

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Nuclear Power Plant  
Cost Recovery Clause

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Docket No. 130009-EI  
Filed: July 5, 2013

**THE FLORIDA INDUSTRIAL POWER USERS GROUP'S  
PREHEARING STATEMENT**

The Florida Industrial Power Users Group (FIPUG), pursuant to the First Order Revising Order Establishing Procedure in this docket, Order No. PSC-13-0063-PCO-EI, issued on January 29, 2013, files its Prehearing Statement.

**A. APPEARANCES:**

JON MOYLE, JR.  
KAREN A. PUTNAL  
Moyle Law Firm, P.A.  
118 North Gadsden Street  
Tallahassee, FL 32301

Attorneys for the Florida Industrial Power Users Group

**B. WITNESSES AND EXHIBITS:**

All witnesses and exhibits listed by other parties in this proceeding.

**C. STATEMENT OF BASIC POSITION:**

FIPUG supports the development of cost effective, reasonable and prudent energy sources to serve Florida consumers. FPL and PEF have the burden to demonstrate that the nuclear projects that are the subject of this hearing are the most reasonable and cost-effective way to serve ratepayer needs. The Commission must bear in mind that at the end of the day, it is the consumers who bear the large cost burden of these projects.

As to the Levy Nuclear Project, so long as PEF's filing is consistent with the parties' settlement, FIPUG supports the company's position on these issues.

Regarding PEF's Extended Power Uprate (EPU) at Crystal River 3 (CR3), no further costs for this project should be imposed upon ratepayers. CR3, the nuclear unit to which the uprate is applicable, has been out of service since September 2009. It is unclear if CR3 will ever come back in service. Because the EPU project is an adjunct to CR3, no more costs related to it should be borne by ratepayers unless and until a decision is made to repair the unit. To make the

point by way of an analogy, you would not buy new tires for an inoperable car unless and until you decided to repair the car. Thus, the Commission should defer all issues related to the uprate.

**D. STATEMENT OF ISSUES AND POSITIONS:**

**Legal Issues**

**Issue 1:** Does recently enacted Senate Bill 1472, effective July 1, 2013, change the AFUDC rate that should be used for nuclear cost recovery clause computations in this year's pending case.

**FIPUG:** \*As this is a legal issue, FIPUG reserves the right to address this issue in its post hearing brief.\*

**Issue 2:** Does recently enacted Senate Bill 1472, effective July 1, 2013, preclude a utility from continuing preconstruction work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or certification, that was under contract or commenced prior to July 1, 2013?

**FIPUG:** \*As this is a legal issue, FIPUG reserves the right to address this issue in its post hearing brief.\*

**Issue 3:** Does recently enacted Senate Bill 1472, effective July 1, 2013, preclude a utility from recovering costs associated with preconstruction work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or certification, that was under contract or commenced prior to July 1, 2013?

**FIPUG:** \*As this is a legal issue, FIPUG reserves the right to address this issue in its post hearing brief.\*

**FPL - TP67 Project Issues**

**Issue 4:** Do FPL's activities since January 2012 related to the proposed 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.?

**FIPUG:** \*Agree with OPC that, because FPL is pursuing an approach that limits expenses to minimal licensing activities to the extent possible, FIPUG does not contest FPL's approach to Turkey Point Units 6 & 7 or expenses related to that approach at this time.

Agree with OPC that, in light of the amendments enacted in 2013 to Section 366.93, Florida Statutes, it appears the utility should certify that its "siting, design, licensing and construction" comports with the statutory changes or resubmit testimony in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the new units to qualify as "siting,

design, licensing and construction” of a nuclear power plant as contemplated by Section 366.93, Florida Statutes.\*

**Issue 5:** Should the Commission approve what FPL has submitted as its 2013 annual detailed analysis 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?

**FIPUG:** \*FIPUG does not contest FPL’s approach to Turkey Point Units 6 & 7 or expenses related to that approach at this time.

In light of the amendments to Section 366.93, Florida Statutes, it appears the utility should certify that its long-term feasibility analysis comports with the statute, as amended, or resubmit its long-term feasibility analysis in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the feasibility of this project.\*

**Issue 5A:** What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the proposed Turkey Point Units 6 & 7 nuclear project?

**FIPUG:** \*Evidence adduced at hearing will establish this sum.\*

**Issue 5B:** What is the current estimated planned commercial operation date of the planned Turkey Point Units 6 & 7 nuclear facility?

**FIPUG:** \*Evidence adduced at hearing will establish the commercial operation date.\*

**Issue 6:** What are the jurisdictional amounts for Turkey Point 6 & 7 project activities that are related to obtaining a combined license from the Nuclear Regulatory Commission or certification during 2013 and 2014?

**FIPUG:** \*FIPUG does not contest FPL’s approach to Turkey Point Units 6 & 7 or expenses related to that approach at this time.\*

**Issue 7:** Should the Commission find that, for the year 2012, FPL’s project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project? If not, what action, if any, should the Commission take?

**FIPUG:** \*No position at this time.\*

**Issue 8:** What jurisdictional amounts should the Commission approve as FPL’s final 2012 prudently incurred costs and final true-up amounts for the Turkey Point Units 6 & 7 project?

**FIPUG:** \*No position at this time.\*

**Issue 9:** What jurisdictional amounts should the Commission approve as reasonably estimated 2013 costs and estimated true-up amounts for FPL's Turkey Point Units 6 & 7 project?

**FIPUG:** \*No amounts should be approved as reasonable until the utility certifies that its costs (including AFUDC) comports with and satisfies the statutory changes enacted in 2013 to Section 366.93, Florida Statutes, or resubmit revised costs in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for recovery of these 2013 costs.\*

**Issue 10:** What jurisdictional amounts should the Commission approve as reasonably projected 2014 costs for FPL's Turkey Point Units 6 & 7 project?

**FIPUG:** \*It appears that no amounts should be approved as reasonable until the utility either certifies that its costs (including AFUDC) comports with the statutory changes enacted in 2013 to Section 366.93, Florida Statutes, or submits revised costs in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for recovery of these 2014 costs.\*

#### **FPL - EPU Project Issues**

**Issue 11:** During the September 2012 hearing in Docket No. 120009-EI, did FPL provide the Commission with all the relevant cost information regarding the actual and estimated Turkey Point EPU expenditures for calendar year 2012 and projected total costs at completion in 2013? If not, what action, if any should the Commission take?

**FIPUG:** \*Agree with OPC.\*

**Issue 11A:** What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the completed EPU Project? (**New OPC Issue**)

**FIPUG:** \*No position at this time.\*

**Issue 11B:** What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the completed St. Lucie EPU Project? (**New OPC Issue**)

**FIPUG:** \*No position at this time.\*

**Issue 11C:** What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the completed Turkey Point EPU Project? (**New OPC Issue**)

**FIPUG:** \*No position at this time.\*

**Issue 12:** Are the costs of the Turkey Point EPU, as affected by actual 2012 and estimated 2013 costs, economic and cost-effective for FPL's ratepayers ? If not, what action, if any, should the Commission take? **(Disputed by FPL)**

**FIPUG:** \*Agree with OPC.\*

**Issue 13:** Should the Commission find that, for the year 2012, FPL's project management, contracting, accounting and cost oversight controls were reasonable and prudent for FPL's Extended Power Uprate project? If not, what action, if any, should the Commission take?

**FIPUG:** \*Agree with OPC.\*

**Issue 14:** What jurisdictional amounts should the Commission approve as FPL's final 2012 prudently incurred costs and final true-up amounts for the Extended Power Uprate project?

**FIPUG:** \*Agree with OPC.\*

**Issue 15:** What jurisdictional amounts should the Commission approve as reasonably estimated 2013 costs and estimated true-up amounts for FPL's Extended Power Uprate project?

**FIPUG:** \*Agree with OPC.\*

**Issue 16:** What jurisdictional amounts should the Commission approve as reasonably projected 2014 costs for FPL's Extended Power Uprate project?

**FIPUG:** \*Agree with OPC.\*

#### **FPL - Fallout Issue**

**Issue 17:** What is the total jurisdictional amount to be included in establishing FPL's 2014 Capacity Cost Recovery Clause factor?

**FIPUG:** \*Agree with OPC.\*

#### **DEF - Levy Project Issues**

**Issue 18:** Do DEF's activities since January 2012 related to the proposed Levy Units 1 & 2 qualify as "siting, design, licensing and construction" of a nuclear power plant as contemplated by Section 366.93, F.S.?

**FIPUG:** \*The settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI does not relieve DEF from demonstrating to the Commission that its 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, Florida Statutes. Further, in light of the amendments enacted in 2013 to Section 366.93, Florida Statutes, it appears the

utility should certify that its “siting, design, licensing, and construction” comports with the statutory changes or resubmit testimony in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the new units to qualify as “siting, design, licensing and construction” of a nuclear power plant as contemplated by Section 366.93, Florida Statutes.\*

**Issue 19:** Should the Commission approve what DEF has submitted as its 2013 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?

**FIPUG:** \*The settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket NO. 120022-EI does not relieve DEF from submitting its 2013 annual detailed analysis of the long-term feasibility of completing the Levy Units 1 & 2 project, as provided for in Rule 25-6.0423, Florida Administrative Code, nor the Commission’s determination of long-term feasibility. Further, in light of the amendments enacted in 2013 to Section 366.93, Florida Statutes, it appears that the utility should either certify that its long-term feasibility analysis comports with the statutory changes or submit a long-term feasibility analysis that fully complies with these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the feasibility of this project.\*

**Issue 19A:** What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the proposed Levy Units 1 & 2 nuclear project?

**FIPUG:** \*Evidence adduced at hearing will establish this sum.\*

**Issue 19B:** What is the current estimated planned commercial operation date of the planned Levy Units 1 & 2 nuclear facility?

**FIPUG:** \*Evidence adduced at hearing will establish the commercial operation date.\*

**Issue 20:** What are the jurisdictional amounts for Levy Units 1 & 2 project activities that are related to obtaining a combined license from the Nuclear Regulatory Commission or certification during 2013 and 2014?

**FIPUG:** \*The total jurisdictional amount will be a “fall-out” value from other issues, and LNP recovery is subject to the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI.\*

**Issue 21:** Should the Commission find that, for the year 2012, DEF’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?

**FIPUG:** \*The settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI does not relieve PEF from proving that its project management, contracting, accounting and cost oversight controls were reasonable

and prudent for the Levy Units 1 & 2 project. If any such costs were not reasonable and prudent, they should be disallowed.\*

**Issue 22:** What jurisdictional amounts should the Commission approve as DEF's final 2012 prudently incurred costs and final true-up amounts for the Levy Units 1 & 2 project?

**FIPUG:** \*Agree with OPC.\*

**Issue 23:** What jurisdictional amounts should the Commission approve as reasonably estimated 2013 costs and estimated true-up amounts for DEF's Levy Units 1 & 2 project?

**FIPUG:** \*Agree with OPC.\*

**Issue 24:** What jurisdictional amounts should the Commission approve as reasonably projected 2014 costs for DEF's Levy Units 1 & 2 project?

**FIPUG:** \*Agree with OPC.\*

**Issue 25:** What is the appropriate regulatory treatment of any amount equal to the difference between the collections pursuant to Order No. PSC-12-0104-FOF-EI and the sum of recoverable amounts identified in the prior issues?

**FIPUG:** \*The Commission should identify any such cost differences for the purpose of true-up pursuant to the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 12022-EI. These costs should be tracked and monitored so that customers and the Commission can be assured that costs are minimized, eliminated or otherwise controlled to insure that the monthly charge for the Levy Project (part of the NCRC component of Duke's Capacity Cost Recovery charges) is eliminated as soon as possible.\*

### **DEF - CR3 Uprate Project Issues**

**Issue 26:** What action, if any, should the Commission take as a result of the DEF decision to retire the CR3 unit with respect to the Balance of Plant Uprate of CR3 associated with the December 7, 2009 base rate tariff filing by DEF? (**Disputed by Staff**)

**FIPUG:** \*This issue is to be decided in Docket No. 100437-EI, so no Commission action is necessary at this time, or in this year's NCRC docket as to this issue. With respect to the dollars being proposed for recovery in this docket, the fall-out cost impacts on those dollars, if any, from the resolution of this issue in Docket No. 100437-EI will be treated accordingly in this docket in a subsequent year.\*

**Issue 27:** Should the Commission find that, for the year 2012, DEF'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?

**FIPUG:** \*No. In the 2012 NCRC cycle, OPC asked the Commission not to make a determination on DEF's project management, contracting, accounting and cost oversight controls. OPC argued that DEF should avoid making any expenditures that were avoidable or deferrable on the EPU project if DEF decided to cancel the EPU project. As such, DEF was on notice that these decisions would be greatly scrutinized. The Commission should make a determination in this year's docket whether DEF was prudent in its decisions related to DEF's project management, contracting, accounting and cost oversight controls.\*

**Issue 27A:** Has Duke undertaken reasonable and prudent measures to mitigate the CR3 uprate asset (e.g., through salvage, sale, cost reduction, etc.) following its decision to retire CR3? If not, what action, if any, should the Commission take?

**FIPUG:** \*DEF should use its best efforts to obtain maximum salvage value for all EPU components it has received, regardless of whether the component is installed (but not in service) or not installed. Any salvage value obtained from the disposition of these components should be applied to reduce any unrecovered balance of CR3 and associated carrying charges.\*

**Issue 28:** What jurisdictional amounts should the Commission approve as DEF's final 2012 prudently incurred costs and final true-up amounts for the Crystal River Unit 3 Uprate project?

**FIPUG:** \*In the 2012 NCRC cycle, OPC asked DEF to avoid making any 2012 EPU expenditures that could be avoided or deferred, contemplating that DEF might thereafter decide to cancel the EPU project. As such, DEF was on notice that these expenditures would be greatly scrutinized. The Commission should make a determination in this year's docket whether DEF was prudent in its decisions related to the 2012 EPU expenditures.\*

**Issue 29:** What jurisdictional amounts should the Commission approve as reasonably estimated 2013 costs and estimated true-up amounts for DEF's Crystal River Unit 3 Uprate project?

**FIPUG:** \*In the 2012 NCRC cycle, OPC asked DEF to avoid making any 2013 expenditures that could be avoided or deferred, contemplating that DEF might thereafter decide to cancel the EPU project. As such, DEF was on notice that these expenditures would be greatly scrutinized. The Commission should make a determination in this year's docket whether DEF was prudent in its decisions related to the 2013 EPU expenditures.\*

**Issue 30:** What jurisdictional amounts should the Commission approve as reasonably projected 2014 costs for DEF's Crystal River Unit 3 Uprate project?

**FIPUG:** \*None. There should be little to no 2014 costs except any such costs that would be related to salvaging any of the EPU assets.\*



**DEF Fallout Issue**

**Issue 31:** What is the total jurisdictional amount to be included in establishing DEF's 2014 Capacity Cost Recovery Clause factor?

**FIPUG:** \*The total jurisdictional amount will be a fall-out from other decisions and the application of the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI, to LNP costs.\*

**E. STIPULATED ISSUES:**

None at this time.

**F. PENDING MOTIONS:**

None other than motions for confidential protective orders.

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

None.

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

None at this time.

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

There are no requirements of the Order Establishing Procedure with which the Florida Industrial Power Users Group cannot comply at this time.

Dated this 5<sup>th</sup> day of July 2013.



Jon C. Moyle, Jr.

Karen A. Putnal

Moyle Law Firm, P.A.

118 North Gadsden Street

Tallahassee, Florida 32301

Telephone: (850) 681-3828

Facsimile: (850) 681-8788

[jmoyle@moylelaw.com](mailto:jmoyle@moylelaw.com)

[kputnal@moylelaw.com](mailto:kputnal@moylelaw.com)

Attorneys for Florida Industrial Power Users Group

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of FIPUG's Prehearing Statement, was served by Electronic Mail on this 5<sup>th</sup> day of July 2013, to the following:

Michael Lawson  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850  
[mlawson@psc.state.fl.us](mailto:mlawson@psc.state.fl.us)

J. Michael Walls  
Blaise N. Gamba  
Carlton Fields Law Firm  
Post Office Box 3239  
Tampa, Florida 33601-3239  
[mwalls@carltonfields.com](mailto:mwalls@carltonfields.com)  
[bgamba@carltonfields.com](mailto:bgamba@carltonfields.com)

Matthew Bernier, Esq.  
Duke Energy Florida, Inc.  
106 E. College Ave., #800  
Tallahassee, FL 32301  
[Matthew.bernier@duke-energy.com](mailto:Matthew.bernier@duke-energy.com)

James W. Brew  
F. Alvin Taylor  
Brickfield, Burchette, Ritts & Stone, P.C.  
1025 Thomas Jefferson Street, NW  
Eighth Floor, West Tower  
Washington, DC 20007-5201  
[jbrew@bbrslaw.com](mailto:jbrew@bbrslaw.com)  
[ataylor@bbrslaw.com](mailto:ataylor@bbrslaw.com)

Robert Scheffel Wright  
John T. LaVia, III  
Gardner, Bist, Weiner, Wadsworth,  
Bowden, Bush, Dee, LaVia & Wright, P.A.  
1300 Thomaswood Drive  
Tallahassee, Florida 32308  
[schef@gbwlegal.com](mailto:schef@gbwlegal.com)  
[jlavia@gbwlegal.com](mailto:jlavia@gbwlegal.com)

Paul Lewis Jr.  
Progress Energy Florida  
106 East College Avenue, Suite 800  
Tallahassee, FL 32301  
[Paul.lewisjr@pgnmail.com](mailto:Paul.lewisjr@pgnmail.com)

J. R. Kelly  
Charles Rehwinkel  
Joseph McGlothlin  
Erik L. Saylor  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399  
[kelly.jr@leg.state.fl.us](mailto:kelly.jr@leg.state.fl.us)  
[Rehwinkel.Charles@leg.state.fl.us](mailto:Rehwinkel.Charles@leg.state.fl.us)  
[mcglothlin.joseph@leg.state.fl.us](mailto:mcglothlin.joseph@leg.state.fl.us)  
[Saylor.Erik@leg.state.fl.us](mailto:Saylor.Erik@leg.state.fl.us)

John T. Burnett  
Dianne M. Triplett  
Progress Energy Service Company, LLC  
Post Office Box 14042  
St. Petersburg, Florida 33733-4042  
[john.burnett@pgnmail.com](mailto:john.burnett@pgnmail.com)  
[dianne.triplett@pgnmail.com](mailto:dianne.triplett@pgnmail.com)

Bryan S. Anderson  
Jessica A. Cano  
Florida Power & Light Co.  
700 Universe Boulevard  
Juno Beach, Florida 33408-0420  
[Bryan.Anderson@fpl.com](mailto:Bryan.Anderson@fpl.com)  
[Jessica.Cano@fpl.com](mailto:Jessica.Cano@fpl.com)

Kenneth Hoffman  
Florida Power & Light  
215 S. Monroe Street  
Tallahassee, FL 32301  
[ken.hoffman@fpl.com](mailto:ken.hoffman@fpl.com)

George Cavros, Esq.  
120 E. Oakland Park Blvd., #105  
Fort Lauderdale, FL 3333  
[george@cavros-law.com](mailto:george@cavros-law.com)

  
Karen A. Putnal