

P R O C E E D I N G S

1
2 **CHAIRMAN BRISÉ:** Good morning. Today is
3 October 1, 2013, and we are going to call this
4 special agenda to order. Unlike our counterparts,
5 we are still in business today.

6 All right. So with that, I'm going to see
7 if we have any preliminary matters. Mr. Lawson?

8 **MR. LAWSON:** No preliminary matters.

9 **CHAIRMAN BRISÉ:** Okay. All right. We
10 have about -- we have a few issues to take up today,
11 I think 14 of them. And so I'm going to ask Ms.
12 Lewis to walk us through some of those things at
13 this point.

14 **MS. LEWIS:** Thank you, Chairman.

15 Good morning, Chairman and Commissioners.
16 Kathy Lewis with Commission staff.

17 Today's item is staff's post-hearing
18 recommendation in Docket 130009, the nuclear
19 cost-recovery proceeding. This docket addresses
20 petitions filed by Duke Energy Florida and Florida
21 Power and Light for the recovery of costs related to
22 nuclear construction projects pursuant to Section
23 366.93, Florida Statutes.

24 As described in the case background, Duke
25 Energy filed a petition for deferral of all Duke

1 issues in this docket. It was supported by the
2 Office of Public Counsel and other intervenors. The
3 Commission approved the motion at hearing on August
4 the 5th. Consequently, the recommendation before
5 you today does not address the Duke issues.

6 The Commission also approved a stipulation
7 among the parties on some of the FPL issues. This
8 resulted in a more streamlined hearing where parties
9 briefed only those issues they disputed. In
10 addition, the legal issues, Issues 1 through 3, were
11 rendered moot by the stipulation, so staff's
12 recommendation begins with Issue 4.

13 Depending on your preference, staff is
14 ready to answer your questions or to proceed with
15 our presentation of the recommendation now.

16 **CHAIRMAN BRISÉ:** Thank you.

17 For ease, we have grouped some of these
18 issues together. And so, therefore, unless there
19 are questions, and I'm looking around to see if
20 there are any questions, if there are no particular
21 questions in advance, we are going to go ahead and
22 go through the items as grouped, and you may proceed
23 with the presentation.

24 **MS. LEWIS:** Thank you, Chairman. I'll
25 begin with Issue 4.

1 Issue 4 addresses whether FPL's 2012
2 licensing and permitting activities qualify for
3 cost-recovery under the statute. SACE was the only
4 party to contest this issue. They did not file
5 testimony, but argued in their brief that because
6 FPL had not made a final decision to construct that
7 they should not be entitled to cost-recovery.
8 Staff's recommendation is based on the hearing
9 record and on the Commission's 2011 order which set
10 the standard of review and which was affirmed by
11 this year's Supreme Court decision.

12 Staff is recommending that the Commission
13 find FPL's activities since January of 2012 do
14 qualify for cost-recovery pursuant to the statute.

15 **CHAIRMAN BRISÉ:** Okay.

16 Commissioners, any questions or comments
17 on Issue Number 4?

18 Commissioner Brown.

19 **COMMISSIONER BROWN:** Thank you, Mr.
20 Chairman. This is a question for Legal.

21 I want to just acknowledge that I welcome
22 SACE's participation in our proceedings, and I
23 appreciate their advocacy and their position.
24 Acknowledging that, though, looking at this year's
25 filing with respect to this issue, that I understand

1 this is a similar argument that they raised in the
2 last year's NCRC proceeding that was addressed by
3 the Supreme Court, is there anything in this year's
4 filing with respect to this issue that gives rise to
5 additional merit to SACE's arguments here?

6 **MR. LAWSON:** We're not aware of anything
7 that was in the record that would -- that would have
8 contributed to SACE's argument this year. We
9 believe that the 2011 order, coupled with the
10 Supreme Court decision, gives us the finality needed
11 to make the decision in this case. And there was no
12 testimony, none of the discovery requests uncovered
13 any information or facts or evidence that would
14 suggest otherwise.

15 **COMMISSIONER BROWN:** Thank you, Mr.
16 Lawson.

17 **CHAIRMAN BRISÉ:** Okay. Any further
18 questions or comments on Issue Number 4?

19 Okay. Commissioner Edgar.

20 **COMMISSIONER EDGAR:** Thank you, Mr.
21 Chairman.

22 To follow along that line, I would just
23 say, having reviewed the information and met with
24 staff, I do believe that the argument advocated by
25 SACE on this issue at hearing was the same argument

1 that did not prevail at the Supreme Court.

2 I do believe that from the evidence in the
3 record that the activities before us under this
4 issue are appropriate under the very clear language
5 of the statute, and I would move approval of Issue
6 Number 4.

7 **COMMISSIONER BROWN:** Second.

8 **CHAIRMAN BRISÉ:** Okay. It has been moved
9 and seconded.

10 Any further comments?

11 All right. Seeing none, all in favor say
12 aye.

13 (Vote taken.)

14 **CHAIRMAN BRISÉ:** All right. Thank you
15 very much.

16 Moving on to Items 5, 5A, and 5B.

17 **MR. GARL:** Thank you, Mr. Chairman.

18 Commissioners, I'm Steve Garl with
19 Commission staff. I will be introducing Issues 5,
20 5A, and 5B.

21 Issue 5 is the review of FPL's analysis of
22 the feasibility of completing the Turkey Point 6 and
23 7 project. The evidence demonstrated that FPL fully
24 considered the economic, regulatory, technical,
25 funding, and joint ownership considerations

1 impacting the feasibility of the project.

2 In addition, fuel diversity, reliability,
3 renewables, and conservation considerations provided
4 support for continuation of the Turkey Point
5 project. While continuing uncertainty exists in
6 many areas, staff recommends that the Commission
7 accept FPL's analysis and find that completion of
8 the Turkey Point 6 and 7 project appears feasible at
9 this time.

10 Issues 5A and 5B are informational issues
11 on the cost and in-service dates respectively. Both
12 topics are addressed in Issue 5. Staff recommends
13 that the Commission should accept FPL's cost
14 estimate and projected in-service dates.

15 **CHAIRMAN BRISÉ:** Thank you.

16 Commissioners, questions?

17 Commissioner Balbis.

18 **COMMISSIONER BALBIS:** Thank you, Mr.
19 Chairman. Just a few comments on this issue.

20 Obviously, the long-term feasibility of
21 these projects is an important issue and that it is
22 always discussed, and it was thoroughly discussed
23 and examined and cross-examined during the hearing.
24 Additionally, the Legislature, with Senate Bill
25 1472, provided additional protections for customers

1 in that prior to commencing construction that the
2 utilities have to come before us before engaging in
3 those expensive activities.

4 The long-term feasibility shows that
5 customers will save \$78 billion over the life of the
6 project, and they also assumed additional
7 demand-side management plans of 100 megawatts, which
8 is on par with their current demand-side management
9 programs, so they are essentially doubling it. And
10 even with that, customers are getting that savings.

11 So I'm glad to see that Florida Power and
12 Light is proceeding with this project, because one
13 of the things we have to consider is fuel diversity.
14 And with recent actions by President Obama basically
15 eliminating any future coal plants, nuclear is our
16 only other baseload generation option other than
17 natural gas. So I'm glad to see this project is
18 cost-effective, and we still have protections in
19 place for us to decide whether or not to move
20 forward.

21 **CHAIRMAN BRISÉ:** All right. Thank you,
22 Commissioner Balbis.

23 Commissioner Brown.

24 **COMMISSIONER BROWN:** Thank you, Mr.
25 Chairman.

1 And I agree with a lot of the comments
2 Commissioner Balbis said. I appreciate the
3 company's step-wise approach to pursuing the
4 combined operating license for TP 6 and 7, while
5 also controlling the cost risks. I think this is a
6 very important project for a lot of the reasons that
7 Commissioner Balbis said, and I think the record
8 evidence shows that it still remains to be
9 cost-effective.

10 But with that said, based on the record, I
11 was trying to find when Florida Power and Light is
12 expected to receive the combined operating license
13 from NRC. Is it 2015?

14 **MR. GARL:** Yes, Commissioner, that's
15 what's projected at the moment.

16 **COMMISSIONER BROWN:** With the looming
17 federal government shutdown and the somewhat
18 uncertainty of the NRC, what happens if the NRC, if
19 their review schedule comes out and it pushes out
20 the dates even further? How far does that affect, I
21 guess, the cost-effectiveness of the project?

22 **MR. GARL:** One of staff's informational
23 requests to FPL during the discovery portion of this
24 proceeding was to tell us what the
25 cost-effectiveness numbers would look like if the

1 in-service dates were extended five or ten years.
2 There was basically no difference. It still showed
3 cost-effective, even delaying that long. So I
4 wouldn't anticipate that the government shutdown was
5 going to last five years, even five weeks might be a
6 stretch.

7 **COMMISSIONER BROWN:** Thank you, Mr. Garl.

8 **CHAIRMAN BRISÉ:** All right.

9 Any further questions or comments on Items
10 5, 5A, and 5B?

11 Okay. Commissioner Balbis.

12 **COMMISSIONER BALBIS:** Thank you, Mr.
13 Chairman.

14 For the reasons that I stated and the
15 information in the record and staff's
16 recommendation, I move approval of staff's
17 recommendation for Issue 5, and also 5A and 5B,
18 which are essentially fallout issues.

19 **CHAIRMAN BRISÉ:** All right. Is there a
20 second?

21 **COMMISSIONER GRAHAM:** Second.

22 **CHAIRMAN BRISÉ:** Okay. It has been moved
23 and seconded.

24 Any further comments?

25 Okay. Seeing none, all in favor say aye.

1 (Vote taken.)

2 **CHAIRMAN BRISÉ:** All right. Thank you
3 very much.

4 Moving on to Item Number 6.

5 **MR. LAUX:** Commissioners, Issue 6 is
6 similar to Issue 5A and 5B in that it's a factual
7 issue identifying the actual and estimated
8 jurisdictional costs for project activities related
9 to obtaining an NRC combined operating license for
10 Turkey Point 6 and 7. The amounts for these
11 activities are presented in staff's recommendation
12 for the years 2013 and 2014.

13 **CHAIRMAN BRISÉ:** All right.
14 Commissioners?

15 Commissioner Balbis.

16 **COMMISSIONER BALBIS:** Thank you. Just a
17 question for staff.

18 You know, I mentioned it previously,
19 Senate Bill 1472, and one of the other provisions of
20 it was that companies can only recover costs
21 associated with obtaining the license or license
22 activities. And I just want to confirm that this
23 issue and other issues throughout this docket,
24 Florida Power and Light will only be collecting
25 dollars associated with those activities.

1 **MR. LAUX:** That's correct.

2 **COMMISSIONER BALBIS:** That's the only
3 question I had.

4 **CHAIRMAN BRISÉ:** Okay. Any further
5 questions or comments on Issue Number 6?

6 **COMMISSIONER BROWN:** Move staff on Issue
7 6.

8 **COMMISSIONER GRAHAM:** Second.

9 **CHAIRMAN BRISÉ:** Okay. It has been moved
10 and seconded.

11 Any further comments?

12 Okay. Seeing none, all in favor say aye.

13 (Vote taken.)

14 **CHAIRMAN BRISÉ:** All right. Thank you.
15 Moving on to Issue Number 7.

16 **MR. BREMAN:** Commissioners, I'm Jim
17 Breman. I'll be addressing Issues 7 through 10,
18 which are FPL's remaining issues addressing the
19 Turkey Point 6 and 7 project.

20 In Issue 7 you are being asked to find
21 whether or not FPL was prudent regarding its 2012
22 management of the Turkey Point 6 and 7 project.
23 Staff did its review of the record and filed
24 testimony. There was no testimony opposing FPL's
25 assertion that it prudently managed the project.

1 Staff recommends approval.

2 **CHAIRMAN BRISÉ:** Okay. Any questions or
3 comments on Issues 7 through 10?

4 Commissioner Balbis.

5 **COMMISSIONER BALBIS:** Thank you. Just one
6 quick comment.

7 I noted that in these issues the only
8 party that questioned the dollars associated with it
9 was SACE. And, again, they seemed to refer back to
10 their previous argument that these activities were
11 not associated with the siting, design, licensing,
12 and construction which, as Commissioner Brown
13 indicated, our decision last year was affirmed by
14 the Supreme Court.

15 So with that, I move approval of staff's
16 recommendation on Issues 7, 8, 9, and 10, if
17 appropriate.

18 **COMMISSIONER EDGAR:** Second.

19 **CHAIRMAN BRISÉ:** All right. It has been
20 moved and seconded.

21 Any further discussion?

22 All right. Seeing none, all in favor say
23 aye.

24 (Vote taken.)

25 **CHAIRMAN BRISÉ:** Okay. Thank you.

1 Moving on to Issue Number 13.

2 **MR. BREMAN:** Thank you, Commissioner.

3 Issue 13 is you're asking -- you're being
4 asked to make a similar finding, but this time with
5 respect to FPL's Uprate project. Staff reviewed the
6 record and finds that there is no evidence that FPL
7 imprudently managed the project. Staff recommends
8 approving FPL's requested amounts as modified by
9 their errata.

10 **CHAIRMAN BRISÉ:** Okay. Thank you very
11 much.

12 Any questions or comments on Issue 13?
13 Commissioner Balbis.

14 **COMMISSIONER BALBIS:** Thank you, Mr.
15 Chairman.

16 And this is something -- these issues and
17 the topics associated with them is something that I
18 know we looked at closely during the hearing. There
19 were concerns brought up the year before that there
20 may be issues associated with FPL's management of
21 their contractor. I personally, and I know others
22 cross-examined FPL's witness as to what actions they
23 took to deal with that, and FPL got additional
24 concessions, I believe up to \$80 million from the
25 contractor. The delegation of the work to other

1 subcontractors did not cost the customers any
2 additional money. So I think FPL acted prudently in
3 managing this very difficult project, so I fully
4 support staff's recommendation on this issue.

5 **CHAIRMAN BRISÉ:** All right. Thank you,
6 Commissioner Balbis.

7 Any further questions on Item Number 13?
8 Commissioner Balbis.

9 **COMMISSIONER BALBIS:** Thank you, Mr.
10 Chairman. I move approval of staff's recommendation
11 on Issue 13.

12 **COMMISSIONER GRAHAM:** Second.

13 **CHAIRMAN BRISÉ:** Okay. It has been moved
14 and seconded.

15 Any further discussion?

16 Okay. Seeing none, all in favor.

17 (Vote taken.)

18 **CHAIRMAN BRISÉ:** All right. Thank you
19 very much.

20 Moving on to Item Numbers 14, 15, and 16.

21 **MR. BREMAN:** Commissioners, that would be
22 Jim Breman again, myself. These issues address
23 FPL's EPU project for the period 2012, 2013, and
24 2014. Now that we have dispensed with the prudence
25 issue, we can now address the actual fallout costs

1 for 2012 and whether or not there is any
2 consequences in the subsequent issues. And
3 consistent with staff's recommendation and your
4 approval of Issue 13, staff recommends that you
5 approve these three issues.

6 **CHAIRMAN BRISÉ:** Okay.

7 Commissioner Graham.

8 **COMMISSIONER GRAHAM:** I move approval of
9 14, 15, and 16.

10 **COMMISSIONER BROWN:** Second.

11 **CHAIRMAN BRISÉ:** Okay. It has been moved
12 and seconded.

13 Any further discussion?

14 All right. Seeing none, all in favor say
15 aye.

16 (Vote taken.)

17 **CHAIRMAN BRISÉ:** Okay. By your motion you
18 have approved Issues 14, 15, and 16.

19 Moving on to Issue Number 17.

20 **MR. BREMAN:** The final issue is the
21 wrap-up issue where we add up all the decisions that
22 you did in the prior issues. This also is where we
23 address the change, the statutory change to the
24 current AFUDC rate, and we show those items on the
25 table on Page 62.

1 All right. Thank you. Any questions or
2 comments on Issue 17?

3 Commissioner Balbis.

4 **COMMISSIONER BALBIS:** Thank you.

5 A question for staff. Looking at Table
6 17-1 on Page 68.

7 **MR. BREMAN:** 68. Sorry about that.

8 **COMMISSIONER BALBIS:** And I don't know how
9 easy this will be to separate, but the costs
10 associated with continuing to obtain the combined
11 operating license, how much will the rate impact be
12 for a residential customer using a thousand kilowatt
13 hours?

14 **MR. BREMAN:** If I understand the question,
15 I think it's what the company asked for this year,
16 it's 46 cents.

17 **COMMISSIONER BALBIS:** Okay. Thank you.

18 That's all I have.

19 **CHAIRMAN BRISÉ:** Okay. Thank you.

20 Commissioner Graham.

21 **COMMISSIONER GRAHAM:** I move approval.

22 **CHAIRMAN BRISÉ:** Okay. It has been moved
23 and seconded.

24 Any further discussion?

25 Seeing none, all in favor?

1 (Vote taken.)

2 **CHAIRMAN BRISÉ:** All right. Thank you.
3 By your motion you have approved Issue Number 17.

4 That concludes our discussion of the
5 individual issues.

6 Commissioners, do you have any additional
7 questions or comments?

8 Staff, are there any other items that we
9 need to take up at this time?

10 **MR. LAWSON:** No, I believe we are
11 complete.

12 **CHAIRMAN BRISÉ:** All right. Thank you
13 very much. And thank you for your hard work on
14 this. We know that this is a lot of work to get to
15 this point.

16 I also want to thank our Prehearing
17 Officer, again, for the work that was done prior to
18 the hearing that eventually gets us to this point.
19 So with that, we stand adjourned.

20 (The Special Agenda concluded at
21 9:53 a.m.)

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2 STATE OF FLORIDA)

3 : CERTIFICATE OF REPORTER


4 COUNTY OF LEON)

5
6 I, JANE FAUROT, RPR, Chief, Hearing Reporter
7 Services Section, FPSC Division of Commission Clerk, do
8 hereby certify that the foregoing proceeding was heard
9 at the time and place herein stated.

10 IT IS FURTHER CERTIFIED that I
11 stenographically reported the said proceedings; that
12 the same has been transcribed under my direct
13 supervision; and that this transcript constitutes a
14 true transcription of my notes of said proceedings.

15 I FURTHER CERTIFY that I am not a relative,
16 employee, attorney or counsel of any of the parties,
17 nor am I a relative or employee of any of the parties'
18 attorney or counsel connected with the action, nor am I
19 financially interested in the action.

20 DATED THIS 4th day of October, 2013.

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JANE FAUROT, RPR
Official FPSC Hearings Reporter
(850) 413-6732