

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery
Clause.

DOCKET NO.: 130009-EI
FILED: August 19, 2013

**CITIZENS' POST-HEARING STATEMENT OF POSITIONS
AND POST-HEARING BRIEF (FLORIDA POWER & LIGHT COMPANY)**

Pursuant to Order No. PSC-13-0333-PHO-EI, issued July 23, 2013, the Citizens of the State of Florida, by and through the Office of Public Counsel ("OPC"), hereby submit their Post-Hearing Statement of Positions and Post-Hearing Brief for the portion of the proceeding that relates to Florida Power & Light Company's ("FPL") petition to recover nuclear-related costs.

PRELIMINARY STATEMENT

At the outset of the evidentiary hearing, the Commission voted to approve a motion to defer all issues relating to Duke Energy Florida's ("DEF's") petition for cost recovery in this hearing cycle. The evidentiary hearing therefore was limited to issues associated with FPL's petition. On the basis of a stipulation between FPL and OPC that the Commission approved, the prefiled testimony of witnesses testifying on behalf of FPL and OPC was entered into the record, and FPL and OPC waived cross-examination. Pursuant to the stipulation, FPL and OPC presented opening statements to the Commission and reserved their respective rights to argue their positions in post-hearing briefs.

FPL sought authority to collect costs related to its planned new nuclear units, Turkey Point Units 6&7, and also costs related to incremental generating capacity being developed within existing units St. Lucie Units 1&2 and Turkey Point Units 3&4. OPC's expert witness, Dr. William R. Jacobs, Jr., did not challenge the costs related to Turkey Point 6&7 that FPL

identified in this hearing cycle. Further, he agreed with FPL that the additional capacity of St. Lucie 1&2 was completed at a cost that renders that capacity economic and beneficial to FPL's customers. The sole challenge that OPC presented to the Commission through Dr. Jacobs' testimony relates to the costs of the uprate activities at existing units Turkey Point 3&4. As agreed between FPL and OPC during the issue identification process, OPC will present its argument for the Commission's consideration in the context of Issue 13.

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?

OPC: *No. FPL management's imprudent, ongoing failure to mitigate extreme uncertainty through a commensurate provision for contingency produced exorbitant costs at Turkey Point. That uprate is \$338 million more expensive than the maximum capital costs that the economics (including fuel savings) of FPL's new nuclear unit could justify, and it will operate less than half as long.

FPL's rationale for a consolidated view of a single, "integrated" EPU project *disintegrates* before skyrocketing costs at Turkey Point that demonstrate vast differences from the St. Lucie EPU. This decision point presents the Commission with its last, most compelling opportunity to shield customers from these staggering overruns. It should disallow \$200,000,000 of the \$975,000,000 that FPL spent on Turkey Point in 2012 alone.*

ARGUMENT

There is a notable void in FPL's evidentiary presentation on its uprates. In his testimony, FPL witness Dr. Steven R. Sim devoted considerable attention to demonstrating that the proposed new nuclear units, Turkey Point 6&7, will, at current estimates of construction costs, provide economic benefits to FPL's customers.

Contrast that approach with what Dr. Sim said about the recently completed extended power uprate (“EPU”) activities at the existing St. Lucie and Turkey Point nuclear units. According to his testimony, the objective of the EPU was to provide 400 MW of additional nuclear generation, and that objective was met and surpassed: “Therefore, no feasibility analysis to examine ‘completion’ of the EPU project is necessary or appropriate.” (TR 685)

The last statement is a non sequitur: despite the use of the connector “therefore,” it simply does not follow logically from the first. The objective was never to add nuclear capacity regardless of the price tag; rather, FPL’s claim has always been that the uprates would be cost-effective relative to FPL’s gas-fired alternative. The point of completion is absolutely the “necessary” and “appropriate” time to consider whether the enormous investment in incremental uprate capacity at each of the St. Lucie and Turkey Point sites will provide economic benefits to customers.

While FPL avoided this critical question, the data with which to assess it is in the record. To be sure, Dr. Sim testified that the uprates at St. Lucie and Turkey Point together will provide \$3.4 billion of “nominal” fuel savings over their operating lives. (TR 689) (“Nominal” means the savings that will occur in each year of the units’ remaining lives as measured in terms of the inflated dollars of the future years in which they will occur; the total has not been discounted to present value.) However, calculations of “nominal” fuel savings ignore capital and other costs, and so do not, standing alone, demonstrate cost-effective economics. Dr. Sim ignored the fact that the combined construction costs alone *also* total \$3.4 billion (TR 455), and those are 2013 dollars that are not subject to discounting to reach present value. Said differently: The construction costs through 2013 alone will be greater than the total fuel savings over the operating lives of the units that FPL attributes to all uprate capacity when the savings are

expressed in 2013 dollars — something that FPL did not do. Further, the \$3.4 billion of construction costs include carrying costs only through 2013. To that figure, which FPL will recover through annual depreciation expense over time, FPL will add the annual debt service, return on the equity component of its cost of capital, taxes, and insurance costs during the operating lives of the uprates. The combined extended power uprates will be uneconomic to customers, based on FPL's own parameters, including its projection of fuel savings — the principal economic advantage of nuclear generation. It is no wonder, then, that FPL avoided any analysis of the economics of the uprates, even at the superficial level of the combined plant sites.

The Commission has the authority, the discretion, and the responsibility to apply the economic analysis that will identify the source and extent of the uprates' economic burden. In 2009, the Commission made clear its authority and discretion to apply the methodology that it deems most appropriate for the circumstances when assessing the ongoing economic feasibility of a project. Order No. PSC-09-0783-FOF-EI, issued in Docket No. 090009-EI, at 14-16. FPL clearly agrees with the Commission. In the current docket, as in earlier years, Dr. Sim testified that, while he applied the breakeven analysis to gauge the feasibility of Turkey Point 6&7, “another perspective may emerge as more appropriate” as information regarding the costs and other aspects of the new units become known. (TR 668) The same authority and discretion should govern the choice of economic analysis to be applied to the evaluation of the final stages of a project for which circumstances have changed over time.

With respect to the uprates to existing units, the Commission is there. We have reached the point at which the information regarding the costs and other aspects of the EPU has become known. Another perspective has emerged as more appropriate for the uprates than the composite approach that the Commission permitted in earlier hearing cycles. The information

points to the stand-alone, breakeven calculation as the appropriate tool with which to assess the individual St. Lucie and Turkey Point uprate activities.

Time and experience have eroded the notion of a “single integrated project.” When FPL first described the activities at St. Lucie and Turkey Point as a “single integrated project,” it predicted that, at a total cost of \$750 million, the Turkey Point uprate capacity would cost about 14% more than the corresponding increment of uprate capacity at St. Lucie. The current estimate is that the Turkey Point uprate capacity will now cost \$2.2 billion (and counting, since not all 2013 costs have been tabulated). The Turkey Point estimate has nearly tripled since the need determination case. (TR 460) Further, expressed on a cost-per-installed-kilowatt basis, the Turkey Point uprate capacity costs more than twice as much as the St. Lucie counterpart. (TR 455-456) During the time frame in which the Turkey Point uprate costs soared over those of St. Lucie, FPL witness Terry O. Jones and his EPU management were keenly aware of the significant differences in plant design between the St. Lucie and Turkey Point units. Those differences led to the extreme complexity of the Turkey Point undertaking relative to St. Lucie, and the extraordinary (and extraordinarily expensive) increases in project scope that FPL encountered with the Turkey Point uprates. (TR 470) Therefore, the claim of a “single integrated project” can no longer pass muster.

The economics of the Turkey Point uprate activities, which were dire a year ago, have worsened dramatically. One year ago, FPL’s projections of the cost of the Turkey Point uprate capacity translated to \$6,700 per installed kilowatt. (TR 467) Today, the estimate has risen to \$8,100 per installed kilowatt — and that excludes transmission and AFUDC. On an all-in basis, the cost of the Turkey Point uprate is now projected to be \$9,500 per installed kilowatt. (TR 455-456, 469) The estimate established in the 120009-EI docket was “only” \$6,700 per kilowatt

because Mr. Jones' estimate of \$688 million of expenditures for calendar year 2012 was (again) unrealistically low. (TR 471) The sheer differences in costs between the St. Lucie uprate capacity and the Turkey Point uprate capacity belie what is left of the threadbare argument that FPL has been engaged in a single integrated project. To guard customers against FPL's efforts to dilute the impact of a weak project by melding it with a stronger project, the Commission should examine each of the St. Lucie and Turkey Point undertakings separately.

OPC's witness regards the St. Lucie uprate as cost-effective for customers. OPC witness Dr. Jacobs testified that, inasmuch as the "breakeven analysis" that FPL applied to Turkey Point 6&7 quantifies the maximum amount that FPL can spend on capital costs for a new nuclear unit at Turkey Point and remain competitive with a gas-fired alternative, it follows logically that the cost of uprate capacity should fall below that same maximum breakeven point to be cost-effective. (TR 463) Indeed, because the uprates have shorter operating lives than new units, and thus have less time within which to generate fuel savings sufficient to overcome the initial high installed costs of nuclear capacity, the "breakeven cost" for an uprate necessarily will be lower than the breakeven cost of a new nuclear unit. (TR 463-464) Dr. Sim calculated the breakeven point for Turkey Point 6&7 under seven different scenarios of fuel and environmental costs. OPC did not challenge either Dr. Sim's assumptions for the scenarios or his quantitative calculations. Dr. Sim's results ranged from \$4,217 per kilowatt to \$6,640 per kilowatt. At an installed cost of \$3,800 per kilowatt, Dr. Jacobs and OPC regard the St. Lucie uprate to be economic and advantageous for FPL's customers. (TR 466-467)

Dr. Jacobs demonstrated that the enormous overruns at Turkey Point have resulted in a huge economic liability. However, the Turkey Point uprate situation is entirely different. FPL did not refute Dr. Jacobs' calculation of a \$2.2 billion price tag for the construction of the Turkey

Point uprate. This estimate translates to \$9,500 per installed kilowatt for each of the 232,000 kilowatts of Turkey Point uprate capacity when AFUDC and transmission costs are considered, and \$8,100 when only construction costs are included. (TR 468)

Dr. Jacobs compared the \$8,100 current estimate of the construction costs of the Turkey Point uprate capacity with the highest breakeven cost (and therefore the breakeven value most favorable to the economics of nuclear generation, including uprate capacity) of the seven scenarios for which Dr. Sim developed estimates of the cost of new nuclear capacity at the Turkey Point site. That value of \$6,640 per kilowatt represents FPL's calculation of the maximum amount that it can invest in capital (construction) costs for new nuclear capacity at Turkey Point and remain cost-effective relative to the alternative of an efficient, gas-fired, combined cycle generator. Because FPL includes all fuel and other operating costs of both alternatives in the comparison, this "breakeven" value captures all of the fuel savings that FPL claims for nuclear generation. (TR 464-465) Despite the fuel savings associated with nuclear generation, at \$8,100 per kilowatt the nuclear capacity for the Turkey Point uprate exceeds the maximum breakeven value calculated by Dr. Sim by \$1,460 per kilowatt. As there are 232,000 kilowatts of incremental uprate capacity at Turkey Point, it follows that the Turkey Point uprate exceeds the maximum cost-effective investment in a new nuclear facility that Dr. Sim calculated by \$338 million. Because new capacity has a much longer operating life than the Turkey Point uprate, this calculation is conservative. (TR 463-464, 467)

The extraordinarily uneconomic costs of the Turkey Point uprate are the result of ongoing imprudence. A finding of imprudence in this cycle is not based on hindsight. Early in the life of the EPU activities, Dr. Jacobs criticized FPL for failing to balance the extreme uncertainty associated with the Turkey Point uprate with an adequate provision for contingency

in the planning and implementation of its project. (TR 469-470, 472-473) FPL has continued this imprudent practice over time, including 2012. In his rebuttal testimony in this docket, FPL witness Jones states:

Throughout the EPU project, FPL has maintained a goal to provide a reasonable amount of contingency in order to control project costs. FPL believes that if a very large contingency is established, such as the level of contingency that a contractor would include in a fixed price proposal for a scope of work with many uncertainties, then the ability to control project costs would be diminished.

(TR 909)

This statement is revealing. FPL witness Jones acknowledges that contractors entering a fixed price contract for a project having many uncertainties would incorporate a commensurate degree of contingency into the terms of that contract. The reason is simple: *Prudence*. A failure to incorporate a large contingency would spell disaster if and when the uncertainties translate into unforeseen costs. In such a situation, only an entity that believes it has a blank check would be so unconcerned as to omit a large contingency from its estimates.

Mr. Jones asserts that the purpose of contingency is to “control costs,” and that this objective would be “diminished” by a “very large” contingency that recognizes “many uncertainties.”¹ Putting aside for a moment the observation that, at \$8,100 per kilowatt (and counting), the strategy of controlling costs by understating contingency was a dismal failure, FPL simply has it wrong. The purpose of a provision for contingency is to avoid unrealistic and unattainable estimates of the cost of completion. Had FPL incorporated a level of contingency that was commensurate with the extreme uncertainty and complexity of which it was aware early in the project, the uneconomic characteristics of the Turkey Point uprate would have been

¹ FPL appears to have assumed that its contractors would know either the details of an adequate provision for contingency or the higher projected cost that an adequate provision would have demonstrated, and would have increased their prices accordingly. FPL has shown no reason why it could not have maintained the confidentiality of such details from its contractors.

apparent at the outset or, at the very latest, early in the project. Instead, FPL imprudently paid the price for inadequate contingency, which was to find itself perpetually chasing a series of unrealistically low estimates of remaining costs — a key component of the “sunk cost dilemma” that Dr. Jacobs described in his testimony. (TR 473-474; EXH 67) Given Mr. Jones’ frank acknowledgment that this practice continued throughout the project, including during 2012, the Commission should take measures to prevent FPL from passing the extraordinary costs of that imprudence to its customers. The Commission can do so by disallowing, as imprudently incurred, \$200 million of the 2012 surge in unreasonable Turkey Point uprate costs. Such a disallowance would constitute an adjustment of roughly 9% of the currently projected \$2.2 billion of Turkey Point uprate capital costs.

Dr. Sim’s “nonsensical” remark is itself nonsense. Dr. Sim devotes a large portion of his rebuttal testimony to the proposition that, because there is in theory some future scenario of alternative costs under which the \$9,500/kW Turkey Point uprate would be economic to customers, Dr. Jacobs should not have testified that the Turkey Point uprate is uneconomic to customers in such absolute terms. Dr. Jacobs’ testimony, said Dr. Sim, is therefore “nonsensical.” (TR 724, 732) Dr. Sim has it wrong. If the standard governing a finding that a project is uneconomic ever becomes a showing that there is no possible set of hypothetical circumstances — no matter how far-fetched — under which a project could be beneficial compared to the utility’s alternative, a negative finding would be an impossibility, and we could all stay home while the utility imposes unlimited costs on its customers. Clearly, that is not the case. Besides, Dr. Sim is uniquely positioned to demonstrate the scenario of natural gas costs and/or environmental costs that would make FPL’s \$9,500/kW Turkey Point uprate more economically beneficial than FPL’s gas-fired, 6,334 Btu/kwh combined cycle option (TR 673-

674). Tellingly, he made no attempt to do so. More to the point, with respect to the uncertainty of future costs with which he attempts to resist Dr. Jacobs' conclusion, Dr. Sim testified that FPL addresses the *same* uncertainty by conducting multiple scenarios:

Of course, the actual economic performance of FPL's system, including the impacts of future fuel prices, etc., cannot be known until after the fact. That is why FPL examines the projected impacts of resource additions such as new nuclear capacity over a wide range of potential future scenarios.

(TR 660-661)

and

FPL does not consider any fuel forecast or environmental cost forecast as the "most likely" cost forecast. FPL's scenario approach is designed to provide a range of possible future fuel and environmental compliance costs.

(TR 671)

It is safe to assume that the "wide range" of scenarios selected by Dr. Sim is intended to persuade the Commission that FPL has tested its proposed project against the most hostile (to the nuclear project) scenario that the Commission should consider for its decision-making purposes. By choosing the highest breakeven value that Dr. Sim provided — representing the most expensive alternative identified by Dr. Sim and therefore the value most favorable to the economics of the uprate — *Dr. Jacobs followed suit*, utilizing FPL's own parameters. Dr. Sim's ability to theorize vague and speculative future scenarios that exceed the boundaries of the "wide range" that *he* regarded as suitable and appropriate for gauging cost-effectiveness does not discredit Dr. Jacobs' conclusion that the Turkey Point uprate is uneconomic for customers (though it would perhaps be more accurate to say that the Turkey Point uprate fails the test presented by FPL's own parameters for gauging whether a project is beneficial to customers).

Dr. Sim wants to move the goal posts that he created a year ago. In 2012, Dr. Jacobs demonstrated that the cost of the capacity of the Turkey Point uprate projected at that time was

more expensive than the corresponding cost of new nuclear units Turkey Point 6&7, when both values were expressed in present value terms. Dr. Sim rebutted Dr. Jacobs' assertion by arguing, illogically, that Dr. Jacobs should have compared the cost of the uprate capacity in 2013 dollars to the projected cost of Turkey Point 6&7 capacity in inflated 2022 dollars. In the instant proceeding, Dr. Jacobs established that the cost of the Turkey Point uprate has soared so high that it now exceeds the cost of Turkey Point 6&7 capacity even if one uses Dr. Sim's apples-to-oranges comparison. Specifically, FPL's upper range for Turkey Point 6&7 is \$8,400/kW in 2022 dollars, while the Turkey Point EPU project is projected to cost \$9,500/kW in 2013 dollars. (TR- 468-469) In his rebuttal, Dr. Sim, the author of this metric, now contends that Turkey Point nuclear capacity installed in 2013 should not be compared to Turkey Point nuclear capacity installed in 2022 *at all*. He states:

The new nuclear project, and Dr. Jacobs' selected subset of the EPU project, share the title "nuclear", but that is about all they share. They have in-service dates that are 10 years apart, are of different capacities, etc. In short, these are unrelated and separate projects.

(TR-694)

Dr. Sim was happy to employ the future in-service date and the larger size and scale of Turkey Point 6&7 to his advantage a year ago; however, in the current hearing cycle he claims the same differences that helped him resist an adjustment in 2012 constitute reasons why the comparison should not be made at all in 2013! Clearly, FPL did not anticipate that the cost of the Turkey Point uprate would rise so far that the uprate would fail even the skewed comparison that Dr. Sim devised in 2012.

Dr. Sim's statement that the "nuclear" title is "about all they [Turkey Point uprate capacity and Turkey Point 6&7 capacity] share" is remarkable, and demonstrates the lengths to which he will go to avoid an obvious point. The values for 2013 Turkey Point nuclear capacity

and 2022 Turkey Point nuclear capacity very obviously have far more in common than Dr. Sim acknowledges: identical geographical location; identical plant site; nuclear generating capacity and nuclear fuel costs added to the same utility's physical system of generators, transmission lines, and distribution lines; same climate and weather characteristics; same geographical service area; same customer base and thus presumably similar usage and load characteristics. Therefore, the Turkey Point 6&7 units represent the logical proxy for the cost of new nuclear generation. However, there is one major dissimilarity that Dr. Sim did not mention. The Turkey Point uprate has only 19 years of operating life remaining on its already extended licenses, whereas the Turkey Point 6&7 units will operate at least 40, and probably 60, years. This difference presents a significant economic advantage to the Turkey Point 6&7 units relative to the Turkey Point uprate that renders Dr. Jacobs' comparison conservative in nature. OPC submits that Dr. Sim's "nuclear. . . is all they share" argument simply reflects Dr. Sim's desire to retreat from his own test, now that it no longer yields a result that supports him.

Dr. Sim further claims that Dr. Jacobs has not disputed the findings of any of the annual feasibility analyses. (TR 723) Yet, Dr. Jacobs has contended for years that the composite approach to the feasibility analysis enables a strong project (St. Lucie uprate) to mask the shortcomings of a weak one (Turkey Point uprate). Dr. Jacobs also took issue with the practice of excluding sunk costs from an analysis of the feasibility of a project that faces extreme uncertainty and is experiencing spiraling costs. Dr. Sim's claim that his feasibility analyses were "undisputed" simply and obviously is not accurate.

Mr. Deason's rebuttal testimony is based on an incorrect premise. FPL witness Terry Deason cites the statutory requirement that any disallowance in the nuclear cost recovery clause ("NCRC") be based on a preponderance of evidence that certain costs were imprudently

incurred. Mr. Deason ascribes to Dr. Jacobs a desire to impose “an arbitrary disallowance of otherwise prudently incurred costs.” (TR 432-433) Mr. Deason is mistaken. Dr. Jacobs testified that FPL imprudently ignored the role of an adequate provision for contingency in its project, and that this imprudence led to costs — including the 2012 surge of costs — that are unreasonably high. (TR 469-470, 474-475) As to the requirement of a “preponderance” of evidence: FPL’s imprudent practice regarding the role of contingency is not something that must be gleaned from an ambiguous document obtained in discovery, or resolved from conflicting accounts. Instead, the practice to which Dr. Jacobs points was also laid out in FPL witness Jones’ rebuttal testimony for all to see. (TR 909) Similarly, the comparison of \$3.4 billion of up-front installation costs, exclusive of the carrying charges and other costs that FPL will incur over the lives of the uprated units, with \$3.4 billion of *nominal* fuel savings for the composite uprate overview is derived from FPL’s own data, and Dr. Jacobs’ quantification of the cost of the Turkey Point uprate is a refinement to a deposition exhibit prepared by FPL witness Jones that FPL did not dispute.

The unrefuted evidence is that the cost of the Turkey Point uprate has reached \$2.2 billion, or \$9,500 per kilowatt, and that the 2012 surge in expenditures increased its cost from \$6,700 per kilowatt to \$8,100 per kilowatt in construction costs alone. At the same time, FPL failed to use contingency to mitigate uncertainty and identify the potential dimensions of project costs. Instead, FPL purposely and imprudently deemphasized contingency in a misguided and wholly ineffectual effort to control costs after the project was underway. (TR 909) Mr. Deason spent much of his time building and then hitting a straw man that does not resemble either the evidence or Dr. Jacobs’ position.

Mr. Deason, who is not an attorney, departed from the role of policy witness to assert that Dr. Jacobs' recommended disallowance would violate other provisions of the statutes that govern the nuclear cost recovery proceeding. Specifically, he invoked Section 403.519(4)(e), Florida Statutes, which prohibits the Commission from disallowing costs that were beyond the utility's control, and which states that the decision to begin construction following the granting of a determination of need is not evidence of imprudence. (TR 432) The decisions regarding the role of, and appropriate provision for, contingency were entirely within FPL's control. FPL managed those decisions imprudently at the outset, and continued to do so throughout the project. Further, OPC regards the sweeping proposition that a decision to begin construction following the issuance of a determination of need insulates a utility from all consequences of imprudence that occur (or that continue to occur) once construction has begun as silly on its face. Under this interpretation, there would be no need for annual review proceedings. The Legislature did not so bind the Commission. Therefore, the Commission should reject this argument.

Finally, Mr. Deason makes a distorted plea for "symmetry." Mr. Deason rhetorically claims that a balanced approach to Dr. Jacobs' recommendation would offset Dr. Jacobs' \$200 million disallowance with a mirror image bonus to FPL for completing the St. Lucie uprate at a cost below the maximum breakeven value of Turkey Point 6&7. This is a twisted view of his client's own "breakeven" concept. It is surprising to see Mr. Deason, a former regulator, use an illustration (even if only for rhetorical purposes) that flies in the face of established, bedrock regulatory principles.

Under regulation, FPL (metaphorically) awakens each morning to the happy realization that some 4,500,000 customers located throughout a broad swath of the State of Florida must look to it as their exclusive retail supplier of electricity. With this enormous privilege and

incalculable business advantage come some restraints on monopolistic behavior. As a regulated monopoly, FPL has an obligation to provide service to its customers that is efficient and cost-effective. FPL must apply rates and charges approved by the Commission that are designed to enable FPL to recover the prudent and reasonable costs that FPL incurs in doing so, and that provide FPL an opportunity to earn a fair return on its investment. With respect to the cost-effective and beneficial St. Lucie uprate, it is the view of OPC and Dr. Jacobs that the Commission should authorize FPL to recover its prudent, reasonable costs and provide an opportunity for FPL to earn a fair return on its \$1.2 billion investment. Under fundamental regulatory precepts that Mr. Deason knows well, that is everything to which FPL is entitled.

Under regulation, FPL is also accountable to the Commission for imprudence that results in unreasonable costs. (“Accountable” in this context means that the Commission will prevent FPL from collecting such unreasonable costs from its retail customers.) The statutory provisions to which Mr. Deason, a non-attorney, alludes articulate rigorous requirements for disallowances in NCRC proceedings, but do not eliminate this fundamental aspect of the Commission’s regulatory role. As developed above, those requirements are met here. There is no asymmetry in the position that the Commission should authorize for FPL the cost recovery and opportunity to earn a fair return provided to a regulated monopoly with respect to the St. Lucie uprate, but should protect customers from FPL’s imprudent actions and unreasonable costs associated with the Turkey Point uprate that the record establishes. Any “asymmetry” in this proceeding instead lies in FPL’s effort to avail itself of the advantages that regulation confers on it, while simultaneously seeking to escape the accountability that is part and parcel of the regulatory framework in Florida and elsewhere.

CONCLUSION

For the reasons stated in this Brief, the Commission should conclude that FPL's imprudence led to unreasonable Turkey Point uprate costs during 2012. It should disallow \$200 million of the \$975 million that FPL expended on the Turkey Point uprate in 2012 alone.

Respectfully submitted,

J.R. KELLY
Public Counsel


Joseph A. McGlothlin
Associate Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399

(850) 488-9330

Attorneys for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and foregoing **CITIZENS' POST-HEARING STATEMENT OF POSITIONS AND POST-HEARING BRIEF (FLORIDA POWER & LIGHT)** has been furnished by electronic mail and U.S. Mail on this 19th day of August, 2013, to the following:

Bryan J. Anderson
Assistant General Counsel- Regulatory
Jessica A. Cano, Principal Attorney
Florida Power and Light Company
700 Universe Blvd
Juno Beach, FL 33018

Kenneth Hoffman
Vice President Regulatory Affairs
Florida Power & Light Company
215 S. Monroe Street, Ste 810
Tallahassee, FL 32301

Michael Lawson
Keino Young
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Mr. Paul Lewis, Jr.
Duke Energy Florida, Inc.
106 E. College Ave., Ste 800
Tallahassee, FL 32301

Jon C. Moyle, Jr.
c/o Moyle Law Firm
118 North Gadsden Street
Tallahassee, FL 32301

John T. Burnett
Duke Energy Florida, Inc.
106 E. College Avenue, Suite 800
Tallahassee, FL 32301-7740

Matthew R. Bernier
Duke Energy Florida, Inc.
106 E. College Ave., Suite 800
Tallahassee, FL 32301

James Michael Walls
Blaise N. Gamba
Carlton Fields, P.A.
Corporate Center Three at
International Plaza
P.O. Box 3239
Tampa, Florida 33607-5736

James W. Brew/F. Alvin Taylor
c/o Brickfield Law Firm
1025 Thomas Jefferson St. NW, Eighth
Washington, DC 20007

Robert Scheffel Wright
John T. LaVia
c/o Gardner Law Firm
1300 Thomaswood Drive
Tallahassee, FL 32308

George Cavros
Southern Alliance for Clean Energy
120 E. Oakland Park Blvd., Ste. 105
Fort Lauderdale, FL 33334


Joseph A. McGlothlin
Associate Public Counsel