

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20240001-EI

In re: Fuel and purchased power  
cost recovery clause with generating  
performance incentive factor.

\_\_\_\_\_ /

PROCEEDINGS: PREHEARING CONFERENCE  
COMMISSIONERS  
PARTICIPATING: COMMISSIONER GABRIELLA PASSIDOMO  
DATE: Thursday, October 24, 2023  
TIME: Commenced: 9:30 a.m.  
Concluded: 10:11 a.m.  
PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida  
REPORTED BY: DEBRA R. KRICK  
Court Reporter

PREMIER REPORTING  
TALLAHASSEE, FLORIDA  
(850) 894-0828

1 APPEARANCES:

2           MARIA JOSE MONCADA, WILLIAM P. COX and DAVID  
3 LEE, ESQUIRES, Florida Power & Light Company, 700  
4 Universe Boulevard, Juno Beach, Florida 33408-0420;  
5 appearing on behalf of Florida Power & Light Company  
6 (FPL).

7           MATTHEW R. BERNIER and STEPHANIE A. CUELLO,  
8 ESQUIRES, 106 East College Avenue, Suite 800,  
9 Tallahassee, Florida 32301; and DIANNE M. TRIPLETT,  
10 ESQUIRE, 299 First Avenue North, St. Petersburg, Florida  
11 33701, appearing on behalf of Duke Energy Florida, LLC  
12 (DEF).

13           MALCOLM N. MEANS, J. JEFFREY WAHLEN and  
14 VIRGINIA PONDER, ESQUIRES, Ausley Law Firm, Post Office  
15 Box 391, Tallahassee, Florida 32302; appearing on behalf  
16 of Tampa Electric Company (TECO).

17           BETH KEATING, ESQUIRE, Gunster Law Firm, 215  
18 South Monroe Street, Suite 601, Tallahassee, Florida  
19 32301; appearing on behalf of Florida Public Utilities  
20 Company (FPUC).

21

22

23

24

25

1 APPEARANCES CONTINUED:

2 WALT TRIERWEILER, PUBLIC COUNSEL; CHARLES J.  
3 REHWINKEL, DEPUTY PUBLIC COUNSEL; PATRICIA CHRISTENSEN,  
4 MARY A. WESSLING OCTAVIO SIMOES-PONCE and AUSTIN  
5 WATROUS, ESQUIRES, OFFICE OF PUBLIC COUNSEL, c/o The  
6 Florida Legislature, 111 West Madison Street, Room 812,  
7 Tallahassee, Florida 32399-1400; appearing on behalf of  
8 the Citizens of the State of Florida (OPC).

9 JON C. MOYLE, JR. and KAREN A. PUTNAL,  
10 ESQUIRES, Moyle Law Firm, 118 North Gadsden Street,  
11 Tallahassee, FL 32301; appearing on behalf of Florida  
12 Industrial Users Group (FIPUG).

13 ROBERT SHEFFEL WRIGHT and JOHN T. LAVIA, III,  
14 ESQUIRES, Gardner, Bist, Bowden, Dee, LaVia, Wright,  
15 Perry and Harper, P.A., 1300 Thomaswood Drive,  
16 Tallahassee Beach, Florida 32308; appearing on behalf of  
17 Florida Retail Federation (FRF).

18 JAMES W. BREW, LAURA W. BAKER and SARAH B.  
19 NEWMAN, ESQUIRES, Stone Law Firm, 1025 Thomas Jefferson  
20 Street NW, Suite 800 West Washington, DC 20007;  
21 appearing on behalf of Florida White Springs  
22 Agricultural Chemicals, Inc., d/b/a PCS Phosphate -  
23 White Springs (PCS).

24

25

1 APPEARANCES CONTINUED:

2 PETER J. MATTHEIS, MICHAEL K. LAVANGA and  
3 JOSEPH R. BRISCAR, ESQUIRES, 1025 Thomas Jefferson  
4 Street, NW, Eighth Floor, West Tower, Washington, D.C.  
5 20007; appearing on behalf of Nucor Steel Florida, Inc.,  
6 (NUCOR).

7 SUZANNE BROWNLESS and RYAN SANDY, ESQUIRES,  
8 FPSC General Counsel's Office, 2540 Shumard Oak  
9 Boulevard, Tallahassee, Florida 32399-0850, appearing on  
10 behalf of the Florida Public Service Commission (Staff).

11 KEITH C. HETRICK, GENERAL COUNSEL; OCTAVIO  
12 CIBULA, ESQUIRE, Florida Public Service Commission, 2540  
13 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,  
14 Advisor to the Florida Public Service Commission.

15

16

17

18

19

20

21

22

23

24

25

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

2 COMMISSIONER PASSIDOMO: Okay. I think, with  
3 that, we will conclude the Prehearing of the 07  
4 docket and proceed to our final 01.

5 Mr. Sandy, I am sorry, you are up. Any  
6 preliminary matters we need to address?

7 MR. SANDY: Good morning, Madam Commissioner.  
8 There are none at this time that I am aware of.

9 COMMISSIONER PASSIDOMO: Any party have any  
10 preliminary matter in this docket?

11 Okay. We will, again, move through the draft  
12 Prehearing Order, and just let me know if there is  
13 anything you need me to change.

14 Section I, Case Background.

15 II, Conduct of Proceedings.

16 III, Jurisdiction.

17 IV, Procedure for Handling Confidential  
18 Information.

19 V, Prefiled Testimony and Exhibits.

20 MR. SANDY: If I may, Madam Commissioner, and  
21 this will sound familiar, we would suggest that for  
22 any witnesses who are not excused, that their  
23 witness summaries are no more than three minutes.

24 COMMISSIONER PASSIDOMO: Objections? Seeing  
25 none.

1           Are there any changes to the order of  
2 witnesses?

3           MR. SANDY: We are not aware of any at this  
4 time, Madam Commissioner.

5           COMMISSIONER PASSIDOMO: Okay.

6           MR. SANDY: If I may, it does appear that  
7 there are not any contested issues in the 01 this  
8 year, and it looks as if all the witness testimony  
9 may be stipulated to. If we are able to, I would  
10 just like to confirm that that is the case with the  
11 parties.

12           COMMISSIONER PASSIDOMO: So I think if -- for  
13 purposes of the record, if it's -- if this is the  
14 case, I was thinking that we could, you know, have  
15 -- go down and have each party, if they have agreed  
16 to stipulate the witnesses, and if they have agreed  
17 that they can be excused from the hearing, is that  
18 an appropriate way of handling it?

19           We can start with Ms. Moncada.

20           MS. MONCADA: No objection to either one of  
21 your questions, Commissioner.

22           COMMISSIONER PASSIDOMO: Okay. Thank you.

23           MS. CUELLO: Duke has no objection either.

24           MR. MEANS: Tampa Electric has no objection.

25           MS. KEATING: FPUC has no objection.

1           MR. MOYLE: FIPUG has a little bit of -- I  
2           think it's a small wrench to throw in it, but  
3           obviously, hedging is a very important issue.  
4           FIPUG, we don't like hedging. We don't want  
5           hedging.

6           We, with respect to FPL's Issue 2F, took no  
7           position at this time, which was an error, and we  
8           need to have the same position that is found in  
9           Duke's Issue 1A, which is FPL is contractually  
10          precluded from hedging given its rate case  
11          settlement agreement, and no hedging activity  
12          should be allowed.

13          So assuming that goes in as 2F, and FPL is  
14          fine, and says, we are not going to hedge, then  
15          FIPUG is good. If FPL is not going to be able to  
16          say that, then I guess we may have an issue we need  
17          to talk about on 2F, so --

18          COMMISSIONER PASSIDOMO: Okay.

19          MR. MOYLE: -- I hate to kind of spring that  
20          on Maria.

21          COMMISSIONER PASSIDOMO: No, I am glad you  
22          brought that to our attention. We don't -- I mean,  
23          that can be worked out I think, you know, before we  
24          issue -- yes.

25          MS. BROWNLESS: We can work that out when we

1 are working out the stipulations, Jon.

2 MR. MOYLE: Okay. Assuming we get that worked  
3 out, I think we are fine.

4 COMMISSIONER PASSIDOMO: Yeah. I mean, I --  
5 this exercise is -- maybe it's futile because we  
6 are still kind of working through things, so this  
7 was an attempt of my own to try to get things, but  
8 obviously it was, I think, a little premature.

9 MR. MOYLE: I think it will all fall into  
10 place, but --

11 COMMISSIONER PASSIDOMO: Okay.

12 MR. MOYLE: -- maybe not today.

13 COMMISSIONER PASSIDOMO: Well, do we want to  
14 continue? I mean, if you, just for the record,  
15 PCS, then we can move down.

16 MS. BAKER: Yes. Good morning, Commissioner.  
17 Yeah, the -- I think we can stipulate to the  
18 witnesses. And we are -- we may have a couple of  
19 revisions on the proposed stipulations, but I think  
20 we should be able to provide the excusal of  
21 witnesses.

22 COMMISSIONER PASSIDOMO: Nucor.

23 MR. BRISCAR: Commissioner, our understanding  
24 is that there are proposed stipulations. And as  
25 we've seen them, we are willing to facilitate Type



1           2 stipulations. And if those go through, we would  
2           be willing to excuse the witnesses.

3           Thank you.

4           COMMISSIONER PASSIDOMO: Mr. Rehwinkel.

5           MR. REHWINKEL: Yes, thank you.

6           The Public Counsel has indicated to all the  
7           parties our willingness to facilitate Type 2  
8           stipulations on all issues as they are phrased.  
9           And in that regard, we support excusal of the  
10          witnesses and the testimony going in --

11          COMMISSIONER PASSIDOMO: Okay.

12          MR. REHWINKEL: -- for the record.

13          COMMISSIONER PASSIDOMO: Thank you.

14          I think staff has got everything that they  
15          need to contact all of you, so --

16          MS. MONCADA: And just to close the loop on  
17          Mr. Moyle's issue. I know Suzanne mentioned we  
18          will work that out through the stipulation process,  
19          but would just like to state orally for the record  
20          that FPL will continue to abide by the prohibition  
21          in its settlement agreement with regard to hedging.

22          COMMISSIONER PASSIDOMO: Thank you.

23          MR. MOYLE: Thank you. And if I can get the  
24          same from TECO, I am good.

25          COMMISSIONER PASSIDOMO: Okay.

1           MR. MEANS: We are not planning to hedge, so  
2 no issue.

3           COMMISSIONER PASSIDOMO: Okay. Okay. So that  
4 kind of sets the groundwork there, so --

5           All right. Well, with that, I think we can go  
6 ahead and --

7           MR. SANDY: If I may, Madam Commissioner.

8           COMMISSIONER PASSIDOMO: Sure.

9           MR. SANDY: We have worked a lot with the  
10 parties here this morning, and will continue that.  
11 Once we are in a place where everybody is in  
12 agreement on the witnesses, we will work with our  
13 staff and Commission staff to let you know that.  
14 And if there are no questions from anyone, then  
15 certainly we will work at excusing them, if that's  
16 appropriate at this time.

17           COMMISSIONER PASSIDOMO: Thank you.

18           Okay. Well, then I think we can put that  
19 behind us and go on to Basic Positions.

20           And then Section VIII, Issues and Positions.

21           MR. SANDY: We are obviously mindful of some  
22 of the changes that Mr. Moyle set out on the record  
23 with positions.

24           As for issues and positions, more generally --  
25 and this will sound familiar -- the OEP in this

1 matter requires that each of the parties has a  
2 position at the time of the Prehearing Conference  
3 unless good cause can be shown why they can't do  
4 so.

5 If a party's position on the Prehearing Order  
6 is listed as no position at this time, they must  
7 change it no later than this afternoon, or show  
8 good cause why they can't take a position. Absent  
9 that showing, the order will reflect no position  
10 for that party on the issue. And if that is the  
11 case, then they are prohibited from cross-examining  
12 any of the witnesses in regards to any of the  
13 issues set out in the docket. They would have  
14 until five o'clock tomorrow to let us know if they  
15 have any changes on their issue positions.

16 And more generally -- or more specifically,  
17 Madam Commissioner, Issues 2K through 2N -- N as in  
18 November -- are associated with outages at FPL's  
19 St. Lucie and Turkey Point power plants from May  
20 and July of this year. Everyone has agreed that  
21 these issues will be addressed at a later hearing  
22 set for another time.

23 COMMISSIONER PASSIDOMO: Are there any  
24 objections to this?

25 Okay. Seeing none, okay, thank you, Mr.

1 Sandy.

2 I think we can -- that was the only one that  
3 we had to just confirm. So I think we can kind of  
4 move down to the exhibit list.

5 MR. SANDY: We have prepared a Comprehensive  
6 Exhibit List, which includes all the prefiled  
7 exhibits, and also includes exhibits that staff  
8 wishes to introduce into the record. We have  
9 provided this list to all the individuals here this  
10 morning. We will continue to work with them and  
11 determine if there are any objections to the  
12 Comprehensive Exhibit List. And if that is not the  
13 case, then certainly the list and its exhibits may  
14 be entered into the record at the proper time.

15 COMMISSIONER PASSIDOMO: Are there any  
16 proposed stipulations at this time?

17 MR. SANDY: None that we are aware of, but  
18 obviously, as has been said on the record, that  
19 process is ongoing.

20 COMMISSIONER PASSIDOMO: Are there any pending  
21 motions?

22 MR. SANDY: None that we are aware of.

23 COMMISSIONER PASSIDOMO: Are there any pending  
24 confidentiality orders?

25 MR. SANDY: There are, Madam Commissioner,

1 orders for all of the confidentiality requests will  
2 be resolved at the time of the hearing.

3 COMMISSIONER PASSIDOMO: Okay. Thank you.

4 All right. Post-Hearing Procedures.

5 MR. SANDY: If there are any issues that need  
6 to be briefed, we would recommend that the legal  
7 briefs are no more than 40 pages.

8 COMMISSIONER PASSIDOMO: I don't know if I  
9 should -- do parties expect to file briefs in this  
10 docket? Okay. Seeing none --

11 MR. SANDY: If I --

12 COMMISSIONER PASSIDOMO: Yeah.

13 MR. SANDY: If I may, Madam Commissioner. I  
14 would simply remind everyone here that if they  
15 agree to waive briefs, that the Commission may make  
16 a decision from the bench for issues in the 01  
17 docket --

18 COMMISSIONER PASSIDOMO: Understood --

19 MR. SANDY: -- obviously, leave that to their  
20 discretion.

21 COMMISSIONER PASSIDOMO: That's understood by  
22 all the parties? Okay. Seeing affirmative head  
23 nods.

24 Okay. Rulings, staff.

25 MR. SANDY: I think the only ruling is whether

1 the opening statements should exceed three minutes  
2 or not.

3 COMMISSIONER PASSIDOMO: Objections to  
4 limiting to three minutes opening statements? All  
5 right. Seeing none. Opening statements shall be  
6 limited to three minutes per party.

7 Staff, are there any other matters in this  
8 Prehearing Conference?

9 MR. SANDY: Not at this time from staff.

10 COMMISSIONER PASSIDOMO: And then from the  
11 parties?

12 All right. Seeing no additional matters, this  
13 Prehearing Conference is adjourned.

14 (Proceedings concluded.)

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE OF REPORTER

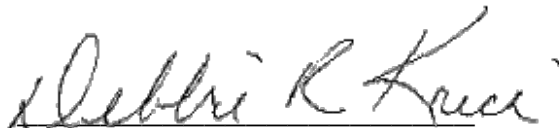
STATE OF FLORIDA )  
COUNTY OF LEON )

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 5th day of November, 2024.



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