

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 130301-EI

PETITION TO MODIFY SCOPE  
OF EXISTING ENVIRONMENTAL  
PROGRAM BY DUKE ENERGY  
FLORIDA, INC.

\_\_\_\_\_ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA  
ITEM NO. 6

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

DATE: Thursday, April 10, 2014

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

REPORTED BY: JANE FAUROT, RPR  
Official FPSC Reporter  
(850) 413-6732

1                                   **P R O C E E D I N G S**

2                   **CHAIRMAN GRAHAM:** Okay. We did our line  
3 change, so let's move on to Item Number 6.

4                   **MR. GRAVES:** Good morning, Commissioners.  
5 Robert Graves with Commission staff.

6                   Item 6 addresses the petition by Duke Energy  
7 Florida requesting environmental cost-recovery for  
8 three projects that will allow the company to operate  
9 Crystal River Units 1 and 2 through 2020. The  
10 operation of these units through 2020 is estimated to  
11 result in a savings of more than \$300 million when  
12 compared to retiring the units in 2016.

13                   Commissioners, in this context, significant  
14 savings are associated with avoided transmission  
15 projects and avoided purchased power agreements which  
16 would be required to maintain system reliability until  
17 new generation can be placed in the Crystal River area.

18                   Staff recommends that the projects are  
19 required to comply with environmental regulations  
20 imposed by the government and the company's petition  
21 should be granted.

22                   Members from Sierra Club as well as the  
23 company are here to discuss this petition.

24                   **CHAIRMAN GRAHAM:** Sierra Club.

25                   **MS. CSANK:** Mr. Chairman, Commissioners, my

1 name is Diana Csank.

2 **CHAIRMAN GRAHAM:** Pull that mike to you,  
3 please.

4 **MS. CSANK:** I'm the qualified representative  
5 for Sierra Club joined by co-counsel from Earthjustice,  
6 Alisa Coe and Bradley Marshall.

7 We are here today because we are very  
8 concerned that the Commission and Duke's customers  
9 would depend on the continued operation of these old  
10 units at Crystal River South for the reliability issue  
11 identified in this docket at untold cost. In the  
12 company's words from the December 2013 Compliance Plan  
13 in the executive summary, to quote, the challenges  
14 associated with limited continued operations will be  
15 cost-effectively maintaining plant reliability with  
16 these older units. So that's at the heart of this  
17 docket and what is before the Commissioners today is  
18 the serious reliability issue and how we  
19 cost-effectively manage it. How do we keep the lights  
20 on without breaking the bank.

21 And our concern is that the record before the  
22 Commission does not substantiate. It does not  
23 demonstrate that the compliance plan and the  
24 cost-recovery petition is, in fact, cost-effective.

25 What we are recommending and asking for today

1 is a better plan from this company, and I'm going to  
2 explain why we think that better plan is required here  
3 and what that plan should look like. That very same  
4 filing from which I quoted, the December 2013  
5 compliance plan, includes a caveat that the figures  
6 before the Commission today, the \$28 million in capital  
7 cost, the 2 million in O&M costs, those are tentative.  
8 They are estimates. And they are subject to change,  
9 depending on additional compliance requirements, other  
10 cost overruns that may occur.

11 And so the question is what is  
12 cost-effective; what exactly are customers going to be  
13 on the hook for. And we have talked to the company.  
14 And, you know, in fact, they do stand by these  
15 estimates as such, as estimates. And so the question  
16 is will the company be on the hook for the additional  
17 risk that customers will be exposed to, should they  
18 depend on these old units that are hardly controlled to  
19 meet this reliability issue.

20 And, of course, the company cites the  
21 regulatory compact and their ability to come back  
22 before the Commission and ask for recovery for any  
23 additional cost overruns for additional compliance  
24 requirements that we may hit down the road.

25 And so what we're asking for is to go into

1 this with eyes wide open to really understand what are  
2 those risks. What are the contingency plans to meet  
3 this reliability issue, and what will \$28 million  
4 really buy Duke customers? If the largest power  
5 company in the nation isn't willing to take on these  
6 risks, why should their customers. And so will they be  
7 getting, one, two, three years of power?

8 Well, the company is proposing that  
9 eventually a combined cycle unit will come on-line and  
10 it will resolve the reliability issue here. But that's  
11 a hypothetical plant, Commissioners, that hasn't gone  
12 through the permitting process. Construction hasn't  
13 begun yet, and so there is inherent risk and  
14 uncertainty as far as how long customers will have to  
15 depend on these old units to get them by to keep the  
16 lights on until that new plant comes on-line.

17 Well, we know ultimately these units are a  
18 dead end. In 2020 they have to come off-line. The  
19 company has committed to stop burning coal at these  
20 units in 2020 because of the regional haze rule. And  
21 so rather than spending money on these units until  
22 2020 with limited returns, the question is, one,  
23 getting a full accounting of the risks and the  
24 liabilities associated with going down this path. And  
25 once we start going down it and we make a decision

1 today to approve this plan, it will be harder to  
2 extricate ourself and to cast about for alternatives  
3 once we are in the year 2016/2018 and these risks may  
4 arise.

5 And one thing that we wanted to underscore is  
6 that, you know, in staff's recommendations, with all  
7 due respect to staff, they point to these rules that we  
8 have cited and say they are speculative. Well, the  
9 cooling water intake structure rule will be finalized  
10 on April 17th, this month. And the company in their  
11 ten-year site planning context has identified that very  
12 rule at these particular units could cost between  
13 45 million to \$750 million. Those are their numbers.  
14 That is a very wide range to be sure.

15 Our point is not to exhaustively recite to  
16 you all of the regulatory compliance risks that may be  
17 incurred by going forward with this plan. Again, what  
18 we are asking for is a better plan, and an accounting  
19 by the company in writing in the record of what those  
20 risks are, what they look like, what the plans are for  
21 meeting those risks, what the contingency plans are.  
22 That is what's missing from this record before you  
23 today.

24 And in terms of the solution, in terms of an  
25 additional aspect of what the plan should ultimately

1 hold, our comments have highlighted that renewable  
2 resources -- energy efficiency, solar power, as  
3 examples -- should be included in an integrated  
4 resource plan for how you meet the reliability issue  
5 here.

6 These resources, the clean energy resources  
7 that we are citing to would help with the  
8 diversification issue, the Commission's oft-cited  
9 strategic concern about the overreliance on natural  
10 gas. They would also be resources that would serve  
11 Duke customers for years to come, well beyond 2020.  
12 And the transmission upgrades that are cited, those  
13 also are infrastructure upgrades that would serve  
14 customers for a long time. It's not the dead end that  
15 these units represent.

16 So in conclusion, what we are asking for is a  
17 better plan by the company that shows, one, a full  
18 accounting of the risks associated with the plan that  
19 is before you today, and also a full accounting of the  
20 alternatives, the pragmatic way that we can move  
21 forward and build the resource mix for Duke customers  
22 that will serve them in the long-term that will be  
23 cost-effective and that will be prudent. I welcome  
24 your questions.

25 **CHAIRMAN GRAHAM:** Thank you. Did one of your

1 other colleagues want to speak, as well?

2 **MS. COE:** No, Commissioners. We're just here  
3 to answer any questions that we might be helpful for.

4 **CHAIRMAN GRAHAM:** Okay. Let's hear from the  
5 utility.

6 **MS. TRIPLETT:** Thank you, Mr. Chairman.  
7 Diane Triplett on behalf of Duke Energy.

8 I'm going to just very briefly speak and then  
9 turn it over to Gary Perko to address the specific  
10 environmental issues. But I think it's important for  
11 the Commission to remember that the issue in this  
12 docket in this proceeding is quite limited, and it  
13 really is is the compliance plan for these units, is it  
14 the most cost-effective option and have we considered  
15 everything.

16 And to the extent that the Sierra Club wishes  
17 to discuss energy efficiency or renewables, as the  
18 Commission is well aware, there are other dockets in  
19 which those matters will be considered. The  
20 demand-side management goal-setting docket is ongoing  
21 right now. In addition, the Commission -- we just  
22 filed the Ten-Year Site Plan, and so the Commission  
23 will work through that process, as well.

24 So those are the forums in which those other  
25 items will be considered, and so here really the only



1 relevant thing is did we consider all of the possible  
2 environmental regulations that would impact the limited  
3 extended operation of these units.

4 Now I'm going to turn it over to Mr. Perko.

5 **CHAIRMAN GRAHAM:** Mr. Perko.

6 **MR. PERKO:** Good afternoon, Commissioners.

7 I can touch upon each of the regulations that  
8 the Sierra Club mentioned in their comments, but I  
9 don't want to bore you, if that's not something you are  
10 interested in. Suffice it to say that each of the  
11 regulations that the Sierra Club cited in their  
12 comments has an implementation schedule. The  
13 to-be-promulgated cooling water intake rules that  
14 Ms. Csank mentioned, for example, yes, it's scheduled  
15 to be released next week after several delays, but that  
16 regulation will include an implementation schedule that  
17 generally is implemented as NPDES wastewater permits  
18 are renewed over the years.

19 In this case, the NPDES permit for Crystal  
20 River South has recently been renewed, so we are not  
21 talking -- we are talking about five years hence, when  
22 that comes up for renewal, which takes you into 2019,  
23 which is essentially at the outer edge of the limited  
24 operation we are talking about for Crystal River South.

25 Each of the other regulations that the Sierra

1 Club mentions has similar implementation schedules that  
2 will extend well into 2019 if not beyond 2020. So  
3 beyond the operation time limit that we are talking  
4 about here.

5 Other than that, the Sierra Club's comments,  
6 spent a lot of time talking about particulate  
7 emissions, but the main thing that they ignored is the  
8 fact that the company's plan does include enhancements  
9 to the electrostatic precipitators that will improve  
10 the efficiency of the ESPs to reduce particulate  
11 measures below the limits that the Department of  
12 Environmental Protection has established for those  
13 units, and that will keep them under the significance  
14 levels for PSD permitting, which is what they alleged  
15 could result in the need to install a baghouse.

16 Now, we don't believe that's the case, but  
17 the bottom line is there is a permit application  
18 pending before the Department of Environmental  
19 Protection. That's their job to make that  
20 determination. We're confident that they will, and  
21 we're confident in this compliance plan. So unless you  
22 have any other questions, we're here to answer any that  
23 you may have.

24 **CHAIRMAN GRAHAM:** Would the Sierra Club like  
25 to address?

1           **MS. CSANK:** In response to the implementation  
2 time horizon, what Duke Energy has just said to you is,  
3 again, a verbal reassurance. What the record lacks is  
4 documentation in this record to explain exactly what  
5 the company is thinking in terms of each of these  
6 rules. And there is a possibility that, you know, upon  
7 further study they will identify that certain of these  
8 rules would bear on the time horizon that's relevant up  
9 through 2020 and there should be some accounting for  
10 that in the record before you.

11           Moreover, when it comes to the mercury or  
12 toxics and particulate matter issue, there we do want  
13 to underscore that ultimately what is before you today  
14 is a plan. There is an implementation schedule for  
15 testing that plan to prove it up and to demonstrate  
16 that it will work, but the Commission would benefit  
17 from recalling that this is two very old units, and  
18 that the DEP process hasn't been concluded yet.

19           And the company in that statement I quoted to  
20 you at the very beginning, they acknowledge that this  
21 is a challenging thing they are trying to do, that  
22 there are risks and cost-effectiveness issues inherent  
23 in it. And until they demonstrate to you that this is  
24 a workable solution, that the equipment they are  
25 proposing to install, the electrostatic precipitators

1 that they are planning to adjust, that it all syncs up  
2 and works well, until you have that before you and have  
3 that reassurance, it's premature to make a prudency  
4 determination without that information before you.

5 **CHAIRMAN GRAHAM:** Thank you.

6 Commissioners? Commissioner Balbis.

7 **COMMISSIONER BALBIS:** Thank you.

8 I have a question for staff, and it's  
9 concerning some of the issues that the Sierra Club has  
10 brought up on assurances on what the total cost of the  
11 project will be, et cetera. And it's my understanding  
12 that what's before us today is the evaluation of those  
13 two alternatives, and that if we approve it then it  
14 will be allowed to be recovered through the ECRC clause  
15 and annual proceeding, correct?

16 **MR. GRAVES:** Yes, sir. And it's in that  
17 proceeding that we will perform the prudence evaluation  
18 of their costs.

19 **COMMISSIONER BALBIS:** So if the costs  
20 skyrocket, or a project is delayed, or it is found not  
21 to work, all of those issues will be addressed during  
22 that annual proceeding, correct?

23 **MR. GRAVES:** Yes, sir. We will have that  
24 opportunity to investigate any cost overruns, if you  
25 will.

1                   **COMMISSIONER BALBIS:** And I guess my question  
2 for the Sierra Club, are you not comfortable with that  
3 proceeding? Because that's where we review all of the  
4 actual dollars spent, et cetera, and make the prudence  
5 determination at that point. Why is that not a viable  
6 method?

7                   **MS. CSANK:** Thank you for the question. In  
8 terms of the procedure, the main concern that we have  
9 is that the plan just isn't robust in terms of the  
10 alternative presented. There really isn't sufficient  
11 accounting for not only the liabilities, and certainly  
12 we would want more in the record in terms of assurances  
13 on what those liabilities are and get a better sense of  
14 what the cost overruns might look like, but, also, the  
15 point that we want to drive home is that there are  
16 alternative resources that could serve Duke customers  
17 in the long-term and have ultimately greater benefits.  
18 And there is just no -- there's holes in the record.  
19 There is no evidence to substantiate that this is the  
20 cost-effective path forward because there is such a  
21 narrow discussion of those alternatives. How can we be  
22 reassured?

23                   And we are not asking for a heavy lift,  
24 especially in this year when we have the numeric  
25 conservation goal-setting happening. The company has

1 performed this analysis. And so for them to make a  
2 fair comparison and to conclude and demonstrate and  
3 substantiate that this is cost-effective and these are  
4 the resources that make the best sense, you need to  
5 have that information before you in terms of what those  
6 alternatives are and how they fit in here.

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

8 And back to staff, with these two  
9 alternatives, the alternative that Duke Energy is  
10 requesting that we approve will keep those two coal  
11 units in operation through mid-2018 up to 2020,  
12 correct?

13 **MR. GRAVES:** Yes, sir, that's correct.

14 **COMMISSIONER BALBIS:** And what are the sizes  
15 of those units in megawatts?

16 **MR. GRAVES:** They total 740 megawatts. The  
17 precise breakdown of the two I'm not sure of at this  
18 moment. I can find that very quickly, though, if you  
19 would like.

20 **COMMISSIONER BALBIS:** Okay. And then as far  
21 as the cost-effectiveness, when compared to the other  
22 alternative, I mean there's \$307 million worth of  
23 savings. And just as important to that is that we will  
24 keep 740 megawatts of baseload generation in operation  
25 until we have time to come up with another alternative

1 in that area, which would be the combined-cycle option  
2 that was presented in the recommendation.

3 **MR. GRAVES:** Yes, sir. I was going to say  
4 that's correct. And on the \$300 million savings, the  
5 customers will actually realize a net savings in 2017.  
6 And by the time the units retire the savings will  
7 exceed \$100 million, based on current estimates.

8 **COMMISSIONER BALBIS:** Okay. And I guess to  
9 my colleagues, I mean, I appreciate the Sierra Club's  
10 concerns, and I think they are valid concerns. But  
11 because we have an annual proceeding where we will be  
12 reviewing all of the dollars spent on this project,  
13 that I feel that kind of mitigates some of those  
14 concerns, at least from my standpoint. And the ability  
15 to keep baseload generation online for a number of  
16 years until we solve the long-term reliability issues,  
17 I think is very appealing.

18 **CHAIRMAN GRAHAM:** Was that a motion?

19 **COMMISSIONER BALBIS:** If it's appropriate,  
20 and for the reasons that I just stated, I think it is  
21 the most cost-effective option that was evaluated with  
22 \$307 million worth of savings, and keeping baseload  
23 generation in operation is the best solution at this  
24 time. And because we have an annual proceeding to  
25 review the costs associated with this project, I think

1 the customers are protected. So with that, I move  
2 staff's recommendation on all issues.

3 **CHAIRMAN GRAHAM:** It has been moved and  
4 seconded, staff recommendations on all issues. Any  
5 further discussion?

6 I agree with you, Commissioner Balbis. I  
7 think there is enough safeguards with the annual clause  
8 to make sure that we stay on top of this.

9 Any further discussion?

10 **COMMISSIONER BRISÉ:** I think some of the  
11 other issues that the Sierra Club has brought up will  
12 be taken up in other dockets. Not only this year, but  
13 as time progresses some of those issues will be  
14 addressed as time moves forward. But in this instance,  
15 I think the staff recommendation best protects the  
16 customers at this point.

17 **CHAIRMAN GRAHAM:** Commissioner Edgar.

18 **COMMISSIONER EDGAR:** Thank you.

19 I just would like to add to all of that and  
20 say thank you for coming and participating, and I hope  
21 you will continue to join us and work with our staff in  
22 whatever are the appropriate forums and the appropriate  
23 ways. But I hope that you will continue to be involved  
24 as we move forward. So, thank you.

25 **MS. CSANK:** Absolutely.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**CHAIRMAN GRAHAM:** No further discussion?

All in favor say aye.

(Vote taken.)

**CHAIRMAN GRAHAM:** Any opposed?

By your action you have approved staff  
recommendations on Item Number 6.

That concludes our Agenda Conference today.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF FLORIDA )

: CERTIFICATE OF REPORTER

COUNTY OF LEON )

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 17th day of April, 2014.



---

JANE FAUROT, RPR  
Official FPSC Hearings Reporter  
(850) 413-6732