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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20240025-EI

Petition for rate increase  
by Duke Energy Florida.

\_\_\_\_\_ /

VOLUME 7  
PAGES 1324 - 1380

PROCEEDINGS: HEARING

COMMISSIONERS  
PARTICIPATING: CHAIRMAN MIKE LA ROSA  
COMMISSIONER ART GRAHAM  
COMMISSIONER GARY F. CLARK  
COMMISSIONER ANDREW GILES FAY  
COMMISSIONER GABRIELLA PASSIDOMO

DATE: Wednesday, August 21, 2024

TIME: Commenced: 11:00 a.m.  
Concluded: 1:30 p.m.

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK  
Court Reporter

APPEARANCES: (As heretofore noted.)

PREMIER REPORTING  
TALLAHASSEE, FLORIDA  
(850) 894-0828

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I N D E X

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## 1 P R O C E E D I N G S

2 (Transcript follows in sequence from Volume  
3 6.)

4 CHAIRMAN LA ROSA: Let's now move into the  
5 prefiled testimony portion of the hearing now to  
6 the in-person testimony. Duke identified three  
7 witnesses who are going to provide in-person  
8 testimony regarding the proposed settlement  
9 agreement. At this time, I would like to ask the  
10 following witnesses to come forward, which they are  
11 already sitting here to our right, Mr. Benjamin  
12 M.H. Borsch, Matthew Chatelain and Marcia Olivier.

13 Do you mind just taking a quick oath before we  
14 get started, just maybe raise your right hand?

15 (Whereupon, BENJAMIN M.H. BORSCH, MATTHEW  
16 CHATELAIN & MARCIA J. OLIVIER were sworn in by Chairman  
17 La Rosa.)

18 (Witnesses affirm.)

19 CHAIRMAN LA ROSA: Thank you.

20 Ms. Triplett.

21 MS. TRIPLETT: Thank you.

22 So the first QA is going to be with Ms.  
23 Olivier, and then I will just introduce quickly the  
24 other two witnesses and then we will tender for  
25 cross-examination.

1 Whereupon,

2 MARCIA J. OLIVIER

3 was called as a witness, having been previously duly  
4 sworn to speak the truth, the whole truth, and nothing  
5 but the truth, was examined and testified as follows:

6 EXAMINATION

7 BY MS. TRIPLETT:

8 **Q Ms. Olivier, could you please state your name**  
9 **and your current position?**

10 A Yes. Good morning, Commissioners, Mr. Chair.  
11 My name is Marcia Olivier, and I am employed by Duke  
12 Energy Florida, LLC.

13 CHAIRMAN LA ROSA: Ms. Olivier, is your  
14 microphone on? Can you hear her.

15 COURT REPORTER: Yes.

16 CHAIRMAN LA ROSA: Okay.

17 THE WITNESS: Is that better.

18 CHAIRMAN LA ROSA: Yes, perfect.

19 THE WITNESS: I apologize.

20 My name is Marcia J. Olivier, and I am  
21 employed by Duke Energy Florida, LLC, which I will  
22 refer to as DEF, or the company, as the Director of  
23 Rates and Regulatory Planning.

24 BY MS. TRIPLETT:

25 **Q And what is the purpose of your testimony here**

1 **before the Commission today?**

2 A My testimony explains why the 2024 Settlement  
3 Agreement is in the public interest, results in fair,  
4 just and reasonable rates, and contributes to clean  
5 energy and safe and reliable service.

6 **Q And please explain why approval of the**  
7 **Settlement Agreement is in the public interest.**

8 A The company attended public hearings held by  
9 the Commission in this matter, and we heard from many of  
10 our customers who are understandably concerned about the  
11 impacts of any rate increase on their families and  
12 businesses. We are very mindful of those concerns.

13 We also know that providing safe and reliable  
14 service at competitive rates, and increasing our use of  
15 renewable generation resources are key to powering the  
16 state's economy and the lives of our customers, and the  
17 ability to recover our costs to serve and secure capital  
18 at reasonable rates allows the company to do that.

19 We believe the 2024 Settlement Agreement is a  
20 fair compromise that balances the needs of our customers  
21 with the company's need to make and recover the cost of  
22 substantial investments made to continue to comply with  
23 regulatory requirements and safely provide high quality  
24 electric service to our customers.

25 Most significantly, the 2024 Settlement

1 Agreement yields fair, just and reasonable rates for  
2 DEF's customers, therefore, approval of the 2024  
3 Settlement Agreement is in the public interest.

4 **Q What concessions did Duke Energy Florida make**  
5 **from its original rate case request versus what is**  
6 **included in the 2024 Settlement Agreement, thus,**  
7 **demonstrating that it results in fair, just and**  
8 **reasonable rates?**

9 A The 2024 Settlement Agreement reduced the 2025  
10 revenue increase from \$503 million, as filed in the June  
11 6th, 2024, Notice of Identified Adjustments, down to  
12 \$203 million, plus an estimated 12 million for solar  
13 units as they go in service to be recovered through the  
14 solar base rate adjustments, which is also referred to  
15 as a SoBRA. That is a 57 percent decrease.

16 Over the three-year period, the 2024  
17 Settlement Agreement reduced the total base rate revenue  
18 requirements from to \$736 million to approximately \$403  
19 million, a 45 percent decrease.

20 To achieve these reductions in revenue  
21 requirements, the company will make, for purposes of the  
22 2024 Settlement Agreement, certain adjustments to rate  
23 base and operating expenses proposed by the OPC and  
24 other intervenors.

25 Among other things, those adjustments include

1 reductions to plant in-service; a parent debt tax  
2 adjustments, a reduction to executive incentive  
3 compensation and other benefits; a reduction to  
4 dismantlement accruals by continuing to apply the  
5 amounts approved in the 2021 Settlement Agreement  
6 instead of the dismantlement study filed in this case; a  
7 reduction to depreciation expense through the adoption  
8 of modifications to the company's 2023 depreciation  
9 study, and an adjustment to expenses or treatment of  
10 other deferral account balances to be deferred by the  
11 company.

12           Based on current projections, if the 2024  
13 Settlement Agreement is approved by the Florida Public  
14 Service Commission, the company still expects typical  
15 residential customers to see a decrease in their January  
16 2025 bills when compared to the December 2024 bills. I  
17 will note that this estimated decrease in January 2025  
18 bills does not take into account the necessary recovery  
19 of any storm restoration costs from this year's  
20 hurricane system -- season.

21           In addition, to mitigate the rate increase to  
22 customers as part of the 2024 Settlement Agreement, the  
23 company agrees to flow back to customers expected  
24 investment tax credits of \$50 million in 2027, thereby  
25 offsetting DEF's need for a base rate increase in 2027

1 beyond the solar base rate adjustments.

2           If a proposed by the Commission, the base rate  
3 increases in the 2024 Settlement Agreement will result  
4 in an average annual bill increase of two percent over  
5 the three-year period, 2025 through 2027, for  
6 residential customers, which is lower than the rate of  
7 inflation, resulting in rates that are fair, just and  
8 reasonable, while providing the company with the needed  
9 capital to make investments in its grid, the power  
10 plants -- and power plants to provide cleaner, more  
11 efficient and increasingly reliable energy for the  
12 benefits of customers.

13           **Q     Do these provisions, when taken together and**  
14 **considered as a whole, contribute to safe and reliable**  
15 **electric service?**

16           A     Yes. The 2024 Settlement Agreement will  
17 provide necessary funding to allow DEF to continue to  
18 make investments in its grid and power plants to provide  
19 cleaner, more efficient and more reliable energy for the  
20 benefits of its customers. Many of these investments  
21 were discussed in the direct and rebuttal testimonies of  
22 Mr. Reginald Anderson, Mr. Hans Jacob, Mr. Brian Lloyd,  
23 Mr. Edward Scott and Ms. Vanessa Goff.

24           **Q     What values do the parties agree upon**  
25 **concerning DEF's cost of capital in the 2024 Settlement**



1 **Agreement, and do those values result in fair, just and**  
2 **reasonable rates?**

3           A       If the 2024 Settlement Agreement is approved,  
4 DEF will implement rates based on an authorized return  
5 on equity, or ROE, of 10.3 percent, with a range of 9.3  
6 to 11.3 percent, and a capital structure of 53 percent.  
7 The proposed ROE is 85 basis points below DEF witness  
8 Adrian McKenzie's recommendation. The proposed equity  
9 ratio of 53 percent for DEF is consistent with the  
10 equity ratio approved in the 2021 Settlement, and is  
11 somewhat below DEF witness McKenzie's comparable group  
12 average equity ratio of 53.8 percent for the operating  
13 utilities in the proxy companies.

14               DEF believes that the 2024 Settlement  
15 Agreement's cost of capital provisions will allow DEF to  
16 maintain its financial health and credit ratings, which  
17 is a constructive outcome for both DEF and its  
18 customers. The 10.3 percent ROE is an increase from the  
19 Commission's last authorized return of 10.1 percent for  
20 DEF in 2021. The proposed 10.3 percent with a range of  
21 9.3 to 11.3, coupled with a 53-percent equity ratio is  
22 supported by evidence in the record, and will provide  
23 DEF a fair and reasonable allowed return on equity in  
24 the context of the broader settlement.

25               All these provisions contribute to fair, just

1 and reasonable rates for DEF customers.

2 **Q Please provide an overview of the investment**  
3 **tax credit, or ITC, monetization that the company**  
4 **anticipates receiving.**

5 A The Powerline Battery Storage Project is  
6 expected to be placed in service in March of 2027 for  
7 \$165 million. As a result, DEF expects the project to  
8 receive a 30-percent ITC of \$50 million. Powerline  
9 won't be subject to tax normalization if DEF sells the  
10 ITC. So rather than flow the ITC back to customers  
11 evenly over the 15-year life of Powerline, DEF can flow  
12 it back immediately in 2027, thereby reducing 2027  
13 revenue requirements in customer bill impacts.

14 The ability to flow back the ITC in 2027 will  
15 save residential customers approximately \$2 per month.  
16 This provision contributes to fair, just and reasonable  
17 rates for DEF customers, and is in the public interest  
18 because it avoids an otherwise necessary rate increase  
19 for customers.

20 **Q Please explain the key rate design and revenue**  
21 **allocation provisions included in the 2024 Settlement**  
22 **Agreement.**

23 A The 2024 Settlement Agreement incorporates  
24 several key provisions regarding rate design and revenue  
25 allocation to ensure equitable distribution among

1 different customer classes. The revenue adjustments in  
2 the 2024 Settlement Agreement will be allocated to rate  
3 classes on an equal percentage basis with one exception.  
4 In order to balance the financial impact across various  
5 customer groups while providing some relief to  
6 residential customers, the residential class will  
7 receive 95 percent of the system average percentage  
8 increase, with the remaining revenue differential  
9 distributed equal percentage among the nonresidential  
10 classes. This contributes to providing fair, just and  
11 reasonable rates for customers.

12 **Q Please describe the solar base rate adjustment**  
13 **provisions in the 2024 Settlement Agreement.**

14 A The SoBRA provisions in the 2024 Settlement  
15 Agreement support the deployment of solar generation  
16 facilities by DEF, ensuring timely cost recovery,  
17 financial accountability and consumer protection while  
18 advancing DEF's renewable energy goals.

19 DEF expects to construct approximately 300  
20 megawatts of solar generation per year, totaling up to  
21 900 megawatts over the term of the 2024 Settlement  
22 Agreement. On average, four 74.9 megawatts solar  
23 facilities will be constructed each year for a total of  
24 12 facilities, a reduction of two facilities from our  
25 rate case filing. Once constructed, these 12 solar

1 facilities will be able to produce over two million  
2 megawatt hours of clean energy, with zero fuel costs and  
3 zero emissions, and power between 250,000 and 300,000  
4 homes at peak production.

5 DEF must demonstrate the cost-effectiveness of  
6 the solar facilities, showing positive benefits  
7 exceeding costs on a cumulative present value revenue  
8 requirement, or CPVRR, basis within 10 years of the  
9 commercial in-service date of each facility. In  
10 addition, each solar facility must be 100 percent  
11 dedicated to serving retail load and meet a benefit to  
12 cost ratio of 1.15 to 1.

13 One of the benefits of the solar mechanism to  
14 customers is that customers won't start paying for the  
15 solar facilities until they are placed in service, and  
16 there is a true-up mechanism if the capital costs end up  
17 lower than what was estimated. Also, when considering  
18 the fuel savings and the annual production tax credits,  
19 the residential customer bill impact of each solar  
20 facility is only around five to 15 cents in the first  
21 year of operation. These provisions contribute to  
22 providing fair, just and reasonable rates for customers.

23 **Q How is the production tax credit true-up**  
24 **addressed in the 2024 Settlement Agreement?**

25 A The 2024 Settlement Agreement establishes a

1 true-up mechanism which reconciles the differences  
2 between, one, the calculated PTCs based on the  
3 assumptions in DEF's rate case filing on capacity  
4 factor, PTC rates and monetization rates; and, two, the  
5 PTCs that DEF actually receives.

6 This true-up calculation will be performed  
7 annually for each of the test years. And the resulting  
8 difference, calculated on a pretax basis, will be  
9 included in DEF's next Conservation Cost Recovery Clause  
10 filing, ensuring that -- I am sorry, scratch that --  
11 Capacity Cost Recovery Clause filing, CCR, ensuring that  
12 any over- or under-recovery of PTCs is addressed  
13 promptly, and that the exact amount of credits that DEF  
14 receives is passed on to customers. This contributes to  
15 providing fair, just and reasonable rates for customers.

16 **Q Please expand on the modifications to the**  
17 **depreciation study as provided for in the 2024**  
18 **Settlement Agreement.**

19 A The 2024 Settlement Agreement describes  
20 several key modifications to the depreciation study  
21 initially filed in DEF's rate case, reflecting a  
22 well-considered strategy to extend the useful lives of  
23 key generating assets, maintain stable depreciation  
24 rates for transmission and distribution plant, and  
25 implement a clear plan for amortizing significantly --

1 significant regulatory assets.

2 First, the retirement date for the Anclote  
3 Plant has been extended to 2042. Furthermore, the  
4 depreciable lives for solar facilities have been  
5 extended from 30 to 35 years, and the depreciable lives  
6 of combined cycle plants have been extended from 40 to  
7 45 years. The agreement also maintains the current  
8 depreciation rates for transmission and distribution  
9 assets. DEF will also hold the dismantlement accruals  
10 for the fossil plants at the current amounts rather than  
11 increasing them.

12 Lastly, DEF will begin amortizing the cost of  
13 removal and deferred depreciation regulatory assets in  
14 January 2026 at \$18.752 million per year instead of  
15 January 2025, as DEF had originally requested in the  
16 case.

17 All of these adjustments help to mitigate the  
18 increase in customer bills in 2025, thereby contributing  
19 to providing fair, just and reasonable rates for  
20 customers.

21 **Q Please explain the provisions in the agreement**  
22 **related to customer connections and the minimum bill.**

23 A As part of the 2024 Settlement Agreement, the  
24 company has agreed to several general terms, including  
25 eliminating reconnection fees; suspending disconnections

1 on high temperature days; increasing the participation  
2 goal for the Neighborhood Energy Saver Program by 10  
3 percent; significantly increasing the installation of  
4 smart thermostats, and providing a credit on the minimum  
5 bill incremental charge for non-net metering income  
6 qualified customers when requested.

7 All of these provisions have the potential to  
8 provide value to residential customers, and are in the  
9 public interest.

10 **Q Are there any provisions in the agreement that**  
11 **are similar to provisions included in the 2021**  
12 **Settlement Agreement?**

13 A Yes. There are provisions related to tax  
14 reform, electric vehicles, and storm cost recovery that  
15 are very similar to provisions included in the 2021  
16 Settlement Agreement.

17 **Q Would you like to summarize any other**  
18 **provisions of the 2024 Settlement Agreement?**

19 A Yes.

20 I would briefly note that there are provisions  
21 related to potential fossil generation acquisition,  
22 asset optimization, tariff sheet approval, financing  
23 natural gas hedging, retirement of solar facili --  
24 study -- retirement in solar studies, and stipulations  
25 made in the demand-side management docket, 20240013-EG,

1 regarding the credit levels for interruptible,  
2 curtailable and standby generation customers, among  
3 other items.

4 The panel is available to answer any specific  
5 questions on those provisions.

6 **Q In summary, should the Commission approve the**  
7 **2024 Settlement Agreement?**

8 A Yes. As fully supported by my above  
9 testimony, the prefiled testimonies and exhibits, the  
10 voluminous discovery responses provided by DEF and the  
11 fact that the 2024 Settlement Agreement taken as a whole  
12 is uncontested, the Commission should approve the 2024  
13 Settlement Agreement. It is in the public interest;  
14 provides fair, just and reasonable rates; contributes to  
15 clean, safe and reliable electric service; and  
16 represents a reasonable compromise among the parties to  
17 this litigation, who represent a diverse group of DEF  
18 customers.

19 It is imperative to evaluate the 2024  
20 Settlement Agreement not by the individual components,  
21 but rather by the totality of the terms of the 2024  
22 Settlement Agreement. DEF respects -- respectfully  
23 requests that the Commission approve the 2024 Settlement  
24 Agreement in its entirety, appreciating the concessions  
25 made by all of the settling parties, as well as the



1 considerations in the terms of the 2024 Settlement  
2 Agreement by Intervenors who do not oppose the document  
3 as is. In doing so, approval of the 2024 Settlement  
4 Agreement resolves all remaining contested issues in  
5 this proceeding in line with the terms of the 2024  
6 Settlement Agreement.

7 MS. TRIPLETT: Only 10 more pages. I am just  
8 kidding. That concludes, thankfully, Ms. Olivier's  
9 direct testimony.

10 I just want to take a moment. Mr. Borsch is  
11 sitting, as you look at Ms. Olivier, to the right  
12 of Ms. Olivier. He is the Managing Director of IRP  
13 in Analytics. To Ms. Olivier's left is Matt  
14 Chatelain, who is the Manager of Rates and  
15 Regulatory Strategy, and they are all available for  
16 cross-examination. Thank you.

17 CHAIRMAN LA ROSA: Thank you.

18 So then I will turn it over to the parties.  
19 Parties, is there any questions of the witnesses?

20 MR. REHWINKEL: No.

21 CHAIRMAN LA ROSA: Going through not seeing  
22 any, I will then turn it over to our staff. Staff,  
23 is there any questions of the witness?

24 MR. THOMPSON: Staff does have a few  
25 questions, but we would like to request a brief

1 five-minute recess if possible.

2 CHAIRMAN LA ROSA: Okay. Sure. No problem.  
3 Fair enough. Let's go ahead and take a brief  
4 five-minute recess. We will reconvene here  
5 shortly. Thank you.

6 (Brief recess.)

7 CHAIRMAN LA ROSA: Let's go ahead and grab our  
8 seats and we will jump back in. A little longer  
9 than five minutes. I apologize. All good. It's  
10 important to get it right.

11 COMMISSIONER GRAHAM: Yeah, exactly.

12 CHAIRMAN LA ROSA: Staff, let's throw it back  
13 to you guys.

14 MR. THOMPSON: Thank you, Mr. Chair, for the  
15 brief five-minute break. I see we've had enough  
16 time for Ms. Moyle to turn into Mr. Moyle. Good  
17 seeing you, sir.

18 CHAIRMAN LA ROSA: Welcome.

19 Whereupon,

20 BENJAMIN M.H. BORSCH  
21 MATTHEW CHATELAIN  
22 MARCIA J. OLIVIER

23 were called as a panel of witnesses, having been  
24 previously duly sworn to speak the truth, the whole  
25 truth, and nothing but the truth, was examined and  
testified as follows:

1 EXAMINATION

2 BY MR. THOMPSON:

3 Q Good afternoon, everybody. I would like to  
4 briefly ask some questions about the elimination of the  
5 reconnection fees and the reallocation of that foregone  
6 revenue to the other customers classes, which is, I  
7 believe, in paragraph 12 of the Settlement Agreement.

8 Under the current tariff, a reconnect fee  
9 would apply to all service reconnections, including  
10 customers who were disconnected for nonpayment or a  
11 violation of rules, is that correct?

12 A (OLIVIER) I am going to turn this one over to  
13 Mr. Chatelain.

14 A (CHATELAIN) That is correct. Yes.

15 Q Okay. So would the proposed tariff reallocate  
16 the revenue lost from those fees to the general body of  
17 ratepayers?

18 A (CHATELAIN) It reallocates is it in the same  
19 manner as the base rates are allocated in the Settlement  
20 Agreement.

21 Q Okay. Would you agree that costs and service  
22 charges in rate design are typically charged to the cost  
23 causer and not to the general body of ratepayers?

24 A (CHATELAIN) I would agree with that. Yes.

25 Q Okay. So how did the general body of

1     **ratepayers benefit from this reallocation of the**  
2     **reconnection fees?**

3           A     (CHATELAIN) It benefits the individual  
4     customers that no longer have a fee on top of the bills  
5     that they may have to catch up on in these scenarios.  
6     That's the, I guess, the primary focus. And then it  
7     also has to be considered as part of the settlement as a  
8     whole.

9           Q     Okay. Thank you.

10           I would like to shift over to the minimum bill  
11     credit for the income qualified customers, noting that  
12     those are for non-net metering customers, but that's  
13     discussed in paragraph 15 in the Settlement Agreement.

14           Is that -- is that qualification correct, that  
15     the minimum bill credit does not apply to net metering  
16     customers?

17           A     (CHATELAIN) Can you repeat that question for  
18     me?

19           Q     Sure.

20           For the minimum bill credit for income  
21     qualified customers, does that apply to income qualified  
22     customers who net meter?

23           A     (CHATELAIN) No, it does not.

24           Q     Okay. Please describe how, and how often,  
25     Duke will inform customers of the minimum bill credit

1 **and -- I will leave it there.**

2 A (CHATELAIN) I -- I would -- I don't know that  
3 we have decided how that communication will take place.

4 A (OLIVIER) Perhaps I could try this one.

5 We will have -- we will be putting some  
6 language on our website. We have a section for the  
7 minimum bill, so we will have some language on the -- on  
8 our website for that, the removal of that minimum bill  
9 additional charge for those income qualified customers  
10 who call us -- who, again, as you mentioned, are not net  
11 metered customers, and they call us, we will -- we will  
12 then adjust their bill, and we will track future bills  
13 to try to make sure that we are adjusting future bills  
14 as well for those customers.

15 Q **So once a customer submits a request for the**  
16 **credit, Duke will keep an internal track of those**  
17 **customers?**

18 A That is correct.

19 Q **Okay. Please describe the process that Duke**  
20 **will use to ensure customers receive the credit if they**  
21 **are qualified.**

22 A I would say that process still needs to be  
23 worked out by the company, but they will -- they will --  
24 they will adjust their bills to bring it back down to  
25 just the customer charge, so -- or, I am sorry, not to

1 the customer. It's to the customer charge, plus their  
2 energy usage, and remove that differential between what  
3 their bill would be absent that additional minimum bill  
4 and the total minimum bill. And we still have to work  
5 through how the -- how the system will handle that, but  
6 they will see that -- that credit on their -- they will  
7 see that adjustment on their bill.

8 **Q Okay. Thank you.**

9 **I would like to finally talk about the sales**  
10 **forecasts. Mr. Borsch, this is probably a question for**  
11 **you.**

12 **The proposed settlement agreement identifies a**  
13 **\$1.5 million adjustment to the 2025 test year revenue**  
14 **requirement, and that adjustment is related to the sales**  
15 **forecast. Can you explain the basis for that**  
16 **adjustment?**

17 **A (BORSCH) that adjustment was made as a**  
18 **negotiated part of the settlement, and is part of the**  
19 **comprehensive whole of the settlement.**

20 **Q Can you describe how that figure was**  
21 **calculated?**

22 **MS. TRIPLETT: I am sorry, Mr. Chair. I am**  
23 **concerned that the witness, if he answers that**  
24 **question, that he may be violating settlement**  
25 **privilege law. So I think I am going go to --**

1 unless he can answer in a way that it doesn't, but  
2 I don't think that he can.

3 THE WITNESS: (BORSCH) No.

4 CHAIRMAN LA ROSA: Let's move, if that's okay,  
5 staff.

6 MR. THOMPSON: No further questions from  
7 staff. Thank you.

8 CHAIRMAN LA ROSA: All right. Thank you.

9 So now it will come to us, Commissioners, for  
10 any questions of the witnesses that are before us.  
11 Of course, remember that the witnesses are still  
12 under oath.

13 Are there any questions of us, Commissioners?  
14 Commissioner Fay, you are recognized.

15 COMMISSIONER FAY: Okay. Thank you, Mr.  
16 Chairman.

17 Just one quick follow-up on Mr. Thompson's  
18 questions on the minimum fee.

19 So is that -- is that by default, whatever  
20 expense that would be, which I presume is a pretty  
21 low number based on how it's crafted, is there  
22 built-in recovery for the general body, or is that  
23 just something that the utility plans on  
24 implementing?

25 THE WITNESS: (OLIVIER) Yeah, thank you for

1           that question.

2           There -- there is no adjustment made to our  
3           revenue requirements for that. We don't believe  
4           that there will be very many customers that are  
5           income qualified that will -- that aren't paying  
6           more than \$30 per month. We think about the  
7           running a refrigerator, basically puts you about at  
8           that minimum bill amount. So we think it will be  
9           -- we think it's a good provision to have in the  
10          settlement agreement, but we believe that, as we  
11          stand here today, that there will not be a  
12          significant amount of calls that we will receive on  
13          that, but we will be ready to provide that  
14          adjustment when we get those calls.

15          COMMISSIONER FAY: Okay. And then they --  
16          they essentially would be looked at or reviewed on  
17          for these qualifications and remain on that list?  
18          Like, I don't foresee it being something that they  
19          have to each month reverify or --

20          THE WITNESS: (OLIVIER) Yeah. My  
21          understanding is they will not have to reverify  
22          every month. That once they've called us and we  
23          have adjusted their bill, that we will keep track  
24          of those customers and make every effort to -- to  
25          give them those future -- future months credits as



1 applicable.

2 COMMISSIONER FAY: Okay. Great. Thanks.

3 I did have a question for you -- I apologize  
4 ahead of time -- on the ITC. This is going to be a  
5 fun journey, but just bear with me.

6 So, you know, limited accounting background  
7 here, but it appears, based on what you submitted  
8 -- and I appreciate in the settlement you have this  
9 Exhibit 2, which lays out the different scenarios  
10 for the ITC, and then you have the table that you  
11 include that essentially puts, you know, each of  
12 those scenarios on a spreadsheet. So for the most  
13 part, I am comfortable with, you know, the general  
14 implementation of what you have laid out.

15 I want to talk to you about scenario three  
16 that is produced in this exhibit. And the first, I  
17 guess, question I have on this, the way I read  
18 this, even in scenario three, there wouldn't be an  
19 adjustment within the 2027 year that would create  
20 some impact to customers, I guess a higher --  
21 higher bill impact to customers?

22 THE WITNESS: (OLIVIER) That's correct.

23 COMMISSIONER FAY: Okay. And then beyond  
24 that, it appears as though potentially there could  
25 be an adjustment to the CCR revenue process, but I

1           just want to get clarity from you. It looks like,  
2           based on that, that Exhibit 2 that you submitted  
3           with the explanation of this, that there is  
4           essentially some sort of protection for customers,  
5           or a protection built in, in that the ROE would  
6           potentially be adjusted down to a certain ceiling  
7           based on this not being implemented.

8           THE WITNESS: (OLIVIER) That's -- that's --  
9           that's generally correct.

10           To be clear, if we are not able for what --  
11           any reason to construct this Powerline Battery  
12           Storage Project, then we will be able to still take  
13           a lesser amount to earnings via a credit to  
14           amortization expense, but it -- and the reason it's  
15           a lesser amount is because now we won't have that  
16           \$165 million Powerline Project in rate base. So  
17           we've reduced that to a -- from a \$67 million  
18           revenue requirement to a 45 million, so by \$22  
19           million, and -- and we will be able to -- and we  
20           will be able to take that 45 million basically to  
21           earnings in '27 to the extent we don't exceed that  
22           10-percent ROE.

23           So we will be limited to the amount that we  
24           can take to earnings in 2027, and then recover in  
25           2028 and 2029 through the capacity clause, such

1           that 2027's ROE isn't going above the 10.0 percent.

2           COMMISSIONER FAY:   Okay.   Great.

3           And I am not asking you any specifics as to  
4           the process, but just if you can provide any  
5           clarity.  I mean, it seems like that's -- first of  
6           all, it seems like, based on what you submitted,  
7           that the utility plans to do everything in their  
8           power to move forward with this, is that fair -- is  
9           that fair to say?

10          THE WITNESS:   (OLIVIER) That's absolutely  
11          correct.

12          COMMISSIONER FAY:   Okay.  And does not expect  
13          this to be a likely scenario.

14          THE WITNESS:   (OLIVIER) That is true.

15          COMMISSIONER FAY:   Okay.   Great.

16          So then that provision in there, essentially  
17          that creates some protection from a cost  
18          perspective.  Any reason in particular that that  
19          was, you know, placed in here, or this calculation  
20          is in there?

21          THE WITNESS:   (OLIVIER) I would say that was a  
22          negotiated term, and you might hear that a lot in  
23          some of our answers.  But what it does is it -- it  
24          kind of gives us, I guess, an incentive to make  
25          sure that we don't cancel the project, even though

1 we feel like there is no reason for us to not go  
2 forward with the project, it would be something  
3 outside of our control, and that also gives us that  
4 incentive to make sure we go forward with it.

5 COMMISSIONER FAY: Okay. Yeah. Great.

6 And I -- you know, just for purposes of this  
7 section, I feel like the parties did a very good  
8 job. This is a very difficult component that is --  
9 you are trying to implement that has federal  
10 provisions that could change. I mean, it's just  
11 very challenging to put all that in front of some  
12 agreement to make it implemented appropriately.  
13 And I think this is not a bad way to do it, in that  
14 you create the scenarios where it could be  
15 implemented knowing that there are some variables  
16 that might change on that time.

17 So I thank you for probably all the parties  
18 that worked on this, but for including this in the  
19 settlement, because otherwise it's very difficult  
20 to, with a complex program like that, to understand  
21 the implementation of it, so thank you for doing  
22 that.

23 I will move you to -- I was going to say my  
24 other favorite topic, but the ITC is not my  
25 favorite topic -- to EVs. I just have a few quick

1 questions on the EV programs that are included in  
2 this. And I don't know who the appropriate person  
3 would be to direct it, but I will just sort of  
4 throw it out there, and whoever you feel would be  
5 the right person to answer it.

6 So there is various EV programs that are  
7 included in the settlement as presented. It  
8 appears there are a number, I guess three programs  
9 themselves that would maybe fall into a definition  
10 of a grandfathered program, if that's fair to  
11 characterize it like that, is that -- and I will  
12 give you a minute to make sure I am stating that  
13 appropriately.

14 THE WITNESS: (OLIVIER) So when you say there  
15 are three provisions, one of those, I would say, is  
16 the residential EV credit program, where we had  
17 that in our '21 Settlement. We have -- we have  
18 some minor changes. We are removing the pilot  
19 nature of it and expanding it to all customers, but  
20 we are also reducing that credit from the current  
21 \$10 to 7.50 for charging during the off-peak  
22 periods. And we are also changing the charging  
23 times to start at 11:00 p.m. instead of 9:00 p.m.

24 So we've made a couple of modifications, and  
25 we are expanding that to all eligible customers

1 with electric vehicles who are not on a time of use  
2 rate.

3 COMMISSIONER FAY: And can you just help me,  
4 which -- which program in particular are you  
5 speaking to in the Settlement? So I am on  
6 paragraph 18, but I have essentially 8A through F.

7 THE WITNESS: (OLIVIER) Yeah, this is A. This  
8 is the Residential EV Credit Program.

9 COMMISSIONER FAY: Okay. Gotcha.  
10 And then the -- so I guess to the other side  
11 of this, the Make-Ready EV Program. So that --  
12 what I understand is that something new -- that's a  
13 new program essentially that is that the  
14 grandfathered?

15 THE WITNESS: (OLIVIER) It is a new program,  
16 and it's essentially replacing the commercial and  
17 industrial rebate program that we had in the 2021  
18 Settlement. So -- so we are -- we are  
19 discontinuing that and we are essentially doing  
20 this make-ready credit program, where we will be  
21 providing credits to EV customers for the, kind of  
22 the infrastructure, the wiring, the circuitry, to  
23 be able to install those chargers.

24 COMMISSIONER FAY: Okay. And then the other  
25 component that would fall under that same category

1 would be the pilot for the DCFC, is that correct?

2 THE WITNESS: (OLIVIER) Right. And in that  
3 case, we will just continue to own and operate the  
4 existing chargers that we have installed. We are  
5 not expecting to expand that program.

6 COMMISSIONER FAY: Oh, okay. I gotcha. So I  
7 guess that technically could fall into the  
8 grandfathered category a little bit, but it does --  
9 it does appear to have some new components to it.  
10 Is it the implementation isn't new, or that you are  
11 saying the equipment itself isn't new?

12 THE WITNESS: (OLIVIER) The DC fast charge  
13 stations?

14 COMMISSIONER FAY: Yeah.

15 THE WITNESS: (OLIVIER) It's the existing  
16 stations that we currently have. So really nothing  
17 is new. It's just that we will continue the  
18 provisions that we had from the '21 Settlement in  
19 terms of being able to continue to own and operate  
20 those chargers, but there is -- there is really  
21 nothing new. It is grandfathered.

22 COMMISSIONER FAY: Okay. Great.

23 And then, as I am sure you are probably aware,  
24 the Legislature put in some limitations or  
25 provisions this last session into law that spoke to

1           that grandfathering process within these new  
2           programs, and essentially has a limitation that --  
3           that new programs won't have an impact to the  
4           general body, so the fees that come in on those  
5           programs would be what would cover the cost of  
6           them.

7           Have you reviewed these -- these new,  
8           quote/unquote, newer programs to make sure -- and  
9           it appears I sort of put one into the newer  
10          category, but it's really not. It's the -- the  
11          equipment is already there, so have you reviewed  
12          those to make sure they are consistent with that  
13          provision?

14          THE WITNESS: (CHATELAIN) So I am only loosely  
15          aware of what's in that language. I am not a  
16          lawyer, but I have been advised through internal  
17          discussions that everything within the EV programs  
18          that we are offering are -- are not inconsistent  
19          with the direction of the language in the  
20          Legislature.

21          COMMISSIONER FAY: Okay. Mr. Chairman, I  
22          think I am good. Thank you.

23          CHAIRMAN LA ROSA: Great. Thank you.

24          Commissioner Clark, you are recognized.

25          COMMISSIONER CLARK: Thank you, Mr. Chairman.



1 I would like to follow up just on two of  
2 staff's questions related to, number one, going  
3 back to the reconnect fees. I wonder, does Duke  
4 currently have a reconnect program for after hours  
5 service?

6 THE WITNESS: (CHATELAIN) Yes, we do.

7 COMMISSIONER CLARK: Is there a differential  
8 between a during hours and after hours reconnect  
9 fee?

10 THE WITNESS: (CHATELAIN) There is a \$1  
11 difference.

12 COMMISSIONER CLARK: \$1 difference?

13 THE WITNESS: (CHATELAIN) Yes, sir.

14 COMMISSIONER CLARK: Do you have crews that  
15 naturally stay on after hours for service calls or  
16 are these called-out dispatch crews?

17 THE WITNESS: (CHATELAIN) I can't speak to the  
18 operation side.

19 COMMISSIONER CLARK: Okay. So do you think  
20 that that's -- there is a cost differential between  
21 after hours and regular hour service?

22 THE WITNESS: (CHATELAIN) There is a slight --  
23 slight cost difference.

24 COMMISSIONER CLARK: Does the agreement  
25 contemplate not suspending reconnected fees for

1 after hour reconnects.

2 THE WITNESS: (CHATELAIN) We are not  
3 differentiating in this settlement agreement.

4 COMMISSIONER CLARK: No differentiation at  
5 all?

6 All right. My second question goes to the  
7 minimum bill. I appreciate the explanation. I  
8 kind of have not considered you probably won't have  
9 a lot of the customers that make the income  
10 qualification, as you mentioned.

11 However, how do you plan on verifying the  
12 income sources? What sources do you plan to use to  
13 come up with a system to -- especially with looking  
14 at those that might be, in my opinion, income -- or  
15 excuse me might be eligible would be more seasonal  
16 homes in most cases, which those are going to be  
17 higher income, and some of those are going to be  
18 retirees maybe not necessarily with verifiable  
19 income from our own country.

20 THE WITNESS: (OLIVIER) I believe we answered  
21 a discovery request that says they -- the customer  
22 has to provide some kind of proof of low-income,  
23 and there are various different agencies or ways to  
24 prove it, but I just don't have the list in my head  
25 of what those different agencies are that they

1           would have to demonstrate. But that would be how  
2           they would have to demonstrate that they are, in  
3           fact, low-income.

4           COMMISSIONER CLARK: Have you done any  
5           calculations on the potential amount of revenue  
6           that we are talking about?

7           THE WITNESS: (OLIVIER) I do not believe  
8           anybody has done any calculations. And I believe  
9           we believe it's going to be extremely minimal.

10          COMMISSIONER CLARK: All right. My last  
11          question is on CR4 and 5. You have contemplated in  
12          the agreement, Duke has agreed to do a retirement  
13          study, expediting the retirement dates of those  
14          particular two coal units, if I understand  
15          correctly. Any estimate on the cost of retirement  
16          study number one?

17          THE WITNESS: (BORSCH) not specifically. The  
18          retirement study will be done with internal  
19          resources. We don't expect to incur a material  
20          cost. You know, it will be done in the course of  
21          normal business.

22          COMMISSIONER CLARK: In the concept in the  
23          agreement, has Duke or any parties contemplated any  
24          thresholds by which Duke would actually go ahead  
25          and agree to speed up those retirements? Is there

1 any contemplation of early retirement outside of  
2 the parameters of doing a study by Duke for  
3 retiring those units?

4 THE WITNESS: (BORSCH) So once we have done  
5 the study -- I mean, we will begin the study with  
6 our normal process essentially to position the  
7 retirement in resource plans in different years,  
8 and then compare the cumulative present revenue  
9 requirements between the two cases.

10 This is very consistent with the way that we  
11 do all of our resource planning. Essentially we  
12 will create a base case, where we will have the  
13 2034 retirement and a series of change cases in  
14 which we would retire the other units in other  
15 years, and we will compare the costs to the system  
16 in those two cases. And, you know, should we  
17 finding a case where the cost, the overall system  
18 cost of -- is less when we've retired the units,  
19 for instance, in an earlier year, you know, then we  
20 will dig down into the question of is that  
21 feasible? What are the other impacts?

22 But we will start with the question of, you  
23 know, is -- is the total system cost more or less  
24 in each of these cases? Which is, as I say, very  
25 consistent with the way that we develop all of our

1 resource plans.

2 COMMISSIONER CLARK: But there are no  
3 threshold agreements that have been made between  
4 the parties as to when Duke would contemplate  
5 actually retiring the units?

6 THE WITNESS: (BORSCH) We have a list of dates  
7 that we are going to consider for the purposes of  
8 the study. I mean, essentially we are going to,  
9 you know, back it up in two-year increments. But  
10 there is no, you know, other agreement in terms of  
11 -- you know, other than that, we are going to do  
12 the studies and let the chips fall where they fall,  
13 there is no other, you know, agreement on a  
14 particular threshold of when would we do it.

15 I mean, obviously, you know, we can't do it  
16 next year. The feasibility of getting addition --  
17 you know, alternate generation to be able to  
18 replace the units is not there, so, you know, we  
19 will look at the future years. And as I say, I  
20 mean, if we find in the studies that there is a  
21 year which presents a lower cost, you know, then we  
22 will make a -- we will proceed to a more in-depth  
23 series of studies that say, okay, maybe this is  
24 worth doing. How would we do it? Which, you know,  
25 again, is the normal procedure for our resource

1 planning.

2 COMMISSIONER CLARK: Okay. Thank you, Mr.  
3 Chairman.

4 CHAIRMAN LA ROSA: All right. Commissioners,  
5 any further questions?

6 Okay. Seeing none from here, we don't need  
7 redirect, correct, Ms. Triplett?

8 MS. TRIPLETT: Can I just ask one question in  
9 redirect?

10 CHAIRMAN LA ROSA: Sure.

11 FURTHER EXAMINATION

12 BY MS. TRIPLETT:

13 **Q Just following up with that last line, what is**  
14 **the current retirement date for CR 4 and 5, and does**  
15 **this settlement agreement change those dates?**

16 A (BORSCH) the current retirement date  
17 contemplated for CR4 and 5 is 2034, and, no, it does  
18 not.

19 CHAIRMAN LA ROSA: Excellent. Thank you.

20 All right. So that brings us to the end here  
21 of our hearing.

22 Do any of the parties wish to file any  
23 post-hearing briefs? Okay. Seeing none.

24 Then, of course, that then brings it back to  
25 us, Commissioners, for discussion. I am going to

1 organize my notes here for half a second, but does  
2 anyone want to start us off? Thoughts, questions,  
3 discussion from our part?

4 Commissioner Passidomo, you are recognized.

5 COMMISSIONER PASSIDOMO: Okay. Thank you,  
6 Mr. Chair.

7 I will just start us off. I don't want -- I  
8 am just going to -- I mean, everything has been  
9 discussed today. I really -- I appreciate the  
10 witnesses in going over a lot of the major  
11 elements. I -- I kind of, when I was going through  
12 this, I was thinking from the perspective of the  
13 customer service hearings that we had in June, and  
14 what we heard specifically from Duke customers and  
15 what they -- what they valued and what they wanted  
16 to see from their utility supplier.

17 The first one that really -- that resonated,  
18 the removal of the disconnection for nonpayment  
19 during extreme heat. I remember a customer in  
20 Largo, she told us that she relies on this  
21 continuous service to power her medical care  
22 devices, which are really essential to her health,  
23 and disconnection could be life-threatening for  
24 her. So I think that this provision does help  
25 minimize those negative impacts of utility service

1           disconnections. I was glad to see that included.

2           Again, the increasing participation in the  
3           Neighborhood Energy Saver Program, allowing  
4           customers the opportunity to increase energy  
5           efficiency. That was something we heard a lot from  
6           customers down there, is they wanted to have more  
7           energy independence, and so I think this really  
8           helps them enable to do that.

9           So I think that the major elements of the  
10          Settlement Agreement have been addressed. We have  
11          a comprehensive record here, and I look forward to  
12          hearing from my fellow Commissioners about their  
13          thoughts on it, but I just wanted to point out a  
14          couple of those major elements that really  
15          resonated with me, and just from that customer  
16          perspective, because throughout this process,  
17          that's been -- just hearing, you know, in-person  
18          from those people front and center, it's been on my  
19          mind at least.

20                   CHAIRMAN LA ROSA: Thank you.

21           And as I look over to the right, I see the  
22          witnesses still sitting there. You -- the  
23          witnesses are excused. You may leave, or you can  
24          continue to sit there if you like.

25                   (Witnesses excused.)



1           CHAIRMAN LA ROSA: All right. Commissioners,  
2 any further discussion from our part?

3           Commissioner Clark, you are recognized.

4           COMMISSIONER CLARK: I would just echo  
5 Commissioner Passidomo's thoughts. I -- there are  
6 things I don't like. There are things that I think  
7 you guys did a great job on.

8           I think our perspective here as Commissioners  
9 is to look at a settlement agreement from the  
10 perspective of the public interest. And as a  
11 whole, I think that things are lined up, and things  
12 are certainly -- there has been tradeoffs, and I  
13 commend the parties on the negotiations based on  
14 what Duke initially came in with versus where we  
15 are ending up.

16           There is no doubt there is a substantial  
17 savings for the customers. The customers are  
18 certainly going to benefit from this agreement.  
19 And I think that's really and truly what this boils  
20 down to.

21           Again, there are several parts here I really  
22 just don't like, but on the whole, I do believe  
23 that they are in the best interest of Duke's  
24 customers. And with that, Mr. Chairman, I can  
25 certainly support the agreement.

1           CHAIRMAN LA ROSA: Thank you. And well said  
2 by both Commissioner Passidomo and Commissioner  
3 Clark. And I share very similar sentiment. I  
4 think at the end of the day, we look at what's  
5 before us. Obviously, this is -- this is  
6 unopposed.

7           I think that any time we have, you know, a  
8 rate case, there is lots of different directions it  
9 can go. I know that this has been a pretty tall,  
10 you know, feat to meet, frankly. I think that's  
11 been expressed multiple times today by the parties  
12 that have intervened and been involved throughout.

13           There is a lot of testimony. There is a lot  
14 within this -- within this entire document. I,  
15 too, don't necessarily love everything. There are  
16 specifics that, you know, maybe I wish were, you  
17 know, didn't exist in here. But at the end of the  
18 day, when I look at how this impacts customers, is  
19 this in the greater good for customers a thousand  
20 percent, is it in their public interest? I do  
21 agree that it is.

22           And I think every negotiation is a bit of a  
23 give and take. And I think, frankly, this was a  
24 job well done. I know this was difficult for all,  
25 but it got to a position where I think it was very

1           beneficial.

2           I think at the end of the day, any time you  
3           can give a business or a residential customer some  
4           surety as far as what's to come next, that -- that  
5           is extremely important. Being able to plan  
6           whatever that may be in your daily life, maybe it's  
7           planning from a business perspective, I think  
8           that's immensely important, and I think -- today, I  
9           think we can certainly give that to them both, the  
10          business and the residential side.

11          Commissioners, I will bring it back to us to  
12          see what we would like to do here next, unless  
13          there is any further discussion or thoughts.

14          Seeing no discussion -- Commissioner Fay, you  
15          are recognized.

16          COMMISSIONER FAY: Yeah, you kind of tricked  
17          me. Discussion or thoughts.

18          So I have got some comments maybe before if  
19          you are --

20          CHAIRMAN LA ROSA: Yeah. Please.

21          COMMISSIONER FAY: -- otherwise we can take up  
22          a motion. I mean, I would be remiss if I just -- I  
23          didn't address kind of what's in front of us.

24          So when I started reading through this docket  
25          and what was filed in this docket, I was a little

1 bit like Ms. Triplett, like, we are not going to  
2 see a settlement. We are -- you know, there is so  
3 much separation in what's been filed, and it's so  
4 difficult to balance all those interests and to a  
5 final product. And so I was extremely impressed at  
6 how we -- how we got here, and how -- I should say  
7 how the parties got here and put this in front of  
8 us.

9 With that said, I also was a little annoyed,  
10 because now I have to read a settlement in addition  
11 to the docket, and review all of those components  
12 to it also. But I think the reality is that that  
13 process in itself also ensures that what we do is  
14 consistent with what's required by law, and what  
15 the Commission is required to do.

16 With all that said, I think that, you know,  
17 the components of this that I had questions on,  
18 when it hit by my desk were either answered by  
19 staff or they were answered by the folks who sat  
20 here on the panel today.

21 So I know it wasn't easy. I spent some time  
22 with NARUC teaching rate school, which we do on the  
23 west meets east coast, we spend a week teaching  
24 people the rate process and things that go into it.  
25 And the irony is we don't have a section about

1 settlement, so maybe we need to have one of those,  
2 because so much goes into the actual product and  
3 testimony and experts and the attorneys working  
4 through this.

5 So I don't -- you know, I don't know if this  
6 will get the recognition maybe that it deserves in  
7 that there are commissions all around the country  
8 that struggle to get to a point like this to be  
9 able to make a decision, and I think we, you know,  
10 have a good opportunity in front of us today to  
11 reestablish that there is the ability within what  
12 we do to come up with an end product that balances  
13 the interests, and I think really serves our state.

14 So proud to serve during this time. Kind of  
15 wish it was when I was Chair, Commissioner La Rosa,  
16 but, you know, really thankful that the parties did  
17 what they did to get us this point, and, you know,  
18 I am absolutely going to support the agreement at  
19 the end of the day. The logistics of how we get to  
20 final decision, I will, you know, leave up to  
21 discussion, Mr. Chairman.

22 But I just -- I felt like if I didn't address  
23 the fact that the people who worked so hard to get  
24 this in the final version it was today would go  
25 understated, so thank you.

1           CHAIRMAN LA ROSA: Well said. And if I would  
2           have known that, I would have tagged you in a few  
3           times here throughout this process.

4           Commissioner Graham, you are recognized for  
5           comments.

6           COMMISSIONER GRAHAM: Thank you, Mr. Chair.

7           Well, I guess the first thing I need to say is  
8           ditto to all my colleagues, what they just so  
9           eloquently said. I am going to say something that  
10          probably about half of you guys have heard me say  
11          this before.

12          I always love when you guys come together and  
13          sing Kumbaya and have a settlement before us. I  
14          think only one time since I have been here we've  
15          had a settlement where there wasn't one person that  
16          was against it. I mean, it's great that people can  
17          stay silent and people are for it. So this is a  
18          very rarity.

19          So, Mr. Chairman, with all that said, I move  
20          for a bench decision.

21          CHAIRMAN LA ROSA: Okay. Thank you.

22          So hearing, I want to say, the request to move  
23          forward with a bench decision, let's just kind of  
24          make sure that we have that in kind of in the right  
25          procedure.

1 Right? So we are in a little bit of  
2 unprecedented times, in the sense that this is the  
3 first, you know, docket before us with some, I am  
4 going to say some requests, or some additional  
5 deliberations by the Supreme Court, so I want to  
6 make sure that we do this accurately.

7 So a motion to -- for a bench decision today.  
8 I would also like to add on to that, if that's --  
9 if that's okay, and we can talk about if necessary.

10 COMMISSIONER GRAHAM: I think you need a  
11 second.

12 CHAIRMAN LA ROSA: Oh, okay. Well, is there a  
13 -- well, I don't know necessarily if I need a  
14 second.

15 COMMISSIONER CLARK: Motion to approve --

16 CHAIRMAN LA ROSA: To approve the Settlement  
17 Agreement, yeah. So let's talk about -- yeah,  
18 let's do it that way.

19 So let's -- let's talk about making a bench  
20 decision, and then we will talk about what the  
21 actual motion is before us.

22 So hearing a motion for -- to make a bench  
23 decision is heard. Is there a second?

24 COMMISSIONER CLARK: Second.

25 CHAIRMAN LA ROSA: All those in favor signify

1 by saying yay.

2 (Chorus of yays.)

3 CHAIRMAN LA ROSA: Yay.

4 Opposed no.

5 (No. response.)

6 CHAIRMAN LA ROSA: All right. So yay. So we

7 do agree to make a bench decision today.

8 So let's talk about how we ultimately do that.

9 So I would like to make sure that it's  
10 understood --

11 COMMISSIONER FAY: Mr. Chairman.

12 CHAIRMAN LA ROSA: Yes, sir.

13 COMMISSIONER FAY: I apologize to interrupt  
14 you. I just want to get clarity for this.

15 So for the process, I understood we were going  
16 to take up a discussion of a bench vote on this  
17 docket, is that clear? And then -- and then we  
18 would vote to either approve some version, is that  
19 correct?

20 CHAIRMAN LA ROSA: Yes.

21 COMMISSIONER GRAHAM: That was my motion.

22 COMMISSIONER FAY: Okay.

23 CHAIRMAN LA ROSA: Yeah. We just voted to  
24 make a bench decision.

25 COMMISSIONER FAY: Yeah, and my clarity is,



1           were we skipping the discussion to make a bench  
2           decision, or were we taking up a vote to discuss a  
3           bench decision?

4           CHAIRMAN LA ROSA:   So the intentions were to  
5           discuss prior to taking that motion, which I think  
6           we did.

7           COMMISSIONER FAY:   Okay.

8           CHAIRMAN LA ROSA:   So now let's talk about a  
9           motion to make the -- to agree -- or disagree with  
10          the settlement before us.  If you want to obviously  
11          add a comment, now would be your time.

12          COMMISSIONER FAY:   Yeah.  I would just like to  
13          get some clarity.

14          So if we are going to move forward in that  
15          posture, and there is a motion and a second, and I  
16          am not challenging it at this point.  I just would  
17          like to get some clarity from our staff before we  
18          make a decision procedurally as to how that  
19          potentially could work, or maybe some guidance  
20          maybe is a better way to put it, so I can  
21          understand what we would do moving forward.

22          CHAIRMAN LA ROSA:   Okay.  Sure.

23          So the question is to have staff weigh in on  
24          what else needs to be clarified?

25          COMMISSIONER FAY:   Yeah.  I just don't -- I

1 don't -- yeah, I don't recall sort of something  
2 this complex, or whatever, taking it up in this  
3 format, and so I just want to make sure I fully  
4 understand that the order reflects what we -- all  
5 the hard work that's gone into the parties and what  
6 we want to do today.

7 CHAIRMAN LA ROSA: Excellent. Okay. Thank  
8 you.

9 So let me -- let me direct that then to staff,  
10 if you can weigh in on Commissioner Fay's question.

11 MR. STILLER: Is the question what should the  
12 motion be from the bench to give staff direction?

13 COMMISSIONER FAY: Well, just -- I guess the  
14 way I would word it is, knowing what we have in  
15 front of us, based on the record and the  
16 stipulation, there is no timing issue, so if we  
17 take up a bench decision, that would allow, I  
18 guess, arguably more time for a final order to get  
19 presented and finalized and out.

20 I know there is timelines for rate  
21 implementation. So I presume that if we are able  
22 to do things earlier, that's just better for  
23 implementation. I mean, there is no -- there is  
24 no -- my first question is there is no legal  
25 problem with taking this up earlier as a bench

1 decision than it would be kind of like the  
2 alternative process of a recommendation?

3 MR. STILLER: The bench is able to -- you can  
4 take a bench vote today. I am not aware -- it was  
5 a broad notice, and I will defer again to Mary Anne  
6 and your General Counsel, but the notice was fairly  
7 broad, so the action you will take today is within  
8 that notice. You can take a bench vote. Of  
9 course, the impact of the Supreme Court's decision  
10 in FAIR will have to be taken into account and any  
11 order that's drafted.

12 COMMISSIONER FAY: Okay. And staff, at this  
13 point, believes they have what they need to produce  
14 that order? There is no additional time needed, to  
15 your point, to draft that order in a way that  
16 reflects what the Commission wants to do that's  
17 consistent with what the Supreme Court said?

18 MR. STILLER: I mean, staff will need some  
19 time following this meeting to draft an order. How  
20 much time that is, I would, you know, defer to Mr.  
21 Futrell for input as to how long it would take  
22 staff to put together said order.

23 MR. FUTRELL: Commissioners, certainly, we  
24 will work with all haste to put together an order  
25 that meets, as Mr. Stiller said, the requirements

1 of the Supreme Court and our -- and also based on  
2 the evidence and the record here, we'll work with  
3 all expediency to get an order produced, but we  
4 will make sure it's carefully crafted and reflects  
5 the decision of the Commission.

6 COMMISSIONER FAY: Okay. And that answers my  
7 question.

8 I -- I want to just be clear that we want that  
9 final product to reflect the decision in a way that  
10 is consistent with what, you know, is out there.  
11 And I recognize we have a remand and there is, you  
12 know, that component of a previous order. It  
13 sounds like we absolutely have time to do that.

14 I just realized that we have an entire week of  
15 hearing next week, and I do not want the body  
16 putting the Commission, as an agency, in a -- in a  
17 rush to put that together. So, you know, when it's  
18 finalized, it seems like we have plenty of time to  
19 do that.

20 So with that said, Mr. Chairman, I am  
21 comfortable substantively, and it sounds like from  
22 a timeline and procedurally, we are able to do  
23 that. So as far as how you would want to proceed,  
24 I absolutely support that motion and I am  
25 comfortable with it.

1           I appreciate you letting me interrupt you,  
2           because, you know, historically, we -- this is  
3           unique. I mean, the uncontested components of the  
4           settlement process, I hope we see it again. I  
5           don't know if we will, and so in the posture that  
6           it's in now, I think I am more than comfortable  
7           moving forward.

8           CHAIRMAN LA ROSA: Thank you.

9           I do agree there. I feel like we are kind of  
10          in a little bit of uncharted waters, which kind of  
11          makes, you know, kind of how we get to where we  
12          need to be a little bit kind of unique.

13          But I do want to make sure I reiterate  
14          something I think I just heard staff say, that the  
15          order would be there to address the major elements  
16          of the settlement based upon the record of the  
17          evidence, is that -- did I hear that correctly?

18          MR. FUTRELL: Yes, sir. That's what we will  
19          -- yeah, the record is the basis for the decision,  
20          and the record -- the order will reflect that.

21          CHAIRMAN LA ROSA: Including the discussion  
22          today?

23          MR. FUTRELL: Yes, sir.

24          CHAIRMAN LA ROSA: Okay. I think I -- I think  
25          I am also clear, Commissioner Fay. So I appreciate

1           you asking that, and us going down that direction.

2           All right. So now I will bring it back to us.

3           Is there any further discussion that we  
4 believe we need to have? This is now open for a --  
5 open for a motion on today's settlement.

6           Commissioner Passidomo.

7           COMMISSIONER PASSIDOMO: I am just going to go  
8 ahead and say I think we have a comprehensive  
9 record, includes the -- including the prefiled  
10 testimony, the MFRs, responsive discovery and the  
11 in-person testimony that we received today, so I  
12 move that we approve the 2024 Settlement Agreement  
13 in its entirety.

14          CHAIRMAN LA ROSA: Hearing a motion. Is there  
15 a second?

16          COMMISSIONER CLARK: Second.

17          CHAIRMAN LA ROSA: Hearing a motion and a  
18 second, all those in favor signify by saying yay.

19          (Chorus of yays.)

20          CHAIRMAN LA ROSA: Yay.

21          Opposed no.

22          (No. response.)

23          CHAIRMAN LA ROSA: Show that the settlement is  
24 approved.

25          Okay. Thank you. Thank you all, again, for

1 all of your hard work. I know -- and I know I  
2 mentioned it a few times already today. It's not  
3 easy to get to where we are. I appreciate us,  
4 Commissioners, for those comments and thoughts.  
5 And I know we have been kind of maybe redirected a  
6 little bit throughout this process, but I  
7 appreciate everybody being clear to us answering  
8 questions.

9 Staff, thank you. I know maybe I have -- I  
10 have made this a bill little bit harder than  
11 normal, but I appreciate you guys working hard. I  
12 see -- I see some head nodding the opposite  
13 direction, so you may not agree with me, but I do  
14 appreciate all the hard work. Thank you very, very  
15 much. I think the people of Florida are getting  
16 something they deserve, those that are, of course,  
17 in the Duke rate area.

18 If there is no further business before us, and  
19 seeing none, we are adjourned.

20 Thank you.

21 (Proceedings concluded.)

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1 (Transcript continues in sequence in Volume  
2 7.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

I, DEBRA KRICK, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED this 4th day of September, 2024.



DEBRA R. KRICK  
NOTARY PUBLIC  
COMMISSION #HH575054  
EXPIRES AUGUST 13, 2028