

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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In re: Nuclear Cost Recovery Clause

Docket No. 130009-EI  
Submitted for Filing: July 29, 2013

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**DUKE ENERGY FLORIDA, INC.'S BRIEF  
REGARDING LEGAL ISSUES 1, 2, AND 3**

Duke Energy Florida, Inc. (“DEF” or the “Company”), pursuant to Order No. PSC-13-0333-PHO-EI, hereby submits its brief on Legal Issues 1, 2, and 3:

Argument

**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?**

DEF asserts that Senate Bill 1472 did not change the AFUDC rate that should be used for nuclear costs recovery clause costs sought by DEF in its March and May filings pursuant to Rule 25-6.0423, F.A.C. in this year’s pending case. In support thereof, joins in the legal briefing of Florida Power & Light (“FPL”) on this issue and incorporates same herein.

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

DEF asserts that the Florida Legislature did not intend to retroactively apply the substantive amendments of Senate Bill 1472 to preconstruction work commenced prior to July 1, 2013 but continuing after July 1, 2013, based on settled Florida law regarding the prohibition on retroactive application of a substantive change in the law. Accordingly, Senate Bill 1472 does

not preclude a utility from continuing preconstruction work not related to obtaining a combined operating license from the Nuclear Regulatory Commission (“NRC”) or certification that was under contract or commenced prior to July 1, 2013. In support thereof, DEF joins in the legal briefing of FPL on this issue and incorporates same herein.

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

DEF asserts that the Florida Legislature did not intend to retroactively apply the substantive amendments of Senate Bill 1472 to preconstruction work commenced prior to July 1, 2013 but continuing after July 1, 2013, based on settled Florida law regarding the prohibition on retroactive application of a substantive change in the law. DEF believes a utility is entitled to cost recovery for all reasonable and prudent costs for preconstruction work commenced prior to July 1, 2013 but continuing after July 1, 2013. In support thereof, DEF joins in the legal briefing of FPL on this issue and incorporates same herein.

Respectfully submitted,

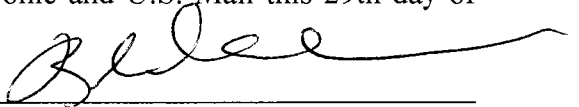


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic and U.S. Mail this 29th day of July, 2013.

  
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