

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Nuclear Cost Recovery Clause

DOCKET No.: 160009 - EI

Filed: June 30, 2016

**THE CITY OF MIAMI'S  
PREHEARING STATEMENT**

NOW BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION, through undersigned counsel, comes the CITY OF MIAMI ("City"), pursuant to the Order Establishing Procedure in this docket, Order No. PSC-16-0105-PCO-EI, issued on March 11, 2016 and modified on April 6, 2016 in Order No. PSC-16-0140-PCO-EI, hereby files its Prehearing Statement.

**1. APPEARANCES**

Victoria Méndez, City Attorney  
Christopher A. Green, Senior Assistant City Attorney  
Kerri L. McNulty, Assistant City Attorney  
Xavier E. Albán, Assistant City Attorney  
444 SW 2<sup>nd</sup> Avenue, Suite 945  
Miami, FL 33130

Attorneys for the City of Miami

**2. WITNESSES**

In identifying witnesses, the City of Miami reserves the right to call such other witnesses as may be identified in the course of discovery, preparation for the final hearing, and any ongoing developments.

<b>Witness</b>	<b>Subject</b>	<b>Issues</b>
Eugene T. Meehan	Reviewed the pleadings, prefiled testimony and exhibits, deposition testimony, and discovery responses with respect to the annual feasibility analysis and the request for a waiver from providing an	7, 10, 11, 12

	<p>economic feasibility study for the Turkey Point Units 6 and 7 project. Finding that a full feasibility analysis is required because absent a feasibility study the key assumptions for previous feasibility studies will become stale during the anticipated three to four year pause, and that absent a feasibility study there is no reasonable basis upon which to conclude that continued investment in Turkey Point Units 6 and 7 is justified.</p>	
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**3. EXHIBITS**

In identifying exhibits, the City of Miami reserves the right to introduce other exhibits as may be identified or developed in the course of discovery, preparation for the final hearing, and any ongoing developments.

<b>Exhibit</b>	<b>Subject Matter</b>	<b>Sponsor</b>	<b>Description</b>
ETM-1	Eugene T. Meehan	Miami	CV of Eugene T. Meehan

**4. STATEMENT OF BASIC POSITION**

**Florida Power & Light Company’s Units 6 and 7**

Pursuant to Section 366.93(3), Florida Statutes and Rule 25-6.0423(3) of the Florida Administrative Code, each utility is required to annually petition the Florida Public Service Commission (“FPSC” or “Commission”) for approval to recover, through its rates, costs that have been prudently incurred in the siting, design, licensing, and construction of nuclear or integrated gasification combined cycle power plants. Rule 25-60423(c) identifies the various filings a utility company is required to submit for

Commission review and approval when it seeks to recover incurred and projected costs. A utility is also required to annually submit for Commission review and approval a detailed analysis of the long-term feasibility of completing the power plant. *See Fla. Admin. Code. r. 25-6.0423(c)(5)*. The analysis must include evidence that the utility intends to construct the nuclear power plant by showing that its intent is realistic and practical. *See id.*

While the City supports the development of cost-effective, reasonable, and prudent energy sources to serve Florida ratepayers, Florida Power & Light Company (“FPL”) has failed to demonstrate that the Turkey Point Units 6 and 7 project is economically feasible in the long-term. Despite assurances in its March 1, 2016 filing, FPL requested that the Commission waive the requirement to submit a long-term feasibility analysis. *See Florida Power & Light Company’s Petition for Waiver of Rule 25-6.0423(6)(c)5, F.A.C., FPSC Document No. 02992-16 (hereinafter, Waiver Petition)*. The City, along with various other parties, submitted filings opposing FPL’s Waiver Petition.<sup>1</sup> Since there is no long-term feasibility analysis, the City, as well as the Commission, is unable to review and assess the economic feasibility of the project. A quantitative feasibility analysis is crucial at this point of the project given that FPL intends to take a pause toward constructing the Turkey Point Units 6 and 7 and enter a

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<sup>1</sup> *See The City of Miami’s Opposition to Florida Power & Light Company’s Petition for Waiver of Rule 25-6.0423(6)(c)5, F.A.C., FPSC Document No. 02992-16; see also Citizens' Response to and Comments on FPL's Petition for Waiver of Rule 25-6.0423(6)(c)5, Florida Administrative Code, FPSC Document No. 02990-16; The Florida Industrial Power Users Group’s Comments in Opposition to FPL’s Rule Waiver Request, FPSC Document No. 02986-16; The Southern Alliance for Clean Energy’s Comments in Opposition to Florida Power and Light Company’s Petition for a Waiver, FPSC Document No. 02981-16.*

license maintenance phase for approximately four (4) years. *See* Waiver Petition, at 12. Additionally, FPL's reliance on its 2015 feasibility analysis is misplaced as many of the key assumptions underlying the economics will become stale and Rule 25-6.0423(6)(c)5, F.A.C., requires that a feasibility analysis be submitted annually for Commission review and approval. Furthermore, if FPL is unable to demonstrate that the project is economically feasible, then any costs incurred or projected are by definition no longer prudent.

As a result of the opposition and disagreement with FPL's Waiver Petition, FPL submitted its Motion to Defer Consideration of Issues and Cost Recovery ("Motion to Defer") on June 17, 2016. The City has no objection to FPL's Motion to Defer. However, if the Commission does not grant FPL's Motion to Defer, the City of Miami respectfully requests that the Commission deny FPL's Petition for Cost Recovery for the Year 2017. In the alternative, the City of Miami respectfully requests this Commission deny FPL's Waiver Petition and deny FPL's Petition for Cost Recovery for the Year 2017 for failing to comply with the requirements of Section 366.93, Florida Statutes, and Rule 25-6.0423(6)(c)5, F.A.C.

## **5. STATEMENT OF ISSUES AND POSITIONS**

The City of Miami reserves its right to change its position on any of the issues based on the Commission's rulings on any matters in the current docket and any ongoing developments.

### **Duke Energy Florida**

**Issues 1-6:** The City takes no position on the issues identified for Duke Energy Florida.

**Florida Power & Light Company**

- Issue 7:** **Should the Commission approve as reasonable what FPL has submitted as its 2016 annual detailed analysis of the long-term feasibility of completing the Turkey Point Units 6 & 7 project, as provided for in Rule 25-6.0423, F.A.C?**
- Miami:** Due to the pendency of FPL's Motion to Defer and Waiver Petition, the City has no position at this time.
- Issue 8:** **Should the Commission find that FPL's 2015 project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project?**
- Miami:** Due to the pendency of FPL's Motion to Defer, the City has no position at this time.
- Issue 9:** **What jurisdictional amounts should the Commission approve as FPL's actual 2015 prudently incurred costs and final true-up amounts for the Turkey Point Units 6 & 7 project?**
- Miami:** Due to the pendency of FPL's Motion to Defer, the City has no position at this time.
- Issue 10:** **What jurisdictional amounts should the Commission approve as reasonably estimated 2016 costs and estimated true-up amounts for FPL's Turkey Point Units 6 & 7 project?**
- Miami:** Due to the pendency of FPL's Motion to Defer and Waiver Petition, the City has no position at this time.
- Issue 11:** **What jurisdictional amounts should the Commission approve as reasonably projected 2017 costs for FPL's Turkey Point Units 6 & 7 project?**
- Miami:** Due to the pendency of FPL's Motion to Defer and Waiver Petition, the City has no position at this time.
- Issue 12:** **What is the total jurisdictional amount to be included in establishing FPL's 2017 Capacity Cost Recovery Clause factor?**
- Miami:** Due to the pendency of FPL's Motion to Defer and Waiver Petition, the City has no position at this time.

**THE CITY OF MIAMI  
PRESERVES ITS RIGHT TO RE-INTRODUCE CITY-FPL-E  
AS ORIGINALLY PROPOSED OR RE-WORDED**

On April 27, 2016, FPL filed its Petition for Waiver of Rule 25-6.0423(6)(c)5, F.A.C. (“Waiver Petition”), seeking a waiver of the requirement to file a long-term feasibility analysis. On or about May 19, 2016, the parties of record participated in the first informal preliminary issue identification meeting for Docket No. 160009-EI. The City of Miami, among other parties, submitted proposed issues to be discussed and addressed in the current docket, including issues that addressed or touched upon FPL’s Waiver Petition. At the conclusion of the first meeting, issues proposed by the City of Miami, among other issues, were still under discussion.

On or about June 15, 2016, the parties of record participated in the second informal preliminary issue identification meeting. By the conclusion of the second meeting, the City’s issue, identified as City-FPL-E, had not been agreed to by all parties. Issue City-FPL-E read, “Has FPL met its burden of establishing that completion of Units 6 & 7 is still feasible?” FPSC staff suggested City-FPL-E be re-worded to track language found in Section 366.93, Florida Statutes. On June 15, 2016, the Office of Public Counsel proposed the following language for City-FPL-E, “Has FPL proved by a preponderance of the evidence that it has committed sufficient, meaningful, and available resources to enable the project to be completed and that its intent to construct a nuclear power plant is realistic and practical, as provided by Section 366.93(3)(f)3, Florida Statutes?” As of the date of this filing, the parties have not reached an agreement on City-FPL-E as originally proposed or as re-worded.

On June 17, 2016, FPL filed a Motion to Defer Consideration of Issues and Cost Recovery (“Motion to Defer”). In light of FPL’s Motion to Defer, on June 23, 2016, the Office of the General Counsel for the FPSC contacted the parties of record via electronic mail providing a list of preliminary issues agreed upon by the parties for the purpose of drafting prehearing statements. Due to the lack of consensus on City-FPL-E, the issue was omitted from the preliminary issue list provided by FPSC General Counsel for the purpose of drafting prehearing statements. Due to the pendency of FPL’s Motion to Defer and its Waiver Petition, the City reserves its right to reintroduce City FPL-E as originally proposed or as reworded. The City does not waive the issue nor does it admit or agree that it is subsumed under any of the other issues agreed upon by the parties. Since the City raised City-FPL-E prior to the Prehearing Conference, it is not waived nor would the City need to address the requirements delineated under Section V.(C.) of the Order Establishing Procedure, Order No. PSC-16-0105-PCO-EI, to raise the issue.

**6. STIPULATED ISSUES**

None at this time.

**7. PENDING MOTIONS OR OTHER MATTERS THE CITY OF MIAMI SEEKS ACTION UPON**

**Florida Power & Light Company’s Motion to Defer Consideration of Issues and Cost Recovery, FPSC Document No. 03821-16**

The City of Miami does not object to FPL’s Motion to Defer.

**Florida Power & Light Company’s Petition for Waiver of Rule 25-6.0423(6)(c)5, F.A.C., FPSC Document No. 02546-16**

In its Motion to Defer, FPL has represented that if the Motion to Defer is granted FPL will withdraw its Waiver Petition and file a long-term feasibility analysis in the 2017

nuclear cost recovery docket. However, in the event that the Commission does not grant FPL's Motion to Defer, the City reaffirms its opposition to FPL's Waiver Petition and respectfully requests the Commission deny FPL's Petition for Waiver of Rule 25-6.0423(6)(c)5, F.A.C., and grant the relief requested in the City's Opposition.<sup>2</sup>

**8. PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY**

None.

**9. OBJECTIONS TO QUALIFICATIONS OF WITNESS AS AN EXPERT**

None at this time.

**10. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE**

At this time, the City is not aware of any requirements in the Order Establishing Procedure, as amended, with which it cannot comply.

Respectfully submitted this 30<sup>th</sup> day of June, 2016.

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By: /s/ Xavier E. Albán  
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<sup>2</sup> See The City of Miami's Opposition to Florida Power & Light Company's Petition for Waiver of Rule 25-6.0423(6)(c)5, F.A.C., FPSC Document No. 02992-16.



**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on the 30<sup>th</sup> day of June, 2016, I served the foregoing document on all parties listed in the attached Service List by e-mail.

By: /s/ Xavier E. Albán  
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