

1 BEFORE THE  
2 FLORIDA PUBLIC SERVICE COMMISSION

3 FILED 11/8/2018  
4 DOCUMENT NO. 07030-2018  
5 FPSC - COMMISSION CLERK

6 In the Matter of:

7 DOCKET NO. 20180001-EI

8 FUEL AND PURCHASED POWER  
9 COST RECOVERY CLAUSE WITH  
10 GENERATING PERFORMANCE  
11 INCENTIVE FACTOR.  
12 \_\_\_\_\_/

13 VOLUME 4  
14 PAGES 425 through 436

15 PROCEEDINGS: HEARING  
16 COMMISSIONERS  
17 PARTICIPATING: CHAIRMAN ART GRAHAM  
18 COMMISSIONER JULIE I. BROWN  
19 COMMISSIONER DONALD J. POLMANN  
20 COMMISSIONER GARY F. CLARK  
21 COMMISSIONER ANDREW G. FAY

22 DATE: Tuesday, November 6, 2018

23 TIME: Commenced: 9:00 A.M.  
24 Concluded: 10:13 A.M.

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

REPORTED BY: DEBRA R. KRICK  
Court Reporter

APPEARANCES: (As heretofore noted.)

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

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

2 (Transcript follows in sequence from  
3 Volume 3.)

4 COMMISSIONER CLARK: All right. It is nine  
5 o'clock. If everyone will take their places. We  
6 will reconvene this hearing this morning.

7 I think -- I know where we left off, but I  
8 think we might have a couple of preliminary matters  
9 to begin with this morning. Mr. Bernier, you or  
10 Mr. Rehwinkel, you want to go first? Mr. Bernier.

11 MR. BERNIER: I don't know, Charles, if you  
12 want to go.

13 COMMISSIONER CLARK: Charles.

14 MR. REHWINKEL: Yes. Mr. Chairman, thank you,  
15 and good morning.

16 We wanted to take up some preliminary matters  
17 with the Commission, but we have a preliminary  
18 preliminary matter to ask you about, which would be  
19 that as a result of some initial conversations that  
20 we've had overnight and today, we have made -- we  
21 have approached the company and asked them to  
22 explore an option, and they've agreed to at least  
23 explore it. And I think to explore it, at least  
24 initially, they would need maybe 30 minutes. And  
25 Mr. Bernier can speak to that. But if that's the

1 amount of time we need, we would ask the Commission  
2 to give us leave to do that and come back to you  
3 and either address their output of that or continue  
4 with the hearing.

5 COMMISSIONER CLARK: All right. Mr. Bernier.

6 MR. BERNIER: Yes, Mr. Chairman, I can agree  
7 with what Mr. Rehwinkel has said, that they have  
8 presented an option that we would like to take a  
9 look at, but to do that, I need about a half hour  
10 to confer with my client, and then we can come  
11 back, or possibly I may be in a position where I am  
12 coming back and asking for a little bit more time  
13 just based on availability, but I think a half hour  
14 should get us where we need to be.

15 COMMISSIONER CLARK: The parties are all in  
16 agreement?

17 MR. BREW: Yes.

18 COMMISSIONER CLARK: Okay. Staff, any issues  
19 or problems?

20 Commissioners? Chairman Graham.

21 CHAIRMAN GRAHAM: It's always interesting to  
22 me the things that people come up with not to start  
23 at nine o'clock in the morning. Some people just  
24 are damned determined to start at 9:30.

25 COMMISSIONER CLARK: Valid point, Mr.

1 Chairman.

2 All right. We will stand in recess for 30  
3 minutes.

4 MR. BERNIER: Thank you, sir.

5 (Brief recess.)

6 COMMISSIONER CLARK: We will stay in recess  
7 for 10 more minutes.

8 (Brief recess.)

9 COMMISSIONER CLARK: All right. We will call  
10 the meeting back to order.

11 I understand that the parties may have reached  
12 some stipulations.

13 Mr. Rehwinkel, would you like to go first?

14 MR. REHWINKEL: Yes, Mr. Chairman.

15 I was prepared to announce a stipulation, but  
16 based on the rain and the fact that we are going to  
17 be here, we are just going to go ahead.

18 MR. BERNIER: I object.

19 MR. REHWINKEL: And I don't have an umbrella.

20 No, in all seriousness, I would like to thank  
21 the Commission for giving us the time to continue  
22 the discussions that we began today. We put that  
23 time to good use, and after discussions with Duke,  
24 the Florida Retail Federation, PCS Phosphate and  
25 the Office of Public Counsel, who are the consumer

1 parties who have positions on the issue dealing  
2 with the Bartow plant have reached an agreement to  
3 do this: To allow the recovery of replacement  
4 power costs of \$11.1 million subject to final  
5 true-up in a subsequent fuel docket proceeding  
6 based on the availability of essential information.

7 And we also agree that Duke will file a  
8 revised request for confidential classification for  
9 the root cause analysis that is attached to Mr.  
10 Swartz's testimony as Exhibit JS-1.

11 That will allow the Commission to resolve  
12 Issue 1B. And it will also resolve the fallout  
13 issues of 8, 10, 18, 20 and 22. There will be no  
14 cross-examination and no briefs filed on those  
15 issues I just listed.

16 COMMISSIONER CLARK: Okay.

17 MR. REHWINKEL: And that is the proposal.  
18 That would mean that we would could end the hearing  
19 after the Commission considers and votes on the  
20 stipulation.

21 COMMISSIONER CLARK: All right. The other  
22 parties are in agreement?

23 MR. BREW: Yes, Mr. Chairman. We think it's a  
24 fair and very appropriate way to address those  
25 issues given where we stand today.

1 COMMISSIONER CLARK: Thank you, Mr. Wright.

2 MR. WRIGHT: Yes, sir. And we agree, and it  
3 is a Type 1 stipulation. We are all in agreement  
4 and support this one. Thanks.

5 COMMISSIONER CLARK: All right. Mr. Bernier.

6 MR. BERNIER: Yes, sir. DEF agrees as well.  
7 And we appreciate the Commission's time while we  
8 worked through this, and the parties' willingness  
9 to work through the issue with us.

10 COMMISSIONER CLARK: Very good.

11 All right. Ms. Brownless, as I understand,  
12 this is basically, from our perspective, would be  
13 stipulating 1B, 8, 10, 18, 20 and 22; is that a  
14 correct interpretation?

15 MS. BROWNLESS: Yes, sir.

16 COMMISSIONER CLARK: Okay. Do you have  
17 anything to add?

18 MS. BROWNLESS: No, sir.

19 COMMISSIONER CLARK: All right. Then it's up  
20 to the Commission if you would like to make a  
21 motion to approve the stipulation agreements.

22 Commissioner Polmann.

23 COMMISSIONER POLMANN: Thank you, Mr.  
24 Chairman.

25 Could I please get clarification on the

1 subject two part of the statement, Mr. Rehwinkel,  
2 or staff?

3 You listed the recovery \$11.1 million in a  
4 subsequent proceeding. I didn't quite follow the  
5 meaning of subsequent, nor was I clear on  
6 everything subject to, and perhaps, Mr. Chairman,  
7 it would be convenient, if not most clear, if we  
8 could simply see that in writing. I am not  
9 requiring that, but I sure would like clarification  
10 on what I just asked for.

11 MR. REHWINKEL: Commissioner Polmann, I hope I  
12 read subsequent fuel docket proceeding. The  
13 intention is that, based on what we know today,  
14 that we would address this issue in the 20190001  
15 fuel hearing, and -- I mean, we've written this up,  
16 and it can be reduced to writing for the  
17 Commissioners to consider, if that's your pressure.  
18 I think the staff has what I read from.

19 COMMISSIONER CLARK: Mr. Wright.

20 MR. WRIGHT: Just to put slight additional  
21 clarification on that. There is some concern that  
22 we may not have all of the essential information  
23 referred to in the stipulation in time to properly  
24 address it in next year's hearing this time of year  
25 next year. We are completely agreeable that it be

1 in the fuel docket, but -- and our target is next  
2 November, but it might not work that way, depending  
3 on how everything else comes out. There is a lot  
4 that has to happen before we would be able to  
5 litigate that fully.

6 Thanks.

7 COMMISSIONER CLARK: Understood.

8 And, Commissioner Polmann, from your  
9 perspective, you would just like to see that in  
10 writing just from -- and Ms. Brownless had written  
11 out a draft -- a copy there. Ms. Brownless, would  
12 you share that with Commissioner Polmann?

13 MS. BROWNLESS: Sure.

14 COMMISSIONER CLARK: Did anybody else need to  
15 see that as well?

16 COMMISSIONER POLMANN: Mr. Chairman, I would  
17 ask if I see it that the entire Commission be  
18 provided a copy. I am not prepared to vote on this  
19 right now without seeing whatever the staff has.

20 COMMISSIONER CLARK: Okay. Well, you can  
21 share it with the entire Commission.

22 Those are the -- Ms. Brownless listed out  
23 three specific -- the three specific things that  
24 the parties have agreed to. I am assuming you guys  
25 were a party to that. It's a pretty simplified



1 agreement.

2 MS. HELTON: And as I understand it, and  
3 hopefully this will be helpful. What I understand  
4 the parties to be asking today is to allow the  
5 recovery of 11.1 replacement power cost, but the  
6 substantive decision on the appropriateness of that  
7 recovery will be put off until, at the earliest,  
8 next year's fuel docket.

9 COMMISSIONER CLARK: Meaning it's subject to  
10 true-up.

11 MS. HELTON: Subject to true-up, yes, sir.

12 Brew wants to --

13 COMMISSIONER CLARK: Yeah, Mr. Brew.

14 MR. BREW: Yeah, just to -- the way I would  
15 put it is we are agreeable to allowing 11.1 million  
16 that the company has requested in the fuel recovery  
17 here, but that decision is not final as to the  
18 ultimate rate-making.

19 COMMISSIONER CLARK: Right. Okay.

20 All right. Commissioners, any other  
21 questions?

22 Okay. Is there a motion to approve the  
23 stipulations?

24 COMMISSIONER GRAHAM: So moved.

25 COMMISSIONER CLARK: I have a motion. Is

1           their a second?

2           COMMISSIONER FAY: I will second.

3           COMMISSIONER CLARK: I have a motion and a  
4           second to approve the stipulations as presented.

5           Any discussion?

6           On the motion, all in savor, say aye.

7           (Chorus of ayes.)

8           COMMISSIONER CLARK: All opposed?

9           COMMISSIONER POLMANN: No.

10          COMMISSIONER CLARK: Okay. Motion carries.

11          All right. That concludes that portion. I  
12          believe that takes care of all of the matters. I  
13          believe -- would you like to excuse your witness,  
14          Mr. Bernier?

15          MR. BERNIER: Yes, sir. Thank you very much.

16          COMMISSIONER CLARK: All right. The witness  
17          is excused.

18          (Witness excused.)

19          COMMISSIONER CLARK: All right. I think that  
20          takes care of all of the matters related to that.

21          We moved all of the exhibits, correct, Ms.  
22          Brownless?

23          MS. BROWNLESS: Yes, sir. We have all the  
24          exhibits moved in.

25          I do want to remind the Commission that FIPUG

1 has asked to brief the FPL SoBRA issues, and so  
2 their brief will be due on November 16th. The word  
3 limit for the parties' post-hearing brief summary  
4 of position is 50 words. The page limit for the  
5 briefs is 40 pages. And the FP&L SoBRA issues,  
6 which are Issues 2M, 2N, 2P, 2Q, 2R and 2S are the  
7 only remaining issues, and those are all FPL.

8 COMMISSIONER CLARK: And as I understand it,  
9 the parties waived the briefs on the Duke -- on the  
10 DEF issue?

11 MS. BROWNLESS: Yes.

12 COMMISSIONER CLARK: Okay. Correct.

13 All right. I believe that takes care of all  
14 our matters.

15 Any party have any other matter to address?

16 Well, then let me say thank you to each of you  
17 for the diligence that you put into making this a  
18 lot quicker than what we expected this morning.  
19 Thank you all for your cooperation. Y'all have a  
20 great day.

21 The meeting is adjourned.

22 (Proceedings concluded at 10:13 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 8th day of November, 2018.



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