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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20220007-EI

In re: Environmental 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 JOEL BAKER, 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 MALCOLM N. MEANS, J. JEFFREY WAHLEN 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 RICHARD GENTRY, PUBLIC COUNSEL; CHARLES J.
16 REHWINKEL, DEPUTY PUBLIC COUNSEL; PATRICIA A.
17 CHRISTENSEN, STEPHANIE A. MORSE and MARY A. WESSLING,
18 ESQUIRE, OFFICE OF PUBLIC COUNSEL, c/o The Florida
19 Legislature, 111 West Madison Street, Room 812,
20 Tallahassee, Florida 32399-1400; appearing on behalf of
21 the Citizens of the State of Florida (OPC).

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

11 PETER J. MATTHEIS, MICHAEL K. LAVANGA and
12 JOSEPH R. BRISCAR, ESQUIRES, 1025 Thomas Jefferson
13 Street, NW, Eighth Floor, West Tower, Washington, D.C.
14 20007; appearing on behalf of Nucor Steel Florida, Inc.,
15 (NUCOR).

16 JACOB IMIG and ADRIA HARPER, ESQUIRES, FPSC
17 General Counsel's Office, 2540 Shumard Oak Boulevard,
18 Tallahassee, Florida 32399-0850, appearing on behalf of
19 the Florida Public Service Commission (Staff).

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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.

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

2 COMMISSIONER LA ROSA: Let's move to the 07
3 docket. Mr. Imig, that is you. You are recognized
4 on preliminary matters that need to be addressed
5 before the pre -- draft prehearing.

6 MR. IMIG: Type 2 stipulations are pending in
7 this docket, but those have not been finalized as
8 of today.

9 Additionally, staff is awaiting confirmation
10 from all parties that they are amenable to excusing
11 witnesses.

12 COMMISSIONER LA ROSA: Does any other parties
13 have any other preliminary matters? Seeing none.

14 I will go through all the sections. Again,
15 just jump up if you see something and I will
16 recognize you.

17 Section 1, Case Background.

18 Section II, Conduct in Proceedings.

19 Section III, Jurisdiction.

20 Section IV, Procedures in Handling
21 Confidential Information.

22 Section V, Prefiled Testimony and Exhibits and
23 Witnesses.

24 MR. REHWINKEL: Commissioner.

25 COMMISSIONER LA ROSA: Sir, you are

1 recognized.

2 MR. REHWINKEL: Thank you.

3 I have spoken to counsel for FPL and Duke, and
4 at this time, we are -- we have questions for one
5 each of their witnesses. So at this time, we --
6 we -- we will facilitate Type 2 stipulations on
7 most issues except for 11 -- if you could give me a
8 second to make sure. I hate to bog down the
9 well-oiled machine here.

10 COMMISSIONER LA ROSA: All good. All good.

11 MR. REHWINKEL: We have questions on Issues 11
12 through 13, and 16 and 17. All other issues we are
13 willing to facilitate a Type 2 stipulation, and
14 that would -- I still am considering ways to avoid
15 crossing these witnesses, and I will continue to
16 talk to the companies about that, but at this time,
17 the witnesses on those issues would not be excused.

18 COMMISSIONER LA ROSA: Okay. Okay. Sounds --
19 sounds right.

20 MR. REHWINKEL: But every other witness that
21 would be in the proceeding, we would agree to
22 excuse --

23 COMMISSIONER LA ROSA: Excuse them.

24 MR. REHWINKEL: -- at least as far as it goes
25 with us.

1 COMMISSIONER LA ROSA: Okay. Noted. I
2 appreciate that. Thank you.

3 Let's move on to the order of witnesses.

4 MR. IMIG: Staff will confirm with each
5 Commissioner whether a witness can be excused. If
6 no Commissioner has a question of a stipulated
7 witness, the witness may be excused from the
8 hearing, and his or her testimony and exhibits
9 entered into the record at the hearing as though
10 read.

11 COMMISSIONER LA ROSA: Parties, any
12 discussions on that or any thoughts?

13 Okay. Let's move on, then, to Section VII,
14 Basic Positions. Seeing nothing.

15 Let's move on to Section VIII, Issues and
16 Positions. Staff, I think we had something on
17 this.

18 MR. IMIG: There is a requirement that parties
19 take a position on issues, and I may need to
20 confirm some of the intervenors' positions on
21 Issues 11 through 17.

22 Additionally, a no position on an issue
23 prohibits any party from cross-examining witnesses
24 with regards to those issues on -- or briefing on
25 these -- those issues.

1 COMMISSIONER LA ROSA: Parties, any -- any
2 thoughts on that?

3 MS. BAKER: Mr. Commissioner.

4 COMMISSIONER LA ROSA: Yes, you are
5 recognized.

6 MR. BAKER: Yes. PCS Phosphate would change
7 our position on Issue 17 to agree with OPC.

8 COMMISSIONER LA ROSA: Okay.

9 MS. BAKER: And I will email the staff with
10 that.

11 COMMISSIONER LA ROSA: Thank you, noted.

12 Anybody else? Any other parties?

13 Okay. Let's move on to the exhibit list.

14 MR. IMIG: Staff has prepared a comprehensive
15 exhibit list that includes all prefiled exhibits,
16 and also includes those exhibits staff wishes to
17 include in the record. Staff's understanding is
18 that the parties are reviewing the exhibits.

19 COMMISSIONER LA ROSA: Are the parties okay
20 with that?

21 Then let's move on to proposed stipulations.

22 MR. IMIG: Staff notes that Type 2
23 stipulations are pending in this docket, but those
24 have not been finalized as of today.

25 COMMISSIONER LA ROSA: Okay. Excellent.

1 Pending motions.

2 MR. IMIG: There are none.

3 COMMISSIONER LA ROSA: Okay. Pending
4 confidential motions.

5 MR. IMIG: There are none.

6 COMMISSIONER LA ROSA: Post-hearing
7 procedures.

8 MR. IMIG: If needed, staff recommends that
9 briefs be no longer than 40 pages, and briefs are
10 due on November 10th, 2022.

11 COMMISSIONER LA ROSA: Okay. That sounds
12 good.

13 Rulings.

14 MR. IMIG: Staff recommends that the
15 Prehearing Officer make a ruling that opening
16 statements and testimony summaries, if any, should
17 not exceed three minutes per party.

18 COMMISSIONER LA ROSA: Okay. That sounds
19 fair.

20 MS. MONCADA: I'm sorry --

21 COMMISSIONER LA ROSA: Yep.

22 MS. MONCADA: -- Commissioner, to interrupt.

23 COMMISSIONER LA ROSA: Sure.

24 MS. MONCADA: Just to clarify for the record,
25 I thought I heard that briefs would be due November

1 10th.

2 MR. IMIG: It's November 10th. That's
3 correct.

4 MS. MONCADA: The hearing is going to take
5 place --

6 MR. IMIG: Oh, sorry, I didn't update that.
7 Sorry.

8 MS. HELTON: I think it's the 29th, Mr.
9 Chairman.

10 MR. IMIG: My apologies.

11 COMMISSIONER LA ROSA: Yeah. So let the
12 record show that it's November 29th.

13 MR. IMIG: Yes. That's correct. My
14 apologies.

15 MS. MONCADA: Thank you. Thank you.

16 COMMISSIONER LA ROSA: Okay. With that
17 change, or that correction, all parties in
18 agreement since?

19 Any other matters that need to be addressed
20 before the prehearing conference? Parties,
21 anything?

22 Seeing none, I believe that this can -- we can
23 adjourn and conclude a prehearing on the --

24 MR. REHWINKEL: Before --

25 COMMISSIONER LA ROSA: Yeah.

1 MR. REHWINKEL: -- before you adjourn --

2 COMMISSIONER LA ROSA: Okay. We're back up.

3 MR. REHWINKEL: -- I would like to just put
4 something out on the briefing.

5 We intend to cross witnesses unless we are
6 able to reach some sort of stipulation with the
7 companies. Assuming we go and have
8 cross-examination, I would ask -- and to facilitate
9 a bench decision, assuming we've had an opportunity
10 to cross, I would like at least to propose for the
11 Commission's consideration, is that if we are given
12 a brief opportunity to make closing argument in
13 lieu of briefs, we would, assuming that we were
14 given that opportunity, we would be willing to
15 allow a bench decision instead of briefing an
16 issue.

17 So since we are going to cross-examine
18 witnesses, that would normally imply that you would
19 want to have an opportunity to file written briefs.
20 But we are willing to consider that, and we would
21 just propose it for the Commission's consideration
22 that that be an option to streamline the process.

23 COMMISSIONER LA ROSA: Okay.

24 MR. REHWINKEL: And I apologize for kind of
25 bringing that up at the last second here. I just

1 wanted to put on the record. We don't have to
2 decide it today, but I just wanted folks to know
3 that as we get closer to hearing, if we don't get
4 things stipulated, we would like to at least have
5 that option. I think everybody would benefit by
6 that.

7 COMMISSIONER LA ROSA: Okay. Noted, but I
8 will bring that up. Does anyone else have any
9 thoughts on that? You are recognized.

10 MS. MONCADA: For Florida Power & Light, we
11 would be amenable to that, assuming that during the
12 discussions with Mr. Rehwinkel that we have between
13 now and the hearing to try reach a stipulation, I
14 have -- I reach an understanding of what the --
15 what his issues actually are so that I am prepared
16 sufficiently to deliver the oral argument, the
17 closing argument at the end.

18 Thank you.

19 MR. REHWINKEL: Yes, we will do that. We've
20 had preliminary discussions to let both counsel for
21 FPL and Duke understand what our issue is, and we
22 would make sure that we have that clearly
23 identified so that we would be prepared to
24 streamline the hearing in that way, if possible.

25 COMMISSIONER LA ROSA: Okay. All right.

1 Well, then those discussion can continue.

2 MR. REHWINKEL: Thank you.

3 COMMISSIONER LA ROSA: No problem. Thank you,
4 guys.

5 Staff, are we okay with that?

6 MS. HELTON: Yes, sir.

7 COMMISSIONER LA ROSA: Okay. Excellent.

8 Seeing nothing else in the 07 docket, I think
9 we can move on to the 10 docket.

10 (Proceedings 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 November, 2022.



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