

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of:

DOCKET NO. 20190072-EI

PETITION FOR A LIMITED
PROCEEDING TO APPROVE
SECOND SOLAR BASE RATE
ADJUSTMENT, BY DUKE ENERGY
FLORIDA, LLC.

_____ /

VOLUME 1
PAGES 1 through 63

PROCEEDINGS: HEARING
COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER JULIE I. BROWN
COMMISSIONER DONALD J. POLMANN
COMMISSIONER GARY F. CLARK
COMMISSIONER ANDREW GILES FAY

DATE: Tuesday, July 9, 2019

TIME: Commenced: 11:15 a.m.
Concluded: 11:47 a.m.

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

REPORTED BY: DEBRA R. KRICK
Court Reporter

PREMIER REPORTING
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TALLAHASSEE, FLORIDA
(850) 894-0828

1 APPEARANCES:

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4 BERNIER, ESQUIRE, 106 East College Avenue, Suite 800,
5 Tallahassee, Florida 32301-7740, appearing on behalf of
6 Duke Energy Florida, LLC.

7 JON C. MOYLE, JR., ESQUIRE, Moyle Law Firm,
8 P.A., 118 North Gadsden Street, Tallahassee, Florida
9 32301, appearing on behalf of Florida Industrial Power
10 Users Group.

11 J.R. KELLY, PUBLIC COUNSEL; CHARLES REHWINKEL,
12 DEPUTY PUBLIC COUNSEL; Office of Public Counsel, c/o the
13 Florida Legislature, 111 W. Madison Street, Room 812,
14 Tallahassee, Florida 32399-1400, appearing on behalf of
15 the Citizens of the State of Florida.

16 KURT SCHRADER and JENNIFER CRAWFORD, ESQUIRES,
17 FPSC General Counsel's Office, 2540 Shumard Oak
18 Boulevard, Tallahassee, Florida 32399-0850, appearing on
19 behalf of the Florida Public Service Commission Staff.

20 KEITH HETRICK GENERAL COUNSEL; MARY ANNE
21 HELTON, DEPUTY GENERAL COUNSEL, Florida Public Service
22 Commission, 2540 Shumard Oak Boulevard, Tallahassee,
23 Florida 32399-0850, adviser to the Florida Public
24 Service Commission.

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I N D E X
WITNESSES

NAME :	PAGE
Matthew G. Stout	
Prefiled direct testimony inserted	8
Thomas G. Foster	
Prefiled direct testimony inserted	21
Benjamin M.H. Borsch	
Prefiled direct testimony inserted	28

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EXHIBITS

NUMBER:		ID	ADMITTED
1	Comprehensive Exhibit List	39	39
2-18	As identified on the comprehensive exhibit list		40

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

2 CHAIRMAN GRAHAM: Good morning all. Let the
3 record show it is still Tuesday July 9th, and this
4 is the hearing for Docket No. 20190072-EI.

5 We will convene this hearing. And, staff, if
6 I could please get you to read the notice.

7 MR. SCHRADER: By notice, this time and place
8 was set for a hearing in Docket No. 20190072-EI.
9 The purpose of this hearing is set out more fully
10 in the notice.

11 CHAIRMAN GRAHAM: Let's take appearances.

12 MS. TRIPLETT: Good morning. Dianne Triplett
13 and Matt Bernier, who I let go back to the office,
14 for Duke Energy Florida.

15 MR. MOYLE: Good morning. Jon Moyle, on
16 behalf of the Florida Industrial Power Users Group.

17 MR. REHWINKEL: Good morning, Commissioners.
18 Charles Rehwinkel and J.R. Kelly with the Office of
19 Public Counsel, on behalf of Duke's customers.

20 MR. SCHRADER: Kurt Schrader and Jennifer
21 Crawford for staff.

22 And also advisor of the PSC Mary Anne Helton
23 and General Counsel Keith Hetrick.

24 CHAIRMAN GRAHAM: Okay. Preliminary matters.

25 MR. SCHRADER: Staff notes that PCS Phosphate

1 asked for and been granted excusal from this
2 proceeding.

3 The parties have agreed to the excusal of
4 DEF's witnesses, and staff has confirmed with each
5 Commissioners their excusal prior to today's
6 hearing.

7 Staff also believes that the parties would
8 like to request to waive opening statements and
9 briefs in this matter and, in lieu, make closing
10 statements.

11 OPC has requested no more than 10 minutes.
12 FIPUG has requested no more than five minutes, and
13 DEF would like up to five minutes to respond after
14 OPC and FIPUG have made their closing statements.

15 CHAIRMAN GRAHAM: Okay. Is everybody in
16 concurrence with this?

17 MS. TRIPLETT: Yes.

18 CHAIRMAN GRAHAM: Okay. Any other preliminary
19 matters?

20 MR. SCHRADER: I am sorry.

21 CHAIRMAN GRAHAM: All right. Staff, let's
22 address the prefiled testimony.

23 MR. SCHRADER: We ask that the DEF witnesses
24 Matthew G. Stout, Thomas G. Foster and Benjamin
25 M.L. Borsch be inserted into the record as though

1 read.

2 CHAIRMAN GRAHAM: We will insert the prefiled
3 direct testimony of Stout, Foster -- and what's
4 that last name?

5 MR. SCHRADER: Borsch, I believe.

6 CHAIRMAN GRAHAM: Borsch, into the record as
7 though read.

8 (Whereupon, prefiled direct testimony was
9 inserted.)

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**IN RE: DUKE ENERGY FLORIDA, LLC'S PETITION FOR A LIMITED
PROCEEDING TO APPROVE SECOND SOLAR BASE RATE ADJUSTMENT**

FPSC DOCKET NO. _____

DIRECT TESTIMONY OF MATTHEW G. STOUT

MARCH 25, 2019

1 **Q. Please state your name and business address.**

2 A. My name is Matthew G. Stout. My business address is Mail Code ST-14A, 400 South
3 Tryon Street, Charlotte, NC 28202.

4

5 **Q. By whom are you employed and what is your position?**

6 A. I am employed by Duke Energy as a Managing Director of Business Development for
7 Wind and Solar Development.

8

9 **Q. Please describe your duties and responsibilities in that position.**

10 A. I am responsible for the development of new solar facilities in Florida on behalf of
11 Duke Energy Florida, LLC ("DEF" or the "Company"). I lead a team that conducts
12 solar development activities including project siting, land acquisition, resource
13 assessment, permitting, obtaining interconnection rights, project layout and design
14 and arranging contracts for engineering, procurement and construction services, as
15 well as originating, structuring, and executing transactions to acquire rights to
16 existing solar development projects.

17

1 **Q. Please describe your educational background and professional experience.**

2 A. I received a BA degree in Economics from Connecticut College in 1998. I began my
3 career as a management consultant for PricewaterhouseCoopers and later worked as
4 an investment banking associate for Morgan Joseph. In 2007, I earned an MBA from
5 the Ross School of Business and an MS in Environmental Policy from the School of
6 Natural Resources at the University of Michigan with a focus on renewable energy.
7 During graduate school, I managed business development at STM Power, Inc., a start-
8 up manufacturer of renewable power generation equipment. Upon finishing graduate
9 school, I joined Catamount Energy Corporation, a renewable energy development
10 company, where I helped site new wind energy facilities across the United States. I
11 joined Duke Energy in 2008 and have had several positions focused on renewable
12 energy development, including Manager of Business Development for Solar and
13 Wind, Managing Director of Project Acquisitions, and most recently Managing
14 Director of Wind and Solar Development for the regulated utilities. In total, I have
15 over 20 years of professional work experience, including 12 years of renewable
16 energy business development.

17

18 **Q. What is the purpose of your testimony?**

19 A. My testimony is provided to support DEF's request for cost recovery approval of the
20 second group of its solar power plants or projects authorized under the approved 2017
21 Second Revised and Restated Stipulation and Settlement Agreement ("2017
22 Settlement"), under Docket Number 20170183-EI. My testimony describes the solar
23 power plants that DEF plans to build to serve its customers and includes an overview

1 of the process DEF has used to ensure that the project costs meet the requirements of
2 the 2017 Settlement. My testimony supports the reasonableness of the proposed
3 project costs.

4

5 **Q. Are you presenting exhibits in this proceeding?**

6 A. Yes. They consist of the following exhibits:

7 Exhibit No. ____ (MGS-1) Trenton Solar Power Plant Site Plan;

8 Exhibit No. ____ (MGS-2) Trenton Solar Power Plant Costs;

9 Exhibit No. ____ (MGS-3) Lake Placid Solar Power Plant Site Plan;

10 Exhibit No. ____ (MGS-4) Lake Placid Solar Power Plant Costs;

11 Exhibit No. ____ (MGS-5) DeBary Solar Power Plant Site Plan;

12 Exhibit No. ____ (MGS-6) DeBary Solar Power Plant Costs; and

13 Exhibit No. ____ (MGS-7) Cost Comparison to Other Utilities.

14 These exhibits are true and accurate.

15

16 **Q. Did DEF use the same methodology for selecting and evaluating potential**
17 **projects as was used to select the Hamilton and Columbia projects?**

18 A. Yes, DEF used the same methodology to select and evaluate potential projects as was
19 used to select the Hamilton and Columbia projects. I discuss the specific process
20 DEF used to select the Trenton, Lake Placid and DeBary sites for development later
21 in my testimony.

22

23 **Q. What solar projects is DEF proposing for approval in this filing?**

1 A. DEF is proposing the following projects: (a) the Trenton Solar Power Plant (“Trenton
2 Project”), (b) the Lake Placid Solar Power Plant (“Lake Placid Project”), and (c) the
3 DeBary Solar Power Plant (“DeBary Project”). DEF notes that it will be making
4 another filing in 2020 to present additional future projects.

5
6 **Q. Please describe the Trenton Project.**

7 A. The Trenton Project is a 74.9 MWac / 102.5 MWdc solar single-axis tracking PV
8 project, yielding an expected capacity factor of approximately 29%, located in
9 Gilchrist County, Florida. The project will use a mixture of 365-watt and 370-watt
10 modules, procured from REC America and a mixture of 380-watt and 385-watt
11 modules, procured from JA Solar (both leading, Tier I manufacturers) and the single-
12 axis racking system will be procured from Array Technologies, Inc. Inverters will be
13 sourced from Toshiba Mitsubishi Electric Industries Corporation (TMEIC), a 50-50
14 joint venture between Toshiba and Mitsubishi Electric. TMEIC is a \$2.0B company,
15 as measured by sales. The facility will be constructed on approximately 580 acres
16 that are under a long-term lease. The site is a former agricultural/cattle grazing land
17 as well as pine timber and is relatively flat with minimal sloping that will allow for
18 the use of a tracking system. The point of interconnection is the existing Trenton
19 69kV Substation. M.A. Mortenson Company (“Mortenson”) was selected to perform
20 final facility engineering, design and construction. Mortenson has constructed over
21 3,700 MW of solar energy facilities. Expertise in energy modeling tools combined
22 with self-perform capabilities enable the company to focus on delivering the lowest
23 cost of energy over the life cycle of projects. DEF selected Mortenson to design and

1 build the 74.9 MWac Hamilton Solar Power Plant which was placed in-service
2 December 2018. DEF acquired the company that held the early stage development
3 assets of the Trenton Project from Southeast Solar and Power, LLC, the original
4 developer of the project. Southeast Solar and Power, LLC was responsible for the
5 site control, interconnection queue position and a limited amount of environmental
6 and permitting work. DEF acquired the project on September 14, 2018 and continued
7 to complete all development activities. The project is expected to start construction in
8 May 2019 with an expected placed in-service date in December 2019. My Exhibit
9 No. __ (MGS-1) shows the location of the Trenton Project and the general site plan.

10

11 **Q. What is the projected installed cost for the Trenton Project?**

12 A. The projected cost of the Trenton Project is \$100,166,120 or \$1,337/kWac. My
13 Exhibit No. __ (MGS-2) shows the categories that make up the total installed cost.

14

15 **Q. Will the Trenton Project qualify for the statewide property tax exemption?**

16 A. Yes.

17

18 **Q. Please describe the Lake Placid Project.**

19 A. The Lake Placid Project is a 45.0 MWac / 58.9 MWdc single-axis tracking solar PV
20 project, yielding an expected capacity factor of approximately 29%, and located in
21 Highlands County, Florida. The project will use a mixture of 340-watt and 345-watt
22 modules, procured from Seraphim Energy Group (a leading, Tier I manufacturer) and
23 the single-axis racking system will be procured from Array Technologies, Inc.

1 Inverters will be sourced from SMA Solar Technology (“SMA”), a leading inverter
2 solutions provider who is represented in all important photovoltaics markets in
3 twenty-one countries. The facility will be constructed on approximately 380 acres
4 that are under a long-term lease. The site is a former citrus grove and is relatively flat
5 with minimal sloping that will allow for the use of a tracking system. The point of
6 interconnection is the existing Lake Placid North 69kV Substation. Overland
7 Contracting Inc., a subsidiary of Black & Veatch (“B&V”) was selected to perform
8 final facility engineering, design and construction. B&V has been actively engaged
9 in the EPC and solar industry since 1973 and executed 223 MW solar PV EPC
10 projects in Florida in the last two years with 1.5+ GW in design engineering services
11 on solar PV projects. DEF acquired the early stage development assets of the project
12 from EDF Renewables, the original developer of the project through an Asset
13 Purchase Agreement (“APA”). EDF was responsible for all development and
14 permitting activities, DEF acquired the project following the completion of
15 development activities in March 2019. The project is expected to start construction in
16 May 2019 with an expected placed in-service date in December 2019. My Exhibit
17 No. __ (MGS-3) shows the location of the Lake Placid Project and the general site
18 plan.

19

20 **Q. What is the projected installed cost for the Lake Placid Project?**

21 A. The projected cost of the Lake Placid Project is \$60,609,369 or \$1,347/kWac. My
22 Exhibit No. __ (MGS-4) shows the categories that make up the total installed cost.

23

1 **Q. Will the Lake Placid Project qualify for the statewide property tax exemption?**

2 A. Yes.

3

4 **Q. Please describe the DeBary Project.**

5 A. The DeBary Project is a 74.5 MWac / 102.5 MWdc solar photovoltaic (“PV”) facility
6 located in Volusia County, Florida. The project will utilize solar modules mounted to
7 a fixed-tilt racking system, yielding an expected capacity factor of approximately
8 24%. The project will use a mixture of 360-watt and 365-watt modules, procured
9 from Hanwha Q Cells America, Inc. (a top five ranked manufacturer by global
10 shipping volume) and the fixed racking system will be procured from Sol
11 Components, a CEMCO affiliate. CEMCO is recognized as one of the largest
12 manufacturers of steel framing in the U.S. As with the Trenton Project, inverters will
13 be sourced from TMEIC. The facility will be constructed upon 445 acres of company
14 owned property, adjacent to an existing power plant. The site is primarily
15 undeveloped timber land and due to the topography and geographic layout, a fixed-tilt
16 racking system is best suited. Fixed tilt systems cost less to install and produce a
17 lower energy output compared to single-axis tracking systems. The point of
18 interconnection is the Highbanks 115kV Substation located on-site. Moss &
19 Associates, LLC (“Moss”) was selected to perform final facility engineering, design
20 and construction. Moss is a proven reliable Engineering, Procurement, and
21 Construction (“EPC”) partner, based in Florida, having constructed over 1,800 MW
22 of solar energy facilities. The project anticipates to achieve placed in service by

1 March 2020. My Exhibit No. __ (MGS-5) shows the location of the DeBary Project
2 and the general site plan.

3

4 **Q. What is the projected installed cost for the DeBary Project?**

5 A. The projected cost of the DeBary Project is \$91,203,912 or \$1,224/kWac. My
6 Exhibit No. __ (MGS-6) shows the categories that make up the total installed cost.

7

8 **Q. Will the DeBary Project qualify for the statewide property tax exemption?**

9 A. Yes.

10

11 **Q. Please describe the process DEF used to select the Trenton, Lake Placid and
12 DeBary sites for development.**

13 A. Building on the work DEF described in its request for approval of the first group of
14 solar projects in Docket 20180149, DEF continued a comprehensive review of
15 greenfield sites (including sites that it already owns) and projects already in
16 development in DEF's service territory. DEF identified projects already in the
17 interconnection queue with favorable queue positions. DEF is willing to purchase
18 solar projects in various stages of completion from third-party developers but projects
19 must meet our standards of development and construction and fit into our strategic
20 build plan. The primary factors when considering the purchase of a third-party
21 developed site are interconnection queue position for transmission connection to the
22 grid and expected grid upgrades, environmental impacts, constructability of the site,
23 development status and schedule, overall cost, quality/type of materials (such as

1 panel, inverter and racking, manufacturers), project location, zoning entitlements,
2 experience and competencies of developer, and construction schedule. The Trenton
3 Project and the Lake Placid Project were selected from among over 60 projects that
4 have been reviewed for acquisition of existing projects in DEF's service territory.
5 The projects were identified from publicly available information. Additional project
6 details were submitted to DEF by the project developers upon execution of a
7 confidentiality agreement. Projects that met first round screening criteria were asked
8 to negotiate proposals for the sale of the development assets to DEF. DEF developed
9 a shortlist of proposals to advance into further negotiations, including those for the
10 Trenton Project and the Lake Placid Project. The DeBary Project is a greenfield
11 project on company owned land that was identified and developed by DEF.
12 Additional projects for future development remain under consideration and new
13 projects are frequently presented by third party developers to my team for review.

14 The Trenton Project was acquired from a third-party developer due to its
15 senior queue position, agricultural land with transmission access, and mid stage
16 development status. DEF acquired the early stage development assets of the project
17 from Southeast Solar and Power, LLC while it was still being developed. DEF
18 completed the remaining development tasks, including permitting, design, final
19 interconnection rights, and contracting for engineering, procurement, and
20 construction services.

21 DEF selected the Lake Placid Project due to its senior queue position, land
22 holding with transmission access, and mid stage development status. DEF entered
23 into an APA to acquire the early stage development assets of the project from EDF

1 Renewables. Once all project development milestones were achieved, in March
2 2019, the parties closed on the agreement. The project has completed all site
3 investigation studies, received all zoning and permitting approvals and has executed a
4 Large Generator Interconnection Agreement (“LGIA”).

5 The DeBary site was selected due to favorable characteristics including large
6 land holding, access to transmission and constructability of the project area. The
7 project is located within the City of DeBary jurisdiction and received City Council
8 approval on the necessary zoning amendment on March 6, 2019. All site
9 investigation studies are complete and an LGIA has been executed. The project
10 avoids all wetlands and floodplains within the project area. A Habitat Conservation
11 Plan was filed with the U.S. Fish and Wildlife Services for limited impacts to Florida
12 Scrub-jay habitat and to the eastern indigo snake, both federally protected species.
13 The project will need a Final Site Plan approval from the City of DeBary prior to the
14 start of construction.

15

16 **Q. Please describe the process DEF used to contract for the construction of the**
17 **Trenton, Lake Placid and DeBary Projects.**

18 A. DEF conducted separate competitive RFP (Request For Proposals) process to select
19 the EPC contractor for each project. DEF administered each RFP to ensure a fair and
20 transparent process was used for all communication, evaluation and selection. After
21 qualification of EPC contractors, four high quality EPC contractors were invited to
22 provide bids to provide engineering, design, procurement and construction services
23 for the Trenton Project, five high quality EPC contractors were invited to bid for the

1 Lake Placid Project, and four high quality EPC contractors were invited to bid for the
2 DeBary Project. Bidders were provided with all relevant site investigation and design
3 criteria documents applicable to the project. Bidders were instructed to comply with
4 all company design and construction policies. Bids were evaluated on bidder
5 experience, price, schedule, design, risk and ability to deliver the project in a safe,
6 reliable and cost-effective manner.

7 As a result of these evaluations, for the Trenton Project, Mortenson was
8 selected as the most cost-effective and highest value supplier, and the parties
9 executed an EPC Agreement.

10 As a result of these evaluations, for the Lake Placid Project, B&V was
11 selected as the most cost-effective and highest value supplier, and the parties
12 executed an EPC Agreement.

13 As a result of these evaluations, for the DeBary Project, Moss was selected as
14 the most cost-effective and highest value supplier, and the parties executed an EPC
15 Agreement.

16

17 **Q. Why did DEF enter long-term leases for the Trenton Project and Lake Placid**
18 **Project, rather than purchasing the property?**

19 A. More generally, when there is an option to purchase versus enter into a long-term
20 lease, DEF evaluates the net present value (“NPV”) of the costs of each option over
21 the life of the project and chooses the least cost option on a present value basis. With
22 respect to the Trenton Project and the Lake Placid Project, the developers had already
23 signed long term leases with the landowners with rents priced in line with the current

1 market (at terms that match or exceed the useful life of the facilities), so DEF had no
2 ability to purchase those properties. Given the overall value of these projects to
3 DEF's customers, DEF believes it is prudent to move forward with long term leases
4 for these projects. DEF already owned the land on which the DeBary Project will be
5 constructed, so no new lands were purchased or leased for the project.

6

7 **Q. What is the weighted average cost for the three projects described above?**

8 A. The weighted average cost for the three projects is \$1,296/kWac.

9

10 **Q. Your costs are different from recent costs filed by other utilities in Florida. Can**
11 **you explain the reasonableness of the differences?**

12 A. Yes. As required by Paragraph 15(a) of the 2017 Settlement, DEF has reviewed
13 publicly available information from Florida Power & Light Company's ("FPL") solar
14 base rate adjustment filing in their 2017, 2018, and 2019 fuel docket and Tampa
15 Electric Company's ("Tampa Electric") solar base rate adjustment filing in Docket
16 Number 20170260-EI and Docket Number 20180133-EI. My Exhibit No. __ (MGS-
17 7) shows how the Trenton Project, Lake Placid and DeBary Project compare to costs
18 filed by other utilities, where such information was publicly available to DEF.
19 Generally, the costs for Trenton Project, Lake Placid Project and DeBary Project are
20 lower than those filed by other utilities in Florida. DEF also notes that, as explained
21 above, it competitively solicited all aspects of the projects and therefore its costs are
22 reasonable, cost effective, and at market.

23

1 **Q. Are the projected costs for the solar projects described in your testimony eligible**
2 **for cost recovery under the 2017 Settlement?**

3 **A.** Yes. As demonstrated above, DEF utilized a reasonable competitive process to select
4 its contractors and to procure equipment and material. Its costs are reasonable and
5 within the strict \$1,650/kWac cap set forth in the 2017 Settlement. DEF reasonably
6 considered buying out projects in various stages of development. Mr. Borsch will
7 demonstrate the cost effectiveness of, and the need for, these solar projects, as
8 required by the 2017 Settlement.

9

10 **Q. Does that conclude your testimony?**

11 **A.** Yes.

**IN RE: DUKE ENERGY FLORIDA, LLC'S PETITION FOR A LIMITED
PROCEEDING TO APPROVE SECOND SOLAR BASE RATE ADJUSTMENT**

FPSC DOCKET NO. _____

DIRECT TESTIMONY OF THOMAS G. FOSTER

MARCH 25, 2019

1 **Q. Please state your name and business address.**

2 A. My name is Thomas G. Foster. My business address is Duke Energy Florida, LLC, 299
3 1st Avenue North, St. Petersburg, Florida 33701.

4

5 **Q. By whom are you employed and what is your position?**

6 A. I am employed by Duke Energy Florida, LLC ("DEF" or the "Company") as Director
7 of Rates and Regulatory Planning.

8

9 **Q. Please describe your duties and responsibilities in that position.**

10 A. I am responsible for regulatory planning and cost recovery for Duke Energy Florida,
11 LLC ("DEF"), including the Company's filing for recovery of its investments in solar
12 projects.

13

14 **Q. Please describe your educational background and professional experience.**

15 A. I joined the Company on October 31, 2005 in the Regulatory group. In 2012, following
16 the merger with Duke Energy Corporation ("Duke Energy"), I was promoted to my

1 current position. I have 6 years of experience related to the operation and maintenance
2 of power plants obtained while serving in the United States Navy as a Nuclear Operator.
3 I received a Bachelors of Science degree in Nuclear Engineering Technology from
4 Thomas Edison State College. I received a Masters of Business Administration with a
5 focus on finance from the University of South Florida and I am a Certified Public
6 Accountant in the State of Florida.

7

8 **Q. What is the purpose of your testimony?**

9 A. The purpose of my testimony is to provide the annualized revenue requirements for the
10 three solar projects included in DEF's second SoBRA filing; Lake Placid Solar Power
11 Plant ("Lake Placid"), Trenton Solar Power Plant ("Trenton"), and DeBary Solar Power
12 Plant ("DeBary"). I will also present the process for submitting the customer rate
13 impacts and tariff sheets in a subsequent filing. Matthew Stout will present direct
14 testimony describing the solar projects and the reasonableness of the costs, and
15 Benjamin Borsch will present direct testimony demonstrating the cost effectiveness of
16 the solar projects.

17

18 **Q. Have you prepared, or caused to be prepared under your direction, supervision,
19 or control, exhibits in this proceeding?**

20 A. Yes. I am sponsoring the following exhibit:

21 Exhibit No. ____ (TGF-1), "SoBRA II First Year Annualized Revenue Requirement."

22 This exhibit is true and accurate.

23

1 **Q. Please describe the SoBRA filing requirements in DEF's 2017 Revised and**
2 **Restated Settlement Agreement.**

3 A. Paragraph 15 of the 2017 Revised and Restated Settlement Agreement ("2017
4 Settlement") provides for solar base rate adjustments. Specifically, Paragraph 15.c.
5 states:

6 Solar generation projects not subject to the Florida Electrical Power
7 Plant Siting Act (i.e., fewer than 75 MW), also will be subject to
8 approval by the Commission as follows: (i) DEF will file a request
9 for approval of the solar generation project in a separate docket; and
10 (ii) the issues for determination are limited to: the reasonableness
11 and cost effectiveness of the solar generation projects (i.e., will the
12 projects lower the projected system cumulative present value
13 revenue requirement "CPVRR" as compared to such CPVRR
14 without the solar projects); the amount of revenue requirements; and
15 whether, when considering all relevant factors, DEF needs the solar
16 project(s). Any Party may challenge the reasonableness of DEF's
17 actual or projected solar project costs. If approved, DEF will
18 calculate and submit for Commission confirmation the base rate
19 adjustment for each such solar project, consistent with
20 Subparagraphs 15.e. and 15.f.

21

22 **Q. Have you calculated the revenue requirements for the solar projects consistent**
23 **with the 2017 Settlement?**

1 A. Yes. Based on the cost information provided in Mr. Stout’s testimony, I have
 2 calculated the annualized revenue requirements for Lake Placid, Trenton, and DeBary.
 3 The annualized revenue requirements have been calculated in accordance with
 4 Paragraph 15.f. of the 2017 Settlement, which requires that the revenue requirements
 5 be “calculated using a 10.5% ROE and DEF’s projected 13-month average capital
 6 structure for the first 12 months of operation, including all specific adjustments
 7 consistent with DEF’s most recently filed December earnings surveillance report, and
 8 excluding the treatment of common equity and rate base (working capital) allowed in
 9 Paragraph 18 of the 2013 Settlement Agreement, and adjusted to include an ADIT
 10 proration adjustment consistent with 26 C.F.R. Section 1.167(l)-1(h)(6) and adjusted
 11 to reflect the inclusion of investment tax credits on a normalized basis.” Further, as
 12 required by Paragraph 12.c. of the 2017 Settlement, DEF has calculated the revenue
 13 requirements using the lower 21% federal income tax rate as a result of the 2017 Tax
 14 Cuts and Jobs Act. The following table provides the expected in-service date, rate
 15 effective date, projected revenue requirement and estimated residential rate impact for
 16 each project.

	Lake Placid	Trenton	DeBary
Expected In-Service Date	Dec 2019	Dec 2019	Mar 2020
Rate Effective Date	Jan 2020	Jan 2020	Apr 2020
Est. Revenue Requirement	\$7.8 million	\$12.8 million	\$11.4 million
Est. Residential Rate \$/1,000 kWh *	\$0.22	\$0.37	\$0.33

17 * To be updated at the time of DEF’s Capacity Cost Recovery Clause 2020 projection filing
 18

19 **Q. Does the 2017 Settlement provide for a true-up mechanism to be applied to SoBRA**
 20 **rates?**

1 A. Yes. Paragraph 15.g. of the 2017 Settlement states, “In the event that the actual capital
2 expenditures are less than the approved projected costs, included in the petition for cost
3 recovery and used to develop the initial base rate adjustment, the lower figure shall be
4 the basis for the full revenue requirements and a one-time credit will be made through
5 the CCR Clause. In order to determine the amount of this credit, a revised base rate
6 adjustment will be computed using the same data and methodology incorporated in the
7 initial base rate adjustment, with the exception that the actual capital expenditures will
8 be used in lieu of the capital expenditures on which the Annualized Base Revenue
9 Requirement was based. On a going-forward basis, base rates will be adjusted to reflect
10 the revised base rate adjustment. The difference between the cumulative base revenues
11 since the implementation of the initial base rate adjustment and the cumulative base
12 revenues that would have resulted if the revised base rate adjustment had been in-place
13 during the same time period will be credited to customers through the CCR Clause with
14 interest at the 30-day commercial paper rate as specified in Rule 25-6.109, F.A.C.”
15 Once the capital expenditures are final, if they are less than the amount approved by
16 the Commission, then DEF will make a true-up filing to reduce base rates going
17 forward and provide a refund through the CCR clause consistent with the provisions in
18 Paragraph 15.g. of the 2017 Settlement.

19
20 **Q. Have you calculated the solar base rate adjustment factors consistent with the**
21 **2017 Settlement?**

22 A. Not at this time. Paragraph 15.e in the 2017 Settlement requires DEF to use the sales
23 forecast in DEF’s then-most-current Capacity Cost Recovery (CCR) Clause projection

1 filing; the CCR projection filing for 2020 is expected to be filed on September 3, 2019.
2 Therefore, at the time of DEF's CCR projection filing, DEF will file a rate exhibit that
3 includes; 1) the rates to be effective January 2020 for Lake Placid, Trenton and the
4 multi-year rate increase pursuant to Paragraph 12.b. and 12.c. of the 2017 Settlement,
5 and 2) the rates to be effective April 2020 for DeBary and Columbia. The Columbia
6 solar project was included in DEF's first SoBRA filing in Docket No. 20180149 and is
7 also expected to be placed in rates in April 2020.

8

9 **Q. When will DEF file the tariff sheets?**

10 A. In order to promote efficiency and avoid having multiple sets of tariff sheets
11 outstanding for approval, DEF proposes to file two different sets of tariff sheets at two
12 different times. DEF will file tariff sheets with an effective date of January 1, 2020
13 immediately after the Commission approves Lake Placid and Trenton. DEF will then
14 file tariff sheets with an effective date of April 1, 2020 to include DeBary and Columbia
15 after the rates go into effect for Lake Placid and Trenton. DEF will file both of these
16 sets of tariff sheets for Commission confirmation pursuant to Paragraph 15.c. of the
17 2017 Settlement.

18

19 **Q. What is the estimated residential base rate impact of Lake Placid, Trenton, and**
20 **DeBary?**

21 A. The estimated residential base rate impacts are shown in the table on page 4 of my
22 testimony. These estimated rate impacts are based on the the sales forecast used in
23 DEF's 2018 CCR projection filing for 2019. However, these rates will be updated

1 based on the sales forecast to be used in DEF's 2019 CCR projection filing for 2020
2 rates at the time of that filing, as explained above.

3

4 **Q. How will DEF notify the Commission of the commercial operation date of each**
5 **solar facility?**

6 A. DEF will submit to the Commission a letter that declares the commercial operation date
7 of each solar facility prior to any Solar base rate changes.

8

9 **Q. Does that conclude your testimony?**

10 A. Yes.

**IN RE: DUKE ENERGY FLORIDA, LLC'S PETITION FOR A LIMITED
PROCEEDING TO APPROVE SECOND SOLAR BASE RATE ADJUSTMENT**

FPSC DOCKET NO. _____

DIRECT TESTIMONY OF BENJAMIN M. H. BORSCH

MARCH 25, 2019

1 **Q. Please state your name and business address.**

2 A. My name is Benjamin M. H. Borsch. My business address is Duke Energy Florida,
3 LLC, 299 1st Avenue North, St. Petersburg, Florida 33701.

4

5 **Q. By whom are you employed and what is your position?**

6 A. I am employed by Duke Energy Florida, LLC ("DEF" or the "Company") as the
7 Director, IRP & Analytics.

8

9 **Q. Please describe your duties and responsibilities in that position.**

10 A. I am responsible for resource planning for DEF. I am responsible for directing the
11 resource planning process in an integrated approach in order to find the most cost-
12 effective alternatives to meet the Company's obligation to serve its customers in
13 Florida. I oversee the completion of the Company's Ten-Year Site Plan ("TYSP")
14 filed each April.

15

16 **Q. Please describe your educational background and professional experience.**

1 A. I received a Bachelor's of Science and Engineering degree in Chemical Engineering
2 from Princeton University in 1984. I joined Progress Energy in 2008 supporting the
3 project management and construction department in the development of power plant
4 projects. In 2009, I became Manager of Generation Resource Planning for Progress
5 Energy Florida, and following the 2012 merger with Duke Energy Corporation, I
6 accepted my current position. Prior to joining Progress Energy, I was employed for
7 more than five years by Calpine Corporation where I was Manager (later Director) of
8 Environmental Health and Safety for Calpine's Southeastern Region. In this
9 capacity, I supported development and operations and oversaw permitting and
10 compliance for several gas-fired power plant projects in nine states. I was also
11 employed for more than eight years as an environmental consultant with projects
12 including development, permitting, and compliance of power plants and transmission
13 facilities. I am a professional engineer licensed in Florida and North Carolina.

14

15 **Q. Please give an overview of the Company's presentation in this filing.**

16 A. The Company is presenting testimony from three witnesses. My testimony will focus
17 on the Company's demonstration of cost effectiveness for the proposed projects and
18 their compliance with the terms set forth in DEF's 2017 Second Revised and Restated
19 Settlement (the "2017 Settlement"). Two other witnesses will be presenting
20 testimony. The testimony of Mr. Matthew G. Stout focuses on the characteristics of
21 the solar projects presented for approval in this filing. It also provides details as to
22 the Company's competitive solicitation processes, as well as the costs for the solar

1 projects. The testimony of Mr. Thomas G. Foster presents the revenue requirements
2 for the solar projects.

3

4 **Q. What is the purpose of your testimony?**

5 A. The purpose of my testimony is to present the results of the economic analysis which
6 shows that DEF's proposed three solar projects presented in this filing are cost
7 effective and consistent with the terms of the 2017 Settlement. My testimony covers
8 several areas. First, I discuss details of the three specific solar projects covered by
9 this filing. Second, I discuss the major assumptions and methodology used to
10 perform the economic analysis. Third, I present the results of the economic analysis,
11 demonstrating that the addition of the proposed solar projects is cost effective and
12 consistent with the terms of the 2017 Settlement.

13

14 **Q. Are you presenting exhibits in this proceeding?**

15 A. Yes. They consist of the following exhibits which are attached to my testimony:

16 Exhibit No. __ (BMHB-1), "Solar Power Plant Assumptions;"

17 Exhibit No. __ (BMHB-2), "Load Forecast;"

18 Exhibit No. __ (BMHB-3), "Fuel Forecasts;" and

19 Exhibit No. __ (BMHB-4), "Cost Effectiveness (CPVRR) Analysis Results."

20 These exhibits are true and accurate.

21

22 **Q. Please summarize your testimony.**

1 A. In the 2017 Settlement, DEF is authorized to request cost recovery up to 700 MW of
2 solar generation over the course of the 2017 Settlement period including one year
3 following the expiration of the Term of the 2017 Settlement subject to the
4 demonstration of cost effectiveness and other provisions. In this filing, DEF is
5 proposing the construction and operation of 194.4 MW_{ac} of solar PV generation,
6 consisting of three separate projects, two projects coming in service in late 2019 with
7 capacities of 74.9 and 45.0 MW_{ac} and a third project with a capacity of 74.5 MW_{ac}
8 and an in-service date in early 2020. DEF performed an economic analysis and
9 determined that these projects result in a reduction in the Cumulative Present Value
10 Revenue Requirements (“CPVRR”) to DEF customers for a total savings of
11 approximately \$105 million.

12
13 **Q. Please describe the solar projects DEF is presenting for approval.**

14 A. In this filing, DEF proposes three solar facilities. The first is a 74.9 MW facility in
15 Gilchrist County, called the Trenton Solar Power Plant (“Trenton Project”) which will
16 come into service in late 2019. Next is a 45.0 MW facility located in Highlands
17 County called the Lake Placid Solar Power Plant (“Lake Placid Project”), and the
18 third is a 74.5 MW facility located at DEF’s existing DeBary Generating Station in
19 Volusia County which will be called the DeBary Solar Power Plant (“DeBary
20 Project”) and which will come into service in early 2020. Collectively, these projects
21 will generate approximately 460,000 MWhs per year. Key data regarding these
22 projects are provided in Exhibit No. ___ (BMHB-1). The projects are described in
23 greater detail in Mr. Stout’s testimony.

1 **Q. What will these proposed solar projects cost?**

2 A. DEF anticipates that the Trenton, Lake Placid and DeBary Projects will cost
3 approximately \$100 million, \$60 million, and \$90 million respectively. These costs
4 translate to a per kW cost of \$1,337/kW_{ac} for Trenton, \$1,347//kW_{ac} for Lake Placid
5 and \$1,224/kW_{ac} for DeBary. This results in a weighted average per kW cost of
6 \$1,296/kW_{ac}. The costs are described in more detail in Mr. Stout's testimony.

7

8 **Q. What does the 2017 Settlement require DEF to demonstrate to obtain cost
9 recovery for the solar projects?**

10 A. DEF must demonstrate that the projected solar projects in each filing meet several
11 required elements. The first demonstrates that the costs are reasonable and beneath a
12 threshold cost of \$1,650/kW_{ac} for the weighted average construction cost of the
13 projects in an individual filing. These elements are met, as described above and in
14 Mr. Stout's testimony. DEF must also calculate the annual revenue requirements, as
15 explained in Mr. Foster's testimony. Finally, the solar projects must be limited to
16 certain total MW size through one year following the Term of the 2017 Settlement, be
17 cost effective on DEF's system, and DEF must demonstrate a need for the solar
18 projects. The remainder of my testimony will focus on these last three requirements.

19

20 **Q. Do the proposed solar projects meet the MW limitations set forth in the 2017
21 Settlement?**

22 A. Yes. Paragraph 15(a) of the 2017 Settlement states that DEF may install up to 700
23 MW of solar generation over the term of the 2017 Settlement. Paragraph 15(d)

1 provides cost recovery limitations on those projects such that the installations can be
 2 spread across the term in a particular manner, at a rate of up to 175 MW per year
 3 except that unused portions of the total may carryover from year to year. Thus, up to
 4 a cumulative total of 175 MW may come online by the end of 2018, a cumulative
 5 total of up to 350 MW may come online by the end of 2019, a cumulative total of up
 6 to 525 MW may come online by the end of 2020, and the full 700 MW of solar
 7 projects may come online by the end of 2021 or within one year following the Term
 8 of the 2017 Settlement. The solar projects proposed here contribute 119.9 MW in
 9 2019 and 74.5 MW added to the previously proposed 74.9 MW in 2020, a total of
 10 149.4 MW in 2020, so DEF is within the limitations set forth in the 2017 Settlement.
 11 The table below compares the limitations laid out in the settlement to the projects
 12 proposed by DEF in this filing and in our July 2018 filing.

DEF Proposed Solar MW				
Filing	2018 MW	2019 MW	2020 MW	2021 MW
July 2018	74.9		74.9	
March 2019		119.9	74.5	
Total	74.9	119.9	149.4	
Cumulative Total	74.9	194.8	344.2	
Limitation	175	350	525	700

13

14

15 **Q. Why is DEF proposing projects in different years, and one in 2020 in this filing?**

16 A. In accordance with the terms of the 2017 Settlement, DEF has considered solar
 17 projects available both through DEF greenfield project development and through the
 18 acquisition of projects proposed by other developers. In this filing, DEF is proposing
 19 two projects acquired from other developers with various stages of project

1 development already underway and a third greenfield project developed on DEF
2 owned property. In the cases of the first two projects proposed for 2019 in-service
3 dates, DEF was able to acquire projects with advanced positions in the transmission
4 interconnection queue and which DEF believes have good community acceptance and
5 a straightforward path to receiving the necessary permits. In the case of the DeBary
6 Project, DEF accepted a later in-service date in order to complete local permitting
7 required for the site in order to take advantage of the opportunity to utilize property
8 already owned by the company.

9

10 **Q. Are the proposed solar projects cost effective?**

11 A. Yes. As explained below, DEF analyzed the total system cost of the DEF system
12 with the projects as compared to the total DEF system costs without the projects, and
13 found that the solar projects as proposed reduce the total system cost and are thus cost
14 effective for DEF's customers.

15

16 **Q. How did DEF evaluate the cost effectiveness of the solar projects?**

17 A. DEF calculated the cost effectiveness in the same manner that it performs cost
18 effectiveness evaluations of numerous projects including the development of the Ten-
19 Year Site Plan. DEF calculates the total system cost projected over the life of the
20 solar projects for a scenario with the solar projects and compares it to the total system
21 cost calculated for a scenario without the solar projects. Lower total system costs for
22 the scenario with the solar projects represents savings to DEF's customers. As with
23 our Ten-Year Site Plan, this analysis is performed using the Planning and Risk suite

1 of modeling tools to evaluate the production cost results. Project specific capital
2 costs come from the project development teams and revenue requirements are then
3 developed. Finally, project specific solar performance projections are developed
4 using the PVSyst model and provided to the production cost model. This data
5 becomes inputs to derive the system costs for the two cases developed with and
6 without the solar projects in service.

7 In addition to the reference case assuming the base case fuel price projection
8 and a carbon emission cost beginning in 2025, DEF also performed sensitivities based
9 on low and high fuel price projections. Results of these differential CPVRR analyses,
10 the difference between with and without the solar projects are shown below and in
11 Exhibit No. __ (BMBH-4). The fuel price forecasts are shown in Exhibit No. __
12 (BMHB-3) attached to this testimony.

13 **Q. Please describe the major assumptions used in developing the CPVRR analyses.**

14 A. Load Forecast – The analysis uses DEF’s most recent official load forecast developed
15 in the fall of 2018, which will be presented as the base case load forecast in the DEF
16 2019 Ten-Year Site Plan (“TYSP”) filed with the commission in April 2019. This
17 load forecast is attached as Exhibit No. __ (BMHB-2).

18 • Fuel Price Forecast – The reference case analyses use DEF’s most recent
19 published fuel price forecast also utilized in DEF’s 2019 TYSP. The base case
20 fuel price forecast was developed using short-term and long-term spot market
21 price projections from industry-recognized sources. The base cost for coal is
22 based on the existing contracts and spot market coal prices and transportation
23 arrangements between DEF and its various suppliers. For the longer term, the

1 prices are based on spot market forecasts reflective of expected market conditions.
2 Oil and natural gas prices are estimated based on current and expected contracts
3 and spot purchase arrangements as well as near-term and long-term market
4 forecasts. Oil and natural gas commodity prices are driven primarily by open
5 market forces of supply and demand. Natural gas firm transportation cost is
6 determined primarily by pipeline tariff rates. For the low and high fuel price
7 scenarios, DEF developed ranges of natural gas and coal prices around the
8 reference forecast based on the range of prices seen in the Energy Information
9 Administration's high price (Low Oil and Gas Resource and Technology Case)
10 and low price (High Oil and Gas Resource and Technology Case) forecasts.

- 11 • CO₂ Emissions Price Forecast – The CO₂ allowance price projections used in this
12 filing are also DEF's latest projections used in the development of the 2019
13 TYSP. DEF's price projections are a proxy for regulations consistent with a goal
14 to reduce CO₂ emissions 40% by 2030.

15
16 **Q. What are the results of DEF's cost effectiveness evaluation for these projects?**

17 A. DEF has found that the projects are cost effective for its customers. The total system
18 costs calculated over the project lives when including the projects in the DEF
19 resource plan are lower when compared to the total system costs excluding the
20 projects. The net results of this analysis (system costs with the projects minus system
21 costs without the projects) are summarized in the table below and in Exhibit No. __
22 (BMHB-4).

23

CPVRR Net Cost / (Savings) of Proposed Solar Projects
\$ Millions (2019)

Low Fuel Sensitivity	Base Case Fuel	High Fuel Sensitivity
(65)	(105)	(205)

1

2 **Q. What benefits do the proposed solar facilities bring to DEF's system and**
3 **customers?**

4 A. The primary purpose of the proposed DEF solar projects is to provide customers with
5 cost-effective, clean, renewable energy. These large scale solar projects and
6 additional future projects to be filed under the 2017 Settlement will diversify DEF's
7 fuel mix with dependable energy, and provide firm summer capacity, helping to meet
8 DEF's needs for future capacity and satisfy DEF's need for future generation
9 capacity.

10

11 **Q. Given all these benefits, does DEF have a need for these solar projects?**

12 A. Yes. DEF has a need for cost-effective clean generation that will diversify its fuel
13 mix, and defer the need for future gas-fired generation.

14

15 **Q. Should the Commission approve DEF's request for approval of this first group**
16 **of solar projects?**

17 A. Yes. As demonstrated above, these solar projects are cost effective and will provide
18 DEF's customers with additional 194.4 MW of clean, reliable, renewable energy to
19 meet its needs.

1

2 **Q. Does that conclude your testimony?**

3 **A. Yes.**

1 CHAIRMAN GRAHAM: Okay. Exhibits.

2 MR. SCHRADER: Staff has prepared
3 comprehensive exhibit list which includes the
4 prefiled exhibits attached to each witness'
5 testimony, as well as exhibits identified by staff.
6 The list has that been provided to the parties, the
7 commissioners and the court reporter.

8 At this time, staff requests that the
9 comprehensive exhibit list be marked for
10 identification purposes as Exhibit No. 1, entered
11 into the record, and that the other exhibits be
12 marked as set forth on the list.

13 CHAIRMAN GRAHAM: Okay. So we will mark the
14 comprehensive exhibit list as 1 and enter it into
15 the record unless there is any objections to that.
16 I see none.

17 Okay. We will enter Exhibit 1 into the
18 record.

19 (Whereupon, Exhibit No. 1 was marked for
20 identification and received into evidence.)

21 CHAIRMAN GRAHAM: Okay. Staff, let's move the
22 rest of the exhibits.

23 MR. SCHRADER: All right. At this time, staff
24 requests Exhibit 1 be entered into the record. We
25 also ask that Exhibit Nos. 2 through 18 be moved

1 into the record as set forth in the comprehensive
2 exhibit list.

3 CHAIRMAN GRAHAM: Again, if there is no
4 objections to 2 through 18, we will enter all of
5 those exhibits into the record as well.

6 (Whereupon, Exhibit Nos. 2 - 18 were received
7 into evidence.)

8 CHAIRMAN GRAHAM: Okay, staff.

9 All right. Opening statements.

10 MR. SCHRADER: I believe they are waived,
11 Mr. Commissioner.

12 CHAIRMAN GRAHAM: Opening statements are
13 waived. Commissioners can ask questions of
14 parties, and parties will have the closing
15 statement.

16 So, Commissioners, do you have any questions
17 of the parties? I see none.

18 All right. Staff, what posture are we in?

19 MR. SCHRADER: With post-hearing briefs
20 waived, if the Commissioner finds it appropriate,
21 then you may render a bench decision at this time.

22 CHAIRMAN GRAHAM: Okay. Let's have those
23 post-hearing briefs -- closing briefs.

24 MS. TRIPLETT: Mr. Chairman, we have to
25 officially close the report and then do the

1 closings, but I don't know we need to do that.

2 CHAIRMAN GRAHAM: Mic. One more time.

3 MR. SCHRADER: I believe we want to leave the
4 record open for the closing statements.

5 MS. TRIPLETT: I just wanted to make sure we
6 closed it at some point. After the closings is
7 fine.

8 CHAIRMAN GRAHAM: Okay. All right. So who is
9 starting with the closing statements first, is it
10 OPC or is it FIPUG?

11 OPC, Mr. Rehwinkel.

12 MR. REHWINKEL: Thank you, Mr. Chairman. And
13 I may need some leeway on my 10 minutes, and Mr.
14 Moyle has graciously granted me extra time out of
15 his allotment, if needed.

16 CHAIRMAN GRAHAM: Anybody that can take time
17 from Mr. Moyle is a good thing.

18 MR. REHWINKEL: I can retire now.

19 Commissioners, on behalf of the Public
20 Counsel, I would like to close with these arguments
21 and remarks.

22 Before 2017, there was virtually no utility
23 scale solar generation in Florida among the IOUs.
24 Now, under the agreement you approved, in a
25 one-year period from December 15, 2016, until

1 November 27, 2017, the authorized utility scale
2 solar generation by Duke, FPL and Tampa Electric
3 totals 2,500 megawatts. Duke's second SoBRA
4 project of about 194 megawatts is the seventh
5 tranche, I believe, of SoBRA projects so far.

6 In framing my closing argument remarks, I want
7 to touch upon a bit of background. The history
8 making Duke solar projects you are considering
9 today exist for at least three reasons.

10 First, they follow on the heels of the
11 historic utility scale SoBRAs totaling up to 1,200
12 megawatts authorized in FPL's 2016 settlement.

13 Second, they preceded, by one month, the
14 transformative 650 megawatts of authorized utility
15 scale SoBRAs created by the 2017 Tampa Electric
16 settlement.

17 The Public Counsel, Mr. Kelly, will tell you
18 today that he has no regrets about entering into
19 those agreements and the historic catalytic SoBRA
20 provisions that were part of larger global
21 agreements of give and take in each of them,
22 especially for Duke.

23 The third reason is that the 2017 Duke RRSSA,
24 or agreement, including the SoBRA provisions was
25 the product of the 2017 settlement negotiations to

1 extend the 2013 global settlement agreement arising
2 out of the 2009 to 2012 era of failed nuclear
3 ventures in the form of the CR3 loss, the CR3
4 uprate to nowhere, and the doomed Levy Nuclear
5 project. That 2013 agreement, and a 2012
6 predecessor agreement, were agreed to by Duke and
7 the 2017 signatories, the OPC, Florida Retail
8 Federation, FIPUG and PCS Phosphate.

9 The circumstances that were addressed in that
10 series of agreements, spanning a period of eight
11 years, was complex and required many months of
12 negotiations to get signatures. This entire
13 context led to a willingness to negotiate and
14 include SoBRAs like the -- like FPL and Tampa
15 Electric had, but with slightly different
16 provisions relating to need, cost and third-party
17 developers.

18 Commissioners, context matters in this case.
19 Duke's SoBRA, like that of FPL and TECO, was a
20 product of compromise, and a larger bundle of
21 issues that had different degrees of palatability
22 for individual parties.

23 Duke's history of highly complex -- was highly
24 complex and more nuance than that found in the
25 other two SoBRA containing agreements.

1 Nevertheless, each settlement agreement contains a
2 functionally similar provision like the one found
3 in the Duke agreement in paragraph 39 that reads:

4 The parties further expressly agree that no
5 individual provisions by itself necessarily
6 represents a position of any party in a future
7 proceeding, nor shall any party represent in any
8 future proceeding that another party endorse as a
9 specific provision of this 2017 Second Revised and
10 Restated Settlement Agreement because of that
11 party's signature herein.

12 It is the intent of the parties to this 2017
13 Second Revised and Restated Settlement Agreement
14 that the Commission approve all of the terms and
15 provisions of the 2017 Second Revised and Restated
16 Settlement Agreement is an expressed recognition
17 that no individual term or provision by itself
18 necessarily represents a position in isolation of
19 any party, or that a party to this 2017 Second
20 Revised and Restated Settlement Agreement endorses
21 a specific provision in isolation of this 2017
22 Second Revised and Restated Settlement Agreement
23 because of that party's signature herein.

24 Commissioners, this language is important
25 because it means that the cost cap was a negotiated

1 one, as was the approval test based on Duke
2 specific fact and negotiation circumstances. These
3 approval benchmarks found in paragraph 15 of the
4 2017 agreement apply to Duke on a statewide basis,
5 but they cannot be unilaterally adopted or exported
6 by another utility. They do not provide the
7 foundation of any consensus or precedent from the
8 departure from the standards the Commission applies
9 to the addition of any generation resources,
10 especially with regard to need.

11 Now, let me turn to address the Public
12 Counsel's specific concerns on Issues 2 and 3.

13 Regarding Issue 2, and regarding land
14 acquisition costs, we have a continuing concern
15 that Duke is leasing land upon which permanent
16 generation facilities are to be installed. We
17 continue to be uncomfortable with this, but we
18 cannot state with complete prescience that it will
19 be an impairment in the future. Nevertheless, we
20 are concerned that the lease may tie Duke's hands
21 near the end of the term.

22 At this stage, Duke has made a prima facie
23 showing that the land cost would not materially
24 increase the estimated costs if converted to a
25 surrogate land purchase cost.

1 We also note that Duke doesn't put other
2 generation facilities on leased land. And
3 Commission policies have heavily favored long-term
4 assets being placed on property held in fee simple
5 or on a 99-year lease property.

6 In this docket, the two leases are either a
7 30-year with five in five-year options, or a
8 20-year with a six five-year options.

9 We continue to express a concern to you that
10 there are potential hidden costs caused by some
11 level of control that a third party has over the
12 land component, and such costs may not be
13 accurately reflected in the all-in costs that Duke
14 projects today.

15 Now, regarding Issue 3. The OPC takes the
16 position that the second tranche is not needed in
17 the ordinary and traditional sense as these
18 projects do not meet the need test as defined by
19 reserve margin.

20 We don't argue about the -- that the
21 Commission should revise paragraph 15 standard and
22 apply the traditional standard of need to this
23 tranche. Instead, we are cautioning this
24 Commission that the first round of SoBRAs were
25 products of a historical context that is largely

1 behind us. Soon the Commission may be faced with
2 new projects that are not authorized by specific
3 SoBRA provisions.

4 Commissioners, the individual SoBRA provisions
5 of settlement agreements that ignore need and
6 reserve margin cannot and do not stand as precedent
7 for other projects. While the parties have agreed
8 to non-need-based provisions in global settlements
9 like the 2017 Duke agreement, it does not mean that
10 the parties unilaterally endorse the arbitrary
11 build up of rate base without regard to need,
12 especially as the generation portfolio of IOUs
13 potentially transform in the face of increasing
14 pressures that could strand assets in the future.

15 While it is perhaps open to the Commission's
16 interpretation regarding the meaning of the phrase
17 in paragraph 15(c), quote, "and considering all
18 relevant factors, DEF needs the solar project,"
19 close quote.

20 It is abundantly clear that DEF does not have
21 a true need for the generation in the second
22 tranche from a reliability standpoint. This is
23 demonstrated by the fact that for the foreseeable
24 future, DEF's publicly filed 10-year site plan
25 summer reserve margin hovers around 30 percent,

1 while the winter reserve margin is 40 percent and
2 above.

3 Only in 2027 and 2028 does Duke forecast the
4 summer reserve margin to dip down anywhere close to
5 this high-end of the prudence target of 20 percent
6 for the summer. In those years, it will be at 22
7 and 21 percent respectively. A similar dip to an
8 excessive 36 and 28 percent for the winter peak is
9 projected in that same two-year period.

10 So what do we do about this? I earlier
11 described three factors, or reasons, impacting the
12 willingness of the Public Counsel and other parties
13 to include SoBRAs in the 2017 global Duke
14 settlement. There is perhaps a fourth one. That
15 factor is the public interest in what I will call
16 jump starting solar generation in this state.

17 The settlement agreements with FPL, Duke and
18 Tampa Electric provided just such an opportunity to
19 cut the Gordian Knot that made it difficult to get
20 solar started on a large-scale.

21 It should be noted that the Public Counsel was
22 not making a choice about utility scale versus
23 rooftop solar generation when he signed these
24 agreements. The ultimate outcome of that debate is
25 a policy decision to be made downtown. The Public

1 Counsel was not picking sides. He simply
2 recognized that Florida lagged behind in solar
3 deployment overall.

4 Given that, it was not contrary to the public
5 interest for him to agree to a Duke settlement that
6 included solar with projected rate impacts that now
7 appear to be materially less than that assumed when
8 the case was settled.

9 Part of the jump start meant a relaxed
10 standard for allowing adjustments to rate base
11 without applying the traditional need test. Duke
12 witness Borsch makes an effort to demonstrate that
13 paragraph 15(c) need in his company. The need he
14 describes, however, is not the need that considers
15 capacity available to meet peak demand.

16 We ask, at least in future SoBRA proceedings
17 expressly authorized in settlements, that the
18 Commission make maximum efforts to hold Duke and
19 others making SoBRA filings to the strictest
20 possible showing of true need.

21 Any proposed additions to rate base and base
22 rates outside of settlement agreements by Duke or
23 anyone else cannot rely on the negotiated standards
24 that apply to the taken as a whole nature of the
25 agreements. Any departure from the traditional

1 need standards does not appear to comport with the
2 Commission's obligation to ensure that investments
3 are prudent given the demands that customers place
4 on the total available generation capacity.

5 Remember, Commissioners, you have plenary
6 authority over the reliability of generation in the
7 state, and have the final say about excessive and
8 uneconomic reserve margins. We ask you to keep
9 this in mind here, but especially in the future.

10 Commissioners, the Public Counsel, in closing,
11 does not object to a bench decision, and will not
12 challenge a decision approving Duke's petition in
13 this docket.

14 Thank you.

15 CHAIRMAN GRAHAM: Thank you.

16 Mr. Moyle, you have 36 seconds left. I am
17 kidding. Go ahead with your closing statements.

18 MR. MOYLE: Thank you, Mr. Chairman.

19 I will be succinct and brief. And I will
20 start by just reminding you my client, the Florida
21 Industrial Power Users Group, we have been very
22 involved in the SoBRA issue in a lot of different
23 contexts, and I think its premise helps as a
24 reminder to suggest and state clearly that my
25 client supports renewable energy provided that it

1 is needed and cost-effective. And we think those
2 two benchmarks are important.

3 We've argued in other contexts that that's
4 part of a prudence standard, that typically you all
5 make decisions using, as your polestar, a prudence.
6 But this is in the context of a settlement
7 agreement, and settlement agreements present things
8 in a different light. There is a body of
9 jurisprudence that has been developed with respect
10 to settlement agreements. You all, as a matter of
11 policy, say we encourage settlement agreements.

12 My client enters into settlement agreements
13 and, you know, when a deal is struck and you all
14 approve it, we will stick by it, and that's what we
15 are doing here today with Duke. We struck a deal
16 and are sticking by it, so we are okay with you all
17 taking a bench vote and approving the SoBRA today.

18 But I think -- I think in, you know, in terms
19 of moving forward, if I correctly heard my
20 colleague, it was a little bit of a marker being
21 put down to say, there may be other solar projects
22 that are coming in, and if you are putting them in
23 on top of real big reserve margins, you know, is
24 that the right thing to do, and is that a prudent
25 action?

1 So today is not that day. Today is a day
2 where you all and the parties are operating under a
3 settlement agreement that was negotiated, give and
4 take. And, you know, I think rightly, you don't
5 get into and delve into that and say, well, what
6 did you get for this and what did you get for that.
7 And it works well.

8 So we are not trying to upset that at all, but
9 just using this as an occasion to maybe state the
10 obvious, but that, you know, if this were not in a
11 settlement context, the discussion might be wider
12 and broader today.

13 So that's the sum and substance of my
14 comments. Thanks for letting me squeeze a minute
15 and 36 seconds.

16 CHAIRMAN GRAHAM: Okay. Duke.

17 MS. TRIPLETT: Thank you. I am sorry, I was
18 really trying not to talk, but I think I feel
19 compelled.

20 So first let me say, I support y'all making a
21 bench decision today, and approving our projects.

22 But let me first say that, just to be clear,
23 Duke Energy has never indicated that we intend to
24 take this provision from the settlement and apply
25 it to future anything, any proceedings. So I want

1 to make that clear.

2 And I agree with Mr. Moyle, that today is not
3 the day to be discussing what a future -- what
4 future non-2017 settlement SoBRA projects will be
5 related to. So that's all I am going to say about
6 that.

7 On the issue of, and the concern about the
8 leases. I think the record is clear that the
9 leases here provide us all of the requisite
10 authority that we need to put solar on the ground,
11 even to add storage where that's appropriate. And
12 I think that, in keeping to remember with our
13 settlement, is that we were required to consider
14 projects in any stage of development that were
15 already in our service territory. And in this
16 market, developers typically get long-term leases
17 with landowners. And, in fact, a lot of times you
18 are talking about a lot of land, a lot more than
19 traditional generation. And landowners just aren't
20 willing, a lot of times, to sell. And so you enter
21 into leases. We think it gives you more
22 flexibility, and we think the record is clear on
23 that.

24 But I just wanted to point that out, that
25 although it is unusual, solar is -- it's different

1 in the sense of how much land that you need, and
2 then also again the obligation in our settlement
3 that we were to consider projects, some of which
4 already had leases that we took over.

5 And then I heard several times Mr. Rehwinkel
6 refer to need and a traditional need and a true
7 need. And I respectfully disagree that the
8 Commission has a traditional or a true need.

9 I think that Mr. Borsch has set out in his
10 testimony, and in the exhibits that were entered
11 into the record, a very clear need based on fuel
12 diversity, clean energy, providing the flexibility
13 for our customers, particularly in an ever
14 increasing natural gas generation fleet. This is
15 really important.

16 And I would also point out that Mr. Borsch has
17 demonstrated that these projects are
18 cost-effective, and they are cost-effective because
19 they actually -- they do move that later CT that we
20 would need. It moves it out and it defers it in
21 time.

22 And I guess -- I just -- I think the record is
23 clear on that, but I did want to make it -- I do
24 want to disagree respectfully that there is any
25 sort of true need, or traditional need. I think

1 this commission actually has a history of
2 considering a lot of factors, and not just reserve
3 margin when considering whether a new generation
4 project is appropriate and beneficial for customers
5 in the state.

6 And I guess I would -- to the extent the term
7 excessive and uneconomic reserve margins was
8 intended to imply that our reserve margins are
9 excessive and uneconomic, I would also strongly
10 disagree with that.

11 So bottom line, these projects are good, they
12 are cost-effective. They are needed. We would ask
13 for you to approve them.

14 Thank you.

15 CHAIRMAN GRAHAM: Thank you.

16 Okay, staff, now what's the current posture of
17 this proceeding?

18 MR. SCHRADER: Yes, Commissioner.

19 If the Commission is ready to make a bench
20 decision, the record should be closed and
21 deliberations may begin.

22 CHAIRMAN GRAHAM: Okay. Commissioners, let
23 the deliberation begin.

24 Commissioner Brown.

25 COMMISSIONER BROWN: Thank you.

1 I appreciate those closing, slash, opening
2 statements, usual delivery. But they were very --
3 I appreciate them. They were informative.

4 I tend to agree, we are operating under a
5 settlement agreement here. The standard here
6 meeting the cost-effectiveness and the need is
7 clearly met with the second tranche. It is
8 transformative, truly, what the utilities are doing
9 in our state.

10 Our report just came out in Florida showing
11 our increase in solar. And we are absolutely the
12 sunshine state. And in part, a great deal of that
13 is attributed to Duke Energy. So I appreciate
14 their efforts here with this second tranche. And
15 it's clearly under the cap that was signed on to by
16 Public Counsel and FIPUG here. Clearly under it,
17 at 1,650 K watt.

18 So with that, Mr. Chairman, I support the
19 agreement proposal.

20 CHAIRMAN GRAHAM: I am supposed to have closed
21 the record before deliberation started. So the
22 record is closed.

23 Commissioner Polmann.

24 COMMISSIONER POLMANN: Thank you, Mr.
25 Chairman.

1 CHAIRMAN GRAHAM: I had to close it for sure
2 before Polmann.

3 COMMISSIONER POLMANN: I appreciate comments
4 from Mr. Rehwinkel. And I say that in a sense of
5 appreciating, understanding the position of the
6 Office of Public Counsel. A number of his comments
7 I take as going beyond this particular docket, and
8 I will separate those. It gives me understanding
9 of the future. As noted by counsel for the
10 utility, I will keep that in mind.

11 With regard to the lease issue, I understand
12 the nature of property owners in your service area.
13 I am very familiar with that from my prior work.
14 And I appreciate you noting that you had direction
15 under the settlement agreement to consider all
16 opportunities. But I will also note that I did
17 have some concern about the cost aspects of that.
18 I believe this -- in this case, under the
19 settlement, I am not arguing that they are not
20 treated appropriately, but I did have some
21 questions about that, and it continues to be
22 something I am intending to look at carefully going
23 forward.

24 I would consider it not to be an issue of
25 control of the land, but perhaps sting in the back

1 of my mind as a cost issue. Here again, within the
2 context of the settlement, I think we simply move
3 forward.

4 On the question of need, here again, if we
5 look at it narrowly as a factor in the reserve
6 margin, that's a fairly clear, simple definition.
7 But from the Commission's perspective, we also have
8 an opportunity and an obligation to take the broad
9 view of need with respect to public considerations
10 and the public interest.

11 So there is a balance that we have to take
12 into account. So I look at it this way, I look at
13 it this way, which is a much broader view. So
14 there again, we are inside of a settlement. It
15 really depends on what question we are answering.

16 So overall, I support these projects. I
17 support moving forward this particular tranche.
18 And I appreciate the efforts of this utility moving
19 forward with solar. And I think, as has been said
20 here, we need more solar. We need diversity. We
21 need sustainability. We need to consider all these
22 factors for Florida. It's in our public interest
23 to move forward with this type of work, so thank
24 you.

25 CHAIRMAN GRAHAM: Thank you, Commissioner

1 Polmann.

2 Commissioner Clark.

3 COMMISSIONER CLARK: Thank you, Mr. Chairman.

4 I am going to go a little bit out on a limb.
5 I don't think anybody should be too surprised
6 there. I do want to make a couple of observations.

7 I agree with what Mr. Rehwinkel said. The
8 implication that consent doesn't necessarily mean
9 we are always totally in agreement with it, and I
10 am kind of in that position here as well.

11 I want to strongly signal cautious moving
12 forward when it comes to solar development in
13 relation to capacity. And as we look at the
14 increasing winter demand in Florida, and the
15 inability of solar to meet that demand, I have
16 serious concerns as we move up in the amount of
17 total solar generation that we are relying on in
18 this state.

19 There is a significant concern. At some point
20 in time you have to have generation resources to
21 meet demand summer and winter. We may be avoiding
22 fuel costs in the short-term, but eventually the
23 requirement to build new capacity is going to catch
24 up with us. And I just want to make sure that I am
25 totally on the record that reliability is one of my

1 absolute top concerns. And I think that's an area
2 I am not fully convinced that we have resolved at
3 this point in time.

4 So I just want to send the same signal back
5 that OPC was sending, that consent doesn't
6 necessarily apply that -- mean that we are, you
7 know, going to be going down this road forever. So
8 I think we are moving in a good direction. I do
9 not disagree with that. I think that having the
10 fuel diversity mix in the state is strong. I think
11 it's a good move for us, but I just want to
12 continue to impose caution as we move forward.

13 Thank you, Mr. Chairman.

14 CHAIRMAN GRAHAM: Nice subtle shot across the
15 bow.

16 Commissioner Fay.

17 COMMISSIONER FAY: Thank you, Mr. Chairman.

18 I believe -- I am not sure who I direct this
19 question to, if it's Kurt or Keith and their team.
20 But I -- the Florida Supreme Court recently had
21 rulings come out related to some of the stuff that
22 was on the fringe there related to prudence and
23 that type of stuff. Does that impact this decision
24 at all, the recent rulings?

25 MR. HETRICK: Not to my knowledge, no.

1 COMMISSIONER FAY: Okay. And because it
2 basically said that there isn't an additional
3 prudence analysis, is that --

4 MR. HETRICK: There is not, and you are
5 approving this in the public interest.

6 COMMISSIONER FAY: Okay. Okay. Got you.
7 That's all I had, Mr. Chairman. Thank you.

8 CHAIRMAN GRAHAM: Okay. Mr. Fay, since you
9 were last, I will let you do the motion.

10 COMMISSIONER FAY: Not so subtle motion.
11 Mr. Chairman, I will move approval on, I
12 guess, the proposed order -- petition. And that's
13 it. Do we have modifications on it?

14 CHAIRMAN GRAHAM: Commissioner Brown.

15 COMMISSIONER BROWN: I would suggest
16 Commissioner Fay to include giving staff, under
17 Issue 8, administrative authority to approve the
18 tariffs, that they be filed September 1st, as well
19 as February 1st, Issue 9, of next year. Do you
20 like that?

21 COMMISSIONER FAY: Why don't I second that
22 motion?

23 CHAIRMAN GRAHAM: We have the Brown motion on
24 the floor, duly seconded by Commissioner Fay.

25 COMMISSIONER BROWN: And that is it is in the

1 public interest.

2 CHAIRMAN GRAHAM: Is there any further
3 comments or clarifications for that motion?

4 Seeing none, all in favor, say eye.

5 (Chorus of ayes.)

6 CHAIRMAN GRAHAM: Any opposed?

7 (No response.)

8 CHAIRMAN GRAHAM: By your action, you have
9 approved the Brown motion.

10 Are there any other matters to be addressed in
11 this docket?

12 MR. SCHRADER: Mr. Chairman, staff is aware of
13 none. Since the Commission has made a bench
14 decision, the post-hearing files aren't necessary.
15 The final order issued by July 29th, 2019.

16 CHAIRMAN GRAHAM: Okay. I do thank everybody
17 for your time and effort in this. And it does
18 sound like we are all on the same page on what we
19 do moving forward.

20 And that all being said, we are adjourned.
21 And we will convene the next hearing in this room
22 at one o'clock exactly.

23 (Proceedings concluded at 11:47 a.m.)

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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 16th day of July, 2019.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #GG015952
EXPIRES JULY 27, 2020