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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20200245-EI

Petition for a limited proceeding  
to approve third solar base rate  
adjustment, by Duke Energy  
Florida, LLC.

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PROCEEDINGS: COMMISSION CONFERENCE AGENDA  
ITEM NO. 2

COMMISSIONERS  
PARTICIPATING: CHAIRMAN GARY F. CLARK  
COMMISSIONER ART GRAHAM  
COMMISSIONER JULIE I. BROWN  
COMMISSIONER ANDREW GILES FAY  
COMMISSIONER MIKE LA ROSA

DATE: Tuesday, February 2, 2021

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

REPORTED BY: DEBRA R. KRICK  
Court Reporter and  
Notary Public in and for  
the State of Florida at Large

PREMIER REPORTING  
114 W. 5TH AVENUE  
TALLAHASSEE, FLORIDA  
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1 P R O C E E D I N G S

2 CHAIRMAN CLARK: All right. Our first item  
3 for discussion this morning is Item No. 2.

4 Mr. Futrell, will you introduce --  
5 (Technical interruption.)

6 CHAIRMAN CLARK: Story of my life, I have  
7 reached my maximum recording time.

8 All right, we are ready to go, Mr. Futrell.

9 MR. FUTRELL: Thank you, Mr. Chairman. Good  
10 morning, Commissioners. Mark Futrell with Staff.

11 Item 2 is Staff's recommendation on Duke  
12 Energy Florida's petition for approval of its third  
13 solar base rate adjustment, or SoBRA.

14 Five projects within the third SoBRA meet the  
15 requirements of the 2017 base rate settlement  
16 agreement in that the solar projects are below the  
17 installed capacity cost cap with lower Duke system  
18 costs compared to system costs without the SoBRA  
19 projects would improve Duke's summer reserve margin  
20 and help diversify the sources of generating  
21 capacity.

22 No customer comments were filed in the docket.  
23 Staff recommends approval of the petition and  
24 recovery of the costs of the third SoBRA projects.

25 Mr. Charles Rehwinkel with the Office of

1 Public Counsel would like to address the  
2 Commission, and representatives of Duke Energy  
3 Florida are available for questions, as is staff.

4 CHAIRMAN CLARK: Thank you, Mr. Futrell.

5 Mr. Rehwinkel, are you on the line?

6 MR. REHWINKEL: Yes, I am. Thank you, Mr.  
7 Chairman and Commissioners.

8 My name is Charles Rehwinkel with the Office  
9 of Public Counsel, and I just want to say -- make a  
10 few remarks about this third SoBRA.

11 Just for background and understanding, the  
12 Office of Public Counsel, as you know, was part of  
13 the settlement agreement in 2017 that brought  
14 large-scale solar to Duke's customers, and it is an  
15 agreement that we are extremely proud of.

16 As you know, Commissioners, this is the first  
17 agenda in about 13 years that Mr. Kelly will not be  
18 participating in, and I just wanted to take an  
19 opportunity to say for the record that this is  
20 something that, along with the settlement  
21 agreements with Florida Power & Light in 2016 and  
22 Tampa Electric Company in 2017, Mr. Kelly was  
23 proudest of in bringing large-scale solar to the  
24 benefit of customers and the state of Florida, and  
25 I just wanted to state that for the record.

1           As you have observed over the years, the  
2           Public Counsel's office has intervened in all of  
3           the SoBRA dockets with respect to Duke and Tampa  
4           Electric Company. We did intervene in the initial  
5           petition related to the Duke third SoBRA in June of  
6           2020, but due to some procedural issues with  
7           respect to one of the projects, Duke withdrew that  
8           petition and refiled the current docketed petition  
9           which we did not intervene in.

10           This -- the reason for our non-intervention  
11           was that the Public Counsel's Office, as you are  
12           aware, entered into some discussions with Duke over  
13           the past few months that -- that resulted in a  
14           comprehensive global settlement agreement that is  
15           pending before you right now.

16           As a part of those discussions, we had  
17           committed to Duke, if they brought a project back  
18           that was at least as cost-effective as the project  
19           that was the reason for the withdrawal of the  
20           initial third SoBRA petition, we would make our  
21           comments at this agenda and we would not ask for a  
22           hearing in the docket. For that reason we did not  
23           intervene, but our comments are as follows:

24           We continue to have concerns about the issue  
25           of leasing versus purchasing land. The Commission

1 has allowed projects with both Tampa Electric and  
2 Duke to go forward with leases that are evaluated  
3 on a if purchased basis, and the Commission has  
4 determined that such projects meet the criteria  
5 that is contained in the SoBRA requirements in each  
6 settlement agreement. And that is the case with  
7 the two of the three projects here that are leased  
8 instead of purchased.

9 We are of the opinion that leasing is not as  
10 preferable to purchasing property for such  
11 long-term utility generation assets, but we  
12 understand there are reasons why leases are entered  
13 into in lieu of purchase.

14 We are satisfied that Duke has met the  
15 standards that the Commission has established for  
16 converting a lease stream to the equivalency of a  
17 purchase for purposes of evaluating whether the  
18 project meets the criteria established in the 2017  
19 order. And for that reason, we do not oppose the  
20 SoBRA that Duke seeks approval for in this third  
21 round, because it meets the criteria established in  
22 the settlement agreement that we entered into and  
23 that the Commission approved.

24 So for that reason, Commissioners, we are in  
25 support of staff's recommendation. And for the

1 record, we will not ask for a hearing on this  
2 project as it goes forward.

3 Thank you. And I -- I am here for any  
4 questions if you have any. Thank you.

5 CHAIRMAN CLARK: Thank you, Mr. Rehwinkel, for  
6 those comments. And also thank you for  
7 acknowledging the great work that Mr. J.R. Kelly  
8 public Counsel J.R. Kelly did for the State. We  
9 had a long discussion about that at our last  
10 meeting and acknowledged his contribution, but  
11 thank you for bringing that up.

12 All right. Any other participants?

13 Commissioners, do you have any questions?

14 Commissioner Fay.

15 COMMISSIONER FAY: Thank you, Mr. Chairman.

16 And I am -- I have been a big supporter of  
17 these SoBRAs. I can take little to no credit for  
18 these. I think this settlement was in 2017 when  
19 the parties entered into it, and it did, I think at  
20 the time, show some invasion and, you know, motive  
21 to get some of these solar generating projects out  
22 there.

23 With that said, when reviewing this third  
24 tranche, I did have a question. It does look like  
25 the kWac limitation that they put on the generation

1 is met based on the settlement, but then the  
2 capacity, once you add up the various projects,  
3 hits the ceiling that was set out by that  
4 settlement. So the recommendation mentions, I  
5 guess there is about 18.3 megawatts of capacity  
6 that could or could not be addressed in the future.  
7 So since -- you know, I think these are great, and  
8 I am supportive of them, but recognizing that what  
9 we have in front of us here has this cap that's set  
10 out in assessment, maybe we could get an idea of  
11 how the Commission could, or if it's more than one  
12 option, ways that we would see this in the future.

13 CHAIRMAN CLARK: Mr. Futrell. Go ahead.

14 MR. ELLIS: Mr. Phillips with the Division of  
15 Engineering is going to take a shot at answering  
16 that.

17 COMMISSIONER FAY: Okay.

18 MR. PHILLIPS: This is Donald with Engineering  
19 Staff.

20 It would really be at the company's discretion  
21 on how or even if they were to get recovery on this  
22 in the future. I would assume it would probably be  
23 in the next base rate adjustment, but it would  
24 really be at the discretion of the company on how  
25 they go forward in asking for recovery on that.

1           COMMISSIONER FAY: Okay. And do you know --  
2           that makes sense to me.

3           Do you know if there are alternatives coming  
4           forward to the Commission? Obviously it sounds  
5           like it's in the utility's hands to bring that  
6           forward, but if not done in the base rate, are  
7           there other ways it would be brought forward, or is  
8           that pretty much the way it could be done?

9           MR. PHILLIPS: I am not aware of any other  
10          method that the utility could use, however, there  
11          may be another way that I am just not aware of, so  
12          I don't want to say that's the only way they could  
13          do it, but I am not personally aware of another  
14          method in which they would be asking for recovery.

15          MS. TRIPLETT: Mr. Chair, this is -- this is  
16          Dianne Triplett with Duke Energy. I can answer  
17          Commissioner Fay's question --

18          CHAIRMAN CLARK: You are recognized.

19          MS. TRIPLETT: -- at your pleasure. Thank  
20          you, sir.

21          Good morning, Commissioners. Yes, it was  
22          contemplated that it would be likely another base  
23          rate proceeding. And I can say that the settlement  
24          agreement that was just filed that Mr. Rehwinkel  
25          mentioned does include that, I think it's 18 --

1           about 18 megawatts of capacity along with all of  
2           the other revenue requirements from -- it's 18,  
3           yeah, 18.6 megawatts of that last project, and so I  
4           don't -- I don't know that we would have had  
5           another opportunity, another way to get those -- to  
6           request recovery of those megawatts, but they are  
7           in the settlement agreement that we just passed.

8                   COMMISSIONER FAY: Okay. I appreciate the  
9           answer, Ms. Triplett. I think, once again,  
10          these -- these SoBRAs might be considered a little  
11          bit dated. I don't know how often we will see them  
12          in the future, but I do think they -- to Mr.  
13          Rehwinkel's point at the beginning of some of this,  
14          you know, the Office of Public Counsel, all the  
15          parties involved, my colleagues who were here  
16          before I got here, I think it was really a great  
17          start because it's hard to know what the pricing  
18          looks like for development of this generation, and  
19          that diversity of the energy portfolio is shown to  
20          be so key, so I appreciate the wherewithal to  
21          present these before maybe it was known exactly  
22          what the future would look like.

23                   So I will be supporting this item. I think  
24          my -- my colleague, Commissioner Brown, might have  
25          a comment before I do so, though, Mr. Chairman.

1           CHAIRMAN CLARK: Commissioner Brown, you are  
2 recognized.

3           COMMISSIONER BROWN: Thank you.

4           And Commissioner Fay, you are right, I just  
5 had a question, actually, to Mr. Rehwinkel's point  
6 on the leasing front. That was the only thing that  
7 really struck me in this tranche, and why Duke  
8 chose three of the projects to go with the leasing  
9 in lieu of purchasing, and how -- how you evaluate  
10 that, and how you are going to continue evaluating  
11 it as we move forward.

12          MS. TRIPLETT: Sure, Commissioner Brown.

13          I think, just generally speaking, when we look  
14 to, you know, either develop greenfield projects,  
15 or look at projects that are in our queue for  
16 acquisition, we want to cast as wide of a net as  
17 possible. And oftentimes, if we have a project  
18 that is already in our queue, the developers may  
19 have already entered into a long-term lease with a  
20 property owner that may be unwilling to sell the  
21 property, but we have found that even with the  
22 long-term leases, we get them for a period of time  
23 that covers the expected life, 30 years of the  
24 project, and then sometimes we get options to  
25 extend the terms of the least. And so we feel that

1           when you look at the total picture and the  
2           economics that they continue to be cost-effective,  
3           and it's a good way of the various interests when  
4           you think about land and the, you know, the  
5           scarcity of it, and whether we can get landowners  
6           to commit to -- to selling.

7                     And I would -- I believe Mr. Stout is on the  
8           phone, and I don't know if he has anything to had  
9           add to my response.

10                    MR. STOUT:  Yes.  Hi, Dianne, this is Matt  
11           Stout.  I am a Managing Director of Solar  
12           Development for Duke Energy.

13                    You know, we evaluate all the time both the  
14           option to purchase or the option to lease.  And as  
15           Dianne mentioned, sometimes that decision has been  
16           made if a developer has worked with the landowner  
17           prior to our involvement and we are acquiring the  
18           assets.

19                    But in the event that we are doing a new  
20           project, we certainly discuss both options with the  
21           landowner.  We evaluate the economics of both  
22           options in terms of the present value of the future  
23           lease payments versus the -- the cost to purchase  
24           the land.

25                    One of the -- you know, leases do provide some

1 flexibility in that you can more quickly enter into  
2 a lease option for a portion of a landowner's  
3 property without requiring a full subdivision to  
4 enter into a change of title, purchase of the  
5 assets.

6 So oftentimes it's the sort of first quickest  
7 way to enter into an agreement to study the land  
8 prior to buying it. And landowners often don't  
9 want to take a two-year option, which is around how  
10 much time it takes us to study the project, go  
11 through interconnect queues before we can start  
12 construction in two to three years, and a lot of  
13 landowners are just unwilling to tie up their land  
14 in a purchase option agreement for two or three  
15 years because they can't use it for other things,  
16 or can't put it on the market.

17 So it's -- you know, we evaluate both, and we  
18 are certainly willing to purchase if that's what  
19 makes the most economic sense.

20 COMMISSIONER BROWN: Thank you, Mr. Stout and  
21 Ms. Triplett. That was really helpful and I  
22 completely understand.

23 What -- Mr. Stout, now that we have you on the  
24 phone, and could you tell us what you are going to  
25 do with the remaining installation for Sandy Creek?

1           It's a small amount, and I am just curious what you  
2           all are doing with the remaining amount in the  
3           settlement agreement.

4           MS. TRIPLETT: Well, actually, Commissioner  
5           Brown, this is Ms. -- this is Ms. Triplett.

6           If you are asking what we intend to do from a  
7           regulatory perspective, I -- I probably am better  
8           suited to answer that.

9           COMMISSIONER BROWN: No. No. No. Just  
10          project-wise --

11          MS. TRIPLETT: Oh, okay.

12          COMMISSIONER BROWN: -- how you are going to  
13          utilize the remaining wattage.

14          MS. TRIPLETT: Mr. -- go ahead.

15          MR. STOUT: Well, I think we need to clarify  
16          the question utilize. You mean, like, how -- where  
17          will the power be delivered or how will the costs  
18          be recovered, or will -- can you maybe clarify what  
19          you mean by utilized?

20          COMMISSIONER BROWN: What type of solar  
21          project is it going to be? It's such a small scale  
22          and I am curious what the remaining, how it's going  
23          to be deployed.

24          MR. STOUT: It's being constructed as a single  
25          74.9 megawatt project, and it's really just on

1 paper that we are recovering the costs through  
2 different mechanisms.

3 COMMISSIONER BROWN: So you are combining the  
4 remaining amount into another project to make it a  
5 whole project?

6 MR. STOUT: Yes, it's a single point of  
7 interconnect. It's a single project under single  
8 fence line, all under the same contracts for  
9 purchase of equipment and construction, and the  
10 division of the project is really financial based  
11 on the proportionate megawatts that exceeded the --  
12 the -- the settlement agreement amount of 700  
13 megawatts.

14 COMMISSIONER BROWN: Thank you --

15 MS. TRIPLETT: Oh, this is Dianne Triplett, if  
16 I could just -- what it comes down to is there a  
17 was previous project in a previous tranche that was  
18 not at -- it was at a here amount than 74.9  
19 megawatts, because that was, at the time, the most  
20 cost-effective way to use the particular landside  
21 for that project. So when we got to the end of the  
22 700 megawatts, we could have just limited it,  
23 right, to the 56 megawatts, but that was not the  
24 most cost-effective way to build the solar. So we  
25 built it at the most cost-effective size, which is

1 the 74.9, but then we -- so we wanted the  
2 customers -- our customers to get the benefit of  
3 the larger scale, but then, as Mr. Stout explained,  
4 for purposes of recovery through the SoBRA, we  
5 split it out, so part of it is going through SoBRA  
6 and part would be recovered via the settlement  
7 agreement if approved.

8 COMMISSIONER BROWN: That's helpful.

9 And just -- in the settlement -- in the  
10 proposed settlement agreement that we will take up  
11 later this year, is that still at the installed  
12 cost cap, that amount -- that total project, is it  
13 below in a prior settlement agreement or is it a  
14 different maximum cost cap per kilowatt?

15 MS. TRIPLETT: It's the same costs that we put  
16 forward here, it's just the percentage. Now, the  
17 way that that's allocated for the settlement -- the  
18 rate case and settlement agreement is very  
19 different than what was in the SoBRA. But in terms  
20 of just the cost, the cost is what it is. And then  
21 of course, we have the true-up for the SoBRA piece.  
22 So if we go -- if we come under that amount, there  
23 is a mechanism under the SoBRA to flow those costs  
24 back to customers through a clause, but it is the  
25 same, the cost is what it is, and as Mr. Stout

1           said, we are building it as one project. So from  
2           Mr. Stout's perspective, it's on project, he is  
3           building it, and he has the budget cost cap that's  
4           set forth in the SoBRA settlement.

5           COMMISSIONER BROWN: Thank you.

6           One final question, Mr. Chairman.

7           And, Mr. Stout, are you seeing the solar costs  
8           come down? Has this progressed since the last  
9           settlement agreement? I mean, you can see right in  
10          the installed costs are well below the 1650.

11          MR. STOUT: Yes, we have definitely seen the  
12          costs come down. If you look back to 2016, '17,  
13          '18 was our first project built for this program,  
14          and I would say the rate at which the cost is  
15          declining is probably slowing down a little bit.  
16          You know, the pace at which they can take cost out  
17          of the production of the solar cells and the  
18          efficiencies that you gain constructing the  
19          projects, they just have somewhat diminishing  
20          returns.

21          So we do see declining costs, but the rate at  
22          which they are declining is slowing somewhat, and  
23          the -- certainly, the land is not going down in  
24          price. But all in all, we are seeing costs come  
25          down if you look at sort of the average and the

1           aggregate over time. Sometimes you have individual  
2           projects that might not fall exactly in place with  
3           the declining cost curve, but overall, we have seen  
4           costs coming down.

5           COMMISSIONER BROWN: Thank you.

6           CHAIRMAN CLARK: Thank you, Commissioner  
7           Brown.

8           Any other Commissioners have any questions,  
9           questions or comments?

10          All right. I will entertain your motion.

11          COMMISSIONER FAY: Mr. Chairman, I would  
12          approve -- I would move for approval of all issues  
13          on Item 2.

14          COMMISSIONER BROWN: Second.

15          CHAIRMAN CLARK: I have a motion and a second  
16          to approve all items.

17          Any discussion?

18          On the motion, all in favor say aye.

19          (Chorus of ayes.)

20          CHAIRMAN CLARK: Opposed?

21          (No response.)

22          CHAIRMAN CLARK: Motion carries.

23          (Agenda item concluded.)

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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 15th day of February, 2021.



DEBRA R. KRICK  
NOTARY PUBLIC  
COMMISSION #HH31926  
EXPIRES AUGUST 13, 2024