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2 PROCEEDINGS: HEARING

3 COMMISSIONER
4 PARTICIPATING:CHAIRMAN JULIE I. BROWN
COMMISSIONER ART GRAHAM
COMMISSIONER RONALD A. BRISÉ
5 COMMISSIONER DONALD J. POLMANN
COMMISSIONER GARY F. CLARK

6

7 DATE: Wednesday, October 25, 2017,

8

9 TIME: Commenced at 9:30 a.m.
10 Concluded at 11:32 a.m.

11 PLACE:

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

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14 REPORTED BY: DEBRA R. KRICK
15 Court Reporter

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PREMIER REPORTING
114 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

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1 APPEARANCES:

2 J.R. KELLY, PUBLIC COUNSEL; CHARLES REHWINKEL,
3 DEPUTY PUBLIC COUNSEL, ESQUIRES, Office of Public
4 Counsel, c/o the Florida Legislature, 111 W. Madison
5 Street, Room 812, Tallahassee, Florida 32399-1400,
6 appearing on behalf of the Citizens of the State of
7 Florida.

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

12 JON C. MOYLE, JR., ESQUIRE, Moyle Law Firm,
13 P.A., 118 North Gadsden Street, Tallahassee, Florida
14 32301, appearing on behalf of Florida Industrial Power
15 Users Group.

16 JAMES W. BREW, ESQUIRE, Stone Matheis
17 Xenopoulos & Brew PC, 1025 Thomas Jefferson Street, NW,
18 Eight Floor, West Tower, Washington, DC 20007, appearing
19 on behalf of White Springs Agricultural Chemicals, Inc.
20 d/b/a PCS Phosphate - White Springs.

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1 APPEARANCES:

2 DIANNE M. TRIPLETT, ESQUIRE, 299 First Avenue
3 North, St. Petersburg, Florida 33701, appearing on
4 behalf of Duke Energy Florida, LLC.

5 KYESAH MAPP, SUZANNE BROWNLESS and MARGO
6 DuVAL, ESQUIRES, FPSC General Counsel's Office, 2540
7 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,
8 appearing on behalf of the Florida Public Service
9 Commission Staff.

10 KEITH HETRICK, GENERAL COUNSEL, and MARY ANNE
11 HELTON, DEPUTY GENERAL COUNSEL, ESQUIRES, Florida Public
12 Service Commission, 2540 Shumard Oak Boulevard,
13 Tallahassee, Florida 32399-0850, Advisors to the Florida
14 Public Service Commission.

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EXHIBITS

NUMBER:		ID	ADMTD
1	Comprehensive Exhibit List	9	10
2-12	As identified in the comprehensive exhibit list		41

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

2 CHAIR BROWN: All right. Good morning,
3 everyone. I hope you all are doing wonderful
4 today. It's October 25th, 2017, and I would like
5 to convene this hearing in the Duke Comprehensive
6 Settlement docket 20170183.

7 Staff, at this time, can you please read the
8 notice?

9 MS. MAPP: By notice issued October 9th,
10 2017, this time and place was set for hearing in
11 docket number 20170183-EI. The purpose of the
12 hearing was set out in the notice.

13 CHAIRMAN BROWN: Thank you.

14 And at this time, we will take appearances,
15 starting with Duke Energy of Florida.

16 MS. TRIPLETT: Thank you.

17 Good morning. Dianne Triplett on behalf of
18 Duke Energy Florida.

19 CHAIRMAN BROWN: Thank you.

20 MR. REHWINKEL: Good morning. Charles J.
21 Rehwinkel, Deputy Public Counsel, and J.R. Kelly,
22 Public Counsel, on behalf of the citizens of
23 Florida.

24 CHAIRMAN BROWN: Thank you.

25 MR. MOYLE: Good morning. Jon Moyle with the

1 Moyle Law Firm on behalf of the Florida Industrial
2 Power Users Group, FIPUG.

3 CHAIRMAN BROWN: Thank you.

4 MR. WRIGHT: Robert Scheffel Wright and John
5 T. Lavia, III, Gardner Law Firm, on behalf of the
6 Florida Retail Federation. Thank you.

7 CHAIRMAN BROWN: Thank you.

8 Good morning.

9 MR. BREW: Good morning. James Brew with the
10 firm of Stone Matheis Xenopoulos & Brew, for White
11 Springs Agricultural Chemicals, PCS Phosphate.

12 CHAIRMAN BROWN: Thank you.

13 MR. CAVROS: Good mornings, Commissioners.
14 George Cavros on behalf of Southern Alliance for
15 Clean Energy.

16 CHAIRMAN BROWN: Thank you.

17 And, staff.

18 MS. MAPP: Kyesah Mapp on behalf of Commission
19 staff, and I would also like to enter an appearance
20 for Suzanne Brownless and Margo DuVal.

21 CHAIRMAN BROWN: And.

22 MS. HELTON: And Mary Anne Helton here as your
23 advisor, along with your General Counsel, Keith
24 Hetrick.

25 CHAIRMAN BROWN: Thank you very much.

1 All right. Staff, let's go over the
2 preliminary matters.

3 MS. MAPP: Javier Portuondo and Ben Borsch
4 will be appearing, as a panel, witnesses for DEF to
5 answer any Commission -- or any questions the
6 Commission may have.

7 CHAIRMAN BROWN: Thank you.

8 MS. MAPP: Staff has also prepared a
9 comprehensive exhibit list, which includes DEF's
10 petition for a limited proceeding to approve the
11 2017 second revised and restated settlement
12 agreement, the 2017 second revised and restated
13 settlement agreement and staff data requests.

14 This list has been provided to the parties,
15 Commissioners and the court reporter. Staff
16 requests that the list itself be marked as Exhibit
17 1.

18 CHAIRMAN BROWN: Okay. We will go ahead and
19 do that at this time.

20 (Whereupon, Exhibit No. 1 was marked for
21 identification.)

22 MS. MAPP: And at this time, staff would
23 request to enter Exhibit 1 into the record.

24 CHAIRMAN BROWN: Seeing no objections from any
25 of the parties, we will go ahead and move into the

1 record Exhibit 1.

2 (Whereupon, Exhibit No. 1 was received into
3 evidence.)

4 MS. MAPP: There are no further preliminary
5 matters.

6 CHAIRMAN BROWN: Thank you.

7 Do any of the parties have any preliminary
8 matters to address?

9 Seeing none, we will go to the status update
10 of the posture that we are at.

11 Staff.

12 MS. MAPP: We are here today to discuss the
13 merits of the 2017 second revised and restated
14 settlement agreement that was filed by Duke Energy
15 Florida, LLC, on August 29th, 2017. The revised
16 and restated settlement agreement is a
17 comprehensive settlement that extends or replaces
18 provisions within DEF's 2013 revised and restated
19 settlement agreement. The 2017 agreement pertains
20 to matters stemming from the Fuel and Purchase
21 Power Cost Recovery Clause, docket number
22 20170001-EI; the Energy Conservation Cost Recovery
23 Clause, docket number 20170002-EG; the Nuclear Cost
24 Recovery Clause, docket number 20170009-EI; the
25 securitization of the CR3 regulatory asset, docket

1 number 150171-EI; and the fuel power costs
2 associated with the CR3 outage, docket number
3 100437-EI, as well argues matters not addressed in
4 any other pending document before this commission.

5 The 2017 agreement specifics adjustments to
6 base rates and establishes processes by which DEF
7 may seek approval to adjust base rates only for
8 certain projects. The agreement also includes a
9 10.5 percent return on equity, and a similar
10 capital structure as to what was established in the
11 2013 settlement agreement.

12 DEF may seek approval from the Commission to
13 recovery costs associated with up to 700 megawatts
14 of solar generation, with a cost cap of \$1,650 per
15 kilowatt.

16 The agreement also resolves all remaining
17 issues relating to the Levy Nuclear Plant Project,
18 and DEF has agreed not to seek future recovery from
19 retail customers of any combined operating
20 licensing costs and associated carrying costs.

21 There are also provisions which would allow
22 DEF to implement an electric vehicle charging pilot
23 program and a 50-megawatt battery storage pilot
24 program. The agreement, if approved, would result
25 in new and revised rates in tariffs beginning with

1 the first billing cycle of January 2018 through the
2 last cycle of 2021.

3 That is the current status of this case.

4 CHAIRMAN BROWN: Thank you very much.

5 And I do -- at this time, I would like to ask
6 for those of you in the audience to please silence
7 your cell phones or other electronic devices as we
8 move into opening statements so we can have a clear
9 record here.

10 All right. Opening statements. Each party,
11 pursuant to the order that was previously issued
12 shall have eight minutes. Duke will speak first,
13 followed by Office of Public Counsel. And if you
14 just want to go down the row, we can go ahead and
15 do it that way.

16 So I guess we will start with Duke Energy of
17 Florida.

18 MS. TRIPLETT: Thank you, Madam Chair, and you
19 will be happy to note that I am not going to use
20 near the eight minutes.

21 We would just like to thank the Commission,
22 and in particular all of the parties here. This
23 was a -- a tough fought negotiation. It took a lot
24 of time and a lot of effort, and I truly
25 appreciate, and I know my company does as well, all

1 of the effort that went into it. And I think that
2 what we came out with is a fair, just and
3 reasonable outcome. It resolves several issues.
4 And I think that it is in the public interest, and
5 we are happy to answer any questions. We have
6 Mr. Portuondo and Mr. Borsch available when the
7 time is appropriate for that. And of course, I can
8 also answer questions as appropriate, but I think
9 Ms. Mapp did a great job of summarizing the major
10 components, and we would just ask that you approve
11 the settlement.

12 Thank you.

13 CHAIRMAN BROWN: Thank you. It was less than
14 a minute.

15 All right, we will go with Mr. Rehwinkel of
16 OPC.

17 MR. REHWINKEL: Thank you, Madam Chairman and
18 Commissioners.

19 The Public Counsel, first of all, supports
20 this settlement agreement. The Public Counsel has
21 made a determination that this resolution, taken in
22 its entirety, is in the public interest. It's in
23 the best interest of the people. He represents the
24 customers of Duke, and we heartily commend the
25 Commission to approve this -- this settlement

1 agreement.

2 Duke used the word hard fought. I don't know
3 how much fighting went on, but it was a difficult
4 process. I believe we first engaged in discussions
5 in late 2016 with Duke, and began meetings in
6 earnest as early as January of this year. And for
7 quite a long time, we negotiated pretty steadily.

8 We answered -- we asked well over 300
9 discovery questions. We received over 80,000 pages
10 of documents. We engaged a seasoned Public Service
11 Commission staffer with 30 plus years of
12 experience, a CPA, to assist us in that. We gave
13 it our full and best efforts on behalf of the
14 customers based on the experience that we have, and
15 that he had, and we believe that this resolution,
16 in all of its parts, are in the best interest.

17 We are happy to answer any questions about it.
18 I won't go into details unless there are questions
19 about provisions, but we thank you for your
20 consideration and urge your favorable vote.

21 Thank you.

22 CHAIRMAN BROWN: Thank you.

23 At this time, we will hear from FIPUG.

24 MR. MOYLE: Well, thank you. And I also would
25 like to commend the parties for the professionalism

1 and tenor with which the negotiations were
2 conducted. The folks at the table were pros and
3 handled themselves very well, even when we were at
4 sticking points and had some -- some tough spots in
5 the negotiations as invariably occurs.

6 I would also like to thank your staff. We had
7 a meeting with staff where they asked a lot of
8 questions, and I think they served some data
9 responses to dig into the information, so that's an
10 important part of this process.

11 And like, I think the other parties here,
12 FIPUG has signed this agreement and would ask that
13 you act on it favorably.

14 I will share with you one thing that I got a
15 lot of questions about that, at first blush, people
16 were saying, well, why would we be doing this
17 settlement now when the current -- current Duke
18 settlement runs through 2018, and we already have a
19 settlement that goes into the start of '19, why
20 come in now and do a deal now?

21 And, you know, that -- that was -- that's a
22 good question, and the answer, when you dig in and
23 look at this, is that 2018, with some of the things
24 that were happening, was shaping up to be not a
25 very pretty year for ratepayers and FIPUG members.

1 There were going to be some increases that -- that
2 we had to manage through and tolerate. And we said
3 to Duke, can you all do something to try to not
4 make '18 such a -- such a, you know, a tough year?
5 And -- and this agreement, I think, heard that
6 concern, and what made it particularly appealing
7 to, you know, some FIPUG members was, is that
8 efforts were undertaken to make 2018 a much more
9 manageable year.

10 So that -- that was a benefit, I think, to --
11 to not only FIPUG members, but to -- to the
12 ratepayers. And like any settlement agreement,
13 there is gives -- gives and takes in it. And we
14 think, as an overall product, it's worthy of your
15 favorable consideration and support, and would ask
16 that you do so.

17 So I'm happy to answer any questions that you
18 may have.

19 CHAIRMAN BROWN: Thank you, Mr. Moyle.

20 Mr. Wright.

21 MR. WRIGHT: Thank you, Madam Chairman.

22 First, I would like to echo and agree with the
23 remarks by my -- made by my colleagues regarding
24 the professionalism and cordiality with which these
25 negotiations were conducted. They were as

1 professional and cordial as they could be. I would
2 not say hard fought. I would say intense. You
3 know, there were some -- there were some
4 interesting points.

5 MS. TRIPLETT: Can I withdraw my word? I am
6 sorry. I didn't mean it --

7 MR. WRIGHT: Another example --

8 MS. TRIPLETT: -- I didn't mean that.

9 MR. WRIGHT: Another example of the
10 professionalism and cordial nature of the whole
11 negotiations. And thanks to everyone. Thanks to
12 the staff, and thanks for your consideration this
13 morning.

14 This is a good settlement. I would say it's a
15 very good settlement. The cliché is that it has
16 something for everyone. I think this settlement
17 has a lot for everyone. For the company and for
18 all the customers, it provides certainty for the
19 next four years. For the customers in particular,
20 it eliminates all the risk, all the risk of
21 anything having to do with the Levy nuclear
22 project, ever.

23 This is a really good thing for Duke's --
24 Duke-Florida's customers. It promotes additional
25 solar growth at favorable pricing, and it's in the

1 best interest of all Florida -- of all Duke's
2 customers in Florida. It's in the best interest of
3 the state, and accordingly we support it and urge
4 you to approve it.

5 Thank you.

6 CHAIRMAN BROWN: Thank you, Mr. Wright.

7 Mr. Brew.

8 MR. BREW: Thank you. Being at the end of the
9 line, I was inclined just to say a polite me too,
10 but really there are a few things I would like to
11 add.

12 This is the 2017 second revised and restated
13 settlement agreement, which is a mouthful, and
14 that's because we've been at this for several years
15 to address issues that have developed starting with
16 Levy.

17 And remember, in 2009, when Duke received an
18 unfavorable ruling on their limited work
19 authorization, they had the nuclear cost recovery
20 statute and rule, they had the siting certificate
21 to move forward, they could have plunged forward
22 into something where we would be staring down the
23 barrel of what the states to the north of Florida
24 are experiencing now with the AP1000s, but Duke
25 didn't, to their credit. They took a serious

1 reappraisal of how they were going to approach
2 things. They engaged the parties, and we started
3 down a path to try to mitigate those impacts, and
4 this -- this settlement is the final end of that,
5 and so Duke deserves credit for -- for taking that
6 action.

7 Similarly, OPC has provided substantial
8 leadership on pulling things together. They've
9 done the yeoman's work on investigating the basis
10 for upon which the parties could start discussions
11 for a multiyear base rate settlement agreement that
12 includes all of the other pieces. And so I think
13 the -- the basis for this settlement was that the
14 parties have been engaged for a long time on these
15 issues, and the -- the culture of the discussions,
16 as all the parties have mentioned, have been open
17 and collaborative, which really makes a difference.

18 With respect to the settlement itself, it is
19 fair -- fair and balanced, which is to say that
20 there were some issues that the parties readily
21 agreed on. There were some proposals that ended up
22 on the cutting room floor. There are some things
23 that are more important to some parties than
24 others. And there are some things that, frankly,
25 took a long time to work through, and that's

1 reflected in the language of the agreement.

2 So PCS supports the agreement in its entirety,
3 and recommends the Commission approve it as is.

4 Thank you.

5 CHAIRMAN BROWN: Thank you, Mr. Brew.

6 Mr. Cavros, a new party.

7 MR. CAVROS: Yes. Good morning,
8 Commissioners.

9 I want to echo the comments of the other
10 parties. We support the agreement. We find it to
11 be fair, just and reasonable and in the public
12 interest, among other things, it closes the chapter
13 on the Levy nuclear plant and the associated costs
14 that would have otherwise been absorbed by
15 customers. It provides for 700 megawatts of clean
16 and cost-effective utility scale solar development.
17 It creates a EV, or electric vehicle pilot program,
18 which we believe is meaningful, and also part of
19 that program is dedicated to lower income
20 communities. And it also provides for a methodical
21 and informed analysis of the operational and
22 economic benefits and costs of demand side solar on
23 the utility system, and those are just some of the
24 provisions that led us to support this agreement,
25 and we encourage the Commission to approve it in

1 its totality.

2 Thank you.

3 CHAIRMAN BROWN: Thank you, Mr. Cavros.

4 That concludes the opening statement portion.

5 Now, pursuant to the notice that was issued on
6 October 9th, 2017, this particular time has been
7 set aside to take public testimony from customers
8 of Duke Energy Florida, and there are customers who
9 were in the audience here who would like to speak
10 and address us.

11 We have a podium and a microphone set up over
12 here, and that is where, when I call your name, you
13 will be coming up to. But I want to reiterate this
14 is your opportunity to express your thoughts,
15 concerns, regarding the proposed settlement
16 agreement prior to the Commission taking up that
17 for a vote. And it's very important -- it's a very
18 important part of our overall process.

19 This is an official hearing and it will be
20 transcribed and become part of our official record.
21 So those who would like to speak will need to be
22 sworn in, and we will do that in just a moment, but
23 because of that, you are subject to
24 cross-examination, which means you will be asked
25 questions potentially from either the Commissioners

1 or any of the parties.

2 Those of you who want to speak will be called
3 to the podium at the appropriate time, and when you
4 come to the microphone, please state your name,
5 your telephone number and your address. Each
6 customer will have three minutes to provide public
7 comment. And I think that concludes all the of the
8 preliminary matters regarding that.

9 I will now swear in all the persons who wish
10 to provide testimony here today, as well as the
11 representatives appearing on behalf of Duke Energy
12 Florida.

13 So if you could join me in standing and raise
14 your right hand. I know there are customers here.
15 There should be another one. Anybody here --
16 anyone else who would like to address the
17 Commission on this matter, please stand and raise
18 your right hand.

19 (Whereupon, all witnesses were sworn.)

20 CHAIRMAN BROWN: Thank you. Please be seated.

21 All right. So the first customer who is
22 listed on my sheet is Ms. Ann Smart. Please come
23 to the podium.

24 Good morning.

25 MS. SMART: Good morning. So I am not a

1 customer. We are an interested public voice, but
2 my name is Ann Smart. I am the Vice-President of
3 Public Policy at ChargePoint. Our address is 254
4 East Hacienda Avenue, Campbell, California, 95008.
5 And my phone number is (408)814-4522.

6 CHAIRMAN BROWN: Long night.

7 MS. SMART: Yes, it was.

8 Thank you for the opportunity to be here
9 today. ChargePoint is the world's largest network
10 of electric vehicle charging stations, with more
11 than 41,000 charging ports, including 1,000 here in
12 Florida. We thank you for considering our petition
13 to intervene in this proceeding, and though it
14 wasn't grant granted, we appreciate the opportunity
15 to speak now.

16 We want to briefly offer our perspective on
17 the EV charging pilot that is a part of this
18 settlement. ChargePoint is one player in an
19 established and dynamic growing competitive markets
20 for EV infrastructure here in the state. For
21 nearly a decade, that competitive market as worked
22 with and sold to site hosts more than 2,000
23 charging ports in Florida. There is a lot to be
24 learned from those 2,000 ports, including how we
25 can chart the course of the market moving forward.

1 We think that the EV charging pilot that's
2 proposed here supplants the competitive market for
3 infrastructure, and threatens to lock out
4 competition. There is many models for how
5 utilities could move forward around the country,
6 but the model that's being considered today, we
7 believe, in its current form, is the slowest, most
8 expensive, least innovative and least sustainable
9 way to expand EV charging stations here in the
10 state.

11 Last week, the Commission held an EV charging
12 round table that we were a part of, bringing
13 together auto makers, utilities and charging
14 station providers to determine what next steps
15 Florida needs to take in order to support more
16 charging infrastructure. There were three key
17 takeaways.

18 First, that we obviously need more charging
19 stations in the state, which is something we agree
20 with.

21 Second, that there is an existing competitive
22 market for charging stations, and that there is
23 players currently selling services and stations
24 here to consumers.

25 And third, that utilities do have a role in

1 this charging space, but there are many models
2 proposed at that round table as to how utilities
3 could move forward, including alternatives to
4 owning and operating stations, as has been proposed
5 here today.

6 So we think that the Commission, considering a
7 pilot program beyond that, leapfrogs some sort of
8 process that we would like the Commission to take,
9 where we could have a collaborative discussion with
10 all of these players in the market as to what the
11 appropriate role for utilities should be;
12 potentially have takeaways from that discussion,
13 including establishing guidelines for future
14 investments that would provide more regulatory
15 certainty and market transparency.

16 So thank you for --

17 CHAIRMAN BROWN: You could have an additional
18 two minutes if you would like, since there are only
19 two customers.

20 MS. SMART: Great.

21 Our concern is that there is -- there isn't a
22 reason for utilities to own and operate charging
23 stations. While I believe that there needs to be
24 more charging infrastructure in the state, we do
25 think there are alternative business models that

1 would still allow utilities to collect data as to
2 usage of those stations, how drivers are using the
3 stations, what energy costs are associated with it,
4 including in the form of rebate programs, or
5 providing what we call the make ready investments,
6 the lines, wires and conduit you need to install a
7 charging station.

8 We are concerned that when a utility is
9 permitted to leverage ratepayer funds to own and
10 operate a station, they would be picking a single
11 winner, and that there could be many losers of
12 potential vendors that are not selected in that
13 program, who then have to compete against what the
14 utility is owning and operating in that service
15 territory.

16 In a practice utility program with a single
17 vendor, where the utility is offering charging
18 stations for free doesn't offer a choice to
19 customers. And without choice, there is no
20 competition, and customer choice is really the
21 foundation for competitive market for charging
22 stations.

23 We think beyond customer choice, customer
24 control of those charging assets is also important.
25 After all, every site host has a different reason

1 for hosting a charging station, very different
2 customers, whether that be their tenants, or their
3 employees, or the customers that are buying things
4 from their convenience store; but under this
5 current EV pilot design, the utility is making all
6 those decisions as to where those stations would be
7 located, and including the details that the site
8 host would normally select, like what's the price
9 to drivers? What's the technology being used, and
10 who can use that station?

11 The list goes on, and we have learned a lot of
12 lessons from the ports already deployed here, and
13 we would really like to have the conversation as to
14 how to expand in the lessons and created a
15 sustainable role for the utilities to move forward.

16 Thank you.

17 CHAIRMAN BROWN: Thank you, Ms. Smart.

18 Commissioners, are there any questions?

19 I do have a question, Ms. Smart. You
20 contemplate in your comments about having a more
21 elaborate discussion. How do you foresee that -- I
22 am sorry. How do you foresee that happening in
23 this forum?

24 MS. SMART: Yes. Thank you, Madam Chair.

25 We have, in other states, proceeded with

1 rule-makings that the Commission has led, setting
2 guidelines for future utility investments.

3 So, for example, in Oregon and in California,
4 in Nevada, Utah, we have gone through the process
5 of -- Washington State -- of walking through what
6 utilities would need to fight, what details need to
7 be there, whether there needs to be stakeholder
8 meetings held, formally or informally, and clear
9 guidelines as to the size of the programs; how they
10 will be recovered in the rate base later; what data
11 needs to be collected; how the sites will be
12 selected; how to prioritize low income investments.

13 For example, we think a formal, either
14 guideline setting or rule-making would be an
15 appropriate way to establish a future process for
16 utilities to go above and beyond the 500 ports
17 proposed here today.

18 CHAIRMAN BROWN: Thank you. That was helpful.

19 Do any of the parties have any questions?

20 Yes, Mr. Moyle. Oh, sorry -- oh, I am so sorry,
21 could you hold that --

22 MR. MOURING: Sure.

23 CHAIRMAN BROWN: -- for a moment?

24 Commissioners have -- Commissioner Polmann --
25 Brisé.

1 COMMISSIONER BRISÉ: Thank you.

2 I shouldn't ask a question I don't know the
3 answer to, but I am going to do it anyway.

4 CHAIRMAN BROWN: Do it.

5 COMMISSIONER BRISÉ: No, I am not a lawyer, so
6 it might be allowed, right?

7 So is there anything that precludes
8 ChargePoint from setting up shop in Florida?

9 MS. SMART: We've currently set up shop here,
10 as you say, Commissioner. Our -- our concern is
11 that it will be very difficult for us to continue
12 to sell charging stations with the introduction of
13 free stations into the market.

14 So if you own a parking lot right now, and you
15 want to install a charging station, we can
16 absolutely, ChargePoint, our sales team can come to
17 you and offer you a station at, say, 6,000 a port;
18 but when Duke's program starts, instead the utility
19 can come in and say, wait, don't buy a station, we
20 would love for you to host one of our stations
21 free, to you, that parking lot owner.

22 So it doesn't create a competitive market
23 place where we have a business-as-usual
24 decision-making, instead you are being offered
25 something for free, or at highly discounted cost,

1 and are much more likely, as a result, to go with
2 the utility offering as opposed to the competitive
3 marketplace.

4 COMMISSIONER BRISÉ: Okay. Well, I guess we
5 will make the decision on that, but I would just
6 that if you are trying to create a larger market,
7 one of the ways to do that is -- is to provide a
8 baseline so that you can learn, so you can also
9 help the -- the other portions of the market to
10 grow. So it's -- it's an interesting point that
11 you bring up, and I guess we will keep that into
12 consideration.

13 CHAIRMAN BROWN: Thank you, Commissioner
14 Brisé.

15 Commissioner Polmann.

16 COMMISSIONER POLMANN: Thank you, Madam
17 Chairman.

18 I am not a lawyer either, but that never stops
19 me from asking questions. And it's along the same
20 lines that Commissioner Brisé asked, and it may, in
21 exact, be the -- using the same words, but -- and I
22 apologize for that.

23 But the concern -- or the question I have is
24 do you have a concern, or are you asserting that
25 you are precluded by the settlement from entering

1 the market?

2 MS. SMART: We would not be precluded by the
3 settlement from entering the market. We are
4 concerned about impacts on competition, customer
5 choice and innovation from the program design the
6 utility has proposed here.

7 We can still legally operate in the state of
8 Florida, and -- and hope to continue to sell
9 charging stations, but we are concerned that
10 entering -- that having the utility enter into the
11 market with the highly subsidized station that
12 would be paid for by ratepayers, will make it
13 difficult for vendors that aren't chosen for that
14 program to compete.

15 COMMISSIONER POLMANN: And this issue concerns
16 only the Duke service area?

17 MS. SMART: At this time, although, we are
18 concerned about the precedent that this settlement
19 could have for other service territories for sure.

20 COMMISSIONER POLMANN: Okay. So the precedent
21 you are referring to is a perception of the
22 precedent as regards the remainder of Florida.
23 There isn't, in fact, not a precedent legally.

24 MS. SMART: Yes. We want to make sure that
25 there is policy created for the state that would

1 allow the other utilities as well to consider
2 programs, but perhaps in a way that's more
3 transparent and better for the market.

4 COMMISSIONER POLMANN: Okay. Thank you.

5 CHAIRMAN BROWN: Thank you, Commissioner
6 Polmann.

7 Now, Mr. Moyle.

8 MR. MOYLE: Thank you. I -- I represent one
9 of the intervenor parties, and so we were at the
10 table when this issue was discussed. Just two
11 questions.

12 I wasn't exactly clear. Are you currently in
13 the Florida market? Do you have charging stations
14 in the Florida market today?

15 MS. SMART: Yes. We have 1,000 ports here.

16 MR. MOYLE: Okay. And I got a little bit a
17 mixed message from you, because I thought I heard
18 your original message as, look, this is a
19 competitive business, and we really -- we don't
20 need the Florida commission being involved in it,
21 but then you also said, well, there should be
22 workshops, and things of that sort. So, you know,
23 can -- can you say sort of which it is? Or is it,
24 you know, being sort of thrust upon you now and you
25 are thinking you have to deal with the Commission?

1 Because sort of as a matter of principle, the
2 Commission is here for regulated entities; and if
3 it's a competitive market, you know, historically
4 they are not in the middle of it. So I just wasn't
5 clear as to sort of your message there.

6 MS. SMART: Sure. Thanks for the opportunity
7 to clarify.

8 We believe that there should be a role for
9 utilities in supporting expanding the EV charging
10 infrastructure, but that there are alternative
11 business models for how utilities could pursue
12 that. We would like to see more partnerships where
13 we have either the utility providing incentives to
14 site hosts to own and operate their own station, or
15 to support the installation of more charging
16 stations.

17 There are many other ways for utilities to
18 enter this market without fully owned and operating
19 and blocking out competition. And we believe that
20 a commission process that enables guidelines for
21 utilities to file future programs will allow us to
22 have a more transparent future.

23 So we would like a commission process to move
24 forward, but we also, you know, fully believe that
25 there is currently a competitive marketplace that

1 would need to partner with the utilities, to not be
2 out competed.

3 MR. MOYLE: Okay. And your 1,000 today, you
4 haven't had to partner with utilities for the 1,000
5 you got in the ground today in Florida, correct?

6 MS. SMART: We have partnered with some of the
7 municipal utilities on some of those projects, but
8 the majority are all privately funded.

9 MR. MOYLE: Okay. Thank you.

10 CHAIRMAN BROWN: Thank you.

11 Do any of the other parties have any questions
12 for Ms. Smart?

13 Staff?

14 MS. MAPP: Staff has no questions.

15 CHAIRMAN BROWN: Okay. Thank you.

16 I want to express our appreciation for coming
17 down here today to provide these comments. I think
18 they were very helpful. Thank you.

19 MS. SMART: Appreciate it.

20 CHAIRMAN BROWN: The next up is Mr. Pierce
21 Schuessler.

22 MR. SCHUESSLER: Got it.

23 CHAIRMAN BROWN: Thank you for the easy way
24 pronunciation on that form, and welcome.

25 MR. SCHUESSLER: Good morning. Pierce

1 Schuessler. We are here on behalf of an interested
2 party, not a Duke customer. Pierce Schuessler, 919
3 Waverly Road, Tallahassee, Florida, 32312. And
4 cell phone -- or number, (850)509-9977.

5 CHAIRMAN BROWN: Thank you.

6 MR. SCHUESSLER: Thank you, Madam Chair.
7 Thank for you the opportunity to comment today on
8 the proposed 2017 second revised and restated
9 stipulation and settlement agreement.

10 My name is Pierce Schuessler, and I am
11 commenting on behalf of Solar Energy Industries
12 Association, a trade association that represents
13 over a thousand members in the solar industry.

14 Our members include many utility scale solar
15 developers who are ready, willing and able to
16 deliver clean, low cost solar energy to the people
17 of Florida. Our comments are limited to the
18 section of the settlement agreement dealing with
19 the proposed solar based rate adjustment, beginning
20 on page 24 of the agreement.

21 As you know, the agreement proposes a solar
22 base rate adjustment that would authorize cost
23 recovery for Duke's proposed construction of
24 approximately 700 megawatts of solar generation
25 between now and 2022. Under the agreement, the

1 weighted average cost of all projects for which
2 cost recovery would be authorized would be capped
3 at \$1,650 per megawatt -- excuse me, per kilowatt.

4 We appreciate Duke's commitment to incorporate
5 more solar resources into its generation portfolio,
6 however, we submit that ratepayers would be better
7 served if, instead of building its own solar
8 facilities, Duke were -- Duke were to procure this
9 additional generation through third-party power
10 purchase agreements, or by the purchase of
11 completed projects developed by third parties. We
12 believe that either option would allow for addition
13 of solar capacity at a lower cost than generation
14 developed and constructed by Duke.

15 In the case of third-party power purchase
16 agreements, independent generators can fully
17 utilize federal tax incentives and pass savings
18 along to ratepayers.

19 With respect to projects developed and built
20 by independent parties, construction risks are put
21 on the shoulders of the project developers instead
22 of the ratepayer.

23 When the independent developer sells power to
24 the utility, or sells a completed project, the
25 developer guarantees a fixed price megawatt up

1 front. So if there are construction cost overruns
2 or project delays, it may cut into the developer's
3 margins, but the ratepayer isn't harmed.

4 That's not necessarily so when Duke builds its
5 own solar facilities. In that case, unless the
6 cost overrun is determined by the Commission to be
7 unreasonable, it would be included -- it would get
8 included in the rate base and passed on to the
9 ratepayers.

10 CHAIR BROWN: You may continue.

11 MR. SCHUESSLER: Thank you.

12 Although the 2017 agreement would cap Duke's
13 costs at \$1,650 per kilowatt, that cost
14 significantly exceeds the cost at which an
15 experienced developer can build a utility scaled
16 project in 2017, and those costs may come down
17 further in the future. In addition, Duke would be
18 able to earn a return on top of that amount,
19 whereas, the independent developer's price is an
20 all-exclusive number.

21 The settlement agreement does provide that
22 Duke will consider buying projects from third
23 parties, but it does not require it to do so, or to
24 conduct a competitive process that includes
25 third-party projects to ensure that it's getting

1 the best price for ratepayers.

2 By contrast, it is required to utilize
3 competitive solicitation processes to select
4 contractors and equipment and materials.
5 Ratepayers would be best served if that same
6 competitive process was used to select the
7 increased solar generation called for by the
8 agreement.

9 In conclusion, SEIA believes that when a
10 utility purchases power, or acquires projects from
11 independent developers rather than building
12 projects itself, it's a win for the ratepayer.
13 Before approving the 2017 agreement, we ask that
14 you require an examination of the reduced cost to
15 ratepayers that would result if, instead of
16 building its own solar projects, Duke were required
17 to competitively procure either power finished
18 projects from third parties.

19 Thank you.

20 CHAIRMAN BROWN: Thank you, Mr. Schuessler.
21 And I think you raise some valid points here.

22 Do you have any thoughts on the shared solar
23 tariff being offered under the settlement
24 agreement?

25 MR. SCHUESSLER: I do not. I am here on

1 behalf of our member companies, and Representative
2 was tied up in another state today so I was called
3 up last minute to deliver the message.

4 CHAIRMAN BROWN: You did a good job.

5 MR. SCHUESSLER: Thank you.

6 CHAIRMAN BROWN: All right. Commissioners,
7 any other questions?

8 Seeing none, Mr. Moyle.

9 MR. MOYLE: You had said -- I thought that the
10 1,650 number, I thought you -- I heard you say that
11 your folks could beat that number. Do you have
12 any -- any order of magnitude or information with
13 respect to what you think your folks could -- could
14 deliver on -- on the dollars per kilowatt hour?

15 MR. SCHUESSLER: I don't right now this
16 morning, but I am happy to get the Commission and
17 the intervenors something in writing from the
18 member companies.

19 CHAIRMAN BROWN: Mr. Moyle.

20 MR. MOYLE: It would be appreciated. I think
21 it would be helpful.

22 MR. SCHUESSLER: Absolutely.

23 CHAIRMAN BROWN: Thank you.

24 MR. SCHUESSLER: Thank you.

25 CHAIRMAN BROWN: And our staff will meet with

1 you after to give you the contact information.

2 Do any of the other parties have any
3 questions?

4 Seeing none -- oh, yes, Mr. Brew.

5 MR. BREW: Yes. Thank you.

6 Could you clarify, if you can, the -- the
7 analysis you would like Duke to do? You said you
8 would like an analysis to be done of comparing
9 utility ownership to private.

10 MR. SCHUESSLER: I don't have that right now,
11 but I am happy to provide that to the intervenors
12 and the Commission.

13 MR. BREW: Okay. Thank you.

14 CHAIRMAN BROWN: Thank you.

15 Any other questions?

16 Seeing none, thank you for your time.

17 MR. SCHUESSLER: Thank you.

18 CHAIRMAN BROWN: And I want to thank -- staff,
19 questions?

20 MS. MAPP: No questions from staff.

21 CHAIRMAN BROWN: Thank you.

22 All right. Thank you for, both of the
23 parties, for coming down and taking the time to
24 express some comments. We will take those into
25 consideration.

1 All right. Staff, let's get to the exhibits
2 now.

3 That concludes public comment.

4 MS. MAPP: Staff would now seek to enter into
5 the record the settlement agreement, the petition
6 for limited proceeding as well as staff data
7 requests, which are listed as Exhibits No. 2
8 through 12 on the comprehensive exhibit list.
9 Staff has provided this to parties, and all parties
10 have stipulated to the entry of these exhibits.

11 CHAIRMAN BROWN: Thank you.

12 And I will note that the petition, along with
13 the settlement agreement, is identified as Exhibit
14 2.

15 Do any of the parties have any problems with
16 moving into the record 2 through 12? Seeing none,
17 we will go ahead and do that at this time.

18 (Whereupon, Exhibit Nos. 2-12 were received
19 into evidence.)

20 CHAIRMAN BROWN: All right. Any other
21 preliminary matters before we get to the panel of
22 witnesses?

23 MS. MAPP: No, staff has nothing further.

24 CHAIRMAN BROWN: Okay. Thanks.

25 So we have here Javier Portuondo and Mr. Ben

1 Borsch who are available to answer questions -- did
2 I pronounce that correctly, Portuondo?

3 THE WITNESS: (Mr. Portuondo) Portuondo.

4 CHAIRMAN BROWN: Portuondo, yeah, I won't get
5 it right.

6 Duke, if you could, at this time, have --
7 introduce your panelists, but if they could move
8 over to the witness stand where we typically host
9 our witnesses, that would be appreciated, but could
10 you please, while they are doing that, if they
11 could -- if you could go over their duties and
12 response. I now you said their title earlier on.

13 Whereupon,

14 JAVIER PORTUONDO & BEN BORSCH

15 were called as a witness, having been previously duly
16 sworn to speak the truth, the whole truth, and nothing
17 but the truth, was examined and testified as follows:

18 MS. TRIPLETT: Okay, so I am probably going to
19 get it wrong, but let me try.

20 So Javier Portuondo is the Director of
21 Regulatory Strategy for Duke Energy Florida. And
22 Ben Borsch is -- I think he is also a Director of
23 Resource Planning, so let me tell you the lay
24 person. I know what they do, not the official
25 title. But Javier was instrumental in helping to

1 negotiate the settlement, and he can answer
2 questions about the -- most of the provisions in
3 the settlement regarding rate implementation, how
4 mechanics of how things work.

5 Mr. Borsch handles resource planning, so he
6 was -- he presents for us on the 10-year site plan,
7 so if there are questions about the 10-year site
8 plan process, the new solar generation from a
9 planning perspective, he would be able to answer
10 those questions.

11 CHAIRMAN BROWN: Thank you.

12 All right. Commissioners, the witnesses are
13 available for questions at this time. Since this
14 document, the settlement agreement is so voluminous
15 in nature, what I have done is ask staff to break
16 it up by subject matter, and provide the
17 Commissioners with an order of discuss discussion,
18 for ease of questions, we will get to that.

19 So we will start out with that list. Does
20 everybody have that, the order of discussion?
21 Seeing yeses.

22 Okay, so just to ease the flow of the
23 discussion -- again, it's a very voluminous
24 document -- we will start with CR3, and matters
25 related to CR3, which is contained on pages eight

1 through 13 of the settlement agreement. If there
2 are questions from the bench on that, I would
3 welcome that at this time.

4 Okay. I have a question regarding the Duke
5 Energy Florida versus Westinghouse lawsuit. And I
6 know that I think the briefs were just recently due
7 this past week, is that correct? You probably
8 don't know.

9 MS. TRIPLETT: As I said, some of them might
10 be me.

11 Yes, they -- the briefs were just filed this
12 week, and the Court has still not set an oral
13 argument. I believe there will be an oral
14 argument, but they haven't set an oral argument.

15 CHAIRMAN BROWN: Do you have any insight or
16 could -- are you in any position to provide any
17 insight of the likelihood of that outcome?

18 MS. TRIPLETT: I think it --

19 CHAIRMAN BROWN: It's a significant amount.

20 MS. TRIPLETT: It -- what's that?

21 CHAIRMAN BROWN: That's a significant amount.

22 MS. TRIPLETT: It is a significant amount, and
23 I -- I would say that it -- that was a serious
24 consideration in -- in giving on that particular
25 provision, because that is a serious risk that our

1 company is undertaking as a result of executing the
2 settlement agreement.

3 In terms of the likelihood, I probably don't
4 think it would be prudent for me to say in a public
5 forum, you know, but I think the fact that we are
6 willing to undertake that risk probably speaks for
7 itself in terms of how we think that outcome is
8 going to go. But as lawyers know, when you put
9 your faith into a third-party court, you may find
10 that you have all of the facts and laws, and you
11 think they are on your side, and sometimes you --
12 they don't -- it doesn't come out your way. So
13 there is always risk associated with something like
14 that.

15 CHAIRMAN BROWN: I just figured I could ask
16 and see if you would give us an answer, but I --

17 MS. TRIPLETT: Sorry.

18 CHAIRMAN BROWN: -- will acknowledge that is a
19 huge concession on behalf of Duke.

20 Commissioners, seeing no other questions on
21 eight through 13, we will move to the fuel
22 adjustment clause on page 14.

23 Actually going to circle back on the CR3
24 regarding the dry cask storage. Estimated
25 timeframe of when Duke expects it will file

1 recovery of that facility, and how much are you
2 estimating those costs to be?

3 THE WITNESS: (Mr. Portuondo) So currently,
4 our plan is to only seek recovery through the
5 capacity clause for the carrying costs in
6 anticipation and hope that the Department of
7 justice and the DOE will reimburse us for the cost.
8 That claim is likely to be filed and hopefully
9 fully adjudicated by 2021. So we will be coming
10 before the Commission with the results of that
11 court decision around that timeframe.

12 CHAIRMAN BROWN: And DOE previously awarded
13 Duke recovery?

14 THE WITNESS: (Mr. Portuondo) Twice. So we
15 are in -- in the process right now of the third
16 claim, but they -- we have been successful in the
17 first two claims.

18 CHAIRMAN BROWN: Thank you.

19 Fuel adjustment clause, Commissioners any
20 questions on page 14?

21 I have a question. Sorry.

22 The CR3 talks, this about, on page 14, at the
23 top of the page, if you have the settlement
24 agreement in front of you, it talks about Duke
25 shall continue to be entitled to recover its

1 prudently incurred fuel and purchase power costs
2 through the fuel clause without regard to the
3 unavailability of CR3 for any reason for the period
4 beginning October 1st.

5 Can you kind of elaborate on that provision?

6 THE WITNESS: (Mr. Portuondo) Yes. In the
7 prior proceeding that dealt with the retirement of
8 CR3, the company and the parties agreed that, going
9 forward, that the company would not be, in essence,
10 harmed by the decision to have retired CR3 and the
11 implication on the fuel cost spread between nuclear
12 power and other resources.

13 CHAIRMAN BROWN: So when Citrus County comes
14 on-line, and that's 1,800 megawatts, would this
15 provision still be applicable?

16 THE WITNESS: (Mr. Portuondo) In essence,
17 yeah. It's in perpetuity, so it's -- it's -- it's,
18 in essence, saying that there is no harm, no foul
19 for having made the decision to retire CR3 as it
20 relates to what -- the impact it would have had to
21 fuel costs if CR3 was actually running.

22 CHAIRMAN BROWN: So if the Citrus County,
23 which comes up in another provision -- section
24 here, that need determination has already been
25 found, and that's 1,800 megawatts, CR3 is

1 roughly --

2 THE WITNESS: (Mr. Portuondo) 1,600

3 megawatts --

4 CHAIRMAN BROWN: Oh, 1,600.

5 THE WITNESS: (Mr. Portuondo) -- for the
6 Citrus County facility. And you are correct, that
7 the need proceeding has already taken place, and we
8 will be putting the assets in service next year,
9 and customers will see the benefits of the good
10 heat rate and fuel costs associated with that
11 facility.

12 CHAIRMAN BROWN: Thank you.

13 Commissioners, any other questions on fuel?

14 Nuclear decommissioning trust, pages 14 to 15,
15 any questions?

16 Seeing none, we will move to retirement of CR1
17 and 2, page 15.

18 Seeing no questions on that -- oh,
19 Commissioner Polmann.

20 COMMISSIONER POLMANN: Thank you, Madam
21 Chairman.

22 A fundamental question on the retirement, and
23 this may be a question for the utility or the
24 staff, and it -- it centers on -- in terms of
25 timing, when will the company know about the

1 retirement? When -- when to retire or under what
2 circumstance whether or not to retire 1 and 2?

3 THE WITNESS: (Mr. Borsch) The -- included in
4 the order of the need petition for the Citrus
5 County energy center is the fact that we will be
6 retiring the units from Crystal River 1 and 2 as
7 the Citrus units come on.

8 So next summer, when the Citrus units come --
9 the first Citrus unit comes into service, and then
10 eventually later in the year, the second Citrus
11 unit comes into service, we will, when the first
12 unit comes into service, put the Crystal River
13 South units, essentially, into a not in-service
14 status, but they will be maintained as operable
15 throughout that period in case, you know, during
16 commissioning, or whatever, we have, you know,
17 outages on the Citrus unit. And then when the
18 second Citrus unit comes into service, they will be
19 retired in full. So that will happen by the end of
20 2018.

21 COMMISSIONER POLMANN: So full retirement by
22 the end of 2018?

23 THE WITNESS: (Mr. Borsch) Yes.

24 COMMISSIONER POLMANN: Okay. And -- and
25 through what process will you be notifying the

1 Commission? And then how does that relate to the
2 continuing cost, or the -- the closure on the cost
3 issue?

4 THE WITNESS: (Mr. Portuondo) so I can answer
5 that one.

6 So as Mr. Borsch indicated, the Commission,
7 through the need proceeding, was already notified,
8 so it's going to happen in 2018. The next step in
9 that is, once the unit is retired, we will be
10 before the Commission in the Environmental Cost
11 Recovery docket to present them with the net book
12 value of that facility at that time, which we will
13 recover through that clause over a one-year period.

14 COMMISSIONER POLMANN: Okay. Thank you.

15 I have a question for staff on the same issue.
16 The utility raised the transition period, so my
17 question for staff is, as the new units come on and
18 these transitions, there will be, I will call it
19 for purposes of my understanding, a standby for 1
20 and 2. Do we have any concerns about the overall
21 system reliability and the -- the duration of this
22 standby before the retirement in terms of the whole
23 system capacity and that transition period?

24 MR. ELLIS: Good morning. Phillip Ellis with
25 Commission staff.

1 We do not currently have any reserve margin
2 concerns associated with Duke and the transition
3 and between Crystal River 1 and 2's potential
4 retirement and the Citrus facility. And
5 specifically, that would be reviewed in the 10-year
6 site plan process, which I believe will be coming
7 into the next Internal Affairs.

8 COMMISSIONER POLMANN: So in terms of this
9 schedule, we -- we are not concerned about that.
10 It seems that it's appropriate, is that correct?

11 MR. ELLIS: That's my understanding, yes.

12 COMMISSIONER POLMANN: Okay. Thank you.
13 That's all I have.

14 CHAIRMAN BROWN: Thank you.

15 Commissioners, any other questions on this?

16 All right. So we moved through CR3, extended
17 power uprate project, pages 16 through 17. Any
18 questions on those?

19 Seeing none, we will move to Levy, pages 17
20 through 19.

21 Commissioner Graham.

22 COMMISSIONER GRAHAM: Thank you, Madam Chair.
23 Good morning, gentlemen.

24 THE WITNESS: (Mr. Portuondo) Good morning.

25 COMMISSIONER GRAHAM: Page 19, one of the

1 things the agreement talks about is that that Duke
2 is going to write off Westinghouse --
3 Westinghouse's pending appellate claims. Can you
4 go through and kind of tell -- tell me what they
5 are seeking for in that litigation?

6 THE WITNESS: (Mr. Portuondo) I think I will
7 defer to my attorney on the specifics of the
8 litigation.

9 COMMISSIONER GRAHAM: Just what they are
10 asking for.

11 MS. TRIPLETT: Yeah. So they -- they are
12 asking for a termination fee, which -- which was
13 the 30 -- \$30 million plus \$4 million of interest
14 associated with the cancellation of the -- the
15 engineering procurement and construction contract.

16 They are also asking for an additional -- and
17 I think the number is in here -- 400 some odd
18 dollars of what they are calling termination costs.
19 So additional dollars that they claim are damages
20 arising out of our cancellation of that contract
21 that we -- that Duke was obligated to pay; and that
22 includes some invoiced work for work that they say
23 we -- they did along the way and they never told us
24 about it until we said we were going to terminate.

25 That's it.

1 COMMISSIONER GRAHAM: So \$30 million and about
2 \$400 million?

3 MS. TRIPLETT: Uh-huh.

4 COMMISSIONER GRAHAM: Okay. And according to
5 what it says here -- by the way, this sentence here
6 that's the middle third of the page, who wrote that
7 sentence? There's got to be at least 10 or's in
8 that sentence. Which attorney?

9 MR. WRIGHT: All of us. All of us.

10 COMMISSIONER GRAHAM: No wonder -- no wonder
11 it's difficult.

12 MR. REHWINKEL: That one sentence took about a
13 week to write.

14 COMMISSIONER GRAHAM: I can imagine.

15 But according to this, that means regardless
16 of if Duke is eligible or not, they are not coming
17 back to the ratepayers for any of that.

18 MS. TRIPLETT: That's right. And -- exactly.
19 And that was intended to -- there were -- it was
20 good thoughts of let's make sure that we aren't
21 able to say, well, after the appeal, it's not
22 termination costs now, we have a new -- we are in a
23 new title. We are going to call it a fine, you
24 know, and so now we are going to sneak back in and
25 charge customers.

1 And so that's not our intent at all. You will
2 not see us again on -- on this appeal. Wish us
3 luck, because I hope we win, but you will not see
4 us again, no matter what happens -- because one of
5 the options, one of the outcomes, rather, is it
6 could be a total remand and then we are back in
7 front doing a whole nother court case, and I don't
8 know what creative theories Westinghouse may decide
9 to try and call additional costs. So that was what
10 this is designed to cover, is all of those
11 potential outcomes.

12 COMMISSIONER GRAHAM: Well, I think it's
13 huge --

14 CHAIRMAN BROWN: Yes.

15 COMMISSIONER GRAHAM: -- that you guys agreed
16 to -- to take all of that exposure. And, God
17 willing, you don't have to pay any of that \$430
18 million.

19 MS. TRIPLETT: Thank you.

20 CHAIRMAN BROWN: Thank you, Commissioner
21 Graham. I echo those -- those thoughts and
22 comments.

23 On the LNP side, what has Duke done so far to
24 sell or salvage the assets back from CR3 by the
25 way?

1 THE WITNESS: (Mr. Portuondo) So that is
2 completely behind us. We reported, I think to the
3 Commission in a prior docket, the disposition of as
4 much of the CR3 inventory and marketable
5 non-radiated assets that we could. And we have
6 credited -- we credited all those funds to the, at
7 the time, regulatory asset that was created, and
8 then which was ultimately securitized.

9 CHAIRMAN BROWN: Sorry I forgot to ask you
10 that before.

11 THE WITNESS: (Mr. Portuondo) No, that's quite
12 all right.

13 CHAIRMAN BROWN: Thank you.

14 So for the Levy land, and the value of the
15 Levy land, I think there is a data request that
16 staff submitted, and you provided a response of
17 what the value of the land is. What does Duke
18 intend to do with the land in the near future, or
19 whenever?

20 THE WITNESS: (Mr. Portuondo) Okay, that's an
21 excellent question.

22 So per -- per the agreement that you have
23 before you, we have removed the Levy land from rate
24 base for determining earnings surveillance going
25 forward. We will continue to look at the viability

1 of that land for possibly solar facilities for
2 future combined cycle opportunities. We will, you
3 know, entertain any use of that facility that
4 others might bring to the table. So we are really
5 open for -- for considering any and all uses.

6 CHAIRMAN BROWN: And then would put it back in
7 rate base?

8 THE WITNESS: (Mr. Portuondo) If it's
9 ultimately associated with a future combined cycle,
10 yes, we would be coming before you with that need
11 petition for the combined cycle, which would also
12 include the cost of that land that we would be
13 pulling back, but it would also -- it would always
14 come before you.

15 CHAIRMAN BROWN: Would it have a new valuation
16 of the land cost?

17 THE WITNESS: (Mr. Portuondo) No. It would be
18 the actual cost of the land per federal regulations
19 on the accounting for utility assets.

20 CHAIRMAN BROWN: Okay. Thank you.

21 And you were formerly comptroller?

22 THE WITNESS: (Mr. Portuondo) No. I have been
23 around for a really, really long time --

24 CHAIRMAN BROWN: I thought so.

25 THE WITNESS: (Mr. Portuondo) -- before --

1 before this commission, oh, way too much, but I
2 have -- I have held a number of financial positions
3 in the company, and --

4 CHAIRMAN BROWN: So I am trying to get a range
5 of total liability, or total cost that Duke and its
6 shareholders are writing off for Levy, and
7 including that appellate case, so somewhere -- can
8 you go over the costs?

9 THE WITNESS: (Mr. Portuondo) Yeah. It's
10 about -- about 150 million in total, which includes
11 the unrecovered --

12 CHAIRMAN BROWN: Thank you.

13 THE WITNESS: (Mr. Portuondo) -- yeah,
14 unrecovered costs that the Commission set aside a
15 couple years ago pending the litigation. It
16 includes the 30 million that Ms. Triplett just
17 spoke to, plus the going forward interest component
18 that will accumulate until it's actually paid if
19 the appeal court supports the decision that we owe
20 it.

21 And then there are legal costs that we have
22 expensed associated with getting through the
23 original litigation to the appeal process. And
24 then we will have ongoing legal costs that we'll
25 have to absorb.

1 CHAIRMAN BROWN: Okay. Thank you.

2 I had different numbers, so I appreciate that
3 clarification.

4 Commissioners, any other questions on Levy?

5 MR. REHWINKEL: Madam Chairman?

6 CHAIRMAN BROWN: Yes.

7 MR. REHWINKEL: I think there is -- the
8 licensed cost is also a cost that the company is
9 writing off. It's not currently above the line,
10 but it is -- it is subject to reappearance through
11 CWIP in a future case.

12 CHAIRMAN BROWN: So I am looking for that. Is
13 that the 30 -- that's not the 36 million?

14 THE WITNESS: (Mr. Portuondo) That is --
15 that's the 36 number, yes. Mr. Rehwinkel is
16 correct. Thank you for the heads-up on that. Yes.

17 So we have accumulated costs post 2013, which
18 was the previous settlement we had entered into,
19 and associated with the final cost to acquire the
20 license.

21 CHAIRMAN BROWN: So roughly 200 million that
22 shareholders are writing off, but the potential
23 could be even greater --

24 THE WITNESS: (Mr. Portuondo) Even greater,
25 yes.

1 CHAIRMAN BROWN: -- given the appellate --
2 obviously, the huge selling point of this overall
3 settlement agreement.

4 All right. Commissioners, any other questions
5 on Levy?

6 Moving on to base rate adjustment, pages 19
7 through 24.

8 Commissioner Clark.

9 COMMISSIONER CLARK: Thank you, Madam
10 Chairman.

11 Just a couple quick questions on the rate
12 base -- the base rate adjustment.

13 What is the anticipated impact to the
14 residential class? I know that you -- you have
15 allocated basically the \$67 million to go toward
16 all the classes, but what would specifically be the
17 estimated impact on the residential classes?

18 THE WITNESS: (Mr. Portuondo) regretfully, I
19 don't think I have the exact number in front of me
20 Commissioners. But I think the 67, on a
21 residential bill, was a couple of dollars on a
22 residential customer at a thousand kilowatt hours.

23 COMMISSIONER CLARK: How -- how would this
24 compare with the impact to the other classes
25 percentage-wise?

1 THE WITNESS: (Mr. Portuondo) We are doing it
2 on a uniform percent increase, but for a couple of
3 components, so it's -- it's fairly close across the
4 customer classes.

5 COMMISSIONER CLARK: So -- so your -- your
6 uniform percentages, each customer is going to get
7 a 10-percent increase or three percent increase?

8 THE WITNESS: (Mr. Portuondo) Yeah, it's
9 around a two- to three-percent increase across the
10 customer classes.

11 COMMISSIONER CLARK: There was some language
12 in the agreement that also discussed how the
13 discounts would be applied, so is that discount
14 taken after the rate increase is applied? How does
15 that affect the total impact to the consumer class?

16 THE WITNESS: (Mr. Portuondo) The -- I think
17 you are referring to the interruptible curtailable
18 credits that some customers allow us the ability to
19 interrupt their service are provided.

20 So the -- the two- to three-percent is applied
21 to the base rate component. The credit that you
22 are referring to flows through the environmental
23 and conservation clause, so it's separate.

24 COMMISSIONER CLARK: Okay. Thank you, Madam
25 Chair.

1 CHAIRMAN BROWN: Thank you.

2 Getting -- going to Commissioner Clark's
3 questions. So the base rate adjustment goes
4 67 million, 2019, 2020, 2021. Can you explain what
5 these increases are going to?

6 THE WITNESS: (Mr. Portuondo) Yes, ma'am.

7 As Mr. Rehwinkel articulated in his opening
8 comments, this was a comprehensive review of the
9 revenue requirements of Duke Energy Florida over
10 that entire period of time. And what we identified
11 as the revenue requirement needs for us included
12 grid modernization. So self-healing grids, I think
13 you heard at some of our presentations to this
14 commission, the technology that's being deployed,
15 we have a little bit out there now --

16 CHAIRMAN BROWN: Does that include the AMI
17 meters?

18 THE WITNESS: (Mr. Portuondo) It will also
19 include AMI meters deployed to all customers by, I
20 want to say spring of 2021, we will have fully
21 deployed the technology.

22 The other component that the base rate
23 increase affords us to proceed with is a
24 replacement of our customer information system. So
25 as you can imagine, we want to maximize the benefit

1 of those AMI meters. You can only maximize it if
2 you have the intelligence in your billing system to
3 be able to use that telemetry, that information.
4 And we will be able to provide customers with
5 greater options, better tools to manage their
6 consumption. So leveraging kind of 21st Century
7 technology.

8 We will also be pursuing what were referred to
9 as a targeted undergrounding process, where we are
10 identifying the worst performing laterals, those
11 back lot lines that are significantly incurring
12 outages, and we will be working with customers to
13 underground those facilities, move them from the
14 back lot to the front lot. But I want to emphasize
15 that that -- that that is a reliability program.
16 It's not an aesthetic program.

17 We are looking at the historical outages
18 throughout our service territory, and focusing on
19 those most costly and most frequently lines that
20 are out to -- to move them to a front lot
21 underground.

22 CHAIRMAN BROWN: So it includes some storm
23 hardening measures?

24 THE WITNESS: (Mr. Portuondo) It -- it, in
25 essence, becomes a storm hardening aspect as well,

1 but we are looking at it primarily initially from a
2 reliability filter, if you -- if you would allow me
3 to use that -- that reference.

4 We are -- so AMI, customer service information
5 system and grid modernization are the primary
6 revenue requirement needs that this base rate
7 increase affords us to proceed with.

8 CHAIRMAN BROWN: Thank you, that was helpful.
9 Commissioner Polmann.

10 COMMISSIONER POLMANN: Thank you, Madam
11 Chairman.

12 Regarding the \$67 million annual increase for
13 three years, does that correspond to your revenue
14 requirement, your actual incurred costs at a level
15 \$67 million?

16 THE WITNESS: (Mr. Portuondo) The 67 million
17 was a levelized revenue requirement increase over
18 the period in order to smooth out the rate
19 increases for customers, trying to keep it to that
20 two- to three-percent range. And it is intended to
21 recover the costs, the investments and the
22 operating costs of the whole utility, particularly
23 funding those new programs, such that the utility
24 maintains an earnings for fairly close to the
25 10-and-a-half percent during that time period.

1 COMMISSIONER POLMANN: So is it fair to say
2 that the total increase of \$67 million, was it part
3 of the negotiated settlement and not necessarily a
4 one-to-one match in what the utility was spending
5 year by year?

6 THE WITNESS: (Mr. Portuondo) It actually was
7 very thoroughly analyzed, and there were
8 calculations performed to make sure that that
9 revenue requirement did not enrich the utility too
10 much in any one year, if that hopefully helps.

11 So it is linked directly to the operating
12 costs and the investments of the utility through
13 that entire time period.

14 COMMISSIONER POLMANN: Thank you.

15 CHAIRMAN BROWN: Thank you, Commissioners.
16 Any other questions on the --

17 MR. REHWINKEL: Madam Chairman, would I be
18 allowed to supplement that answer --

19 CHAIRMAN BROWN: Yes.

20 MR. REHWINKEL: -- from the Public Counsel's
21 standpoint?

22 Commissioner Polmann, as -- in my opening
23 remarks, I mentioned the amount of time and effort
24 that the Public Counsel and, at the time, our
25 consultant expended on this.

1 From our perspective, the -- the negotiated
2 and agreed upon revenue requirement was over the
3 three years, on a levelized basis, squarely within
4 the range that that Duke would be allowed to earn
5 under this agreement. We even made some
6 beneficial, from the Public Counsel's standpoint,
7 modifications to the capital structure for the
8 benefit of customers that was factored in.

9 But when Mr. Kelly and I looked at this, and
10 looked at the recommendations of our consultant, it
11 was our strongly held view that this negotiated
12 revenue requirement, it might not be tied directly
13 to dollar to dollar, but we felt it was -- it was a
14 better outcome for the customers than a litigated
15 outcome.

16 So a negotiated outcome better than a
17 litigated outcome equals a good settlement. So
18 that's -- that's how we got there, without going
19 into the details of how we negotiated this, but
20 that was certainly our view of the numbers with our
21 expert's recommendation.

22 COMMISSIONER POLMANN: Thank you.

23 CHAIRMAN BROWN: So Mr. Rehwinkel, so you see
24 the benefit of those increases primarily being what
25 you just said?

1 MR. REHWINKEL: Yes. I mean, when you --

2 CHAIRMAN BROWN: I was going to ask you that
3 question.

4 MR. REHWINKEL: When you represent customers,
5 your goal, I think, is to hold costs down and not
6 pay more than --

7 CHAIRMAN BROWN: Versus the litigated --
8 versus a litigated case.

9 MR. REHWINKEL: Versus a litigated outcome, we
10 felt like it was a better outcome for customers,
11 because where we found ourselves -- and Mr. Brew
12 mentioned it -- is we were a year early in the
13 termination of the settlement, but we had an
14 opportunity to take care of '18 and take care of
15 the nuclear issues that were coming down.

16 They had gotten a decision in September of
17 last year, and they were going to bring it to the
18 Commission, and it was going to visit the customers
19 in '18. We had the opportunity to avoid that.

20 They were preparing their '19 rate case, you
21 know, is the way we looked at it. So they were
22 preparing, what would we be doing afterwards? We
23 were staring at a much bigger number. This outcome
24 is much lower, and much better, and I think it
25 gives the company certainty and it give the

1 customers certainty.

2 CHAIRMAN BROWN: Are you able to quantify that
3 outcome difference?

4 MR. REHWINKEL: I can't, because that would
5 require me to get into the negotiations, but we
6 definitely believe it was significantly better.

7 CHAIRMAN BROWN: Thank you.

8 Commissioners, any other questions on base
9 rate?

10 Moving to the SoBRA, pages 24 through 30.

11 Commissioner Brisé.

12 COMMISSIONER BRISÉ: None on SoBRA.

13 CHAIRMAN BROWN: None on SoBRA.

14 Gentlemen, on the SoBRA item, does
15 700 megawatts -- can you quantify how 700 megawatts
16 moves the needle in terms of Duke's generation mix?

17 THE WITNESS: (Mr. Borsch) I would say that
18 the 700 megawatts is a significant step forward
19 into the solar generation realm for us. I mean,
20 Duke has a portfolio of approximately 11,000
21 megawatts of total generation owned or purchased,
22 so, you know, the 700 megawatts is not, you know,
23 an overwhelming percentage of that generation, but
24 it will move us forward. And really, basically it
25 moves us into the realm where we will be on par

1 with or perhaps slightly leading among all the
2 Florida utilities' in generators in terms of the
3 amount of solar per customer that we have.

4 Obviously, as everybody continues to ramp up
5 their portfolios, it's going to be a continuing
6 arms race, but it -- it -- it will give us a
7 foundation of that solar, which will, you know,
8 bring us into the realm where we can fully capture
9 the benefits of those first entries of solar.

10 I mean, I think one of the things that we have
11 looked at, solar is, as we know, not exactly like
12 all other kinds of generation. So what we see is
13 that we will be ramping up the solar first in this
14 period, and presumably in the future beyond it, in
15 a way that will suit the overall needs of the
16 utility.

17 So this 700 megawatts gets us to that first
18 level where we can say, yes, we are serving our
19 initial peak as it is today, with a representative
20 amount of solar. When we go forward, you know, we
21 will see that solar, you know, say, above the
22 probably thousand megawatt range will begin to
23 change the operation of the system.

24 So this really is an important first step,
25 because it brings us up to that level where we can

1 say, yes, this is the implementation of the solar
2 of the system the way we have it, and it gives us a
3 springboard to evolve the system in a way that will
4 allow us to utilize additional solar as the years
5 progress in the next part of the decade.

6 CHAIRMAN BROWN: Thank you. Utilizing
7 obviously the best technology, too, that is
8 available.

9 THE WITNESS: (Mr. Borsch) That is our goal.
10 I mean, we have analyzed a number of technologies,
11 and it is our intent and our effort to maximize the
12 value for the customers through the use of
13 technology which will bring us the best
14 effectiveness of the solar relative to the way our
15 load is utilized.

16 CHAIRMAN BROWN: Where do you see the battery
17 storage project going?

18 THE WITNESS: (Mr. Borsch) Well, at this time,
19 I think the battery storage project, we -- I want
20 to say that it's not one project. The 50 megawatts
21 will provide us with a multitude of projects, and
22 we intend to implement that -- you know, because it
23 is a pilot program, we intend to implement it to do
24 a number of different things to help us to
25 understand how batteries are going to change our

1 system and enhance our system over the longer term.

2 So we will probably see some, you know,
3 localized projects that may be microgrid type
4 projects. We will also see projects where the
5 batteries are used to solve local generation
6 problems. We will undoubtedly see battery projects
7 that are designed to provide grid support and
8 regulation. That may be in concert with the solar
9 in areas where the solar generation is high
10 relative to the load in a particularly local area.

11 So we will be, you know, working with those
12 battery projects going forward in an effort to,
13 first of all, maximize their individual value, but
14 second of all, to provide us with a range of
15 learning opportunities for how batteries will be
16 deployed increasingly over the longer term of the
17 fleet.

18 CHAIRMAN BROWN: Now, I think that battery
19 storage pilot program is very important, and I know
20 that's further down in the paragraph 27, but how
21 are you going to relay that information that I
22 think is very important for all of the industry
23 to -- to be able to utilize, how are you going to
24 relay that to the Public Service Commission? In
25 what type of proceeding? I know it says it's on

1 page 42 -- sorry, jumping. I know it says that you
2 will file an annual report, or something to that
3 effect, but when do you foresee that? Because,
4 again, I think all of the industry could benefit
5 from that data.

6 THE WITNESS: (Mr. Borsch) Yeah, well, I think
7 there are going to be a couple of ways.

8 When we -- you know, presumably as we deploy
9 the batteries, the use of those batteries will be
10 presented and discussed in our 10-year site plan --

11 CHAIRMAN BROWN: Okay.

12 THE WITNESS: (Mr. Borsch) -- annually. That
13 will probably be the primary vehicle, you know
14 presumably at the end of the settlement, or going
15 into the next proceeding, seek recovery of those
16 costs, you know, we will also be presenting their
17 benefits at that point, but the --

18 CHAIRMAN BROWN: That makes sense.

19 THE WITNESS: (Mr. Borsch) -- in the interim,
20 the primary vehicle, as we begin the deployment
21 through this pilot, will be through the 10-year
22 site plan.

23 CHAIRMAN BROWN: Thank you.

24 Commissioner Polmann.

25 COMMISSIONER POLMANN: Thank you, Madam

1 Chairman.

2 If we could refer to page 25 and 26 in the
3 settlement. I think this is the -- near the -- the
4 bottom quarter of page 25 is reference to the -- a
5 cap of \$1,650 per kilowatt AC. And then, frankly,
6 there is an entire page or more what appears to be
7 qualifications on that number. But on first
8 reading, it seems that it's -- I would like to
9 think that it's an absolute cap in dollars, and
10 then there is a lot of explanation about reasons
11 why it's not. Am I reading that correctly, that
12 it's a cap but it isn't?

13 THE WITNESS: (Mr. Borsch) No, I think it's --
14 it's probably fair to read it as it is a cap. The
15 intention here is that we -- and we went through a
16 lot of negotiation with the other parties to define
17 what was, if you will, inside the box. But for the
18 elements that are defined as inside the box, which
19 is to say all of the significant elements of the
20 solar project itself, that is a cap, and we intend
21 to come in under it.

22 I will say that, too, that, you know, the
23 other relevant piece of this, in terms of the price
24 of the solar projects, is that we also will come
25 before the Commission with each one of those groups

1 of solar projects to demonstrate their
2 cost-effectiveness in the traditional way that we
3 have done, using the cumulative present value
4 revenue requirements process to show that the
5 addition of those solar projects actually provide
6 benefits relative to the cost of running the system
7 without the same group of solar projects. And so,
8 you know, we expect that not only will we -- you
9 know, and that is a comprehensive review, which
10 includes total cost of the whole system.

11 So, you know, with each of those groups of
12 projects, not only will we be demonstrating that
13 the project itself within the box, so to speak, is
14 meeting that cap, but that any impacts that that
15 project may have on the total system operating
16 costs are also beneficial to the customers.

17 MR. REHWINKEL: Madam Chairman.

18 CHAIRMAN BROWN: Yes.

19 MR. REHWINKEL: Could I ask Commissioner
20 Polmann to look on page 30, almost half the way
21 down, there is a sentence that I think that answers
22 his question that that is a hard cap.

23 CHAIRMAN BROWN: Commissioner Polmann.

24 MR. REHWINKEL: It says, DEF is prohibited
25 from recovering through this or any mechanism or

1 proceeding any costs greater than 1,650 per kWac,
2 calculated as a weighted average cost of the
3 project submitted in the particular filing issue
4 under any circumstances.

5 CHAIRMAN BROWN: Got it?

6 COMMISSIONER POLMANN: I appreciate that, Mr.
7 Rehwinkel. And -- and it brings me to the next
8 related question, which is calculated as a weighted
9 average cost of the project submitted in the
10 particular filing at issue, and -- and then I need
11 to understand the particular filing at issue. I
12 understand weighted average, but what is the
13 reference to particular filing at issue?

14 THE WITNESS: (Mr. Borsch) I will take that.

15 The -- so it is our intention that, you know,
16 as we move through this process, that we will build
17 a number of projects; and that, in any given year,
18 we will come forward with a filing that may
19 represent three or four or, you know, more
20 projects.

21 Those projects may be of different sizes.
22 They may have different purposes. Sometimes a
23 particular project, especially if we have reason to
24 build a smaller project, will be more expensive on
25 a per kW basis, but it is our commitment that the

1 aggregated group of projects in any particular
2 filing will have that weighted average cost of less
3 than the 1,650.

4 COMMISSIONER POLMANN: So is it correct that
5 you have a total kilowatt AC commitment through
6 this settlement, and that the average cost, across
7 the entirety, does, in fact, have a maximum cap
8 price, and therefore, a rate impact to the customer
9 that is limited?

10 THE WITNESS: (Mr. Borsch) Yes.

11 COMMISSIONER POLMANN: Is that a reasonable
12 interpretation?

13 THE WITNESS: (Mr. Borsch) Yes, it is.

14 COMMISSIONER POLMANN: Okay. And that in
15 terms of the technology in the -- the types of
16 solar projects, those would be selected on a
17 case-by-case basis, and that that may evolve based
18 on changes in technology, and pricing, and costs as
19 they -- as they change over time, because it's a
20 rapidly evolving market?

21 THE WITNESS: (Mr. Borsch) Absolutely.

22 COMMISSIONER POLMANN: Okay. And each one of
23 those projects will be brought back to the
24 Commission for -- for an evaluation prior -- based
25 on size -- there is a mention in here of those

1 above and below 75 megawatts, so it would be a
2 different proceeding perhaps.

3 THE WITNESS: (Mr. Borsch) Right, but, yeah --
4 no, each of those projects, whether they -- I mean,
5 in the event that they were projects larger than
6 the 75 megawatts, they would come through a need
7 process. And for other projects smaller than the
8 75 megawatts, they will come through this base rate
9 recovery process, and all of them will come before
10 the Commission.

11 COMMISSIONER POLMANN: Okay.

12 THE WITNESS: (Mr. Portuondo) Commissioner, if
13 I could supplement.

14 COMMISSIONER POLMANN: Yes.

15 THE WITNESS: (Mr. Portuondo) We are
16 Anticipating one filing for the Commission for all
17 of those projects contemplated in that coming year,
18 so you will be able to look at them all at one
19 point in time.

20 COMMISSIONER POLMANN: Okay. On the battery,
21 if I may follow up, Madam Chairman?

22 CHAIRMAN BROWN: Sure.

23 COMMISSIONER POLMANN: Can you please give us
24 a feeling -- the number 50 is in here, is that
25 correct? And what does that represent? 50 what?

1 THE WITNESS: (Mr. Borsch) It's 50 megawatts.
2 So, you know --

3 COMMISSIONER POLMANN: And what scale is that
4 relative to other things in your system? I am
5 trying to get --

6 THE WITNESS: (Mr. Borsch) Well --

7 COMMISSIONER POLMANN: And what's the purpose?
8 Is that really just a pilot for testing
9 effectiveness?

10 THE WITNESS: (Mr. Borsch) So 50 megawatts is
11 a fairly modest size relative to a lot of other
12 things in our system, but it's a fairly large size
13 relative to a lot of other battery installations so
14 far around the country. The -- but -- and as I
15 said before, we don't anticipate that this is going
16 to be one 50-megawatt project installed in a single
17 location. We --

18 COMMISSIONER POLMANN: No, I understood that,
19 yeah.

20 THE WITNESS: (Mr. Borsch) We anticipate that
21 this will be a number of projects. And while, on
22 the one hand, it is a pilot, and our goal is to
23 learn from the pilot process, you know, how the
24 batteries can best be implemented across the Duke
25 system, it is, at the same time, you know, we have

1 every intention that we are going to put these
2 batteries in in ways that are going to benefit the
3 system.

4 So we will look for opportunities, you know,
5 for instance, where there might be a very isolated
6 load center, you know, coastally or something,
7 which might benefit from a battery that would
8 provide it backup power and, you know, serve in a
9 kind of like a microgrid shape that in case it were
10 cut off because it was on a barrier island, or
11 something to that effect.

12 Similarly, our -- you know, another
13 application, we believe, you know, potentially is
14 certainly with the impact of this relatively large
15 amount of solar, there may be areas of the system
16 where we are encountering -- encountering problems
17 with power quality that can be enhanced by the use
18 of the batteries in -- in regulating frequency
19 circumstances.

20 There may be opportunities for us to use the
21 batteries to provide backup in areas where
22 transmission contingencies may be limiting flow, or
23 putting it at risk of some load shed.

24 So we are going to look around the system. I
25 mean, we are already looking around the system, and

1 finding opportunities where we believe those
2 batteries are going to enhance the system
3 operation, and where we will be able to really
4 demonstrate benefits for the customers.

5 COMMISSIONER POLMANN: So if I understand,
6 through the settlement, there is a commitment for a
7 certain capacity of battery, and you have a -- a
8 process, and we are calling it a pilot, to do the
9 installation and then an evaluation of performance,
10 but is it the utility's expectation that over time
11 you will have additional batteries and capacity
12 based on the results that you find and how useful
13 it is?

14 THE WITNESS: (Mr. Borsch) Yes, I think so.
15 We are -- I mean, obviously what we are seeing in
16 not only, you know, in other parts of the country
17 is that batteries are serving a variety of needs in
18 different areas in addressing grid needs, also in
19 response to intermittent renewal penetration.

20 So, you know, we believe that this is
21 something that is going to be of greater importance
22 to our own grid in the future. This battery pilot
23 allows us to have a real hands-on, on the ground
24 utility scale understanding of what those benefits
25 are going to be to our customers, and we think it

1 opens the door to future installations and
2 implementation of batteries on down the line past
3 the end of this settlement.

4 COMMISSIONER POLMANN: Thank you.

5 CHAIRMAN BROWN: Thank you.

6 Now on to federal corporate income tax. Fun
7 topic.

8 Mr. Brew, you don't have to --

9 MR. BREW: No.

10 CHAIRMAN BROWN: No.

11 Commissioner Brisé, do you have any?

12 MR. BREW: No.

13 CHAIRMAN BROWN: No.

14 Go ahead.

15 COMMISSIONER BRISÉ: Thank you.

16 So my question is pretty simple. Considering
17 that there is ongoing initial conversations now
18 around tax reform, what risks do the customers
19 potentially bear, if any, as a result of the
20 settlement?

21 THE WITNESS: (Mr. Portuondo) I guess I
22 wouldn't characterize it as risk, but reward.

23 The settlement that you have before you
24 creates a structure that affords flowing back to
25 customers, hopefully, the benefits of tax reform,

1 while also protecting customers by deferring if,
2 God forbid, something in Washington goes the wrong
3 way and it creates an increase in utility income
4 tax obligations. It defers that -- that recovery
5 to a future proceeding.

6 COMMISSIONER BRISÉ: Okay. So just so that I
7 am full -- that I am fully understanding, that if
8 there is any benefit that flows back to customers,
9 and if there is any risk in terms of financial
10 risk, then they will be deferred through accounting
11 practices in a future rate case?

12 THE WITNESS: (Mr. Portuondo) A future
13 proceeding.

14 COMMISSIONER BRISÉ: Proceeding.

15 THE WITNESS: (Mr. Portuondo) It might be a
16 limited proceeding --

17 COMMISSIONER BRISÉ: Okay.

18 THE WITNESS: (Mr. Portuondo) -- or it might
19 be a full general rate case.

20 COMMISSIONER BRISÉ: Okay. Thank you.

21 CHAIRMAN BROWN: Thank you.

22 I know you guys are getting antsy. We are
23 getting towards the end of agreement, so please
24 bear with us.

25 MR. REHWINKEL: Madam Chairman, can I please

1 state for the -- just very quickly?

2 CHAIRMAN BROWN: Sure.

3 MR. REHWINKEL: The benefits that customers
4 see is that if there are any tax changes before any
5 of these rate increases go in effect, those rate
6 increases that are set out in the agreement will be
7 adjusted downward. If there is any change, there
8 is a very quick mechanism, unlike what happened in
9 the '80s, that would flow the reductions back
10 quickly, and there -- or there are safety nets. So
11 we see a lot of upside in this, so thank you.

12 CHAIRMAN BROWN: All right. Moving on,
13 electric vehicle charging station, pilot program.

14 Commissioners, any questions?

15 I just had a question regarding the rate --
16 the price, paragraph 17C. Will Duke -- how -- what
17 is the appropriate rate price?

18 THE WITNESS: (Mr. Portuondo) So as
19 contemplated by the settlement, Duke -- Duke will
20 apply its standard rates that its approved by this
21 commission. So more than likely, the most common
22 rate applied would be the general service time of
23 use rate.

24 CHAIRMAN BROWN: So it won't be a separate
25 charge on the bill?

1 THE WITNESS: (Mr. Portuondo) So -- so -- and
2 I heard the comments of our speaker earlier.

3 So the way Duke Energy is envisioning this
4 pilot to work is that the facilities will be
5 installed at a host location, and the host will be
6 asked whether they wish the facility to be behind
7 their existing facility, their existing house meter
8 or business meter. And in situations like that,
9 then the customer -- or the host will be accepting
10 responsibility for the consumption on those -- on
11 those charging facilities. Then that customer will
12 be permitted to charge the end use consumer, as
13 provided by statute, the price for the consumption
14 for every charge as they see fit, and the utility
15 will collect the revenues for the consumption based
16 on the building's or business' main tariff, or the
17 general service time of use, for example. So the
18 host does have choice, as provided for in current
19 Florida Statute, in a situation where they take
20 responsibility for it behind the meter.

21 The host may also choose to not charge its
22 employees, let's say. So in a situation like that,
23 it's simply collecting the tariff rate, so very
24 straightforward. It's almost identical as it
25 relates to the utility collecting revenues.

1 And then the third possible host decision is
2 that they don't want to be involved at all. They
3 want a stand-alone facility with its own meter. In
4 a situation like that, this paragraph tells us that
5 the utility will use a billing agent, in essence,
6 to charge the end consumer, realizing that we want
7 to collect based on the general service time of
8 use, but also realizing that there is a billing
9 agent fee and other administrative costs that will
10 be collected via that billing process.

11 So I see the host having a role in the
12 decision process around the collection for
13 consumption.

14 CHAIRMAN BROWN: So for the last -- the last
15 scenario, the third-party billing agent, how are
16 they going to notify customers of the energy charge
17 versus the administrative charge?

18 THE WITNESS: (Mr. Portuondo) They -- I don't
19 believe they do today per the current statute on
20 the books for EV charging. There will be, I am
21 assuming, a price designated on the charging
22 facility itself, so the consumer will know how much
23 they are filling up. What's the rate per unit that
24 they are filling up, but may not necessarily know
25 the itemized component. It's just like when you go

1 to the gas station, you are going to get one total.
2 You don't see the itemization.

3 CHAIRMAN BROWN: Okay. No, that -- thank you.

4 And then the consumer education part, which I
5 think is a big part of this rollout, because, I
6 mean, you are installing how many meters under
7 here?

8 THE WITNESS: (Mr. Portuondo) 530 ports.

9 CHAIRMAN BROWN: Ports, pardon me, charging
10 stations --

11 THE WITNESS: Yeah.

12 CHAIRMAN BROWN: -- or so to peak. That's
13 huge. Currently, how many does -- do you know Duke
14 has in its territory?

15 THE WITNESS: (Mr. Portuondo) Well, according
16 to the petition, I think there is 1,900 or so in
17 the state, I believe, but we are not sure how many
18 reside in our service territory. There is no
19 mechanism to collect that -- that knowledge.

20 CHAIRMAN BROWN: Yeah, that's difficult.

21 THE WITNESS: (Mr. Portuondo) Yeah.

22 CHAIRMAN BROWN: Consumer education, how --
23 how are you going to role this out?

24 THE WITNESS: (Mr. Portuondo) We will be
25 working -- we will try and solicit, via RFP,

1 support from individuals that have expertise in
2 getting the word out, either through brochures or
3 school opportunities --

4 CHAIRMAN BROWN: Is let's talk about that.

5 THE WITNESS: (Mr. Portuondo) -- Universities
6 opportunities to -- to send folks into the
7 classroom maybe to -- to talk about or -- or leave
8 behind brochures that educate those individuals.

9 CHAIRMAN BROWN: Are -- is Duke going to
10 pursue a similar opportunity that, like TECO's, in
11 the classrooms with the driver education programs?

12 THE WITNESS: (Mr. Portuondo) We have started
13 to talk about that program but have not yet come to
14 a decision whether we are going to pursue that or
15 not.

16 CHAIRMAN BROWN: Okay. Anybody else on the EV
17 side?

18 COMMISSIONER CLARK: Madam Chair.

19 CHAIRMAN BROWN: Yes, sure. Commissioner
20 Clark.

21 COMMISSIONER CLARK: This may be an overly
22 technical question, but have you contemplated, as
23 you begin to role these out, if you allow these
24 ports to go behind the consumer's meter, the
25 difference in average cost per kilowatt hours to

1 the consumer? If you did this in a -- a small
2 retail convenience store that had a small demand
3 and a higher energy charge, as opposed to one of
4 Mr. Moyle's clients, who benefits from a very low
5 kilowatt hour cost, the difference in your retail
6 cost there, has that been contemplated?

7 THE WITNESS: (Mr. Portuondo) Well, the
8 question around rate design is an important one. I
9 think that is one of the reasons we like this
10 pilot, is it affords us the opportunity to see the
11 various price signals cus -- end use consumers of
12 the charging station and how they react to the
13 different tariffs.

14 You -- you -- you bring up a good example,
15 which we might run into is that maybe it's an
16 offers building that is on a demand type tariff and
17 they choose to take this on behind the meter.
18 Well, of course the -- the collection of revenues
19 for that -- that consumption will be based on that
20 demand tariff.

21 How they ultimately decide to charge their end
22 consumer will be up to the host. They may not
23 charge the end consumer based on the demand tariff
24 they are obligated to pay us under, right? So they
25 may send a different price signal to their

1 employees.

2 It will -- we, as the utility, because of the
3 pilot, we will have access to that information
4 and -- and be able to maybe draw some conclusions
5 on how that differentiation of price signals
6 influenced consumption.

7 So I think it will all be helpful in future
8 rate design that we will bring to the Commission as
9 part of this pilot. The Commission will have the
10 authority in that fourth year, when we present to
11 the Commission, to, in essence, establish policy as
12 to how EV charging should move forward, at least
13 for Duke Energy Florida, going forward.

14 COMMISSIONER CLARK: Madam Chairman, if I can
15 follow that.

16 I think that's a great point, is it does come
17 back to the Commission for final approval, but it
18 does appear up front to offer some very serious
19 competitive advantages, and I think our earlier
20 speaker kind of alluded to that fact. There could
21 be some really serious advantages to some consumers
22 who are going to benefit from those low energy
23 costs.

24 Thank you.

25 CHAIRMAN BROWN: Thank you, Commissioner

1 Clark.

2 Commissioner Polmann.

3 COMMISSIONER POLMANN: Thank you, Madam
4 Chairman.

5 That peaked my interest. You mentioned the, I
6 guess the pricing influence, or the, you know, the
7 rate that's charged for the -- at the charging
8 station and how that might influence. The analogy
9 would be the gasoline fuel cost for -- for
10 automobiles, and how does someone pick which gas
11 station they want to go to get their gas. If they
12 drive down, you know, two blocks down the street,
13 they might find it's two cents less.

14 In this particular case, there is a big
15 consequence to not charging your battery when you
16 need to, but the fact is that there is a scarcity
17 component to the market where you can -- where you
18 can recharge, and I think that there is a
19 possibility that that overwhelms the -- the
20 influence of pricing in the economic analysis.

21 So again, as a technical matter, it will be
22 curious to see how you do the analysis. And I
23 think we would like to know, in the context of your
24 pilot, how you account for that as to the -- the
25 further deployment and the, you know, the -- the

1 reach into the geographic space on the distribution
2 of these charging stations and the number of ports;
3 because the pricing at this stage, in this use of
4 electric vehicles, I would be more concerned as a
5 vehicle user where do I get to charge rather than
6 what it costs; because if they are far and few
7 between, the pricing is not that important to me.

8 THE WITNESS: (Mr. Portuondo) I agree.
9 Range -- range anxiety, yeah, absolutely.

10 COMMISSIONER POLMANN: Yeah.

11 THE WITNESS: (Mr. Portuondo) I think our
12 goal -- I think one of our -- one of the speakers
13 in the panel that you held, the roundtable,
14 mentioned Google Maps, so I mean, I would hope, and
15 I would encourage technical folks to make sure, as
16 we are deploying those ports, to be able to put
17 those out there somehow, I don't know how that
18 works, but communicate to Google Maps so that it
19 helps, you know, educate customers that it's out
20 there, but also the placement.

21 I mean, this pilot serves also that -- that
22 research opportunity to look at where opportunities
23 within our service territory would possibly create
24 the most used and useful location for these 530
25 ports. So I -- I totally agree that's an integral

1 component of this pilot.

2 COMMISSIONER POLMANN: Yeah, I think, you
3 know, the settlement, as I understand it, has the
4 pilot aspect, and what I am encouraging is -- is
5 coordination with the industry and with -- with,
6 you know, concerns from an economic research
7 perspective, and the market penetration and
8 utilization from the customer side, and work with
9 our staff in terms of what does that mean from a --
10 from a rate model perspective, because that's the
11 only way it's useful to us if there, in fact, is a,
12 you know, a rate aspect to it, because the very
13 different circumstance than the gasoline market.

14 Thank you.

15 CHAIRMAN BROWN: All right. We are moving
16 along here. We are on the economic development and
17 redevelopment tariffs that we approved back in 2013
18 settlement agreement. Any questions on that?

19 Seeing none, we are going to other matters,
20 pages 38 and onward has a lot of meaty stuff in the
21 other matters.

22 Commissioner Brisé.

23 COMMISSIONER BRISÉ: Just one area that I want
24 to look at is the fixed bill program and to see --
25 just want to confirm that there is not going to be

1 any subsidy associated with that program on
2 nonparticipants.

3 THE WITNESS: (Mr. Portuondo) Correct,
4 Commissioner. The way we have constructed the
5 fixed bill is such that we will recognize, for all
6 regulated purposes, the revenue stream that would
7 otherwise be collected from those customers
8 participating in properly crediting those revenues
9 to base rate or clauses respectively, so that it
10 eliminates any subsidization by nonparticipants.

11 CHAIRMAN BROWN: Okay. Commissioners, any
12 other questions on other matters?

13 Regarding the AMI meters, is Duke going to
14 pursue an opt-out tariff similar to Florida Power &
15 Light?

16 THE WITNESS: (Mr. Portuondo) Yes, ma'am, we
17 will pursuing an opt-out. I am not sure if it will
18 read exactly as FPL's, but we are in the process of
19 determining what that opt-out looks like
20 financially for our customers, and our goal is
21 to -- of course, we would have to file the tariff,
22 but even before filing, we would share the -- the
23 con -- con -- the concept being thought up by the
24 utility with our intervenor parties and the
25 Commission staff just to get a -- a feel for

1 whether we are in the right direction.

2 CHAIRMAN BROWN: Excellent.

3 And you said that -- the AMI's are going to be
4 deployed -- fully deployed to all customers by
5 2021?

6 THE WITNESS: (Mr. Portuondo) Yes, spring,
7 early summer of 2021, we will initiate full proceed
8 forward by, I want to say March or April of 2018.

9 CHAIRMAN BROWN: Okay. With regard to that --
10 studying the demand side solar on the system, how
11 is -- I think that's very interesting that -- that
12 this agreement contains that type of language in
13 there. How will Duke provide that information to
14 the Public Service Commission, and what are you
15 going to do with the data?

16 THE WITNESS: (Mr. Portuondo) So the idea is
17 to gather the data to better inform how we might
18 evolve our overall rate design. So this is focused
19 on this group of customers, but, in theory, we are
20 gathering the data in order to facilitate more
21 extensive load research and analysis on our overall
22 tarrif structure.

23 It's kind of been the same for a very, very
24 long time. Customer behavior, we are seeing, every
25 year, changing more and more. Technologies like

1 demand side solar entering the utility space. We
2 wand to take this information and, at some point,
3 come before you with rate design suggestions. And
4 I think at that time, the data will be presented as
5 the basis for those changes.

6 CHAIRMAN BROWN: Interesting.

7 Okay. With regard to the solar -- the shared
8 solar tarrif, how -- on page 45, paragraph 33, can
9 you explain how this will work? I know there was a
10 data request, too, and I read it, I'm just trying
11 to grab -- you know, understand it a little more.

12 THE WITNESS: (Mr. Portuondo) Sure. Pretty
13 straightforward, there is a -- a fixed price per
14 block that is established in the tarrif. It
15 affords customers that have a desire to participate
16 and encourage solar but may not have the roof space
17 or the ability, if they are in apartment buildings,
18 to actually seek out and install their own panels.

19 So there is an opportunity for them to
20 participate through this program. There will be a
21 cost associated with it, but then they will get the
22 credit associated with the solar panels, or the
23 block of solar panels that they have subscribed to.

24 CHAIRMAN BROWN: Do you see an appetite for
25 that in the Duke territory?

1 THE WITNESS: (Mr. Portuondo) We -- we have
2 done some focus groups. There -- the focus groups
3 did indicate that there was some interest. I would
4 be honest, it wasn't a lot, but we found ourselves
5 as the odd man out, because other utility peers in
6 the -- in the state have such programs --

7 CHAIRMAN BROWN: One, right?

8 THE WITNESS: -- but we did not.

9 CHAIRMAN BROWN: One IOU.

10 THE WITNESS: (Mr. Portuondo) I think both
11 FP&L, TECO and I think Gulf all have a -- a similar
12 type product customers can participate in.

13 CHAIRMAN BROWN: I still don't -- I don't
14 understand it. I don't -- I can't get in the
15 customer's mind. I don't understand who would want
16 to do that.

17 THE WITNESS: (Mr. Portuondo) If it was me, I
18 am not sure I -- I don't -- it's -- it's going to
19 be a niche group, that's why it's optional. It --
20 it --

21 CHAIRMAN BROWN: And the other ratepayers
22 aren't -- aren't paying for it.

23 THE WITNESS: (Mr. Portuondo) Aren't harmed.

24 CHAIRMAN BROWN: All right. Thank you.

25 And lastly, going to the recovery of storm

1 related costs, that provision on page 4938C,
2 it's -- it mirrors the 2013 settlement agreement.

3 THE WITNESS: (Mr. Portuondo) Yes.

4 CHAIRMAN BROWN: So regarding Hurricane Irma,
5 Duke can utilize either section, but it's really
6 the same.

7 THE WITNESS: (Mr. Portuondo) It's identical.

8 CHAIRMAN BROWN: To FEMA, historically, Duke
9 has, and the utilities, have not qualified for
10 FEMA, correct?

11 THE WITNESS: (Mr. Portuondo) Correct.

12 CHAIRMAN BROWN: So but how -- but you are
13 pursuing that?

14 THE WITNESS: (Mr. Portuondo) We have engaged
15 our Washington, DC, employees. They are keeping
16 their ear to the ground in terms of disaster
17 relieve legislation, any interest in modifying the
18 protocols for FEMA, so that we are on the ground,
19 first in line to make suggestions where necessary.

20 CHAIRMAN BROWN: Do you think there is a
21 likelihood that there will be --

22 THE WITNESS: (Mr. Portuondo) It's hard to
23 predict, but I would say that it's probably
24 extremely difficult --

25 CHAIRMAN BROWN: I mean, I know some people --

1 THE WITNESS: (Mr. Portuondo) -- given
2 history.

3 CHAIRMAN BROWN: -- that have qualified for
4 FEMA and --

5 THE WITNESS: (Mr. Portuondo) Yeah.

6 CHAIRMAN BROWN: -- it just will blow your
7 mind.

8 THE WITNESS: (Mr. Portuondo) Yeah.

9 CHAIRMAN BROWN: Commissioner Polmann.

10 COMMISSIONER POLMANN: Thank you, Madam
11 Chairman.

12 Looking at the ROE, it's paragraph 37 on page
13 48. Is this a continuation or carryover from the
14 2013 settlement? Are there any changes from the
15 2000 -- from the prior settlement to this or is
16 it --

17 THE WITNESS: (Mr. Portuondo) It is a
18 carryover, and there is no change.

19 COMMISSIONER POLMANN: No change in that,
20 okay.

21 Question for staff on the same issue. How
22 does the -- the ROE here compare to that that's
23 been approved for other IOUs? Is this generally
24 similar or --

25 MR. MAUREY: It's generally similar.

1 COMMISSIONER POLMANN: Okay. So it's in line
2 with what we've approved for other cases?

3 MR. MAUREY: There are five IOUs in the state.
4 Three of ROEs use a 10.25, this is 10.5, and there
5 is one other with 10.55 midpoints.

6 COMMISSIONER POLMANN: Okay. Thank you.

7 CHAIRMAN BROWN: Commissioners, any other
8 questions on the settlement agreement before we get
9 into discussion?

10 Seeing none, gentlemen, you can -- you are
11 adjourned from those sets. Thank you.

12 MR. MOYLE: Madam Chair, could I just follow
13 up on your question briefly?

14 CHAIRMAN BROWN: Sure, not yet.

15 MR. MOYLE: Yeah, and this is something that
16 FIPUG is -- is looking at, and you asked the
17 question about -- about FEMA, you know. And it's
18 our understanding that FEMA currently will pay for
19 electric infrastructure damage to municipals and
20 cooperatives --

21 CHAIRMAN BROWN: Right.

22 MR. MOYLE: -- but does not do so for
23 investor-owned utilities.

24 CHAIRMAN BROWN: Right.

25 MR. MOYLE: And, you know, my clients pay

1 federal tax, the utilities pay federal taxes, and
2 it seems --

3 CHAIRMAN BROWN: We pay them.

4 MR. MOYLE: Yeah, and it seems not to, you
5 know, necessarily make sense, or be -- be fair
6 because the, you know, you pay your taxes, but then
7 under the storm mechanisms, then, you know, you may
8 get hit again with a rate increase.

9 So if there was a way that, you know, Duke and
10 others could look and say, hey, why -- why don't
11 they treat them the same? It would -- it would
12 save, potentially, the ratepayers from a big rate
13 increase given Irma and the pending damage.

14 So I appreciate you bringing that up.

15 CHAIRMAN BROWN: Thank you for articulating --
16 those are my thoughts exactly, and so I appreciate
17 you articulating that sentiment, and I believe the
18 gentlemen heard our thoughts here, so --

19 THE WITNESS: (Mr. Portuondo) Correct. I
20 mean, that's -- that's the reason we've made it a
21 priority for our Washington folks to make sure they
22 get on the ground floor of any discussion
23 associated with disaster relief.

24 CHAIRMAN BROWN: Yes.

25 COMMISSIONER POLMANN: Mr. Moyle, if you could

1 fix that, we would appreciate it.

2 MR. MOYLE: I know you can't catch fish unless
3 you have a line in the water, right?

4 CHAIRMAN BROWN: It's a fairness problem
5 there, there is definitely a fairness problem.

6 MR. MOYLE: Thank you.

7 CHAIRMAN BROWN: All right. This concludes --
8 thank you, you gentlemen are adjourned --

9 (Witnesses excused.)

10 CHAIRMAN BROWN: This concludes the
11 questioning, although, please feel free, if you
12 have questions during the discussion portion of
13 this.

14 So now commissioners, I will open it up for
15 discussion on what type of action. My
16 understanding is that we are in a posture to take a
17 bench decision, if you all are comfortable doing
18 that. I personally am, but I -- I welcome thoughts
19 and comments on this proposal.

20 Commissioner Brisé.

21 COMMISSIONER BRISÉ: Thank you, Madam Chair.

22 You know, as most settlements that have come
23 before us historically, they have a variety of
24 things in them that probably traditionally we would
25 not be able to cover through our normal processes

1 as a package; and I think this package that is put
2 together covers not only the thing that's probably
3 most important to consumers is rate stability and
4 certainty, and so it covers that; and then what
5 consumers are thinking about, solar and EV and --
6 and opportunities to -- to manage their bills and
7 things of that nature. It also addresses hedging,
8 which is an important component. And if you live
9 in the I-4 corridor, CR3 is top of mind, and the
10 Levy project is top of mind as well.

11 And considering the fact that the amount of
12 money that is being taken off the table for
13 consumers is extremely important, and the risk that
14 is also -- that remains on the table is also being
15 taken off of the consumer as well.

16 So I think that this settlement, as a whole,
17 benefits consumers and is ultimately in the public
18 interest, and I commend all the parties for coming
19 together to provide such a fine product that we
20 can -- we can deliberate on and -- and think about.

21 I am in support of it, and I certainly hope
22 that my colleagues will also be in support of the
23 settlement.

24 CHAIRMAN BROWN: Thank you. Thank you for
25 those articulate words.

1 Commissioner Graham.

2 COMMISSIONER GRAHAM: Thank you, Madam Chair.

3 Ditto to what Commissioner Brisé said. I have
4 always been a huge fan of these settlements when
5 you guys can get together and sit down at the table
6 and work these things out. I particularly am very
7 excited about the ratepayers not being at any risk
8 to that almost a half -- just over a half billion
9 dollars worth of litigation risk. And in
10 actuality, unless I looked at these numbers
11 incorrectly, the rates are going down from what
12 they were supposed to be at the beginning of 2018,
13 and I think that's also a good thing.

14 So in line with what both the Chairman and
15 Commissioner Brisé said, I also support this.

16 CHAIRMAN BROWN: Thank you.

17 Commissioner Polmann.

18 COMMISSIONER POLMANN: Thank you, Madam
19 Chairman.

20 You indicated, Madam Chairman, that -- that we
21 have an opportunity for a bench decision. And for
22 purposes of clarity here in the -- in the public
23 space, I -- I would like to ask our General
24 Counsel, as our advisor, if -- if he can just give
25 us a very brief comment on the notion of the bench

1 decision, the fact that we can wrap this up, how is
2 that, in particular, a beneficial -- of benefit to
3 the public? And why is that something -- I just
4 want to have a better understanding the notion that
5 we are going to avoid a full proceeding.

6 Could you just give us a thumbnail on that,
7 please?

8 MR. HETRICK: I am going to defer to Mary Anne
9 since I have been here a year-and-a-half, and on
10 bench decisions, she has a long history of bench
11 decisions and different formats --

12 COMMISSIONER POLMANN: Thank you, sir.

13 MR. HETRICK: -- and I think you can give --
14 she can give a more comprehensive answer.

15 MS. HELTON: I hope I can.

16 COMMISSIONER POLMANN: The thumbnail, not the
17 long story.

18 MS. HELTON: I will make an attempt,
19 Commissioner Polmann.

20 Chapter 120 provides parties to proceedings
21 the opportunity to file a post-hearing brief; but
22 here, the parties have come together with a
23 settlement to recommend to you for approval, so
24 there is no request on the part of the parties to
25 file a brief.

1 They have provided you with information today,
2 and you have heard from two witnesses today that I
3 believe fully develop the record so that you know
4 now, and can make a decision today, whether you
5 believe this settlement is in the public interest
6 and it should be approved.

7 So I think for administrative efficiency, and
8 so that the -- the parties will know, and that the
9 public will know whether the settlement is approved
10 or not, you can take that action this morning.

11 COMMISSIONER POLMANN: Thank you, ma'am.

12 Madam Chairman, I -- I support and agree with
13 comments from Commissioner Brisé and Commissioner
14 Graham. I -- I would -- I would echo -- and let me
15 just state here in my words some important points,
16 as I see them.

17 With regard to Levy -- and I think this is
18 critical in my view -- the fact that Duke is taking
19 upon themselves so much of that cost, and writing
20 off a great deal of the money, it is a tremendous
21 benefit to the public that it, in fact, reading
22 from that, that there will never be any Levy
23 nuclear power related costs coming back on to
24 the -- to the retail ratepayers is a tremendous
25 benefit.

1 The settlement that's been provided here
2 really resolves years of controversy and -- and
3 litigation, and I just see that as a tremendous
4 benefit.

5 The fact that the signatories here represent
6 both the residential and commercial classes shows
7 that, really everyone, all the customers are fairly
8 represented, and I truly applaud the collected
9 effort.

10 As mentioned, the -- the degree of stability
11 and predictability, I see as also a public benefit.
12 And overall, I think this provides a true and valid
13 opportunity to avoid and prevent the cost of
14 litigation that we -- we may otherwise see.

15 So I support moving forward through the bench
16 decision, and I would encourage all of us to
17 consider it as in the public interest.

18 CHAIRMAN BROWN: Thank you, Commissioner
19 Polmann.

20 Well, I want to thank the parties first off
21 for coming together. I didn't know there were
22 discussions or anything, of course. We had no
23 clue. But to see such an extremely complex
24 agreement that covers so many areas with so many
25 different interest groups who are represented here

1 today, like Commissioner Polmann said, almost every
2 customer group here, all the ratepayers, Mr.
3 Rehwinkel, you and Public Counsel have been very
4 involved since the on -- since the first settlement
5 agreement, in your advocacy on behalf of consumers.
6 So it is very compelling to have all of you here
7 today along with the environmental groups here.

8 And I want to say, as the others have said, to
9 me, probably the biggest selling point is the full
10 exodus of Levy. Shareholders are going to be on
11 the hook, and costs associated with that proposal,
12 customers will never have to pay again. Being from
13 the Tampa Bay area, we've heard about that since
14 before I got on the Commission -- right when I got
15 on the Commission, and as along with CR3, and I
16 know that the customer sentiment will be very
17 appreciative of that, so we thank Duke for that
18 concession.

19 I also think this is going to transform Duke
20 Energy Florida's solar footprint. Bold proposal of
21 700 megawatts, very exciting. Also it's going to
22 advance the relatively aggressive EV footprint,
23 which is commendable, as well as battery storage.
24 I think these emerging technologies are integral
25 for utilities to engage in and to embrace in the

1 21st Century.

2 So while this has a host of issues, I think,
3 over all, it is the certainty, the predictability,
4 these other concessions that I have said make this
5 agreement in the public interest, and want to thank
6 you all so much for coming here to present this
7 before us today.

8 With that, I am ready for a motion.

9 Commissioner Brisé.

10 COMMISSIONER BRISÉ: Thank you, Madam Chair.

11 And considering all the comments that have
12 been made by my colleagues, I think it's safe to
13 assume that we have the votes, so I move that we
14 accept the settlement as presented by Duke and the
15 parties, and I move approval.

16 CHAIRMAN BROWN: Is there a second?

17 COMMISSIONER GRAHAM: Second.

18 CHAIRMAN BROWN: Is there any further
19 discussion?

20 Seeing none, all those in favor, signify by
21 saying aye.

22 (Chorus of ayes.)

23 CHAIRMAN BROWN: Opposed?

24 Passes unanimously.

25 Thank you, and congratulations.

1 Are there any other matters that we need to
2 address today?

3 MS. MAPP: No, there are no further matters to
4 address.

5 CHAIRMAN BROWN: Parties, appreciate all of
6 your work that you put forth. I know it sounds
7 like you have been doing this for months, and it
8 was successful, so thank you very much for this
9 proposal.

10 And seeing no additional matters from the
11 parties, this hearing is adjourned.

12 The time is 11:30. We will take a lunch break
13 before we begin the clauses. So we will reconvene
14 at 12:30.

15 All right. Thank you.

16 (Whereupon, the proceedings were concluded at
17 11:32 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED this 3rd day of November, 2017.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #GG015952
EXPIRES JULY 27, 2020