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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

NUCLEAR COST RECOVERY CLAUSE DOCKET NO. 150009-EI

FUEL AND PURCHASED POWER COST DOCKET NO. 150001-EI
RECOVERY CLAUSE WITH GENERATING
PERFORMANCE INCENTIVE FACTOR
_____ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 5

COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER RONALD A. BRISÉ
COMMISSIONER JULIE I. BROWN
COMMISSIONER JIMMY PATRONIS

DATE: Thursday, April 16, 2015

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

REPORTED BY: Andrea Komaridis
Court Reporter and
Notary Public in and for
the 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 THE CHAIRMAN: Item No. 5.

3 MR. LAUX: Good morning, Commissioners. Item
4 No. 5 is staff's recommendation concerning Duke's
5 petition to end the Levy Project fix factors.
6 Staff notes that a group of intervenors, including
7 the Office of Public Counsel, the Florida Retail
8 Federation, and PCS Phosphate filed a joint
9 response in support of ending these factors. Staff
10 also addresses in Issue No. 1 a motion to dismiss
11 the petition filed by FIPUG.

12 I believe there are interested parties here
13 that may want to address the Commission.

14 Staff is available to answer questions or, at
15 your pleasure, go issue by issue.

16 MR. YOUNG: Commissioners, Issue 1, as
17 stated -- as stated, Issue 1 addresses FIPUG's
18 motion to dismiss DEF's petition. Staff recommends
19 that FIPUG's motion be denied because it fails to
20 meet the applicable standard because the DEF
21 petition states a cause of action upon which relief
22 may be granted.

23 Staff is available for any question.

24 THE CHAIRMAN: Commissioners, I think we
25 should take up Issue No. 1 first and then we can

1 take up the rest all in bulk. If I can get a
2 motion for Issue No. 1. There has been no
3 paperwork filed for the motion to dismiss, so --

4 COMMISSIONER EDGAR: Move staff
5 recommendation.

6 COMMISSIONER BROWN: Second.

7 THE CHAIRMAN: It's been moved and seconded,
8 staff recommendation on Issue No. 1.

9 All in favor say aye.

10 (Chorus of ayes.)

11 CHAIRMAN GRAHAM: Any opposed?

12 (No response.)

13 CHAIRMAN GRAHAM: By your action, you have
14 approved the staff recommendation on that issue.

15 Okay. Issues 2 through -- is it five? Two
16 through five.

17 MR. LAUX: In Issue 2, staff recommends the
18 Commission approve ending the Levy Project fix
19 factors, thereby minimizing the potential of over-
20 collection of revenues before a final true-up of
21 actual project costs can be fully determined by the
22 Commission.

23 THE CHAIRMAN: And three.

24 MR. LAUX: In Issue 3, staff recommends the
25 Commission take no action at this time on the

1 remainder of Duke's request since prior Commission
2 orders coupled with guidance provided by the
3 existing statutes, rules, and a 2013 settlement
4 agreement fully addresses the matter.

5 THE CHAIRMAN: And four?

6 MR. LAUX: Issue 4, staff recommends Duke
7 file -- Duke's filed tariff reflecting the ending
8 of the fix factors should be approved with an
9 effective date of April 27th, 2015, which is the
10 beginning date of the first full billing cycle in
11 the month of May.

12 Issue 5, staff recommends that these ongoing
13 dockets should remain open.

14 THE CHAIRMAN: Okay. We're going to go a
15 little out of order. And we'll take Mr. Moyle up
16 first to see what cars he is going to talk about.

17 MR. MOYLE: Thank you. Thank you.

18 FIPUG wants to spend a little time talking
19 about Issue -- Issue 3. And it also filed a motion
20 to dismiss, which you've -- which you've handled
21 that relates really to an issue that is front and
22 center, we believe, this \$54 million issue.

23 I say it's front and center because the first
24 sentence of Duke's petition that they filed reads,
25 "Duke Energy Florida petitions the Florida Public

1 Service Commission to approve deferral of
2 collection of the approximate 54 million currently
3 involved in litigation until such time as the
4 litigation is finalized." And it goes on. So, in
5 terms of FIPUG's position, the \$54 million is, we
6 believe, something that warrants some discussion,
7 some consideration, and your action.

8 Before I -- before I get into -- into the
9 argument, I think ultimately, we are in agreement
10 with staff recommendation, which is don't take any
11 action on the 54 million. I think we differ with
12 respect to the reasons why.

13 And you know, FIPUG has argued both in its
14 pleadings and will argue today that the \$54 million
15 issue was before this Commission and you all had
16 evidence of it. And you took action and said
17 ratepayers get a credit for the \$54 million.

18 And there is a PSC press release that is dated
19 October 2nd, 2004. The first sentence of that
20 document says, quote, the three-member panel of the
21 Florida Public Service Commission today ordered
22 that a credit be given to customers for \$54 million
23 in equipment that was never received for the
24 Luke -- Levy nuclear project.

25 The press release goes on and quotes

1 Commissioner Brown in part and says, quote,
2 customers shouldn't have to pay for something that
3 was never delivered on. And FIPUG agrees
4 wholeheartedly with that.

5 During the discussion that previously took
6 place, you know, Commissioner Balbis, who was on
7 the Commission at that time, made a similar
8 observation and said, quote, obviously, if
9 customers never receive the equipment, it is not
10 prudent.

11 You previously looked at this issue and said,
12 you know what, this \$54 million should be credited
13 to customers. Customers should have it. It
14 doesn't make sense to charge customers for
15 equipment that was never produced, that was never
16 delivered. And we applaud that decision and ask
17 that you stand firm on that.

18 We -- FIPUG is concerned that this may be a
19 bit of an effort to try to breathe new life into
20 the \$54 million issues -- issue, which we don't
21 think is warranted. We think that -- that the
22 previous consideration, when you all heard -- heard
23 the argument, you made motions, that you issued a
24 press release, that -- we think you handled it and
25 you delivered a message that ratepayers should

1 benefit to the tune of \$54 million.

2 Thus, we were a little concerned when the
3 first sentence in the Duke filing suggests that
4 potentially the \$54 million issue still exists and
5 is something that could come back around. We don't
6 think so. And surely, applying carrying charges,
7 applying interest to a \$54 million sum that you've
8 already signaled shouldn't -- shouldn't be
9 recovered is not appropriate.

10 I think really -- really just the essential
11 point is to underscore that, indeed, ratepayers
12 should not be charged for something that was never
13 delivered. The \$54 million credit that was
14 provided should remain unaffected. And any efforts
15 to try to breathe new life or claw back this
16 \$54 million should be resisted and not allowed to
17 move forward at this point in time.

18 So, with that, those are our comments. Thank
19 you.

20 THE CHAIRMAN: Thank you, Mr. Moyle.
21 Mr. Rehwinkle.

22 MR. REHWINKLE: Thank you, Mr. Chairman.
23 Charles Rehwinkle, Deputy Public Counsel.

24 Commissioners, the Public Counsel supports the
25 staff's recommendation. We think staff's

1 recommendation is correct. And it is in accord
2 with our response. And we urge that you vote to
3 approve it as written.

4 And I am also authorized on behalf of PCS
5 Phosphate to say they concur in the remarks that I
6 just made. Mr. Brew had some -- a need to stay
7 close to his family and could not be down here, but
8 otherwise would have been down here to present to
9 you today.

10 Thank you.

11 THE CHAIRMAN: Thank you.

12 Mr. Wright.

13 MR. WRIGHT: Thank you, Mr. Chairman.

14 Likewise, the Florida Retail Federation
15 supports the staff's recommendation and
16 particularly the approval of the tariff provision
17 as stated in the recommendation.

18 Thank you.

19 THE CHAIRMAN: Thank you, sir.

20 Ms. Triplett.

21 MS. TRIPLETT: Thank you, Mr. Chairman.

22 I'm going to be brief because I, too, for Duke
23 Energy Florida -- we agree also with the staff
24 recommendation.

25 And a lot of the comments that Mr. Moyle made,

1 we responded to in writing. So, I don't -- the
2 only thing I want to repeat here is that Mr. Moyle
3 ignores the very clear language in your order from
4 the last year's NCRC, which clearly states there is
5 no dispute regarding the prudence of DEF's original
6 actions -- or activities when it made the scheduled
7 milestone payments in 2008 and 2009 totaling the
8 approximately \$54 million.

9 So, there was no finding that the -- those
10 actions were imprudent. And Mr. Moyle's arguments
11 about the import of that -- of that order based on
12 the press release and choice statements made --
13 pulled from the agenda transcript are just simply
14 wrongs legally and factually.

15 And again, we would support the staff
16 recommendation on these issues.

17 Thank you.

18 THE CHAIRMAN: Thank you.

19 Okay. Commissioners, any questions of staff
20 or the other parties? Commissioner Brisé.

21 COMMISSIONER BRISÉ: Thank you, Mr. Chairman.

22 I just have one question for staff. In Docket
23 140009-EI, we ordered Duke to make an adjustment to
24 the 2015 forecasted expenses with the expectation
25 that it would benefit customers.

1 If we approve the petition today by Duke, how
2 would it impact customers?

3 MR. LAUX: Commissioner, your prior decision
4 concerning the \$54 million adjustment placed Duke
5 in the position to end the Levy fix factors sooner
6 than they other -- than they would have otherwise.
7 Staff's recommendation before you to approve that
8 is in line with that decision.

9 The impact would be that, for a residential
10 customer that is using approximately a thousand
11 kilowatt hours per month, their bill beginning in
12 May will be \$3.45 lower than it would have
13 otherwise been.

14 COMMISSIONER BRISÉ: Okay. So, just so that
15 I'm clear, our decision back then and our decision
16 today if we move to approve this petition is
17 consistent -- would be consistent and customers
18 would see a reduction in their bill.

19 MR. LAUX: Correct.

20 COMMISSIONER BRISÉ: Okay. Thank you.

21 THE CHAIRMAN: Commissioner Brown.

22 COMMISSIONER BROWN: Thank you, Mr. Chairman.

23 I agree with the intervenors' argument here
24 that this should be a ministerial function at this
25 time. I mean, this is -- as Commissioner Brisé

1 just pointed out, this is in conformance with our
2 prior order back in October. And really, any other
3 issues will be addressed at a later, more
4 appropriate time. So, I do support the staff
5 recommendation.

6 THE CHAIRMAN: Was that a motion?

7 COMMISSIONER BROWN: Mr. Chairman, I would
8 move staff recommendation on all items.

9 COMMISSIONER EDGAR: Second.

10 THE CHAIRMAN: It's been moved and seconded
11 staff recommendations on all items -- I'm sorry --
12 all issues on items -- Item No. 5.

13 Any further discussion?

14 Seeing none, all in favor say aye.

15 (Chorus of ayes.)

16 CHAIRMAN GRAHAM: Any opposed?

17 (No response.)

18 CHAIRMAN GRAHAM: By your action, you have
19 approved the staff recommendation on Item No. 5.

20 MR. LAUX: Thank you, Commissioners.

21 THE CHAIRMAN: Thank you.

22 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, ANDREA KOMARIDIS, 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 23rd day of April, 2015.



ANDREA KOMARIDIS
NOTARY PUBLIC
COMMISSION #EE866180
EXPIRES FEBRUARY 09, 2017