BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Determination of Need for Citrus County Combined Cycle Power Plant, by Duke Energy Florida, Inc. _____/	Docket No. 140110-EI Submitted: September 10, 2014

NRG FLORIDA LP'S POSTHEARING BRIEF

NRG Florida LP (NRG) hereby files its Posthearing Brief pursuant to Order No. 14-0440-PHO-EI and Rule 28.106.215, Florida Administrative Code.

INTRODUCTION

Duke repeatedly pledged to the Commission that its three proposed self-build projects formed part of a "resource portfolio," and were "optimized together to determine the most cost-effective plan" which was "tested under different relevant sensitivity scenarios" before becoming part of the company's "final, integrated optimal plan, designed to deliver reliable, cost effective power to DEF's customers." Duke abandoned this position within moments after the start of the hearing. Duke now expects the Commission to simply ignore its much-touted Integrated Optimal Plan and conduct a stand-alone review of the Hines Chiller Uprate project and Citrus County Combined Cycle project following the hasty amendment of its "optimal" generating plan to replace construction of 192 MW net Suwannee Simple Cycle peaker project with acquisition of Calpine's 599 MW combined cycle Osprey facility. There is absolutely no evidence in the record that Duke's newly-announced generation plan is a cost-effective means of meeting its asserted need. More importantly, Duke's agreement with Calpine will directly reduce the alleged need for both the Hines Chiller project and the Citrus County Combined Cycle plant.

Duke's eleventh-hour withdrawal of its proposed Suwannee peaker project in favor of the

Osprey acquisition deprived intervenors of notice and a meaningful opportunity to respond to Duke's amended claims and revised generation plan, and leaves the Commission without an adequate record basis for approval of either the Citrus County Combined Cycle project or the Hines Chiller Uprate project. For the reasons set forth below, the Commission should (1) find that Duke has not met its burden of proof in this case; (2) hold that intervenors are entitled to an opportunity to conduct discovery and present evidence regarding Duke's newly-revised generation plans; and (3) order Duke to revise and resubmit its needs assessment and supporting models based on its new slate of generation assets, including a new Integrated Resource Plan that is updated with current data and planning information, as well as load-forecast sensitivity analyses.

PROCEDURAL BACKGROUND

Shortly after Duke made its opening statement on the first day of hearing, and before any other party had an opportunity to speak, Duke announced that it had reached an agreement in principle to acquire the 599 MW Osprey facility. Duke then moved to amend its pleadings to "withdraw the section of [its Docket 140111-EI] petition that asks for approval of the Suwannee project", and seek approval of the Citrus County Combined Cycle plant and Hines Chiller project, which Duke for the first time characterized as "an independent project." Tr. Vol. 1, pg. 22. Lines 17 - 18. NRG objected on due process grounds to severing the case after testimony had already been filed. Tr. Vol. 1, pg. 26, lines 3-6.

In response to NRG's objections, concerns stated by other parties, and questions from Commissioner Balbis, Duke asserted that its prefiled testimony modeled various scenarios, including its newly-proposed acquisition of Calpine, and that parties should be able to determine through cross examination whether anything would change as a result of the utility's revised

generation plans. Tr. Vol. 1, pg. 28, line 25 – pg. 29, line 17; pg. 32, line 21 – pg. 33, line 5. Staff counsel acknowledged that "the effects [of withdrawing Suwannee] on the other portion of the case are fairly substantial," and intervenors sought additional time to explore the effect of Duke's revised generation plans on its asserted need. Tr. Vol. 1, pg. 34, lines 4-7; pg. 39, line 12 – pg. 40, line 7; pg. 40, line 23 – pg. 41, line 23; pg. 42, lines 19-25. Although Public Counsel specifically noted that fairness and due process required providing the parties with an opportunity to verify Duke's claims, and the Commission's General Counsel cautioned that due process "requires a reasonable amount of time to really understand what's being presented," the Commission elected to proceed with the hearing. Tr. Vol. 1, pg. 43, lines 9-22; pg. 56, lines 23-25; pgs. 63-65.

Limited information regarding Duke's revised generation plan could be elicited by cross examination during the hearing. For example, due to the pending Osprey acquisition, Mr. Borsch admitted that Duke would not retire its existing Suwannee units two years early as proposed in its petition, and thus these units would continue to provide 129 MW of summer capacity. Tr. Vol. 5, pg. 747, line 24 – pg. 748, line 16.[1] Mr. Borsch was unable to confirm other effects of the acquisition on Duke's Integrated Optimal Plan, upon which Duke relied as justification for its three self-build projects. Tr. Vol. 4, pg. 404, line 19 – pg. 405, line 8. Mr. Borsch admitted, however, that his testimony did not – as his counsel misleadingly suggested[2] – address the impacts of the "new" plan. Tr. Vol. 5, pg. 708, lines 4 – 7.

Duke's last-minute decision to substitute Osprey's combined cycle facility for the proposed Suwannee peakers and keep the existing Suwannee units in operation for two more

[1] The transcript contains a typographical error indicating that the existing Suwannee units provide 120 MW of summer capacity. As stated in Duke's 2014 Ten Year Site Plan, these units provide 129 MW of summer capacity. Exhibit 63 (BMHB-2).

years substantially amends its Integrated Optimal Plan, and the effect of these amendments has not been modeled. Tr. Vol. 6, pg. 894, lines 1-5; pg. 894 line 21 – pg. 895, line 6. No party was given an opportunity for discovery or to present evidence regarding Duke's newly-revised generation plan, which now (i) includes a substantial increase of some 500 MW of combined cycle generation resources; (ii) increases generation resources available to Duke in the 2016-2019 time frame by 535 MW; (iii) includes a new transmission system topography occasioned by the transmission build-out to accommodate the Osprey plant; and (iv) drastically changed the ratio of peaking capacity to base load capacity in Duke's generating portfolio ratio. NRG's witness attempted to testify regarding the far-reaching impacts Duke's last-minute change in generation plans would have on its asserted need for Hines and Citrus, but was not permitted to do so. Tr. Vol. 6, pg. 885, line 12 – pg. 889, line 16.

The record evidence provided by Duke in these dockets addresses the cost-effectiveness of Duke's Base Generation Expansion Plan, consisting of the proposed Citrus County, Suwannee and Hines projects. Contrary to Duke's representations to the Commission,[3] the record does not address the cost-effectiveness or need for any of the following resource options that Duke may now opt to deploy:

- Building the Citrus County and Hines Chiller projects and keeping the existing Suwannee units in operation through at least 2018, with concomitant transmission construction;
- Building the Hines Chillers, retiring the existing Suwannee units in 2016, and purchasing power from Calpine or acquiring the Osprey facility;
- Building the Citrus County combined cycle plant and Hines Chillers, and purchasing power from Calpine or acquiring the Osprey facility; or

[2] Tr. Vol. 1, pg. 44, line 11.

- Other purchase options that may now be available because of the proposed transmission build-out.

Duke's last-minute decision to withdraw Suwannee from review in favor of the Calpine agreement and continued operation of the existing Suwannee units significantly increases the amount and type of generating resources available to Duke, is inconsistent with the Integrated Resource Plan and planning assumptions upon which Duke relied in its petition in this case and in Docket No. 140111-EI, and will drastically and directly reduce or eliminate the need for both the Hines Chiller project and Citrus County Combined Cycle plant.

DUE PROCESS REQUIRES THE COMMISSION TO PROVIDE INTERVENORS AN OPPORTUNITY TO CONDUCT DISCOVERY AND PRESENT EVIDENCE TO DEMONSTRATE THAT DUKE'S LAST-MINUTE PLAN TO ACQUIRE THE OSPREY FACILITY RATHER THAN BUILD THE SUWANNEE PROJECT DIRECTLY REDUCES OR ELIMINATES THE NEED FOR BOTH THE HINES CHILLER PROJECT AND CITRUS COUNTY COMBINED CYCLE PLANT

As the Florida Supreme Court recently explained, "[t]he fundamental requirements of due process are satisfied by reasonable notice and a reasonable opportunity to be heard." *Citizens v. Florida Public Service Commission*, ___ So.3d ___ (Fla. 2014), 2014 WL 4257733, Slip Copy pg. 10, quoting *Fla. Pub. Serv. Comm'n v. Triple "A" Enter., Inc.*, 387 So.2d 940, 943 (Fla. 1980), additional citations omitted. The Court further explained that due process requirements for administrative proceedings involving a disputed issue of fact are found in section 120.57(1)(b), Florida Statutes, which specifically grants all parties, including intervenors, the right to present evidence and argument on all issues involved in a proceeding:

> All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed

[3] Tr. Vol. 1, Pg. 28, line 25 – pg. 29, line 7; pg. 32, line 15 –pg. 33, line 1; pg. 44, lines 5-25; pg. 45, lines 17-20; pg. 48, lines 10-14.

> findings of facts and orders, to file exceptions to the presiding officer's recommended order, and to be represented by counsel of other qualified representative. (emphasis added)

Duke's last-minute amendment to its pleadings raised a new disputed issue of material fact: whether and to what extent removing the planned addition of 192 NW net peaking power from Duke's Integrated Optimal Plan, substituting the Calpine baseload power purchase/acquisition and keeping the existing Suwannee units in service for two more years affected the utility's need for the energy and capacity to be provided by the Hines Chiller project and Citrus County Combined Cycle plant. NRG and other intervenors are not required to simply accept Duke's assurance that the change is without any effect; they have a due process right to meaningful notice of Duke's changed plans, and are entitled to a "meaningful, full, and fair" opportunity to respond and present evidence in opposition. *Rucker v. City of Ocala*, 684 So.2d 836, 841 (1996), citing *Metropolitan Dade County v. Sokolowski*, 439 So.2d 932, 924 (Fla. 3d DCA 1982).

There is no doubt that Duke's amended petition presents new issues of material fact in both dockets. Duke's petitions and testimony assert that the company's Integrated Resource Planning process had produced a "final, integrated, optimal plan . . . to deliver reliable, cost-effective power" to its customers, and that the resulting Base Generation Expansion Plan, including its proposed generation slate of the Suwanee project, Hines Chiller project, and Citrus County Combined Cycle Plant, was developed to meet Duke's asserted need for additional generation capacity. *See, e.g.*, Petition, Docket 140110-EI, ¶¶ 18, 23, 26; Petition, Docket 140111-EI, ¶¶ 27, 31. Duke provided over 1200 pages of testimony from eight direct and rebuttal witnesses in these two dockets, responded to over 400 interrogatories and provided thousands of pages of documents to justify its assertion that its three self-build projects constitute

the optimal mix of generating resources to meet its alleged need. *See, e.g.*, Duke's 2014 Ten Year Site Plan (Exhibits 49 and 63), which asserts that Duke's Integrated Optimal generation Plan is built from the ground up, with resource alternatives modeled and tested as a whole before being "optimized together" to become the "robust" Base Expansion Plan upon which Duke relies in these dockets:

> The [Integrated Resource Planning] process begins with the development of various forecasts, including demand and energy, fuel prices, and economic assumptions. Future supply- and demand-side resource alternatives are identified and extensive cost and operating data are collected to enable these to be modeled in detail. These alternatives are optimized together to determine the most cost-effective plan for DEF to pursue over the next ten years to meet the Company's reliability criteria. The resulting ten-year plan, the Integrated Optimal Plan, is then tested under different relevant sensitivity scenarios to identify variances, if any, which would warrant reconsideration of any of the base plan assumptions. If the plan is judged robust and works within the corporate framework, it evolves as the Base Expansion Plan. (emphasis added)

Exhibit 49, pg. 60; Exhibit 63, pg. 60. This exhibit also describes how Duke "optimizes" its "overall resource mix," and notes the "detailed assessment" conducted "when a decision supporting a significant resource commitment is being developed":

> The IRP provides DEF with substantial guidance in assessing and optimizing the Company's overall resource mix on both the supply side and the demand side. When a decision supporting a significant resource commitment is being developed (e.g. plant construction, power purchase, DSM program implementation), the Company will move forward with directional guidance from the IRP and delve much further into the specific levels of examination required. This more detailed assessment will typically address very specific technical requirements and cost estimates, detailed corporate financial considerations, and the most current dynamics of the business and regulatory environments. (emphasis added)

Exhibit 49, pg. 60; Exhibit 63, pg. 60.

Duke's Need Determination Study further confirmed that its Integrated Optimal Plan

included all three of the self-build projects for which it sought approval:

> The top ranked plan includes the addition of two combustion turbines at the Suwannee River Plant in 2016, addition of inlet chilling to supply additional summer capacity from the combined cycle units at the Hines Energy Center by 2017, the Citrus CC in 2018 and the addition of an undesignated future combined cycle unit in 2021. This plan was chosen by DEF as the Integrated Optimal Plan and was also published as the Base Expansion Plan in the Company's 2014 TYSP filed with the FPSC on April 1, 2014 . . . . (emphasis added)

Exhibit 48, pg. 54.

Mr. Borsch's testimony confirms that Duke analyzed various acquisition and power purchase options in comparison to Duke's "Base Generation Plan" for near-term need – which consists of both the Hines and Suwannee projects. Tr. Vol. 4, pg. 550, lines 6-14 and 19-23; pg. 562, lines 12-14; pg. 564, lines 1-7. *See, also,* Duke's response to Staff Interrogatory No. 10, (Exhibit 101) (confirming that Mr. Borsch's cost-effectiveness analyses in Docket 140111-EI address both Hines and Suwannee together).

Mr. Borsch further confirmed in his deposition that changes to the company's Integrated Optimal Plan require much analysis and planning, noting that although Duke first identified a 2016 need two years ago, "a considerable amount of analysis would have to go on before we nailed down the right mix of resources to fill the need." Exhibit 122, Pg. 33, line 24 – pg. 34, line 6. *See also,* Exhibit 122, pg. 142 (Suwannee project was part of "the mix of a larger bucket of things where we thought we were going to have to potentially pick this and that and that to make up the full need.") In addition, Mr. Borsch admitted on cross examination that Duke's withdrawal of the Suwannee project will create additional costs, including the continued operation of the existing Suwannee units until at least 2018, and construction of additional transmission to provide voltage support upon their retirement, which otherwise would have been

provided by the new Suwannee peakers. Tr. Vol. 5, pg. 747, line 24 – pg. 748, line 23. Duke did not, however, provide an evaluation of the cost-effectiveness of keeping the existing Suwannee units in service. Exhibit 101, Duke response to Staff Interrogatory No. 3.

Importantly, Mr. Borsch also admitted that Duke's evaluation of the cost of a generation alternative is not absolute; rather it changes with various "puts and takes" included in the particular scenario. *See also,* Exhibit 122, pgs. 23, 26, 27, 28 (Duke's differential cost analysis does not demonstrate an absolute cost, rather, it involves puts and takes and specified assumptions, including timing; and costs are modeled "holistically" relative to other alternatives). NRG witness Mr. Pollock confirmed that none of the modeling provided by Duke in these two dockets reflects the combination of options currently before the Commission. Tr. Vol. 6, pg. 899, lines 6-12. Finally, Mr. Borsch admitted that Duke had already executed an agreement to purchase combustion turbines for the now-withdrawn Suwannee peaker project in March, well before it initiated this docket, but could not confirm who would bear the cost of the very significant termination penalties associated with the contract, which continue to mount.[4] Tr. Vol. 5, pg. 754, line 17 – pg. 756, line 9.

In summary, Duke's testimony and exhibits clearly demonstrate that the Suwannee, Hines and Citrus projects are inextricably interwoven parts of the Optimal Generation Plan and the Suwannee project cannot be surgically excised from this proceeding. Mr. Pollock's testimony that the effect of the Calpine deal on the Integrated Optimal Plan "changes this case completely" and requires a "clean slate so that everything can be thoroughly vetted," is uncontradicted. Tr. Vol. 6, pg. 897, line 25 – pg. 898, line 6. Duke's last-minute withdrawal of the project and de-facto amendment of its Integrated Optimal Plan causes costs that have not

[4] The confidential amount already expended by Duke as of August 11, 2014, is shown on pg. 33, line 2, of Mr. Borsch's deposition.

been accounted for and raises critical issues of material fact regarding the need for and cost-effectiveness of the remainder of the originally-proposed generation portfolio: the Citrus County Combined Cycle plant and Hines Chiller project. On the second day of the hearing, Mr. Pollock, an expert in his field with over 30 years of experience, testified that even he had not had sufficient time to absorb information regarding Duke's changed generation plans, or to determine how the Calpine deal impacted the need for the Citrus facility. Tr. Vol. 6, pg. 893, lines 4-15. He was certain, however, that it "significantly changes the calculus of the case since we're really essentially starting with a clean slate. Tr. Vol. 6, pg. 894, line 21 – pg. 895, line 6. There is no evidence in the record to the contrary.

In sharp contrast to the methodical procedure approved by the Supreme Court in *Citizens*, which provided the parties with an opportunity for discovery to determine whether a prehearing settlement presented disputed issues of material fact, followed by an evidentiary hearing on the identified issues, the extended lunch break provided by the Commission on the first day of the hearing did not provide intervenors a reasonable or meaningful opportunity to review and respond to Duke's impromptu revision of its generation plans, and the Commission's refusal to permit responsive testimony deprived NRG of its statutory right to present evidence on all issues involved in the proceeding. Accordingly, the Commission should not address the now-obsolete issues set forth in the Prehearing Order, but should instead find that Duke has not met its burden of proof in this case; hold that that intervenors are entitled to an opportunity to conduct discovery and present evidence regarding Duke's newly-revised generation plans; and order Duke to revise and resubmit its needs assessment and supporting models based on its new slate of generation assets, including a new Integrated Resource Plan that is updated with current data and planning information, as well as load-forecast sensitivity analyses.

ISSUES AND POSITIONS

Issue 1: **Is the proposed Citrus County combined cycle plant needed, taking into account the need for electric system reliability and integrity?**

Issue 2: **Is the proposed Citrus County combined cycle plant needed, taking into account the need for adequate electricity at a reasonable cost?**

Issue 3: **Is the proposed Citrus County combined cycle plant needed, taking into account the need for fuel diversity and supply reliability?**

Issue 5: **Is the proposed Citrus County combined cycle plant the most cost-effective alternative available to meet the needs of Duke Energy Florida and its customers?**

*** No. Duke has not demonstrated need for additional 2019 capacity, and given the pending Osprey acquisition, the parties must be given an opportunity to submit evidence regarding Duke's revised generation plan. For the sake of argument, an agreement with Calpine could defer the Citrus County project. ***

ARGUMENT:

As explained above, the Commission should not address these issues because the parties were denied any opportunity to engage in discovery and present evidence on the impact of Duke's last-minute change of generation plans. Given the absence of record evidence addressing such impact, the Commission should find that Duke has not met its burden of proving that it needs the $1.5 billion Citrus County plant as currently proposed; hold that that intervenors are entitled to an opportunity to conduct discovery and present evidence regarding Duke's newly-revised generation plans; and order Duke to revise and resubmit its needs assessment and supporting models based on its new slate of generation assets, including a new Integrated Resource Plan that is updated with current data and planning information, as well as load-forecast sensitivity analyses.

Subject to and without waiving its objections, NRG states:

Duke has not met its burden of proving that it needs any additional generation in 2019 to meet its reserve margin. Its asserted need for capacity is largely driven by its forecast that wholesale and peak demand will increase by more than 1,000 MW in 2014-2015. It is undisputed that this would represent far more load growth than Duke has experienced in any two consecutive years since 2005. Tr. Vol. 6, pg. 877, lines 12 – 16. Duke has not demonstrated that its forecast is reasonable or that this high level of load growth is likely to materialize. To the contrary, the record reflects that Duke has consistently overestimated its actual need. In response to Staff inquiry, Duke admitted that its peak demand forecasts for the years 2010-2013 had been inaccurate, resulting in an overstatement of summer peak demand by up to 11.9%, and an overstatement of winter peak demand by up to 25.2%. *See,* Duke response to Staff Interrogatories 54 (Exhibit 95) and 83 (Exhibit 103). Further, Duke's 2013 Ten Year Site Plan overestimated its actual 2013 need by 881 MW, and Duke now admits that its 2013 forecasts were excessive for other years as well, by 200-300 MW. *See, e.g.* Tr. Vol. 6, pg. 779, line 19 – pg. 782, line 2. Mr. Borsch admitted that the load projections in Duke's 2014 Ten Year Site Plan – which Duke claims demonstrates need for its proposed self-build projects – were developed using the same flawed process Duke has used in the past. Tr. Vol. 6, pg. 778, lines 9-11.

Duke modeled sensitivities to changes in gas price and carbon costs that could affect need and cost-effectiveness of its proposed generation slate, but incredibly, failed to model the effect of an inaccurate load forecast. Vol. 4, pg. 401, lines 13-15; pg. 470, line 14 - pg. 472, line 9; pg. 472, lines 11-13; pg. 555, lines 5-11; pg. 563, lines 7-13; Exhibits 49 and 63, pgs. 18 and 19. When Staff asked Duke to provide a sensitivity analysis of its high case and low case forecasts in these dockets, Duke replied that it did not have any high and low case forecasts. *See,* Duke

response to Staff Interrogatories 52, 53 (Exhibit 95) and 81, 82 (Exhibit 103). Mr. Pollock, an industry expert with 30 years of experience in similar cases, identified Duke's failure to provide a sensitivity analysis of the effect of load forecast error or different load-forecasting scenarios as "one of the most serious shortcomings that I can see," that goes "directly to the need for this additional capacity." Tr. Vol. 6, pg. 898, lines 7 – 16, pg. 899, lines 6 – 7. Further, because the load forecast is an integral assumption of Duke's cost-effectiveness analysis, its failure to model high and low case forecasts means that the Commission has no basis to conclude that any generation portfolio presented in this case is the most cost-effective alternative for ratepayers. Mr. Pollock demonstrated that if Duke's load grew at 50% of its unreasonably-high projected rate, its planned capacity additions would result in Duke being "significantly overbuilt." This scenario would lead to substantial and increasing excess capacity as shown in Mr. Pollock's Exhibit 86 (JP-3):

2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
930	760	844	915	837	1,383	1,204	1,563	1,493	1,429

Tr. Vol. 6, pg. 878, lines 1-21; Exhibits 85, 86. As noted above, Mr. Pollock was not permitted to address Duke's newly-revised generation slate.

Even assuming for the sake of argument that Duke needed its full forecasted baseload capacity of 1,640 MW, the Osprey combined cycle gas turbine facility will meet nearly 600 MW of that need when fully integrated into Duke's fleet. Although Duke has not asserted that its baseload needs have increased beyond 1,640 MW, it still seeks to build the Citrus facility, which will require rates to support total baseload additions of 2,215 MW – almost 600 MW more baseload capacity than its own questionable load forecast indicates.

Duke's proposed acquisition of the Osprey facility casts grave doubt on the wisdom of

retiring Crystal River Units 1 and 2 in 2018 in favor of building the Citrus County project on its current schedule. Calpine witness Mr. Hibbard testified that Duke's acquisition of the Osprey facility provides Duke with flexibility to defer the Citrus facility, and testified that "delaying investment in (and recovery of in rates of) the Citrus County CC units by just one year could mean $59 million in cumulative present value requirement benefits for ratepayers, even while accounting for the increased O&M expenses necessary to operate Crystal River with new pollution controls in place." Tr. Vol. 3, pg. 346, lines 12-23; pg. 352, lines 7 – 15; pg. 346, lines 12-16. The savings over three years would be "in the neighborhood of $150 million." Tr. Vol. 3, pg. 364, line 17 – pg. 365, line 8.

Continued operation of the Crystal River 1 and 2 units is both feasible and practical. The Commission recently authorized Duke to collect $28 million to permit continued operation of Crystal River 1 and 2, which Duke asserted was a reasonable and prudent expenditure of funds necessary to keep the units in service through 2020 – fully two years more than the early retirement proposed in this docket. Order No. PSC-14-0173-PAA-EI, April 16, 2014. Duke's pending air permit will allow continued operation of the units through 2020, also two years more than the early retirement proposed in this docket. Exhibit 145; Tr. Vol. 6, pg. 788, lines 2-8.

Although Duke's counsel misleadingly suggested to the Commission that Mr. Borsch's rebuttal testimony and Exhibit BMHB-16 in this docket adequately addressed the possibility of deferral in the event Duke acquired the Osprey facility,[5] this is simply not the case. Mr. Borsch admitted on cross examination that the deferral analysis in his Exhibit BMHB-16 "did not contemplate the economic terms provided to us by Calpine and the Osprey facility." Tr. Vol. 5, pg. 708, lines 4-7. In light of Duke's changed circumstances, the only way the Commission can prudently assure that Duke has truly explored and identified the alternative that is best for its

customers, is to require Duke to revise and resubmit its needs assessment and supporting models based on its new slate of generation assets, including a new Integrated Resource Plan that is updated with current data and planning information, as well as load-forecast sensitivity analyses.

Issue 4: Are there any renewable energy sources and technologies or conservation measures taken by or reasonably available to Duke Energy Florida that might mitigate the need for the proposed Citrus County combined cycle plant?

******* The Commission should defer ruling in this proceeding until after its decision on Duke's conservation goals Docket No. 130002-EI. ***

ARGUMENT:

Duke's conservation goals were recently the subject of an extensive hearing in Docket 130200-EI, which is the first time the Commission has reviewed Duke's conservation goals in five years. The Commission is not scheduled to issue an order in that proceeding until December, and the evidence that was elicited in that docket is not in the record of this proceeding. There is no record basis in Dockets 140110-EI and 140111-EI for a factual determination on this issue. Duke's generation resource plans are in a state of flux as evidenced in these proceedings, and as shown above, acquisition of the Osprey facility will allow Duke to defer construction of the Citrus plant so no harm to Duke's ratepayers can result from deferring an order in this case until the Commission issues its order in Docket No. 130200-EI.

Issue 6: Did Duke Energy Florida, Inc. reasonably evaluate all alternative scenarios for cost effectively meeting the needs of its customers over the relevant planning horizon?

[5] Tr. Vol. 1, pg. 43, line 23 – pg. 44, line 11.

*** No. There is no record evidence that Duke's hasty, eleventh-hour decision to abandon its Integrated Optimal generation plan, acquire Calpine's Osprey facility, and withdraw the Suwannee project from consideration is based on a reasonable evaluation of all alternative scenarios to meet its customers' needs. ***

ARGUMENT:

The plan Duke is now hotly pursuing will result in a net increase of over 500 MW more than it originally sought – an increase that is sufficiently large to affect the need for, timing and size of the Hines and Citrus projects. In the absence of further evidentiary proceedings in which this issue may be fully evaluated and evidence presented by Duke to the Commission demonstrating that it has met its burden in this regard, the Commission has no choice but to conclude that Duke failed to reasonably evaluate all alternative scenarios. The Commission should deny Duke's request at this time and direct Duke to revise its needs assessment in light of the pending Osprey acquisition, based on a new Integrated Resource Plan that is updated with current data and planning information, as well as load-forecast sensitivity analyses.

Issue 7: Based on the resolution of the foregoing issues, should the Commission grant the requested determination of need for the proposed Citrus County combined cycle plant?

*** No. As discussed in response to Issues 1, 2, 3 and 5, Duke has not demonstrated need for additional 2019 capacity given the pending Osprey acquisition, and the parties must be given an opportunity to submit evidence regarding its revised generation plan. ***

ARGUMENT:

Please see NRG's response to Issues 1, 2, 3 and 5.

Issue 8: Should this docket be closed?

*** Yes. ***

ARGUMENT:

Duke repeatedly claimed in these proceedings that its Integrated Optimal generation plan resulted in the most cost-effective alternative for its customers, but it abandoned that plan 15 minutes into the hearing in this proceeding, moved to amend its petition to withdraw the Suwannee project from consideration, and announced that it had decided on new "best" alternative - i.e., the purchase of power from and eventual acquisition of Calpine's Osprey facility. Duke's actions demonstrate at least three things beyond refute:

- Duke does not believe that its "Optimal" plan yields the best alternative for its customers;
- There are other alternatives and opportunities available to Duke that it had not fully explored when it filed its petition; and perhaps most importantly,
- Duke's filing was and is premature until it can demonstrate to the Commission that it has given a full and fair consideration to reasonable alternatives, including continued operation of Crystal River units 1 and 2.

The only way the Commission can prudently assure that Duke has truly explored and identified the alternative that is best for its customers, is to require Duke to revise and resubmit its needs assessment and supporting models based on its new slate of generation assets, including a new Integrated Resource Plan that is updated with current data and planning information, as well as load-forecast sensitivity analyses.

CONCLUSION

Duke's last-minute decision to withdraw Suwannee from review in favor of the Calpine agreement and continued operation of the existing Suwannee units significantly increases the amount and type of generating resources available to Duke, is inconsistent with the Integrated Resource Plan and planning assumptions upon which Duke relied in its petition in this case and in Docket No. 140111-EI, and will drastically and directly reduce or eliminate the need for both the Hines Chiller project (the complete cost of which is now unknown) and the $1.5 billion Citrus County Combined Cycle plant. The Commission's refusal to permit any meaningful opportunity to review, conduct discovery and present evidence regarding Duke's amended plans results in an incomplete record that cannot support a determination of need for the proposed $1.5 billion Citrus County Combined Cycle plant or a finding that the Hines Chiller project is the most cost-effective generation alternative to meet need, if any, prior to 2018. Accordingly, and for the reasons set forth herein, the Commission should find that Duke has not met its burden of proof in this case; hold that that intervenors are entitled to an opportunity to conduct discovery and present evidence regarding Duke's newly-revised generation plans; and order Duke to revise and resubmit its needs assessment and supporting models based on its new slate of generation assets, including a new Integrated Resource Plan that is updated with current data and planning information, as well as load-forecast sensitivity analyses.

Respectfully submitted this 10th of September, 2014.

/s/ Marsha E. Rule

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to the following by electronic mail on September 10, 2014:

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