

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval to include in base rates the revenue requirement for the CR3 regulatory asset, by Duke Energy Florida, Inc.

DOCKET NO.: 150148-EI

In re: Petition of Duke Energy Florida, Inc. For Issuance of a Nuclear Asset Recovery Financing Order

DOCKET NO.: 150171-EI

FILED: September 21, 2015

**DUKE ENERGY FLORIDA, LLC'S
PREHEARING STATEMENT**

Duke Energy Florida, LLC (“DEF” or the “Company”), pursuant to Order No. PSC-15-0340-PCO-EI, files with the Florida Public Service Commission (the “PSC” or the “Commission”) its Prehearing Statement in connection with its petition (“Petition”) for issuance of a nuclear asset-recovery financing order related to Crystal River Unit 3 Nuclear Power Plant (“CR3”) costs.

I. DEF WITNESSES

Relating to the CR3 Regulatory Asset, DEF intends to offer the direct testimony of:

<u>Stipulated Witness</u>	<u>Subject Matter</u>	<u>Issues</u>
Marcia Olivier	Calculation of CR3 Regulatory Asset Value	1-13
Terry Hobbs	Support of charges to CR3 Regulatory Asset	1-13
Mark Teague	Investment Recovery Activities	1-13

Relating to Securitization, DEF intends to offer the direct testimony of:

<u>Witness</u>	<u>Subject Matter</u>	<u>Issues</u>
Bryan Buckler Director of Regulated Accounting Duke Energy Business Services, Inc.	The purpose of Mr. Buckler’s testimony was to (i) present and evaluate DEF’s proposal to use nuclear asset-recovery bonds to finance nuclear asset-recovery costs; (ii) provide an overview of DEF’s proposed securitization transaction based on utility securitization bond transaction norms; and (iii) provide an estimate of financing costs, both upfront and ongoing.	15, 19, 20, 22, 26, 28-33, 36-39, 42, 51
Michael Covington Director of Midwest and Florida Accounting Duke Energy Business Services, Inc.	The purpose of Mr. Covington’s testimony was to (i) propose a form to be used for the true-up mechanism; and (ii) present the accounting entries that will be required for the proposed nuclear asset recovery financing.	24, 25, 32, 34, 38, 45, 46
Marcia Olivier Director of Rates and Regulatory Planning for Florida Duke Energy Business Services, Inc.	The purpose of Ms. Olivier’s testimony was to support the calculation of DEF’s proposed charges to customers necessary to pay the nuclear asset-recovery costs and financing costs (the “nuclear asset-recovery charge”). Her testimony also demonstrated that based on current market conditions, the issuance of the nuclear asset-recovery bonds and the imposition of the nuclear asset-recovery charge will have a significant likelihood of resulting in lower overall costs or would significantly mitigate rate impacts to customers as compared with the traditional method of financing and recovering nuclear asset-recovery costs under the RRSSA (as defined herein).	14, 16-18, 21, 23, 32, 35, 38, 40, 41, 47, 49, 50
Patrick Collins Executive Director in Global Capital Markets Morgan Stanley & Co. LLC	The purpose of Mr. Collins’ testimony was to: (i) provide an overview of the utility securitization market; (ii) describe DEF’s proposed transaction; (iii) explain the collection and remittance process; (iv) discuss key elements of the financing order; (v) describe the rating agency process; (vi) describe the marketing process; (vii) discuss certain securities law liabilities applicable to utility securitization as well as developments in securities law that might affect the nuclear asset-recovery bonds; and (viii) explain the Issuance Advice Letter process.	25, 26, 32, 34, 36, 38, 44, 45

Relating to securitization, DEF intends to offer the rebuttal testimony of:

<u>Witness</u>	<u>Subject Matter</u>	<u>Issues</u>
Bryan Buckler Director of Regulated Accounting Duke Energy Business Services, Inc.	The purpose of Mr. Buckler’s rebuttal testimony was to address what DEF believes to be potential misunderstandings by the Commission staff’s witnesses in various matters addressed in their testimonies filed on September 4, 2015, and to present a summary of DEF’s conclusions with respect to the role of the Bond Team and the appropriate standard for issuing the nuclear asset-recovery bonds.	26, 28-31, 33, 35-39
Patrick Collins Executive Director in Global Capital Markets Morgan Stanley & Co. LLC	The purpose of Mr. Collins’ rebuttal testimony was to address Commission staff witnesses’ statements relating to the SEC’s treatment of the nuclear asset-recovery bonds as asset backed securities and to discuss the merits of the proposed monthly remittances of funds to the Special Purpose Entity (“SPE”) from DEF.	25-26, 36

II. EXHIBITS - DEF intends to offer the following exhibits:

1. Stipulated Direct Testimony Exhibits

<u>Exhibit No.</u>	<u>Witness</u>	<u>Description</u>
_____ (MO-1)	Olivier	RRSSA with Exhibits 10 and 11
_____ (MO-2)	Olivier	RRSSA Exhibit 10 Template Populated
_____ (MO-3)	Olivier	RRSSA Exhibit 11 Template Populated
_____ (MO-4)	Olivier	Rate Schedules
_____ (MO-5)	Olivier	Estimated Nuclear Fuel Proceeds (Confidential)
_____ (MO-6)	Olivier	CCR Nuclear Fuel Illustrative Impact (Confidential)

_____ (TH-1)	Hobbs	Decommissioning transition organization (“DTO”) organizational chart
_____ (TH-2)	Hobbs	New SAFSTOR organization chart
_____ (TH-3)	Hobbs	A list of the License Amendment Requests (“LARs”) completed and submitted to the NRC
_____ (TH-4)	Hobbs	A chart showing staffing reductions since Feb. 2013
_____ (TH-5)	Hobbs	Exhibit 10 to the RRSSA
_____ (TH-6)	Hobbs	A list of projects that make up “Other CWIP”
_____ (MT-1)	Teague	CR3 Administrative Procedure, AI-9010, conduct of CR3 Investment Recovery, Revision 1
_____ (MT-2)	Teague	CR3 Investment Recovery Project, Project Execution Plan, Revision 0
_____ (MT-3)	Teague	Investment Recovery Guidance Document IRGD-001, Sales Track Guidance and Documentation Package Development
_____ (MT-4)	Teague	Integrated Change Form for the retention of an auction company used to sell CR3 plant assets (Confidential)

2. Direct Testimony Exhibits

_____ (BB-1)	Buckler	Estimated up-front bond issuance and ongoing financing costs for nuclear asset-recovery bonds
_____ (BB-2a)	Buckler & Collins	Form of Nuclear Asset-Recovery Property Purchase and Sale Agreement
_____ (BB-2b)	Buckler & Collins	Form of Nuclear Asset-Recovery Property Servicing Agreement
_____ (BB-2c)	Buckler & Collins	Form of Indenture

<u> </u> (BB-2d)	Buckler & Collins	Form of Administration Agreement
<u> </u> (BB-2e)	Buckler & Collins	Form of Amended and Restated LLC Agreement
<u> </u> (PC-1)	Collins	Preliminary bond structure and associated cashflows
<u> </u> (PC-2)	Collins	A list of completed utility securitizations since 1997
<u> </u> (MC-1)	Covington	Nuclear Asset-Recovery Charge True-Up Mechanism Form
<u> </u> (MC-2)	Covington	Accounting Entries to Record Nuclear Asset-Recovery Financing
<u> </u> (MO-1A)	Olivier	Proposed Nuclear Asset-Recovery Charge by Rate Class
<u> </u> (MO-2A)	Olivier	CR3 Regulatory Asset Annual Revenue Requirement – Traditional Recovery Method
<u> </u> (MO-2B)	Olivier	CR3 Regulatory Asset Annual Revenue Requirement – Nuclear-Asset Recovery Charge Method
<u> </u> (MO-3A)	Olivier	Traditional Recovery Method Base Rate Increase by Rate Schedule
<u> </u> (MO-4A)	Olivier	Comparison between Proposed Nuclear Asset-Recovery Charge and Traditional Recovery Method by Rate Schedule
<u> </u> (MO-5A)	Olivier	Sample Bill Calculations
<u> </u> (MO-6A)	Olivier	Proposed Tariff Sheets

3. Rebuttal Testimony Exhibits

<u> </u> (BB-3)	Buckler	Excerpt of Ohio Power Company Financing Order
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_____	Buckler	Section 4928.232(D)(2) of the Ohio statute
(BB-4)		
_____	Buckler	Ohio Power Company Issuance Advice Letter
(BB-5)		
_____	Buckler	Utility's securitization process withdrawal letter to the Public Service Commission of Wisconsin
(BB-6)		
_____	Buckler	Composite exhibit of interrogatory responses
(BB-7)		
_____	Collins	Composite exhibit of interrogatory responses
(PC-3)		

In addition to the above pre-filed exhibits, DEF reserves the right to utilize any exhibits introduced by any other party. DEF additionally reserves the right to introduce any additional exhibits necessary for rebuttal, cross-examination or impeachment at the final hearing.

III. STATEMENT OF BASIC POSITION

A. Nuclear Asset-Recovery Cost Background

Pursuant to PSC Order No. PSC-13-0598-FOF-EI, the Commission approved the 2013 Revised and Restated Stipulation and Settlement Agreement (“RRSSA”) between DEF, the Office of Public Counsel (“OPC”), the Florida Industrial Power Users Group (“FIPUG”), the Florida Retail Federation (“FRF”) and White Springs Agricultural Chemicals, Inc. d/b/a PSC Phosphates (“White Springs”) (collectively, the “Settlement Signatories”). The RRSSA permitted DEF to create the “CR3 Regulatory Asset” to include capital cost amounts and revenue requirements associated with all CR3-related costs. In accordance with the RRSSA, DEF is authorized to increase its base rates by the revenue requirement for the CR3 Regulatory Asset upon the expiration of the Levy Nuclear Project fixed charge of \$3.45. DEF petitioned to terminate this fixed charge on March 2, 2015, effective May 2015, and the Commission approved that request in Order No. PSC-15-0176-TRF-EI on May 6, 2015.

DEF filed a petition for approval to include in base rates the revenue requirement for the CR3 Regulatory Asset on May 22, 2015, in Docket No. 150148-EI. In Docket No. 150148-EI, DEF expressed its intent to petition the Commission for a Financing Order pursuant to House Bill 7109 enacted by the Florida Legislature and codified in relevant part as Section 366.95, Florida Statutes, to issue lower cost “nuclear asset-recovery bonds” to securitize the CR3 Regulatory Asset.

As permitted by Section 366.95(2)(c)1.b., Florida Statutes, DEF filed a petition on July 27, 2015, requesting that the Commission issue a financing order to finance DEF’s nuclear asset-

recovery costs and financing costs. Specifically, DEF requested that the Commission approve the issuance of nuclear asset-recovery bonds in an amount equal to: (a) DEF's nuclear asset-recovery costs consisting of its CR3 Regulatory Asset balance as determined pursuant to Docket No. 150148-EI; plus (b) upfront bond issuance costs; plus (c) carrying charges accruing at 6.0% per annum on the CR3 Regulatory Asset balance from December 31, 2015 through the date of issuance of the nuclear asset-recovery bonds (the "Securitizable Balance").

On September 15, 2015, the Commission approved a stipulation which approved an amendment to the RRSSA executed by the Settlement Signatories and established the CR3 Regulatory Asset value of \$1,283,012,000, through the end of December 2015. This amount includes estimates of the monthly carrying charges net of the estimated \$1.00 per mWh recovery through fuel (RRSSA Paragraph 7.a.) from May through December 2015. The December 31, 2015 actual balance of CR3 Regulatory Asset will include actual carrying charges net of actual recoveries through fuel and will be subject to Commission review for mathematical errors at the time DEF submits its tariff sheets.

B. DEF's Request for a Nuclear Asset-Recovery Financing Order

Under the RRSSA, DEF is permitted to recover the CR3 Regulatory Asset with a full debt return and 70% of the otherwise allowed return on equity. Recovering the CR3 Regulatory Asset through the sale of nuclear asset-recovery bonds, however, is likely to deliver significant, meaningful customer savings when compared to the traditional method of recovery as permitted under the RRSSA.

Pursuant to the provisions of Section 366.95, Florida Statutes, DEF has requested that the Commission (i) approve the recovery of the Securitizable Balance through the issuance of nuclear asset-recovery bonds; (ii) approve the recovery of financing costs, including upfront bond issuance costs incurred in connection with the issuance of the nuclear asset-recovery bonds and ongoing financing costs; (iii) approve the transaction structure of the proposed securitization financing; (iv) approve the creation of the nuclear asset-recovery property, which includes the imposition, billing, charging and collection of non-bypassable nuclear asset-recovery charges to ensure the timely payment of the nuclear asset-recovery bonds and financing costs; and (v) approve the form of tariff schedule to be filed under DEF's tariff.

In order to facilitate review of the matters presented in the Petition and to help ensure that the requisite elements needed to satisfy rating agency conditions and otherwise ensure the benefits associated with the issuance of nuclear asset-recovery bonds, DEF submitted a proposed form of financing order as Exhibit B to its Petition. DEF requests issuance of a financing order substantially in the form proposed.

C. The Effects of Granting DEF's Petition and Adopting its Draft Financing Order

As explained in DEF's Petition, approving the financing order will allow DEF to significantly reduce customer rates when compared with the traditional method under the RRSSA. In proposing to recover the CR3 Regulatory Asset through the issuance and sale of nuclear asset-recovery bonds, DEF is choosing to forgo a substantial return on equity for the benefit of its customers.

D. Summary Comment on Staff Witness Positions

Commission Staff filed testimony of four witnesses that addressed various aspects of DEF's Petition. These witnesses appear to be in disagreement (or misunderstanding) with a limited number of items contained in DEF's Petition and Proposed Financing Order. Those items are: (1) DEF's interests and motivations for pursuing the issuance of the nuclear asset-recovery bonds; (2) the standard to be used to evaluate the success of the proposed nuclear asset-recovery bond issuance; (3) the role of the Bond Team; (4) the reasonableness of DEF's servicer setup expenses; (5) proposed credit risk disclosure; (6) whether Morgan Stanley should be allowed to serve as an underwriter on the nuclear asset-recovery bond issuance; (7) the importance of a monthly versus daily remittance process; and (8) whether the bonds must be registered as asset-backed securities. DEF's Rebuttal Testimony fully sets forth its position with respect to each of these items and DEF expounds upon some of those positions in the appropriate specific issues below.

E. Nuclear Asset-Recovery Financing Order Cost Recovery Methods and Relief

The nuclear asset-recovery costs described in DEF's Petition, and associated financing costs, would be paid for pursuant to an approximate twenty-year nuclear asset-recovery charge that would be applied on a per kWh basis to all applicable customer classes. In connection with this proceeding, DEF submitted proposed nuclear asset-recovery charge tariff sheets that will closely approximate the final figures, barring significant changes in the terms of an issuance of nuclear asset-recovery bonds. The proposed increase in base rates associated with the RRSSA would not go into effect and instead would be replaced by the nuclear asset-recovery charge.

The advantage of the proposed nuclear asset-recovery financing is that customers would pay a lower per kWh charge over the same period of time relative to the RRSSA.

Conversely, if the Commission determines that recovery of the nuclear asset-recovery costs through the issuance of nuclear asset-recovery bonds is not appropriate or declines to issue a financing order substantially in the form requested by DEF and/or creates conditions on the offering of nuclear asset-recovery bonds that exposes DEF and its stakeholders to unnecessary liability, DEF alternatively requests that a base rate increase pursuant to the RRSSA be implemented beginning six months after the date of the Commission's final order rejecting DEF's request (in the event the financing order is not issued) or the date upon which DEF notifies the Commission that the bonds will not be issued (in the event the financing order is issued), and that carrying costs on the nuclear asset-recovery costs be collected from January 1, 2016, through the capacity cost recovery clause, until such time as the base rate increase goes into effect, consistent with DEF's Petition For Approval to Include in Base Rates the Revenue

Requirement for the CR3 Regulatory Asset filed on May 22, 2015, in Docket No. 150148-EI, as modified by the Stipulation approved on September 15, 2015.

For all the reasons set forth in DEF's Petition, Testimony, and Exhibits, DEF requests that the Commission consider and approve the relief requested in the Petition consistent with the 135-day timeline set forth in Section 366.95(2)(c)1.b. in order that nuclear asset-recovery bonds may be issued and that the purposes of the Petition achieved.

IV. ISSUES AND POSITIONS

CR3 Regulatory Asset Issues

Issue 1: Has DEF provided adequate internal controls and management oversight of its CR3 investment recovery procedure and plan?

DEF Position: Type 2 stipulation approved at the September 15, 2015 agenda conference: Yes, DEF has provided adequate internal controls and management oversight of its CR3 investment recovery procedure and plan. Please note that DEF and Staff are in agreement for Issue 1. The Intervenor take "No Position" on this issue. DEF stipulates to the entry of Staff's witnesses' testimony (regarding the CR3 Regulatory Asset) and exhibits and further agrees to Staff's CR3 Regulatory Asset witnesses' excusal from the October hearing.

Issue 2: Did DEF minimize the current and future costs of the CR3 Regulatory Asset and use reasonable and prudent efforts to curtail avoidable costs or to sell or otherwise salvage assets that would otherwise be included in the CR3 Regulatory Asset, as required by the Revised and Restated Stipulation and Settlement Agreement (RRSSA)?

DEF Position: Stipulation approved at the September 15, 2015 agenda conference: Yes, DEF fully complied with its obligations under the RRSSA.

Issue 3: Should DEF be required to collect the 2016 CR3 Regulatory Asset carrying cost of \$1.50/mWh through the fuel clause as provided in the RRSSA and to reduce the CR3 Regulatory Asset by the projected amount to be recovered?

DEF Position: Stipulation approved at the September 15, 2015 agenda conference: No, recovery of the carrying cost through the fuel clause pursuant to Paragraph 7.a. of the RRSSA

should terminate with the last billing cycle for December 2015. DEF will not implement the \$1.50 per megawatt hour rate increase for 2016.

Issue 4: Has DEF properly categorized and recorded costs associated with the CR3 Regulatory Asset as contemplated by the RRSSA?

DEF Position: Stipulation approved at the September 15, 2015 agenda conference: Yes, DEF has properly categorized and recorded costs consistent with the RRSSA.

Issue 5: Did DEF appropriately apply the accelerated recovery of the carrying charge collected through the Fuel Adjustment Clause to the CR3 Regulatory Asset?

DEF Position: Stipulation approved at the September 15, 2015 agenda conference: Yes.

Issue 6: What is the appropriate projected amount of the CR3 Regulatory Asset at December 31, 2015?

DEF Position: Stipulation approved at the September 15, 2015 agenda conference: The appropriate projected amount of the CR3 Regulatory Asset at December 31, 2015 is \$1,283,012,000. This amount reflects the original amount projected in DEF's petition of \$1,298,012,000 reduced by the adjustment of \$15 million referenced in the parties' stipulation.

Issue 7: Has DEF calculated the annual revenue requirement for the CR3 Regulatory Asset consistent with the requirements of the RRSSA?

DEF Position: Stipulation approved at the September 15, 2015 agenda conference: Yes.

Issue 8: What is the appropriate amortization period and annual revenue requirement to amortize the CR3 Regulatory Asset?

DEF Position: Stipulation approved at the September 15, 2015 agenda conference: The appropriate amortization period is 240 months consistent with the RRSSA. The appropriate annual revenue requirement is \$168,331,000 calculated on Exhibit __ (MO-2) as revised on August 31, 2015 and attached to the approved stipulation.

Issue 9: Should the Commission approve DEF's proposed treatment to account for nuclear fuel proceeds, that will not be received until the future, through the capacity cost recovery clause?

DEF Position: Stipulation approved at the September 15, 2015 agenda conference: Yes, DEF should be allowed to recover through the capacity cost recovery clause the return on the future nuclear fuel proceeds until they are received and recover the difference between the actual amounts received and the amount credited to the CR3 Regulatory Asset in the December 31, 2015 balance. The pretax rate of return should be 8.12% consistent with the RRSSA Exhibit 10, line 20.

Issue 10: Has DEF calculated the base rate increase consistent with the requirements of the RRSSA?

DEF Position: Stipulation approved at the September 15, 2015 agenda conference: Yes, the base rate increase including the \$15 million stipulated reduction is calculated to be .496 cents/kWh as shown in Exhibit ___(MO-4) as revised on August 31, 2015 and attached to the approved stipulation.

Issue 11: If the Commission does not issue a financing order pursuant to DEF's Petition, should the projected amounts included in the CR3 Regulatory Asset be true-up? If so, how should the true-up be accomplished?

DEF Position: Stipulation approved at the September 15, 2015 agenda conference: Yes, DEF will do the true-up consistent with the RRSSA.

Issue 12: If the Commission does not issue a financing order pursuant to DEF's Petition, what is the proposed uniform percentage rate increase to the demand and energy charges by customer rate schedule?

DEF Position: Stipulation approved at the September 15, 2015 agenda conference: The proposed uniform percentage rate increase to the demand and energy charges by customer rate schedule is that provided in Exhibit ___(MO-4) as revised on August 31, 2015 and attached to the approved stipulation.

Issue 13: If the Commission does not issue a financing order pursuant to DEF's Petition, what should be the effective date of the requested base rate increase for billing purposes?

DEF Position: Stipulation approved at the September 15, 2015 agenda conference: If the Commission does not issue a financing order pursuant to DEF's Petition, the effective date of the requested base rate increase should be six months after the Commission's vote rejecting the financing order.

Financing Order Issues

ISSUE 14: Do the cost amounts contained in DEF's CR3 Regulatory Asset meet the definition of "nuclear asset-recovery costs" pursuant to Section 366.95(1)(k), Florida Statutes?

DEF: Yes. The CR3 Regulatory Asset reflects costs associated with the early retirement of CR3. CR3 is DEF's nuclear generating asset that generated electricity and is located in Florida. The Commission deemed the early retirement of CR3 reasonable and prudent through the approval of the RRSSA under Order No. PSC-13-0598-FOF-EI. In accordance with Section 366.95(1)(k), Florida Statutes, the pre-tax costs to be securitized are greater than \$750 million and the costs eligible for recovery pursuant to Section 366.93, Florida Statutes, that are included in the CR3 Regulatory Asset are those that were included in DEF's rate base and base rates before retirement. (Olivier)

ISSUE 15: Do the ongoing financing costs identified in DEF's Petition qualify as "financing costs" pursuant to Section 366.95(1)(e), Florida Statutes?

DEF: Yes, each of the ongoing financing costs identified in Mr. Buckler's Exhibit No. __ (BB-1) qualify as "financing costs" pursuant to Section 366.95(1)(e), Florida Statutes. (Buckler)

ISSUE 16: Has DEF demonstrated that securitization has a significant likelihood of resulting in lower overall costs or would avoid or significantly mitigate rate impacts compared to the traditional method of cost recovery pursuant to Section 366.95(2)(a)6., Florida Statutes?

DEF: Ms. Olivier, in her testimony, demonstrated that, based on current market conditions, the issuance of nuclear asset-recovery bonds and the imposition of nuclear asset-recovery charges will have a significant likelihood of resulting in lower overall costs and would significantly mitigate rate impacts compared to the traditional method of cost recovery. As provided in Exhibit No. __ (MO-4A) to Ms. Olivier's testimony, based on market conditions as of June 30, 2015 and excluding the impact of carrying charges beyond December 31, 2015, the initial

monthly charge associated with the issuance of nuclear asset-recovery bonds in DEF's securitization recommendation, assuming a 20-year maturity, is estimated to be \$3.17 for a 1,000 kWh residential bill. DEF's traditional method of recovery, which provides for recovery over a 20-year period, would have a monthly customer impact of \$5.01 for a 1,000 kWh residential bill, a savings of \$1.84 before gross receipt tax. Commercial customers are projected to save \$27.58 per month and industrial customers are projected to save \$1,558.65 per month when compared with the traditional method of recovery.

Based on current market conditions, securitization provides a mechanism for recovering the CR3 Regulatory Asset at a lower cost to DEF's customers than would occur through the traditional method as demonstrated in Exhibit No. ___ (MO-2A) and Exhibit No. ___ (MO-2B) to Ms. Olivier's testimony. In addition to lower initial customer rate impacts, DEF has demonstrated that, based on current market conditions, the total estimated cumulative undiscounted revenue requirements under securitization of \$1,770 million (Exhibit No. ___ (MO-2B)) are approximately \$790 million lower than the total cumulative undiscounted estimated revenue requirements under the traditional recovery method of \$2,560 million (Exhibit No. ___ (MO-2A)). (Olivier)

ISSUE 17: What amount, if any, should the Commission authorize DEF to recover through securitization?

DEF: The Commission should authorize DEF to recover the Securitizable Balance, as defined above, plus ongoing financing costs. (Olivier)

ISSUE 18: What is the appropriate treatment of the deferred tax liability consistent with paragraph 5(j) of the RRSSA?

DEF: In accordance with paragraph 5(j) of the RRSSA, DEF should make a specific adjustment to exclude the deferred tax liability associated with CR3 from all earnings surveillance reports. (Olivier)

ISSUE 19: Should DEF indemnify customers to the extent customers incur losses associated with higher servicing fees payable to a substitute servicer, or with higher administration fees payable to a substitute administrator, as a result of DEF's termination for cause?

DEF: No. DEF has proposed to indemnify customers for any "Losses" suffered (i) as a result of negligence, recklessness, or willful misconduct by DEF under the servicing agreement or the administration agreement, or (ii) for any failure or breach by DEF of certain material representations, warranties, or covenants in the servicing agreement or purchase and sale agreement. (Buckler)

ISSUE 20: What should be the up-front and ongoing fee for the role of servicer throughout the term of the nuclear asset-recovery bonds?

DEF: Based upon the testimony and rebuttal testimony submitted by Mr. Buckler, DEF believes the up-front financing costs for incremental servicer set-up related expenses is currently estimated to be \$915,000.

To obtain the requisite bankruptcy opinion and support the bankruptcy analysis, counsel expects DEF to represent that the ongoing servicing fee is reasonable and fair consideration as would be obtained under an agreement among unaffiliated entities under otherwise similar circumstances. While the fee can take into account that DEF is simultaneously performing other collection functions, the fee cannot result in DEF subsidizing the activities of the SPE. DEF must be paid an amount that covers its actual costs. DEF, as the initial servicer, should be paid an annual servicing fee in the amount equal to 0.05% of the original principal balance of the nuclear asset-recovery bonds. This rate is at the lower end of the range of typical ongoing servicing fees for other utility securitization transactions and equates to an amount comparable to DEF's current estimate of its aggregate annual incremental servicing costs.

If a third-party successor servicer is required, the servicer fee should be set at an annualized amount not to exceed 0.60% of the original principal balance of the nuclear asset-recovery bonds unless a higher rate is approved by the Commission. (Buckler)

ISSUE 21: What amount, if any, of DEF's periodic servicing fee in this transaction should DEF be required to credit back to customers through an adjustment to other rates and charges?

DEF: As referenced in DEF's proposed financing order (Finding of Fact 63 and Ordering Paragraph 62), DEF proposes that all revenues collected through the servicing fee will be included in DEF's cost of service. The actual expenses incurred throughout the life of the nuclear asset-recovery bonds to support DEF's servicing responsibilities will be included in DEF's cost of service. Therefore, any surplus or deficiency will be refunded or recovered through DEF's base rates in future rate cases. (Olivier)

ISSUE 22: What should be the ongoing fee for the role of the administrator throughout the term of the nuclear asset-recovery bonds?

DEF: To obtain the requisite bankruptcy opinion and support the bankruptcy analysis, counsel expects DEF to represent that the ongoing administration fee is reasonable and fair consideration as would be obtained under an agreement among unaffiliated entities under otherwise similar circumstances. DEF must be paid an amount that covers its actual costs. DEF, as administrator, should be paid an annual fee of between \$50,000 and \$100,000. This range is consistent with administration fees for other utility securitization transaction and is comparable to DEF's current estimate of its aggregate annual incremental administration costs. (Buckler)

ISSUE 23: What amount, if any, of DEF’s periodic administration fee in this transaction should DEF be required to credit back to customers through an adjustment to other rates and charges?

DEF: As referenced in DEF’s proposed financing order (Finding of Fact 63 and Ordering Paragraph 62), DEF proposes that all revenues collected through the administration fee under the Administration Agreement will be included in DEF’s cost of service. The actual expenses incurred throughout the life of the nuclear asset-recovery bonds to support DEF’s function as administrator for the SPE will be included in DEF’s cost of service. Therefore, any surplus or deficiency will be refunded or recovered through DEF’s base rates in future rate cases. (Olivier)

ISSUE 24: How frequently should DEF in its role as servicer be required to remit funds collected from customers to the SPE?

DEF: DEF proposes to remit funds collected from customers to the SPE either on a daily basis based on estimated daily collections using a weighted average balance of days outstanding or on a monthly basis if certain conditions can be satisfied. These conditions have yet to be determined and will be driven by rating agency requirements to achieve and maintain the targeted “AAA” rating on the bonds. (Covington)

ISSUE 25: If remittances are not daily, should DEF be required periodically to remit actual earnings on collections pending remittance?

DEF: No. DEF does not believe it would be possible to accurately attribute actual cash investment earnings of DEF to nuclear asset-recovery charge collections. Instead, DEF proposes to allocate investment earnings to such collections based on the average of the beginning and ending Tier-1 commercial paper rate (i.e., 30-day Federal Reserve “AA” Industrial Commercial Paper Composite Rate) for each month. This method is consistent with the process used by DEF when allocating interest to over and under-collections on DEF’s cost recovery clauses. (Collins, Covington)

ISSUE 26: Is DEF’s proposed process for determining whether the upfront bond issuance costs satisfy the statutory standard of Section 366.95(2)(c)5., Florida Statutes, reasonable and should it be approved?

DEF: Yes it is reasonable and should be approved. In accordance with Section 366.95(2)(c)5., Florida Statutes, within 120 days after the issuance of the nuclear asset-recovery bonds, DEF will file supporting information on the actual upfront bond issuance costs. The Commission shall review, on a reasonably comparable basis, such costs to determine compliance with Section 366.95(2)(c)5., Florida Statutes. DEF will be presumed to have satisfied the statutory standard with respect to any upfront bond issuance costs that are incurred under contract following a request for proposal process involving the Bond Team or that are

substantiated by documentation and fall within the estimates submitted to the Commission Staff as part of the Issuance Advice Letter procedure as described in DEF's proposed financing order. Furthermore, to the extent actual upfront bond issuance costs are different than those costs submitted to the Commission in the Issuance Advice Letter, there will be a reconciliation of such costs with appropriate credits to either DEF or customers as the case may be. Contrary to the testimony of Staff's witnesses, DEF has provided full support for all its upfront costs, including the servicer setup expenses. (Buckler, Collins)

ISSUE 27: This issue has been dropped per agreement with Staff.

ISSUE 28: What additional conditions, if any, should be made in the financing order that are authorized by Section 366.95(2)(c)2.i.?

DEF: None. In particular, the Commission should not impose a "lowest overall cost" standard to this transaction. Imposing such a standard could have the negative impact of prolonging or jeopardizing the transaction in search for the "perfect" transaction. In its proposed financing order, DEF has proposed that appropriate standards for this transaction are the standards approved by the Florida Legislature and found in the Florida Statute. Furthermore, DEF will demonstrate to this Commission that its efforts and the results of the transaction are reasonable and prudent and serve the general public interest, consistent with Section 366.95(2)(c)1.b., Florida Statutes. (Buckler)

ISSUE 29: Should all legal opinions be subject to review by the Bond Team?

DEF: The Bond Team will be actively involved in the structuring, marketing and pricing. As contemplated in DEF's proposed financing order, all legal opinions related to the nuclear asset-recovery bond transaction will be provided to the Bond Team for review. (Buckler)

ISSUE 30: Should all transaction documents and subsequent amendments be filed with the Commission before becoming operative?

DEF: Forms of the nuclear asset-recovery property purchase and sale agreement, the indenture, the servicing agreement, the administration agreement and the limited liability company agreement establishing the SPE were included as exhibits to Mr. Buckler's testimony and filed with the Petition. As contemplated in DEF's proposed financing order, all transaction documents shall be provided to the Bond Team for review to ensure that the transaction documents reflect the terms of the financing order. The forms of the transaction documents filed with the Petition propose to require Commission approval for future amendments and modifications. (Buckler)

ISSUE 31: Is DEF's proposed pre-issuance review process reasonable and should it be approved?

DEF: Yes. DEF believes its pre-issuance review process whereby the Commission Staff and its financial advisor will have a very prominent and equal role in most aspects of the nuclear asset-recovery bond issuance is reasonable and should be approved. However, with respect to those matters in which DEF and the SPE will be exposed to federal securities law liability, DEF must have direct control over all public disclosures, including SEC filings, and must control all communications with investors. Given this federal securities law liability, the Bond Team should not be involved with the selection of DEF's or the underwriter's counsel. In addition, contrary to testimony from Staff's witnesses, DEF should not be required to include the conclusory statement that credit risk has been "effectively eliminated" in its registration statement. There is no need for such a conclusory statement, as such a statement would expose DEF to unnecessary liability. That being said, if the Commission were to make that finding or come to that conclusion, DEF would consider including a statement in the registration statement provided it was clearly identified in each instance that it was a finding and conclusion of the Commission and not DEF. (Buckler)

ISSUE 32: Should the Financing Documents be approved in substantially the form proposed by DEF, subject to modifications as addressed in the draft form of the financing order?

DEF: Yes. (Buckler, Collins, Covington, Olivier)

ISSUE 33: Is DEF's proposed Issuance Advice Letter process reasonable and consistent with the statutory financing cost objective contained in Section 366.95(2)(c)2.b., Florida Statutes?

DEF: Yes. The process proposed in DEF's draft financing order, including the Issuance Advice Letter process, is reasonable and consistent with the statutory financing cost objective contained in Section 366.95(2)(c)2.b., Florida Statutes. The Bond Team will be actively involved in the structuring, marketing and pricing of the nuclear asset-recovery bonds, so the Commission will be provided with information in real time about the transaction. Furthermore, the Commission will have an opportunity to review a draft of the proposed Issuance Advice Letter in advance of pricing the transaction. (Buckler)

ISSUE 34: Should the Standard True-up Letter be approved in substantially the form proposed by DEF?

DEF: Yes. The form of Standard True-up Letter is consistent with the statutory requirements and should be approved. (Covington, Collins)

ISSUE 35: Is DEF's proposed process for determining whether the structure, plan of marketing, expected pricing and financing costs of the nuclear asset-recovery bonds have a significant likelihood of resulting in lower overall costs or would avoid or significantly mitigate rate impacts to customers as compared with the

traditional method of financing and recovering nuclear asset-recovery costs reasonable and should it be approved?

DEF: Yes. DEF's testimony and exhibits support the conclusion that the process for determining whether the structure, plan of marketing, expected pricing and financing costs of the nuclear asset-recovery bonds have a significant likelihood of resulting in lower overall costs or would avoid or significantly mitigate rate impacts to customers as compared with the traditional method of financing and recovering nuclear asset-recovery costs pursuant to Section 366.95(2)(c)2.b., Florida Statutes, is reasonable and should be approved. (Olivier, Buckler)

ISSUE 36: Is the degree of flexibility afforded to DEF in establishing the terms and conditions of the nuclear asset-recovery bonds as described in the proposed form of financing order, reasonable and consistent with Section 366.95(2)(c)2.f., Florida Statutes?

DEF: Yes. (Buckler, Collins)

ISSUE 37: What persons or entities should be represented on the Bond Team?

DEF: As described in the testimony of Mr. Buckler, the Bond Team should consist of the Company and its designated advisors, the Commission and their designated advisors, legal counsel and representatives. The members of the Bond Team shall work cooperatively to achieve the statutory cost objectives (as defined in the financing order). Any issue requiring consultation with the Bond Team that the Bond Team participants are unable to resolve to their mutual satisfaction should be initially presented in writing by the Bond Team participants for resolution by a designated Commissioner, subject to de novo review by the full Commission. (Buckler)

ISSUE 38: Based on resolution of the preceding issues, should a financing order in substantially the form proposed by DEF be approved, including the findings of fact and conclusions of law as proposed?

DEF: Yes. For the reasons described in DEF's Petition and its supporting testimony, the Commission should issue a financing order substantially in the form proposed by DEF. (Buckler, Collins, Covington, Olivier)

ISSUE 39: If the Commission votes to issue a financing order, what post-financing order regulatory oversight is appropriate and how should that oversight be implemented?

DEF: DEF acknowledged in its testimony that the Commission staff and its financial advisor should be heavily involved in all aspects of the structuring, marketing and pricing of the nuclear asset-recovery bonds, but DEF must retain the authority to make final decisions on matters that subject it to securities law and other litigation risk. DEF welcomes and encourages all Bond Team members to actively participate in the design of the marketing materials for the transactions

as well as in the development and implementation of the marketing and sales plan for the bonds. DEF believes all Bond Team members, excluding DEF's structuring advisor, should also have equal rights on the hiring decisions for the underwriters. In addition the Bond Team's involvement in the structuring, marketing and pricing of the nuclear asset-recovery bonds, the Commission will also be able to fully review the pricing of the bonds through the Issuance Advice Letter process as described in DEF's proposed financing order. (Buckler)

ISSUE 40: Are the energy sales forecasts used to develop the bond amortization schedules and the recovery mechanism appropriate?

DEF: Yes. (Olivier)

ISSUE 41: If the Commission approves recovery of any nuclear asset-recovery related costs through securitization, how should the recovery of these costs be allocated to the rate classes consistent with Section 366.95(2)(c)2.g., Florida Statutes?

DEF: In accordance with Section 366.95(2)(c)2.g., Florida Statutes, DEF proposes to allocate the nuclear asset-recovery costs recoverable under the nuclear asset-recovery charge consistent with the allocation methodology in DEF's most recent rate case, approved on March 5, 2010, in Order No. PSC-10-0131-FOF-EI. That approved allocation methodology for DEF is the 12CP and 1/13 AD. Spelled out, that means twelve-thirteenths of the revenue requirement is allocated based on 12 monthly coincident peaks (or demand) and one-thirteenth is allocated based on average demand (or energy). (Olivier)

ISSUE 42: If the Commission approves recovery of any nuclear asset-recovery related costs through securitization, what is the appropriate recovery period for the Nuclear Asset-Recovery Charge?

DEF: DEF proposes to implement the nuclear asset-recovery charge beginning with the first billing cycle for the month following the issuance of the nuclear asset-recovery bonds. The charges will remain in effect until the nuclear asset-recovery bonds have been paid in full or legally discharged and the financing costs have been recovered. Under the RRSSA, the nuclear asset-recovery charges may not be imposed for a period longer than the close of the last billing cycle for the 276th month from inception of the nuclear asset-recovery charge. In addition, (i) the scheduled final payment date for the last maturing tranche of the nuclear asset-recovery bonds will be as close as is reasonably possible to the close of the last billing cycle for the 240th month from inception of imposition of the nuclear asset-recovery charge and (ii) any portion of the recovery period beyond the scheduled final maturity date for the last maturing tranche of the nuclear asset-recovery bonds shall be strictly limited to the purpose of recovery of charges as permitted under the financing order. (Buckler)

ISSUE 42A: This issue has been dropped per agreement with Staff.

ISSUE 42B: This issue has been dropped per agreement with Staff.

ISSUE 43: This issue has been dropped per agreement with Staff.

ISSUE 44: What should be the scheduled final maturity and the legal final maturity of the nuclear asset-recovery bonds?

DEF: As noted in the testimony of Mr. Collins, the period between the scheduled final maturity and legal final maturity should be determined after consultations with the rating agencies to ensure the bonds received “AAA” ratings. (Collins)

ISSUE 45: Is DEF’s proposed Nuclear Asset-Recovery Charge True-Up Mechanism appropriate and consistent with Section 366.95, Florida Statutes, and should it be approved?

DEF: Yes. For the reasons outlined in the testimony of Mr. Collins and Mr. Covington, the true-up mechanism is consistent with Section 366.95, Florida Statutes, and should be approved. (Covington, Collins)

ISSUE 46: How frequently should the Nuclear Asset-Recovery Charge True-up Mechanism be conducted?

DEF: The Company proposes no less frequent than semi-annual (and at least quarterly after the last scheduled payment date of the nuclear asset-recovery bonds) true-up adjustments. In addition, DEF proposes that the servicer be permitted to make an optional interim true-up adjustment at any time for any reason to ensure timely payment of debt service on the nuclear asset-recovery bonds. Lastly, the servicer would be permitted to make a non-standard true-up adjustment to be effective simultaneously with a base rate change that includes any change in rate allocations among customers used to determine nuclear asset-recovery charges. (Covington)

ISSUE 47: If the Commission approves an amount to be securitized, on what date should the Nuclear Asset-Recovery Charge become effective?

DEF: The Nuclear Asset-Recovery Charges should become effective upon the first day of the billing cycle for the month following the issuance of the nuclear asset-recovery bonds. (Olivier)

ISSUE 48: This issue has been dropped per agreement with Staff.

ISSUE 49: If the Commission denies DEF’s request for a financing order, or if the nuclear asset-recovery bonds are not issued for any reason after the Commission issues a financing order, should the Commission approve a base rate increase pursuant to the RRSSA, to be implemented beginning six months after the final order rejecting DEF’s request (in the event the financing order is not issued) or the date upon which DEF notifies the Commission that the bonds will not be issued (in the event the financing order is issued), with carrying costs on the nuclear asset-recovery costs collected from January 1, 2016, through the capacity cost recovery clause, until such time as the base rate increase goes into effect?

DEF: Yes. (Olivier)

ISSUE 50: Should the form of tariff sheets to be filed under DEF's tariff, as provided in Exhibit __ (MO-6A) of Witness Olivier's testimony, be approved?

DEF: Yes, in accordance with Section 366.95(4), Florida Statutes, and for the reasons outlined in Ms. Olivier's testimony, the form of tariff sheets should be approved. (Olivier)

ISSUE 51: In accordance with Section 366.95(2)(c)2.h., Florida Statutes, if the Commission does not issue a stop order by 5:00 p.m. on the third business day after pricing, should the nuclear asset-recovery charges become final and effective without further action from the Commission?

DEF: Yes, for the reasons described in the Company's form of financing order, if the Commission does not issue a stop order by 5:00 p.m. on the third business day after pricing, the nuclear asset-recovery charges should be final and effective without further action from the Commission. (Buckler)

ISSUE 52: Should this docket be closed?

DEF: Yes, unless the Commission desires that DEF makes its subsequent true-up filings in this docket. If that is the case, then the docket should remain open until the final true-up has been submitted.

V. STIPULATED ISSUES

The CR3 Regulatory Asset Issues were stipulated and approved by the Commission on September 15, 2015.

VI. PENDING MOTIONS

At this time, DEF is not aware of any pending motions.

VII. PENDING REQUESTS FOR CONFIDENTIAL CLASSIFICATION

- July 9, 2015 – Information provided in DEF's Response to OPC's First Set of Interrogatories
- August 7, 2015 - Information provided in DEF's Response to Staff's First Set of Interrogatories and First Request for Production of Documents.
- August 13, 2015 – Information provided in DEF's Response to OPC's Second Set of Interrogatories and Second Request for Production of Documents
- August 19, 2015 - Information provided in DEF's Second Supplemental Response to OPC's Second Set of Interrogatories and Second Request for Production of

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail to the following this 21st day of September, 2015.

/s/ Dianne M. Triplett
Attorney

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