

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery Clause.

DOCKET NO. 120009-EI

DATED: AUGUST 6, 2012

COMMISSION
CLERK

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THE FLORIDA RETAIL FEDERATION'S
PREHEARING STATEMENT

The Florida Retail Federation, pursuant to the First Order Revising Order Establishing Procedure in this docket, Order No. PSC-12-0078-PCO-EI, issued on June 29, 2012, hereby submits the Federation's Prehearing Statement.

APPEARANCES:

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On behalf of the Florida Retail Federation.

1. WITNESSES:

The Florida Retail Federation does not intend to call any witnesses for direct examination, but reserves its rights to cross-examine all witnesses and to rely upon the prefiled testimony of witnesses in this docket, as well as testimony on their cross-examination.

2. EXHIBITS:

The Florida Retail Federation will not introduce any exhibits on direct examination, but reserves its rights to introduce exhibits through cross-examination of other parties' witnesses.

3. STATEMENT OF BASIC POSITION

Progress Energy Florida – Levy Nuclear Project

On March 8, 2012, the Commission issued its final order approving a Stipulation and Settlement Agreement between Progress Energy Florida and the major parties representing consumers' interests in relation to PEF's nuclear projects. The Settlement Agreement addresses what costs can be recovered from customers and what rates PEF can charge to obtain recovery of

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those amounts, which are, naturally, subject to a true-up in the last year of the recovery period. That last year is currently expected to be 2017. Accordingly, PEF should recover only the amounts contemplated by, and approved by the Commission in its approval of, the Settlement Agreement.

Progress Energy Florida – Crystal River 3 Extended Power Uprate

At this time, PEF has not made a final decision to repair or retire Crystal River Unit 3 (CR3), and it appears that a decision will not be made until well after the hearings in this year's NCRC Docket. The Florida Retail Federation strongly supports repairing CR3 and returning it to commercial service, provided, of course, that such repair is technically feasible and cost-effective for PEF's customers. However, given the current uncertainty surrounding the repair vs. retire decision, the FRF agrees with the Citizens that, until PEF has made an affirmative decision to repair CR3, PEF should minimize expenditures related to the CR3 EPU Project.

The FRF also agrees with the Citizens that, until the repair-retire decision has been made, the Commission should withhold any determination of reasonableness or prudence for expenditures on the CR3 EPU Project, and correspondingly defer its consideration of any CR3 EPU expenditures for cost recovery. Given that the repair-retire decision is not likely to be made until well after this year's NCRC hearings, the Commission should defer consideration of cost recovery for the CR3 EPU Project until the 2013 NCRC hearings, and should correspondingly defer allowing any cost recovery associated with the EPU Project until after full and appropriate consideration of all issues related to this Project, e.g., deferral of recovery until 2014.

Florida Power & Light Company – Turkey Point Nuclear Project

The Florida Retail Federation agrees with the Citizens of the State of Florida that, because FPL is pursuing an approach to the Turkey Point Units 6&7 Nuclear Project that limits expenses to minimal licensing activities, the FRF will join the Citizens in not contesting FPL's approach to the Turkey Point Units 6&7 Project at this time.

Florida Power & Light Company – Extended Power Uprate Projects

The Florida Retail Federation shares the concerns raised by the Citizens of the State of Florida regarding the dramatic cost overruns – approximately \$550 million in one year – experienced by FPL in connection with its Extended Power Uprate Project at its existing Turkey Point nuclear units. The Commission should accordingly take appropriate action to protect FPL's customers from the consequences of FPL's actions. In this instance, appropriate protection would be to hold FPL to a definite cost estimate for the Turkey Point EPU Project.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

Generic Legal Issue

Issue 1: Does Section 366.93, Florida Statutes, authorize the Commission to disallow recovery of all, or a portion of, the carrying costs prescribed by Section 366.93(2)(b), Florida Statutes? (Staff – in lieu of OPC's proposed issue 2)

Position: Agree with Citizens/Public Counsel.

Progress Energy Florida, Inc., Issues

PEF – Legal/Policy

Issue 2: Does the Commission have the authority to disallow recovery of any AFUDC equity on the Crystal River Unit 3 Uprate project in 2012 and 2013 due to the delay caused by the lack of implementation of a final decision to repair or retire Crystal River Unit 3? If yes, should the Commission exercise this authority and what amount should it disallow, if any? (OPC – contested)

Position: Agree with Citizens/Public Counsel.

Issue 3: Does the Commission have the authority to defer all determinations of prudence and reasonableness for the Crystal River Unit 3 Uprate project (and, thus, defer cost recovery in 2013) until a final decision to repair or retire has been implemented? If yes, should the Commission exercise this authority? (OPC – contested)

Position: Agree with Citizens/Public Counsel.

PEF – Levy Units 1 & 2 Project

Issue 4: Do PEF’s activities since January 2011 related to Levy Units 1 & 2 qualify as “siting, design, licensing, and construction” of a nuclear power plant as contemplated by Section 366.93, F.S.?

Position: Agree with Citizens/Public Counsel.

Issue 5: Should the Commission approve what PEF has submitted as its 2012 annual detailed analysis of the long-term feasibility of completing the Levy Units 1 & 2 project, as provided for in Rule 25-6.0423, F.A.C.? If not, what action, if any, should the Commission take?

Position: Agree with Citizens/Public Counsel.

Issue 6: What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the proposed Levy Units 1 & 2 nuclear project?

Position: Agree with Citizens/Public Counsel.

Issue 7: What is the current estimated planned commercial operation date of the planned Levy Units 1 & 2 nuclear facility?

Position: Agree with Citizens/Public Counsel.

Issue 8: Should the Commission find that, for 2011, PEF's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Levy Units 1 & 2 project? If not, what action, if any, should the Commission take?

Position: Agree with Citizens/Public Counsel.

Issue 9: What system and jurisdictional amounts should the Commission approve as PEF's final 2011 prudently incurred costs and final true-up amounts for the Levy Units 1 & 2 project?

Position: See the Stipulation and Settlement Agreement approved by Commission Order No. PSC-12-0104-FOF-EI, issued on March 8, 2012. Paragraph 4 of the Settlement Agreement specifies the NCRC rates to be charged for the Levy Nuclear Project beginning in January 2013, as well as the conceptual basis for computing those amounts and the time period over which recovery is to be made. Ultimately, although perhaps not in the 2012 NCRC hearings, the Commission will have to determine the actual (as opposed to the estimated) balance of Levy costs and carrying costs, with any true-up being made in the final year of such recovery.

Issue 10: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2012 costs and estimated true-up amounts for PEF's Levy Units 1 & 2 project?

Position: See the Stipulation and Settlement Agreement approved by Commission Order No. PSC-12-0104-FOF-EI, issued on March 8, 2012. Paragraph 4 of the Settlement Agreement specifies the NCRC rates to be charged for the Levy Nuclear Project beginning in January 2013, as well as the conceptual basis for computing those amounts and the time period over which recovery is to be made. Ultimately, although perhaps not in the 2012 NCRC hearings, the Commission will have to determine the actual (as opposed to the estimated) balance of Levy costs and carrying costs, with any true-up being made in the final year of such recovery.

Issue 11: What system and jurisdictional amounts should the Commission approve as reasonably projected 2013 costs for PEF's Levy Units 1 & 2 project?

Position: See the Stipulation and Settlement Agreement approved by Commission Order No. PSC-12-0104-FOF-EI, issued on March 8, 2012. Paragraph 4 of the Settlement Agreement specifies the NCRC rates to be charged for the Levy Nuclear Project beginning in January 2013, as well as the conceptual basis for computing those amounts and the time period over which recovery is to be made. Ultimately, although perhaps not in the 2012 NCRC hearings, the Commission will have to determine the actual (as opposed to the estimated) balance of Levy costs and carrying costs, with any true-up being made in the final year of such recovery.

PEF – Crystal River Unit 3 Uprate Project

Issue 12: Should the Commission approve what PEF has submitted as its 2012 annual detailed analyses of the long-term feasibility of completing the Crystal River Unit 3 Uprate project, as provided for in Rule 25-6.0423, F.A.C.? If not, what action, if any, should the Commission take?

Position: Agree with Citizens/Public Counsel.

Issue 13: Should the Commission find that, for 2011, PEF's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Crystal River Unit 3 Uprate project? If not, what action, if any, should the Commission take?

Position: Agree with Citizens/Public Counsel.

Issue 14: Were all of the actual Crystal River Unit 3 Uprate project expenditures prudently incurred or expended in 2011 in the absence of a final decision to repair or retire Crystal River Unit 3 in 2011?

Position: Agree with Citizens/Public Counsel.

Issue 15: What system and jurisdictional amounts should the Commission approve as PEF's 2011 prudently incurred costs and final true-up amounts for the Crystal River Unit 3 Uprate project?

Position: Agree with Citizens/Public Counsel.

Issue 16: Is it reasonable for PEF to incur or expend all of the estimated and projected Crystal River Unit 3 Uprate project expenditures in 2012 and 2013 in the absence of a final decision to repair or retire CR3?

Position: Agree with Citizens/Public Counsel.

Issue 17: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2012 costs and estimated true-up amounts for PEF's Crystal River Unit 3 Uprate project?

Position: None. The Commission should defer consideration of allowing recovery of any CR3 Extended Power Uprate costs until the 2013 NCRC hearings, and defer any possible recovery of CR3 EPU costs until at least 2014.

Issue 18: What system and jurisdictional amounts should the Commission approve as reasonably projected 2013 costs for PEF's Crystal River Unit 3 Uprate project?

Position: None. The Commission should defer consideration of allowing recovery of any CR3 Extended Power Uprate costs until the 2013 NCRC hearings, and defer any possible recovery of CR3 EPU costs until at least 2014.

PEF – Final Fall-out Issue

Issue 19: What is the total jurisdictional amount to be included in establishing PEF's 2013 Capacity Cost Recovery Clause factor?

Position: The total jurisdictional amount to be included in PEF's 2013 Capacity Cost Recovery Clause factor is the amount determined by the Settlement Agreement approved by the Commission. The Commission should defer consideration of allowing recovery of any CR3 Extended Power Uprate costs until the 2013 NCRC hearings, and defer any possible recovery of CR3 EPU costs until at least 2014.

Florida Power & Light Company Issues

FPL – Turkey Point Units 6 & 7 Project

Issue 20: Do FPL's activities since January 2011 related to Turkey Point Units 6 & 7 qualify as "siting, design, licensing, and construction" of a nuclear power plant as contemplated by Section 366.93, F.S.?

Position: Agree with Citizens/Public Counsel.

Issue 21: Should the Commission approve what FPL has submitted as its 2012 annual detailed analyses of the long-term feasibility of completing the Turkey Point Units 6 & 7 project, as provided for in Rule 25-6.0423, F.A.C.? If not, what action, if any, should the Commission take?

Position: Agree with Citizens/Public Counsel.

Issue 22: What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the proposed Turkey Point Units 6 & 7 nuclear project?

Position: Agree with Citizens/Public Counsel.

Issue 23: What is the current estimated planned commercial operation date of the planned Turkey Point Units 6 & 7 nuclear facility?

Position: The FRF does not have a position as to what the estimated planned commercial operation date for the Turkey Point Units 6&7 nuclear facility may be. However, the FRF notes that the estimated date has continued to move further and further into the future, raising concerns as to the accuracy of any projected in-service date for this project.

Issue 24: Should the Commission find that FPL's 2011 project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project?

Position: Agree with Citizens/Public Counsel.

Issue 25: What system and jurisdictional amounts should the Commission approve as FPL's final 2011 prudently incurred costs and final true-up amounts for the Turkey Point Units 6 & 7 project?

Position: Agree with Citizens/Public Counsel.

Issue 26: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2012 costs and estimated true-up amounts for FPL's Turkey Point Units 6 & 7 project?

Position: Agree with Citizens/Public Counsel.

Issue 27: What system and jurisdictional amounts should the Commission approve as reasonably projected 2013 costs for FPL's Turkey Point Units 6 & 7 project?

Position: Agree with Citizens/Public Counsel.

FPL – St. Lucie Units 1&2 and Turkey Point Units 3&4 Extend Power Uprate Project

Issue 28: Should the Commission approve what FPL has submitted as its 2012 annual detailed analyses of the long-term feasibility of completing FPL’s Extended Power Uprate project, as provided for in Rule 25-6.0423, F.A.C.? If not, what action, if any, should the Commission take?

Position: Agree with Citizens/Public Counsel.

Issue 28A: Based on the evidence, under current circumstances, should the Commission evaluate the economic feasibility of the Turkey Point and St. Lucie Extended Power Uprate activities separately? (OPC – contested)

Position: Yes. At a minimum, FPL is obligated to manage the construction of each project separately, consistent with its duty to provide safe, adequate and reliable service at the lowest possible cost. The Commission has regularly stated the position that a utility, having obtained a determination of need, is still under an affirmative obligation to manage the project in a reasonable and prudent manner. It necessarily follows that, if it were shown to be uneconomic to continue spending on one of the EPU projects, e.g., Turkey Point, then such spending should be suspended or terminated, because, by definition, it would not be reasonable and prudent to continue spending on an uneconomic project. Therefore, the Commission should evaluate the economic feasibility of the Turkey Point and St. Lucie EPU projects/activities separately.

Issue 29: Should the Commission find that FPL’s 2011 project management, contracting, accounting and cost oversight controls were reasonable and prudent for FPL’s Extended Power Uprate project?

Position: Agree with OPC.

Issue 29A: Should the Commission find that FPL managed the extended power uprate activities at Turkey Point in a reasonable and prudent manner? If not, what action should the Commission take? (OPC – contested)

Position: No. Agree with OPC.

Issue 30: What system and jurisdictional amounts should the Commission approve as FPL’s final 2011 prudently incurred costs and final true-up amounts for FPL’s Extended Power Uprate project?

Position: Agree with OPC.

Issue 31: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2012 costs and estimated true-up amounts for FPL's Extended Power Uprate project?

Position: Agree with OPC.

Issue 32: What system and jurisdictional amounts should the Commission approve as reasonably projected 2013 costs for FPL's Extended Power Uprate project?

Position: Agree with OPC.

FPL – Final Fall-out Issue

Issue 33: What is the total jurisdictional amount to be included in establishing FPL's 2013 Capacity Cost Recovery Clause factor?

Position: Agree with OPC.

5. **STIPULATED ISSUES:**

None.

6. **PENDING MOTIONS:**

None other than motions for confidential protective orders.

7. **STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:**

The FRF has no pending requests or claims for confidentiality.

8. **OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:**

The FRF does not expect to challenge the qualifications of any witness to testify, although the FRF reserves all rights to question witnesses as their qualifications as related to the credibility and weight to be accorded their testimony.

9. **STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:**

There are no requirements of the Order Establishing Procedure with which the Florida

Retail Federation cannot comply.

Dated this 6th day of August, 2012.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing has been filed electronically with the Office of the Commission Clerk and that a copy has been furnished to the following by electronic mail on this 6th day of August, 2012.

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