

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

NUCLEAR COST RECOVERY CLAUSE.  
\_\_\_\_\_ /

DOCKET NO. 160009-EI

PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONER  
PARTICIPATING: COMMISSIONER ART GRAHAM  
PREHEARING OFFICER

DATE: Tuesday, July 19, 2016

TIME: Commenced at 1:33 p.m.  
Concluded at 1:49 p.m.

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: LINDA BOLES, CRR, RPR  
Official FPSC Reporter  
(850) 413-6734

## 1 APPEARANCES:

2 DIANNE M. TRIPLETT, ESQUIRE, 299 First Avenue  
3 North, St. Petersburg, Florida 33701; and MATTHEW R.  
4 BERNIER, ESQUIRE, 106 East College Avenue, Suite 800,  
5 Tallahassee, Florida 32301-7740, appearing on behalf of  
6 Duke Energy Florida, Inc.

7 JON C. MOYLE and KAREN PUTNAL, ESQUIRES, Moyle  
8 Law Firm, P.A., 118 North Gadsden Street, Tallahassee,  
9 Florida 32301, appearing on behalf of the Florida  
10 Industrial Power Users Group.

11 ROBERT SCHEFFEL WRIGHT and JOHN T. LaVIA, III,  
12 ESQUIRES, Gardner Law Firm, 1300 Thomaswood Drive,  
13 Tallahassee, Florida 32308, appearing on behalf of the  
14 Florida Retail Federation.

15 J.R. KELLY, PUBLIC COUNSEL; CHARLES REHWINKEL,  
16 DEPUTY PUBLIC COUNSEL; ERIK L. SAYLER and PATRICIA A.  
17 CHRISTENSEN, ESQUIRES, Office of Public Counsel, c/o the  
18 Florida Legislature, 111 West Madison Street, Room 812,  
19 Tallahassee, Florida 32399-1400, appearing on behalf of  
20 the Citizens of the State of Florida.

21 KYESHA MAPP and MARGO LEATHERS, ESQUIRES, FPSC  
22 General Counsel's Office, 2540 Shumard Oak Boulevard,  
23 Tallahassee, Florida 32399-0850, appearing on behalf of  
24 the Florida Public Service Commission staff.

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES:

MARY ANNE HELTON, Advisor to the Commission,  
and KEITH HETRICK, GENERAL COUNSEL, General Counsel's  
Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida  
32399-0850, appearing as advisors to the Florida Public  
Service Commission.

## P R O C E E D I N G S

1  
2           **COMMISSIONER GRAHAM:** Okay. We are going to  
3 call this Nuclear Cost Recovery Clause prehearing to  
4 order. This is Docket 160009-EI. Staff, if I can get  
5 you to read the notice, please.

6           **MS. MAPP:** By notice issued June 2nd, 2016,  
7 this time and place was set for a prehearing conference  
8 in Docket No. 160009-EI. The purpose of the prehearing  
9 is set forth in the notice.

10           **COMMISSIONER GRAHAM:** Okay. Can we take  
11 appearances?

12           **MS. TRIPLETT:** Good afternoon. Dianne  
13 Triplett on behalf of Duke Energy Florida. And I would  
14 also like to enter an appearance for Matthew Bernier.

15           **MR. MOYLE:** Good afternoon. Jon Moyle on  
16 behalf of the Florida Industrial Power Users Group,  
17 FIPUG, and I'd also like to enter an appearance for  
18 Karen Putnal with our firm.

19           **MR. WRIGHT:** Thank you, Commissioner. Robert  
20 Scheffel Wright appearing on behalf of the Florida  
21 Retail Federation, and I'd like to enter an appearance  
22 on behalf of my law partner, John T. Lavia, III. Thank  
23 you.

24           **MR. SAYLER:** Good afternoon, Commissioner.  
25 Erik Sayler with the Florida Office of Public Counsel on

1       behalf of the customers of Florida Power & Light and  
2       Duke Energy. We would like to make an appearance for  
3       Charles Rehwinkel, Patty Christensen, and also J.R.  
4       Kelly, the Public Counsel.

5               **MS. MAPP:** Kyesha Mapp on behalf of staff, and  
6       I'd also enter an appearance for Margo Leathers.

7               **MS. HELTON:** Mary Anne Helton. I'm here as  
8       your advisor today. I'd also like to enter an  
9       appearance for your General Counsel, Keith Hetrick.

10              **COMMISSIONER GRAHAM:** Anyone else? Okay.

11              Ms. Mapp, are there any preliminary matters  
12       that we need to address?

13              **MS. MAPP:** Yes. There will be no issues,  
14       testimony, or arguments pertaining to FPL this year, and  
15       FPL and the City of Miami have been excused from  
16       attending the prehearing and hearing in this docket, and  
17       SACE and PCS Phosphate have been excused from attending  
18       the prehearing conference.

19              **COMMISSIONER GRAHAM:** Okay. Do we have any  
20       other preliminary matters?

21              Okay. Let's go through the Draft Prehearing  
22       order. Let me know if there's any corrections or  
23       changes that need to be made as we go through. I'll  
24       probably move pretty quickly, so speak up, wave,  
25       whatever you need to do to stop me.

1 Section I, II, or III.

2 Section IV. Staff, are there any changes here  
3 that we need to handle confidentially?

4 **MS. MAPP:** No. However, staff will note that  
5 the parties are advised that pursuant to this section of  
6 the Prehearing Order, it is the parties' responsibility  
7 to have copies for the Commissioners, necessary staff,  
8 and the court reporter in red envelopes clearly marked  
9 with the nature of the contents, with each party  
10 bringing at least 15 copies to the hearing. Staff will  
11 provide copies for the Commissioners and necessary staff  
12 persons.

13 **COMMISSIONER GRAHAM:** Is that good for  
14 everybody?

15 **MR. WRIGHT:** Yes, sir.

16 **COMMISSIONER GRAHAM:** All right. Section V.

17 **MS. MAPP:** Staff would suggest that witness  
18 summary of their testimony be no longer than three  
19 minutes.

20 **COMMISSIONER GRAHAM:** Okay. Section VI.

21 **MS. MAPP:** Staff notes that OPC witness  
22 Jacobs' testimony does not address any issues currently  
23 identified in the Draft Prehearing Order, and staff  
24 would recommend that Witness Jacobs be removed from this  
25 order.

1                   **COMMISSIONER GRAHAM:** OPC.

2                   **MR. SAYLER:** Mr. Chairman, I think that'll be  
3 okay with OPC, but let me check with Ms. Christensen,  
4 who's lead on the FPL side, and I will get back with  
5 Ms. Mapp by 5:00 today on dropping him from the  
6 Prehearing Order.

7                   **COMMISSIONER GRAHAM:** Does that work, staff?

8                   **MS. MAPP:** Staff is okay with that.

9                   **COMMISSIONER GRAHAM:** Okay. So I don't need  
10 to say anything, that staff's got permission to do all  
11 that kind of stuff, or this is enough?

12                   **MS. MAPP:** That is enough.

13                   **COMMISSIONER GRAHAM:** Okay. Are there any  
14 other witnesses that need to be excused?

15                   **MS. MAPP:** Not at this time; however, DEF and  
16 staff have requested that their witnesses be excused.

17                   **COMMISSIONER GRAHAM:** Does anybody have a  
18 problem with that? Mr. Sayler.

19                   **MR. SAYLER:** No, sir. But the same thing for  
20 Dr. Jacobs, we would ask that he be excused since the  
21 FPL portion has been deferred.

22                   **COMMISSIONER GRAHAM:** Okay. Anyone else?

23                   **MR. WRIGHT:** No problem, Your Honor.

24                   **MR. MOYLE:** No worries.

25                   **COMMISSIONER GRAHAM:** Okay. Ask the parties

1 if excusal -- we just did that.

2 **MS. MAPP:** Staff will confirm with each  
3 Commissioner that the identified witnesses can be  
4 excused. If other Commissioners do not have any  
5 questions of these witnesses, the witnesses may be  
6 excused from the hearing and his or her testimony and  
7 exhibits entered into the hearing record as though read.

8 **COMMISSIONER GRAHAM:** Okay. Number VII. Are  
9 we good with I through VI so far?

10 **MR. SAYLER:** Yes.

11 **COMMISSIONER GRAHAM:** Okay. Number VII, are  
12 there any changes to the basic positions concerning Duke  
13 Florida? Remember that Florida Power & Light is no  
14 longer part of this proceeding, and I'm guessing that  
15 all parts related to Florida Power & Light will just be  
16 stricken?

17 **MS. MAPP:** If that is your ruling, yes.

18 **MR. MOYLE:** We had a discussion with staff  
19 about that. I mean, I know that OPC still has an FPL  
20 section and FIPUG had an FPL section. My thought was  
21 just for the record, to preserve the record that -- I  
22 don't know that it does much harm to keep it in, you  
23 know, so that we have a clear record as to the position  
24 with respect to Florida Power & Light.

25 **COMMISSIONER GRAHAM:** But do we leave -- do we



1 lose anything if we strike it out of this record?

2 **MS. MAPP:** No. All parties' statements are  
3 still within the docket file within their prehearing  
4 statements, so there is that record available. It's not  
5 necessary to have it preserved, no prehearing order.

6 **COMMISSIONER GRAHAM:** I mean, for me, as far  
7 as I'm concerned, I'd rather have it as clean as  
8 possible. If we're just dealing with Duke, let's just  
9 deal with Duke.

10 **MR. MOYLE:** My thought simply was preserving  
11 the record with respect to having a clear record on the  
12 position. But if, you know, I --

13 **COMMISSIONER GRAHAM:** Lawyers, engineers,  
14 lawyers, engineers.

15 **MR. MOYLE:** Yeah. It's a lawyer thing. It's  
16 a legal thing.

17 **COMMISSIONER GRAHAM:** Drag it out and throw  
18 all kinds of stuff in there or make it simple. Okay.  
19 We'll strike it.

20 **MR. SAYLER:** Commissioner Graham, staff had  
21 advised that that's what their -- that their position  
22 was to strike all the FPL portion. I advised staff that  
23 we would -- I would circle back with my side and get an  
24 answer back to Ms. Mapp whether we can happily,  
25 voluntarily strike our portion as it relates to FP&L.

1                   **COMMISSIONER GRAHAM:** Well, unless there's --  
2 I was going to say, I guess happy or unhappy, we're  
3 probably going to strike this, but we're still waiting  
4 to hear from you on Jacobs.

5                   **MR. SAYLER:** Okay. Yes, sir.

6                   **MR. MOYLE:** So we just wanted it to stay in.  
7 We understand the engineering ruling and  
8 it's struck, so I understand.

9                   **COMMISSIONER GRAHAM:** Yeah, I mean, unless --  
10 and, Mary Anne, tell me if -- I'm not -- I don't want to  
11 take anything from them, I mean, but if all their rights  
12 are reserved, then we can go ahead and strike this.

13                   **MS. HELTON:** Well, first and foremost, this is  
14 your order and it's your road map for the proceeding.  
15 So to me, it makes perfect sense that if we're not going  
16 to address Florida Power & Light during the course of  
17 the proceeding that's coming up, that there not be a  
18 reference to any position concerning Florida Power &  
19 Light or any issues concerning Florida Power & Light.  
20 So I think you're perfectly fine in striking any  
21 reference to Florida Power & Light from the Order  
22 Establishing Procedure other than I think in the first  
23 paragraph it discusses the background of how we got here  
24 as far as no Florida Power & Light issues. And any  
25 prehearing statement is in the docket file, so if anyone

1 wanted to go back and look and see what anyone's  
2 position was concerning any issue up to this point  
3 regarding Florida Power & Light, that's in the docket  
4 file and available.

5 **COMMISSIONER GRAHAM:** Okay. All right.  
6 Staff, where are we?

7 **MS. MAPP:** We are on Section VII. And I  
8 believe we just completed that section, so we'd be on  
9 Section VIII at this point.

10 **COMMISSIONER GRAHAM:** Section VIII, issues and  
11 positions.

12 **MS. MAPP:** Yes. DEF is the only party with a  
13 position, with all other parties taking no position.

14 **COMMISSIONER GRAHAM:** Okay. I see you  
15 smiling. I just wanted to make sure your head was  
16 nodding. Okay. Do any parties have any changes to the  
17 positions on Issues 1 through 6?

18 **MR. SAYLER:** None for OPC.

19 **MR. WRIGHT:** No changes in our position.  
20 Thank you.

21 **MR. MOYLE:** FIPUG has no changes in position  
22 either.

23 **MS. TRIPLETT:** And neither does Duke Energy.

24 **COMMISSIONER GRAHAM:** Okay. Let's move on to  
25 Number IX.

1           **MS. MAPP:** Staff would note, as earlier  
2 stated, OPC witness Jacobs will be removed from the list  
3 of witnesses. We would also note that his exhibit would  
4 also have to be removed from the exhibit list.

5           **COMMISSIONER GRAHAM:** And so we'll just --  
6 we're going to hear from you by 5:00?

7           **MR. SAYLER:** Yes, sir.

8           **COMMISSIONER GRAHAM:** Okay. So your silence  
9 means we're going to strike it if we don't hear from you  
10 by 5:00.

11           **MR. SAYLER:** Yes, sir. If you don't hear from  
12 us, strike it, but I will commit to get back to Ms. Mapp  
13 before then.

14           **COMMISSIONER GRAHAM:** And everybody else is  
15 good with all that, with that witness?

16           Okay. Number X.

17           **MS. MAPP:** Staff will circulate a Draft  
18 Comprehensive Exhibit List, which will be -- have all  
19 the prefiled testimony, exhibits, and the exhibits that  
20 staff would like to include in the record, and we will  
21 seek to get stipulations from the parties on those.

22           Now staff would note that there are possible  
23 Category -- well, there are Category 2 stipulations on  
24 all issues, and a list of all stipulated issues will be  
25 presented to the Commissioners prior to the hearing.

1                   **COMMISSIONER GRAHAM:** Category 2 stipulations  
2 is no issue?

3                   **MS. MAPP:** Yes. That means that Duke has  
4 taken a position and all other parties to that portion  
5 of the hearing have taken no position, so those would be  
6 a Category 2 stipulation.

7                   **COMMISSIONER GRAHAM:** Sometimes you've got to  
8 dumb it down for some engineers, you know.

9                   Okay. XI.

10                  **MS. MAPP:** There are no pending motions.

11                  **COMMISSIONER GRAHAM:** XII.

12                  **MS. MAPP:** All pending confidentiality  
13 requests are listed within the Draft Prehearing Order.

14                  **COMMISSIONER GRAHAM:** XIII.

15                  **MS. MAPP:** Given the Category 2 stipulations  
16 on all issues, staff does not believe that any  
17 post-hearing briefs will be necessary.

18                  **COMMISSIONER GRAHAM:** Parties, are you all  
19 willing to waive post-hearing briefs?

20                  **MR. WRIGHT:** Yes, sir.

21                  **MS. TRIPLETT:** Yes, sir.

22                  **MR. MOYLE:** Yes.

23                  **MR. SAYLER:** Yes, sir.

24                  **COMMISSIONER GRAHAM:** Okay. Are all parties  
25 in agreement? What is that part there, staff? Yeah.

1 All parties are in agreement that we're going to waive  
2 post-hearing briefs.

3 So on to XIV.

4 **MS. MAPP:** Yes.

5 **COMMISSIONER GRAHAM:** Do you guys waive  
6 opening statements?

7 **MR. WRIGHT:** Yes, sir.

8 **MS. TRIPLETT:** Yes.

9 **MR. SAYLER:** I will need to consult with  
10 Mr. Rehwinkel, since he's lead on the Duke docket, but I  
11 would say we probably will. So I will get back to  
12 Ms. Mapp by 5:00 today as well.

13 **COMMISSIONER GRAHAM:** Okay. So depending on  
14 how OPC goes, because I'm sure if they're going to have  
15 opening statements, the rest of you guys are going to  
16 want to chime in; is that correct?

17 **MR. WRIGHT:** We would not plan to, Your Honor.

18 **MR. MOYLE:** No. And I was going to raise an  
19 issue with you. I know that PCS Phosphate and some  
20 others have been excused. We're busily, busily  
21 preparing for the FPL rate case, and I don't know when  
22 depositions are going to be scheduled, but I think there  
23 will be some depositions, so we would ask to likewise be  
24 excused from the proceeding.

25 **COMMISSIONER GRAHAM:** Sure. I don't have a

1 problem with that. Staff.

2 **MS. MAPP:** No. We would just request that we  
3 get the request in writing so we have a record of it.

4 **MR. MOYLE:** Okay. Thank you. So we don't  
5 have an opening statement either. I mean, if we're  
6 here, we're here. But if we're in depositions, thank  
7 you for excusing us.

8 **COMMISSIONER GRAHAM:** Sure.

9 **MS. TRIPLETT:** And I guess I can't be excused  
10 from the hearing, but I probably won't need an opening  
11 statement unless OPC says something that I disagree  
12 with, which I doubt will happen. So maybe just reserve  
13 the right to respond.

14 **COMMISSIONER GRAHAM:** All right. So depending  
15 on what we hear from OPC by 5:00 today. Okay.

16 **MS. MAPP:** And once staff has received FIPUG's  
17 request for excusal, we'll circulate that to all the  
18 Commissioners to get confirmation that none of the  
19 Commissioners have any objections, and then approval of  
20 the excusal will be communicated to Mr. Moyle on behalf  
21 of FIPUG.

22 **COMMISSIONER GRAHAM:** Okay.

23 **MR. MOYLE:** If they don't excuse me, I want to  
24 make an opening statement.

25 **MS. TRIPLETT:** Then I'm definitely probably

1 going to need to say something.

2 **MR. WRIGHT:** Mr. Chairman, we'll waive opening  
3 statement. We do expect to be represented here just in  
4 case you need us for anything. But if we -- if things  
5 go crazy and neither I nor Mr. Lavia can be here, we'll  
6 file a request for excusal. But at least one of us  
7 expects to be here. Thank you.

8 **COMMISSIONER GRAHAM:** I will be here to make  
9 sure if something goes crazy, everybody is represented  
10 or we'll wait to be represented.

11 Okay. So it seems like just about  
12 everything -- other matters. We're talking about --  
13 we're not talking about it. We're going to reschedule  
14 when this hearing is going to be. We're going to  
15 reschedule it to August the 9th, which is going to be  
16 the Tuesday before agenda, and we're going to start at  
17 9:00. Because I know everybody is going to show up here  
18 just out of habit at 9:30 for agenda, and so there's no  
19 sense having a room full of people as we're just trying  
20 to dot the I's and cross the T's on this. Are there any  
21 problems with that 9:00?

22 **MR. SAYLER:** None for OPC. Good idea.

23 **MR. WRIGHT:** No problems. Thank you.

24 **MS. TRIPLETT:** None for Duke.

25 **MR. MOYLE:** And we're fine. If we're in town,



1 we'll be here. But thank you for the provisional  
2 excuse.

3 **COMMISSIONER GRAHAM:** I would love to take  
4 credit for it, but it was our Chairwoman.

5 All right. Staff, any other matters?

6 **MS. MAPP:** Staff is not aware of any other  
7 matters at this time.

8 **COMMISSIONER GRAHAM:** Any other things from  
9 the parties? I do appreciate actually having a cause  
10 that looks like it's going to be this straightforward  
11 and everybody being all together.

12 If there's nothing else, staff, we're  
13 adjourned. Thank you very much and travel safe.

14 (Prehearing Conference adjourned at 1:49 p.m.)  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 STATE OF FLORIDA )  
2 COUNTY OF LEON ) : CERTIFICATE OF REPORTER

3  
4 I, LINDA BOLES, CRR, RPR, Official Commission  
5 Reporter, do hereby certify that the foregoing  
6 proceeding was heard at the time and place herein  
7 stated.

8 IT IS FURTHER CERTIFIED that I  
9 stenographically reported the said proceedings; that the  
10 same has been transcribed under my direct supervision;  
11 and that this transcript constitutes a true  
12 transcription of my notes of said proceedings.

13 I FURTHER CERTIFY that I am not a relative,  
14 employee, attorney or counsel of any of the parties, nor  
15 am I a relative or employee of any of the parties'  
16 attorney or counsel connected with the action, nor am I  
17 financially interested in the action.

18 DATED THIS 21st day of July, 2016.

19  
20  
21  
22  
23  
24  
25  


LINDA BOLES, CRR, RPR  
FPSC Official Hearings Reporter  
(850) 413-6734