

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 130091-EI

PETITION OF PROGRESS ENERGY
FLORIDA, INC. TO APPROVE
ESTABLISHMENT OF A REGULATORY
ASSET AND ASSOCIATED THREE-YEAR
AMORTIZATION SCHEDULE FOR COSTS
ASSOCIATED WITH PEF'S PREVIOUSLY
APPROVED THERMAL DISCHARGE
COMPLIANCE PROJECT.

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PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 4

COMMISSIONERS
PARTICIPATING: CHAIRMAN RONALD A. BRISÉ
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER ART GRAHAM
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

DATE: Tuesday, July 30, 2013

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

REPORTED BY: LINDA BOLES, CRR, RPR
Official FPSC Reporter
(850) 413-6734

P R O C E E D I N G S

1
2 **CHAIRMAN BRISÉ:** Moving on to Item Number
3 4, Docket Number 130091-EI.

4 **MR. LESTER:** Good morning, Commissioners.
5 I'm Pete Lester with staff.

6 Item 4 addresses Duke Energy Florida's
7 petition to create a regulatory asset with a
8 three-year amortization schedule to recover costs
9 associated with the thermal discharge compliance
10 project. This is the cooling tower project for
11 Crystal River Units 1, 2, and 3. The project is no
12 longer necessary based on the retirement of Crystal
13 River Unit 3.

14 This recommendation addresses only the
15 part of the project attributable to Crystal River
16 Units 1 and 2. The regulatory asset would be
17 amortized over three years and the company would
18 earn a return on the unrecovered balance. Staff
19 recommends that the Commission approve Duke Energy's
20 request to establish a regulatory asset and for a
21 three-year amortization schedule with recovery of
22 the costs through the Environmental Cost Recovery
23 Clause. This item is a proposed agency action, and
24 representatives of Duke Energy are here to answer
25 questions. That's it.

1 **CHAIRMAN BRISÉ:** Thank you very much.

2 Commissioners, any questions?

3 Commissioner Edgar.

4 **COMMISSIONER EDGAR:** Thank you, Mr.

5 Chairman.

6 To our staff, I -- my understanding is
7 that this item is primarily a request or -- a
8 request for permission by the company to use a
9 certain accounting treatment. How is this
10 recommendation, if we approve it, in the best
11 interest of the ratepayers?

12 **MR. LESTER:** It removes the cost from the
13 books and that's basically it. It allows a timely
14 recovery of the cost and gets them off the books.

15 **COMMISSIONER EDGAR:** And if we were to not
16 approve this particular accounting treatment, what
17 impact would that have on ratepayers?

18 **MR. LESTER:** That would impact the
19 company's, the earnings for the company. And so it
20 wouldn't directly impact ratepayers, but it would be
21 a financial issue for the company.

22 **COMMISSIONER EDGAR:** And is it accurate to
23 say that if a five-year amortization schedule were
24 to be used similar to what is applied under the
25 Nuclear Cost Recovery Clause, that that would then

1 incur additional costs?

2 **MR. LESTER:** That would incur additional
3 costs. Yes, ma'am.

4 **COMMISSIONER EDGAR:** Thank you.

5 **CHAIRMAN BRISÉ:** Commissioner Brown.

6 **COMMISSIONER BROWN:** Thank you, Mr.
7 Chairman.

8 We talked a lot about the different
9 amortization schedules for CR1 and 2 versus CR3.
10 That being said, I did not ask, and I'd like to know
11 the rate impact on a customer bill if you know the
12 estimated for the CR3 portion that we will hear
13 about, I believe, in the NCRC proceedings next week.

14 **MR. LESTER:** I don't have the bill impact
15 for a longer amortization period, if that's your
16 question.

17 **COMMISSIONER BROWN:** For the CR3 portion?

18 **MR. LESTER:** I don't have that either.
19 It's roughly one-third, two-thirds. Perhaps the
20 company would have it.

21 (Pause.)

22 **MR. PERKO:** Sorry.

23 **COMMISSIONER BROWN:** It's okay. Take your
24 time.

25 If you don't hear -- if you don't have it

1 now, I'm sure we'll hear about it next week. But I
2 was just wondering what the rate impact would be for
3 the overall project for that portion.

4 **MR. PERKO:** We'll certainly be in a
5 position to provide that information.

6 **COMMISSIONER BROWN:** Thank you.

7 **CHAIRMAN BRISÉ:** Okay. Any --
8 Commissioner Balbis.

9 **COMMISSIONER BALBIS:** Thank you. I have a
10 question or two for staff. It seems that this
11 project was tied to the timing of the CR3 uprate
12 completion. And although this recommendation only
13 deals with the CR1 and 2 portions of it, why isn't
14 this entire project, since it's, the timing of it
15 has been tied to CR3, why isn't it all just tied
16 into the CR3 NCRC proceeding so that we can handle
17 it in one group, if you will?

18 **MR. LESTER:** They have already recovered
19 costs based on the approval they received through
20 the Environmental Cost Recovery Clause. And so
21 they've been allocating this between the NCRC clause
22 and the ECRC. So it's been an allocated project.
23 And because it's already had its existence and been
24 in process in the ECRC, it would be appropriate to
25 go ahead and close it out in that clause.

1 **COMMISSIONER BALBIS:** How much has been
2 recovered prior to this year?

3 **MR. LESTER:** About \$140,000 total from
4 2009 to 2012.

5 **COMMISSIONER BALBIS:** And this
6 recommendation would approve how much?

7 **MR. LESTER:** Approximately -- total cost
8 recovery would be about 18 million. And the project
9 cost, they would earn a return on the unrecovered
10 balance over three years.

11 **COMMISSIONER BALBIS:** Okay. So they've
12 only earned or recovered a fraction of the cost.

13 **MR. LESTER:** Very small amount. Very
14 small amount.

15 **COMMISSIONER BALBIS:** Prior to Duke Energy
16 deciding to retire CR1 and 2 what was the
17 anticipated remaining life of those two units?

18 **MR. LESTER:** Crystal River Units 1 and 2?

19 **COMMISSIONER BALBIS:** Yes.

20 **MR. LESTER:** I'm sorry. I don't directly
21 know that. I believe it's at least through 2016.

22 **COMMISSIONER BALBIS:** Well, maybe I could
23 ask the company.

24 **MR. PERKO:** Gary Perko of Hopping, Green &
25 Sams on behalf of Duke Energy Florida.

1 I believe it's at least through 2020. We
2 can find the exact date for you if you need to, but
3 we don't have that immediately available.

4 **COMMISSIONER BALBIS:** Okay. So through --
5 around 2020. And then -- but you've announced an
6 early retirement of those two units; is that
7 correct?

8 **MR. PERKO:** I'd defer to Mr. Foster from
9 the company.

10 **MR. FOSTER:** At this point I think we're
11 still trying to find out the right date, but there
12 -- we are likely to retire it earlier than that at
13 this point, yes, 1 and 2.

14 **COMMISSIONER BALBIS:** Okay. And I guess
15 just for my fellow Commissioners, one of the
16 concerns that I have is that, you know, this project
17 was started with anticipation of CR3 uprate being
18 completed and also CR1 and 2 being in operation for
19 some period of time. And because of reasons that
20 we'll get into in another docket, you know, CR3 has
21 been -- it's been decided to retire it, and also 1
22 and 2, so now we have this project. And it just
23 seems that it's all been tied to CR3, even though
24 it's only, according to staff, 36%, but the timing
25 of it has, and yet we're going to allow recovery of

1 \$18 million of the cost of it without maybe fully
2 looking at the big picture of this project. So I'm
3 not sure where I am with this. I'd like to hear my
4 fellow Commissioners' comments on it. But it just
5 seems a little bit concerning that it's been
6 separated when it was always lumped together as one.

7 **COMMISSIONER BALBIS:** Commissioner Brown.

8 **COMMISSIONER BROWN:** Thank you. I guess
9 as a follow-up to Commissioner Balbis's concerns,
10 really, staff, my understanding is that we're only
11 looking at right now the CR1 and 2 which are
12 required, required for environmental compliance
13 purposes to have these cooling towers; correct?

14 **MR. LESTER:** Yes, ma'am.

15 **COMMISSIONER BROWN:** So that's completely
16 distinguished from the CR3 unit that we're not even
17 addressing here. Although it's a total project and
18 the timing was linked to the CR3, we're just looking
19 at the CR1 and CR2 needed to comply environmentally
20 with the rules and regulations and that is what
21 we're looking at and treating it really for
22 accounting purposes. We're just looking at this
23 from an accounting perspective, treating it as a
24 regulatory asset.

25 **MR. LESTER:** Yes, ma'am. Yes, ma'am.

1 **COMMISSIONER BROWN:** Okay.

2 **CHAIRMAN BRISÉ:** Okay. Any further --
3 Commissioner Balbis.

4 **COMMISSIONER BALBIS:** So another question
5 I have for staff, this -- the additional cooling
6 that's required for the thermal discharge, is it
7 required if only CR1 and 2 were in operation or just
8 the additional heat produced by the CR3 uprate?

9 **MR. LESTER:** It was originally all three
10 units because they had to provide additional cooling
11 for CR1 and 2 because of the, to replace the modular
12 cooling towers they had there due to increased
13 temperatures from the Gulf of Mexico. They had to
14 do that to avoid derates of Units 1 and 2.

15 Additionally, this project came about
16 because they could replace or take care of the
17 additional cooling needs of 1 and 2 and meet the
18 additional cooling needs associated with the
19 CR3 uprate. So that project has been allocated
20 because it serves all -- it served the additional
21 cooling needs of all three units.

22 **COMMISSIONER BALBIS:** Okay. So then I
23 guess the fundamental question is is this project
24 required in order to have CR1 and 2 remain in
25 operation and meet the environmental requirements

1 until retirement?

2 **MR. LESTER:** It is not required now
3 because of the retirement of CR3 that frees up a lot
4 of cooling capacity, so to speak.

5 **COMMISSIONER BALBIS:** If we approve this
6 regulatory treatment or accounting treatment, what
7 options do we have in the future as far as, as we
8 proceed with the CR3 docket? And can we look at
9 these costs and consider it in that docket or, or
10 not? Once it's recovered, it's recovered.

11 **MR. LESTER:** I might need some help from
12 our legal staff on this, but my idea, if they assess
13 damages in the CR3 proceeding, I don't really know
14 how that will be handled here. I mean, I think
15 you're approving recovery of costs now. It would be
16 hard to go back and say you can't, but I think
17 that's something of a legal matter.

18 **COMMISSIONER BALBIS:** Okay. And, and it
19 just seems to me that this is an unintended
20 consequence, if you will, of the retirement of CR3.
21 And if you're indicating that with the retirement of
22 CR3 it frees up a lot of cooling, if you will, and
23 they do not need this project, and I think that
24 inexorably links that to CR3 and it might be more
25 appropriate to shift all of this into the

1 CR3 proceeding. And I'm just -- it's an open-ended
2 question, if you will. But those are the concerns
3 that I have that this is a result of CR3 being
4 retired. And there's a cost to customers associated
5 with that, and should that be considered in the
6 CR3 proceeding or not?

7 **CHAIRMAN BRISÉ:** Staff?

8 **MR. TEITZMAN:** I apologize. I was
9 discussing -- I apologize. Could I -- could you
10 repeat your question, Commissioner? I'm sorry.

11 **COMMISSIONER BALBIS:** Sure. Based on
12 staff's response that since CR3 is being retired it
13 frees up a lot of additional cooling, if you will,
14 and that this project would not be required,
15 wouldn't this be a consequence of Duke's decision to
16 retire CR3, and those additional costs to the
17 customers, it may be more appropriate to consider
18 those costs as part of the CR3 docket rather than
19 allowing recovery now and not having the opportunity
20 to consider those again in the future?

21 **MR. TEITZMAN:** I'm looking at your
22 question from a legal perspective, and unfortunately
23 I'm thinking I would, for that type of question I
24 would defer to my technical staff.

25 Certainly if you deny staff's

1 recommendation -- I mean that is an option for the
2 Commission; you can deny this recommendation and say
3 that you would prefer to address this entirely in
4 NCRC. Whether or not that is appropriate from an
5 accounting perspective -- I apologize -- I would
6 defer to the accounting staff.

7 **MR. MOURING:** I apologize, Commissioners.

8 **COMMISSIONER BALBIS:** There's a lot of
9 apologies going on.

10 **MR. MOURING:** We were discussing something
11 else. I'm afraid I missed your question.

12 **COMMISSIONER BALBIS:** Okay. Let's try
13 this for the third time.

14 According to staff, this project is not
15 required if only CR Units 1 and 2 are in operation.
16 So now that CR3 has been, it's been decided to be
17 retired, that it frees up a lot of cooling, so
18 therefore this project isn't even needed. So you
19 could -- so therefore it seems to be linked to the
20 decision to retire CR3, and these are additional
21 costs to the customers and shouldn't we consider
22 that in the CR3 proceeding since, if we allow
23 recovery, we have very little opportunity to
24 readdress those costs?

25 **MR. WILLIS:** Commissioners, this is

1 Marshall Willis with Auditing Finance. Let me try
2 to answer your question.

3 On a technical sense, I believe you could
4 look at all of it in the CR3 docket, if you desire
5 that, and pass the remaining portion through the
6 NCRC clause. My problem with that is that the
7 Commission at one point determined that this was a
8 prudent project to do. They determined it was
9 prudent because CR1 and 2 needed it to meet certain
10 EPA rules. It also was necessary because CR3 was
11 having an uprate. So there were three different
12 things that were going on.

13 The Commission at that point decided that
14 it was appropriate on an accounting aspect to split
15 the cost of the project, and that's where you get
16 approximately two-thirds for CR1 and 2 going through
17 the Environmental Cost Recovery Clause and one-third
18 being determined necessary for CR3 going through the
19 NCRC. That decision was made in the past to be a
20 prudent approach to take and that's why it's split
21 up now where two-thirds of it's being looked at.

22 I would imagine if the Commission decides
23 that staff is correct in this, that that approach
24 would also be taken in the NCRC docket. I can't
25 imagine the Commission would take a different

1 approach at that point if this PAA is not protested.
2 Maybe that helps.

3 **COMMISSIONER BALBIS:** Okay. And I don't
4 believe the Office of Public Counsel intervened in
5 this docket, did they?

6 **MR. WILLIS:** No, they have not.

7 **COMMISSIONER BALBIS:** I don't know if
8 there's anyone here from the Office of Public
9 Counsel. I'd like to hear their thoughts on it,
10 but -- as they're supposed to represent the
11 ratepayers. I don't see anyone in the audience.

12 Okay. I mean, those are the concerns that
13 I have. I think that, you know, the fact that we're
14 splitting it and the CR3 portion of it is going to
15 the NCRC proceeding, I'm -- that does eliminate some
16 of my concerns. But I do think that this may be a
17 result of CR3's retirement and it may be more
18 appropriate to shift all of these dollars into that
19 proceeding so we can look at it in one group.

20 **CHAIRMAN BRISÉ:** Commissioner Brown.

21 **COMMISSIONER BROWN:** Thank you. I'm happy
22 Mr. Willis pointed out that this Commission in 2008
23 did find the project to be prudent. That's what I
24 was going to remind Commissioner Balbis, that we
25 already, we already found this project to be

1 prudent. So, and we had similar conversations in my
2 briefing about splitting up the CR1 and 2 going
3 through the ECRC because of the environmental
4 regulations and the CR3 going through the NCRC.

5 I'm comfortable treating this, this
6 portion, CR1 and CR2, I'm comfortable with the
7 recommendation, and I would support it as well.

8 **CHAIRMAN BRISÉ:** Commissioner Edgar.

9 **COMMISSIONER EDGAR:** Thank you, Mr.
10 Chairman. Similarly, I think Commissioner Brown and
11 I probably hit the button at about the same time
12 during Commissioner Balbis's questions. I
13 appreciate Mr. Willis making the clarification.

14 But I think I was going to try to make,
15 and probably not as artfully -- my understanding is
16 that the item before us is a request for a certain
17 accounting treatment and that we certainly have the
18 discretion to approve that request or not to approve
19 that request and then require a different accounting
20 treatment if we were to believe that that were to be
21 more in the public interest. However, it is not
22 before us to determine the prudence of these costs
23 because that is a decision that the Commission made
24 prior and this item is a recognition of changed
25 circumstances since that time.

1 And so I also sometimes find it confusing
2 when items are parceled out due to the legal
3 processes and the filing process and the rules that
4 we have. But keeping projects and dockets to the
5 best that we can, the costs allocated to the
6 specific plants I think is also a more transparent
7 treatment of costs and expenses and ramifications.
8 And so with that, I support the staff recommendation
9 on this item. I do think that it is -- in the murky
10 accounting world, for those of us that are not
11 accountants, that it is appropriate and that it is
12 transparent so that the costs are clear as to why
13 they occurred and what they're attributed to. And
14 I'll be glad to make the motion when you are ready
15 for that, Mr. Chairman.

16 **CHAIRMAN BRISÉ:** Thank you.

17 Commissioner Graham.

18 **COMMISSIONER GRAHAM:** I was just going to
19 move staff recommendation on Item 4.

20 **COMMISSIONER EDGAR:** And I'll second.

21 **CHAIRMAN BRISÉ:** Okay. So it's been moved
22 and seconded. Any further comments or discussion on
23 this item?

24 Commissioner Balbis.

25 **COMMISSIONER BALBIS:** Thank you, Mr.

1 Chairman.

2 And I did note this is a proposed agency
3 action, and perhaps it'll give -- we do have another
4 opportunity if the Office of Public Counsel or
5 others have an issue with this. But, you know, I
6 feel that I've voiced my concerns, and not hearing
7 any others from the table in front of us, similar
8 concerns, but I'll support the motion and staff's
9 recommendation.

10 **CHAIRMAN BRISÉ:** It's been moved and
11 seconded. All in favor, say aye.

12 (Vote taken.)

13 All right. Any opposed? Seeing none, thank
14 you.

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1 STATE OF FLORIDA)
 2 : CERTIFICATE OF REPORTER
 3 COUNTY OF LEON)

4 I, LINDA BOLES, CRR, RPR, Official Commission
 5 Reporter, do hereby certify that the foregoing
 6 proceeding was heard at the time and place herein
 7 stated.

8 IT IS FURTHER CERTIFIED that I
 9 stenographically reported the said proceedings; that
 10 the same has been transcribed under my direct
 11 supervision; and that this transcript constitutes a
 12 true transcription of my notes of said proceedings.

13 I FURTHER CERTIFY that I am not a relative,
 14 employee, attorney or counsel of any of the parties,
 15 nor am I a relative or employee of any of the parties'
 16 attorney or counsel connected with the action, nor am I
 17 financially interested in the action.

18 DATED THIS 15th day of August,
 19 2013.

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 25