

1    BEFORE THE  
2    FLORIDA PUBLIC SERVICE COMMISSION

3                                  In the Matter of:

    DOCKET NO. 130207-EI

4  
5                                  PETITION FOR DECLARATORY  
6                                  STATEMENT WITH RESPECT TO  
7                                  USE OF DECOMMISSIONING TRUST  
8                                  FUND DOLLARS FOR SPENT FUEL  
9                                  AND OTHER NON-RADIOLOGICAL  
10                                  DECOMMISSIONING COSTS FOR  
11                                  CRYSTAL RIVER 3 NUCLEAR PLANT  
12

    /  
  
13                                  PROCEEDINGS:                  COMMISSION CONFERENCE AGENDA  
14    ITEM NO. 4

15                                  COMMISSIONERS  
16                                  PARTICIPATING:                  CHAIRMAN RONALD A. BRISÉ  
17    COMMISSIONER LISA POLAK EDGAR  
18    COMMISSIONER ART GRAHAM  
19    COMMISSIONER EDUARDO E. BALBIS  
20    COMMISSIONER JULIE I. BROWN

21                                  DATE:                                  Wednesday, September 25, 2013

22                                  PLACE:                                  Betty Easley Conference Center  
23    Room 148  
24    4075 Esplanade Way  
25    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

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2           **CHAIRMAN BRISÉ:** Okay. Moving on to Item  
3 Number 4.

4           **MR. MILLER:** Commissioners, Cindy Miller  
5 with the Office of General Counsel.

6           In Item 4 staff is recommending that the  
7 Commission should grant in part and deny in part  
8 Duke Energy Florida's petition for declaratory  
9 statement. The Commission should declare that the  
10 funds allocated in the company's Nuclear  
11 Decommissioning Trust Fund must be allocated among  
12 Nuclear Regulatory Commission license termination,  
13 spent fuel management, and site restoration.

14           The percentages assigned to each category  
15 are identified in the most current Nuclear  
16 Decommissioning Study or update filed with and  
17 relied upon by the Commission pursuant to Rule  
18 25-6.04365, *Florida Administrative Code*.

19           The purpose of this rule is to ensure  
20 there are sufficient funds on hand at the time of  
21 decommissioning to meet all required expenses by  
22 establishing fund accruals.

23           The second issue raised by the company  
24 regarding a requirement that Duke Energy Florida  
25 obtain prior approval from this Commission for

1 payment of spent fuel management and cite  
2 restoration funds for NRC license termination costs  
3 should be denied as it is not proper for a  
4 declaratory statement.

5 This item has been noticed that parties  
6 may participate at the Commission's discretion.  
7 Duke Energy Florida and the Office of Public Counsel  
8 are parties to the proceeding. Dianne Triplett for  
9 Duke and Charles Rehwinkel for the Office of Public  
10 Counsel are available to address any questions the  
11 Commission may have. Also, Charles Rehwinkel would  
12 like to make a brief statement.

13 **CHAIRMAN BRISÉ:** Okay. Mr. Rehwinkel.

14 **MR. REHWINKEL:** Thank you, Mr. Chairman.

15 The Public Counsel's Office has intervened  
16 in this docket to provide a voice for customers and  
17 also to understand the issue of the petition.

18 Based on what we have learned and what we  
19 understand from the orders and staff's  
20 recommendation, we support the petition and we  
21 strongly support the staff's recommendation. Thank  
22 you.

23 **CHAIRMAN BRISÉ:** All right. Thank you.

24 Commissioners? Commissioner Brown.

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

1 Chairman.

2 And I understand the importance of this  
3 dec statement, given the NRC rules, but I just have  
4 a few questions for the utility.

5 The 2012 TLG Cost Study that Duke relied  
6 on for the percentages for the decom, are they still  
7 accurate to date?

8 **MS. TRIPLETT:** Good morning, Commissioner.  
9 Dianne Triplett for Duke Energy Florida.

10 I don't think so. They're accurate as far  
11 as -- because that's the last thing that we filed.  
12 But as you know, circumstances have changed since  
13 the last time that study was done. And right now  
14 TLG, probably as we speak, is working on updating  
15 that information, preparing a new site-specific  
16 estimate, and then developing what will be the new  
17 percentages.

18 But I know, because the Commission rules,  
19 our Commission rules tell us, that we do have to  
20 address all three of those buckets. So all three of  
21 those buckets will still be contained and included  
22 in the study. The percentages will likely change  
23 though.

24 **COMMISSIONER BROWN:** Okay. Thank you.

25 Also regarding the second prong in the

1 second request of Duke's request for declaratory  
2 statement, I'm curious why the utility believes that  
3 it is ripe for consideration today.

4 **MS. TRIPLETT:** When we first filed -- and  
5 perhaps the best way to address this is explain why  
6 we included that because I think it's helpful to  
7 understand on the back end why we perhaps were wrong  
8 with, as far as it being ripe.

9 So this issue involves not only Duke  
10 Energy but also Florida Power & Light. And to the  
11 extent -- because we relied on some of the  
12 correspondence from the NRC to FP&L with respect to  
13 their decommissioning study, which was very similar  
14 to ours because we have, not surprisingly, similar  
15 studies and cost estimates because we are governed  
16 by the same Florida Commission. And in one of the  
17 correspondence from the NRC to the FPL they said  
18 that unless there was specific Commission, Florida  
19 Commission disapproval of use of the spent  
20 management and site restoration funds for  
21 radiological funds, then all of the funds would have  
22 to be available for radiological decommissioning.  
23 And so that's why we say, well, gosh, maybe we  
24 should look at the order and perhaps there is a way  
25 that implicitly this Commission, when it issued

1 those previous orders, was in essence telling us if  
2 y'all want to use these funds for other purposes,  
3 you have to come in here and get authority from us.  
4 I understand that perhaps maybe that was an  
5 ambitious reading of the order, and so I understand  
6 what staff is saying is that at this point there's  
7 just not enough there in that order from a  
8 procedural standpoint for them to say -- for y'all  
9 to say, yes, that's what we meant.

10 Why I'm okay with that at this point, a  
11 couple of reasons. One, I think that the NRC  
12 perhaps overstepped their bounds when they wrote  
13 that and there's not anything in their rules and  
14 their guidance to support that requirement that we  
15 have to have a state Commission saying thou shalt  
16 not use these funds for non-radiological purposes.  
17 And so we anticipate still being successful with the  
18 exemption request from the NRC -- or to the NRC by  
19 virtue of the fact that we got -- we're getting  
20 approval on the first prong of our request.

21 And then if that turns out to perhaps not  
22 be the case, I would anticipate that perhaps then  
23 the next, next time we file that we will be asking  
24 for that to be included in the order so that it's  
25 very clear what this Commission intends for the use

1 of the Decommissioning Trust Fund dollars.

2 **COMMISSIONER BROWN:** Thank you. And  
3 that's my understanding as well. So thank you for  
4 your thorough response.

5 **MS. TRIPLETT:** You're welcome.

6 **CHAIRMAN BRISÉ:** Commissioner Balbis.

7 **COMMISSIONER BALBIS:** Thank you, Mr.  
8 Chairman.

9 I just have a quick question for  
10 Ms. Triplett. Obviously with the decision to retire  
11 CR3, Duke Energy Florida is going to be accessing  
12 these funds ahead of anticipated; is that correct?

13 **MS. TRIPLETT:** Right. Meaning -- yes. I  
14 mean, right now the work has begun to decommission,  
15 if that's what you mean, as compared to previously  
16 when, you know, it was expected to be operating  
17 longer.

18 **COMMISSIONER BALBIS:** So the overall costs  
19 associated with that, will customers save money by  
20 you accessing those funds ahead of time due to  
21 carrying cost issues, et cetera, or will they be  
22 spending more?

23 **MS. TRIPLETT:** It's, it's too soon to  
24 tell. I think, and that's part of the analysis  
25 that's going on is what you -- what you -- you have

1 different options so you can, you can start  
2 decommissioning right away and/or you can put it in  
3 a safe state, it's called safe storage, and then  
4 that allows the fund to grow and the dollars to be,  
5 to be more so that when you go to actually do the  
6 more, you know, active decommissioning at a later  
7 time, then, then perhaps the fund will grow.

8 But I can't fully answer the question  
9 until the site-specific estimate is updated by TLG  
10 and we get an understanding of what the new cash  
11 flows are and what the new -- you know, what the  
12 landscape looks like just given the change in  
13 circumstances.

14 **COMMISSIONER BALBIS:** And when will that  
15 be updated?

16 **MS. TRIPLETT:** Right now the schedule is  
17 by the end of the year, but that could be impacted.  
18 We want to make sure that we have good information  
19 and we're making good inputs so that we have a clear  
20 path forward. But right now that's anticipated by  
21 the end of the year.

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

23 **CHAIRMAN BRISÉ:** Commissioner Edgar.

24 **COMMISSIONER EDGAR:** Thank you.

25 Very briefly. I'd like to thank OPC for



1 their involvement in this item. I do believe that  
2 that's important. And also I thank Duke for  
3 bringing this item forward. I also believe that  
4 that is important.

5 The NRC is a, obviously a very, very  
6 important governmental agency, national agency;  
7 however, sometimes their processes and edicts are  
8 not quite as transparent as, as, as the way we do  
9 things here in the Sunshine State. I think that  
10 this item and the staff recommendation is a  
11 protection to ratepayers here in the State of  
12 Florida to funds that have gone in and to the future  
13 steps that need to be taken with this project, and,  
14 Mr. Chairman, I would move approval of the item in  
15 its entirety.

16 **COMMISSIONER BROWN:** Second.

17 **CHAIRMAN BRISÉ:** Okay. It's been moved  
18 and seconded. Any further comments?

19 (No response.)

20 Seeing none, all in favor.

21 (Vote taken.)

22 Thank you.

23 (Agenda item concluded.)

24 \* \* \* \* \*

1 STATE OF FLORIDA )  
2 COUNTY OF LEON )

CERTIFICATE OF REPORTER

3  
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 stenographically  
9 reported the said proceedings; that the same has been  
10 transcribed under my direct supervision; and that this  
11 transcript constitutes a true transcription of my notes  
12 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 30<sup>th</sup> day of September 2013.

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