1		BEFORE THE
2	FLORIDA	PUBLIC SERVICE COMMISSION
3	In the Matter of:	
4		DOCKET NO. 150009-EI
5	NUCLEAR COST RECOV	JERY CLAUSE.
6		/
7		
8	PROCEEDINGS:	SPECIAL AGENDA
10	COMMISSIONERS	
11	PARTICIPATING:	CHAIRMAN ART GRAHAM COMMISSIONER LISA POLAK EDGAR
12		COMMISSIONER RONALD A. BRISÉ COMMISSIONER JULIE I. BROWN COMMISSIONER JIMMY PATRONIS
13	DATE:	Monday, October 19, 2015
14		_
15	TIME:	Commencing at 12:05 p.m. Concluding at 12:32 p.m.
16	PLACE:	Betty Easley Conference Center Room 148
17		4075 Esplanade Way Tallahassee, Florida
18	REPORTED BY:	LINDA BOLES, CRR, RPR
19	KELOKIED DI.	Official FPSC Reporter 850) 413-6734
20		030) 413 0734
21		
22		
23		
24		
25		
	Ī	

## PROCEEDINGS

observed.)

CHAIRMAN GRAHAM: I would say good morning everyone, but it's actually five minutes after noon, so good afternoon everyone.

I am glad to see you all here today safely.

For those of you that don't know, we had one of our colleagues pass away last week. His name is Dexter

Monroe. I met him and spent some time talking to him.

I thought he was a dynamic guy. I thought he had -- he had his whole life ahead of him. I mean, you know, it's funny, he got accepted into, I believe it's West Point and one of the other military academies, and he also got accepted into Harvard, and he decided to go play football at Harvard, which I thought was just unbelievable.

And he had -- there was a tragic accident that happened last week. All the full details we don't have yet, but he had passed away. And I think it's a shame. I mean, it's -- everything is God's will. This is one of the ones that are very difficult to understand, for me to put my head around. But if you would like to join us up here for a prayer, if I could get you to stand and bow your head, please.

(Invocation and Pledge of Allegiance observed.)

CHAIRMAN GRAHAM: I know that we had a grief counselor here last week. If there's still somebody out there that still wants to speak to somebody, we can make sure that that happens. We can make arrangements for that.

Okay. Let the record show this is our Special Agenda. It is Monday, October the 19th, and we'll call this meeting to order. Staff.

MR. BREMAN: Good afternoon, Chairman,
Commissioners. I'm Jim Breman with Commission staff.
Today's item is staff's recommendation in the nuclear
cost recovery proceeding Docket No. 150009-EI. This
docket addresses petitions by Florida Power & Light
Company and Duke Energy Florida for cost recovery
related to nuclear construction projects pursuant to
Section 366.93, Florida Statutes, and Rule
25-6.0423(3), Florida Administrative Code.

FPL requested recovery of licensing and permitting expenses for Units 6 and 7 at the Turkey Point site. DEF requested recovery of project termination and wind down costs for the Levy project and the Crystal River 3 unit uprate project.

As you recall, as a preliminary matter during hearing, you all approved a stipulation that resolved all of DEF's related issues, and a copy of DEF's motion

4

3

6

5

7 8

9

10

11 12

13

14

15

16

17 18

19

20 21

22

23 24

25

and the stipulated positions are included as Attachment 1 to our recommendation. The remaining unresolved issues address staff's recommendation pertaining to FPL's Turkey Point 6 and 7 project. At your pleasure, staff is ready to proceed issue by issue or otherwise answer any questions you may have.

CHAIRMAN GRAHAM: Thank you, staff.

Commissioner Edgar.

COMMISSIONER EDGAR: Thank you very much, Mr. Chairman. Before we get into our discussion, I would like the opportunity to say on the record that --I'm sure y'all know -- that I was not present at the hearing. With your support and that of the other members, I was attending another set of meetings at the request of a federal agency. Since that time, I have reviewed the documentation and I've spent many, many, many hours enjoying watching the hearing on the computer.

So with that, I am fully prepared to participate in the discussion this afternoon, and would also, for the record, like to state that I recognize that a stipulation was approved at the beginning of that hearing; that, in my opinion, it is in the public interest, recognizing that there will be no cost to the customers for the 2016 and 2017 billing cycles; and that all arguments and rights under that -- are preserved for
all parties under that stipulation; and recognizing that
some of the factors that need to be accounted for will
be clearer at that point in the future when those issues
will come before us again. So with that, Mr. Chairman,
thank you very much.

CHAIRMAN GRAHAM: Thank you, Commissioner Edgar.

2.0

Okay. Commissioners, I guess the only -easiest way to get through this thing is start from the
top and work our way down. So let's start with Issue 1,
1A, and 1B, specifically Issue 1.

MS. MATTHEWS: Good afternoon, Commissioners.

My name is Traci Matthews with staff. Issue 1 asks if
the Commission should approve FPL's 2015 analysis of the
long-term feasibility of completing the Turkey Point
Unit 6 and 7 project. Project cost uncertainties were
assessed using high and low ranges. Ranges in long-term
price forecasts for fuels and environmental costs
including CO2 were also used.

Staff reviewed the economic regulatory technical funding and joint ownership factors in FPL's analysis and identified no error or flaw that would render the analysis unreasonable. Staff is persuaded that the analysis demonstrates the completion of the

Turkey Point project remains feasible. Staff recommends the approval of FPL's analysis, and we're available for any questions.

CHAIRMAN GRAHAM: Commissioners, any questions of staff on Issue 1? Commissioner Brisé.

COMMISSIONER BRISÉ: Thank you. No questions, Mr. Chairman. I would like to move the adoption of Issue 1 -- or the recommendation of Issue 1, which is yes.

COMMISSIONER BROWN: Second.

CHAIRMAN GRAHAM: It's been moved and seconded, staff recommendation on Issue No. 1. Is there any further discussion? Seeing none, all in favor, say aye.

(Vote taken.)

Any opposed? By your action, you've approved the staff recommendation on Issue No. 1.

Let's go to Issue 1A.

MS. MATTHEWS: Issue 1A is an informational item that basically just asked what is the total -- current total estimated all-inclusive cost of the proposed Turkey Point project, and staff's answer is what FPL had put forward in the analysis, a range of \$13.7 billion to \$20 billion.

CHAIRMAN GRAHAM: Okay. Commissioner Brown.

COMMISSIONER BROWN: Mr. Chairman, I'm prepared to make a motion on Issues 1A and 1B, and I would move the staff recommendation on Issues 1A and 1B.

COMMISSIONER EDGAR: Second.

CHAIRMAN GRAHAM: It's been moved and seconded, staff recommendations on Issues 1A and 1B. Is there any further discussion? Seeing none, all in favor, say aye.

(Vote taken.)

Any opposed? By your action, you've approved staff recommendation on Issue 1A and 1B.

Issue 2.

MR. BREMAN: Issue 2 asks the Commission if it should approve or make a finding regarding FPL's 2014 project management, contracting, and cost oversight controls, and whether those actions were reasonable and prudent. Staff is recommending that they were based on a review of everything that was done in this docket. It was audited and reviewed by independent witnesses, including staff. No findings are reported.

CHAIRMAN GRAHAM: Commissioners. Commissioner Edgar.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

As our staff has just pointed out, but also to repeat

for the record, I recognize that from the testimony at

the hearing and as is described in the recommendation 1 that these numbers and costs have been reviewed by an 2 3 independent audit in addition to our staff independent of the company, and also that the costs were found to be 4 cost-effective under a variety of different scenarios. 5 And so at the appropriate time, I will be pleased to 6 7 move approval of recommendation -- staff recommendation on Issue 2. 8 9 CHAIRMAN GRAHAM: I think now might be the 10 appropriate time. COMMISSIONER EDGAR: I move approval of staff 11 12 recommendation on Item 2. CHAIRMAN GRAHAM: It's been moved and 13 14 seconded, staff recommendation on Item -- on Issue 2. Any further discussion? 15 16 Seeing none, all in favor, say aye. 17 (Vote taken.) 18 Any opposed? By your action, you've approved 19 the staff recommendation on Issue 2. Okay. Issue 3A -- let's take 3A, 3B, and 3C 20 21 up. 22 MS. BARRERA: Good afternoon, Commissioners. Martha Barrera on behalf of staff. I'm here to discuss 23 24 Issue 3A. Jim Breman will be discussing Issues 3B and

25

С.

The Issue 3A boils down to whether, under the 2013 amendments to Section 366.93, FP&L can recover costs for tasks not related to obtaining or maintaining the combined operating license from the Nuclear Regulatory Commission during the preconstruction period and prior to obtaining approval from the Commission to proceed with preconstruction.

Staff believes that the Legislature, in creating the new Section 366.93(3)(b), did not intend to prohibit the utility from recovering regulatory costs necessary to meet statutory requirements of the NCRC. A narrower interpretation of these amendments advanced by Intervenors render the other sections of the statute meaningless, is contrary to legislative intent, and defeats the purpose of the NCRC, in my opinion.

Staff further recommends that the Commission interpret Section 366.93(3)(b) to provide that costs related to preconstruction activities associated with the construction of the nuclear plant such as engineering and design, site preparation, building on site construction facilities may only be incurred after the utility received the combined operating license and after it receives approval from the Commission to proceed with preconstruction work.

Staff is available for questions.

CHAIRMAN GRAHAM: Commissioners, any questions of staff on Issue 3A? Commissioner Brown.

COMMISSIONER BROWN: Thank you, Mr. Chairman.

Ms. Barrera, can you walk us in some detail of the -- of staff's analysis and how you addressed implementation of -- or other staff -- of how you addressed implementation of the amended 366.93 in interpreting this law, particularly the feasibility analysis? It's a component for a utility and it's required to allow for cost recovery under the NCRC.

MS. BARRERA: Yes. Staff's opinion centers around not just the one section of the statute that's been amended, but rather it's taking the statute as a complete whole, the entire Section 366.93, which provides for recovery of costs that are required, you know, that are incurred to build a nuclear facility.

The initial assessment cost -- well, going back, through the NCRC, the utility is entitled to recover cost that it incurs. It must show that --

**COMMISSIONER BROWN:** Prudently.

MS. BARRERA: Okay. It must show that it's feasible and had -- there are other regulatory requirements. And what we're saying is that when you look at the regulatory requirements of the statute, the feasibility assessment studies are part of those

regulatory requirements and don't fall under that section of the statute.

Assessment Studies, are they -- they are, per se,

preconstruction work.

MS. BARRERA: Yes, because that's -- anything that takes place during the preconstruction period is preconstruction work.

COMMISSIONER BROWN: Okay. So these Initial

COMMISSIONER BROWN: Okay. And pursuant to the statute though, they're required, the feasibility studies are required in order to allow for cost recovery and for them to proceed with preconstruction work.

MS. BARRERA: Exactly.

required. And taking Office of Public Counsel's arguments and the other Intervenors' arguments into consideration and their briefs, it appears to me, and please correct me if I'm wrong, that they're saying that they're never entitled to cost recovery for those Initial Assessment Studies; is that correct?

MS. BARRERA: Yes. They're -- the argument is that the section of the statute allows only -- the utility to only incur costs related to obtaining the COL. And at that point -- until that happens and until the utility obtains approval to proceed with

preconstruction costs, no other costs can be incurred.

What we're saying is that at least the regulatory costs are -- can be incurred and can be deferred for later recovery.

COMMISSIONER BROWN: Okay. And you're focusing just on those regulatory costs in the analysis?

MS. BARRERA: Exactly. Exactly.

COMMISSIONER BROWN: I agree with you. I think you take -- have to take a holistic approach and look at 403 when you're also considering 366.93 and balance it.

MS. BARRERA: Right. We looked at both, and both of the intent of the Legislature, we believe, is to allow for the cost recovery.

COMMISSIONER BROWN: All right. I just wanted to make that clear for the record. Thank you.

MS. BARRERA: Okay.

CHAIRMAN GRAHAM: Any other Commissioners? I can tell you during my briefing this was by far the issue that we spent the most time with, 3A, 3B, and 3C. My nonlegal mind took a little while to walk through this. And I think at the end of the day this is the best way of -- best way of handling it.

I guess I'll entertain a motion. Commissioner Brown.

2

3

4

5 6

7

8 9

10

11 12

13

14

15

16

17

18

19 20

21

22

23 24

25

COMMISSIONER BROWN: Mr. Chairman, I would move staff's recommendation on Issue 3A.

CHAIRMAN GRAHAM: It's been moved and seconded, staff recommendation on Issue 3A. Any further discussion? Commissioner Edgar.

COMMISSIONER EDGAR: Thank you, Mr. Chairman. I was prepared to make a motion or second, so I am supportive, and would just add that clearly this is an incredibly technical and lengthy process with many, many components, and the interdependence and interaction of all of those components are also complex, and the requirements under this statute, by my reading and by the implementation that this Commission has carried out in past years, it is not always crystal clear the steps that the statute requires and how they should work together. However, they are all intended, as is every step of our process, to ensure the public interest and to ensure, to the best of all of our ability, continued review for feasibility and cost-effectiveness under the totality of the circumstances. So with that, I'm prepared to support the motion.

CHAIRMAN GRAHAM: Okay. Commissioner Brown, did you have anything to add?

Okay. So the motion is to approve staff recommendation on Issue 3A, and it's been seconded. Seeing no further discussion, all in favor, say aye.

2 (Vote taken.)

2.0

Any opposed? By your action, you've approved the staff rec on Issue 3A.

Issue 3B.

MR. BREMAN: Commissioners, 3B asks if the Initial Assessment Study costs are related or necessary for obtaining and maintaining the COL. Review of the record shows that FPL's Initial Assessment Studies are intended to further refine the project schedule in support of future long-term feasibility analysis being filed here with the Commission, not with the Nuclear Regulatory Commission.

The studies are not explicitly required by the Nuclear Regulatory Commission. Staff recommends FPL [sic] should find FPL's costs for the Initial Assessment Studies are not related to or necessary for maintaining a combined license.

CHAIRMAN GRAHAM: Commissioners, I'll entertain a motion. Commissioner Edgar.

COMMISSIONER EDGAR: I would note that in this particular issue that it does recognize the potential for the request of deferred recovery and that, therefore, there will be review at a future date if a request for recovery is made. And then I would say

ditto to my previous comments and move approval of 3A. 1 CHAIRMAN GRAHAM: 2 COMMISSIONER EDGAR: 3B. 3 CHAIRMAN GRAHAM: It's been moved and 4 seconded, staff recommendation on 3B. Any further 5 discussion? Seeing none, all in favor, say aye. 6 7 (Vote taken.) Any opposed? By your action, you've approved 8 9 the staff rec on Issue 3B. 3C. 10 MR. BREMAN: 3C is the wrap-up issue on 11 12 initial assessments and whether or not you should 13 approve FPL's request to incur and defer cost recovery. 14 Staff recommends that it be approved. 15 CHAIRMAN GRAHAM: Commissioner Edgar. 16 COMMISSIONER EDGAR: Ditto, ditto, move 17 approval of 3C. CHAIRMAN GRAHAM: It's been moved and 18 19 seconded, staff recommendation on Issue 3C. Is there any further discussion? Seeing none, all in favor, say 20 21 aye. 22 (Vote taken.) 23 Any opposed? By your action, you've approved 24 the staff recommendation on Issue 3C. 25 Okay. Let's move on to Issue 4.

MR. BREMAN: Issue 4 is asking whether FPL's 1 prudently incurred cost amounts and true-up amounts are 2 appropriate. And we've reviewed the record consistent 3 with Issue 2. Staff believes FPL prudently incurred its 4 5 costs and FPL appropriately calculated the final true-up for 2014, \$691,433. 6 7 CHAIRMAN GRAHAM: Commissioners? Commissioner Brisé. 8 COMMISSIONER BRISÉ: Move staff 9 recommendation. 10 COMMISSIONER BROWN: Second. 11 12 CHAIRMAN GRAHAM: It's been moved and seconded, staff recommendation on Issue 4. Any further 13 14 discussion? Seeing none, all in favor, say aye. 15 (Vote taken.) Any opposed? By your action, you've approved 16 17 the staff recommendation on Issue No. 4. Commissioners, let's move over to Issue No. 5. 18 19 MR. BREMAN: Issue 5 asks what's the reasonable projected expenses for 2015 and the estimated 20 21 true-up amount? Based on the record and staff's 22 verification of FPL's calculation, staff believes FPL 23 estimated an under-recovery -- is properly calculated 24 \$6,101,628. 25 CHAIRMAN GRAHAM: Commissioners, thoughts or

1	comments on Issue No. 5? I'll entertain a motion.	
2	COMMISSIONER PATRONIS: Move staff.	
3	COMMISSIONER EDGAR: Second.	
4	CHAIRMAN GRAHAM: It's been moved and	
5	seconded, staff recommendation on Issue No. 5. Any	
6	further discussion? Seeing none, all in favor, say aye.	
7	(Vote taken.)	
8	Any opposed? By your action, you've approved	
9	the staff recommendation on Issue No. 5.	
10	Staff, Issue No. 6.	
11	MR. BREMAN: Issue 6 asks whether or not FPL	
12	reasonably projected its 2016 costs. FPL is continuing	
13	forward with its licensing and permitting activities and	
14	expects to secure its COL, its combined operating	
15	license, in early 2017. Staff has reviewed FPL's	
16	calculations in the testimony in the record evidence and	
17	believes \$28,839,419 should be approved.	
18	CHAIRMAN GRAHAM: Commissioners, I'll	
19	entertain a motion on Issue No. 6.	
20	COMMISSIONER BROWN: Move staff	
21	recommendation, Mr. Chairman.	
22	CHAIRMAN GRAHAM: It's been moved and	
23	seconded, staff recommendation on Issue No. 6. Any	
24	further discussion? Seeing none, all in favor, say aye.	
25	(Vote taken.)	

Any opposed? By your action, you've approved 1 the Staff recommendation on Issue No. 6. 2 CHAIRMAN GRAHAM: Okay. Staff, Issue No. 17. 3 **COMMISSIONER EDGAR:** Seven. 4 MR. BREMAN: Issue No. 7 is the wrap-up issue. 5 CHAIRMAN GRAHAM: I skipped right over it. 6 7 MR. BREMAN: Yes, sir. CHAIRMAN GRAHAM: Issue No. 7. 8 9 MR. BREMAN: Which is okay. Issue 7 is a 10 wrap-up issue for the dollar amounts for the net recovery amount for 20 -- to be included in the 2016 11 capacity cost recovery clause. Based on the resolution 12 13 of prior issues, it's \$34,249,614. 14 CHAIRMAN GRAHAM: So if we didn't approve this, they wouldn't get the \$34,249,614? 15 MR. BREMAN: Correct. 16 17 CHAIRMAN GRAHAM: Oh, okay. I wonder if they want that. 18 19 Commissioners? Commissioner Brown. COMMISSIONER BROWN: And what does that 20 21 translate to a customer using 1,000 kilowatts per hour 22 [sic] bill? 23 MR. BREMAN: The estimated amount is about 34 2.4 cents per 1,000 kWh residential. 25 COMMISSIONER BROWN: Okay. And showing that a

lot of time, energy, and -- of our staff, of the parties 1 and the intervening parties, Mr. Chairman, I would move 2 Issue 7, staff recommendation for the total amount. 3 CHAIRMAN GRAHAM: It's been moved. 4 Commissioner Edgar. 5 COMMISSIONER EDGAR: Thank you, Mr. Chairman. 6 7 And I would just note that for Issues 4, 5, 6, and 7 that after all of the audits were done -- the 8 independent audit; our staff audit; in addition, a 9 separate independent audit -- the feasibility analysis, 10 the scenarios that -- for 4, 5, 6, and 7, much of that 11 is formulaic, and I would second the motion. 12 13 CHAIRMAN GRAHAM: Okay. Staff recommendation 14 has been moved and seconded for Issue No. 7. Any 15 further discussion? Seeing none, all in favor, say aye. (Vote taken.) 16 17 Any opposed? By your action, you've approved the staff recommendation on Issue No. 7. 18 19 Now we'll go to Issue 17. MS. BARRERA: Yes, Commissioner. This is the 20 21 always ever popular "Should this docket be closed?" And 22 the NCRC is an ongoing docket and it should remain open. 23 CHAIRMAN GRAHAM: Commissioner Edgar. 24 COMMISSIONER EDGAR: Thank you, Mr. Chairman. 25 As we're about to take up the last issue for this docket

today, and I recognize that the recommendation, with which I concur, is to leave the docket open, recognizing that this is a multi-year process of which we are somewhere in the middle, before we wrap it up, I would like to recognize that -- the requirements of the statute. I believe it was passed in 2006. At that point in time, the Commission took steps to adopt -- to hold rule workshops, adopt rules to implement what was basically a first-of-its-kind for the State of Florida statute.

In 2013, the Legislature amended the statute to add additional points of entry for our consideration and additional steps for review, part of which is what we are concluding for this year here today. But yet I think it's important to also recognize that language that's in the statute, 366.93(2), that was not amended when the Legislature reviewed this in 2013, and that is that alterative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of a nuclear power plant, including new, expanded, or relocated electrical transmission lines and facilities that are necessary thereto, must be designed to promote utility investment in nuclear, and I think that that's what is occurring here today. So, Mr. Chairman, with that, I would move

1	approval of Issue 17, staff rec.
2	COMMISSIONER PATRONIS: Second.
3	CHAIRMAN GRAHAM: It's been moved and
4	seconded, staff recommendation on Issue No. 17. Any
5	further discussion? Seeing none, all in favor, say aye.
6	(Vote taken.)
7	Any opposed? By your action, you've approved
8	the staff recommendation on Issue No. 17.
9	Staff, I want to thank you very much for the
10	time you put into this, the Intervenors as well, and for
11	the utility as well. I know this is never an easy
12	process, and I do appreciate all the effort that goes
13	into it.
14	That all being said everyone is looking at
15	me I believe we're adjourned. Okay. We will have IA
16	here in this room in ten minutes, so that would be at
17	12:40 12:42 by my clock in the back of the room.
18	Thank you.
19	(Special Agenda concluded 12:32 p.m.)
20	
21	
22	
23	
24	
25	

	<b> </b>
1	STATE OF FLORIDA ) : CERTIFICATE OF REPORTER
2	COUNTY OF LEON )
3	
4	I, LINDA BOLES, CRR, RPR, Official Commission
5	Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein
6	stated.
7	IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the
8	same has been transcribed under my direct supervision; and that this transcript constitutes a true
9	transcription of my notes of said proceedings.
10	I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor
11	am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I
12	financially interested in the action.
13	DATED THIS 26th day of October, 2015.
14	
15	Linda Boles
16	LINDA BOLES, CRR, RPR
17	FPSC Official Hearings Reporter (850) 413-6734
18	
19	
20	
21	
22	
23	
24	
25	