

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

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20220002-EG

In re: Energy conservation cost  
recovery clause.

\_\_\_\_\_ /

PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONERS  
PARTICIPATING: COMMISSIONER MIKE LA ROSA

DATE: Wednesday, November 2, 2022

TIME: Commenced: 9:30 a.m.  
Concluded: 11:49 a.m.

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

REPORTED BY: DEBRA R. KRICK  
Court Reporter

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

1 APPEARANCES:

2 MARIA JOSE MONCADA and WILL P. COX, ESQUIRES,  
3 700 Universe Boulevard, Juno Beach, Florida 33408-2863;  
4 appearing on behalf of Florida Power & Light Company  
5 (FPL).

6 DIANNE M. TRIPLETT, ESQUIRE, 299 First Avenue  
7 North, St. Petersburg, Florida 33701; MATTHEW R. BERNIER  
8 and STEPHANIE A. CUELLO, ESQUIRES, 106 East College  
9 Avenue, Suite 800, Tallahassee, Florida 32301; appearing  
10 on behalf of Duke Energy Florida, LLC (DEF).

11 J. JEFFREY WAHLEN, MALCOLM N. MEANS and  
12 VIRGINIA PONDER, ESQUIRES, Ausley Law Firm, Post Office  
13 Box 391, Tallahassee, Florida 32302; appearing on behalf  
14 of Tampa Electric Company (TECO).

15 BETH KEATING, ESQUIRE, Gunster Law Firm, 215  
16 South Monroe Street, Suite 601, Tallahassee, Florida  
17 32301; appearing on behalf of Florida Public Utilities  
18 Company (FPUC).

19 RICHARD GENTRY, PUBLIC COUNSEL; CHARLES J.  
20 REHWINKEL, DEPUTY PUBLIC COUNSEL; MARY A. WESSLING,  
21 ESQUIRE, OFFICE OF PUBLIC COUNSEL, c/o The Florida  
22 Legislature, 111 West Madison Street, Room 812,  
23 Tallahassee, Florida 32399-1400; appearing on behalf of  
24 the Citizens of the State of Florida (OPC).

25

1 APPEARANCES CONTINUED:

2 JON C. MOYLE, JR. and KAREN A. PUTNAL,  
3 ESQUIRES, Moyle Law Firm, 118 North Gadsden Street,  
4 Tallahassee, FL 32301; appearing on behalf of Florida  
5 Industrial Users Group (FIPUG).

6 PETER J. MATTHEIS, MICHAEL K. LAVANGA and  
7 JOSEPH R. BRISCAR, ESQUIRES, 1025 Thomas Jefferson  
8 Street, NW, Eighth Floor, West Tower, Washington, D.C.  
9 20007; appearing on behalf of Nucor Steel Florida, Inc.,  
10 (NUCOR).

11 JAMES W. BREW and LAURA W. BAKER, Stone Law  
12 Firm, 1025 Thomas Jefferson Street NW, Suite 800 West  
13 Washington, DC 20007; appearing on behalf of Florida  
14 White Springs Agricultural Chemicals, Inc., d/b/a PCS  
15 Phosphate - White Springs (PCS).

16 GEORGE CAVROS, ESQUIRE, 120 E. Oakland Park  
17 Boulevard, Suite 105, Fort Lauderdale, Florida 33334;  
18 appearing on behalf of Southern Alliance for Clean  
19 Energy (SACE).

20 WALT TRIERWEILER, ESQUIRE, FPSC General  
21 Counsel's Office, 2540 Shumard Oak Boulevard,  
22 Tallahassee, Florida 32399-0850, appearing on behalf of  
23 the Florida Public Service Commission (Staff).

24

25

1 APPEARANCES CONTINUED:

2 KEITH C. HETRICK, GENERAL COUNSEL; MARY ANNE  
3 HELTON, DEPUTY GENERAL COUNSEL, Florida Public Service  
4 Commission, 2540 Shumard Oak Boulevard, Tallahassee,  
5 Florida 32399-0850, Advisor to the Florida Public  
6 Service Commission.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

2 COMMISSIONER LA ROSA: Good morning, everyone.  
3 Thank you for the few extra minutes, just making  
4 sure we had the right paperwork in front of us.

5 Let's go ahead and let the record reflect that  
6 today is November 2nd. It is a little after 9:30,  
7 and we will call it this prehearing conference to  
8 order.

9 Mr. Jones, I think that's you. Please read  
10 the notice.

11 MR. JONES: By notice issued on October 12th,  
12 2022, this time and place has been set for a  
13 prehearing conference in Docket Nos. 20220001-EI,  
14 20220002-EG, 20220003-GU, 20220004-GU, 20220007-EI  
15 and 20220010-EI.

16 The purpose of these prehearings is set out  
17 more fully in the notice.

18 COMMISSIONER LA ROSA: Excellent. Thank you,  
19 Mr. Jones.

20 Let's move on to appearances.

21 MR. JONES: There are six dockets to address  
22 today. We suggest that all appearances be taken at  
23 once. All parties should enter their appearances  
24 and declare the dockets they are entering an  
25 appearance for. Several parties will make

1 appearances. After the parties make their  
2 appearances, staff will need to make theirs.

3 COMMISSIONER LA ROSA: Excellent. Thank you.

4 Let's start with Florida Power & Light and,  
5 just notice your name and then, of course, which  
6 docket you are a part of.

7 MS. MONCADA: Good morning, Commissioner.  
8 Thank you. Maria Moncada from Florida Power &  
9 Light. I would like to enter an appearance in the  
10 01, 02 and 07 docket; and in the 10 docket, would  
11 like to enter an appearance for Chris Wright. In  
12 the 01 docket, also an appearance for David Lee.  
13 In the 02 docket, an appearance for William Cox.  
14 And in the 07 docket, an appearance for Joel Baker.

15 Thank you.

16 MR. BERNIER: Good morning, Commissioner.  
17 Matt Bernier with Duke Energy Florida. I am  
18 appearing in the 01, 02, 07 and the 10 docket,  
19 along with Stephanie Cuello.

20 Thank you.

21 MR. MEANS: Good morning, Commissioner,  
22 Malcolm Means with the Ausley McMullen Law Firm  
23 appearing on behalf of Tampa Electric, and I would  
24 also like to enter appearances for Jeff Wahlen and  
25 Virginia Ponder. And we are appearing in the 01,

1           02, 07 and 10 dockets.

2           COMMISSIONER LA ROSA: Thank you.

3           MS. PONDER: Good morning. Virginia Ponder on  
4           behalf of Peoples Gas System, and with the Ausley  
5           McMullen Law Firm. And I would also like to enter  
6           an appearance for Jeff Wahlen and Malcolm Means in  
7           the 03 and 04 docket.

8           COMMISSIONER LA ROSA: Thank you.

9           MS. KEATING: Good morning, Commissioner.  
10          Beth Keating with the Gunster Law Firm here today  
11          for FPUC in the 01, 02, 03 and 10 dockets, for  
12          Florida City Gas in the 03 and 04 dockets. I would  
13          also like to enter an appearance for Chris Wright  
14          on behalf of Florida City Gas in the 03 and 04  
15          dockets. And I am also appearing on behalf of  
16          Sebring in the 04 docket.

17          COMMISSIONER LA ROSA: Thank you.

18          MR. BAKER: Good morning, Commissioner. Laura  
19          Baker with the law firm Stone Mattheis Xenopoulos &  
20          Brew appearing on behalf of White Springs  
21          Agriculture Chemicals PCS Phosphate. I would also  
22          like to enter an appearance for my partner James  
23          Brew in the 01, 02, 07 and 10 dockets.

24          MR. CAVROS: Good morning, Commissioner.

25          George Cavros on behalf of Southern Alliance for

1 Clean Energy in the 02 docket.

2 COMMISSIONER LA ROSA: Thank you.

3 MR. BRISCAR: Good morning, Commissioner.

4 Joseph Briscar for Nucor Steel Florida. I would  
5 like to also enter an appearance for Peter Mattheis  
6 and Michael Lavanga. We are appearing in the 01,  
7 02, 07 and 10 dockets.

8 COMMISSIONER LA ROSA: Thank you.

9 MR. WRIGHT: Thank you, Commissioner. Robert  
10 Scheffel Wright on behalf of the Florida Retail  
11 Federation. I would also like to enter an  
12 appearance for my law partner, John T. Lavia, III.  
13 And we are appearing only in the fuel October,  
14 0001.

15 Thank you.

16 MR. REHWINKEL: Good morning, Commissioner.  
17 Charles Rehwinkel with the Office of Public  
18 Counsel. I would like to enter an appearance for  
19 Richard Gentry, Patty Christensen and Ali Wessling  
20 in all dockets.

21 COMMISSIONER LA ROSA: Thank you.

22 MS. EATON: Good morning, Stephanie Eaton from  
23 the law firm Spilman Thomas & Battle, and I am  
24 appearing on behalf of Walmart in the 20220010  
25 docket.

1 COMMISSIONER LA ROSA: Thanks.

2 MR. MOYLE: Good morning. Jon Moyle on behalf  
3 of the Florida Industrial Power Users Group,  
4 commonly known as FIPUG. We are appearing in the  
5 01, 02, 07 and 10 docket. And I would also like to  
6 enter an appearance for Karen Putnal with our firm  
7 in all of those dockets as well.

8 Thank you.

9 COMMISSIONER LA ROSA: Thank you.

10 MR. JONES: For the 02 docket, we have Walter  
11 Trierweiler; the 03 docket, Ryan Sandy; for the 04  
12 docket, myself, Matthew Jones; for the 07 docket,  
13 Jacob Imig; for the 10 docket, Shaw Stiller; and  
14 for the 01 docket, Suzanne Brownless.

15 MS. HELTON: And Mary Anne Helton is here as  
16 your Advisor. I would also like to enter an  
17 appearance for your General Counsel, Keith Hetrick.

18 COMMISSIONER LA ROSA: Thank you.

19 Mr. Jones, are there any preliminary matters?

20 MR. JONES: We aren't aware of any preliminary  
21 matters at this time.

22 COMMISSIONER LA ROSA: Okay. Excellent.

23 Thank you. Thank you all, and thank you  
24 staff. We will discuss the dockets in the  
25 following order, so we will take them a little bit

1 out of order. We are going to go 02, 03, 04, 07  
2 and 10 and then to 01, just make a note of that.

3 Let's jump right in and jump into 02. Mr.  
4 Trierweiler, are there any preliminary matters we  
5 need to address before we jump into the draft  
6 prehearing order?

7 MR. TRIERWEILER: Good morning, Commissioner.

8 Yes, in the 02 docket, staff notes that we  
9 have Type 2 stipulations on all issues in this  
10 docket. Additionally, staff is a waiting  
11 confirmation from all parties that they are  
12 amenable to excusing witnesses.

13 COMMISSIONER LA ROSA: Does any of the parties  
14 have any preliminary matters? Seeing none.

15 Let's go through the draft prehearing order  
16 now. I will identify the sections, and then I want  
17 the parties to let me know if there is any  
18 corrections or changes that ultimately need to be  
19 made.

20 We may go through a lot of pretty quickly, so  
21 please speak up if you have any changes or any  
22 corrections that need to be made.

23 Section I, Case Background.

24 Section II, Conduct of Proceedings.

25 Section III, Jurisdiction.

1           Section IV, Procedures in Handling  
2           Confidential Information. None.

3           Section V, Prefiled Testimony and Exhibit,  
4           Witness. Staff, Section V.

5           MR. TRIERWEILER: Staff suggests that for any  
6           witness who is not excused that the summary of  
7           their testimony be no longer than three minutes.

8           COMMISSIONER LA ROSA: Okay. All parties, are  
9           you guys in agreement with that?

10          Okay. Let's go -- let's move on to Section  
11          VI. Staff, do you have something on that?

12          MR. TRIERWEILER: Yes.

13          If stipulations of issues and witnesses can be  
14          reached, as they have so far -- we haven't  
15          collected everyone, but we do have a Type 2 --  
16          staff will confirm with each Commissioner whether  
17          such witnesses can be excused. If no Commissioner  
18          has a question of a stipulated witness, the witness  
19          may be excused from the hearing and his or her  
20          testimony and exhibits entered into the record at  
21          the hearing as though read.

22          The OEP requires that each party take a  
23          position at the prehearing conference unless good  
24          cause can be shown why they can't do so. If a  
25          party's position in the draft prehearing order is

1 listed as no position at this time, that party must  
2 change it today or show good cause why it cannot  
3 take a position. Absent a showing of good cause, a  
4 prehearing order will reflect no position for that  
5 party on that issue.

6 If parties have not taken a position, or wish  
7 to change a position, staff suggests that they be  
8 allowed to do so by tomorrow at noon.

9 A no position on all -- on issues prohibits  
10 any party from cross-examining witnesses with  
11 regard to those issues or briefing on those issues.

12 Allow me a minute to confer, make sure that we  
13 are the same on dates and times.

14 COMMISSIONER LA ROSA: Sure.

15 MR. TRIERWEILER: For some of the dockets, we  
16 had recommended close of business. We are willing  
17 to conform to close of business tomorrow.

18 COMMISSIONER LA ROSA: Okay. Close of  
19 business tomorrow, okay. Show that noted.

20 Let's move to basic positions. Do the parties  
21 have any changes to their basic positions?

22 MR. CAVROS: Commissioner La Rosa.

23 COMMISSIONER LA ROSA: Yes, sir, you are  
24 recognized.

25 MR. CAVROS: Yes. SACE's basic position needs

1 to be revised, but I discussed that already with  
2 Mr. Trierweiler.

3 COMMISSIONER LA ROSA: Okay. Excellent.  
4 Noted.

5 Any others?

6 Okay. If we can get that in writing, and I  
7 know that's already been discussed, and have that  
8 in the office by the close of business tomorrow.

9 Let's move on to Issues and Positions.

10 MR. TRIERWEILER: Issues and Positions are  
11 included in the draft prehearing order, however,  
12 they are captured as stipulations as we have Type 2  
13 stipulations.

14 COMMISSIONER LA ROSA: Excellent. Parties,  
15 are there any other related matters that need to be  
16 discussed?

17 MR. MOYLE: Could I just make a point --

18 COMMISSIONER LA ROSA: Sir, you are  
19 recognized.

20 MR. MOYLE: -- if I could, that FIPUG, on the  
21 Type 2 stipulations, I didn't see it identified  
22 anywhere in here, but, you know, we have a common  
23 practice here that if you don't take a position,  
24 you don't want to stand in the way of a  
25 stipulation. That's what FIPUG is doing on all of

1           these Type 2 stipulations.

2           I thought I saw a footnote that OPC had put  
3           forward explaining that. If that footnote does  
4           find it's way in an order, FIPUG would like to be  
5           also listed as not taking any position, but we are  
6           not affirmatively agreeing to anything that is set  
7           forth as a stipulation. I just wanted the record  
8           to be clear on that point.

9           COMMISSIONER LA ROSA: Okay. Understood.

10          MR. TRIERWEILER: We will make sure that the  
11          order is clear on that point.

12          COMMISSIONER LA ROSA: Okay. Great.

13          Seeing nothing else, or -- OPC, you are  
14          recognized.

15          MR. REHWINKEL: Thank you, Mr. Chairman.

16          Just to be clear, we are going to include the  
17          standard Type 2 footnote that's -- okay.

18          MR. TRIERWEILER: That's correct.

19          MR. REHWINKEL: Thanks.

20          COMMISSIONER LA ROSA: Okay. Seeing -- seeing  
21          no others, let's move on to the exhibit list.  
22          Staff.

23          MR. TRIERWEILER: Issues and Positions -- I am  
24          sorry. Staff has prepared a Comprehensive Exhibit  
25          List that includes all prefiled exhibits, and also

1 includes those exhibits staff wishes to include in  
2 the record, and that CEL has been distributed to  
3 the parties. And at this point in time, there is  
4 no objections and has not been changed.

5 COMMISSIONER LA ROSA: Okay. Seeing none  
6 there.

7 Let's move on, then, to Proposed Stipulations.  
8 Staff.

9 MR. TRIERWEILER: Staff happily notes that we  
10 have Type 2 stipulations on all issues in this  
11 docket.

12 COMMISSIONER LA ROSA: Excellent.  
13 Pending motions.

14 MR. TRIERWEILER: None.

15 COMMISSIONER LA ROSA: Pending confidential  
16 motions -- confidentiality motions.

17 MR. TRIERWEILER: None.

18 COMMISSIONER LA ROSA: Post-hearing  
19 procedures.

20 MR. TRIERWEILER: If there is no bench  
21 decision, staff recommends post-hearing briefs be  
22 no longer than 40 pages.

23 COMMISSIONER LA ROSA: Okay. Rulings.

24 MR. TRIERWEILER: Staff recommends that the  
25 Prehearing Officer make a ruling that opening

1 statements, if any, should not exceed three minutes  
2 per party unless any party chooses to waive its  
3 opening statement. Staff recommends that the  
4 Prehearing Officer make a ruling that witness  
5 summaries be limited to three minutes per witness.

6 COMMISSIONER LA ROSA: Are all parties in  
7 agreement with that? Sounds fair.

8 Okay. Other matters?

9 MR. TRIERWEILER: None.

10 Okay. Does any other parties have any  
11 additional matters that need to be addressed in  
12 this docket?

13 Seeing none, this concludes prehearing in the  
14 02 docket. Let's proceed to the 03 docket.

15 (Proceedings concluded.)  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

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 November, 2022.



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