

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery Clause.

DOCKET NO. 140009-EI

DATED: JULY 2, 2014

**THE FLORIDA RETAIL FEDERATION'S
PREHEARING STATEMENT**

The Florida Retail Federation, pursuant to the Order Establishing Procedure in this docket, Order No. PSC-14-0082-PCO-EI, issued on February 4, 2014, hereby submits the Federation's Prehearing Statement.

APPEARANCES:

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On behalf of the Florida Retail Federation.

1. WITNESSES:

The Florida Retail Federation does not intend to call any witnesses for direct examination, but reserves its rights to cross-examine all witnesses and to rely upon the prefiled testimony of witnesses in this docket, as well as testimony on their cross-examination.

2. EXHIBITS:

The Florida Retail Federation will not introduce any exhibits on direct examination, but reserves its rights to introduce exhibits through cross-examination of other parties' witnesses.

3. STATEMENT OF BASIC POSITION

Duke Energy Florida

The 2014 NCRC issues for Duke Energy Florida, Inc. (“DEF” or “Duke”) relate primarily to the Company’s wind-down and equipment disposal/salvage efforts related to its failed nuclear projects – the Crystal River Unit No. 3 Uprate Project (“CR3”) and the Levy Nuclear Project (“LNP”). The FRF agrees with the Public Counsel that the Commission should order Duke to record a credit in the 2014 cost accounting in the amount of \$54,127,100 which was previously paid by Duke’s customers for LNP equipment that has not been and will never be manufactured.

At this time, the CR3 asset disposal (or “Investment Recovery”) efforts are not ripe for Commission determination. Accordingly, the Commission should not at this time undertake to make any determinations whether Duke’s activities relating to disposal of CR3 Uprate assets were or are prudent. At this time, the FRF does not take a position with respect to the specific costs submitted for recovery in 2013 related to disposal of CR3 assets that have been recovered through the NCRC, nor regarding Duke’s request for recovery of the amortization of the unrecovered EPU balance (\$262.1 million at year end 2013) in the amount of \$63.2 million (including minor project exit and wind down costs.) The Commission has previously approved recovery of the vast majority of these costs.

The Levy Project asset disposal process has been complicated by the ongoing commercial disputes and litigation between Duke and Westinghouse Electric Company (WEC), in combination with Duke’s desire to continue to pursue the license for the LNP. As with the CR3 asset disposal activities, the Company’s LNP asset disposal activities are not ripe for a prudence

determination. Accordingly, the Commission should withhold any advance prudence determination and evaluate DEF's actions once they are concluded.

Florida Power & Light Company

In this hearing cycle, as in the past, FPL appears to have appropriately limited its expenditures on its planned Turkey Point 6&7 nuclear units to those activities necessary to process its Combined Operating License Application (COLA). Accordingly, the FRF will not oppose the Turkey Point 6&7-related amounts for which FPL seeks recovery in this proceeding.

However, FPL's 2014 feasibility study indicates that the economic feasibility of Turkey Point 6&7 is dubious at the present time. As Dr. Sim acknowledges in his Exhibit SRS-1, of the seven comparisons between Turkey Point 6&7 and FPL's alternative performed with a 40-year horizon, only two scenarios show the nuclear units as being cost-effective for customers. The results of FPL's studies improve when it employs a 60-year horizon, but this exercise requires FPL to project even farther into the future, which necessarily involves greater uncertainty regarding the future costs of fuel, materials, and labor; regulatory developments; customer demand; and other unknowns. Even considering the 60-year analyses, on an overall basis, the Turkey Point project is cost-effective in only half of the scenarios FPL studied. These results indicate that the risks to FPL's customers of FPL's proceeding with Turkey Point 6&7 are great, with the probability of a positive return to future customers marginal at best. In these circumstances, the Commission must remain vigilant in future proceedings, including those required by the 2013 amendments to the NCRC statute, to protect customers against these risks.

FPL's focus, in its testimony and exhibits, on projected fuel cost savings must be balanced with at least equal emphasis on the tremendous capital costs associated with the Turkey Point project – capital costs that FPL will not even guarantee or put a cap on for the protection of

customers. Focusing on an individual component of the project's cost/benefit equation does not displace the importance of overall cost-effectiveness or change the outcome of FPL's studies.

The equivocal nature of FPL's 2014 feasibility study, the project's poorer showing relative to a year ago, and announcements of delays and projected cost increases elsewhere in the nuclear industry cast doubt on FPL's enormously expensive nuclear undertaking. Fortunately, in addition to the annual updates required by Commission rule, the Legislature's 2013 amendment to the NCRC statute now requires a utility to demonstrate economic feasibility when it seeks authority to incur post-COL preconstruction expenditures, and again when it seeks authority to begin construction. If it accepts FPL's less-than-compelling 2014 feasibility study for Turkey Point 6&7, the Commission should emphasize to FPL – and should promise FPL's customers – that it will rigorously use these additional statutory milestone proceedings to protect customers.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

Duke Energy Florida, Inc. (DEF) Levy Project

ISSUE 1: Should the Commission find that during the years 2012 and 2013, DEF's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Levy Units 1 & 2 project?

FRF POSITION: No position.

ISSUE 2: Has DEF reasonably accounted for COL pursuit costs pursuant to paragraph 12(b) of the 2013 revised and restated stipulation and settlement agreement?

FRF POSITION: Agree with OPC that it appears that Duke has complied with the 2013 Revised and Restated Stipulation and Settlement Agreement related to accounting for costs classified as COL pursuit costs expended in 2013 and estimated for 2014. The FRF further agrees with OPC that, given the uncertainty relating to Duke's ongoing dispute with WEC, the FRF cannot formulate a position on, but does not waive any rights with respect to, whether Duke's efforts to achieve the LNP COL may have associated costs that have been or will be submitted for NCRC recovery, but which are appropriately attributable to Duke's shareholders pursuant to the RRSSA.

ISSUE 2A: What jurisdictional amounts should the Commission approve as DEF's final 2012 and 2013 prudently incurred cost for the Levy Units 1 & 2 project?

FRF POSITION: No position.

ISSUE 3: Should the Commission approve DEF's Levy Project exit and wind down costs and other sunk costs as specifically proposed for recovery or review in this docket?

FRF POSITION: No position.

ISSUE 4: What action, if any, should the Commission take in the 2014 hearing cycle with respect to the \$54,127,100 in Long Lead Equipment milestone payments, previously recovered from customers through the NCRC, which were in payment for Turbine Generators and Reactor Vessel Internals that were never manufactured?

FRF POSITION: The Commission should exercise its jurisdiction to direct Duke to recognize a credit in favor of Duke's customers for \$54,127,100, effective January 28, 2014, to reflect Duke's position taken in its federal lawsuit against WEC that Duke paid this amount to WEC for the manufacture of equipment which was not and will never be manufactured, and that Duke accordingly demands the return of these funds from WEC. Given that the EPC contract and the LNP project have been terminated, the current NCRC hearing cycle is the first opportunity for the Commission to assert jurisdiction over Duke's demand for return of these funds.

ISSUE 5: What restrictions, if any, should the Commission place at this time on DEF's attempts to dispose of Long Lead Equipment?

FRF POSITION: The FRF agrees with OPC that the Commission should consider placing conditions or restrictions on steps that Duke is authorized to take, assuming that Duke would expect to have such actions deemed prudent by the Commission for NCRC recovery, when it disposes of Long Lead Equipment ("LLE"). At this time, the Commission should withhold any advance prudence determination on Duke's attempts to dispose of LLE and should evaluate DEF's actions once they are concluded.

DEF CR3 Uprate Project

ISSUE 6: Should the Commission find that during the years 2012 and 2013, DEF's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Crystal River Unit 3 Uprate project?

FRF POSITION: No position.

ISSUE 7: What jurisdictional amounts should the Commission approve as DEF's final 2012 and 2013 prudently incurred cost for the Crystal River Unit 3 Uprate project?

FRF POSITION: No position.

ISSUE 8: Should the Commission approve DEF's Crystal River Unit 3 Uprate Project exit and wind down costs and other sunk costs as specifically proposed for recovery or review in this docket?

FRF POSITION: No position.

DEF Ultimate Issue

ISSUE 9: What is the total jurisdictional amount to be included in establishing DEF's 2015 Capacity Cost Recovery Clause Factor?

FRF POSITION: Agree with OPC.

Florida Power & Light Company (FPL) Turkey Point (TP) 6 & 7 Project

ISSUE 10: Should the Commission approve what FPL has submitted as its 2014 annual detailed analysis of the long-term feasibility of completing the Turkey Point Units 6 & 7 project, as provided for in Rule 25-6.0423, F.A.C?

FRF POSITION: Agree with OPC.

ISSUE 10A: What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the proposed Turkey Point Units 6 & 7 nuclear project and is that estimated cost reasonable?

FRF POSITION: No position at this time.

ISSUE 10B: What is the current estimated planned commercial operation date of the planned Turkey Point Units 6 & 7 nuclear facility and is that estimated commercial operation date reasonable?

FRF POSITION: No position at this time.

ISSUE 11: Should the Commission find that FPL's 2013 project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project?

FRF POSITION: No position at this time.

ISSUE 12: What jurisdictional amounts should the Commission approve as FPL's final 2013 prudently incurred costs and final true-up amounts for the Turkey Point Units 6 & 7 project?

FRF POSITION: No position at this time.

ISSUE 13: What jurisdictional amounts should the Commission approve as reasonably estimated 2014 costs and estimated true-up amounts for FPL's Turkey Point Units 6 & 7 project?

FRF POSITION: No position at this time.

ISSUE 14: What jurisdictional amounts should the Commission approve as reasonably projected 2015 costs for FPL's Turkey Point Units 6 & 7 project?

FRF POSITION: No position at this time.

FPL Extended Power Uprate (EPU) Project

ISSUE 15: Should the Commission find that FPL's 2013 project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Extended Power Uprate project?

FRF POSITION: No position at this time.

ISSUE 16: What jurisdictional amounts should the Commission approve as FPL's final 2013 prudently incurred costs and final true-up amounts for the Extended Power Uprate project?

FRF POSITION: No position at this time.

FPL Ultimate Issue

ISSUE 17: What is the total jurisdictional amount to be included in establishing FPL's 2015 Capacity Cost Recovery Clause factor?

FRF POSITION: No position at this time.

5. **STIPULATED ISSUES:**

None at this time.

6. **PENDING MOTIONS:**

None other than motions for confidential protective orders.

7. **STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:**

The FRF has no pending requests or claims for confidentiality.

8. **OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:**

The FRF does not expect to challenge the qualifications of any witness to testify, although the FRF reserves all rights to question witnesses as their qualifications as related to the credibility and weight to be accorded their testimony.

9. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Florida Retail Federation cannot comply.

Dated this 2nd day of July, 2014.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing has been filed electronically with the Office of the Commission Clerk and that a copy has been furnished to the following by electronic mail on this 2nd day of July, 2014.

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