

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery Clause.

DOCKET NO. 130009-EI

DATED: JULY 3, 2013

**THE FLORIDA RETAIL FEDERATION'S
PREHEARING STATEMENT**

The Florida Retail Federation, pursuant to the First Order Revising Order Establishing Procedure in this docket, Order No. PSC-13-0063-PCO-EI, issued on January 29, 2013, hereby submits the Federation's Prehearing Statement.

APPEARANCES:

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On behalf of the Florida Retail Federation.

1. **WITNESSES:**

The Florida Retail Federation does not intend to call any witnesses for direct examination, but reserves its rights to cross-examine all witnesses and to rely upon the prefiled testimony of witnesses in this docket, as well as testimony on their cross-examination.

2. **EXHIBITS:**

The Florida Retail Federation will not introduce any exhibits on direct examination, but reserves its rights to introduce exhibits through cross-examination of other parties' witnesses.

3. STATEMENT OF BASIC POSITION

Florida Power & Light Company – Turkey Point Units 6&7 Project

The Florida Retail Federation agrees with the Citizens of the State of Florida that, because FPL is pursuing an approach to the Turkey Point Units 6&7 Nuclear Project that limits expenses to only those necessary to obtain a combined operating license, the FRF will join the OPC in not contesting FPL's approach to the Turkey Point Units 6&7 Project at this time and in not recommending any adjustments to the amounts that FPL seeks to recover with respect to that Project. However, in light of the 2013 amendments to Section 366.93, Florida Statutes, it appears that FPL must either certify that its intent to build Turkey Point Units 6&7 satisfies the Nuclear Cost Recovery statute, as amended, or provide supplemental testimony that conforms to the statutory requirements.

Florida Power & Light Company – Extended Power Uprate Projects

It is FPL's burden to demonstrate that all costs for which it seeks approval through the Nuclear Cost Recovery charge are reasonable and prudent and that all such costs otherwise satisfy the statutory requirements to be eligible for recovery from FPL's customers.

Duke Energy Florida – Levy Nuclear Project

On March 8, 2012, the Commission issued its Order No. 12-0104-FOF-EI approving the Stipulation and Settlement Agreement between Progress Energy Florida (now Duke Energy Florida) and the major parties representing consumers' interests in relation to PEF/DEF's nuclear projects. The Settlement Agreement addresses what costs can be recovered from customers and what rates the company can charge to obtain recovery of those amounts, which are, naturally, subject to a true-up in the last year of the recovery period. The last year of the recovery period is currently expected to be 2017. Accordingly, PEF should recover only the amounts contemplated

by, and approved by the Commission in its approval of, the 2012 Settlement Agreement, subject also to the standard requirement that any costs approved for recovery must be shown to be reasonable and prudent and otherwise consistent with the statute's requirements. Further, in light of the 2013 amendments to Section 366.93, Florida Statutes, it appears that Duke must either certify that its intent to build the Levy Nuclear Project satisfies the Nuclear Cost Recovery statute, as amended, or provide supplemental testimony that conforms to the statutory requirements.

Duke Energy Florida – Crystal River 3 Extended Power Uprate

On February 5, 2013, Duke announced that it planned to retire Crystal River Unit 3 (CR3) and cancel the CR3 Extended Power Uprate project. As a result of Duke's decision to retire CR3, the EPU project will never be used and useful in providing public service. In its testimony, since announcing its decision to retire CR3 and cancel the EPU project, Duke states it has taken affirmative steps to halt and minimize all expenditures related to the CR3 EPU project and wind down the project.

In the 2012 NCRC cycle, OPC asked Duke to avoid making any EPU Project expenditures that could be avoided or deferred if Duke decided to cancel the EPU project. As such, Duke was on notice that these expenditures would be scrutinized. The Commission should make a determination in this year's docket whether Duke was prudent in its decisions related to 2012 and 2013 EPU expenditures.

With regard to the long-lead equipment (LLE) components purchased for the EPU Project, Duke should use its best efforts to obtain maximum salvage value for all EPU components it has received whether installed or not. These components should prudently be sold or salvaged so as to provide the best possible value for the benefit of Duke's customers. Any

value obtained from the disposition of these components should be applied to reduce any unrecovered balance of CR3 capital costs and associated carrying costs.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

Legal Issues

Issue 1: Does recently enacted Senate Bill 1472, effective July 1, 2013, change the AFUDC rate that should be used for nuclear cost recovery clause computations in this year's pending case.

FRF: Agree with OPC.

Issue 2: Does recently enacted Senate Bill 1472, effective July 1, 2013, preclude a utility from continuing work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or uncertified preconstruction work that was under contract or commenced prior to July 1, 2013?

FRF: Agree with OPC.

Issue 3: Does recently enacted Senate Bill 1472, effective July 1, 2013, preclude a utility from recovering costs associated with work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or uncertified preconstruction work that was under contract or commenced prior to July 1, 2013?

FRF: Agree with OPC.

FLORIDA POWER & LIGHT COMPANY ISSUES

Turkey Point Unit 6 & 7 Project Issues

Issue 4: Do FPL's activities since January 2012 related to the proposed Turkey Point Units 6 & 7 qualify as "siting, design, licensing and construction" of a nuclear power plant as contemplated by Section 366.93, F.S.?

FRF: Agree with OPC that, because FPL is pursuing an approach that limits expenses to minimal licensing activities to the extent possible, FRF does not contest FPL's approach to Turkey Point Units 6&7 or expenses related to that approach at this time.

Agree with OPC that, in light of the amendments enacted in 2013 to Section 366.93, F.S., it appears the utility should certify that its "siting, design, licensing and construction" comports with the statutory changes or resubmit testimony in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the new units to qualify as "siting, design, licensing and construction" of a nuclear power plant as contemplated by Section 366.93, F.S.

Issue 5: Should the Commission approve what FPL has submitted as its 2013 annual detailed analysis of the long-term feasibility of completing the Turkey Point Units 6 & 7 project, as provided for in Rule 25-6.0423, F.A.C.? If not, what action, if any, should the Commission take?

FRF: FRF does not contest FPL's approach to Turkey Point Units 6&7 or expenses related to that approach at this time.

In light of the amendments to Section 366.93, F.S., it appears the utility should certify that its long-term feasibility analysis comports with the statute, as amended, or resubmit its long-term feasibility analysis in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the feasibility of this project.

Issue 5A: What is the current total estimated all-inclusive cost (including AFUCD and sunk costs) of the proposed Turkey Point Units 6 & 7 nuclear project?

FRF: No position.

Issue 5B: What is the current estimated planned commercial operation date of the planned Turkey Point Units 6 & 7 nuclear facility?

FRF: No position.

Issue 6: What are the jurisdictional amounts for Turkey Point 6 & 7 project activities that are related to obtaining a combined license from the Nuclear Regulatory Commission or certification during 2013 and 2014?

FRF: FRF does not contest FPL's approach to Turkey Point Units 6&7 or expenses related to that approach at this time.

Issue 7: Should the Commission find that, for the year 2012, FPL's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project? If not, what action, if any, should the Commission take?

FRF: No position.

Issue 8: What jurisdictional amounts should the Commission approve as FPL's final 2012 prudently incurred costs and final true-up amounts for the Turkey Point Units 6 & 7 project?

FRF: No position.

Issue 9: What jurisdictional amounts should the Commission approve as reasonably estimated 2013 costs and estimated true-up amounts for FPL's Turkey Point Units 6 & 7 project?

FRF: It appears that no amounts should be approved as reasonable until the utility certifies that its costs (including AFUDC) comports with and satisfies the statutory changes enacted in 2013 to Section 366.93, F.S., or resubmit revised costs in light of these statutory changes;

otherwise, the utility will be unable to satisfy its burden of proof for recovery of these 2013 costs.

Issue 10: What jurisdictional amounts should the Commission approve as reasonably projected 2014 costs for FPL's Turkey Point Units 6 & 7 project?

FRF: It appears that no amounts should be approved as reasonable until the utility either certifies that its costs (including AFUDC) comports with the statutory changes enacted in 2013 to Section 366.93, F.S., or submits revised costs in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for recovery of these 2014 costs.

Turkey Point EPU Project Issues

Issue 11: During the September 2012 hearing in Docket No. 120009-EI, did FPL provide the Commission with all the relevant cost information regarding the actual and estimated Turkey Point EPU expenditures for calendar year 2012 and projected total costs at completion in 2013? If not, what action, if any should the Commission take?

FRF: Agree with OPC.

Issue 11A: What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the completed EPU Project? (New OPC Issue, parallel to Issue 5A)

FRF: Agree with OPC.

Issue 11B: What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the completed St. Lucie EPU Project? (New OPC Issue, parallel to Issue 5A)

FRF: Agree with OPC.

Issue 11C: What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the completed Turkey Point EPU Project? (New OPC Issue, parallel to Issue 5A)

FRF: Agree with OPC.

Issue 12: Are the costs of the Turkey Point EPU, as affected by actual 2012 and estimated 2013 costs, economic and cost-effective for FPL's ratepayers? If not, what action, if any, should the Commission take? (Disputed by FPL)

FRF: Agree with OPC.

Issue 13: Should the Commission find, that for the year 2012, FPL's project management, contracting, accounting and cost oversight controls were reasonable and prudent for FPL's Extended Power Uprate project? If not, what action, if any, should the Commission take?

FRF: Agree with OPC.

Issue 14: What jurisdictional amounts should the Commission approve as FPL’s final 2012 prudently incurred costs and final true-up amounts for the Extended Power Uprate project?

FRF: Agree with OPC.

Issue 15: What jurisdictional amounts should the Commission approve as reasonably estimated 2013 costs and estimated true-up amounts for FPL’s Extended Power Uprate project?

FRF: Agree with OPC.

Issue 16: What jurisdictional amounts should the Commission approve as reasonably projected 2014 costs for FPL’s Extended Power Uprate project?

FRF: Agree with OPC.

FPL Fallout Issue

Issue 17: What is the total jurisdictional amount to be included in establishing FPL’s 2014 Capacity Cost Recovery Clause factor?

FRF: Agree with OPC.

DUKE ENERGY FLORIDA ISSUES

Levy Nuclear Project Issues

Issue 18: Do DEF’s activities since January 2012 related to the proposed Levy Units 1 & 2 qualify as “siting, design, licensing and construction” of a nuclear power plant as contemplated by Section 366.93, F.S.?

FRF: The settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI does not relieve Duke from demonstrating to the Commission that its activities since January 2011 related to Levy Units 1 & 2 qualify as “siting, design, licensing, and construction” of a nuclear power plant as contemplated by Section 366.93, F.S. Further, in light of the amendments enacted in 2013 to Section 366.93, F.S., it appears the utility should certify that its “siting, design, licensing and construction” comports with the statutory changes or resubmit testimony in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the new units to qualify as “siting, design, licensing and construction” of a nuclear power plant as contemplated by Section 366.93, F.S.

Issue 19: Should the Commission approve what DEF has submitted as its 2013 annual detailed analysis of the long-term feasibility of completing the Levy Units 1 & 2 project, as provided for in Rule 25-6.0423, F.A.C.? If not, what action, if any, should the Commission take?

FRF: The settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI does not relieve Duke from submitting its 2013 annual detailed analysis of the long-term feasibility of completing the Levy Units 1 & 2 project, as provided for in Rule 25-6.0423, F.A.C., nor the Commission's determination of long-term feasibility. Further, in light of the amendments enacted in 2013 to Section 366.93, F.S., it appears that the utility should either certify that its long-term feasibility analysis comports with the statutory changes or submit a long-term feasibility analysis that fully complies with these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the feasibility of this project.

Issue 19A: What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the proposed Levy Units 1 & 2 nuclear project?

FRF: See settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. Evidence adduced in this docket will indicate the total estimated all-inclusive cost for the planned Levy Units 1 & 2.

Issue 19B: What is the current estimated planned commercial operation date of the planned Levy Units 1 & 2 nuclear facility?

FRF: See settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. Evidence adduced in this docket will indicate the current estimated planned commercial operation date of the planned Levy Units 1 & 2 nuclear facility.

Issue 20: What are the jurisdictional amounts for Levy Units 1 & 2 project activities that are related to obtaining a combined license from the Nuclear Regulatory Commission or certification during 2013 and 2014?

FRF: The total jurisdictional amount will be a "fall-out" value from other issues, and LNP recovery is subject to the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI.

Issue 21: Should the Commission find that, for the year 2012, DEF's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Levy Units 1 & 2 project? If not, what action, if any, should the Commission take?

FRF: The settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI does not relieve PEF from proving that its project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Levy Units 1 & 2 project. If any such costs were not reasonable and prudent, they should be disallowed.

Issue 22: What jurisdictional amounts should the Commission approve as DEF's final 2012 prudently incurred costs and final true-up amounts for the Levy Units 1 & 2 project?

FRF: Agree with OPC.

Issue 23: What jurisdictional amounts should the Commission approve as reasonably estimated 2013 costs and estimated true-up amounts for DEF's Levy Units 1 & 2 project?

FRF: Agree with OPC.

Issue 24: What jurisdictional amounts should the Commission approve as reasonably projected 2014 costs for DEF's Levy Units 1 & 2 project?

FRF: Agree with OPC.

Issue 25: What is the appropriate regulatory treatment of any amount equal to the difference between the collections pursuant to Order No. PSC-12-0104-FOF-EI and the sum of recoverable amounts identified in the prior issues?

FRF: The Commission should identify any such cost differences for the purpose of true-up pursuant to the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. These costs should be tracked and monitored so that customers and the Commission can be assured that costs are minimized, eliminated, or otherwise controlled to insure that the monthly charge for the Levy Project (part of the NCRC component of Duke's Capacity Cost Recovery charges) is eliminated as soon as possible.

CR3 Uprate Project Issues

Issue 26: What action, if any, should the Commission take as a result of the DEF decision to retire the CR3 unit with respect to the Balance of Plant Uprate of CR3 associated with the December 7, 2009 base rate tariff filing by DEF? (Disputed by Staff)

FRF: This issue is to be decided in Docket No. 100437-EI, so no Commission action is necessary at this time, or in this year's NCRC docket as to this issue. With respect to the dollars being proposed for recovery in this docket, the fall-out cost impacts on those dollars, if any, from the resolution of this issue in Docket No. 100437-EI will be treated accordingly in this docket in a subsequent year.

Issue 27: Should the Commission find, that for the year 2012, DEF's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Crystal River Unit 3 Uprate project? If not, what action, if any, should the Commission take?

FRF: No. In the 2012 NCRC cycle, OPC asked the Commission not to make a determination on Duke's project management, contracting, accounting and cost oversight controls. OPC argued that Duke should avoid making any expenditures that were avoidable or deferrable on the EPU project if Duke decided to cancel the EPU project. As such, Duke was on notice that these decisions would be greatly scrutinized. The Commission should make a determination in this year's docket whether Duke was prudent in its decisions related to Duke's project management, contracting, accounting and cost oversight controls.

Issue 27A: Has Duke undertaken reasonable and prudent measures to mitigate the CR3 uprate asset (e.g., through salvage, sale, cost reduction, etc.) following its decision to retire CR3? If not, what action should the Commission take?

FRF: Duke should use its best efforts to obtain maximum salvage value for all EPU components it has received, regardless whether the component is installed (but not in service) or not installed. Any salvage value obtained from the disposition of these components should be applied to reduce any unrecovered balance of CR3 and associated carrying charges.

Issue 28: What jurisdictional amounts should the Commission approve as DEF's final 2012 prudently incurred costs and final true-up amounts for the Crystal River Unit 3 Uprate project?

FRF: In the 2012 NCRC cycle, OPC asked Duke to avoid making any 2012 EPU expenditures that could be avoided or deferred, contemplating that Duke might thereafter decide to cancel the EPU project. As such, Duke was on notice that these expenditures would be greatly scrutinized. The Commission should make a determination in this year's docket whether Duke was prudent in its decisions related to 2012 EPU expenditures.

Issue 29: What jurisdictional amounts should the Commission approve as reasonably estimated 2013 costs and estimated true-up amounts for DEF's Crystal River Unit 3 Uprate project?

FRF: In the 2012 NCRC cycle, OPC asked Duke to avoid making any 2013 expenditures that were avoidable or deferrable if Duke decided to cancel the EPU project. As such, Duke was on notice that these expenditures would be greatly scrutinized. The Commission should make a determination in this year's docket whether Duke was prudent in its decisions related to 2013 EPU expenditures.

Issue 30: What jurisdictional amounts should the Commission approve as reasonably projected 2014 costs for DEF's Crystal River Unit 3 Uprate project?

FRF: None. There should be little to no 2014 costs except any such costs that would be related to salvaging any of the EPU assets

DEF Fallout Issue

Issue 31: What is the total jurisdictional amount to be included in establishing DEF's 2014 Capacity Cost Recovery Clause factor?

FRF: The total jurisdictional amount will be a fall-out from other decisions and the application of the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI, to LNP costs.

5. **STIPULATED ISSUES:**

None at this time.

6. PENDING MOTIONS:

None other than motions for confidential protective orders.

7. STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:

The FRF has no pending requests or claims for confidentiality.

8. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

The FRF does not expect to challenge the qualifications of any witness to testify, although the FRF reserves all rights to question witnesses as their qualifications as related to the credibility and weight to be accorded their testimony.

9. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Florida Retail Federation cannot comply.

Dated this 3rd day of July, 2013.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing has been filed electronically with the Office of the Commission Clerk and that a copy has been furnished to the following by electronic mail on this 3rd day of July, 2013.

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