

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery Clause.

DOCKET NO. 20170009-EI

DATED: JULY 20, 2017

THE FLORIDA RETAIL FEDERATION'S
PREHEARING STATEMENT

The Florida Retail Federation (“FRF”), pursuant to the Order Establishing Procedure in this docket, Order No. PSC-2017-0057-PCO-EI, issued February 20, 2017, and Order No. PSC-2017-0260-PCO-EI, issued July 10, 2017, and subject to the FRF’s pending motion to intervene, hereby submits this Prehearing Statement.

APPEARANCES:

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On behalf of the Florida Retail Federation.

1. **WITNESSES:**

The Florida Retail Federation does not intend to call any witnesses for direct examination, but reserves its rights to cross-examine all witnesses and to rely upon the prefiled testimony of witnesses in this docket, as well as testimony on their cross-examination.

2. **EXHIBITS:**

The Florida Retail Federation will not introduce any exhibits on direct examination, but reserves its rights to introduce exhibits through cross-examination of other parties' witnesses.

3. STATEMENT OF BASIC POSITION

FPL – Turkey Point 6&7 Project

The Commission should reject FPL's requests that: (1) the Commission find it is reasonable that FPL continue to pursue its Combined Operating License (COL); and (2) allow FPL to create a deferred regulatory asset for these costs, with ongoing and continuing applicable carrying charges, for later recovery through the NCRC. FPL has not satisfied, and almost certainly cannot satisfy, the statutory requirement that it prove that it has committed sufficient resources to enable its Turkey Point project to be completed, and that its alleged intent to do so is realistic or practical. FPL has not filed a realistic feasibility study for its project for more than two years, and in those intervening years, significant developments have occurred that cast serious doubt on the viability value of pursuing the COL for Turkey Point Units 6 & 7. Westinghouse, which owns the design rights to the AP1000, filed for bankruptcy protection in the spring of 2017 and has publicly stated it would no longer construct additional nuclear power plants in the future. Moreover, FPL has stated that it has not spoken with anyone at Westinghouse regarding whether they would maintain a traditional role of an engineering and procurement contractor. The first wave of Westinghouse's AP 1000 plants are being built by Georgia Power Company at Plant Vogtle and South Carolina Electric & Gas Co. at Plant Summer. Each of these projects has experienced, and continues to experience, significant delays and staggering cost overruns. These major changes in circumstances, along with other factors, call into question whether FPL's continued pursuit of the COL and related costs is realistic and practical.

FPL is asking the Commission to make a finding now that incurring costs to be paid by FPL's customers for the COL is reasonable, which would bind future Commissions and create a future liability, in the form of potentially fruitless expenditures and statutorily required carrying costs, for customers at some level of cost recovery. FPL is further asking to defer these COL related costs for an indefinite period of time for subsequent recovery through the NCRC, with carrying charges for whatever length of time the deferral continues, and apparently, regardless whether FPL ever builds the units.

Rule 25-6.0423(6)(a), F.A.C., states that preconstruction costs which include COL costs "will be recovered within 1 year, unless the Commission approves a longer recovery period. Any party may, however, propose a longer period of recovery, not to exceed 2 years." FPL is requesting deferral for at least a minimum of 4 years. In addition, as part of its request for creation of a deferred asset, FPL is asking the Commission to approve carrying charges for the COL costs. According to FPL's testimony, over a ten year period, customers could become liable for more than \$100 million in COL related costs and yet FPL could still not build Turkey Point Units 6 & 7.

Moreover, Rule 25-6.0423(6)(c)(5), F.A.C., requires that FPL to each year submit for Commission review and approval, as part of its cost recovery filing, "a detailed analysis of the long-term feasibility of completing the power plant." FPL has not made this filing. Based on FPL's failure to comply with this rule and the lack of a 2017 long-term feasibility study demonstrating that its Turkey Point Units 6 & 7 project is feasible going forward, no new costs should be allowed for recovery nor should any costs be allowed to be deferred for later recovery.

Duke Energy Florida

The NCRC issues associated with Duke's Levy Nuclear Project have been deferred to a hearing on October 25, 2017. The FRF takes no position on the remaining issues relating to the Crystal River Unit 3 Extended Power Uprate Project.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

FPL

Issue 1: Should the Commission find that FPL's 2015 and 2016 project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project?

FRF: No Position.

Issue 2: What jurisdictional amounts should the Commission approve as FPL's actual 2015 and 2016 prudently incurred costs and final true-up amounts for the Turkey Point Units 6 & 7 Project?

FRF: Agree with OPC.

Issue 3: Should the Commission approve FPL's request to defer recovery of costs for the Turkey Point Units 6 & 7 Project incurred after December 31, 2016, pursuant to Section 366.93 F.S., and Rule 25-6.0423 F.A.C.? If so, what type of information should FPL report on an annual basis in the Nuclear Cost Recovery docket?

FRF: No. Agree with OPC.

Issue 4: If FPL continues to seek its combined operating license and defers the associated costs, are these costs eligible for cost recovery in a future time period pursuant to Section 366.93 F.S., and Rule 25-6.0423 F.A.C.?

FRF: No. Agree with OPC that FPL's request is contrary to the Commission's rules and should be denied.

FPL Contested Issues

Issue 5: A) Is FPL's decision to continue pursuing a combined operating license from the Nuclear Regulatory Commission for Turkey Point Units 6 & 7 reasonable? (STAFF)

B) Is FPL's decision to continue pursuing a combined operating license from the Nuclear Regulatory Commission for Turkey Point Units 6 & 7 reasonable pursuant to Section 366.93 F.S., and Rule 25-6.0423 F.A.C.? (OPC)

FRF: No. Agree with OPC that, given the existing circumstances regarding the vendor of the units that FPL proposes would be Turkey Point Units 6&7, and given the extraordinary cost overruns experienced on other sister units, which are not subject to any known cap on customer responsibility, it is patently unreasonable to believe or conclude that the prospect of FPL building the subject units is either realistic or practical. Accordingly, under these circumstances, it is not realistic or practical for FPL to incur any additional costs that its ratepayers must bear for the COL in light of such uncertainty.

Issue 6: A) Should the Commission approve what FPL has submitted as its 2017 annual detailed analysis of the long term feasibility of completing the Turkey Point 6&7 project as provided for in Rule 25-6.0423, F.A.C.? (SACE)

B) Was FPL required to file an annual detailed analysis of the long term feasibility of completing the Turkey Point Unit 6 & 7 project, pursuant to Rule 25-6.0423(6)(c)5., F.A.C.,? If so, has FPL complied with that requirement? (COM)

FRF: (A) No.

(B) Yes, FPL was required to make such filing, but FPL has not complied with that requirement.

Issue 7: Has FPL complied with Order No. PSC-16-0266-PCO-EI? If not, what action should the Commission take, if any?

FRF: No. Agree with OPC.

Issue 8: What is the total jurisdictional amount to be included in establishing FPL's 2018 Capacity Cost Recovery Clause factor?

FRF: The jurisdictional amount to be included in the 2018 Capacity Cost Recovery Clause factor should be limited to the 2015 true-up amount.

Issue 9: What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the proposed Turkey Point Units 6 & 7 nuclear project?

FRF: Unknown.

Issue 10: What is the current estimated planned commercial operation date of the planned Turkey Point Units 6 & 7 nuclear facility?

FRF: Unknown.

Duke Energy Florida

Issue 11: Should the Commission find that during 2016, DEF's accounting and cost oversight controls were reasonable and prudent for the Crystal River Unit 3 Uprate project?

FRF: No Position.

Issue 12: What jurisdictional amounts should the Commission approve as DEF's actual 2016 prudently incurred costs for the Crystal River Unit 3 Uprate project?

FRF: No Position.

Issue 13 What jurisdictional amounts should the Commission approve as reasonably estimated 2017 exit and wind down costs and carrying costs for the Crystal River Unit 3 Uprate Project?

FRF: No Position.

Issue 14: What jurisdictional amounts should the Commission approve as reasonably projected 2018 exit and wind down costs and carrying costs for the Crystal River Unit 3 Uprate Project?

FRF: No Position.

Issue 15: **What is the total jurisdictional amount for the Crystal River Unit 3 Uprate Project to be included in establishing DEF's 2018 Capacity Cost Recovery Clause Factor?**

FRF: No Position.

5. STIPULATED ISSUES:

The FRF agrees with the parties' stipulation to the excusal of Geoff Foster from the August NCRC hearing, assuming that all parties enter into some form of stipulation (Type 1 or Type 2) on the CR3 EPU issues.

6. PENDING MOTIONS:

None other than motions for confidential protective orders.

7. STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:

The FRF has no pending requests or claims for confidentiality.

8. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

The FRF does not expect to challenge the qualifications of any witness to testify, although the FRF reserves all rights to question witnesses as their qualifications as related to the credibility and weight to be accorded their testimony.

9. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Florida Retail Federation cannot comply.

Respectfully submitted this 20th day of July, 2017.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished

by electronic mail on this 20th day of July, 2017, to the following:

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