second phase of work. Until then, PEF will recover its revenue requirements on the MUR costs through the NCRC. PEF believes this is a reasonable interpretation of Section 399.93 and Rule 25-6.0423. PEF further believes this approach is consistent with the legislative purpose of encouraging nuclear generation.

PEF developed and utilized reasonable and prudent project management policies and procedures to carry out the CR3 Uprate project. These procedures are designed to ensure timely and cost-effective completion of the project. Pursuant to these policies, PEF conducted regular status meetings, both internally and with its vendors. PEF also engaged in regular risk assessment, evaluation, and management. When contracting for services, PEF generally issued a Request for Proposal ("RFP") to solicit bids from various vendors. In those circumstances when a sole source vendor was used, PEF followed its contractor selection procedures and justified its sole source contracts with adequate and reasonable rationale. PEF also included reasonable contractual terms in its contracts to ensure proper risk allocation and adequate protection for the Company and its customers. PEF also requests that the Commission find that its project management and cost control procedures for 2007 were reasonable and prudent.

PEF reasonably and prudently incurred construction costs associated with the CR3 Uprate in 2006 and 2007 in the amount of \$2,299,673 and \$38,520,916 respectively. PEF requests that the Commission approve the prudence of these costs. PEF has also reasonably estimated and projected its CR3 Uprate construction costs for 2008 and 2009, in the amount of \$67,615,770 and \$107,067,528. PEF developed these cost estimates using actual contract figures



and project schedule milestones. These costs will be necessary to ensure that the Company can complete the project during the scheduled refueling outages in 2009 and 2011.

Pursuant to Rule 25-6.0423(5)(c)5, PEF has also demonstrated the long-term feasibility of completing the CR3 Uprate project. As demonstrated in the Integrated Project Plan ("IPP") for the CR3 Uprate, the costs for the project are still bounded by the project's original Business Analysis Package ("BAP"). The project is on schedule and none of the identified project risks, including regulatory approval risks, are expected to affect the feasibility of completing the project.

### **Levy Nuclear Project**

This Commission unanimously voted to approve the need determination for the Levy Nuclear Project ("LNP") on July 15, 2008, and it issued its final order on August 12, 2008. The LNP will generate more than 2,000 megawatts of environmentally-friendly nuclear generation for the benefit of PEF, its customers, and the State of Florida. Pursuant to Section 366.93, Florida Statutes, and Rule 25-6.0423, F.A.C., PEF filed a petition, on March 11, 2008, to establish a discovery docket for evaluation of its LNP costs. This docket was intended to provide Staff and interveners an opportunity to investigate PEF's LNP costs while its need determination proceeding was pending. Accordingly, on April 22, 2008, in the discovery docket, PEF filed certain Nuclear Filing Requirement ("NFR") schedules, specifically Schedules T-1 through T-10, in support of PEF's actual costs, for 2007, to acquire the land for the Levy project. PEF then filed, on May 1, 2008, additional testimony and NFR schedules AE-1 through AE-10 and P-1 through P-10, for years 2008 and 2009, respectively, in support of PEF's actual/estimated and projected costs. Along with this testimony, PEF filed NFR schedules SS-1 through SS-10, for years 2006, 2007, and 2008, in support of PEF's site selection costs for costs incurred prior to the filing of its need determination petition on March 11, 2008. PEF also filed supplemental testimony on July 1, 2008 in further support of its site selection, actual/estimated, and projected costs, as well as information regarding the Company project management policies and procedures.

After the Commission's approval of the LNP PEF petitioned, on July 18, 2008, for cost recovery in this docket for the costs it has incurred and reasonably expects to incur on the LNP. PEF also requested that the testimony and other documents filed in the Levy discovery docket be transferred to the NCRC docket.

PEF reasonably and prudently incurred actual or projects to incur site selection, preconstruction, and construction costs for the LNP in the amount of \$1,008,822,074 through the end of 2009. Additionally, PEF expects to have incurred \$3,853,943 in O&M expenditures associated with the LNP that is

recoverable through the NCRC. PEF, OPC and the other interveners have stipulated to defer the prudence determination for the actual LNP costs until next year. The prudence of these actual expenditures will be considered in the 2009 NCRC proceeding. Accordingly, PEF requests that its actual costs be approved as reasonable and be included in the capacity clause factor.

PEF further requests that its actual/estimated and projected costs for the LNP be approved as reasonable and included in the Company's capacity clause factor. The total 2008 actual/estimated cost figures for the LNP are confidential and can be found at Schedule AE-6, lines 34 and 70. The total 2009 projected cost figures for the LNP are confidential and can be found at Schedule P-6, lines 34 and 70. PEF developed these cost estimates using actual contract figures and project schedule milestones. These costs will be necessary to ensure that the Company can timely complete the project and bring Levy Units 1 and 2 on-line in 2016 and 2017, respectively. In total PEF is requesting \$394,644,614 be used to set the rates for NCRC and included in the capacity clause factor in 2009 for Levy which includes PEF's site selection, true-up, actual/estimated and projection costs as filed in this Docket.

PEF developed and utilized reasonable and prudent project management policies and procedures to carry out the LNP. These procedures are designed to ensure timely and cost-effective completion of the project. Pursuant to these policies, PEF conducted regular status meeting, both internally and with its vendors. PEF also engaged in regular risk assessment, evaluation, and management. When contracting for services, PEF generally issued a Request for Proposal ("RFP") to solicit bids from various vendors. In those circumstances when a sole source vendor was used, PEF followed its contractor selection procedures and justified its sole source contracts with adequate and reasonable rationale. PEF also included reasonable contractual terms in its contracts to ensure proper risk allocation and adequate protection for the Company and its customers. PEF therefore requests that the Commission find that its project management and cost control procedures for 2007 were reasonable and prudent.

Pursuant to Rule 25-6.0423(5)(c)5, PEF has also demonstrated the long-term feasibility of completing the LNP based on facts, circumstances, and information known to date. As demonstrated in the latest revised BAP for the project, the LNP is on schedule and none of the identified project risks, including regulatory approval risks, are expected to affect the feasibility of completing the project. PEF is moving forward with the LNP because it believes it is feasible, based on the best available information to the Company.

For all these reasons, as more fully developed in PEF's pre-filed testimony and exhibits, including its NFR Schedules, PEF respectfully requests that the Florida Public Service Commission ("FPSC" or "Commission") grant cost recovery for PEF's CR3 Uprate and Levy Nuclear Projects.

**AARP:** AARP adopts the statement of basic position taken by the Office of Public Counsel (“OPC”).

**FIPUG:** FIPUG does not oppose the construction of nuclear plants. It is never the less perplexed by a legislative policy that requires the Public Service Commission to use a guaranteed cost recovery mechanism to set rates that will cover the carrying costs on nuclear plants long before the plants are built. The long standing common law regulatory concept memorialized in §366.06(1) *Florida Statutes* that prohibits charging customers for utility plant until it is in use and useful service has been overturned by a new legislative fiat. The legislation locks in dated cost of capital that may be excessive. The utilities have compounded the legislation’s negative impact on customers by seeking rate increases for proposed plants that will have far greater capacity than is needed to meet the demands of current customers. The legislative policy places the entire risk of undertaking these plants on retail customers even though it recognizes that the plants may never be built and even though base rates may be sufficient to cover significant portions of the cost without raising rates. FIPUG concludes that at the time the legislation was enacted the members did not have a full understanding of the adverse economic impact the legislatively mandated nuclear policy would impose on Florida citizens.

FIPUG respectfully suggests that because the change is so dramatic and potentially so costly to the “energy poor” that the Commission will: (1) exercise restraint in approving cost expenditures; (2) allocate the costs of improving and replacing components of existing nuclear plants to base rates rather than the nuclear cost recovery clause; (3) recognize that significant portions of the plants will be sold to other utilities obviating the need for current customers to pay the costs attributable to joint users; (4) during periods when utilities are earning in excess of the mid point of their last authorized rate of return allocate the excess revenue from base rates to the nuclear plant cost recovery clause. This will enable the utilities to share some of the risk with their retail customers.

Once the plants are built they will have a competitive advantage in the wholesale market. Send a message to future Commissions in the initial order that it sets no precedent with respect to future wholesale sales.

**PCS**

**Phosphate:** PCS Phosphate generally accepts and adopts the positions taken by the Florida Office of Public Counsel (“OPC”). Further, PCS Phosphate maintains that the Commission must carefully scrutinize the nuclear project cost and scheduling information provided by Progress Energy Florida (“Progress”). PCS Phosphate supports the stipulation reached between OPC and Progress that no prudence determination will be sought in this proceeding.

**OPC:** The scope of Rule 25-6.0423, F.A.C. encompasses construction of new units and of projects to increase the output of existing units. It was not intended to apply to costs of maintaining existing nuclear units. FPL and PEF should be required to demonstrate, through an appropriate analysis, that the costs they seek to recover in conjunction with their uprate activities would not have been necessary to maintain reliable service from the existing units in the absence of the uprate projects.

The best means of ensuring that the utility does not incur unreasonably high costs is to engage in competitive bidding prior to selecting a contractor. FPL adopted a standard of competitive bidding, but too frequently has departed from its standard without adequate justification. Also, FPL failed to demonstrate that the costs of certain contracts in which it entered without first seeking competitive bids are reasonable.

**STAFF:** Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

#### VIII. ISSUES AND POSITIONS

For purposes of this Prehearing Order, both fully and partially stipulated issues remain below, and also appear in Section X of this Order. As they appear below, these issues are identified as either "PROPOSED FULL STIPULATION" or "PROPOSED PARTIAL STIPULATION." The stipulated language for both full and partial stipulations is shown in italics under each position.

Full stipulations denote the entire issue has been agreed to by the parties. Partial stipulations denote that the stipulation resolves part, but not all, of a given issue. For those issues which are partially stipulated, the parties have entered into stipulations which, if approved, would postpone the Commission's consideration regarding the prudence of costs related to the new nuclear plants until the Commission's 2009 proceeding. According to those partial stipulations, the remaining Commission decisions for the 2008 hearing would be the reasonableness and the amount of those costs.

**ISSUE 1A:** Should Progress Energy Florida, Inc. and Florida Power & Light Company be allowed to recover through the Nuclear Cost Recovery Clause revenue requirements for a phase or portion of a system associated with a power plant, after such phases or portion of the project has been placed into commercial service, or should such phases or portion of the project be recovered through base rates?

**POSITION:**

**FPL:** The Rule specifically provides for the appropriate method to recover revenue requirements “as operating units or systems associated with the nuclear power plant and the nuclear power plant itself are placed in commercial service.” Rule 25-6.0423(7).

**PEF:** PEF agrees with Staff's position, as set forth in its Prehearing Statement. Applying Staff's position to the MUR phase of PEF's CR3 uprate project would remove \$1,233,443 from PEF's request for 2009 projected costs. This results in PEF requesting a total of \$15,224,693 for its 2009 projected costs for the CR3 uprate project, and a total of \$418,311,136 to be included in establishing PEF's 2009 Capacity Cost Recovery Clause factor. Pursuant to Section 366.93(4), F.S. and Rule 25-6.0423, F.A.C., PEF shall file a petition for Commission approval of a base rate increase for the remaining portion of the MUR.

**AARP:** Same as OPC.

**FIPUG:** The plants should be moved to base rates at the earliest practicable date.

**PCS**

**Phosphate:** Same as OPC.

**OPC:** Once the phase or portion has been placed in commercial service, the utility should recover the costs through base rates.

**STAFF:** Yes. Progress Energy Florida, Inc. and Florida Power & Light Company should be allowed to recover through the Nuclear Cost Recovery Clause associated revenue requirements for a phase or portion of a system placed into commercial service during a projected recovery period. The amount of revenue requirements to be recovered in the clause should be limited to the actual number of months remaining in the year that the system is placed into service. At the end of this period, costs associated with the system should be removed from clause recovery and placed into the utility's rate base. Any difference in recoverable costs due to timing (projected versus actual placement in service) should be reconciled through the true-up provision.

**ISSUE 1B:** If recovery of costs for a phase or portion of a system associated with a power plant that is in commercial service continues through the Nuclear Cost Recovery Clause, how should the revenue requirements for that phase or portion be determined?

**POSITION:**

**FPL:** The Rule specifically provides for the appropriate method to recover revenue requirements “as operating units or systems associated with the nuclear power plant and the nuclear power plant itself are placed in commercial service.” Rule 25-6.0423(7).

**PEF:** The revenue requirements for such phase or portion that is in commercial service but for which recovery will continue through the Nuclear Cost Recovery Clause will and should be calculated consistent with rule 25-6.0423(7)(b), (d), (e).

**AARP:** Same as OPC.

**FIPUG:** The administrative complexity of attempting to match revenues with costs militates in favor of moving the plants to base rates. If the carrying costs continue to be collected through a cost recovery clause, 100% of the base revenue and wholesale sales revenue collected from the nuclear plant sales should be allocated to the recovery clause plus all base rate revenue in excess of the mid point of a utility’s last authorized rate of return.

**PCS**

**Phosphate:** Same as OPC.

**OPC:** The revenue requirements should be determined in a manner analogous to the methodology used in a revenue requirements case.

**STAFF:** Revenue requirements collected through the Nuclear Cost Recovery Clause should be determined according to current rate setting standards consistent with Section 366.93(4), Florida Statutes.

**ISSUE 1C:** How should the completion of site clearing work be determined for purposes of distinguishing between pre-construction and construction costs for recovery under the clause?

**POSITION:**

**FPL:** Site clearing work is complete when the property has been prepared to a condition that can allow the initiation of the first construction activity. Generally, this means the removal of existing vegetation and soils to allow for the initiation of engineered civil work activities such as foundations and buried infrastructure.

**PEF:** In general, site clearing work will be completed when the types of costs defined as pre-construction costs in Rule 25-6.0423(2)(h) have been completed. At this time, PEF expects site clearing for Levy Units 1 and 2 to be complete when the site is in a condition and ready for the pour of the safety related concrete. This

will require the completion of clearing, grading, and excavation consistent with the definition of preconstruction activities. However, PEF is still in the process of negotiating its EPC contract, which once finalized, may provide more clarity around site clearing completion. For most items associated with the plant, PEF would tie completion to when site clearing is complete for the foundation of the plant. However, it may be reasonable to have a separate site clearing date for certain large associated facilities like a cooling tower. Additionally, transmission projects for the LNP will likely have several projects with different times when site clearing will be completed.

**AARP:** Same as OPC.

**FIPUG:** A reasonable time for site clearing should be determine in this proceeding after which no construction costs should be collected through the clause.

**PCS**

**Phosphate:** Same as OPC.

**OPC:** The determination will be dependent on individual circumstances, and so must be considered on a case-by-case basis. However, OPC believes the determination would be based upon work related to the generating unit, and not related structures (such as transmission).

**STAFF:** Determination of site clearing should be individually identified based on project phase, cost type, or type and scope of activity under consideration.

**ISSUE 1D:** Should a utility be required to inform the Commission of any change in ownership or control of any asset which was afforded cost recovery under the Nuclear Cost Recovery Clause?

**PROPOSED FULL STIPULATION** *Stipulated language appears in italics*

**POSITION:**

*Yes, timely notification to the Commission and parties to the NCRC docket at the time of filing the notice will allow the Commission to make any required adjustments within or outside of the Nuclear Cost Recovery Clause. Staff will conduct workshops on the administrative procedures to be used by the Commission to make such adjustments.*

**2007 PROJECT MANAGEMENT, CONTRACTING, AND OVERSIGHT CONTROLS**

**Florida Power & Light Company**

**ISSUE 2A:** Should the Commission find that for the year 2007, FPL's project management, contracting, and oversight controls were reasonable and prudent for the Turkey Point 6 & 7 project and for the Extended Power Uprate (EPU) project?

**PROPOSED PARTIAL STIPULATION** *Stipulated language appears in italics*

**POSITION:**

**FPL:** (1) EPU Project

With respect to 2007 EPU project costs, for which FPL was able to submit its cost recovery filing concerning construction costs, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C, the Commission should find that FPL's project management, contracting and oversight controls were reasonable and prudent for the EPU project.

(2) Turkey Point 6 & 7 Project

*The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.*

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.



**OPC:** FPL relied frequently on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. As a result, the Commission should disallow a portion of the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contract and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that on a going forward basis the Commission will require a more rigorous demonstration that competitive bidding should not be employed, and that the costs of the resulting single or sole source contract are reasonable.

*The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in an even higher charge to customers in 2010; however, the post-March 1 filing date shortens the time available to OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(5)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or any determination that certain 2007 costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.*

**STAFF:** No Position at this time.

**ISSUE 2B:** Should the Commission find that for the year 2007, FPL's accounting and costs oversight controls were reasonable and prudent for the Turkey Point 6 & 7 project and for the EPU project?

**PROPOSED PARTIAL STIPULATION** *Stipulated language appears in italics*

**POSITION:**

**FPL:** (1) EPU Project

With respect to 2007 EPU project costs, the Commission should find that FPL's accounting and costs oversight controls were reasonable and prudent for the EPU project.

(2) Turkey Point 6 & 7 Project

*The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.*

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**OPC:** (1) EPU Project.

No position.

(2) Turkey Point 6 & 7 Project

*The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.*

**STAFF:** No position at this time.

**Progress Energy Florida, Inc.**

**ISSUE 3A:** Should the Commission find that for the year 2007, PEF's project management, contracting, and oversight controls were reasonable and prudent for Levy Units 1 & 2 project and the Crystal River 3 Uprate project?

**POSITION:**

**PEF:** (1) CR3 Uprate Project:

OPC and PEF stipulate that as it applies to nuclear uprate projects, the NCRC should be limited to those costs that are separate and apart from nuclear costs that would have been necessary to provide safe and reliable service had there been no uprate project. OPC and PEF will work with PSC Staff to develop an NFR form for use in the 2009 hearing cycle that specifies the information that a utility will provide in support of its request, that the uprate costs in its NCRC filing are separate and apart from costs that would have been necessary to provide safe and reliable service without the uprate. For the purposes of the 2008 NCRC hearings, OPC will not challenge the prudence of PEF's 2006 and 2007 CR3 uprate costs on the "separate and apart" issue. OPC's position for the 2006 and 2007 CR3 uprate costs, however, does not prevent OPC from raising the "separate and apart" issue for any CR3 uprate costs incurred subsequent to 2007.

(2) PEF Position for Levy Nuclear Project:

OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, and construction, in PEF's NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered through the 2009 capacity cost recovery factor subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle, notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs "shall not be subject to disallowance or further prudence review." OPC and PEF further agree that PEF's site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a).

**AARP:** Same as OPC.

**FIPUG:** Demands strict proof.

**PCS**

**Phosphate:** Same as OPC.

**OPC:** (1) CR3 Uprate Project

OPC and PEF stipulate that as it applies to nuclear uprate projects, the NCRC should be limited to those costs that are separate and apart from nuclear costs that would have been necessary to provide safe and reliable service had there been no uprate project. OPC and PEF will work with PSC Staff to develop an NFR form for use in the 2009 hearing cycle that specifies the information that a utility will provide in support of its request, that the uprate costs in its NCRC filing are separate and apart from costs that would have been necessary to provide safe and reliable service without the uprate. For the purposes of the 2008 NCRC hearings, OPC will not challenge the prudence of PEF's 2006 and 2007 CR3 uprate costs on the "separate and apart" issue. OPC's position for the 2006 and 2007 CR3 uprate costs, however, does not prevent OPC from raising the "separate and apart" issue for any CR3 uprate costs incurred subsequent to 2007.

(2) Levy Nuclear Project

OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, construction, and calculation of the carrying costs in PEF's NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered through the 2009 capacity cost recovery factor subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle, notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs "shall not be subject to disallowance or further prudence review." OPC and PEF further agree that PEF's site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a).

**STAFF:** No Position at this time.

**ISSUE 3B:** Should the Commission find that for the year 2007, PEF's accounting and costs oversight controls were reasonable and prudent for Levy Units 1 & 2 project and the Crystal River 3 Uprate project?

**PROPOSED PARTIAL STIPULATION** *Stipulated language appears in italics*

**POSITION:**

**PEF:** (1) CR3 Uprate Project:

OPC and PEF stipulate that as it applies to nuclear uprate projects, the NCRC should be limited to those costs that are separate and apart from nuclear costs that

would have been necessary to provide safe and reliable service had there been no uprate project. OPC and PEF will work with PSC Staff to develop an NFR form for use in the 2009 hearing cycle that specifies the information that a utility will provide in support of its request, that the uprate costs in its NCRC filing are separate and apart from costs that would have been necessary to provide safe and reliable service without the uprate. For the purposes of the 2008 NCRC hearings, OPC will not challenge the prudence of PEF's 2006 and 2007 CR3 uprate costs on the "separate and apart" issue. OPC's position for the 2006 and 2007 CR3 uprate costs, however, does not prevent OPC from raising the "separate and apart" issue for any CR3 uprate costs incurred subsequent to 2007.

(2) Levy Nuclear Project:

OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, construction, and calculation of the carrying costs in PEF's NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered through the 2009 capacity cost recovery factor subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle, notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs "shall not be subject to disallowance or further prudence review." OPC and PEF further agree that PEF's site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a).

*Commission staff witness Jeffery Small provided testimony offering alternatives to the method PEF witness Will Garrett used in valuing the Lybass parcel of land used for Levy Units 1 & 2. Staff and PEF agree that the consideration of alternative methods is appropriately considered during a prudence review. If the Commission approves the stipulation between PEF and OPC then the testimony of witness Jeffery Small should also be considered at the time of the prudence review. The Commission may include the costs as calculated by Will Garrett as reasonable in the 2008 proceeding. PEF agrees that should the Commission find that PEF's method for valuing the Lybass parcel used for Levy Units 1 & 2 is imprudent, then PEF will refund that amount deemed imprudent.*

**AARP:** Same as OPC.

**FIPUG:** Demands strict proof. *Agrees with staff's position regarding staff witness Jeffery Small.*

**PCS  
Phosphate:** Same as OPC.

**OPC:** (1) CR3 Uprate Project

OPC and PEF stipulate that as it applies to nuclear uprate projects, the NCRC should be limited to those costs that are separate and apart from nuclear costs that would have been necessary to provide safe and reliable service had there been no uprate project. OPC and PEF will work with PSC Staff to develop an NFR form for use in the 2009 hearing cycle that specifies the information that a utility will provide in support of its request, that the uprate costs in its NCRC filing are separate and apart from costs that would have been necessary to provide safe and reliable service without the uprate. For the purposes of the 2008 NCRC hearings, OPC will not challenge the prudence of PEF's 2006 and 2007 CR3 uprate costs on the "separate and apart" issue. OPC's position for the 2006 and 2007 CR3 uprate costs, however, does not prevent OPC from raising the "separate and apart" issue for any CR3 uprate costs incurred subsequent to 2007.

(2) Levy Nuclear Project

OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, and construction, in PEF's NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered through the 2009 capacity cost recovery factor subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle, notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs "shall not be subject to disallowance or further prudence review." OPC and PEF further agree that PEF's site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a).

*Agree with staff's position regarding witness Jeffery Small.*

**STAFF:** OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, and construction, in PEF's NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered *through* the 2009 capacity cost recovery factor subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle, notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs "shall not be subject to disallowance or further prudence review." OPC and PEF further agree that PEF's site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a).

*Commission staff witness Jeffery Small provided testimony offering alternatives to the method PEF witness Will Garrett used in valuing the Lybass parcel of land used for Levy Units 1 & 2. Staff and PEF agree that the consideration of alternative methods is appropriately considered during a prudence review. If the Commission approves the stipulation between PEF and OPC then the testimony*

*of witness Jeffery Small should also be considered at the time of the prudence review. The Commission may include the costs as calculated by Will Garrett as reasonable in the 2008 proceeding. PEF agrees that should the Commission find that PEF's method for valuing the Lybass parcel used for Levy Units 1 & 2 is imprudent, then PEF will refund that amount deemed imprudent.*

### COMPANY SPECIFIC SITE SELECTION COSTS

#### **Florida Power & Light Company**

**ISSUE 4A:** Should the Commission grant FPL's request to include the review and approval for recovery through the Nuclear Cost Recovery Clause of prudently incurred site selection costs for the Turkey Point Unit 6 & 7 project?

**PROPOSED FULL STIPULATION** *Stipulated language appears in italics*

#### **POSITION:**

*Yes. The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.*

**ISSUE 4B:** What amount should the Commission approve as FPL's final 2007 true-up of prudently incurred site selection costs for the Turkey Point Units 6 & 7 project?

#### **POSITION:**

**FPL:** Subject to the stipulation on Issue 4A, that prudence of these costs will be deferred consistent with that stipulation, the Commission should approve for inclusion for site selection costs for the Turkey Point Unit 6 & 7 project \$6,397,310 and related carrying charges of \$141,857 (total \$6,539,167), as reasonable.

**AARP:** Subject to the stipulation in 4A, AARP takes no position on 4B.

**FIPUG:** Subject to the stipulation in 4A, FIPUG takes no position on 4B.

**OPC:** Subject to the stipulation in 4A, OPC takes no position on 4B.

**STAFF:** No Position at this time.

**Progress Energy Florida, Inc.**

**ISSUE 5A:** Should the Commission grant PEF's request to include the review and approval for recovery through the Nuclear Cost Recovery Clause of prudently incurred site selection costs for the Levy Units 1 & 2 project?

**PROPOSED FULL STIPULATION *Stipulated language appears in italics***

**POSITION:**

*Yes. OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, construction, and calculation of carrying costs in PEF's NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered through the 2009 capacity cost recovery factor subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle, notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs "shall not be subject to disallowance or further prudence review." OPC and PEF further agree that PEF's site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a).*

**ISSUE 5B:** What amount should the Commission approve as PEF's final 2007 true-up of prudently incurred site selection costs for the Levy Units 1 & 2 Project?

**POSITION:**

**PEF:** Subject to the stipulation on Issue 5A, that prudence of these costs will be deferred consistent with that stipulation, the Commission should approve \$18,069,252 as reasonable.

**AARP:** Subject to the stipulation in 5A, AARP takes no position on 5B.

**FIPUG:** Subject to the stipulation in 5A, FIPUG takes no position on 5B.



**PCS**

**Phosphate:** Subject to the stipulation in 5A, PCS Phosphate takes no position on 5B.

**OPC:** Subject to the stipulation in 5A, OPC takes no position on 5B.

**STAFF:** No Position at this time.

**ISSUE 5C:** What amount should the Commission approve as PEF's actual 2008 site selection costs for the Levy Units 1 & 2 Project?

**POSITION:**

**PEF:** Subject to the stipulation on Issue 5A, that prudence of these costs will be deferred consistent with that stipulation, the Commission should approve \$19,819,137 as reasonable.

**AARP:** Subject to the stipulation in 5A, AARP takes no position on 5C.

**FIPUG:** Subject to the stipulation in 5A, FIPUG takes no position on 5C.

**PCS**

**Phosphate:** Subject to the stipulation in 5A, PCS Phosphate takes no position on 5C.

**OPC:** Subject to the stipulation in 5A, OPC takes no position on 5C.

**STAFF:** No Position at this time.

**COMPANY SPECIFIC TRUE UP PRECONSTRUCTION AND  
CONSTRUCTION COSTS (2007)**

**Florida Power & Light Company**

**ISSUE 6A:** What amount should the Commission approve as FPL's final 2007 true-up of prudently incurred preconstruction costs for the Turkey Point Units 6 & 7 project?

**PROPOSED PARTIAL STIPULATION *Stipulated language appears in italics***

**POSITION:**

**FPL:** The amount that should be approved for inclusion for 2007 preconstruction costs for the Turkey Point Units 6 & 7 project is \$2,522,692, and related carrying

charges of \$20,547, subject to the provisions for prudence review stated in FPL's position on Issue 2A(2).

*The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.*

**AARP:** Same as OPC.

**FIPUG:** No position.

**OPC:** *The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in an even higher charge to customers in 2010; however, the post-March 1 filing date shortens the time available to OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(5)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or any determination that certain 2007 costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.*

FPL relied frequently on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. As a result, the Commission should disallow a portion of the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the

costs of the contracts and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that on a going forward basis the Commission will require a more rigorous demonstration that competitive bidding should not be employed, and that the costs of the resulting single or sole source contract are reasonable.

Subject to the above position, OPC takes no position with respect to the amount that the utility contends is reasonable to collect during 2009.

**STAFF:** No Position at this time.

**ISSUE 6B:** What total amount should the Commission approve as FPL's final 2007 true-up to be recovered for the Turkey Point Units 6 & 7 project?

**PROPOSED PARTIAL STIPULATION** *Stipulated language appears in italics*

**POSITION:**

**FPL:** The amount that should be approved for recovery of 2007 costs for the Turkey Point Units 6 & 7 project is site selection costs of \$6,397,310, site selection related carrying charges of \$141,857, pre-construction costs of \$2,522,692 and pre-construction related carrying charges of \$20,547 (total \$9,082,406), subject to the provisions for prudence review stated in FPL's position on Issue 2A(2) as follows.

*The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.*

**AARP:** Same as OPC.

**FIPUG:** No Position.

**OPC:** *The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in an even higher charge to customers in 2010; however, the post-March 1 filing date shortens the time available to OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(5)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or any determination that certain 2007 costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.*

FPL relied frequently on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. As a result, the Commission should disallow a portion of the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contracts and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that on a going forward basis the Commission will require a more rigorous demonstration that competitive bidding should not be employed, and that the costs of the resulting single or sole source contract are reasonable.

Subject to the above position, OPC takes no position with respect to the amount that the utility contends is reasonable to collect during 2009.

**STAFF:** No Position at this time.

**ISSUE 6C:** What amount should the Commission approve as FPL's final 2007 true-up of prudently incurred construction costs for the EPU project?

**POSITION:**

**FPL:** The Commission should approve the amount of \$8,236,653 as FPL's final 2007 true-up of prudently incurred construction costs for the EPU project. These costs were initially recorded in a deferred account until transferred to construction in 2008. No carrying charges were accrued during fiscal year 2007 for recovery.

**AARP:** Same as OPC.

**FIPUG:** No position.

**OPC:** The amount approved should reflect the Commission's decision on the alternative remedies proposed by OPC's witness with respect to FPL's overreliance on single source and sole source contracts.

**STAFF:** No position at this time.

**ISSUE 6D:** What amount should the Commission approve as carrying charges on FPL's prudently incurred 2007 construction costs for the EPU project?

**POSITION:**

**FPL:** FPL did not accrue carrying charges on prudently incurred construction costs for the EPU project during fiscal year 2007 due to pending approval from the Commission. On January 7, 2008, the Commission issued Order No. PSC-08-0021-FOF-EI approving FPL's need determination for the uprates. In that Order the Commission determined that Rule No. 25-6.0423, F.A.C. is applicable to the costs of the uprate project. As a result of the issuance of this Order, in January 2008 these costs were transferred to Construction Work in Progress Account 107 and carrying charges began accruing.

**AARP:** No position.

**FIPUG:** Because cost recovery is guaranteed, until December 31, 2010 the carrying costs should be the pretax current AFUDC rate as required by § 366.93(2) b Florida Statutes. After that date the Commission should use the interest rate for 10 year treasuries for equity and the cost of debt should be the commercial paper rate. Once established the carrying costs should not be retroactively tried up to incorporate changes in the cost of capital.

**OPC:** No position.

**STAFF:** Agree with FPL.

**ISSUE 6E:** What total amount should the Commission approve as FPL's final 2007 true-up to be recovered for the EPU project?

**PROPOSED FULL STIPULATION *Stipulated language appears in italics***

**POSITION:**

*As stated in its position on Issue 6D, FPL did not accrue carrying charges on construction costs during 2007. Therefore, there are no costs to be recovered.*

**ISSUE 6F:** Has FPL demonstrated that the uprate costs it seeks to recover in this docket are separate and apart from those it would incur in conjunction with providing safe and reliable service, had there been no uprate project?

**FPL:** OPC and FPL stipulate that as it applies to nuclear uprate projects, the NCRC should be limited to those costs that are separate and apart from nuclear costs that would have been necessary to provide safe and reliable service had there been no uprate project. OPC and FPL will work with PSC Staff to develop an NFR form for use in the 2009 hearing cycle that specifies the information that a utility will provide in support of its request, that the uprate costs in its NCRC filing are separate and apart from costs that would have been necessary to provide safe and reliable service without the uprate. For the purposes of the 2008 NCRC hearings, OPC will not challenge the prudence of FPL's 2007 uprate costs on the "separate and apart" issue. OPC's position for the 2007 uprate costs, however, does not prevent OPC from raising the "separate and apart" issue for any FPL uprate costs incurred subsequent to 2007.

**AARP:** Same as OPC.

**FIPUG:** No. Section 366.93(2), Florida Statutes, and Rule 25-6.0423, Florida Administrative Code, do not authorize the collection of capital costs or carrying costs for repairing and renewing nuclear power plants that were in rate base before the enactment of this section. FPL has not provided proof that it has performed a comprehensive analysis to demonstrate that it has identified, and excluded from its request, all costs attributable to normal repair and renewal for the existing Turkey Point and St. Lucie nuclear plants. The Commission should require such a showing.

**OPC:** OPC and FPL stipulate that as it applies to nuclear uprate projects, the NCRC should be limited to those costs that are separate and apart from nuclear costs that would have been necessary to provide safe and reliable service had there been no uprate project. OPC and FPL will work with PSC Staff to develop an NFR form for use in the 2009 hearing cycle that specifies the information that a utility will provide in support of its request, that the uprate costs in its NCRC filing are separate and apart from costs that would have been necessary to provide safe and reliable service without the uprate. For the purposes of the 2008 NCRC hearings, OPC will not challenge the prudence of FPL's 2007 uprate costs on the "separate and apart" issue. OPC's position for the 2007 uprate costs, however, does not prevent OPC from raising the "separate and apart" issue for any FPL uprate costs incurred subsequent to 2007.

**STAFF:** Agree with OPC and FPL.

**Progress Energy Florida, Inc.**

**ISSUE 7A:** What amount should the Commission approve as PEF's final 2007 true-up of prudently incurred preconstruction costs for the Levy Units 1 & 2 project?

**PROPOSED FULL STIPULATION** *Stipulated language appears in italics*

**POSITION:**

*There are no 2007 preconstruction costs for PEF's Levy Units 1 & 2 project.*

**ISSUE 7B:** What amount should the Commission approve as PEF's final 2007 true-up of prudently incurred construction costs for the Levy Units 1 & 2 project?

**POSITION:**

**PEF:** Subject to the stipulation on Issue 5A, that prudence of these costs will be deferred consistent with that stipulation, the Commission should approve \$61,471,684 as reasonable.

**AARP:** Subject to the stipulation in 5A, AARP takes no position on 7B.

**FIPUG:** Stipulate as to the principles concerning the application of the money, but demand strict proof of the amount of money.

**PCS**

**Phosphate:** Subject to the stipulation in 5A, PCS Phosphate takes no position on 7B.

**OPC:** Subject to the stipulation in 5A, OPC takes no position on 7B.

**STAFF:** No Position at this time.

**ISSUE 7C:** What amount should the Commission approve as carrying charges on PEF's prudently incurred 2007 construction costs for the Levy Units 1 & 2 project?

**POSITION:**

**PEF:** Subject to the stipulation on Issue 5A, that prudence of these costs will be deferred consistent with that stipulation, the Commission should approve \$1,713,284 as reasonable.

**AARP:** Subject to the stipulation in 5A, AARP takes no position on 7C.

**FIPUG:** Because cost recovery is guaranteed, until December 31, 2010 the carrying costs should be the pretax current AFUDC rate as required by § 366.93(2) b *Florida Statutes*. After that date the Commission should use the interest rate for 10 year treasuries for equity and the cost of debt should be the commercial paper rate. Once established the carrying costs should not be retroactively tried up to incorporate changes in the cost of capital.

**PCS**

**Phosphate:** Subject to the stipulation in 5A, PCS Phosphate takes no position on 7C.

**OPC:** Subject to the stipulation in 5A, OPC takes no position on 7C.

**STAFF:** No Position at this time.

**ISSUE 7D:** What total amount should the Commission approve as PEF's final 2007 true-up to be recovered for the Levy Units 1 & 2 project?

**POSITION:**

**PEF:** Subject to the stipulation on Issue 5A, that prudence of these costs will be deferred consistent with that stipulation, the Commission should approve \$1,711,443 as reasonable.

**AARP:** Subject to the stipulation in 5A, AARP takes no position on 7D.

**FIPUG:** Subject to the stipulation in 5A, FIPUG takes no position on 7D.

**PCS**

**Phosphate:** Subject to the stipulation in 5A, PCS Phosphate takes no position on 7D.

**OPC:** Subject to the stipulation in 5A, OPC takes no position on 7D.

**STAFF:** No position at this time.

**ISSUE 7E:** What amount should the Commission approve as PEF's final 2007 true-up of prudently incurred construction costs for the Crystal River 3 Uprate project?

**POSITION:**

**PEF:** \$38,520,916 net of joint owner billings

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.



**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** Subject to the stipulation in Issue 7H, OPC does not recommend a specific adjustment.

**STAFF:** No position at this time.

**ISSUE 7F:** What amount should the Commission approve as carrying charges on PEF's prudently incurred 2007 construction costs for the Crystal River 3 Uprate project?

**POSITION:**

**PEF:** \$925,842

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** Subject to the stipulation in Issue 7H, OPC does not recommend a specific adjustment.

**STAFF:** No position at this time.

**ISSUE 7G:** What total amount should the Commission approve as PEF's final 2007 true-up to be recovered for the Crystal River 3 Uprate project?

**POSITION:**

**PEF:** \$928,896

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** Subject to the stipulation in Issue 7H, OPC does not recommend a specific adjustment.

**STAFF:** No position at this time.

**ISSUE 7H:** Has PEF demonstrated that the uprate costs it seeks to recover in this docket are separate and apart from those it would incur in conjunction with providing safe and reliable service, had there been no uprate project?

**PROPOSED FULL STIPULATION** *Stipulated language appears in italics*

**POSITION:**

*OPC and PEF stipulate that as it applies to nuclear uprate projects, the NCRC should be limited to those costs that are separate and apart from nuclear costs that would have been necessary to provide safe and reliable service had there been no uprate project. OPC and PEF will work with PSC Staff to develop an NFR form for use in the 2009 hearing cycle that specifies the information that a utility will provide in support of its request, that the uprate costs in its NCRC filing are separate and apart from costs that would have been necessary to provide safe and reliable service without the uprate. For the purposes of the 2008 NCRC hearings, OPC will not challenge the prudence of PEF's 2006 and 2007 CR3 uprate costs on the "separate and apart" issue. OPC's position for the 2006 and 2007 CR3 uprate costs, however, does not prevent OPC from raising the "separate and apart" issue for any CR3 uprate costs incurred subsequent to 2007.*

**COMPANY SPECIFIC ACTUAL/ESTIMATED PRECONSTRUCTION AND  
CONSTRUCTION COSTS (2008)**

**Florida Power & Light Company**

**ISSUE 8A:** What amount should the Commission approve as FPL's 2008 actual and estimated preconstruction costs for the Turkey Point Units 6 & 7 project?

**POSITION:**

**FPL:** The reasonable amount of FPL's 2008 actual and estimated pre-construction costs for the Turkey Point Units 6 & 7 project that was originally requested for recovery was \$104,561,783. FPL is revising its 2008 estimated/actual costs downward by a nominal \$35 million. The revision is a result of eliminating for this year the long lead procurement line item from the October, November and December 2008 estimate (2008 Preconstruction costs Schedule AE-6, Line 6, columns K, L and M). The revision reduces the total requested recovery amount in this proceeding from approximately \$258 million to approximately \$223 million. The actual impact of this reduction in total revenue requirements on customers' bills is dependent on sales forecasts and billing determinants.

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**OPC:** FPL relied frequently on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. As a result, the Commission should disallow a portion of the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contracts and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that on a going forward basis the Commission will require a more rigorous demonstration that competitive bidding should not be employed, and that the costs of the resulting single or sole source contract are reasonable.

**STAFF:** No Position at this time.

**ISSUE 8B:** What total amount should the Commission approve as FPL's 2008 actual and estimated costs to be recovered for the Turkey Point Units 6 & 7 project?

**POSITION:**

**FPL:** The reasonable amount of FPL's 2008 actual and estimated costs for the Turkey Point Units 6 & 7 project to be included for recovery is site selection related carrying costs of \$723,484, pre-construction costs of \$104,561,783 and pre-construction related carrying costs of \$3,794,921 (total \$109,080,188). (FPL will submit revised amounts reflecting the nominal \$35 million reduction addressed in issue 8A.)

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**OPC:** FPL relied frequently on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. As a result, the Commission should disallow a portion of the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contracts and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that on a going forward basis the Commission will require a more rigorous demonstration that competitive bidding should not be employed, and that the costs of the resulting single or sole source contract are reasonable.

**STAFF:** No Position at this time.

**ISSUE 8C:** What amount should the Commission approve as FPL's 2008 actual and estimated construction costs for the EPU project?

**POSITION:**

**FPL:** The Commission should approve \$74,566,646 as FPL's reasonable 2008 actual and estimated construction costs for the EPU project which will be the basis for the calculation of carrying charges to be collected in 2009. On January 7, 2008, the Commission issued Order No. PSC-08-0021-FOF-EI approving FPL's need determination for the uprates. In that Order the Commission determined that Rule No. 25-6.0423, F.A.C. is applicable to the costs of the uprate project. As a result of the issuance of this Order, in January 2008 these costs were transferred to Construction Work in Progress Account 107 and carrying charges began accruing.

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**OPC:** FPL relied frequently on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. As a result, the Commission should disallow a portion of the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contracts and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that on a going forward basis the Commission will require a more rigorous demonstration that competitive bidding should not be employed, and that the costs of the resulting single or sole source contract are reasonable.

**STAFF:** No Position at this time.

**ISSUE 8D:** What amount should the Commission approve as carrying charges on FPL's 2008 actual and estimated construction costs for the EPU project?

**POSITION:**

**FPL:** The Commission should approve \$3,733,003 as reasonable carrying charges on FPL's 2007 actual and 2008 actual and estimated construction costs for the EPU project for collection during 2009.

**AARP:** No position.

**FIPUG:** Because cost recovery is guaranteed, until December 31, 2010 the carrying costs should be the pretax current AFUDC rate as required by § 366.93(2) b *Florida Statutes*. After that date the Commission should use the interest rate for 10 year treasuries for equity and the cost of debt should be the commercial paper rate. Once established the carrying costs should not be retroactively tried up to incorporate changes in the cost of capital.

**OPC:** The amount should reflect any disallowance or adjustment made in consideration of the alternative remedies proposed by OPC's witness.

**STAFF:** No position at this time.

**ISSUE 8E:** What total amount should the Commission approve as FPL's 2008 actual and estimated costs to be recovered for the EPU project?

**POSITION:**

**FPL:** The Commission should approve \$3,733,003 as reasonable carrying charges on FPL's 2007 actual and 2008 actual and estimated construction costs for the EPU project for collection during 2009.

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**OPC:** The amount should reflect any disallowance or adjustment made in consideration of the alternative remedies proposed by OPC's witness.

**STAFF:** No position at this time.

**Progress Energy Florida, Inc.**

**ISSUE 9A:** What amount should the Commission approve as PEF's 2008 actual and estimated preconstruction costs for the Levy Units 1 & 2 project?

**POSITION:**

**PEF:** \$213,870,278

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** OPC does not recommend a specific adjustment, subject to a prudence review in the NCRC hearings in 2009.

**STAFF:** No position at this time.

**ISSUE 9B:** What amount should the Commission approve as PEF's 2008 actual and estimated construction costs for the Levy Units 1 & 2 project?

**POSITION:**

**PEF:** \$13,987,139

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** OPC does not recommend a specific adjustment, subject to a prudence review in the NCRC hearings in 2009.

**STAFF:** No position at this time.

**ISSUE 9C:** What amount should the Commission approve as carrying charges on PEF's 2008 actual and estimated construction costs for the Levy Units 1 & 2 project?

**POSITION:**

**PEF:** \$7,551,759

**AARP:** Same as OPC.

**FIPUG:** Because cost recovery is guaranteed, until December 31, 2010 the carrying costs should be the pretax current AFUDC rate as required by § 366.93(2) b Florida Statutes. After that date the Commission should use the interest rate for 10 year treasuries for equity and the cost of debt should be the commercial paper rate. Once established the carrying costs should not be retroactively tried up to incorporate changes in the cost of capital.

**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** OPC does not recommend a specific adjustment, subject to a prudence review in the NCRC hearings in 2009.

**STAFF:** No position at this time.

**ISSUE 9D:** What total amount should the Commission approve as PEF's 2008 actual and estimated costs to be recovered for the Levy Units 1 & 2 project?

**POSITION:**

**PEF:** \$207,137,326

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** OPC does not recommend a specific adjustment, subject to a prudence review in the NCRC hearings in 2009.

**STAFF:** No position at this time.

**ISSUE 9E:** What amount should the Commission approve as PEF's 2008 actual and estimated construction costs for the Crystal River 3 Uprate project?

**POSITION:**

**PEF:** \$67,615,770

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** OPC does not recommend a specific adjustment, subject to the stipulation in Issue 7H, and subject to prudence review in the NCRC hearings in 2009.

**STAFF:** No position at this time.

**ISSUE 9F:** What amount should the Commission approve as carrying charges on PEF's 2008 actual and estimated construction costs for the Crystal River 3 Uprate project?

**POSITION:**

**PEF:** \$6,006,160

**AARP:** Same as OPC.

**FIPUG:** Because cost recovery is guaranteed, until December 31, 2010 the carrying costs should be the pretax current AFUDC rate as required by § 366.93(2) b *Florida Statutes*. After that date the Commission should use the interest rate for 10 year treasuries for equity and the cost of debt should be the commercial paper rate. Once established the carrying costs should not be retroactively trued up to incorporate changes in the cost of capital.

**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** OPC does not recommend a specific adjustment, subject to the stipulation in Issue 7H, and subject to prudence review in the NCRC hearings in 2009.

**STAFF:** No position at this time.

**ISSUE 9G:** What total amount should the Commission approve as PEF's 2008 actual and estimated costs to be recovered for the Crystal River 3 Uprate project?

**POSITION:**

**PEF:** \$7,512,933

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** OPC does not recommend a specific adjustment, subject to the stipulation in Issue 7H, and subject to a prudence review in the NCRC hearings in 2009.



**STAFF:** No position at this time.

**COMPANY SPECIFIC PROJECTED PRECONSTRUCTION AND CONSTRUCTION COSTS (2009)**

**Florida Power & Light**

**ISSUE 10A:** What amount should the Commission approve as FPL's 2009 projected preconstruction costs for the Turkey Point Units 6 & 7 project?

**POSITION:**

**FPL:** As FPL's reasonable 2009 projected preconstruction costs, the Commission should approve \$109,540,915 as FPL's 2009 projected pre-construction costs for the Turkey Point Units 6 & 7 project for collection during 2009.

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**OPC:** FPL relied frequently on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. As a result, the Commission should disallow a portion of the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contract and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that on a going forward basis the Commission will require a more rigorous demonstration that competitive bidding should not be employed, and that the costs of the resulting single or sole source contract are reasonable.

**STAFF:** No position at this time.

**ISSUE 10B:** What total amount should the Commission approve as FPL's 2009 projected costs to be recovered for the Turkey Point Units 6 & 7 project?

**POSITION:**

**FPL:** The Commission should approve reasonable site selection related carrying costs of \$509,050, pre-construction costs of \$109,540,915 and pre-construction related carrying costs of \$9,907,604 (total \$119,957,569) as the total amount of FPL's 2009 projected costs for the Turkey Point Units 6 & 7 project to be recovered during 2009.

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**OPC:** FPL relied frequently on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. As a result, the Commission should disallow a portion of the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contract and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that on a going forward basis the Commission will require a more rigorous demonstration that competitive bidding should not be employed, and that the costs of the resulting single or sole source contract are reasonable.

**STAFF:** No position at this time.

**ISSUE 10C:** What amount should the Commission approve as FPL's 2009 projected construction costs for the EPU project?

**POSITION:**

**FPL:** The Commission should approve \$233,294,413 as FPL's reasonable 2009 projected construction costs for the EPU project during 2009.

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**OPC:** FPL relied frequently on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. As a result, the Commission should disallow a portion of the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contract and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that on a going forward basis the Commission will require a more rigorous demonstration that competitive bidding should not be employed, and that the costs of the resulting single or sole source contract are reasonable.

Rule 25-6.0423 was not intended to encompass costs to maintain existing nuclear units. FPL has not provided proof that it has performed a comprehensive analysis to demonstrate that it has identified, and excluded from its request, all costs

claimed for the uprate project that are not incremental in nature. The Commission should require such a showing

**STAFF:** No Position at this time.

**ISSUE 10D:** What amount should the Commission approve as carrying charges on FPL's 2009 projected construction costs for the EPU project?

**POSITION:**

**FPL:** The Commission should approve \$16,553,019 as reasonable carrying charges on FPL's 2007 actual, 2008 actual and estimated and 2009 projected construction costs for the EPU project for collection during 2009.

**AARP:** Same as OPC.

**FIPUG:** Because cost recovery is guaranteed, until December 31, 2010 the carrying costs should be the pretax current AFUDC rate as required by § 366.93(2) b *Florida Statutes*. After that date the Commission should use the interest rate for 10 year treasuries for equity and the cost of debt should be the commercial paper rate. Once established the carrying costs should not be retroactively tried up to incorporate changes in the cost of capital.

**OPC:** The amount should reflect any disallowance or adjustment made in consideration of the alternative remedies proposed by OPC's witness.

**STAFF:** No position at this time.

**ISSUE 10E:** What total amount should the Commission approve as FPL's 2009 projected costs to be recovered for the EPU project?

**POSITION:**

**FPL:** The Commission should approve \$20,286,022 as reasonable carrying charges on FPL's 2007 actual, 2008 actual and estimated and 2009 projected construction costs for the EPU project for collection during 2009.

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**OPC:** The decision should take into consideration OPC's assertions regarding contracting practices.

**STAFF:** No position at this time.

**Progress Energy Florida, Inc.**

**ISSUE 11A:** What amount should the Commission approve as PEF's 2009 projected preconstruction costs for the Levy Units 1 & 2 project?

**POSITION:**

**PEF:** \$118,751,900

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** OPC does not recommend a specific adjustment, subject to the subsequent actual/estimated filing by PEF and its reasonableness review in 2009, and subject to the subsequent true-up filing and its prudence review in 2010.

**STAFF:** No position at this time.

**ISSUE 11B:** What amount should the Commission approve as PEF's 2009 projected construction costs for the Levy Units 1 & 2 project?

**POSITION:**

**PEF:** \$565,605,600

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** OPC does not recommend a specific adjustment, subject to the subsequent actual/estimated filing by PEF and its reasonableness review in 2009, and subject to the subsequent true-up filing and its prudence review in 2010.

**STAFF:** No position at this time.

**ISSUE 11C:** What amount should the Commission approve as carrying charges on PEF's 2009 projected construction costs for the Levy Units 1 & 2 project?

**POSITION:**

**PEF:** \$419,544,579

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** OPC does not recommend a specific adjustment, subject to the subsequent actual/estimated filing by PEF and its reasonableness review in 2009, and subject to the subsequent true-up filing and its prudence review in 2010.

**STAFF:** No position at this time.

**ISSUE 11D:** What total amount should the Commission approve as PEF's 2009 projected costs to be recovered for the Levy Units 1 & 2 project?

**POSITION:**

**PEF:** \$30,217,903

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** OPC does not recommend a specific adjustment, subject to the subsequent actual/estimated filing by PEF and its reasonableness review in 2009, and subject to the subsequent true-up filing and its prudence review in 2010.

**STAFF:** No position at this time.

**ISSUE 11E:** What amount should the Commission approve as PEF's 2009 projected construction costs for the Crystal River 3 Uprate project?

**POSITION:**

**PEF:** \$107,067,528

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** OPC does not recommend a specific adjustment, subject to stipulation in 7H, and subject to a prudence review in the NCRC hearings in 2010.

**STAFF:** No position at this time.

**ISSUE 11F:** What amount should the Commission approve as carrying charges on PEF's 2009 projected construction costs for the Crystal River 3 Uprate project?

**POSITION:**

**PEF:** \$14,587,810

**AARP:** Same as OPC.

**FIPUG:** Because cost recovery is guaranteed, until December 31, 2010 the carrying costs should be the pretax current AFUDC rate as required by § 366.93(2) b *Florida Statutes*. After that date the Commission should use the interest rate for 10 year treasuries for equity and the cost of debt should be the commercial paper rate. Once established the carrying costs should not be retroactively trued up to incorporate changes in the cost of capital.

**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** OPC does not recommend a specific adjustment, subject to stipulation in 7H, and subject to a prudence review in the NCRC hearings in 2010.

**STAFF:** No position at this time.

**ISSUE 11G:** What total amount should the Commission approve as PEF's 2009 projected costs to be recovered for the Crystal River 3 Uprate project?

**POSITION:**

**PEF:** \$16,458,136

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** OPC does not recommend a specific adjustment, subject to stipulation in 7H, and subject to a prudence review in the NCRC hearings in 2010.

**STAFF:** No position at this time.

**SUMMARY ISSUES**

**Florida Power & Light Company**

**ISSUE 12:** What total amount should the Commission approve for the Nuclear Cost Recovery Clause to be included in establishing FPL's 2009 Capacity Cost Recovery Clause factor?

**POSITION:**

**FPL:** The Commission should approve the total amount of \$258,406,183 for the Nuclear Cost Recovery Clause to be included in establishing FPL's 2009 Capacity Cost Recovery Clause Factor. (FPL will submit revised amounts reflecting the nominal \$35 million reduction addressed in issue 8A. The revision reduces the total requested recovery amount in this proceeding from approximately \$258 million to approximately \$223 million.)

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**OPC:** The amount should reflect adjustments made in consideration of OPC's assertions regarding contracting practices.

**STAFF:** No position at this time.

**Progress Energy Florida, Inc.**

**ISSUE 13:** What total amount should the Commission approve for the Nuclear Cost Recovery Clause to be included in establishing PEF's 2009 Capacity Cost Recovery Clause factor?

**POSITION:**

**PEF:** \$419,544,579

**AARP:** Same as OPC.

**FIPUG:** Same as OPC.

**PCS**

**Phosphate:** PCS Phosphate agrees with and adopts the position of the OPC.

**OPC:** Subject to the stipulations on Issues 5A and 7H and to the prudence reviews in 2009 and 2010, OPC does not recommend a specific adjustment to PEF's filing at this time.

**STAFF:** No position at this time.

**ISSUE 14:** Should Docket No. 080149-EI, be closed?

**PROPOSED FULL STIPULATION *Stipulated language appears in italics***

**POSITION:**

*Yes.*



IX. EXHIBIT LIST

**PROGRESS ENERGY FLORIDA, INC.**

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Will Garrett	PEF	WG-1 (CR3)	Schedules T-1 through T-10, which reflect PEF's retail revenue requirements for the CR3 Uprate from January 2007 through December 2007 (Danny Roderick sponsoring T-7 through T-8B)
Will Garrett	PEF	WG-2 (CR3)	Schedules T-1 through T-10, reflecting PEF's retail revenue requirements for the CR3 Uprate for period January 2006 through December 2006 (Danny Roderick sponsoring T-7 through T-8B)
Will Garrett	PEF	WG-1 (Levy)	Schedules T-1 through T-10, which reflect PEF's retail revenue requirements for the Levy project from January 2007 through December 2007 (Garry Miller sponsoring T-7 through T-8B)
Lori Cross	PEF	LC-1 (CR3)	Schedules P-1 through P-10 and Appendix A, which reflect PEF's retail revenue requirements for the Crystal River Unit 3 (CR3) Uprate Filing from January 2009 through December 2009 (Danny Roderick sponsoring P-7 through P-8B)

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Lori Cross	PEF	LC-3 (CR3)	Schedules TOR-1 through TOR-7, which reflect the total project estimated costs (Danny Roderick sponsoring TOR-7)
Lori Cross	PEF	LC-2 (CR3)	Schedules AE-1 through AE-10, which reflect PEF's retail revenue requirements for the Crystal River Unit 3 (CR3) Uprate Filing from January 2008 through December 2008 (Danny Roderick sponsoring AE-7 through AE-8A)
Lori Cross (Revised)	PEF	LC-1 (Levy)	Schedules AE-1 through AE-10, which reflect PEF's retail revenue requirements for the Levy Nuclear Filing from January 2008 through December 2008 (Danny Roderick and Dale Oliver sponsoring portions of AE-7 through AE-8A)
Lori Cross (Revised)	PEF	LC-2 (Levy)	Schedules P-1 through P-10, which reflect PEF's retail revenue requirements for the Levy Nuclear Filing from January 2009 through December 2009 (Danny Roderick and Dale Oliver sponsoring portions of P-7 through P-8B)
Lori Cross (Revised)	PEF	LC-3 (Levy)	Schedules SS-1 through SS-6, which reflects the site selection costs for 2006

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Lori Cross (Revised)	PEF	LC-4 (Levy)	Schedules SS-1 to SS-10 which reflects the site selection costs for 2007 (Danny Roderick and Dale Oliver sponsoring SS-7 through SS-8B)
Lori Cross (Revised).	PEF	LC-5 (Levy)	Schedules SS-1 to SS-10 which reflects the site selection costs for 2008 (Danny Roderick and Dale Oliver sponsoring SS-7 through SS-8B)
Daniel L. Roderick	PEF	DLR-1 (CR3)	Integrated Project Plan for CR3 Uprate Project
William R. Jacobs, Jr. PH.D.	OPC	WRJ-1	Resume of William R. Jacobs, Jr., PH.D.
Jeffery A. Small	Staff	JAS-1	Audit Report for 2007 power uprate costs for the Crystal River Unit 3 nuclear power plant
Jeffery A. Small	Staff	JAS-2	Audit Report to address the pre-construction costs as of December 31, 2007 for Levy County Units 1 & 2
Jeffery A. Small	Staff	JAS-3	Audit Report to address the site selection costs as of December 31, 2007 for Levy County Units 1 & 2
Panel Testimony of Carl Vinson and Robert Lynn Fisher	Staff	VF-1	Review of Progress Energy Florida's Project Management Internal Controls for Nuclear Plant Uprate and Construction Projects, August 2008

**FLORIDA POWER & LIGHT COMPANY**

<u>Witness</u>	<u>Proffered by</u>		<u>Description</u>
Stephen T. Hale	FPL	STH-1	Appendix 1 revised August 6, 2008 Nuclear Cost Recovery Extended Power Uprate Project Nuclear Filing Requirements (NFRs) T-Schedules (True-Up) January 2007- December 2007
Kim Ousdahl Stephen T. Hale Steve R. Sim	FPL	STH-2	Appendix I revised August 6, 2008 Nuclear Cost Recovery Extended Power Uprate Project Nuclear Filing Requirements (NFRs) AE-Schedules (Actual/Estimate) P-Schedules (Projections) TOR- Schedules (True-up to Original) January 2007 - December 2009
Kim Ousdahl Steven D. Scroggs Steve R. Sim	FPL	SDS-1	Appendix II revised August 6, 2008 Nuclear Cost Recovery PTN 6 & 7, Pre-Construction Cost Nuclear Filing Requirements (NFRs) AE-Schedules (Actual/Estimate) TOR- Schedules (True-up to Original) January 2007 - December 2009

<u>Witness</u>	<u>Proffered by</u>		<u>Description</u>
Kim Ousdahl Steven D. Scroggs Steve R. Sim	FPL	SDS-2	Appendix III revised August 6, 2008 Nuclear Cost Recovery PTN 6 & 7, Site Selection Cost Nuclear Filing Requirements (NFRs) AE-Schedules (Actual/Estimate) TOR- Schedules (True-up to Original) January 2006 – December 2009
Steven D. Scroggs	FPL	SDS-3	MPR Associates, Inc. Review and Assessment of the Technology Selected
Steven D. Scroggs	FPL	SDS-4	Engineering Evaluation of Current Technology Options for New Nuclear Power Generation
John J. Reed	FPL	JJR-1	Curriculum Vitae
John J. Reed	FPL	JJR-2	Testimony of John J. Reed (1997 – 2008)
William R. Jacobs, Jr. PH.D.	OPC	WRJ-1	Resume of William R. Jacobs, Jr., PH.D.
William R. Jacobs, Jr. PH.D.	OPC	WRJ-2	Sole Source Justification (Example # 1) (Confidential)
William R. Jacobs, Jr. PH.D.	OPC	WRJ-3	Single Source Justification (Example # 2) (Confidential)
William R. Jacobs, Jr. PH.D.	OPC	WRJ-4	Sole Source Justification (Example # 3) (Confidential)
William R. Jacobs, Jr. PH.D.	OPC	WRJ-5	Single Source Justification (Example # 4) (Confidential)
William R. Jacobs, Jr. PH.D.	OPC	WRJ-6	Single Source Justification (Example # 5) (Confidential)
William R. Jacobs, Jr. PH.D.	OPC	WRJ-7	FPL's Benchmarking Spreadsheet (Confidential)

<u>Witness</u>	<u>Proffered by</u>		<u>Description</u>
William R. Jacobs, Jr. PH.D.	OPC	WRJ-8	FPL's Additional Cost Comparison for Large Contract on Spreadsheet (Confidential)
Kathy L. Welch	Staff	KLW-1	History of Testimony Provided by Kathy L. Welch
Kathy L. Welch	Staff	KLW-2	Audit Report for 2007 power uprate costs for the Turkey Point and St. Lucie nuclear power plants
Kathy L. Welch	Staff	KLW-3	Supplemental Audit Report for 2007 power uprate costs for the Turkey Point and St. Lucie nuclear power plants
Kathy L. Welch	Staff	KLW-4	Audit Report for 2007 pre-construction costs and site selection costs for Turkey Point 6 & 7
Panel Testimony of Carl Vinson and Robert Lynn Fisher	Staff	VF-2	Review of Florida Power & Light's Project Management Internal Controls for Nuclear Plant Uprate and Construction Projects, August 2008

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

#### X. PROPOSED STIPULATIONS

Full stipulations denote the entire issue has been agreed to by the parties. Partial stipulations denote that the stipulation resolves part, but not all, of a given issue. For those issues which are partially stipulated, the parties have entered into stipulations which, if approved, would postpone the Commission's consideration regarding the prudence of costs related to the new nuclear plants until the Commission's 2009 proceeding. According to those partial stipulations, the remaining Commission decisions for the 2008 hearing would be the reasonableness of and the amount of those costs.

A. Issues identified below are proposed full stipulations. Proposed full stipulations propose resolution of the entire issue. Those issues identified as full stipulations are:

**ISSUE 1D:** Should a utility be required to inform the Commission of any change in ownership or control of any asset which was afforded cost recovery under the Nuclear Cost Recovery Clause?

**POSITION:** Yes, timely notification to the Commission and parties to the NCRC docket at the time of filing the notice will allow the Commission to make any required adjustments within or outside of the Nuclear Cost Recovery Clause. Staff will conduct workshops on the administrative procedures to be used by the Commission to make such adjustments.

**ISSUE 4A:** Should the Commission grant FPL's request to include the review and approval for recovery through the Nuclear Cost Recovery Clause of prudently incurred site selection costs for the Turkey Point Unit 6 & 7 project?

**POSITION:** Yes. The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of 2007 site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

**ISSUE 5A:** Should the Commission grant PEF's request to include the review and approval for recovery through the Nuclear Cost Recovery Clause of prudently incurred site selection costs for the Levy Units 1 & 2 project?

**POSITION:** Yes. OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, construction, and calculation of carrying costs in PEF's NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered through the 2009 capacity cost recovery factor subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle, notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs "shall not be subject to disallowance or further prudence review." OPC and PEF further agree that PEF's site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a)Issue 5A

**ISSUE 6E:** What total amount should the Commission approve as FPL's final 2007 true-up to be recovered for the EPU project?

**POSITION:** As stated in its position on Issue 6D, FPL did not accrue carrying charges on construction costs during 2007. Therefore, there are no costs to be recovered.

**ISSUE 7A:** What amount should the Commission approve as PEF's final 2007 true-up of prudently incurred preconstruction costs for the Levy Units 1 & 2 project?

**POSITION:** There are no 2007 preconstruction costs for PEF's Levy Units 1 & 2 project.

**ISSUE 7H:** Has PEF demonstrated that the uprate costs it seeks to recover in this docket are separate and apart from those it would incur in conjunction with providing safe and reliable service, had there been no uprate project?

**POSITION:** OPC and PEF stipulate that as it applies to nuclear uprate projects, the NCRC should be limited to those costs that are separate and apart from nuclear costs that would have been necessary to provide safe and reliable service had there been no uprate project. OPC and PEF will work with PSC Staff to develop an NFR form for use in the 2009 hearing cycle that specifies the information that a utility will provide in support of its request, that the uprate costs in its NCRC filing are separate and apart from costs that would have been necessary to provide safe and reliable service without the uprate. For the purposes of the 2008 NCRC hearings OPC will not challenge the prudence of PEF's 2006 and 2007 CR3 uprate costs on the "separate and apart" issue. OPC's position for the 2006 and 2007 CR3 uprate costs, however, does not prevent OPC from raising the "separate and apart" issue for any CR3 uprate costs incurred subsequent to 2007.

**ISSUE 14:** Should Docket No. 080149-EI, be closed?

**POSITION:** Yes.

B. Issues identified below are proposed partial stipulations. Proposed partial stipulations propose resolution of part, but not all, of the issue. Those issues identified as partial stipulations are:

**ISSUE 2A:** Should the Commission find that for the year 2007, FPL's project management, contracting, and oversight controls were reasonable and prudent for the Turkey Point 6 & 7 project and for the Extended Power Uprate (EPU) project?

**POSITION:** The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of 2007 site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL



may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

**ISSUE 2B:** Should the Commission find that for the year 2007, FPL's accounting and costs oversight controls were reasonable and prudent for the Turkey Point 6 & 7 project and for the EPU project?

**POSITION:** The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of 2007 site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

**ISSUE 3B:** Should the Commission find that for the year 2007, PEF's accounting and costs oversight controls were reasonable and prudent for Levy Units 1 & 2 project and the Crystal River 3 Uprate project?

**POSITION:** Commission staff witness Jeffery Small provided testimony offering alternatives to the method PEF witness Will Garrett used in valuing the Lybass parcel of land used for Levy Units 1 & 2. Staff and PEF agree that the consideration of alternative methods is appropriately considered during a prudence review. If the Commission approves the stipulation between PEF and OPC then the testimony of witness Jeffery Small should also be considered at the time of the prudence review. The Commission may include the costs as calculated by Will Garrett as reasonable in the 2008 proceeding. PEF agrees that should the Commission find that PEF's method for valuing the Lybass parcel used for Levy Units 1 & 2 is imprudent, then PEF will refund that amount deemed imprudent.

**ISSUE 6A:** What amount should the Commission approve as FPL's final 2007 true-up of prudently incurred preconstruction costs for the Turkey Point Units 6 & 7 project?

**POSITION:** The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of 2007 site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to

customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

**ISSUE 6B:** What total amount should the Commission approve as FPL's final 2007 true-up to be recovered for the Turkey Point Units 6 & 7 project?

**POSITION:** The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of 2007 site selection costs and preconstruction costs for that project by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in even higher charges to customers in 2010; however, the post March 1 filing date shortens the time available for OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(b)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or determination that certain costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

XI. PENDING MOTIONS

There are no pending motions to be considered by the Prehearing Officer.

XII. PENDING CONFIDENTIALITY MATTERS

**FPL:** Florida Power & Light Company's Request for Confidential Classification of the confidential portions of the audit reports attached as exhibits to the testimony of Carl Vinson, Robert Lynn Fisher and Kathy L. Welch filed by Staff Counsel, dated August 8, 2008.

**PEF:**

<b>DOCUMENT NO.</b>	<b>REQUEST</b>	<b>DATE FILED</b>
03230-08	Request for Confidential Classification [PEF response to OPC 1 <sup>st</sup> Request for Production]	4/22/08
04249-08	Second request for confidential classification regarding prefiled testimony and exhibits of Lori Cross and Daniel L. Roderick	5/22/08 Revised 6/11/08
05956-08	Third request for confidential classification [Portions of documents responsive to OPC's 2nd request for PODs (Nos. 12-57), specifically portions of documents responsive to request Nos. 12, 33, and 54]	7/10/08
05946-08	Fourth request for confidential classification [Portions of supplemental documents responsive to OPC's 2nd request for PODs (Nos. 12-57), specifically portions of documents responsive to POD request No. 54]	7/10/08
06775-08	Fifth request for confidential classification [Roderick late-filed Exhs 3, 7, and 8]	8/1/08
06510-08	Sixth request for confidential classification [Portions of documents responsive to staff's 2nd request for PODs (No. 8)]	7/28/08
06911-08	Notice of intent to request confidential classification [Staff testimony of Vinson, Fisher & Small]	8/6/08
06954-08	Request for confidential classification regarding Audit Report No. 08-087-2-1, data requests, and workpapers	8/7/08
	Progress Energy Florida's Request for Confidential Classification as to Testimony of William R. Jacobs, Jr.	8/21/08
03246-08	First Request for Confidential Classification [4/23/08 Memo Recommending Confidentiality pending]	4/22/08

<b>DOCUMENT NO.</b>	<b>REQUEST</b>	<b>DATE FILED</b>
04257-08	Second request for confidential classification regarding prefiled testimony and exhibits of Lori Cross and Daniel L. Roderick	5/22/08
05951-08	Third Request for Confidential Classification [Staff's First Request for Production Nos. 4 and 6]	7/10/08

**XIII. POST-HEARING PROCEDURES**

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 100 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 100 words, it must be reduced to no more than 100 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 50 pages and shall be filed at the same time.

**XIV. RULINGS**

Opening statements, if any, shall not exceed ten minutes per party.


Michael Twomey, Esquire, representing AARP, is excused from attendance at the Prehearing Conference.

The direct, intervenor, staff, and rebuttal testimony and exhibits pertaining to PEF's petition shall be taken up first, followed immediately by the direct, intervenor, staff, and rebuttal testimony and exhibits pertaining to FPL's petition.

It is therefore,

ORDERED by Commissioner Katrina J. McMurrian, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Katrina J. McMurrian, as Prehearing Officer, this 8th  
day of September, 2008.

  
KATRINA J. McMURRIAN  
Commissioner and Prehearing Officer

( S E A L )

LCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.