

P R O C E E D I N G S

1
2 **CHAIRMAN BRISÉ:** Good morning, everyone. We
3 are going to go ahead and reconvene this hearing in
4 Docket No. 120022-EI. We are still in the hearing
5 portion. So at this time if any Commissioners have any
6 further questions, this would be the appropriate time
7 for us to continue to engage in that aspect.

8 All right. Seeing that there are no lights at
9 this moment -- I think we had good questions on, on
10 Monday. And I'm going to give all the parties an
11 opportunity, if you have anything else that you want to
12 put into the record before we close the record, this
13 would be the appropriate time for you to do so.

14 **MR. GLENN:** Mr. Chairman, Alex Glenn on behalf
15 of Progress Energy Florida. We do not have any
16 additional information to put in the record at this
17 time. Thank you.

18 **CHAIRMAN BRISÉ:** Thank you.

19 **MR. REHWINKEL:** Mr. Chairman, on behalf of
20 Public Counsel, we do not have any additional
21 information.

22 If I could ask for a point of personal
23 privilege, I wanted to thank a couple of people that
24 helped the office over the last 15 months and helped --
25 on behalf of Mr. Kelly and Mr. Sayler, I would like to

1 thank my assistant, Monica Woods, who over the many
2 months that we negotiated, she facilitated many of the
3 meetings and she helped organize the hundreds of
4 thousands of pages of documents, coordinate with the
5 company, and digitize all this information, which was a
6 monumental task. And we are indebted to her, and she
7 made this -- she was a very instrumental part of making
8 this happen.

9 Also, we received significant help over the
10 summer from an FSU law school intern, a second year
11 student named Chris Huddwalker (phonetic), who helped us
12 organize our case and facilitate the process. And I
13 just wanted to thank those two individuals on behalf of
14 the customers. Thank you.

15 **CHAIRMAN BRISÉ:** Thank you.

16 Mr. Moyle.

17 **MR. MOYLE:** Thank you, Mr. Chairman. On
18 behalf of FIPUG, we have nothing else to add.

19 I did want to indicate -- Jay Brew was here on
20 Monday. He asked me to indicate to you all that he had
21 a conflict, a scheduling conflict that was there, so
22 he -- I kind of had his proxy this morning, but there's
23 nothing, nothing new, but he had a scheduling conflict.

24 And then the final point, I just want to
25 publicly acknowledge that, you know, these negotiations

1 took a very long time, but to thank all of the parties
2 for the, for the attitude and the good faith and the
3 creativity that was brought to the table to work through
4 this agreement. So thank you.

5 **CHAIRMAN BRISÉ:** Thank you.

6 Ms. Bennett.

7 **MS. BENNETT:** Staff has nothing further, and
8 so it would be appropriate at your pleasure to close the
9 record.

10 **CHAIRMAN BRISÉ:** Thank you. At this time, I
11 think it's appropriate for us to close the record.

12 We are now moving into the decision phase. In
13 this phase the discussion will be between the
14 Commissioners and our staff. So to get us started, I
15 see a light already, so, Commissioner Balbis, you may --
16 you have the floor.

17 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
18 I do not have questions for staff, but I'd like to make
19 a few comments.

20 This unprecedented stipulation encompasses
21 several important issues spanning several dockets. As
22 Prehearing Officer, when I took on this case, I tried to
23 separate out the complicated issues into distinct
24 phases. My main concern was to reduce regulatory
25 uncertainty and regulatory lag, which I think benefits

1 all parties. This stipulation does just that. Just as
2 importantly, it removes the CR3 nuclear plant from rate
3 base while it is not service. The customers should not
4 pay for something until it works. Additionally, the
5 customers are receiving a refund for the same
6 approximate amount that was spent in replacement fuel
7 costs this past year.

8 A significant incentive is in the stipulation
9 to encourage Progress Energy to safely return CR3 back
10 into service so that customers can receive the benefits
11 of low fuel costs and clean energy. There are other
12 rate base accounting and other conditions of this
13 stipulation that are more of a give and take between the
14 parties. This may not be the best deal for all, but
15 each party gets a little something.

16 Representatives from all parties, including
17 Progress Energy, Office of Public Counsel, which
18 represents all the ratepayers, Florida Industrial Power
19 Users Group, the Retail Federation, Executive Agencies,
20 and PCS-White Springs have all agreed to this. I can be
21 confident in knowing that all parties think that this is
22 in the best interest for everyone.

23 I still do have some concern about the Levy
24 nuclear projects. Any delays in this project could
25 result in a reduction in the cost-effectiveness to the

1 point where the projects are no longer viable. However,
2 once again, when I directly asked the Office of Public
3 Counsel about this, they indicated that the delay of any
4 rate impact associated with these projects are important
5 or in the best interest of the customers. So if the
6 entity that is charged with representing the ratepayers
7 feel that this issue is in their best interest, then I
8 am comfortable with that as well.

9 I support the stipulation for all the reasons
10 that are listed. I think it's in the best interest of
11 all the parties and all the customers, and I fully
12 support the stipulation.

13 **CHAIRMAN BRISÉ:** Okay. Any other
14 Commissioners with comments?

15 Commissioner Brown.

16 **COMMISSIONER BROWN:** Thank you, Mr. Chairman.
17 I as well am in support of this somewhat historical
18 settlement agreement, although I do have some
19 reservations with certain aspects of the agreement,
20 particularly with regard to the repair or replacement of
21 CR3. But I believe that taken as a whole, the benefits
22 to the customers in the other areas of the agreement far
23 outweigh these concerns.

24 In addition, given the ample assurances of the
25 Office of Public Counsel and the other Intervenor

1 parties that there are adequate safeguards in place to
2 protect Progress's customers, I'm persuaded that the
3 settlement is indeed in the public interest. I have
4 confidence in OPC as the consumer watchdog that it will
5 actively participate in the repair plan process of CR3
6 to ensure that whatever decisions are ultimately made
7 will be done in the public interest.

8 I think there's a delicate balance here.
9 We've had a lot of give and take of the parties.
10 They've come together, they've come up with a palatable
11 solution that ultimately is in the customers' best
12 interest. And thank you guys, thank you all for
13 participating and working with our staff and, excuse me,
14 and working with each other. I would look forward to
15 the parties keeping our staff informed as we move
16 through this process though.

17 **CHAIRMAN BRISÉ:** Thank you, Commissioner.

18 Commissioner Graham.

19 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.

20 I move approval of the stipulation.

21 **CHAIRMAN BRISÉ:** All right. Is there a
22 second?

23 (Microphone off. Seconded by Commissioner.)

24 Okay. There's a second.

25 Commissioner Edgar.

1 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.
2 And once again, Commissioner Graham has hit that button
3 a little faster than I did and beat me to the, beat me
4 to the motion making portion.

5 I am pleased to be able to support the
6 stipulation and settlement that is before us. And I
7 too, of course, give great credit and gratitude to all
8 of the parties for the time that they have put into
9 this. Adversarial litigation sometimes is the best way
10 to reach a final order and a final decision, but it is
11 not the best way in all instances. And by moving
12 forward with this agreement that the parties have very
13 carefully crafted, I believe that resources from the
14 state, from the local governments, from the company, and
15 from all parties, ratepayers, and all of their
16 advocates, that all of those resources can better be put
17 to making good, smart, long-term decisions regarding
18 Crystal River and the Levy County proposal. And also,
19 which I believe is a priority, put all of our resources
20 toward making sure that NEIL makes the best decision for
21 our ratepayers and the most appropriate decision.

22 This agreement, as I have read over it and met
23 with our staff and as we had the opportunity to pose
24 questions to the parties, the image that kept coming to
25 mind to me was the giant clock in the novel *Hugo Cabret*,

1 if any of you have read that book. If not, I highly
2 recommend it. Many gears, all very carefully
3 engineered; if there's a trigger that moves one, other
4 aspects are triggered such that the whole works together
5 very carefully, very wisely, very thoughtfully and
6 effectively.

7 I note that the Public Service Commission has
8 a long-standing history precedent of favoring
9 settlements, and also that any settlement does not
10 establish precedent. So I am pleased to be able to
11 support the motion, and look forward to moving forward
12 on all of these issues.

13 **CHAIRMAN BRISÉ:** All right. Considering that
14 there's a motion and it's been seconded, it seems like
15 we've had comments on the motion, but obviously there's
16 opportunity for additional comments on the motion. If
17 anyone sees fit to make additional comments on the
18 motion, this would be the time.

19 If not, I think we're ready for a vote. All
20 in favor, say aye.

21 (Affirmative response.)

22 Any opposed, same sign?

23 (No response.)

24 Seeing none, motion is carried.

25 So we have approved the stipulation and

1 agreement in Docket No. 120022-EI.

2 I wanted to take this time to thank all of the
3 parties involved in this process. I want to thank our
4 staff for working so hard and so diligently to help us
5 get to this point. I also want to thank our Prehearing
6 Officer for his hard work and working with all the
7 parties to make sure that we got to the point that we
8 are today.

9 There's several dockets that have sort of
10 fallen into this particular docket and several issues
11 that were outstanding, and I don't think anyone knew how
12 those issues were going to be dealt with, and this
13 creates a path to address several of those issues as
14 time moves forward. And I think most importantly it
15 puts all of us in a good position to, to deal with
16 certain issues that none of us have control over,
17 particularly the NEIL issue that is, that is out there.

18 But most importantly, we all serve the same
19 constituents, and in serving the same constituents, we
20 want to have stability for our constituents, we want to
21 have reliability for our constituents, and, most
22 importantly, in these difficult financial times we want
23 predictability. And I think this stipulation gets us to
24 a point that there is predictability for our
25 constituents.

1 So with that, I think that our decision today
2 has moved our state forward in our process of making
3 sure that we preserve the public's interest in this
4 case. So I thank all of you for your hard work. And
5 with that, we stand adjourned.

6 (Proceeding adjourned at 9:44 a.m.)

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1 STATE OF FLORIDA)
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I, LINDA BOLES, RPR, CRR, Official Commission 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' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 27th day of February, 2010.

Linda Boles
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