

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. 140057-EI

PETITION FOR APPROVAL OF 2014
NUCLEAR DECOMMISSIONING STUDY,
BY DUKE ENERGY FLORIDA, INC.

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 7

COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER RONALD A. BRISÉ
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

DATE: Tuesday, November 25, 2014

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
State of Florida at Large

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

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

2 CHAIRMAN GRAHAM: Okay. Staff, Item Number 7.

3 MR. HIGGINS: Good morning, Commissioners,
4 Devlin Higgins, Commission staff.

5 Item Number 7 on today's agenda addresses Duke
6 Energy Florida's incorporate its petition for
7 approval of its 2014 decommissioning cost study for
8 the Crystal River Unit Number 3 Nuclear Generating
9 Facility. Duke's last CR3 decommissioning cost
10 study was filed with the Commission in 2010.

11 The purpose of this study is to provide the
12 Commission with an updated cost estimate based on
13 the company's decision to retire and decommission
14 CR3, information regarding the NRC acceptable safe
15 stored decommissioning method, the company has
16 selected to decommission CR3, and information
17 regarding annual needed to recover the estimated
18 cost of decommissioning.

19 For Issue 1, staff recommends the Commission
20 find the total estimated cost for decommissioning
21 CR3 of 1.18 billion and \$2,013 as reasonable.

22 For Issue 2, staff recommends DEF's currently
23 authorized annual accrual for decommissioning
24 remain at zero.

25 Commissioners, staff is prepared for answering

1 any questions you may have on an issue by issue
2 basis if that is presence. Thank you.

3 CHAIRMAN GRAHAM: Thank you.

4 Commissioner Brown.

5 COMMISSIONER BROWN: Thanks, Mr. Higgins, for
6 your recommendation and for your briefing earlier.

7 I have a question for Duke. The 2014 federal
8 case awarded Duke's customers 21.1 million, which
9 translated to 17.7 million to the customers for
10 spent fuel storage installation cost at CR3. And I
11 know that Duke intends to seek further costs
12 associated -- from DOE associated with the spent
13 fuel, that's part of the decommissioning.

14 I was just wondering, Ms. Triplett, do you
15 have a timeline? I asked staff about a timeline
16 for pursuing collection of those costs, if you
17 could elaborate a little bit more.

18 MS. TRIPLETT: Absolutely. And I will do my
19 best, because some of it is subject to the winds of
20 the federal -- the federal courts and the
21 litigation.

22 COMMISSIONER BROWN: And if you can share it
23 with us.

24 MS. TRIPLETT: Oh, absolutely. Yeah.

25 So you are correct. First, the most recent

1 award was for damages from 2006 to 2010, and it was
2 \$17 million for -- that was the retail portion for
3 the CR3 related damages. Those dollars will go --
4 they were incurred before we were in the
5 decommissioning mode, so they will go to offset the
6 portion of the regulatory asset associated with the
7 spec fuel damages -- or costs.

8 We just recently, I think a month ago, filed a
9 new case, which will -- which covers damages from
10 2011 through the end of 2013. And the CR3 related
11 portion is approximately \$29 million. I don't
12 think -- I think that is a whole number. I don't
13 think that's a retail portion of the number.

14 And based on how these cases have gone, I
15 would say that we are not going to have that case
16 fully litigated for probably another
17 year-and-a-half. The issues have gotten more
18 narrow, you know, which is not surprising. It's
19 just simply, we have already proven the breach of
20 the contract, we should just be focused on the
21 damages stemming from that.

22 So the number of issues that the DOE can raise
23 should be more limited, which should streamline
24 things. But it seems that every time I think
25 things should be open and shut, the DOE comes up

1 with another argument, and it can protract things.
2 So I would say that -- I would give that a
3 year-and-a-half to go to litigation.

4 COMMISSIONER BROWN: Okay.

5 MS. TRIPLETT: And then it's -- it's an appeal
6 process. This last phase the DOE did not appeal,
7 but you just -- you never know whether they will or
8 not.

9 And I like to point out -- management always
10 asks us, well, why do they appeal if they don't
11 think they are going to win, and, you know, what
12 have you? The government cannot pay interest, so
13 AFUDC does not accrue against the government, so
14 they don't have as much incentive as others may to
15 not appeal if they --

16 COMMISSIONER BROWN: Right, of course.

17 MS. TRIPLETT: And from that point, from 2014
18 going forward, as the damages accrue, we are still
19 analyzing the timeframe in which we will bring
20 additional lawsuits. But I think that we will
21 probably look at the same kind of 2011 -- three
22 year -- two to three year period.

23 So as the current case that was just filed is
24 completed, and then we have a full set for another
25 two or three years of damages, then I would

1 anticipate that we would then, you know, file
2 another round of litigation, if you will --

3 COMMISSIONER BROWN: Okay.

4 MS. TRIPLETT: -- and I would expect that that
5 would be on a similar timeframe.

6 COMMISSIONER BROWN: Thank you. I appreciate
7 your candor and information as well. So that
8 provides us some help had.

9 And I think that it's important to note, under
10 Issue 2, that the staff recommendation provides
11 that based on the current decommissioning study,
12 that the current level of funding in the NDT is
13 sufficient, and that there is going to be zero
14 accrual from the customers moving forward, as is
15 recommended, at least for the future spent fuel for
16 decommissioning cost for CR3, so I am very
17 supportive of the recommendation at this point.

18 CHAIRMAN GRAHAM: Thank you.

19 Commissioner Balbis.

20 COMMISSIONER BALBIS: Thank you, Mr. Chairman.

21 I have a couple of questions -- or probably the
22 same question to multiple parties. And I believe
23 that this is the first time in the state of Florida
24 that a company is moving forward with
25 decommissioning of a nuclear plant, and spending

1 dollars from this fund.

2 And in looking at the rule and many
3 discussions with staff, everything has been geared
4 towards, is the fund adequate enough? And at that
5 is what this document is addressing. With staff's
6 recommendation of a zero accrual means that it is
7 healthy enough for it.

8 However, in looking at the anticipated
9 expenditures over the decommissioning life, if you
10 will, there is going to be several hundred million
11 dollars spent over the next few years, and so my
12 question for staff -- and I am kind of throwing it
13 out there to my colleagues -- what procedures or
14 processes are in place, or need to be in place, as
15 we move forward to look at the expenditure of these
16 funds and the processes that are in place for
17 adequate protections?

18 STAFF: Commissioners, you are quite correct.
19 This is the first time we will actually start
20 spending down the funded -- funded reserves for
21 decommissioning.

22 There is no formal process that's been
23 prescribed by rules yet because it is unique. But
24 in terms of the Commission's discretion, the
25 periodicity of that review is completely at your

1 discretion. The funds are still subject to the
2 normal standards of good management practices and
3 prudence reviews on the part of the Commission.
4 The fact that they are in the reserve does not
5 exclude them from that kind of oversight on your
6 part.

7 So I think the Commission has time to develop
8 those processes. I don't know the level they have
9 to be formalized in rules or not. That's a legal
10 issue. But the review capability is there. The
11 normal standards of prudence and good management.
12 For example, you may decide every two years, have a
13 management audit of the expenditures. I think in
14 the briefs, we talked about doing it every five
15 years, and then you could adjust the accrual rate
16 based on any disallowances that you found in the
17 previous management review.

18 So it's at your option, and it's something I
19 think the Commission does need to entertain as we
20 start down this expenditure path.

21 COMMISSIONER BALBIS: Okay. And then pose a
22 similar question to Mr. Rehwinkle. What are your
23 thoughts moving forward? And then I would follow
24 up with Duke as well.

25 MR. REHWINKEL: Thank you, Commissioner

1 Balbis, and your questions are questions that we
2 have.

3 And the reason I am here today, if I can take
4 this opportunity to answer your question and make
5 my statement, is we are not here because, as
6 Commissioner Brown and you have pointed out, there
7 is no change in the zero accrual. Staff has done a
8 very thorough job on this first time study. So we
9 don't have a concern at this point.

10 In the settlement that you approved last year,
11 paragraph 7B, paragraph 20 and paragraph 21 all
12 have a bearing on what the Commission might do in
13 the future, and what Duke might do.

14 Paragraph 7B gives Duke the opportunity to
15 come in and ask for a rate adjustment if these
16 costs are different than they estimate at this
17 time.

18 So I am here today to say that we don't waive
19 our rights to participate in such a hearing because
20 we are quiet here today. If they do come in and
21 ask, we would have full rights to challenge
22 everything in there, because this study is, as you
23 point out, based on an estimate. So when they
24 start spending money and things change, if they do,
25 we -- and I assume the other intervenors would

1 participate.

2 Paragraph 20 allows Duke to -- or requires
3 Duke to file a study no later than March 31, 2019,
4 or if they, for whatever reason, file a base-rate
5 case before that in conjunction with that, and in
6 advance of that, so we would participate in that.

7 I think the Commission has the ability to
8 oversee this process to do whatever auditing needs
9 to be done. We are, at least comforted at this
10 time, that estimates are showing accrual increase
11 not needed.

12 So I think we are comforted at this time, but
13 we certainly reserve our rights under the
14 settlement, and we will work with staff and the
15 company to make the process work however it needs
16 to.

17 MS. TRIPLETT: And to answer your question. I
18 think that absolutely, if the Commission desired to
19 have any additional filings or oversight, I think
20 management audit is -- that seems to make sense,
21 too.

22 And I believe that the rule says -- and I
23 think it's 256.104(3), but don't quote me on that.
24 It says it's every five years or, if the Commission
25 desires, more frequently. And while the settlement

1 agreement did allow us to wait until 2019, we felt
2 like it was a big change, because of the retirement
3 and the changing of the assumptions, and so we came
4 in and filed this suit so that the Commission could
5 see, this is where things stand now, that the
6 decommissioning dates have changed, and to show
7 that the accruals were sufficient. So I think we
8 would be amenable to that sort of additional
9 review.

10 I would also point out that every year, now
11 that we are in decommissioning with the NRC -- and
12 I believe it's in the March -- we have to file a
13 financial assurance filing. And it is -- I think
14 it's less substantive than this decommissioning
15 study that we filed here, but it does show the NRC,
16 okay, this is where we are with the fund status,
17 here are the estimates and to assure, at least the
18 NRC, that the funds continue to be adequate for
19 decommissioning.

20 And we would be happy to file that as
21 informational with the Commission when we make that
22 filing with the NRC if that would help as well.

23 COMMISSIONER BALBIS: Okay. Thank you. And I
24 appreciate everyone's comments.

25 You know, again, we are in a unique situation.

1 I believe California is -- they may be struggling
2 with the same issue with the San Onofre
3 decommissioning. And I think as we transition from
4 projections to actual expenditures -- I mean, I
5 personally think that what we have done with other
6 large projects, the EPU, the uprates, we have had
7 management audits to make sure that the policies
8 and procedures are in place to ensure that the
9 funds are prudently spent. I think that is
10 something that would give me comfort as we move
11 forward.

12 And I don't know if my colleagues feel the
13 same, but as long as everyone, you know, is aware,
14 and we are having this discussion now as we move
15 forward, because, you know, when you are dealing
16 with the numbers we are dealing with today, to make
17 sure that we have the controls in place is
18 important.

19 CHAIRMAN GRAHAM: Commissioner Brisé.

20 COMMISSIONER BRISÉ: Thank you, Mr. Chairman.

21 And I agree with Commissioner Balbis, that, you
22 know, obviously we are uniquely situated, and we
23 are ramping this up at this time, that it would be
24 prudent on our part to make sure that all the
25 checks and balances are in place to ensure that the

1 dollars are doing what they are supposed to be
2 doing.

3 One of the other -- on another issue, in my
4 conversation with staff, one of my areas of
5 interest was ensuring that the appropriate amount
6 of money is being spent on the management of the
7 funds. Meaning that we are ensuring that the
8 companies are looking at, now that there are
9 options out in the market, for them to manage those
10 funds in terms of with house -- brokerage houses
11 and so forth, that they are actively looking at
12 that as we look at the costs associated with
13 managing these funds.

14 So we had a robust conversation with staff,
15 and hopefully in the future that's something that
16 we will be able to look at as well.

17 CHAIRMAN GRAHAM: Commissioner Brown.

18 COMMISSIONER BROWN: I move staff
19 recommendation on all issues.

20 CHAIRMAN GRAHAM: It's been moved and second
21 staff recommendation on all issues Item Number 7.

22 Any further discussion?

23 Seeing none. All in favor eye say aye.

24 (Chorus of ayes.)

25 CHAIRMAN GRAHAM: Any opposed?

1 (No response.)

2 CHAIRMAN GRAHAM: By your action, you have
3 approve the staff recommendation of Item Number 7.

4 (Agenda item concluded.)

5

6

7

8

9

10

11

12

13

14

15

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 R. KRICK, Professional 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 4th day of December, 2014.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #EE212307
EXPIRES JULY 13, 2016