

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 100437-EI

EXAMINATION OF THE OUTAGE AND
REPLACEMENT FUEL/POWER COSTS
ASSOCIATED WITH THE CR3 STEAM
GENERATOR REPLACEMENT PROJECT,
BY PROGRESS ENERGY FLORIDA, INC.

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PROCEEDINGS: STATUS CONFERENCE

COMMISSIONER
PARTICIPATING: COMMISSIONER EDUARDO E. BALBIS
PREHEARING OFFICER

DATE: Monday, August 13, 2012

TIME: Commenced at 3:07 p.m.
Concluded at 4:02 p.m.

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

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
(850) 413-6732

1 APPEARANCES:

2 JAMES W. BREW, ESQUIRE, Brickfield Law Firm,
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4 Tower, Washington D.C., 20007 appearing on behalf of
5 White Springs Agricultural Chemicals, INC. d/b/a PSC
6 PHOSPHATES.

7 JON C. MOYLE, JR., ESQUIRE, Keefe, Anchors,
8 Gordon and Moyle Law Firm, 118 North Gadsden Street,
9 Tallahassee, Florida 32301, appearing on behalf of
10 Florida Industrial Power Users Group.

11 ROBERT SCHEFFEL WRIGHT, ESQUIRE, c/o Gardner
12 Law Firm, 1300 Thomaswood Drive, Tallahassee, Florida
13 32308, appearing on behalf of the Florida Retail
14 Federation.

15 CHARLES REHWINKEL, DEPUTY PUBLIC COUNSEL, and
16 J.R. KELLY, PUBLIC COUNSEL, Office of Public Counsel,
17 c/o The Florida Legislature, 111 W. Madison St., Room
18 812, Tallahassee, Florida 32399-1400, appearing on
19 behalf of the Citizens of Florida.

20 JOHN T. BURNETT, ESQUIRE, Progress Energy
21 Service Co., LLC, Post Office Box 14042, St. Petersburg,
22 Florida 33733-4042, appearing on behalf of Progress
23 Energy Service Co., LLC.

24 LEON JACOBS, ESQUIRE, Jacobs Law Firm,
25 Tallahassee, Florida, appearing on behalf of Southern

1 Alliance for Clean Energy.

2 LISA BENNETT, ESQUIRE, MICHAEL LAWSON,
3 ESQUIRE, FPSC General Counsel's Office, 2540 Shumard Oak
4 Boulevard, Tallahassee, Florida 32399-0850, appearing on
5 behalf of the Florida Public Service Commission Staff.

6 MARY ANNE HELTON, Deputy General Counsel,
7 Florida Public Service Commission, 2540 Shumard Oak
8 Boulevard, Tallahassee, Florida 32399-0850, Advisor to
9 the Florida Public Service Commission.

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P R O C E E D I N G S

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2 **COMMISSIONER BALBIS:** Good afternoon. If
3 everyone could get seated, we'll get started here in a
4 few moments.

5 Before we get started, at the last meeting
6 Senator Dean was recognized, and he is here, and I
7 understand he would like to say a few words before we
8 start this proceeding.

9 **SENATOR DEAN:** Thank you, Mr. Chairman.

10 I'll be very brief. I represent Citrus
11 County, the home of CR3, and currently represent 12
12 other counties in my senatorial district. All of them
13 basically are served by Progress Energy in my area of
14 the state.

15 As customers, our good folks have donated an
16 assessment for the pre-construction recovery costs that
17 we, in the Legislature, passed back in 2004 somewhere in
18 that area of about \$630, \$635 million so far.

19 I ask the question, where is our money, since
20 it was for nuclear planning for the Levy plant that has
21 not been facilitated that plant coming out of the block
22 so far. And how do we stand with our money that we have
23 been assessed and paid on the issue of the possibility
24 of whatever we are going to have to do with CR3 in
25 Crystal River. It may be tied together, it may not be

1 tied together, but I have that question asked of me
2 almost every day by the customers in this area that I
3 serve.

4 With that, I'm just asking that you and your
5 committee and the Commissioners consider that and
6 consider the future and where we are with those issues
7 that we'd like to have that resolved and where we feel
8 that we should be represented in this area.

9 I did not get to hear all of the answers while
10 ago in the other committee meeting, so I don't think its
11 fair (inaudible) on those, but those are the main issues
12 I want today.

13 Thank you.

14 **COMMISSIONER BALBIS:** Okay. Thank you,
15 Senator, for your comments.

16 I see we have Representative Rehwinkel
17 Vasilinda here, as well. And I assume that you would
18 like to make a few comments. But before you get
19 started, I just want to -- it's kind of an unusual
20 situation here, so -- this status conference is really a
21 regularly scheduled conference where we are discussing
22 when certain issues are ripe for hearing on the two
23 phases of the CR3 docket. However, again, before we get
24 started, I would like to offer just a few moments for
25 the Representative to make some comments.

1 **REPRESENTATIVE REHWINKEL VASILINDA:** I'll be
2 very brief. I do not have the customers of the utility
3 companies in my district, but I have decided that this
4 is an extremely important place for me to be today, and
5 that is because this has an impact on our overall energy
6 policy in the State of Florida.

7 I also think it has an impact on our economy.
8 All the money that is being taken out of the economy in
9 a time of an extremely sluggish recovery is not
10 appropriate when you are looking at nuclear power plants
11 that are having grave difficulties and that may or may
12 not be built.

13 You have a huge responsibility here to look at
14 this and to look at this with not an eye just towards
15 what occurs with the rules or the ratepayers. This is a
16 Florida problem. And that is how I see it from an
17 energy piece to a macroeconomic piece to a microeconomic
18 piece, and that's why I am here today. And I just -- I
19 know you'll do your duty, but we really need to focus
20 the attention of the whole State of Florida on this.

21 **COMMISSIONER BALBIS:** Okay. Thank you. Thank
22 you, Senator. Thank you, Representative, for your
23 comments.

24 Okay. Now I'd like to begin the status
25 conference for Docket Number 100437-EI. This is the

1 status conference for the referenced docket. I abated
2 Phases II and III of this hearing until the parties
3 complied with or completed the terms of the settlement
4 agreement approved by the Commission in Docket Number
5 120022-EI, or until I determine that the parties are no
6 longer able to resolve or narrow the issues involving
7 Phase II or III under the framework of the settlement
8 agreement.

9 In addition, the order establishing procedure
10 required Progress Energy Florida to file status reports
11 regarding the repair of Crystal River Unit 3, which has
12 been done. In the order establishing procedure, I also
13 noted that I would call additional status conferences as
14 I deemed necessary.

15 I called this status conference to discuss
16 Progress Energy Florida's repair or retire decision, the
17 scheduling of any repairs to the CR3 unit, and the
18 scheduling of the next hearing track process. For those
19 observing today's meeting, let me be clear that this is
20 part of the normal process established for this docket
21 examining the outage. While there has been a certain
22 measure of controversy surrounding the Duke merger, and
23 we had a previous meeting to discuss that, this status
24 conference has already been scheduled and we are
25 following a thorough process to address these issues.

1 So before we get started, let me have staff
2 read the notice.

3 **MS. BENNETT:** Yes, Commissioner Balbis. The
4 notice of the date, time, location, and purpose of this
5 status conference was published in the Florida
6 Administrative Weekly, as well as an agency notice sent
7 to all the parties in this docket and filed in the
8 docket file.

9 **COMMISSIONER BALBIS:** Thank you. And now
10 let's take appearances starting with Progress Energy
11 Florida.

12 **MR. BURNETT:** Good afternoon, sir. John
13 Burnett for Progress Energy Florida.

14 **COMMISSIONER BALBIS:** And Office of Public
15 Counsel?

16 **MR. REHWINKEL:** Good afternoon, Commissioner
17 Balbis. Charles J. Rehwinkel, Deputy Public Counsel,
18 and J.R. Kelly, Public Counsel, on behalf of the
19 Citizens of Florida.

20 **COMMISSIONER BALBIS:** And Florida Industrial
21 Power User's Group?

22 **MR. MOYLE:** Thank you. Jon Moyle, Moyle Law
23 Firm, on behalf of Florida Industrial Power Users Group,
24 FIPUG.

25 **COMMISSIONER BALBIS:** Okay. And the Retail

1 Federation?

2 **MR. WRIGHT:** Thank you, Commissioner Balbis.
3 Schef Wright on behalf of the Florida Retail Federation.

4 **COMMISSIONER BALBIS:** And from White Springs
5 Agricultural?

6 **MR. BREW:** Yes. Good afternoon, Commissioner.
7 For White Springs Agricultural Chemicals, I'm James
8 Brew.

9 **COMMISSIONER BALBIS:** And for the Southern
10 Alliance for Clean Energy?

11 **MR. JACOBS:** Thank you, Commissioner Balbis.
12 I'm Leon Jacobs. I'm here on behalf of the Southern
13 Alliance for Clean Energy.

14 **COMMISSIONER BALBIS:** Commission Staff.

15 **MS. BENNETT:** Lisa Bennett and Michael Lawson.

16 **MS. HELTON:** And Mary Anne Helton, Advisor to
17 the Commission.

18 **COMMISSIONER BALBIS:** Okay. I'd like to
19 proceed. We are going to try and follow this agenda,
20 and hopefully everyone has copy of that. We'll move
21 forward with the status update by Progress Energy
22 Florida.

23 **MR. BURNETT:** Thank you, sir.

24 And, Commissioner, I intend to move through
25 each of the items under 4A, B, and C of your agenda. I

1 can stop at each A, B, or C and address any questions
2 you may have. If that's appropriate for you.

3 So with respect to the first item, sir, the
4 repair process, as you know, we are now going through
5 and completing our technical analysis of the repair
6 option. The repair option that is continuing under our
7 analysis is what you have previously known as Option 10
8 out of our previous study, and that's the repair option
9 that removes and replaces concrete in substantial
10 portions of the containment structure.

11 URS Corporation has been selected as our
12 vendor of choice, and they continue the refinement of
13 their engineering process which is nearing substantial
14 completion now. We are negotiating the terms and
15 conditions of an EPC contract with URS Corporation in
16 conjunction with them finalizing their engineering
17 analysis, as I mentioned.

18 With respect to cost and schedule, you will
19 recall that based on our preliminary engineering
20 analysis about a year ago, our initial estimate for
21 repair cost was a range from approximately \$900 million
22 to 1.3 billion, and an approximate 30-month repair
23 schedule.

24 To go into current activity and then how that
25 impacts on where that looks today, since the time of our

1 initial estimate, we have continued to complete and
2 refine engineering, as I mentioned. And, again, it is
3 nearing substantial completion. We continue, as I
4 mentioned, to work on the terms and conditions of an EPC
5 contract. We are nearing completion, as Mr. Rogers
6 mentioned earlier, of the independent review process as
7 well as a project risk analysis.

8 Based on the information that we have gleaned
9 today from all those, as Mr. Rogers has mentioned
10 earlier, our cost estimates are trending higher, but we
11 will have more information, more detailed information as
12 to what that means when we complete all of those, the
13 negotiations and the analysis that I spoke of.

14 And then, finally, with respect to the status
15 of the repair process, we are also continuing
16 negotiations with potential providers of builders risk
17 insurance that would cover various aspects of the repair
18 process. So that covers my update for 4 Alpha, sir.

19 **COMMISSIONER BALBIS:** Okay. And I just want
20 to stop you there. I have a few questions about that.
21 The way you are setting up this contract, the EPC
22 contract, let's just focus on that. What is the
23 structure going to be and how is that going to differ,
24 if at all, from the contractual relationship of the
25 previous contractor that performed the cutting of the

1 containment structure, et cetera?

2 **MR. BURNETT:** With your understanding, I will
3 have to be a little bit tempered, in that any details
4 beyond what I'm going to tell you is still under
5 negotiation, of course. But to your second part of
6 that, it is a more complex contract, as you can imagine,
7 than the single bay 3-4 (phonetic) repair as the scope
8 of the project is much greater.

9 I can say in general terms, the contract
10 paradigm that we are moving under will look a lot like
11 an industry standard type EPC that you see for a major
12 construction or a mega project. So industry standard
13 practice in terms -- as far as terms, conditions,
14 pricing, it will be familiar to the Commission.

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

16 And I'm going to stray a little bit from the
17 agenda, and I think, you know, because of the settlement
18 agreement, there was a lot of conditions in the
19 settlement agreement that required involvement with the
20 signatories of the settlement.

21 And for the Office of Public Counsel, if you
22 would care to comment on at least the EPC contract, the
23 different item that was just discussed, what OPC and the
24 other intervenors involvement has been and provide your
25 comments to that.

1 **MR. REHWINKEL:** Commissioner Balbis, Charles
2 Rehwinkel with Public Counsel's Office.

3 I have prepared a report on Items 5, 6, and 7
4 that would cover -- that would answer that, and that was
5 a report that was agreed upon among the parties. It
6 would be considered a joint report of all the
7 participants, including the company. I can do that now
8 or I can do that at that time, whatever your preference
9 is.

10 **COMMISSIONER BALBIS:** We can wait for 5, 6,
11 and 7, then. The other question I had about the repair
12 process, and it might have been in my first status
13 conference, I asked the question from Progress that as
14 we were looking to separate out in different hearing
15 tracks, would any of those different hearing tracks,
16 would anything prevent Progress from moving forward with
17 the repair of CR3.

18 And I believe you indicated that Progress is
19 moving forward with at least some aspects of the repair
20 process. Now, this might have been -- I believe it was
21 before the second delamination event, but can you just
22 talk about in a little detail what activities are taking
23 place now versus what was happening before when we made
24 that discussion and you made that commitment?

25 **MR. BURNETT:** Absolutely. To the central

1 point of your question, certainly it's has this process
2 held up the ability to repair, the timely analysis of
3 the repair? Not at all. In fact, from the day that we
4 had that exchange to as we sit here now, we have been
5 moving forward. As I stated, engineering was
6 effectively zero at that point as to real life
7 engineering with walk-downs on the plant, with
8 engineering change packages, and the like. It is now
9 substantially complete, so that engineering has gone
10 forward.

11 Again, the EPC negotiations are nearing their
12 final, so this has all been progressing at that time,
13 and we will be positioned to going into the repair and
14 retire analysis that if the repair option is chosen, we
15 will have not have lost any critical path. There is no
16 critical path stoppers there. We would be able to
17 mobilize and execute that decision after all the
18 appropriate reviews have taken place.

19 **COMMISSIONER BALBIS:** Okay. Thank you. And
20 if you can move on to the next item, then. That's fine,
21 we can go to that.

22 **MR. BURNETT:** Yes, sir. So with respect to
23 the repair versus retire decision, as you heard earlier,
24 the repair analysis that we are concluding provides
25 substantial input and places a substantial role into

1 that analysis. And when complete, we will be in a
2 position to do our interactions with the intervenors
3 under the settlement and pass that information on, and
4 then move to the next phase after that.

5 But one thing, I think, that it is important
6 to note about the repair versus retire is a lot of
7 familiarity, again, with what the Commission has seen in
8 other avenues of that. There will be an analysis of
9 technical feasibility, of constructability, of
10 licensing, a thorough risk analysis, and as well an
11 analysis of qualitative and quantitative factors. So I
12 wanted to lay out, that is the paradigm that we are
13 moving under as we go forward for the interactions for
14 that.

15 **COMMISSIONER BALBIS:** Okay. And thank you for
16 that. And I think it's probably appropriate for me to,
17 again, make the statements I made in the last meeting as
18 to where we are, because I think there is a lot of
19 confusion as to the decision to repair or retire. And
20 it's something that obviously the intervenors have
21 entered into the settlement agreement and for the
22 Commission approving the settlement agreement that that
23 decision to repair or retire will be made, and it will
24 be reviewed by this Commission and by the parties.

25 And that is why that Phase II of this docket

1 is held in abeyance until it is ripe and ready to go and
2 move forward, so that all the information that is
3 necessary to make a decision of that magnitude is
4 available. It allows all the parties to review it,
5 allows this Commission to review it, and then determine
6 whether or not that is a prudent decision or not for the
7 ratepayers.

8 So I just wanted to make sure I said that in
9 this docket, because at the last meeting I didn't want
10 it to get lost kind of in the shuffle. So if you can
11 move on to the NEIL status.

12 **MR. BURNETT:** Yes, sir. And I think despite
13 the previous panels of our executives best efforts, they
14 did pretty much steal the majority of my thunder with
15 respect to any report on NEIL. But for the benefit of
16 this docket, I can highlight the key points that we do
17 continue to meet and communicate with NEIL.

18 NEIL is currently taking examinations of some
19 Progress Energy employees under oath. And in the
20 next -- in the fourth quarter, we will be entering into
21 nonbinding mediation with NEIL. And other than that, I
22 think the previous panel said about anything else I
23 could say on the NEIL update, sir.

24 **COMMISSIONER BALBIS:** Okay. I do have one
25 question that I wanted to ask in this proceeding. There

1 was discussion from Mr. Johnson in the North Carolina
2 process, if you will, that at one point Progress slowed
3 down the negotiations, the activities with NEIL for
4 various reasons, and then at some point that was sped
5 back up. Can you just walk through, from a timing
6 standpoint and an effort standpoint from Progress with
7 NEIL, as to the schedule in dealing with them and to
8 make sure that things aren't being delayed, that we are
9 still moved forward, and it may have been appropriate to
10 talk about at our last panel, but, again, this is an
11 unusual situation.

12 **MR. BURNETT:** Sure. No problem. Of course,
13 realizing I don't have the benefit of exactly what Mr.
14 Johnson was referring to. I did see the same statement;
15 I'm not sure what he had in his mind. But I can tell
16 there was no deliberate effort by the company to ever
17 halt negotiations and say let's stop moving forward and
18 wait on some event. Rather, I think it was more a
19 product of just the timing and flow.

20 NEIL was very interested in a lot of requests
21 for information, a lot of detailed information about the
22 project, the repair, what was going on, the status of
23 the unit. That was a big flurry of activity with NEIL,
24 fast and furious for awhile.

25 I think perhaps what Mr. Johnson was referring

1 to is there was a portion of time where both parties
2 kind of took a time out from that and said can we focus
3 perhaps more on the resolution of our pending claims,
4 knowing NEIL's position better, knowing our position
5 better, and talk more about the claim process and the
6 resolution process.

7 And now we are back more into responding to
8 requests for information from NEIL, and now they are
9 taking information from live testimony. So that is what
10 I would perceive as a very active period, a period more
11 talking about the process, and then a very active period
12 of data exchange leading up to the mediation. So that's
13 my best guess as to what he meant by that, sir.

14 **COMMISSIONER BALBIS:** Okay. But at this time,
15 as indicated by Mr. Rogers, Progress is moving forward
16 as aggressively as necessary with negotiations with
17 NEIL?

18 **MR. BURNETT:** Yes, sir, full steam ahead.

19 **COMMISSIONER BALBIS:** Okay. And then there
20 was a lot of discussion in the last status conference,
21 and also during the stipulation discussion about one
22 versus two events, and, obviously, the delamination
23 events. Has NEIL made a determination or is that part
24 of the mediation process?

25 **MR. BURNETT:** That is part of the ongoing

1 process, sir.

2 **COMMISSIONER BALBIS:** Okay. And what is the
3 current latest dollar amount that Progress is seeking to
4 recover from NEIL?

5 **MR. BURNETT:** I'm not sure I could answer it
6 that way. We have certainly submitted to NEIL all of
7 our claims for repair that we think are covered by the
8 policies or replacement power. I think I can give you a
9 rough estimate, if you would not hold me to it subject
10 to check, of what the repair costs perhaps are to date.
11 But as far as interaction of have we given NEIL a
12 specific number saying pay us this now, I know we have
13 made claims for replacement power costs that were due
14 under the policy. Payments have been made under that up
15 to a certain date by NEIL and then stopped.

16 And then repair costs to date are -- I do have
17 a rough total, I believe, for that in the neighborhood
18 of 312 million, I believe, cost to date for repair
19 costs. But those are project costs and subject to check
20 on that number.

21 **COMMISSIONER BALBIS:** Okay. That's fine.
22 Okay. And we can move on to the joint report at this
23 point. I think NEIL has been successfully exhausted.

24 **MR. REHWINKEL:** Thank you, Commissioner
25 Balbis.

1 On behalf of the intervenor group, which is
2 Florida Industrial Power Users Group, PCS Phosphate, and
3 the Florida Retail Federation and the Public Counsel's
4 Office, I am authorized to report to you, and as well as
5 Progress, we are all parties to the discussions under
6 the settlement agreement.

7 As you heard earlier today, we have conducted
8 four meetings under the provisions of the settlement
9 agreement. The first meeting was on May 2nd, and it was
10 a teleconferences among the attorney representatives to
11 discuss the expected documentation that we would receive
12 under the agreement, the process that we would proceed
13 under, and the schedule for upcoming meetings under the
14 agreement.

15 On June 1 of 2012, the entire group met for a
16 site visit at Crystal River, as well as a discussion.
17 The intervenor group and their expert consultants, their
18 technical experts, Oral Buyukozturk, the civil
19 engineering professor of world renown from MIT, and Dr.
20 Bill Jacobs and Jim McKay, both nuclear engineers with
21 Ph.Ds, who are representing the Georgia Commission in
22 their evaluation of the Vogtle Project, met with the PEF
23 CR3 repair team representatives. This would be John
24 Elnitzky, Jon Franke, and Mike Delawry, as well as Mr.
25 Glenn and Mr. Burnett, to discuss the status of the

1 repair, negotiations with vendors, documentation that
2 would be received, and had been received, and insurance
3 issues, and we also conducted a thorough site visit of
4 the containment.

5 Just to depart a little bit from the report
6 that I was to give in answer to your question, at the
7 time we met on June 1st, Progress had just concluded
8 what they called a down-selection which eliminated one
9 of the two paid vendors, and left URS for them to
10 negotiate with.

11 They briefed us on this process. Part of the
12 documentation that has been received pursuant to the May
13 2nd meeting was the entire documentation that had been
14 provided under the RFP process. This is paid
15 engineering that was done and was quite extensive.

16 After a discussion in this meeting, we
17 discussed the EPC Project, the EPC negotiation aspect of
18 the project, and we realized that at that point
19 negotiations would occur between the company and the
20 winning vendor, which was URS, that would hopefully
21 result in an EPC.

22 Part of this process meant, though, that we
23 would back off having been informed of the nature of the
24 way they would proceed, because Progress had to
25 negotiate this EPC, and we knew that it would take time.

1 We understand that it's still on-going, so we have not
2 re-engaged in that part of the process. We will once an
3 EPC is generated as part of the overall repair plan.

4 On July 6th of 2012, we held what I would
5 consider our first quarterly meeting of the group in
6 Tallahassee with the intervenor group and Progress and
7 the experts participated by phone. Part of the meeting
8 was to discuss developing events with respect to the
9 merger. We also got a status report on the ongoing
10 repair effort, and we had a fairly extensive
11 conversation about the status of NEIL negotiations and
12 where things were going to proceed.

13 At each one of these meetings, I should say,
14 we always discussed changes in the schedule, expected
15 meetings by the board of directors to consider the
16 evaluation of repair versus retirement. So the schedule
17 has never been firmly nailed down, because it has always
18 been based on the thorough evaluation of the repair, as
19 well as the scheduling of board meetings. So we have
20 always been in these meetings keeping an eye on that.

21 And then, finally, on August 3rd of 2012, the
22 intervenor group and Progress, now Duke, met in
23 Tallahassee to discuss ongoing repair effort and the
24 schedule of anticipated Duke board deliberations, and
25 the schedule as it relates to future quarterly meetings.

1 We also discussed the status of Duke's interaction with
2 NEIL extensively at that meeting.

3 So those are the meetings that we have
4 conducted to date. I heard them characterized as
5 informal, but I think Mr. Glenn reported to you we have
6 met rather regularly once a month, the first week of the
7 month, and we have had, I would consider, rather
8 rigorous and thorough discussions, at least two of them
9 with our expert witnesses. So that concludes my report
10 under five.

11 **COMMISSIONER BALBIS:** Okay. Thank you. And I
12 have one question for you. I mean, obviously, there was
13 a lot of discussion during the stipulation and the
14 approval of the stipulation as to what was expected of
15 these meetings, and what OPC and the intervenors
16 expected, and what Progress has expected. And so the
17 question is are you meeting as frequently as needed, are
18 you getting the information that was expected when you
19 entered into the stipulation, and really for all the
20 intervenors to that? You know, if these meetings are
21 working for each of the parties, what you're getting is
22 what was expected with the stipulation?

23 **MR. REHWINKEL:** Let me answer on behalf of
24 Public Counsel. And I consider even though the
25 witnesses, the technical experts are engaged by our

1 office, they really are working on behalf of the whole
2 team.

3 From my standpoint, they have been provided
4 with the opportunities to meet whenever they needed to
5 meet and the information that they have requested has
6 been provided. I will say this, and this is not a
7 reflection on Progress in any way, I think the events
8 that unfolded in North Carolina -- and I'm not making a
9 judgment about them one way or the other -- I think they
10 perhaps interrupted the schedule somewhat. But I don't
11 think it has been a detriment, because part of that
12 interruption has resulted in a renewed effort on our --
13 on the way we perceive it, a renewed effort on Duke's
14 part to engage in the evaluation of the repair.

15 So we somewhat have held off on some of the
16 interaction, but that has not been a detriment to the
17 process. We will be receiving -- there really is --
18 what we are doing is waiting for the EPC negotiation and
19 the repair plan to come together. And once that
20 happens, we will receive more information and our
21 experts will evaluate the additional information that we
22 receive. So from our standpoint, we are very pleased
23 with the process and we think the process is working as
24 intended.

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

1 And I would like to offer Progress the
2 opportunity to respond with the same question. I mean,
3 are these meetings what was expected when the
4 stipulation was entered into?

5 **MR. BURNETT:** Yes, sir; absolutely, on our
6 behalf. And I think one thing that we really enjoyed
7 with the signatories to the settlement is the ability to
8 be very interactive. And the informal process that Mr.
9 Glenn mentioned earlier has been very helpful.

10 I don't think I hesitate to ever pick up the
11 phone and call anyone in the settlement to say, hey,
12 this is happening, do we need to talk about this and
13 vice versa. So I think it has exceeded my expectations.

14 **COMMISSIONER BALBIS:** Okay. That's obviously
15 good to hear, you know, because there was some question.
16 And I'm glad to hear that it seems to be working. And
17 although you prepared a joint report, I'd like to offer
18 the other signatories of the settlement agreement to
19 provide their opinion on how the process is working.
20 And I'll probably go to Florida Retail Federation first,
21 and then we will move on to FIPUG.

22 **MR. WRIGHT:** Thank you, Commissioner.

23 I don't really have anything to add to what
24 Mr. Rehwinkel and Mr. Burnett said. The process has met
25 our expectations. The meetings have been lengthy, and

1 transparent, and open, and we are satisfied with them.

2 Thank you.

3 **COMMISSIONER BALBIS:** Okay. And, Mr. Moyle.

4 **MR. MOYLE:** And I appreciate the Office of
5 Public Counsel preparing a joint report, and FIPUG
6 concurs, you know, with those comments. You had
7 specifically asked how is the information flowing. Are
8 you satisfied with the information flow and the
9 communications. And I can tell you, yes, to that. Not
10 that every question asked has been answered, but, like,
11 I think took place earlier today, there are a lot of
12 questions that the answers are not yet there, and there
13 is a process and, you know, experts are involved.

14 But we have been satisfied that to the extent
15 that information is known and answers are there, they
16 are being provided. And also I want to publically
17 commend and compliment OPC in retaining some subject
18 matter experts, because these meeting have a lot of
19 lawyers in the room, but OPC has retained some experts
20 to help give advice and counsel with respect to some
21 subject matter areas that are very technical and very
22 involved when you're talking about this topic. So they
23 have been very good about having those experts share
24 information with all of us, and I think that has been a
25 good benefit.

1 And then, I guess, just the last point, and
2 this was part of the report, but one of the upcoming
3 events that we are keenly focused on is the NEIL
4 discussions. Because as was talked about previously,
5 that's a lot of money, and will be, I think, involved in
6 the direction that moves forward.

7 So we are talking to Progress, and been
8 involved in Progress, and they have reported that there
9 is mediation upcoming. But that is, you know, a key
10 component that we are spending time looking at very
11 closely. And, you know, overall we are satisfied that
12 the intent of the stipulation is being met by Progress
13 and all parties and the conversations have been fruitful
14 and productive. Thank you.

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

16 And, Mr. Brew.

17 **MR. BREW:** Thank you, Commissioner.

18 I think there is a certain level of overriding
19 frustration on those key issues, because we are stuck in
20 an extended limbo. But I think through that process, I
21 would agree with everybody else, the exchange of
22 information has been exceptional. To the extent I have
23 had questions, they have been quickly answered. So I
24 think the process is working. We just would like to get
25 to a decision point. I also would want to second what

1 Mr. Moyle just said with OPC's putting the experts
2 together to help us all understand exactly from their
3 perspective where things are going.

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

5 And, unfortunately, the Southern Alliance for
6 Clean Energy was not a signatory to this stipulation, so
7 I don't think you could comment on how the process is
8 working when you're not participating in it, but I do
9 appreciate you continuing to be involved in this
10 process.

11 **MR. JACOBS:** Commissioner, we attended.

12 **COMMISSIONER BALBIS:** Okay. And I understand
13 the joint report you said really handled 5 and 6 of the
14 agenda.

15 **MR. REHWINKEL:** Well, for 6, the question was
16 are there any issues that need to be decided by the
17 Commission? And the parties all agreed that there are
18 no matters in dispute at this time, nor have any events
19 transpired that would potentially trigger a dispute
20 under the settlement.

21 **COMMISSIONER BALBIS:** Okay. And then go back
22 to Progress on this, and then, Mr. Rehwinkel, you can
23 comment, but you should be in agreement. What are the
24 next steps as far as, you know, you have talked about
25 the EPC negotiations, and, you know, obviously they are

1 on going, but when do you expect that contract to be
2 executed so we can start gathering this information on
3 cost, et cetera, and keeping in mind the Phase II of the
4 process.

5 **MR. BURNETT:** Yes, sir. As Mr. Rogers
6 mentioned earlier, you know, we are keenly aware of the
7 end of the year issuing the settlement agreement, and we
8 are working diligently to collect all that.

9 I think how it works with the Phase II is that
10 when we have all of that information, and we invoke the
11 requirements of the settlement agreement for the
12 interaction with the intervenors, and the like, and when
13 we come to a final decision that after all that process
14 has worked itself out and we have made a decision to
15 repair versus retire, in my view that is when the Phase
16 II would be ripe and open for review at that point, when
17 the decision is made.

18 **COMMISSIONER BALBIS:** Okay. And I will hold
19 you to this, and I'll ask you this, but when do you feel
20 a roundabout time frame that it would be -- at least
21 Phase II would be ripe for hearing?

22 **MR. BURNETT:** I'm speculating, and I could
23 really -- you know, I was hearing a lot of the same
24 stuff you were hearing for the first time, too, as far
25 as the status of where we're at. I mean, I can tell you

1 again with the engineering we are -- as Mr. Glenn, I
2 believe said, these are, I think, months not years, as
3 far as moving into the finalization of this. With an
4 understanding, too, that the end of the year is
5 approaching, and there are certain dates in the
6 settlement agreement that invoke certain things. We are
7 trying hard, but I can't tell you more than that with
8 any specificity, sir. I mean, we are moving with all
9 due diligence.

10 **COMMISSIONER BALBIS:** Okay. And I'd like to
11 offer staff opportunity to, you know, ask any questions
12 you may need to. I know you do engage with them on a
13 regular basis, but at least in this setting are there
14 any questions from staff about any of these items?

15 **MS. BENNETT:** Mr. Ballinger and Mr. Laux both
16 confirmed that they have not got any particular
17 questions at this time. We have discussions with them
18 from time to time.

19 **COMMISSIONER BALBIS:** Okay. And I think as
20 far as discussing the next steps for this proceeding, I
21 know we kind of delayed a little bit the status
22 conference in order to have, you know, the initial four
23 meetings that was had by the parties, and I think that
24 was effective as we are starting to kind of narrow down
25 on where we are in this process.

1 You know, I think that when the EPC contract
2 is executed, when, you know, maybe firmer cost estimates
3 or schedules are agreed to, and, of course, you know, at
4 any time a party feels this would be a good time to kind
5 of get back together, we will do that, and I will follow
6 up with an order scheduling it. But I just want to make
7 sure that we all understand what the next step would be,
8 you know, and I think it would be a good time to point
9 out this process.

10 And I have said it before, but, you know,
11 there's a lot of discussion, whether it's in the media,
12 or, you know, members of the legislature, et cetera,
13 this is a very important issue. And what we have in
14 place here by approving the settlement or the
15 stipulation is all parties really working in the same
16 room and getting all of the information that is used to
17 make these very, very significant decisions.

18 So we have, you know, representatives from the
19 Office of Public Counsel, who represents all ratepayers,
20 the Retail Federation, the Power Users Group, and the
21 White Springs Agricultural that really cover pretty much
22 almost every ratepayer of Progress Energy that is
23 involved in this process. So, you know, I'm glad to
24 hear it's working, the information is flowing. We are
25 having as transparent of a process that I think we can

1 have with the limitations we have in a formal proceeding
2 like this.

3 So I know I'm glad to hear, and I'm
4 comfortable with the transparency of this process, and
5 I'm glad to hear that it is working well, and customers
6 should be assured that all of the parties that are
7 representing them are working with Progress to come up
8 with a resolution, or bring us a situation where then we
9 have to move forward and decide.

10 So I just thought that was important to say,
11 you know, because, again, there is a lot of interest.
12 This is an important issue, but I think we have a good
13 process in place to review these decisions, review the
14 information, and move forward in the best interest of
15 the customers.

16 At this time I'd like to offer the opportunity
17 for any of the parties to bring up any other issues or
18 any requests in this proceeding.

19 **MS. BENNETT:** I'm sorry, I'm not a party, but
20 I was reminded by Mr. Kiser of one question that staff
21 did have on the -- if now is appropriate?

22 **COMMISSIONER BALBIS:** Yes, that's fine.

23 **MS. BENNETT:** -- on the process for the NEIL.
24 Once it goes through mediation, if it were to go on to
25 arbitration and a decision made, is that an appealable

1 decision?

2 **MR. BURNETT:** I'm going to have to say I'm not
3 sure, but I don't think so.

4 **COMMISSIONER BALBIS:** Okay. Again, any other
5 parties have anything they would like to bring up?

6 Yes, Mr. Rehwinkel.

7 **MR. REHWINKEL:** Yes. Commissioner, I really
8 appreciate your remarks, because I think they are on the
9 money. We knew when we entered into this agreement --
10 and I say we, I believe I'm speaking for all the
11 parties -- that it would be a long and complicated
12 process. It would not go on a predictable time frame
13 with, you know, very clean decision points. It's
14 dynamic and things change. And we recognize that, and I
15 think that we provided mechanisms in here. I counted,
16 you know, six or seven points in the settlement
17 agreement that provide for disputes or issues to be
18 brought to the Commission if they arise. And I think
19 all of those decision-making mechanisms are still valid.
20 They have not been triggered. We have been renewed in
21 our confidence that Duke is committed to making a
22 thorough review of the repair process.

23 And as Mr. Glenn stated, we'll aggressively
24 pursue receipt of what to do, the customers and the
25 company, under NEIL insurance policies through

1 arbitration, if necessary. And also, we did put
2 provisions in the settlement -- we, meaning all the
3 parties -- that would incent Progress, now Duke, to
4 repair if it is technically and economically feasible to
5 do so.

6 And we are satisfied that that process is
7 proceeding as contemplated, possibly on a slower
8 schedule, but you heard Mr. Rogers say that they knew
9 that they had the end of the year under the settlement
10 agreement, under certain penalties and incentives. And
11 I think that process is still in place. And we will
12 work diligently, as the Public Counsel's Office and as
13 the intervenor group, with our technical experts to be
14 as engaged and responsible for the customers of Florida
15 as we represented to you on day one when you approved
16 the settlement.

17 **COMMISSIONER BALBIS:** Okay. Thank you. And I
18 would like to offer the opportunity for any other
19 parties?

20 **MR. JACOBS:** Very briefly, if I may.

21 **COMMISSIONER BALBIS:** Sure.

22 **MR. JACOBS:** I would simply join in the
23 comments of the other intervenors as to the leadership
24 shown by the Office of Public Counsel. And to this
25 regard, there are a lot of moving parts to this very

1 complex matter, and so to the idea of really digging
2 into the details and not having to do this expo facto
3 is, I think, an extremely important issue.

4 But I would also raise -- cite, rather, that
5 the discussion today emphasizes that there are so many
6 moving parts in place, and we encourage the Commission
7 to continue its vigilant efforts.

8 **COMMISSIONER BALBIS:** Thank you. And I
9 appreciate that. And I truly believe that we are all on
10 the same page; and, that is, to make the most
11 cost-effective decision for the ratepayers, and to
12 bring -- again, if it is the cost-effective decision --
13 to bring CR3 back to a safe operational status so that
14 customers can reap the benefit of this low-cost power
15 plant.

16 So with that, are any other comments from
17 staff?

18 **MS. BENNETT:** Yes, Commissioner Balbis.

19 The next status conference, staff recommends
20 that -- we heard today from Mr. Rogers that in a couple
21 of months the Commission would be receiving the
22 independent investigation report on Crystal River 3.
23 Perhaps after that is received by the Commission would
24 be another time for a status conference maybe in
25 September or October.

1 **COMMISSIONER BALBIS:** Okay. Thank you. And,
2 again, we will work with staff to schedule that status
3 conference as appropriate. But I appreciate those
4 comments. Seeing no other comments with this matter, we
5 stand adjourned.

6 (The status conference concluded at 4:02 p.m.)
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STATE OF FLORIDA)
 :
 : CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, 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 6th day of September, 2012.



JANE FAUROT, RPR
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