

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 130009-EI
ORDER NO. PSC-13-0333-PHO-EI
ISSUED: July 23, 2013

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on July 12, 2013, in Tallahassee, Florida, before Commissioner Eduardo E. Balbis, as Prehearing Officer.

APPEARANCES:

BRYAN S. ANDERSON, KENNETH R. RUBIN, and JESSICA A. CANO, ESQUIRES, Florida Power & Light Company, 700 Universe Boulevard, Juno Beach, Florida 33408
On behalf of Florida Power & Light Company (FPL).

JOHN T. BURNETT, DIANNE M. TRIPLETT, and MATTHEW R. BERNIER, ESQUIRES, Duke Energy Florida, Inc., Post Office Box 14042, Saint Petersburg, Florida 33733; JAMES MICHAEL WALLS and BLAISE N. GAMBA, ESQUIRES, Carlton Fields, P.A., Post Office Box 3239, Tampa, Florida 33601-3239
On behalf of Duke Energy Florida, Inc. (DEF).

J.R. KELLY, CHARLES J. REHWINKEL, JOSEPH A. MCGLOTHLIN and ERIK L. SAYLER, ESQUIRES, Office of Public Counsel, c/o The Florida Legislature, 111 W. Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida (OPC).

JON MOYLE, JR., and KAREN A. PUTNAL, ESQUIRES, Moyle Law Firm, P.A., 118 North Gadsden Street, Tallahassee, Florida 32301
On behalf of the Florida Industrial Power Users Group (FIPUG).

JAMES W. BREW and F. ALVIN TAYLOR, ESQUIRES, Brickfield, Burchette, Ritts & Stone, P.C., 1025 Thomas Jefferson St., NW, Eighth Floor, West Tower, Washington, DC 20007
On behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS PHOSPHATE).

GEORGE CAVROS, ESQUIRE, 120 E. Oakland Park Boulevard, Suite 105, Fort Lauderdale, Florida, 33334
On behalf of the Southern Alliance for Clean Energy (SACE).

ROBERT SCHEFFEL WRIGHT and JOHN T. LAVIA, III, ESQUIRES,
Gardner, Bist, Wiener, Wadsworth, Bowden, Bush, Dee, LaVia & Wright, P.A.,
1300 Thomaswood Drive, Tallahassee, Florida 32308
On behalf of the Florida Retail Federation (FRF).

MICHAEL T. LAWSON and KEINO YOUNG, ESQUIRES, Florida Public
Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-
0850
On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, ESQUIRE, Deputy General Counsel, Florida Public
Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-
0850
Advisor to the Florida Public Service Commission.

PREHEARING ORDER

I. CASE BACKGROUND

In 2006, the Florida Legislature adopted legislation encouraging the development of nuclear energy in the state. Section 366.93, Florida Statutes (F.S.), directed the Commission to adopt rules providing for alternate cost recovery mechanisms that will encourage investor-owned electric utilities to invest in nuclear power plants. The Commission adopted Rule 25-6.0423, Florida Administrative Code (F.A.C.), which provides for a clause recovery proceeding annually to consider investor-owned utilities' requests for cost recovery for nuclear plants.

Both Florida Power & Light Company and Duke Energy Florida, Inc. petitioned the Commission for recovery of costs through the Nuclear Cost Recovery Clause (NCRC) on March 1, 2013. This is the sixth year of this roll-over docket, which is set for hearing on August 5-9, 2013. The Office of Public Counsel, Florida Industrial Power Users Group, White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs, Southern Alliance for Clean Energy, and Florida Retail Federation have each been granted intervention in this docket. On July 5, 2013, Prehearing Statements were filed by FPL, DEF, Staff, OPC, FIPUG, FRF, PCS, and SACE.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, Florida Statutes (F.S.). This hearing will be governed by said Chapter and Chapters 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled and will be inserted into the record as though read after the witness has taken the stand and

affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness's testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to four minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibits may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

VI. ORDER OF WITNESSES

Each witness whose name is preceded by a plus sign (+) will present direct and rebuttal testimony together.

Florida Power & Light Company:

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Steven D. Scroggs	FPL	4, 5, 5A, 5B, 6, 7, 8, 9, 10
Nils Diaz	FPL	8
Terry O. Jones	FPL	13, 14, 15, 16
Albert M. Ferrer	FPL	13, 14
John J. Reed	FPL	7, 8, 13, 14
Winnie Powers	FPL	6, 7, 8, 9, 10, 13, 14, 15, 16, 17

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Steven R. Sim	FPL	5
William R. Jacobs, Jr., Ph.D.	OPC	13, 14, 15, 16, 17
Lynn Fisher and David Rich	STAFF	7, 13
Bety Maitre	STAFF	13, 14
Iliana Piedra	STAFF	7, 8

Rebuttal

Terry O. Jones	FPL	13
Steven R. Sim	FPL	13
John J. Reed	FPL	13
Terry Deason	FPL	13

Duke Energy Florida, Inc:

Thomas G. Foster	DEF	19A, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31
Garry D. Miller (adopted Jon Franke's testimony and exhibits)	DEF	27, 27A, 28, 29, 30, 31
Christopher M. Fallon	DEF	18, 19, 19A, 19B, 20, 21, 22, 23, 24
William Coston and Jerry Hallenstein	STAFF	21, 27
Jeffery A. Small	STAFF	21, 22, 27, 28

VII. BASIC POSITIONS

FPL: **Legal and Regulatory Framework**

Section 403.519(4), Florida Statutes, Section 366.93, Florida Statutes, and Rule 25-6.0423, Florida Administrative Code ("the Rule") establish the legal and regulatory framework for the recovery of costs in the development of nuclear

generation in Florida.¹ Section 403.519(4), Florida Statutes, applies to the determination of need for a nuclear-fueled power plant. This section emphasizes the Florida Legislature's desire to improve fuel diversity, reduce dependence on fuel oil and natural gas, reduce air emission compliance costs, and contribute to the long-term stability and reliability of the electric grid in Florida; establishes the prudence standard that shall be applied in nuclear cost recovery proceedings; and makes clear that a utility is entitled to recover all prudently incurred costs. Specifically, the statute states that after a determination of need is granted, "the right of a utility to recover any costs incurred prior to commercial operation, including but not limited to costs associated with the siting, design, licensing, or construction of the plant...shall not be subject to challenge" unless a preponderance of the evidence supports a finding that "certain costs" were imprudently incurred. The statute further makes clear that (i) proceeding with the construction of the nuclear power plant following an order by the Commission approving the need for it "shall not constitute or be evidence of imprudence" and (ii) "imprudence shall not include any cost increases due to events beyond the utility's control." *See* § 403.519(4)(e), Fla. Stat.

Section 366.93, Florida Statutes, requires the Commission to establish by rule a cost recovery framework that promotes utility investment in nuclear power plants and allows for the recovery of all prudently incurred preconstruction costs and the carrying costs on construction cost balances. It also entitles utilities to increase their base rates upon commercial operation of the nuclear power plant, requires annual reporting of budgeted and actual costs, and provides for cost recovery should the project be cancelled. *See* §366.93(4), (5), and (6), Fla. Stat., respectively. In response to this legislative direction, the Commission promulgated Rule 25-6.0423, Florida Administrative Code ("the Rule"). The stated purpose of the Rule is to establish an alternative cost recovery mechanism that promotes utility investment in nuclear power plants and allow for recovery of all prudently incurred costs. It also provides for the recovery of reasonable actual/estimated costs for the current year and reasonable projected costs for the following year.

FPL has two nuclear projects that qualify for cost recovery under the Nuclear Cost Recovery ("NCR") process described above – the Extended Power Uprate project ("EPU" or "Uprate Project") at its St. Lucie and Turkey Point plants, the implementation of which was completed in 2013, and the development of two new nuclear units, Turkey Point 6 & 7. Each project was granted an affirmative determination of need by the Commission pursuant to Section 403.519(4), Florida Statutes, and FPL is therefore entitled to recover all its prudent and reasonable costs. *See* Order No. PSC-08-0021-FOF-EI, issued January 7, 2008 (making an affirmative determination of need for FPL's expedited EPU project) and Order

¹ Section 366.93, Florida Statutes, was amended by Senate Bill 1472. These amendments became effective July 1, 2013, while the instant case was pending. Accordingly, the amendments will apply to future Nuclear Cost Recovery proceedings initiated after July 1, 2013.

No. PSC-08-0237-FOF-EI, issued April 11, 2008 (making an affirmative determination of need for Turkey Point 6 & 7). As required by the Rule, and as demonstrated in the testimony, exhibits, and Nuclear Filing Requirements (“NFRs”) filed in this docket, FPL’s expenditures in 2012 on each of these projects were prudently incurred, and FPL’s actual/estimated 2013 expenditures and projected 2014 expenditures are reasonable. FPL has also demonstrated that its feasibility analysis for Turkey Point 6 & 7 should be approved. The FPSC Office of Auditing Performance and Analysis report on FPL’s project management internal controls concludes that FPL’s Turkey Point 6 & 7 controls adequately address project schedule, budget, costs, vendor performance and risks, and that FPL employs an adequate system of EPU project controls, risk evaluation, and management oversight. No intervenor has demonstrated that a single dollar was imprudently incurred.

EPU Project

Implementation of the EPU project was successfully completed in 2013, and all that remains is project close-out activities. The project met its goal of providing about 400 megawatts electric (“MWe”) of additional nuclear power for FPL’s customers in 2012, and is exceeding that goal by providing a total of 522 MWe of nuclear power in 2013. In fact, the Nuclear Fleet EPU Project Team received a 2013 Top Industry Practice Award from the Nuclear Energy Institute for its outstanding EPU performance. More importantly, the EPU project substantially improves FPL’s electric system fuel diversity, electric system reliability, and environmental footprint, while saving its customers billions of dollars in fossil fuel costs.

In 2012, FPL prudently managed the most intensive year of EPU implementation, which included the completion of the uprate work at three of the four nuclear units that comprise the EPU project and the beginning of the uprate work at the fourth unit. At least one unit was in a major EPU implementation outage during every day of 2012. All this work required substantial and iterative engineering design and construction planning, as well as continuous forward-looking project management that resulted in revisions to implementation plans, intensive contractor oversight and management, and the employment of thousands of workers. Challenges were encountered, but ultimately, all the planned EPU work was successfully completed. Additionally, FPL received all required Nuclear Regulatory Commission (“NRC”) approvals in 2012. FPL’s 2012 costs were prudently incurred and its 2013 costs are reasonable. FPL is projecting no EPU project costs in 2014. All of FPL’s EPU costs are supported by overlapping project, budget, cost and schedule controls.

Turkey Point 6 & 7 Project

For Turkey Point 6 & 7, 2012 pre-construction costs were necessarily and prudently incurred to continue with the licensing and permitting of the project. In 2013 and 2014, FPL has incurred and expects to incur licensing and permitting pre-construction costs to continue with the work necessary to obtain the licenses and permits that will allow for future construction. Throughout the development of Turkey Point 6 & 7, FPL has adhered to a deliberate, step-wise approach focused on maintaining the ability to move forward with the project, while fully recognizing and responding to industry and regulatory uncertainty. As a result, FPL has been able to make prudent and cost-effective decisions each step of the way. FPL's 2012 costs were prudently incurred, and its 2013 actual/estimated costs and 2014 projected costs are reasonable. All of FPL's Turkey Point 6 & 7 costs are supported by overlapping project, budget, cost and schedule controls.

Completing the Turkey Point 6 & 7 project continues to be projected as solidly cost-effective for FPL's customers. FPL has updated the inputs to its long-term feasibility analysis. Assuming a wide range of potential fuel costs, a wide range of potential environmental compliance costs, and updated assumptions for the load forecast and capital costs among others, Turkey Point 6 & 7 is cost-effective in five out of seven different fuel cost and environmental compliance cost scenarios, and is within the range of the non-binding cost estimate in the remaining two scenarios.

Turkey Point 6 & 7 is projected to provide substantial customer benefits. For example, assuming a Medium Fuel Cost and the "Environmental II" compliance cost scenario, Turkey Point 6 & 7 is projected to provide estimated fuel cost savings for FPL's customers of approximately \$804 million (nominal \$) in the first full year of operation; provide estimated fuel cost savings for FPL's customers over the life of the plant of approximately \$78 billion (nominal \$); diversify FPL's fuel sources by decreasing reliance on natural gas by approximately 18% beginning in the first full year of operation; reduce annual fossil fuel usage by the equivalent of over 27 million barrels of oil or 177 million mmBTU of natural gas; and reduce CO₂ emissions by an estimated 265 million tons over the life of the plant, which is the equivalent of operating FPL's entire generating system with zero CO₂ emissions for more than 6 years.

Intervenor and Staff Testimony

No intervenor filed testimony disputing the prudence of any particular cost that FPL has incurred for its nuclear projects. Only the Office of Public Counsel ("OPC") filed testimony, and that testimony proposes a \$200 million disallowance for the EPU project that is unrelated to the prudence of FPL's EPU project management in 2012, which is the only year under review for prudence in this NCR proceeding. OPC's witness Jacobs incorrectly attempts to use the

breakeven costs developed for another project – Turkey Point 6 & 7 – to draw a conclusion about the cost-effectiveness of a portion of the EPU project. Accordingly, OPC’s witness’s assertions are without merit.

The FPSC’s Office of Auditing and Performance Analysis (“Audit Staff”) performed a detailed and professional review of FPL’s project management internal controls in 2012 and early 2013 for both the EPU and Turkey Point 6 & 7 projects. Audit Staff requested thousands of pages of documentation and interviewed dozens of FPL employees. Audit Staff’s report includes no adverse findings, and makes no disallowance recommendations related to either project. In fact, Audit Staff concluded that FPL’s Turkey Point 6 & 7 controls adequately address project schedule, budget, costs, vendor performance and risks, and that FPL employs an adequate system of EPU project controls, risk evaluation, and management oversight.

Conclusion

For all the reasons discussed above, and as explained in more detail in the direct and rebuttal testimony provided by its witnesses, FPL’s total requested NCR amount of \$45,084,695 should be approved. For a typical residential customer consuming 1,000 kWh per month, this amount equates to an approximate monthly bill impact of 48 cents. FPL’s request complies with the requirements of Section 366.93, Florida Statutes, complies with the Rule, and will enable the proper recovery of prudent costs incurred in the pursuit of additional nuclear generation for the benefit of FPL’s customers.

DEF: **Levy Nuclear Project**

On August 12, 2008, the Commission issued Order No. PSC-08-0518-FOF-EI, granting DEF’s petition for a determination of need for the construction of Levy Nuclear Units 1 and 2 and related facilities, including transmission facilities, the LNP. The LNP consists of two Westinghouse AP1000 nuclear-fueled generating units.

Pursuant to Section 366.93, Florida Statutes, and Rule 25-6.0423, F.A.C., DEF filed a petition on March 1, 2013, for cost recovery of its LNP costs. DEF filed NFR schedules, specifically Schedules T-1 through T-7B, in support of DEF’s actual costs for 2012. In addition, DEF filed testimony regarding the LNP costs and the Company’s project management policies and procedures. DEF performed work and incurred preconstruction and construction costs in support of (1) the Levy COLA to the NRC, (2) engineering activities in support of the COLA, (3) activities under DEF’s LNP Engineering, Procurement, and Construction (“EPC”) Agreement, and (4) strategic land acquisitions for Levy transmission needs. DEF took appropriate steps to ensure that its 2012 costs were reasonable and prudent

and that all of these costs were necessary to the LNP according to the current project schedule as discussed in the March 1, 2013 testimony of Mr. Fallon.

DEF then filed, on May 1, 2013, a petition, additional testimony, and NFR schedules AE-1 through AE-7B and P-1 through P-8 and Appendices, for years 2013 and 2014, respectively, in support of DEF's actual/estimated and projected costs, and schedules TOR-1 through TOR-7, which reflect total project estimated costs. In its May 1, 2013 testimony, DEF described the LNP costs incurred during the first quarter of 2013, and its estimated cost for the remainder of 2013 and 2014. The Company's actual/estimated 2013 and projected 2014 LNP costs as presented in its May 1 testimony are consistent with the plan presented to the Commission last year and the Company's current settlement agreement approved by the Commission. As discussed in testimony, licensing and engineering activities necessary to obtain the LNP Combined Operating License ("COL") from the NRC continue in 2013 and 2014. In addition, licensing and engineering work in 2013 and 2014 to support environmental permitting and implementation of conditions of certification ("CoC") also continues. The environmental permitting work further includes continued licensing and engineering work for the United States Army Corps of Engineers ("USACE") Section 404 permit for the LNP.

DEF developed and utilized prudent project management policies and procedures to carry out the LNP. DEF also developed and utilized prudent accounting and cost oversight controls. Pursuant to these policies, DEF developed its actual 2012 costs and 2013 and 2014 cost estimates based on the best information available to the Company at the time of filing of testimony. DEF requests that the Commission find that its project management, contracting, accounting and cost oversight controls for 2012 were prudent.

In addition, pursuant to Rule 25-6.0423(5)(c)5, F.A.C., the Company conducted the annual feasibility analyses for the LNP consistent with Commission Orders. As described in Mr. Fallon's May 1, 2013 testimony, the LNP is feasible based on the Company's feasibility analyses prepared for the 2013 Nuclear Cost Recovery Clause ("NCRC") docket.

DEF reasonably and prudently incurred capital preconstruction, construction carrying costs, and CCRC recoverable O&M expenses for the LNP for 2012. The prudence of all costs incurred in 2012 is supported by DEF's testimony and exhibits filed in this proceeding. DEF has also reasonably estimated and projected its capital preconstruction and construction LNP costs for 2013 and 2014. The reasonableness of the actual/estimated and projected 2013 and 2014 costs is supported by DEF's testimony and exhibits.

As more fully developed in DEF's pre-filed testimony and exhibits, including its NFR schedules, DEF requests that the Commission determine that (1) the LNP's

actual 2012 costs were prudently incurred; (2) the LNP's 2012 project management, contracting, accounting, and cost oversight controls were prudent; (3) the LNP's actual/estimated 2013 costs are reasonable; (4) the LNP's projected 2014 costs are reasonable; and (5) approve the feasibility analysis for completing the LNP.

CR3 Uprate Project

This Commission issued Order No. PSC-07-0119-FOF-EI, granting DEF's petition for determination of need for the expansion of the CR3 nuclear power plant through the CR3 Uprate project. On February 5, 2013, DEF announced that the Duke Energy Board of Directors decided to retire and decommission the CR3 nuclear plant. As a result of the retirement decision, the CR3 Uprate project was not needed and was cancelled. The Company prudently incurred CR3 Uprate project costs in 2012 to continue the project prior to cancellation, and has incurred and will continue to incur limited costs to close-out the CR3 Uprate project in 2013 and 2014.

2012 CR3 Uprate Costs: DEF incurred CR3 Uprate project costs in 2012 in preparation for Phase 3, the EPU phase of the CR3 Uprate project, consistent with the Company's plan in 2011 and 2012 to repair the CR3 containment building, complete the CR3 Uprate project, and return CR3 to commercial service at the end of the existing CR3 outage. The Company primarily incurred EPU costs in 2012 for (1) EPU LLE milestone payments contractually committed to prior to 2012; (2) licensing and engineering costs associated with responding to Requests for Additional Information ("RAIs") for the NRC's review of the Company's EPU License Amendment Request ("LAR"); and (3) engineering analyses for the engineering change ("EC") packages for the EPU Phase work, with project management costs associated with this work. DEF continued to take appropriate steps to minimize CR3 Uprate project spend in 2012 to ensure that only those costs necessary for completion of the CR3 Uprate project during the extended CR3 outage were incurred in 2012, consistent with the project management plan implemented by the Company in 2011 and reviewed by the Commission in the nuclear cost recovery clause docket in 2011. Accordingly, DEF's 2012 CR3 Uprate project costs are reasonable and prudent.

Pursuant to Section 366.93, Florida Statutes, and Rule 25-6.0423, F.A.C., DEF filed a petition on March 1, 2013, requesting a determination of prudence for its CR3 Uprate project 2012 costs and 2012 project management, contracting, accounting and cost oversight controls. DEF's March 1, 2013 petition also seeks recovery of the carrying costs on its 2012 construction expenditures. DEF filed the testimony and exhibits of Mr. Franke (adopted by Mr. Miller) and Mr. Foster, including NFRs schedules T-1 through T-7B and Appendices, in support of the prudence of these costs and project management, contracting, accounting, and cost oversight controls.

DEF developed and utilized prudent project management policies and procedures to carry out the CR3 Uprate project. DEF also developed and utilized prudent accounting and cost oversight controls. Pursuant to these policies, DEF submitted its actual 2012 costs and developed and submitted its actual/estimated 2013 costs and projected 2014 costs. No witness filed testimony in this proceeding disputing the prudence of DEF's CR3 Uprate project 2012 costs or projected management, contracting, accounting, and cost oversight controls for 2012.

DEF's pre-filed testimony and supporting exhibits and NFRs in this docket demonstrate the prudence of its costs. DEF requests that the Commission approve the prudence of the CR3 Uprate project's 2012 costs, and authorize DEF to recover the revenue requirements associated with those costs for the time period January 2012 through December 2012, adjusted for the contribution to construction expenditures made by the CR3 joint owners.

CR3 Uprate Close-Out: On May 1, 2013, DEF filed a petition, additional testimony, and NFR schedules AE-1 through AE-7B in support of DEF's actual/estimated costs for 2013 and projected costs for 2014. NFR Schedules "P" and "TOR" filed by the Company with the March 1, 2013 petition are no longer necessary because the CR3 Uprate project has been canceled. In their place, the Company filed schedules "2013 and 2014 Detail – Calculation of Revenue Requirements," which reflect the estimated costs related to closing-out the CR3 Uprate project. No Intervenor or Staff witness disputed the reasonableness of costs incurred by DEF on the CR3 Uprate to date in 2013, nor the costs for project close-out projected for the remainder of 2013 and 2014.

Due to the retirement of the CR3 plant and the cancellation of the CR3 Uprate project it was not necessary to complete the feasibility analyses under Rule 25-6.0423(5)(c)5, F.A.C.

As more fully developed in DEF's pre-filed testimony and exhibits, including its NFR schedules, DEF requests that the Commission determine that (1) the CR3 Uprate project's actual 2012 costs were prudently incurred; (2) the CR3 Uprate project's 2012 project management, contracting, accounting, and cost oversight controls were prudent; (3) the CR3 Uprate project's actual/estimated 2013 costs are reasonable; and (4) the CR3 Uprate project's projected 2014 costs are reasonable.

For all these reasons, DEF respectfully requests that the Commission grant cost recovery for DEF's CR3 Uprate and Levy Nuclear Projects.

OPC: **FPL**

Turkey Point Units 6 & 7 Project

With respect to Turkey Point Units 6 & 7, FPL has continued to limit its activities to those necessary to pursue an operating license. At this time, the Office of Public Counsel (OPC) is not recommending any adjustments to the amounts that FPL wishes to recover from customers to sustain its conservative approach. However, in light of the amendments to Section 366.93, F.S., it appears FPL must either certify that its intent to build Turkey Point Units 6 & 7 satisfies the statutory revision or provide supplemental testimony which conforms to the revised statutory intent language. Based on the amendments to the statute, it appears that FPL must utilize its new AFUDC rate for costs after July 1, 2013.

FPL St. Lucie and Turkey Point EPU Projects

In 2007, FPL estimated the Turkey Point EPU and St. Lucie EPU projects would cost approximately \$750 million and \$651 million, respectively, for a combined estimated cost of approximately \$1.4 billion.² In 2013, the Turkey Point EPU and St. Lucie EPU projects are now estimated to cost ratepayers approximately \$2.2 billion and \$1.2 billion, respectively. The Turkey Point EPU will be more than twice as expensive as the St. Lucie EPU on a dollars per kilowatt basis and almost three times its original \$750 million estimate. Fortunately, the runaway spending on FPL's Turkey Point EPU will soon cease. The question remains, whether the St. Lucie and Turkey Point EPU projects are economically justifiable and beneficial to FPL's customers.

By Order No. PSC-09-0783-FOF-EI, the Commission indicated it has the discretion to use whatever methodology it deems appropriate to monitor the continued feasibility of a nuclear project on an annual basis.³ That discretion applies to measuring the economics of the project and the reasonableness of the final increment of costs as the overall project, nearing completion, comes into focus. The extraordinary level of spending on the Turkey Point plant site in 2012 compels a separate appraisal of the economics of the St. Lucie and Turkey Point EPU projects to assess whether each project is economically justifiable and beneficial to FPL's customers on a standalone basis.

Utilizing information obtained from FPL, OPC witness Dr. Jacobs demonstrates that, while the St. Lucie uprate capacity is economic and beneficial, the vastly more expensive uprate capacity of the existing Turkey Point units is not.

² Order No. PSC-08-0021-FOF-EI, Issued January 7, 2008, at 5 (EPU Need Determination Order).

³ Order No. PSC-09-0783-FOF-EI, issued November 19, 2009, at 14-16.

To demonstrate this, Dr. Jacobs applied the same “breakeven analysis” concept that FPL uses to gauge the cost-effectiveness of its proposed new Turkey Point 6&7 units. The breakeven cost analysis identifies the maximum amount that FPL can spend on the capital cost associated with installing nuclear capacity and remain cost-effective when compared to its generation alternative. It, therefore, takes into account the lower fuel costs of the nuclear option. If the actual cost of the nuclear project is higher than the breakeven cost, then the nuclear project is *not cost-effective*, despite any fuel savings associated with the nuclear project. FPL’s breakeven analysis for new nuclear construction is a range from \$4,217/kW to \$6,640/kW. Based upon the information provided in the 2013 NCRC proceeding and using FPL’s figures and breakeven cost methodology, at a cost of \$1.2 billion for 280 MWe of added capacity, the St. Lucie EPU cost \$4,300/kW (this figure is \$3,800/kW of construction costs alone). The actual construction cost for St. Lucie is below the breakeven cost calculated using FPL’s methodology. Because a new nuclear project will generate fuel savings for over 40 years compared to only 19 years for the Turkey Point EPU, the breakeven point for the Turkey Point uprate will be lower than that of a new nuclear unit. Therefore, using the breakeven cost for new nuclear capacity is a very conservative proxy for the economic effectiveness of the Turkey Point EPU project. The corresponding cost of the Turkey Point EPU is \$8,100/kW (total cost of \$2.2 billion for 232 MWe), which exceeds the \$4,217/kW to \$6,640/kW range of FPL’s breakeven analysis for new nuclear construction. Using the upper value (which is favorable to FPL), the Turkey Point uprate is \$1,460 more costly per installed kilowatt than the amount that FPL regards as the maximum cost-effective level of capital costs for a new nuclear plant. At 232,000 kilowatts of additional capacity, the Turkey Point uprate exceeds the maximum cost-effective overnight capital cost of a new nuclear plant by \$339 million from the customers’ perspective. Much of this excess is related to the extraordinarily expensive, final increment of costs that FPL incurred in 2012. The Commission should protect ratepayers from the company’s imprudence and resulting unreasonable costs. The Commission should disallow \$200 million of the amount requested by FPL.

DUKE

Levy Nuclear Project

On March 8, 2012, the Commission issued its Final Order No. PSC-12-0104-FOF-EI approving the stipulation and settlement agreement entered into between Duke Energy Florida (Duke), OPC, Florida Industrial Power Users Group (FIPUG), Florida Retail Federation (FRF), PCS Phosphate-White Springs (PCS), and Federal Executive Agency (FEA) (collectively, the Parties). Exhibit A of the settlement addressed various aspects of the Levy Nuclear Project (LNP) and specified the costs that could be recovered from customers as a result of the settlement. Therefore, Duke should neither recover any LNP costs from customers apart from those identified in this Agreement throughout the term of

the settlement, nor file for any additional LNP nuclear cost recovery unless otherwise agreed to by the parties to the settlement, before the first billing cycle of January 2018. This settlement did not obviate the need for Duke to carry its burden of proof before the Commission for cost recovery of costs that will ultimately be subject to true-up; however, OPC does not take issue at this time with the filing of Duke in the 2013 proceeding. Further, in light of the amendments to Section 366.93, F.S., it appears that Duke must either certify that its intent to build the LNP satisfies the statutory revision or provide supplemental testimony which conforms to the revised statutory intent language. Based on the amendments to the statute, it appears that Duke must utilize its new AFUDC rate for costs after July 1, 2013.

CR3 Extended Power Uprate Project

On February 5, 2013, Duke announced that it planned to retire Crystal River Unit 3 (CR3) and cancel the extended power uprate project. As a result of Duke's decision to retire, the EPU project will never be used and useful in the public service. In its testimony, since announcing its decision to retire CR3 and cancel the EPU project, Duke states it has taken affirmative steps to halt and minimize all expenditures related to the CR3 EPU project and to wind down the project.

In the 2012 NCRC cycle, OPC asked Duke to avoid making any expenditures that were avoidable or deferrable on the EPU project if Duke decided to cancel the EPU project. As such, Duke was on notice that these expenditures would be scrutinized. The Commission should make a determination in this year's docket whether Duke was prudent in its decisions related to 2012 and 2013 EPU expenditures.

With regard to the long-lead equipment (LLE) components purchased for this uprate, Duke should use its best efforts to obtain maximum salvage value for all EPU components it has received whether installed or not. These components should prudently be sold or salvaged for the best possible value for the benefit of Duke's customers. Any value obtained from the disposition of these components should be applied to reduce any unrecovered balance and associated carrying costs.

SACE:

SACE supports the development of low cost, low risk energy resources primarily through increased energy efficiency implementation and meaningful renewable energy development. The proposed new nuclear reactor projects by Duke Energy Florida ("DEF") and Florida Power and Light ("FPL") are neither low cost, nor low risk. There is great uncertainty and risk surrounding the completion of the proposed projects with all the financial risk being borne by ratepayers. This realization led the Florida Legislature to amend Section 366.93, Fla. Stat. to provide more process to reign-in some of the unbridled cost recovery and uncertainty in the nuclear advance cost recovery process through the passage of SB1472 earlier this year. The Legislature has sent a clear message to the

Commission that it expects a higher level of scrutiny during the nuclear cost recovery process. SACE supports the implementation of the provisions of the new law by the Commission in this case.

SACE maintains that the DEF and FPL proposed new nuclear reactor projects remain infeasible and that both utilities have not met the requisite intent to build the projects. Rule 25-6.0423(5)(c)5, F.A.C., requires DEF and FPL to submit for Commission review and approval a detailed analysis demonstrating the long-term feasibility of completing these proposed new nuclear projects. Both utilities, to varying degrees, have failed to complete and properly analyze a realistic feasibility analysis and have not met their burden of proving that the projects are feasible. There remains great uncertainty and risk surrounding the completion of these proposed new nuclear projects. As the uncertainty and risk continue to increase, as it has every year, the non-binding cost estimates increase and projected in-service dates become nothing more than placeholders for the next projected in-service date delay announcement. Moreover, natural gas prices remain depressed and there is no greenhouse gas legislation on the horizon, and these two key drivers in any feasibility analysis, standing alone, make new nuclear generation cost prohibitive and impractical compared to other sources of generation, especially compared to lower cost, lower risk and reliable demand side management resources.

Furthermore, Section 366.93, F.S., provides for advance cost recovery of certain costs for utilities engaged in the “siting, design, licensing, and construction” of nuclear power plants, including new nuclear power plants. In Order No. PSC-11-0095-FOF-EI, the Commission interpreted this statutory provision and made two distinct findings. First, the Commission found that a utility does not have to simultaneously engage in the “siting, design, licensing, and construction” of a nuclear power plant to remain eligible for cost recovery under § 366.93, Fla. Stat. However, the Commission held that a utility “must *continue to demonstrate its intent to build* the nuclear power plant for it seeks advance recovery of costs to be in compliance with Section 366.93, F.S.” Order at 9 (emphasis added).⁴

In the current docket, as was the case in Docket 120009-EI, the activities since January of 2012 of DEF related to the proposed Levy Nuclear Plant (“LNP”) and of FPL related to the Turkey Point Nuclear Plant (“TP”) fail to demonstrate this requisite realistic intent to build. In sharp contrast, the utilities’ activities plainly demonstrate that both DEF and FPL, due to the increasing risk and uncertainty surrounding the development of new nuclear generation, continue to employ an “option creation” approach where the only intent on the part of the utilities is to

⁴ The amended statute has a similar requirement for recovery. Chapter 2013-184, Laws of Florida. (“Beginning January 1, 2014, in making its determination for any cost recovery under this paragraph, the commission may find that a utility intends to construct a nuclear or integrated gasification combined cycle power plant only if the utility proves by a preponderance of the evidence that it has committed sufficient, meaningful, and available resources to enable the project to be completed and that its intent is realistic and practical.”)

create the option to construct by attempting to obtain the necessary licenses and approvals to potentially one day operate these proposed new nuclear projects - should it become feasible at some point in the future. This option creation approach does not satisfy the intent to build requirement, in statute, and the Commission's interpretation of the same, doesn't contemplate such an approach.

As a result, neither DEF nor FPL is eligible for cost recovery in Docket 130009-EI for costs related to these proposed new nuclear projects, nor to a finding that projected 2014 costs are reasonable.

FIPUG: FIPUG supports the development of cost effective, reasonable and prudent energy sources to serve Florida consumers. FPL and PEF have the burden to demonstrate that the nuclear projects that are the subject of this hearing are the most reasonable and cost-effective way to serve ratepayer needs. The Commission must bear in mind that at the end of the day, it is the consumers who bear the large cost burden of these projects.

As to the Levy Nuclear Project, so long as PEF's filing is consistent with the parties' settlement, FIPUG supports the company's position on these issues.

Regarding PEF's Extended Power Uprate (EPU) at Crystal River 3 (CR3), no further costs for this project should be imposed upon ratepayers. CR3, the nuclear unit to which the uprate is applicable, has been out of service since September 2009. It is unclear if CR3 will ever come back in service. Because the EPU project is an adjunct to CR3, no more costs related to it should be borne by ratepayers unless and until a decision is made to repair the unit. To make the point by way of an analogy, you would not buy new tires for an inoperable car unless and until you decided to repair the car. Thus, the Commission should defer all issues related to the uprate.

PCS

PHOSPHATE: In March 2012, the Commission issued Order No. PSC-12-0104-FOF-EI which approved a stipulation and settlement agreement among DEF, the Office of Public Counsel ("OPC") and other consumer party intervenors, including PCS Phosphate. The Stipulation specifically addressed various issues concerning the Levy Nuclear Project ("LNP"), including in particular the level of LNP costs that may be recovered from customers through the first billing cycle in 2018. PCS Phosphate urges the Commission require DEF to comply with the Stipulation's conditions, and in light of the current market conditions and the continuing expectation of low natural gas prices, limit its expenditures for the LNP solely to those costs absolutely necessary to obtain the combined construction and operating license ("COL") for the project. Insofar as DEF's filing in this docket comports with this condition, and provided that the Commission determines that DEF has carried its burden of proving the reasonableness of its actual and

estimated LNP expenditures, PCS Phosphate does not dispute DEF's filing relating to LNP in the 2013 proceeding.

PCS Phosphate remains concerned that any LNP activities following the issuance of a COL will generate significant and unsustainable consumer rate impacts absent a material restructuring of LNP project ownership. PCS Phosphate urges the Commission to remain vigilant throughout the period covered by the Stipulation regarding the long-term financial implications of any decision by PEF to pursue construction of the Levy Project.

With respect to the costs of the Crystal River 3 Uprate Project ("CR3 Uprate"), PCS Phosphate maintains that, given DEF's decision to retire the CR3 nuclear power plant, DEF should have halted, avoided or minimized all CR3 uprate expenditures in 2012 and 2013 to the maximum extent feasible. The Commission should require a specific and detailed justification for each and every Uprate expenditure that was not deferred. Florida's nuclear cost recovery statute aimed to promote responsible investment in nuclear energy in Florida, but never intended to countenance wasting ratepayer dollars on a doomed project.

Finally, following DEF's decision to retire CR3, PCS Phosphate agrees with OPC that the Commission must consider what is the proper rate treatment regarding the Balance of Plant Uprate of CR3 as it relates to DEF's December 7, 2009 base rate tariff filing.

FRF: Florida Power & Light Company – Turkey Point Units 6 & 7 Project

The Florida Retail Federation agrees with the Citizens of the State of Florida that, because FPL is pursuing an approach to the Turkey Point Units 6&7 Nuclear Project that limits expenses to only those necessary to obtain a combined operating license, the FRF will join the OPC in not contesting FPL's approach to the Turkey Point Units 6 & 7 Project at this time and in not recommending any adjustments to the amounts that FPL seeks to recover with respect to that Project. However, in light of the 2013 amendments to Section 366.93, Florida Statutes, it appears that FPL must either certify that its intent to build Turkey Point Units 6 & 7 satisfies the Nuclear Cost Recovery statute, as amended, or provide supplemental testimony that conforms to the statutory requirements.

Florida Power & Light Company – Extended Power Uprate Projects

It is FPL's burden to demonstrate that all costs for which it seeks approval through the Nuclear Cost Recovery charge are reasonable and prudent and that all such costs otherwise satisfy the statutory requirements to be eligible for recovery from FPL's customers.

Duke Energy Florida – Levy Nuclear Project

On March 8, 2012, the Commission issued its Order No. 12-0104-FOF-EI approving the Stipulation and Settlement Agreement between Progress Energy Florida (now Duke Energy Florida) and the major parties representing consumers' interests in relation to Duke's nuclear projects. The Settlement Agreement addresses what costs can be recovered from customers and what rates the company can charge to obtain recovery of those amounts, which are, naturally, subject to a true-up in the last year of the recovery period. The last year of the recovery period is currently expected to be 2017. Accordingly, Duke should recover only the amounts contemplated by, and approved by the Commission in its approval of, the 2012 Settlement Agreement, subject also to the standard requirement that any costs approved for recovery must be shown to be reasonable and prudent and otherwise consistent with the statute's requirements. Further, in light of the 2013 amendments to Section 366.93, Florida Statutes, it appears that Duke must either certify that its intent to build the Levy Nuclear Project satisfies the Nuclear Cost Recovery statute, as amended, or provide supplemental testimony that conforms to the statutory requirements.

Duke Energy Florida – Crystal River 3 Extended Power Uprate

On February 5, 2013, Duke announced that it planned to retire Crystal River Unit 3 (CR3) and cancel the CR3 Extended Power Uprate project. As a result of Duke's decision to retire CR3, the EPU project will never be used and useful in providing public service. In its testimony, since announcing its decision to retire CR3 and cancel the EPU project, Duke states it has taken affirmative steps to halt and minimize all expenditures related to the CR3 EPU project and wind down the project.

In the 2012 NCRC cycle, OPC asked Duke to avoid making any EPU Project expenditures that could be avoided or deferred if Duke decided to cancel the EPU project. As such, Duke was on notice that these expenditures would be scrutinized. The Commission should make a determination in this year's docket whether Duke was prudent in its decisions related to 2012 and 2013 EPU expenditures.

With regard to the long-lead equipment (LLE) components purchased for the EPU Project, Duke should use its best efforts to obtain maximum salvage value for all EPU components it has received whether installed or not. These components should prudently be sold or salvaged so as to provide the best possible value for the benefit of Duke's customers. Any value obtained from the disposition of these components should be applied to reduce any unrecovered balance of CR3 capital costs and associated carrying costs.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

Legal Issues

ISSUE 1: Does recently enacted Senate Bill 1472, effective July 1, 2013, change the AFUDC rate that should be used for nuclear cost recovery clause computations in this year's pending case?

POSITIONS

FPL: No. Senate Bill 1472 included an effective date of July 1, 2013. Accordingly, it applies to all NCR proceedings initiated after July 1, 2013. It does not apply to the pending NCR case. Application to any part of the filed, pending NCR case would constitute "retroactive" application of a substantive change in law, which is prohibited by Florida law. This is demonstrated by the fact that FPL would have to revise filings supporting FPL's pending requested recovery amount for 2014, originally filed before the amendments were passed and became effective, in order to reflect a new AFUDC rate for any part of the current year.

Smiley v. State of Florida, 966 So. 2d 330 (Fla. 2007) and *Florida Insurance Guarantee Ass'n v. Devon Neighborhood Ass'n, Inc.*, 67 So. 3d 187 (Fla. 2011) both support FPL's position. The Florida Supreme Court stated in *Smiley* at page 334 that there is a "presumption against retroactive application for substantive changes" and explained in *Fla. Ins. Guarantee Ass'n* at page 196 that "the presumption against retroactive application is a well-established rule of statutory construction that is appropriate in the absence of an express statement of legislative intent[.]" The Florida Supreme Court also makes clear in *Smiley* that application of substantive changes to a pending case constitutes retroactive application by contrasting the application of remedial/procedural amendments to pending cases. *See Smiley* at 334.

The amendments to Section 366.93 are clearly substantive in nature, in that they "create new or take away vested rights" (*see Smiley* at 334) by, for example, altering the amount of AFUDC that FPL would otherwise be entitled to recover. This is in contrast to remedial or procedural statutory changes which relate to remedies or modes of procedure and only operate in furtherance of the remedy or confirmation of rights already existing. *Id.* Even a statute that achieves a remedial purpose by creating a substantive new right or imposing new legal burdens is treated as a substantive change in the law. *Id.* (citing *Arrow Air, Inc. v. Walsh*, 645 So. 2d 422, 424 (Fla. 1994)).

Like the statute at issue in *Fla. Ins. Guarantee Ass'n*, the text of the amendment to Section 366.93 is silent as to its forward or backward reach; however, it specifically includes an effective date. See *Fla. Ins. Guarantee Ass'n* at 196. The Florida Supreme Court has noted that “the Legislature’s inclusion of an effective date for an amendment is considered to be evidence rebutting intent for retroactive application of a law.” *Id.* (citing *State Dep’t of Rev. v. Zuckerman-Vernon Corp.*, 354 So. 2d 353, 358 (Fla. 1977)). Because the amendments contain no express legislative intent that they be applied retroactively, one need not examine whether it is constitutionally permissible to apply the amendments retroactively to the pending NCR case. See *Fla. Ins. Guarantee Ass’n* at 194.

DEF: No. DEF agrees with and adopts the position of Florida Power & Light (“FPL”) on this issue.

OPC: In 2013, the Legislature substantively amended Section 366.93, F.S. Pursuant to *Smiley v. State of Florida*, 966 So. 2d 330, 334 (Fla. 2007), substantive changes in the law should be applied prospectively. Accordingly, in this case, the changes should govern as of July 1, 2013, the effective date of the amendments.

In light of the amendments enacted in 2013 to Section 366.93, F.S., it appears each utility should certify that its AFUDC rate comports with the amended statute which became effective July 1, 2013 or resubmit testimony prior to the evidentiary hearing in light of these statutory changes; otherwise, the utility may be unable to satisfy its burden of proof for the proper AFUDC rate to be used for nuclear cost recovery clause computations.

SACE: Yes. Chapter 2013-184, Laws of Florida is clear and unambiguous on its face, thus requires no statutory interpretation. This procedural provision of the amended statute must be implemented in this year’s case. SACE supports briefing of the legal issues prior to the evidentiary hearing.

FIPUG: Yes. Chapter Law 2013-184 approved by the Governor on June 14, 2013 made the following change:

To encourage investment and provide certainty, ~~for nuclear or integrated gasification combined cycle power plants for which need determinations on or before December 31, 2010, associated carrying costs must shall be equal to the most recently approved pretax AFUDC at the time an increment of cost recovery is sought in effect upon this act becoming law. For nuclear or integrated gasification combined cycle power plants for which need petitions are submitted after December 31, 2010, the utility’s pretax AFUDC rate is presumed to be appropriate unless determined otherwise by the commission in the determination of need for the nuclear or integrated gasification combined cycle power plant.~~

This change took effect on July 1, 2013, and should be applied to this year's proceeding. The Legislature clearly intended for this change to apply sooner rather than later and stated that the change applies "**at the time** an increment of cost recovery is sought" (emphasis added). The hearing in this case is scheduled for August 5, 2013 through August 9, 2013. FPL and DEF, at the August hearing, will seek another increment of nuclear cost recovery. Thus, by its plain terms, the legislatively revised AFUDC rate should apply by the plain terms of the new law. Furthermore, this statutory change is remedial and procedural in nature and the Legislature clearly intended that the change apply to this year's proceeding. Remedial statutes can be applied retroactively. As the Florida Supreme Court has recognized, remedial statutes operate to further a remedy or confirm rights that already exist, and a procedural law provides the means and methods for the application and enforcement of existing duties and rights. See *Alamo Rent-A-Car, Inc. v. Mancusi*, 632 So. 2d 1352, 1358 (Fla. 1994). This issue will be fully briefed as provided for by the Commission. In sum, the AFUDC change made by the 2013 Legislature should fully apply to this year's proceeding.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of FIPUG.

FRF: Agree with OPC.

STAFF: No position at this time.

ISSUE 2: Does recently enacted Senate Bill 1472, effective July 1, 2013, preclude a utility from continuing preconstruction work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or certification, that was under contract or commenced prior to July 1, 2013?

POSITIONS

FPL: Not in this proceeding. Senate Bill 1472 included an effective date of July 1, 2013. Accordingly, it applies to all NCR proceedings initiated after July 1, 2013. It does not apply to the pending NCR case. Application to any part of the filed, pending NCR case would constitute "retroactive" application of a substantive change in law, which is prohibited by Florida law.

DEF: No. DEF believes the Florida Legislature did not intend to retroactively apply Senate Bill 1472 to preconstruction work commenced prior to July 1, 2013 but continuing after July 1, 2013. DEF understands, however, that the application of Senate Bill 1472 to preconstruction work prior to July 1, 2013 is unclear on the face of the legislation and ultimately the determination whether Senate Bill 1472 precludes a utility from continuing preconstruction work commenced prior to July 1, 2013 but continuing after July 1, 2013 must be resolved.

OPC: In 2013, the Legislature substantively amended Section 366.93, F.S. Pursuant to *Smiley v. State of Florida*, 966 So. 2d 330, 334 (Fla. 2007), substantive changes in the law should be applied prospectively. Accordingly, in this case, the changes should govern as of July 1, 2013, the effective date of the amendments.

With regards to FPL, OPC is not aware of any “continuing preconstruction work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or certification that was under contract or commenced prior to July 1, 2013” that would be affected by the amendments. If there is any such preconstruction work, it appears FPL should certify that its preconstruction work comports with the amended statute which became effective July 1, 2013 or resubmit testimony prior to the evidentiary hearing in light of these statutory changes; otherwise, the utility may be unable to satisfy its burden of proof for this issue.

With regards to Duke, “preconstruction work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or certification, that was under contract or commenced prior to July 1, 2013” is addressed by the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. Since substantive statutory changes should be applied prospectively, it does not appear that the statutory changes were intended to apply retroactively to the settlement approved by the Commission.

SACE: Yes. Chapter 2013-184, Laws of Florida is clear and unambiguous on its face, thus requires no statutory interpretation. This procedural provision of the amended statute must be implemented in this year’s case. SACE supports briefing of the legal issues prior to the evidentiary hearing.

In relation to FPL, SACE is not aware of any continuing preconstruction work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or certification that was under contract or commenced prior to July 1, 2013 that would be affected by the amendment.

In regards to DEF, notwithstanding the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI, DEF is precluded from continuing preconstruction work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or certification, that was under contract or commenced prior to July 1, 2013.

FIPUG: No, technically the recent changes to the nuclear cost recovery statute do not preclude a utility from continuing preconstruction work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or certification. However, as described in Issue 3, the recent Legislative changes to

the nuclear cost recovery statute preclude the utility from recovering any costs associated with such work.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of FIPUG.

FRF: Agree with OPC.

STAFF: No position at this time.

ISSUE 3: Does recently enacted Senate Bill 1472, effective July 1, 2013, preclude a utility from recovering costs associated with preconstruction work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or certification, that was under contract or commenced prior to July 1, 2013?

POSITIONS

FPL: Not in this proceeding. Senate Bill 1472 included an effective date of July 1, 2013. Accordingly, it applies to all NCR proceedings initiated after July 1, 2013. It does not apply to the pending NCR case. Application to any part of the filed, pending NCR case would constitute “retroactive” application of a substantive change in law, which is prohibited by Florida law.

DEF: No. DEF believes a utility is entitled to cost recovery for all reasonable and prudent costs for preconstruction work commenced prior to July 1, 2013 but continuing after July 1, 2013. DEF believes the Florida Legislature did not intend to retroactively apply Senate Bill 1472 to preconstruction work commenced prior to July 1, 2013 but continuing after July 1, 2013. DEF understands, however, that the application of Senate Bill 1472 to preconstruction work prior to July 1, 2013 is unclear on the face of the legislation and ultimately the determination whether Senate Bill 1472 precludes a utility from continuing preconstruction work commenced prior to July 1, 2013 but continuing after July 1, 2013 must be resolved.

OPC: In 2013, the Legislature substantively amended Section 366.93, F.S. Pursuant to *Smiley v. State of Florida*, 966 So. 2d 330, 334 (Fla. 2007), substantive changes in the law should be applied prospectively. Accordingly, in this case, the changes should govern as of July 1, 2013, the effective date of the amendments.

With regards to FPL, OPC is not aware of any “costs associated with preconstruction work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or certification that was under contract or commenced prior to July 1, 2013” that FPL is seeking to recover. If FPL is seeking to recover any such costs, in light of the amendments enacted in 2013 to Section 366.93, F.S., it appears FPL should certify that its requested cost recovery

comports with the amended statute which became effective July 1, 2013 or resubmit testimony prior to the evidentiary hearing in light of these statutory changes; otherwise, the utility may be unable to satisfy its burden of proof for this issue.

With regards to Duke, "recovering costs associated with preconstruction work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or certification that was under contract or commenced prior to July 1, 2013" is addressed by the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. Since substantive statutory changes should be applied prospectively, it does not appear that the statutory changes were intended to apply retroactively to the settlement approved by the Commission.

SACE: Yes. The statute is clear and unambiguous on its face, thus requires no statutory interpretation. The Commission, pursuant to Chapter 2013-184, Laws of Florida, can preclude a utility from recovering costs associated with preconstruction work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or certification, that was under contract or commenced prior to July 1, 2013. SACE supports briefing of the legal issues prior to the evidentiary hearing.

In relation to FPL, SACE is not aware of any recovery request for costs associated with preconstruction work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or certification, that was under contract or commenced prior to July 1, 2013 that would be affected by the amendment.

In regards to DEF, notwithstanding the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI, DEF is precluded from recovering preconstruction costs in this year's case not related to obtaining a combined operating license from the Nuclear Regulatory Commission or certification, that was under contract or commenced prior to July 1, 2013.

FIPUG: Yes. The Legislature clearly acted to preclude a utility from recovering costs associated with preconstruction work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or certification that was under contract or commenced prior to July 1, 2013. Specifically the 2013 Legislature added the following language to section 366.93, Florida Statutes, the nuclear cost recover statute:

During the time that a utility seeks to obtain a combined license from the Nuclear Regulatory Commission for a nuclear power plant or a certification of an integrated gasification combined cycle power plant, the utility may recover only costs related to, or necessary for, obtaining such licensing or certification.

See Chapter Law 2013-184, section 366.93(2)(d). This legislative change cannot be more clear, and the plain words of a statute should be given effect. Utility contentions that, so long as work was started before the effective date of the legislative changes, such work is eligible for cost recovery, would sidestep the clear language of the new law and the intent of the Legislature in making this change.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of FIPUG.

FRF: Agree with OPC.

STAFF: No position at this time.

FPL - TP67 Project Issues

ISSUE 4: Do FPL's activities since January 2012 related to the proposed Turkey Point Units 6 & 7 qualify as "siting, design, licensing and construction" of a nuclear power plant as contemplated by Section 366.93, F.S.?

POSITIONS

FPL: Yes. FPL is conducting activities and incurring necessary expenses in the course of actively pursuing the license, permits and approvals necessary to create the opportunity for new nuclear generation consistent with the intent of Section 366.93, F.S., which is to promote electric utility investment in nuclear power plants. Because FPL has received a determination of need for Turkey Point 6 & 7 pursuant to Section 403.519(4), F.S., FPL is entitled to recover all prudently incurred costs including, but not limited to, those associated with siting, design, licensing, and construction. The fact that FPL is not simultaneously involved in each category of activity (i.e., FPL is not currently in the construction phase of the project) does not affect the applicability of Section 366.93, F.S., and the Commission's Nuclear Cost Recovery Rule to FPL's Turkey Point 6 & 7 costs. (Scroggs)

DEF: No position.

OPC: Because FPL is pursuing an approach that limits expenses to minimal licensing activities to the extent possible, OPC does not contest FPL's approach to Turkey Point Units 6&7 or expenses related to that approach at this time.

In light of the amendments enacted in 2013 to Section 366.93, F.S., it appears the utility should certify that its "siting, design, licensing and construction" comports to the statutory changes or resubmit testimony in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the new units

to qualify as “siting, design, licensing and construction” of a nuclear power plant as contemplated by Section 366.93, F.S.

SACE: No. FPL’s activities since January 2012 fail to demonstrate the requisite intent to build TP 6 & 7. FPL remains focused solely on obtaining a COL from the NRC to create the option to build TP 6 & 7 and has continued to defer all activities related to actual construction. Section 366.93, Fla. Stat. and Commission precedent do not contemplate such an approach. As a result, FPL is not realistically engaged in the “siting, design, licensing, and construction” of TP 6 & 7, and is not eligible for recovery of costs related to TP 6 & 7.

FIPUG: Agree with OPC that, because FPL is pursuing an approach that limits expenses to minimal licensing activities to the extent possible, FIPUG does not contest FPL’s approach to Turkey Point Units 6 & 7 or expenses related to that approach at this time.

Agree with OPC that, in light of the amendments enacted in 2013 to Section 366.93, Florida Statutes, it appears the utility should certify that its “siting, design, licensing and construction” comports with the statutory changes or resubmit testimony in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the new units to qualify as “siting, design, licensing and construction” of a nuclear power plant as contemplated by Section 366.93, Florida Statutes.

PCS

PHOSPHATE: No position.

FRF: Agree with OPC that, because FPL is pursuing an approach that limits expenses to minimal licensing activities to the extent possible, FRF does not contest FPL’s approach to Turkey Point Units 6&7 or expenses related to that approach at this time.

Agree with OPC that, in light of the amendments enacted in 2013 to Section 366.93, F.S., it appears the utility should certify that its “siting, design, licensing and construction” comports with the statutory changes or resubmit testimony in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the new units to qualify as “siting, design, licensing and construction” of a nuclear power plant as contemplated by Section 366.93, F.S.

STAFF: No position at this time.

ISSUE 5: Should the Commission approve what FPL has submitted as its 2013 annual detailed analysis of the long-term feasibility of completing the Turkey Point Units 6 & 7 project, as provided for in Rule 25-6.0423, F.A.C.? If not, what action, if any, should the Commission take?

FPL: Yes. FPL used three different fuel cost forecasts and three environmental compliance cost forecasts for several types of emissions (SO₂, NO_x, and CO₂) in its analysis. This allows a number of combinations of fuel and environmental compliance costs to serve as possible future scenarios with which to view the economics of Turkey Point 6 & 7. FPL annually updates these fuel and environmental compliance cost projections, and updates a number of other assumptions such as the project cost and system load forecast, for its economic analysis. Based on this analysis, completion of Turkey Point 6 & 7 is projected to be solidly cost-effective for FPL's customers in five out of seven scenarios and within the break even range in the remaining two scenarios. The results of the analysis fully support the feasibility of continuing the Turkey Point 6 & 7 project. (Sim, Scroggs)

DEF: No position.

OPC: OPC does not contest FPL's approach to Turkey Point Units 6&7 or expenses related to that approach at this time.

In light of the amendments to Section 366.93, F.S., it appears the utility should certify that its long-term feasibility analysis comports to the statutory changes or resubmit its long-term feasibility analysis in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the feasibility of this project.

SACE: No. FPL has failed to complete and properly analyze a realistic feasibility analysis which includes the impact of demand side management and renewable energy in meeting demand and doesn't properly take into account all of the factors that have resulted in the great uncertainty and risk impacting TP 6 & 7, including, but not limited to: depressed natural gas prices, absence of a cost of carbon; and other economic conditions. The Commission should deny cost recovery for costs related to TP 6 & 7 and find projected 2014 costs related to TP 6 & 7 as not reasonable.

FIPUG: FIPUG does not contest FPL's approach to Turkey Point Units 6 & 7 or expenses related to that approach at this time.

In light of the amendments to Section 366.93, Florida Statutes, it appears the utility should certify that its long-term feasibility analysis comports with the statute, as amended, or resubmit its long-term feasibility analysis in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the feasibility of this project.

PCS

PHOSPHATE: No position.

FRF: FRF does not contest FPL's approach to Turkey Point Units 6&7 or expenses related to that approach at this time.

In light of the amendments to Section 366.93, F.S., it appears the utility should certify that its long-term feasibility analysis comports with the statute, as amended, or resubmit its long-term feasibility analysis in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the feasibility of this project.

STAFF: No position at this time.

ISSUE 5A: What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the proposed Turkey Point Units 6 & 7 nuclear project?

POSITIONS

FPL: FPL's current non-binding cost estimate range for Turkey Point 6 & 7 is \$3,659/kW to \$5,320/kW in overnight costs, or \$12.7 billion to \$18.5 billion including AFUDC, as stated in the May 1, 2013 direct testimony of Steven Scroggs. (Scroggs)

DEF: No position.

OPC: No position.

SACE: Agree with FIPUG.

FIPUG: The current estimated costs are low, and the ultimate cost of the proposed Turkey Point Units 6 & 7 will likely exceed \$18.5 billion dollars.

PCS

PHOSPHATE: No position.

FRF: Agree with FIPUG.

STAFF: No position at this time.

ISSUE 5B: What is the current estimated planned commercial operation date of the planned Turkey Point Units 6 & 7 nuclear facility?

POSITIONS

FPL: For planning purposes, FPL's current estimated commercial operations dates for Turkey Point Units 6 & 7 are 2022 and 2023, respectively, as stated in the May 1, 2013 direct testimony of Steven Scroggs. (Scroggs)

DEF: No position.

OPC: No position.

SACE: Agree with FIPUG.

FIPUG: The current estimated planned commercial operation dates of the planned Turkey Point Units 6 & 7, 2022 and 2023 respectively, are overly optimistic. The actual commercial operation dates of these units will occur further in time than these projected dates, if at all.

PCS
PHOSPHATE: No position.

FRF: Agree with FIPUG.

STAFF: No position at this time.

ISSUE 6: What are the jurisdictional amounts for Turkey Point 6 & 7 project activities that are related to obtaining a combined license from the Nuclear Regulatory Commission or certification during 2013 and 2014?

POSITIONS

FPL: FPL is only seeking recovery of Turkey Point 6 & 7 costs related to obtaining a COL from the NRC and certification in this NCR proceeding. Accordingly, FPL's jurisdictional 2012 amount is \$31,954,959, 2013 amount is \$33,838,181, and 2014 amount is \$24,151,118, including carrying costs. (Scroggs, Powers)

DEF: No position.

OPC: OPC does not contest FPL's approach to Turkey Point Units 6 & 7 or expenses related to that approach at this time.

SACE: FPL is not entitled to recover costs related to obtaining a combined operating license from the Nuclear Regulatory Commission nor have such projected costs deemed reasonable because its activities since January 2012 fail to demonstrate the requisite intent to build the TP project and it has failed to complete and properly analyze a realistic feasibility analysis.

FIPUG: FIPUG does not contest FPL's approach to Turkey Point Units 6 & 7 or expenses related to that approach at this time.

PCS
PHOSPHATE: No position.

FRF: FRF does not contest FPL's approach to Turkey Point Units 6 & 7 or expenses related to that approach at this time.

STAFF: No position at this time.

ISSUE 7: Should the Commission find that, for the year 2012, FPL's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project? If not, what action, if any, should the Commission take?

POSITIONS

FPL: Yes. FPL relies on its comprehensive corporate and overlapping business unit controls. These comprehensive and overlapping controls include FPL's Accounting Policies and Procedures; financial systems and related controls; FPL's annual budgeting and planning process and reporting and monitoring of costs incurred; and Business Unit specific controls and processes. The project internal controls are comprised of various financial systems, department procedures, work/desktop instructions and best practices, providing governance and oversight of project cost and schedule processes. The project management, cost estimation, and risk management attributes of FPL are highly developed, well documented, and adhered to by the project teams. FPL's management decisions with respect to the Turkey Point 6 & 7 project are the product of properly qualified, well-informed FPL management following appropriate procedures and internal controls. (Scroggs, Reed, Powers)

DEF: No position.

OPC: No position.

SACE: No position.

FIPUG: No position at this time.

PCS

PHOSPHATE: No position.

FRF: No position.

STAFF: No position at this time.

ISSUE 8: What jurisdictional amounts should the Commission approve as FPL's final 2012 prudently incurred costs and final true-up amounts for the Turkey Point Units 6 & 7 project?

POSITIONS

FPL: The Commission should approve FPL's final 2012 prudently incurred Turkey Point 6 & 7 Preconstruction expenditures of \$29,034,114 (jurisdictional), and the final 2012 true-up amount of (\$5,245,763). The Commission should also approve Turkey Point 6 & 7 Preconstruction carrying charges of \$2,739,962 and Site Selection carrying charges of \$180,883, as well as the final 2012 carrying charge true-up amount of (\$357,038). FPL's 2012 expenditures were supported by comprehensive procedures, processes and controls that help ensure those expenditures were prudent. The net 2012 true up amount of (\$5,602,800) should be included in FPL's 2014 NCR amount. (Scroggs, Powers, Reed, Diaz)

DEF: No position.

OPC: No position.

SACE: None. FPL failed to demonstrate the requisite intent to build in Docket 120009-EI, and thus was not realistically engaged in the "siting, design, licensing, and construction" of TP 6 & 7, nor did it complete and properly analyze a realistic feasibility analysis, and thus is not eligible for recovery of 2012 costs related to TP 6 & 7.

FIPUG: No position at this time.

PCS

PHOSPHATE: No position.

FRF: No position.

STAFF: No position at this time.

ISSUE 9: What jurisdictional amounts should the Commission approve as reasonably estimated 2013 costs and estimated true-up amounts for FPL's Turkey Point Units 6 & 7 project?

POSITIONS

FPL: The Commission should approve as reasonable FPL's 2013 actual/estimated Preconstruction expenditures of \$28,748,963 (jurisdictional), and the 2013 estimated true-up amount of \$62,726. The Commission should also approve as reasonable FPL's 2013 actual/estimated Preconstruction carrying charges of \$4,908,335 and Site Selection carrying charges of \$180,883, as well as the 2013 carrying charge estimated true-up amount of (\$1,218,700).

FPL's 2013 actual/estimated expenditures are supported by comprehensive procedures, processes and controls which help ensure that these costs are

reasonable. The net 2013 true up amount of (\$1,155,974) should be included in FPL's 2014 NCR amount. (Scroggs, Powers)

DEF: No position.

OPC: It appears that no amounts should be approved as reasonable until the utility certifies that its costs (including AFUDC) comports to the statutory changes enacted in 2013 to Section 366.93, F.S., or resubmit revised costs in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for recovery of these 2013 costs.

SACE: None. FPL did not complete and properly analyze a realistic feasibility analysis. Additionally, its activities since January of 2012 fail to demonstrate the requisite intent to build TP 6 & 7. As such, FPL is not realistically engaged in the "siting, design, licensing, and construction" of TP 6 & 7 and thus is not eligible for recovery of costs related to TP 6 & 7.

FIPUG: No amounts should be approved as reasonable until the utility certifies that its costs (including AFUDC) comports with and satisfies the statutory changes enacted in 2013 to Section 366.93, Florida Statutes, or resubmit revised costs in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for recovery of these 2013 costs.

PCS

PHOSPHATE: No position.

FRF: It appears that no amounts should be approved as reasonable until the utility certifies that its costs (including AFUDC) comports with and satisfies the statutory changes enacted in 2013 to Section 366.93, F.S., or resubmit revised costs in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for recovery of these 2013 costs.

STAFF: No position at this time.

ISSUE 10: What jurisdictional amounts should the Commission approve as reasonably projected 2014 costs for FPL's Turkey Point Units 6 & 7 project?

POSITIONS

FPL: The Commission should approve as reasonable FPL's 2014 projected Preconstruction expenditures of \$16,826,626 (jurisdictional). The Commission should also approve as reasonable FPL's 2014 projected Preconstruction carrying charges of \$7,143,609 and Site Selection carrying charges of \$180,883.

FPL's 2014 projected expenditures are supported by comprehensive procedures, processes and controls which help ensure that these costs are reasonable. The total amount of \$24,151,118 should be included in FPL's 2014 NCR amount. (Scroggs, Powers)

DEF: No position.

OPC: It appears that no amounts should be approved as reasonable until the utility certifies that its costs (including AFUDC) comports to the statutory changes enacted in 2013 to Section 366.93, F.S., or resubmit revised costs in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for recovery of these 2014 costs.

SACE: None. FPL did not complete and properly analyze a realistic feasibility analysis. Additionally, its activities since January of 2012 fail to demonstrate the requisite intent to build TP 6 & 7. As such, FPL is not realistically engaged in the "siting, design, licensing, and construction" of TP 6 & 7, and thus the Commission should find projected costs in 2014 as not reasonable.

FIPUG: It appears that no amounts should be approved as reasonable until the utility either certifies that its costs (including AFUDC) comports with the statutory changes enacted in 2013 to Section 366.93, Florida Statutes, or submits revised costs in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for recovery of these 2014 costs.

PCS

PHOSPHATE: No position.

FRF: It appears that no amounts should be approved as reasonable until the utility either certifies that its costs (including AFUDC) comports with the statutory changes enacted in 2013 to Section 366.93, F.S., or submits revised costs in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for recovery of these 2014 costs.

STAFF: No position at this time.

FPL - EPU Project Issues

ISSUE 11: Withdrawn.

ISSUE 11A: Withdrawn.

ISSUE 11B: Withdrawn.

ISSUE 11C: Withdrawn.

ISSUE 12: Withdrawn.

ISSUE 13: Should the Commission find that, for the year 2012, FPL's project management, contracting, accounting and cost oversight controls were reasonable and prudent for FPL's Extended Power Uprate project? If not, what action, if any, should the Commission take?

POSITIONS

FPL: Yes. FPL relies on its comprehensive corporate and overlapping business unit controls. These comprehensive and overlapping controls include FPL's Accounting Policies and Procedures; financial systems and related controls; FPL's annual budgeting and planning process and reporting and monitoring of costs incurred; and Business Unit specific controls and processes. The project internal controls are comprised of various financial systems, department procedures, work/desktop instructions and best practices, providing governance and oversight of project cost and schedule processes. The project management, cost estimation, and risk management attributes of FPL are highly developed, well documented, and adhered to by the project teams. FPL's management decisions with respect to the EPU project are the product of properly qualified, well-informed FPL management following appropriate procedures and internal controls.

The record clearly shows that all of FPL's 2012 EPU costs were prudently incurred and that FPL employed a reasonable level of contingency from an EPU project management perspective in 2012. OPC's position that the cost of the Turkey Point portion of the EPU project can be utilized as a basis for a prudence disallowance is contrary to law, consists entirely of hindsight, and should be rejected. Additionally, the Commission on two prior occasions has determined that it is inappropriate to split the EPU project into two hypothetical pieces – one at St. Lucie, and one at Turkey Point, and has rejected prior OPC attempts to examine the Turkey Point portion of the EPU project in isolation. Despite the Commission's prior rulings, OPC's witness Jacobs again focuses on the Turkey Point portion of the project to the exclusion of the remainder of the project and all relevant project information. Witness Jacobs also incorrectly attempts to use the breakeven costs developed for another project – Turkey Point 6 & 7 – to draw a conclusion about the cost-effectiveness of the Turkey Point portion of the EPU project, a meaningless exercise.

Not only is OPC's disallowance claim unfounded as a factual matter, its penalty computation methodology is also both deeply flawed and applied in a demonstrably one-sided way. Even if OPC's method were to be applied, which it should not, FPL would be entitled to a \$470 million bonus for the final cost of the St. Lucie portion of the EPU project

(Jones, Reed, Ferrer, Powers, Deason, Sim)

DEF: No position.

OPC: No. The Commission should not find that FPL's project management, contracting, accounting and cost oversight controls were reasonable and prudent. In September 2012, FPL witnesses testified FPL would spend approximately \$688 million on the Turkey Point EPU. This figure was consistent with its testimony pre-filed in May 2012. By the end of August, FPL had already spent \$670 million. As it turned out, FPL spent \$975 million on Turkey Point during calendar year 2012. The staggering costs of the Turkey Point EPU reflect the imprudence of a provision for contingency that is inadequate for the project's extreme uncertainty and that has continued to affect the Turkey Point EPU over time.

Further, had FPL provided a realistic projection of 2012 costs to the Commission during the September 2012 NCRC hearing, the Commission could reasonably have come to a different conclusion on the long-term feasibility of the Turkey Point EPU, FPL's management of the EPU project, and OPC's proposal for protecting ratepayers from inordinate costs.

The Commission should protect customers from bearing the impact of FPL's imprudent management and unreasonable costs of the Turkey Point uprate. The Commission should disallow \$200 million of the \$975 million that FPL spent in calendar year 2012. In light of the minimum \$339 million by which the Turkey Point EPU exceeds the maximum cost-effective overnight cost of a new nuclear plant, which is a conservative proxy for the breakeven level of the Turkey Point uprate, this recommended adjustment only partially protects customers.

SACE: Agree with OPC.

FIPUG: Agree with OPC.

PCS

PHOSPHATE: No position.

FRF: Agree with OPC.

STAFF: No position at this time.

ISSUE 14: What jurisdictional amounts should the Commission approve as FPL's final 2012 prudently incurred costs and final true-up amounts for the Extended Power Uprate project?

POSITIONS

FPL: The Commission should approve as prudent FPL's final 2012 EPU expenditures of \$1,369,209,305 (jurisdictional, net of participants). The Commission should

also approve as prudent FPL's final 2012 EPU O&M costs, including interest, of \$7,198,815 (jurisdictional, net of participants); carrying charges of \$110,615,132; the final true-up of O&M costs including interest of (\$7,347,934); and final true-up of carrying charges of \$5,705,405. In addition, the Commission should approve as prudent FPL's final 2012 EPU base rate revenue requirements, including carrying charges, of \$84,594,473; and the final true-up of revenue requirements, including carrying charges, of \$5,519,255.

FPL's 2012 EPU expenditures are supported by comprehensive procedures, processes and controls that help ensure those expenditures were the result of prudent decision making. The net 2012 true up amount of \$3,876,726 should be approved and included in FPL's 2014 NCRC recovery amount. (Jones, Reed, Ferrer, Powers)

DEF: No position.

OPC: See OPC's position on Issue 13. The jurisdictional amount should be adjusted to account for OPC's recommended \$200 million reduction.

SACE: Agree with OPC.

FIPUG: Agree with OPC.

PCS

PHOSPHATE: No position.

FRF: Agree with OPC.

STAFF: No position at this time.

ISSUE 15: What jurisdictional amounts should the Commission approve as reasonably estimated 2013 costs and estimated true-up amounts for FPL's Extended Power Uprate project?

POSITIONS

FPL: The Commission should approve as reasonable FPL's 2013 actual/estimated EPU expenditures of \$226,636,946 (jurisdictional, net of participants). The Commission should also approve as reasonable FPL's 2013 actual/estimated EPU O&M costs, including interest, of \$9,611,895 (jurisdictional, net of participants); carrying charges of \$20,346,709; the 2013 estimated true-up of O&M costs including interest of \$4,534,025; and the true up of carrying charges of \$4,912,831. In addition, the Commission should approve as reasonable FPL's 2013 actual/estimated EPU base rate revenue requirements including carrying charges; Incremental 2012 EPU plant placed into service base rate revenue

requirements including carrying charges; and carrying charges on the Actual/Estimated Net Book Value of Retirements, Removal, and Salvage of \$77,583,826; and the 2013 estimated true-up of these items of \$12,845,624.

FPL's 2013 actual/estimated EPU costs are supported by comprehensive procedures, processes and controls which help ensure that these costs are reasonable. The net 2013 true up amount of \$22,292,480 should be included in setting FPL's 2014 NCR amount. (Jones, Powers)

DEF: No position.

OPC: See OPC's position on Issue 13.

SACE: Agree with OPC.

FIPUG: Agree with OPC.

PCS
PHOSPHATE: No position.

FRF: Agree with OPC.

STAFF: No position at this time.

ISSUE 16: What jurisdictional amounts should the Commission approve as reasonably projected 2014 costs for FPL's Extended Power Uprate project?

POSITIONS

FPL: FPL is projecting no 2014 EPU project costs; however, there will be carrying charges on the under or over recovery of 2013 costs. The Commission should approve as reasonable FPL's 2014 projected EPU carrying charges of \$1,523,146 and include this amount in setting FPL's 2014 NCR amount. (Jones, Powers)

DEF: No position.

OPC: See OPC's position on Issue 13.

SACE: Agree with OPC.

FIPUG: Agree with OPC.

PCS
PHOSPHATE: No position.

FRF: Agree with OPC.

STAFF: No position at this time.

FPL Fallout Issue

ISSUE 17: What is the total jurisdictional amount to be included in establishing FPL's 2014 Capacity Cost Recovery Clause factor?

POSITIONS

FPL: The total jurisdictional amount of \$45,084,695 should be included in establishing FPL's 2014 Capacity Cost Recovery Clause factor. This amount consists of costs associated with the Turkey Point 6 & 7 project and the EPU project as provided for in Section 366.93 and Rule 25-6.0423, Fla. Admin. Code. (Powers)

DEF: No position.

OPC: See OPC's position on Issue 13. The jurisdictional amount should be adjusted to account for OPC's recommended \$200 million reduction.

SACE: This is a fallout amount from the substantive issues.

FIPUG: Agree with OPC.

PCS

PHOSPHATE: No position.

FRF: Agree with OPC.

STAFF: No position at this time.

DEF - Levy Project Issues

ISSUE 18: Do DEF's activities since January 2012 related to the proposed Levy Units 1 & 2 qualify as "siting, design, licensing and construction" of a nuclear power plant as contemplated by Section 366.93, F.S.?

POSITIONS

FPL: No position.

DEF: Yes, they do. Similar issues have been included for consideration by this Commission in the last three prior nuclear cost recovery clause ("NCRC") Dockets No. 100009-EI, No. 110009-EI, and No. 120009-EI. In each of these dockets the Commission found that DEF's activities qualified under the statute.

See Order No. PSC-11-0547-FOF-EI, Order No. PSC-11-0095-FOF-EI, and Order No. PSC-12-0650-FOF-EI. DEF's LNP activities since January 2012 are similar to the Company's prior LNP activities and they likewise qualify as the "siting, design, licensing, and construction" of a nuclear power plant under Section 366.93, Florida Statutes, as determined by the Commission and confirmed by the Florida Supreme Court.

The Commission determined in Order No. PSC-0095-FOF-EI that a utility is not required to engage in the siting, design, licensing and construction of nuclear power plant activities simultaneously in order to meet the statutory requirements under Section 366.93, Florida Statutes. See Order No. PSC-11-0095-FOF-EI, p. 9. Rather, the utility must demonstrate that it is incurring costs for preconstruction or construction, as defined in the statute and rule, related to the statutorily defined activities of siting, design, licensing, or construction of a nuclear power plant. If the utility demonstrates that it incurred preconstruction or construction costs for siting, design, licensing, or construction of a nuclear power plant then, the utility demonstrates, "through its actions, an intent to build the nuclear power plant for which it seeks advance recovery of costs ...," and the utility satisfies Section 366.93, Florida Statutes. See Order No. PSC-11-0547-FOF-EI, p. 88; see also Section 366.93(1)(a), (2), Fla. Stats. ; *Southern Alliance for Clean Energy v. Graham*, __ So. 3d __, 20013, WL 1830919, *9 (Fla. May 2, 2013).

As described in the March 1, 2013 and May 1, 2013 direct testimony of Mr. Fallon, costs incurred by DEF in 2012 and projected for 2013 and 2014 for the LNP are related to the siting, licensing, and/or design of the Levy nuclear plants. LNP costs were incurred and are expected to be incurred in connection with licensing application activities to support the Levy COLA to the NRC, engineering activities in support of the COLA, and activities under DEF's LNP EPC contract with the Consortium. In addition, costs were incurred for Levy transmission strategic land acquisitions. Thus, based on the precedent described above DEF's activities qualify pursuant to the statute. (Fallon).

OPC: See settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. The settlement, however, does not relieve Duke from demonstrating to the Commission that its activities since January 2011 related to Levy Units 1 & 2 qualify as "siting, design, licensing, and construction" of a nuclear power plant as contemplated by Section 366.93, F.S. Further, in light of the amendments enacted in 2013 to Section 366.93, F.S., it appears the utility should certify that its "siting, design, licensing and construction" comports to the statutory changes or resubmit testimony in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the new units to qualify as "siting, design, licensing and construction" of a nuclear power plant as contemplated by Section 366.93, F.S.

SACE: No. DEF's activities since January 2012 fail to demonstrate the requisite intent to build the LNP. DEF remains focused solely on obtaining a COL from the NRC to create the option to build the LNP and has continued to defer, and has in fact suspended activities related to actual construction. Section 366.93, Fla. Stat. and Commission precedent do not contemplate such an approach. As a result, DEF is not realistically engaged in the "siting, design, licensing, and construction" of the LNP, and is not eligible for recovery of costs related to the LNP.

FIPUG: The settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI does not relieve DEF from demonstrating to the Commission that its activities since January 2011 related to Levy Units 1 & 2 qualify as "siting, design, licensing, and construction" of a nuclear power plant as contemplated by Section 366.93, Florida Statutes. Further, in light of the amendments enacted in 2013 to Section 366.93, Florida Statutes, it appears the utility should certify that its "siting, design, licensing, and construction" comports with the statutory changes or resubmit testimony in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the new units to qualify as "siting, design, licensing and construction" of a nuclear power plant as contemplated by Section 366.93, Florida Statutes.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of OPC.

FRF: The settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI does not relieve Duke from demonstrating to the Commission that its activities since January 2011 related to Levy Units 1 & 2 qualify as "siting, design, licensing, and construction" of a nuclear power plant as contemplated by Section 366.93, F.S. Further, in light of the amendments enacted in 2013 to Section 366.93, F.S., it appears the utility should certify that its "siting, design, licensing and construction" comports with the statutory changes or resubmit testimony in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the new units to qualify as "siting, design, licensing and construction" of a nuclear power plant as contemplated by Section 366.93, F.S.

STAFF: No position at this time.

ISSUE 19: Should the Commission approve what DEF has submitted as its 2013 annual detailed analysis of the long-term feasibility of completing the Levy Units 1 & 2 project, as provided for in Rule 25-6.0423, F.A.C.? If not, what action, if any, should the Commission take?

POSITIONS

FPL: No position.

DEF: Yes. With the May 1, 2013 testimony and exhibits of Mr. Fallon, DEF submitted a detailed analysis setting forth the long term feasibility of completing the LNP, consistent with the requirements of Rule 25-6.0423, F.A.C. and the analysis this Commission originally approved in Docket No. 090009-EI.

In its feasibility analyses for the LNP for its May 1, 2013 testimony, the Company employed a qualitative analysis of the technical and regulatory capability of completing the plants and the risks external to the project, and a quantitative analysis of the costs and benefits of completing the Levy nuclear power plants. These feasibility analyses employed for the 2013 NCRC docket demonstrate that the LNP is feasible from a regulatory, technical, and economic perspective.

If the Commission finds that the Company's LNP feasibility analyses for the 2013 NCRC docket do not demonstrate that the LNP is feasible on substantive grounds, the Commission's determination would preclude the Company from completing the construction of the LNP and the Commission should allow DEF cost recovery of its prudent 2012 costs, reasonable 2013 costs, and reasonable project exit costs pursuant to Section 366.93(6). (Fallon).

OPC: See settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. The settlement, however, does not relieve Duke from submitting its 2013 annual detailed analysis of the long-term feasibility of completing the Levy Units 1 & 2 project, as provided for in Rule 25-6.0423, F.A.C., nor the Commission's determination of long-term feasibility. Further, in light of the amendments enacted in 2013 to Section 366.93, F.S., it appears that the utility should certify that its long-term feasibility analysis comports to the statutory changes or resubmit its long-term feasibility analysis in light of these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the feasibility of this project.

SACE: No. DEF has failed to complete and properly analyze a realistic feasibility analysis which includes the impact of demand side management and renewable energy in meeting demand and doesn't properly take into account all of the factors that have resulted in the great uncertainty and risk impacting LNP 1 & 2, including, but not limited to: depressed natural gas prices, absence of a cost of carbon; and other economic conditions. The Commission should deny cost recovery for DEF's costs related to LNP 1 & 2 and find projected 2014 costs related to LNP 1 & 2 as not reasonable.

FIPUG: The settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket NO. 120022-EI does not relieve DEF from submitting its 2013 annual detailed analysis of the long-term feasibility of completing the Levy Units 1 & 2 project, as provided for in Rule 25-6.0423, Florida Administrative Code, nor the Commission's determination of long-term feasibility. Further, in light of the amendments enacted in 2013 to Section 366.93, Florida Statutes, it appears

that the utility should either certify that its long-term feasibility analysis comports with the statutory changes or submit a long-term feasibility analysis that fully complies with these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the feasibility of this project.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of OPC.

FRF: The settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI does not relieve Duke from submitting its 2013 annual detailed analysis of the long-term feasibility of completing the Levy Units 1 & 2 project, as provided for in Rule 25-6.0423, F.A.C., nor the Commission's determination of long-term feasibility. Further, in light of the amendments enacted in 2013 to Section 366.93, F.S., it appears that the utility should either certify that its long-term feasibility analysis comports with the statutory changes or submit a long-term feasibility analysis that fully complies with these statutory changes; otherwise, the utility will be unable to satisfy its burden of proof for the feasibility of this project.

STAFF: No position at this time.

ISSUE 19A: What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the proposed Levy Units 1 & 2 nuclear project?

POSITIONS

FPL: No position.

DEF: Based on its May 1, 2013 filing, the current total estimated cost for the Levy Units 1 & 2 nuclear project, including AFUDC and sunk costs, is approximately \$24.2 billion. (Fallon, Foster).

OPC: See settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. Evidence adduced in this docket will indicate the total estimated all-inclusive cost for the planned Levy Units 1 & 2.

SACE: Agree with FIPUG.

FIPUG: The current estimated costs are low, and the ultimate cost of the proposed Levy 1 and 2 units will likely exceed \$24.2 billion dollars.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of OPC.

FRF: See settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. Evidence adduced in this docket will indicate

the total estimated all-inclusive cost for the planned Levy Units 1 & 2. At this time, it appears that the total all-inclusive cost of Levy Units 1 & 2 will be at least \$24.2 billion.

STAFF: No position at this time.

ISSUE 19B: What is the current estimated planned commercial operation date of the planned Levy Units 1 & 2 nuclear facility?

POSITIONS

FPL: No position.

DEF: Based on its May 1, 2013 filing, the Levy Units 1 & 2 nuclear plants are currently estimated for commercial operation in 2024 for Unit 1 and eighteen months later in 2025 for Unit 2. (Fallon).

OPC: See settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. Evidence adduced in this docket will indicate the current estimated planned commercial operation date of the planned Levy Units 1 & 2 nuclear facility.

SACE: Agree with FIPUG.

FIPUG: The current estimated planned commercial operation dates of the planned Levy 1 and 2 units, 2024 and 2025 respectively, are overly optimistic. The actual commercial operation dates of these units will occur further in time than these projected dates, if at all.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of OPC.

FRF: See settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. Evidence adduced in this docket will indicate the current estimated planned commercial operation date of the planned Levy Units 1 & 2 nuclear facility. At this time, it appears that the actual commercial operation dates for Levy 1 & 2 are likely to be later than 2024 and 2025.

STAFF: No position at this time.

ISSUE 20: What are the jurisdictional amounts for Levy Units 1 & 2 project activities that are related to obtaining a combined license from the Nuclear Regulatory Commission or certification during 2013 and 2014?

POSITIONS

FPL: No position.

DEF: The jurisdictional amounts for Levy Units 1 & 2 project activities that are related to obtaining a combined license from the Nuclear Regulatory Commission during 2013 and 2014 are approximately \$6,950,826 for 2013 and approximately \$4,644,250 for 2014. (Fallon).

OPC: The total jurisdictional amount will be a fall-out and LNP recovery is subject to the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI.

SACE: SACE was not a party settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. Regardless of the settlement agreement, DEF is not entitled to recover costs related to obtaining a combined operating license from the Nuclear Regulatory Commission nor have such projected costs deemed reasonable because its activities since January 2012 fail to demonstrate the requisite intent to build the LNP and it has failed to complete and properly analyze a realistic feasibility analysis.

FIPUG: The total jurisdictional amount will be a “fall-out” value from other issues, and LNP recovery is subject to the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of OPC.

FRF: The total jurisdictional amount will be a “fall-out” value from other issues, and LNP recovery is subject to the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI.

STAFF: No position at this time.

ISSUE 21: Should the Commission find that, for the year 2012, DEF’s project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Levy Units 1 & 2 project? If not, what action, if any, should the Commission take?

POSITIONS

FPL: No position.

DEF: Yes, for the year 2012, DEF’s project management, contracting, accounting and cost oversight controls were reasonable and prudent for the LNP as discussed in Mr. Fallon’s March 1, 2013 and May 1, 2013 direct testimony and in Mr. Foster’s March 1, 2013 direct testimony. These procedures are designed to ensure timely and cost-effective completion of the project. These project management and cost oversight controls include regular risk assessment, evaluation, and management.

These policies and procedures reflect the collective experience and knowledge of the Company and Duke Energy, and they have been and will continue to be vetted, enhanced, and revised to reflect industry leading best project management and cost oversight policies, practices, and procedures. The Company has appropriate, reasonable project accounting controls, project monitoring procedures, disbursement services controls, and regulatory accounting controls. The Company's 2012 LNP management and cost oversight controls, policies, and procedures are substantially the same as the policies and procedures reviewed and previously determined to be prudent by the Commission. (Fallon, Foster).

OPC: See settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. The settlement however does not relieve PEF from proving that its project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Levy Units 1 & 2 project.

SACE: No position.

FIPUG: The settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI does not relieve PEF from proving that its project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Levy Units 1 & 2 project. If any such costs were not reasonable and prudent, they should be disallowed.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of OPC.

FRF: The settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI does not relieve PEF from proving that its project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Levy Units 1 & 2 project. If any such costs were not reasonable and prudent, they should be disallowed.

STAFF: No position at this time.

ISSUE 22: What jurisdictional amounts should the Commission approve as DEF's final 2012 prudently incurred costs and final true-up amounts for the Levy Units 1 & 2 project?

POSITIONS

FPL: No position.

DEF: Based on DEF's March 1, 2013 filing:

Capital Costs (Jurisdictional) \$25,335,581
O&M Costs (Jurisdictional) \$988,205

Carrying Costs \$48,424,466

The under-recovery of \$3,644,953, should be included in setting the allowed 2014 NCRC recovery.

The 2012 variance is the sum of under-projection preconstruction costs of \$3,707,795 plus an under-projection of O&M expenses of \$60,747 plus an over-projection of carrying costs of \$123,588. (Foster, Fallon).

OPC: See settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. These amounts are specified in the settlement.

SACE: None. DEF failed to demonstrate the requisite intent to build in Docket 120009-EI, and thus was not realistically engaged in the "siting, design, licensing, and construction" of LNP 1 & 2, nor did it complete and properly analyze a realistic feasibility analysis, and thus is not eligible for recovery of 2012 costs related to LNP 1 & 2.

FIPUG: Agree with OPC.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of OPC.

FRF: Agree with OPC.

STAFF: No position at this time.

ISSUE 23: What jurisdictional amounts should the Commission approve as reasonably estimated 2013 costs and estimated true-up amounts for DEF's Levy Units 1 & 2 project?

POSITIONS

FPL: No position.

DEF: Based on DEF's May 1, 2013 filing:

Capital Costs (Jurisdictional) \$85,657,847

O&M Costs (Jurisdictional) \$523,974

Carrying Costs \$21,833,893.

The over-recovery of \$4,440,118, should be included in setting the allowed 2014 NCRC recovery.

The 2013 variance is the sum of an over-projection of Preconstruction costs of \$3,683,836, plus an over-projection of O&M expenses of \$501,126 plus an over-projection of carrying charges of \$255,156. (Foster, Fallon).

OPC: See settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. These amounts are specified in the settlement.

SACE: None. DEF did not complete and properly analyze a realistic feasibility analysis. Additionally, its activities since January of 2012 fail to demonstrate the requisite intent to build LNP 1 & 2. As such, DEF is not realistically engaged in the "siting, design, licensing, and construction" of LNP 1 & 2, thus is not eligible for recovery of costs related to LNP 1 & 2.

FIPUG: Agree with OPC.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of OPC.

FRF: Agree with OPC.

STAFF: No position at this time.

ISSUE 24: What jurisdictional amounts should the Commission approve as reasonably projected 2014 costs for DEF's Levy Units 1 & 2 project?

POSITIONS

FPL: No position.

DEF: Based on DEF's May 1, 2013 filing:

Capital Costs (Jurisdictional) \$32,717,834
O&M Costs (Jurisdictional) \$480,817
Carrying Costs \$18,172,031

For the LNP, an amount necessary to achieve the rates included in Exhibit 5 (\$3.45/1,000kWh on the residential bill) of the Settlement Agreement approved in Order No. PSC-12-104-FOF-EI page 147 should be included in establishing DEF's 2014 CCRC. (Foster, Fallon).

OPC: See settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. These amounts are specified in the settlement.

SACE: None. DEF did not conduct or properly analyze a realistic feasibility analysis. Additionally, its activities since January of 2012 fail to demonstrate the requisite intent to build LNP 1 & 2. As such, DEF is not realistically engaged in the "siting,

design, licensing, and construction” of TP 6 & 7, and thus the Commission should find projected costs in 2014 as not reasonable.

FIPUG: Agree with OPC.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of OPC.

FRF: Agree with OPC.

STAFF: No position at this time.

ISSUE 25: What is the appropriate regulatory treatment of any amount equal to the difference between the collections pursuant to Order No. PSC-12-0104-FOF-EI and the sum of recoverable amounts identified in the prior issues?

POSITIONS

FPL: No position.

DEF: The appropriate regulatory treatment of the difference between the collections pursuant to Order No. PSC-12-0104-FOF-EI and the sum of the recoverable LNP amounts is the creation of the regulatory liability pending the true-up provided for in the Settlement Agreement approved by the Commission in Order No. PSC-12-0104-FOF-EI as amended in Order No. PSC-12-0104A-FOF-EI as explained in the testimony and exhibits of Mr. Foster in this proceeding. (Foster).

OPC: The Commission should identify these costs for the purpose of true-up pursuant to the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. These costs should be tracked and monitored so that customers and the Commission can be assured that costs are minimized, eliminated or otherwise controlled to insure that the monthly charge is eliminated as soon as possible.

SACE: SACE was not a party settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. Regardless of the agreement, DEF is not entitled to recover costs related to LNP because its activities since January 2012 fail to demonstrate the requisite intent to build the LNP and it has failed to complete and properly analyze a realistic feasibility analysis.

FIPUG: The Commission should identify any such cost differences for the purpose of true-up pursuant to the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 12022-EI. These costs should be tracked and monitored so that customers and the Commission can be assured that costs are minimized, eliminated or otherwise controlled to insure that the monthly

charge for the Levy Project (part of the NCRC component of Duke's Capacity Cost Recovery charges) is eliminated as soon as possible.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of OPC.

FRF: The Commission should identify any such cost differences for the purpose of true-up pursuant to the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI. These costs should be tracked and monitored so that customers and the Commission can be assured that costs are minimized, eliminated, or otherwise controlled to insure that the monthly charge for the Levy Project (part of the NCRC component of Duke's Capacity Cost Recovery charges) is eliminated as soon as possible.

STAFF: No position at this time.

DEF - CR3 Uprate Project Issues

ISSUE 26: What action, if any, should the Commission take as a result of the DEF decision to retire the CR3 unit with respect to the Balance of Plant Uprate of CR3 associated with the December 7, 2009 base rate tariff filing by DEF?

POSITIONS

FPL: No position.

DEF: This issue is to be decided in Docket No. 100437-EI, so no Commission action is necessary, at this time, or in this year's phase of this docket as to this issue. With respect to the dollars being proposed for recovery in this docket, fall out cost impacts on those dollars, if any, from the resolution of this issue in Docket No. 100437-EI will be treated accordingly in this docket in a subsequent year. (Foster).

OPC: This issue is to be decided in Docket No. 100437-EI, so no Commission action is necessary at this time or in this year's phase of this docket as to this issue. With respect to the dollars being proposed for recovery in this docket, fall out cost impacts on those dollars, if any, from the resolution of this issue in Docket No. 100437-EI will be treated accordingly in this docket in a subsequent year.

SACE: Agree with OPC.

FIPUG: This issue is to be decided in Docket No. 100437-EI, so no Commission action is necessary at this time, or in this year's NCRC docket as to this issue. With respect to the dollars being proposed for recovery in this docket, the fall-out cost impacts on those dollars, if any, from the resolution of this issue in Docket No. 100437-EI will be treated accordingly in this docket in a subsequent year.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of the OPC.

FRF: This issue is to be decided in Docket No. 100437-EI, so no Commission action is necessary at this time, or in this year's NCRC docket as to this issue. With respect to the dollars being proposed for recovery in this docket, the fall-out cost impacts on those dollars, if any, from the resolution of this issue in Docket No. 100437-EI will be treated accordingly in this docket in a subsequent year.

STAFF: No position at this time.

ISSUE 27: Should the Commission find that, for the year 2012, DEF's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Crystal River Unit 3 Uprate project? If not, what action, if any, should the Commission take?

POSITIONS

FPL: No position.

DEF: Yes, for the year 2012, DEF's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the CR3 Uprate as discussed in Mr. Miller's March 1, 2013 and May 1, 2013 direct testimony and in Mr. Foster's March 1, 2013 direct testimony. These procedures are designed to ensure timely and cost-effective completion of the project. These project management and cost oversight controls include regular risk assessment, evaluation, and management. These policies, procedures, and controls are continually reviewed, and where necessary, revised and enhanced, all in line with industry best practices. The Company has appropriate, reasonable project accounting controls, project monitoring procedures, disbursement services controls, and regulatory accounting controls. The Company's 2012 CR3 Uprate management and cost oversight controls, policies, and procedures are substantially the same as the policies and procedures reviewed and previously determined to be prudent by the Commission. (Miller, Foster).

OPC: No. In the 2012 NCRC cycle, OPC asked the Commission not to make a determination on Duke's project management, contracting, accounting and cost oversight controls. OPC argued that Duke should avoid making any expenditures that were avoidable or deferrable on the EPU project if Duke decided to cancel the EPU project. As such, Duke was on notice that these decisions would be greatly scrutinized. The Commission should make a determination in this year's docket whether Duke was prudent in its decisions related to Duke's project management, contracting, accounting and cost oversight controls.

SACE: Agree with OPC.

FIPUG: No. In the 2012 NCRC cycle, OPC asked the Commission not to make a determination on DEF's project management, contracting, accounting and cost oversight controls. OPC argued that DEF should avoid making any expenditures that were avoidable or deferrable on the EPU project if DEF decided to cancel the EPU project. As such, DEF was on notice that these decisions would be greatly scrutinized. The Commission should make a determination in this year's docket whether DEF was prudent in its decisions related to DEF's project management, contracting, accounting and cost oversight controls.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of the OPC.

FRF: No. In the 2012 NCRC cycle, OPC asked the Commission not to make a determination on Duke's project management, contracting, accounting and cost oversight controls. OPC argued that Duke should avoid making any expenditures that were avoidable or deferrable on the EPU project if Duke decided to cancel the EPU project. As such, Duke was on notice that these decisions would be greatly scrutinized. The Commission should make a determination in this year's docket whether Duke was prudent in its decisions related to Duke's project management, contracting, accounting and cost oversight controls.

STAFF: No position at this time.

ISSUE 27A: Has DEF undertaken reasonable and prudent measures to mitigate the CR3 uprate asset (e.g., through salvage, sale, cost reduction, etc.) following its decision to retire CR3? If not, what action, if any, should the Commission take?

POSITIONS

FPL: No position.

DEF: Yes. As discussed in the May 1, 2013 testimony and exhibits of Mr. Miller, DEF has undertaken reasonable and prudent measures to mitigate CR3 Uprate costs followings its February 5, 2013 decision to retire CR3. In 2013 to date these actions included immediately cancelling the EPU project and notifying vendors to suspend work on all contracts and purchase orders; immediately notifying the NRC to stop LAR review work; significant reductions in staff; and creation of an EPU Project Close-Out Plan to manage the project close-out. (Miller).

OPC: Duke should use its best efforts to obtain maximum salvage value for all EPU components it has received whether the component is installed (but not in service) or not installed. Any salvage value obtained from the disposition of these components should be applied to reduce any unrecovered balance.

SACE: Agree with OPC.

FIPUG: DEF should use its best efforts to obtain maximum salvage value for all EPU components it has received, regardless of whether the component is installed (but not in service) or not installed. Any salvage value obtained from the disposition of these components should be applied to reduce any unrecovered balance of CR3 and associated carrying charges.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of the OPC.

FRF: Duke should use its best efforts to obtain maximum salvage value for all EPU components it has received, regardless whether the component is installed (but not in service) or not installed. Any salvage value obtained from the disposition of these components should be applied to reduce any unrecovered balance of CR3 and associated carrying charges.

STAFF: No position at this time.

ISSUE 28: What jurisdictional amounts should the Commission approve as DEF's final 2012 prudently incurred costs and final true-up amounts for the Crystal River Unit 3 Uprate project?

POSITIONS

FPL: No position.

DEF: Capital Costs (Jurisdictional, net of joint owners) \$34,217,595
O&M Costs (Jurisdictional, net or joint owners) \$432,585
Carrying Costs \$21,205,814 and Other Adjustments credit of \$3,242,310.

The under-recovery of \$2,596,849 should be included in setting the allowed 2014 NCRC recovery.

The 2012 variance is the sum of an O&M under-projection of \$432,455, and an under-projection of carrying charges of \$2,164,394. (Foster, Miller).

OPC: In the 2012 NCRC cycle, OPC asked Duke to avoid making any 2012 expenditures that were avoidable or deferrable on the EPU project if Duke decided to cancel the EPU project. As such, Duke was on notice that these expenditures would be greatly scrutinized. The Commission should make a determination in this year's docket whether Duke was prudent in its decisions related to 2012 EPU expenditures.

SACE: Agree with OPC.

FIPUG: In the 2012 NCRC cycle, OPC asked DEF to avoid making any 2012 EPU expenditures that could be avoided or deferred, contemplating that DEF might thereafter decide to cancel the EPU project. As such, DEF was on notice that these expenditures would be greatly scrutinized. The Commission should make a determination in this year's docket whether DEF was prudent in its decisions related to the 2012 EPU expenditures.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of the OPC.

FRF: In the 2012 NCRC cycle, OPC asked Duke to avoid making any 2012 EPU expenditures that could be avoided or deferred, contemplating that Duke might thereafter decide to cancel the EPU project. As such, Duke was on notice that these expenditures would be greatly scrutinized. The Commission should make a determination in this year's docket whether Duke was prudent in its decisions related to 2012 EPU expenditures.

STAFF: No position at this time.

ISSUE 29: What jurisdictional amounts should the Commission approve as reasonably estimated 2013 costs and estimated true-up amounts for DEF's Crystal River Unit 3 Uprate project?

POSITIONS

FPL: No position.

DEF: Capital Costs (Jurisdictional, net of joint owners) \$11,812,025
O&M Costs (Jurisdictional, net of joint owners) \$453,738
Carrying Costs \$27,111,962 and Other Adjustments credit of \$6,946.

The over-recovery of \$2,790,653 should be included in setting the allowed 2014 NCRC recovery.

The 2013 variance is the sum of an O&M under-projection of \$453,565, over-projection of carrying charges of \$3,240,860 and an over-projection of \$3,359 of Other Adjustments. (Foster, Miller).

OPC: In the 2012 NCRC cycle, OPC asked Duke to avoid making any 2013 expenditures that were avoidable or deferrable if Duke decided to cancel the EPU project. As such, Duke was on notice that these expenditures would be greatly scrutinized. The Commission should make a determination in this year's docket whether Duke was prudent in its decisions related to 2013 EPU expenditures.

SACE: Agree with OPC.

FIPUG: In the 2012 NCRC cycle, OPC asked DEF to avoid making any 2013 expenditures that could be avoided or deferred, contemplating that DEF might thereafter decide to cancel the EPU project. As such, DEF was on notice that these expenditures would be greatly scrutinized. The Commission should make a determination in this year's docket whether DEF was prudent in its decisions related to the 2013 EPU expenditures.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of the OPC

FRF: In the 2012 NCRC cycle, OPC asked Duke to avoid making any 2013 expenditures that were avoidable or deferrable if Duke decided to cancel the EPU project. As such, Duke was on notice that these expenditures would be greatly scrutinized. The Commission should make a determination in this year's docket whether Duke was prudent in its decisions related to 2013 EPU expenditures.

STAFF: No position at this time.

ISSUE 30: What jurisdictional amounts should the Commission approve as reasonably projected 2014 costs for DEF's Crystal River Unit 3 Uprate project?

POSITIONS

FPL: No position.

DEF: Capital Costs (Jurisdictional, net of joint owners) \$208,008
O&M Costs (Jurisdictional, net of joint owners) \$396,900
Carrying Costs \$24,178,932 and a base revenue requirement credit of \$3,699 (Foster, Miller).

OPC: None. There should be little to no 2014 costs except that which would be related to salvaging any of the EPU assets.

SACE: Agree with OPC.

FIPUG: None. There should be little to no 2014 costs except any such costs that would be related to salvaging any of the EPU assets.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of the OPC.

FRF: None. There should be little to no 2014 costs except any such costs that would be related to salvaging any of the EPU assets.

STAFF: No position at this time.

DEF Fallout Issue

ISSUE 31: What is the total jurisdictional amount to be included in establishing DEF's 2014 Capacity Cost Recovery Clause factor?

POSITIONS

FPL: No position.

DEF: The total jurisdictional amount to be included in establishing DEF's 2014 Capacity Cost Recovery Clause factor should be \$174,645,228 (before revenue tax multiplier). This consists of \$106,054,078 for the LNP and \$68,591,150 for the CR3 Uprate project.

For the LNP, an amount necessary to achieve the rates included in Exhibit 5 (\$3.45/1,000kWh on the residential bill) of the Settlement Agreement approved in Order No. PSC-12-104-FOF-EI page 147 should be included in establishing DEF's 2014 CCRC. (Foster, Fallon).

OPC: The total jurisdictional amount will be a fall-out from other decisions and LNP recovery is subject to the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI.

SACE: This is a fallout amount from the substantive issues.

FIPUG: The total jurisdictional amount will be a fall-out from other decisions and the application of the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI, to LNP costs.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of OPC.

FRF: The total jurisdictional amount will be a fall-out from other decisions and the application of the settlement approved by Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI, to LNP costs.

STAFF: No position at this time.

IX. EXHIBIT LIST

Florida Power & Light Company:

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
<u>Direct</u>			
Steven D. Scroggs Winnie Powers	FPL	SDS-1	T- Schedules, Turkey Point 6 & 7 Site Selection and Pre-Construction Costs
Steven D. Scroggs	FPL	SDS-2	Turkey Point 6 & 7 Licenses, Permits and Approvals
Steven D. Scroggs	FPL	SDS-3	Turkey Point 6 & 7 Procedures and Work Instructions
Steven D. Scroggs	FPL	SDS-4	Turkey Point 6 & 7 Reports
Steven D. Scroggs	FPL	SDS-5	Turkey Point 6 & 7 Project Instructions and Forms
Steven D. Scroggs	FPL	SDS-6	Turkey Point 6 & 7 Summary Tables of the 2012 Expenditures
Steven D. Scroggs	FPL	SDS-7	Turkey Point 6 & 7 Site Selection and Pre-construction NFRs
Steven D. Scroggs	FPL	SDS-8	Turkey Point 6 & 7 Expenditure Summary Tables
Steven D. Scroggs	FPL	SDS-9	Turkey Point 6 & 7 Project Benefits at a Glance
Steven D. Scroggs	FPL	SDS-10	New Nuclear Energy Timeline
Nils J. Diaz	FPL	NJD-1	Summary Resume of Nils J. Diaz, PhD
Terry O. Jones Winnie Powers	FPL	TOJ-1	2012 EPU Construction Costs
Terry O. Jones	FPL	TOJ-2	EPU Workforce Investment Summary and Cost Recovery Summary

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Terry O. Jones	FPL	TOJ-3	St. Lucie and Turkey Point Plant Photographs
Terry O. Jones	FPL	TOJ-4	Illustration of Modifications by Unit
Terry O. Jones	FPL	TOJ-5	EPU Project Electrical Output Status
Terry O. Jones	FPL	TOJ-6	EPU Project Schedule Overview
Terry O. Jones	FPL	TOJ-7	2012 EPU Cost Variance Drivers
Terry O. Jones	FPL	TOJ-8	EPU Work Activities List as of December 31, 2012
Terry O. Jones	FPL	TOJ-9	EPU Equipment Placed In Service In 2012
Terry O. Jones	FPL	TOJ-10	EPU EPPI Index as of December 31, 2012
Terry O. Jones	FPL	TOJ-11	EPU Project Reports 2012
Terry O. Jones	FPL	TOJ-12	Summary of 2012 EPU Construction Costs
Terry O. Jones	FPL	TOJ-13	EPU NFR Schedules
Terry O. Jones	FPL	TOJ-14	EPU MWe
Terry O. Jones	FPL	TOJ-15	Top Industry Practice Award
Terry O. Jones	FPL	TOJ-16	2013 EPU Project Benefits
Terry O. Jones	FPL	TOJ-17	Southeast Florida Reliability Impact
Terry O. Jones	FPL	TOJ-18	Workforce Summary
Terry O. Jones	FPL	TOJ-19	EPU Timeline
Terry O. Jones	FPL	TOJ-20	EPU Project Safety Performance

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Terry O. Jones	FPL	TOJ-21	Turkey Point Unit 4 EPU Scope
Terry O. Jones	FPL	TOJ-22	EPU Equipment Placed in Service in 2013
Terry O. Jones	FPL	TOJ-23	EPU Project Work Activities List
Terry O. Jones	FPL	TOJ-24	FPL Investment Versus Clause Recovery
Terry O. Jones	FPL	TOJ-25	Nuclear Cost Recovery Bill Impact
Terry O. Jones	FPL	TOJ-26	Summary of 2013 Extended Power Uprate Construction Costs
John J. Reed	FPL	JJR-1	Resume of John J. Reed
John J. Reed	FPL	JJR-2	Testimony of John J. Reed Regulatory Agencies
John J. Reed	FPL	JJR-3	Total Production Cost of Electricity, 1995 – 2011
John J. Reed	FPL	JJR-4	Index of the EPU Projects' Periodic Meetings
John J. Reed	FPL	JJR-5	PTN 6 & 7 Organization Charts
Winnie Powers	FPL	WP-1	Final True-Up of 2012 Revenue Requirements
Winnie Powers	FPL	WP-2	Turkey Point 6 & 7 2012 Site Selection and Pre-construction Costs and Uprate Project 2012 Construction Costs
Winnie Powers	FPL	WP-3	2012 Base Rate Revenue Requirements
Winnie Powers	FPL	WP-4	2012 Incremental Labor Guidelines
Winnie Powers	FPL	WP-5	2013 Revenue Requirements (To be Collected in 2014)

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Winnie Powers	FPL	WP-6	2013 Base Rate Revenue Requirements
Winnie Powers	FPL	WP-7	St. Lucie & Turkey Point Uprate Project Revenue Requirements on 13 Month Average of Incremental 2012 Plant Placed into Service
Winnie Powers	FPL	WP-8	St. Lucie and Turkey Point Uprate Project Actual/Estimated Net Book Value of Retirements, Removal Cost & Salvage for Plant Placed into Service in 2012
Steven R. Sim	FPL	SRS-1	Summary of Results from FPL's 2013 Feasibility Analyses of the Turkey Point 6 & 7 Project (Plus Results from Additional Analyses)
Steven R. Sim	FPL	SRS-2	Comparison of Key Assumptions Utilized in the 2012 and 2013 Feasibility Analyses of the Turkey Point 6 & 7 Project: Projected Fuel Costs (Medium Fuel Cost Forecast)
Steven R. Sim	FPL	SRS-3	Comparison of Key Assumptions Utilized in the 2012 and 2013 Feasibility Analyses of the Turkey Point 6 & 7 Project: Projected Environmental Compliance Costs (Env II Forecast)

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Steven R. Sim	FPL	SRS-4	Comparison of Key Assumptions Utilized in the 2012 and 2013 Feasibility Analyses of the Turkey Point 6 & 7 Project: Summer Peak Demand Load Forecast
Steven R. Sim	FPL	SRS-5	Projection of FPL's Resource Needs Through 2025
Steven R. Sim	FPL	SRS-6	Comparison of Key Assumptions Utilized in the 2012 and 2013 Feasibility Analyses of the Turkey Point 6 & 7 Project: Other Assumptions
Steven R. Sim	FPL	SRS-7	The Two Resource Plans Utilized in FPL's 2013 Feasibility Analyses of Turkey Point 6 & 7
Steven R. Sim	FPL	SRS-8	2013 Feasibility Analyses Results for the Turkey Point 6 & 7 Project: Total Costs, Total Cost Differentials, and Breakeven Costs for All Fuel and Environmental Compliance Cost Scenarios in 2013\$ (millions, CPVRR, 2013 - 2063)
Steven R. Sim	FPL	SRS-9	EPU Project Benefits to FPL's Customers
William R. Jacobs, Jr., Ph.D.	OPC	WRJ-1	Resume of William R. Jacobs, Jr.
William R. Jacobs, Jr., Ph.D.	OPC	WRJ-2	Resume of James P. McGaughy, Jr.
William R. Jacobs, Jr., Ph.D.	OPC	WRJ-3	Late Filed Exhibit to Witness Jones Deposition

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
William R. Jacobs, Jr., Ph.D.	OPC	WRJ-4	Withdrawn
William R. Jacobs, Jr., Ph.D.	OPC	WRJ-5	Withdrawn
William R. Jacobs, Jr., Ph.D.	OPC	WRJ-6	Withdrawn
William R. Jacobs, Jr., Ph.D.	OPC	WRJ-7	Example of Article on "Sunk Cost Dilemma"
Lynn Fisher and David Rich	STAFF	FR-1	Review of FPL's Project Management Internal Controls for Nuclear Plant Uprate and Construction Projects
Bety Maitre	STAFF	BM-1	Auditor's Report re: FPL Nuclear Cost Recovery Clause, Nuclear Extended Power Uprate, Twelve Months Ended December 31, 2012
Iliana Piedra	STAFF	IP-1	Auditor's Report re: FPL Nuclear Cost Recovery Clause, Turkey Point Plant Units 6 & 7, Twelve Months Ended December 31, 2012
<u>Rebuttal</u>			
Terry O. Jones	FPL	TOJ-27	OPC Witness Jacobs's \$163 Million of Errors in \$215 Million False Accusation
Steven R. Sim	FPL	SRS-10	An Example of How Present Value Results From Projects With Different In-Service Dates Are Not Transferable
Terry Deason	FPL	TD-1	Biographical Information for Terry Deason
Terry Deason	FPL	TD-2	Jacobs's Non-symmetrical Analysis for Turkey Point Applied to St. Lucie

Duke Energy Florida, Inc.:

Thomas G. Foster	DEF	TGF-1	CONFIDENTIAL - Schedules T-1 through T-7B of the Nuclear Filing Requirements (“NFRs”) and Appendices A through D, which reflect DEF’s retail revenue requirements for the LNP from January 2012 through December 2012 (Mr. Fallon is co-sponsoring portions of schedules T-4, T-4A, T-6 and sponsoring schedules T-6A through T-7B and Appendix D).
Thomas G. Foster	DEF	TGF-2	CONFIDENTIAL - Schedules T-1 through T-7B of the NFRs and Appendices A through D, which reflect DEF’s retail revenue requirements for the CR3 Uprate project from January 2012 through December 2012 (Mr. Miller is co-sponsoring portions of schedules T-4, T-4A, T-6 and sponsoring schedules T-6A through T-7B and Appendix D).
Thomas G. Foster	DEF	TGF-3	CONFIDENTIAL - Schedules AE-1 through AE-7B of the NFRs and Appendices A through E, which reflect DEF’s retail revenue requirements for the LNP from January 2013 through December 2013 (Mr. Fallon is co-sponsoring portions of Schedules AE-4, AE-4A, AE-6 and sponsoring schedules AE-6A through AE-7B).

Thomas G. Foster	DEF	TGF-4	CONFIDENTIAL - Schedules P-1 through P-8 of the NFRs and Appendices A through E, which reflect DEF's projected retail revenue requirements for the LNP for January 2014 through December 2014 (Mr. Fallon is co-sponsoring portions of P-4 and P-6 and sponsoring P-6A through P-7B).
Thomas G. Foster	DEF	TGF-5	CONFIDENTIAL - Schedules TOR-1 through TOR-7 of the NFRs, which reflect the total estimated costs for the LNP (Mr. Fallon is co-sponsoring portions of TOR-4 and TOR-6 and sponsoring schedules TOR-6A and TOR-7).
Thomas G. Foster	DEF	TGF-6	DEF's actual and expected costs associated with the CR3 Uprate project for 2013 and 2014, as a result of the cancellation of the project in February 2013, and pursuant to Rule 25-6.0423(6), F.A.C. (Mr. Miller will be co-sponsoring portions of Schedule 2013 Detail Lines 1 (a - f) and Schedule 2014 Detail Lines 1 (a - f)).
Thomas G. Foster	DEF	TGF-7	CONFIDENTIAL - Schedules AE-1 through AE-7B and Appendices A through E of the NFRs, which reflect the retail revenue requirements for the CR3 Uprate project from January 2013 through December 2013. (Mr. Miller is co-sponsoring portions of Schedule AE-6 and sponsoring Schedules AE-6A through AE-7B).

Garry D. Miller	DEF	JF-1	Project Management and Fleet Operating Procedures applicable to the CR3 Uprate project revised in 2012.
Garry D. Miller	DEF	JF-2	Project Management and Fleet Operating Procedures applicable to the CR3 Uprate project new in 2012.
Garry D. Miller	DEF	GM-1	DEF's February 7, 2013 EPU License Amendment Request ("LAR") application withdrawal letter to the NRC.
Garry D. Miller	DEF	GM-2	DEF's notification letters to EPU project vendors with open contracts and purchase orders to suspend all EPU project work activities.
Garry D. Miller	DEF	GM-3	CONFIDENTIAL – DEF's EPU Project Close-Out Plan.
Christopher M. Fallon	DEF	CMF-1	Project Management and Fleet Operating Procedures applicable to the LNP revised in 2012.
Christopher M. Fallon	DEF	CMF-2	Project Management and Fleet Operating Procedures applicable to the LNP new in 2012.
Christopher M. Fallon	DEF	CMF-3	CONFIDENTIAL – Chart of DEF's long lead equipment ("LLE") purchase order ("PO") disposition status.
Christopher M. Fallon	DEF	CMF-4	DEF's May 1, 2013 cumulative present value revenue requirements ("CPVRR") calculation for the LNP compared to the cost effectiveness analysis presented in the Need Determination proceedings for the LNP.

Christopher M. Fallon	DEF	CMF-5	Chart of the Nuclear Regulatory Commission (“NRC”) review schedule for LNP Combined Operating License Application (“COLA”).
Christopher M. Fallon	DEF	CMF-6	Florida Legislative Office of Economic and Demographic Research (“EDR”) March 2013 Florida Economic Overview.
William Coston and Jerry Hallenstein	STAFF	CH-1	Review of DEF’s Project Management Internal Controls for Nuclear Plant Uprate and Construction Projects
Jeffery A. Small	STAFF	JAS-1	Auditor’s Report re: DEF’s Nuclear Cost Recovery Clause, Levy Nuclear Plant Units 1 & 2, Twelve Months Ended December 31, 2012
Jeffery A. Small	STAFF	JAS-2	Auditor’s Report re: DEF’s Nuclear Cost Recovery Clause, Crystal River Unit 3 Uprate, Twelve Months Ended December 31, 2012

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

XI. PENDING MOTIONS

Motion Document No.	Date	Description
03665-13	6/28/2013	Motion for temporary protective order [for information included in response to staff’s 2 nd set of PODs (Nos. 2, 6, 7 and 9)]

Motion Document No.	Date	Description
03115-13	6/6/2013	Motion for temporary protective order [to exempt from Section 119.07(1), FS, information included in supplemental response to OPC's 1 st request for PODs (No. 1)]
02809-13	5/21/2013	Motion for temporary protective order [to exempt from Section 119.07(1), FS, confidential information included in responses to OPC's 1 st request for PODs (No. 1)]
02599-13	5/10/2013	Motion for temporary protective order [of DN 02394-13]
01391-13	3/20/2013	Motion for temporary protective order [to exempt from Section 119.07, FS, confidential information included in Exh TOJ-1 to testimony of Terry Jones and Exh SDS-1 to testimony of Steven Scroggs (DN 01103-13)]

XII. PENDING CONFIDENTIALITY MATTERS

FPL:

Document No.	Request	Date Filed
01102-13	Request for confidential classification of Exhs TOJ-1 and SDS-1 [DN 01103-13].	03/01/2013
02393-13	Request for confidential classification of [DN 02394-13] Jones testimony and Exhs TOJ-13 and SDS-7; includes redacted version. [CLK note: See DN 03177-13 for revised request.]	05/01/2013
03177-13	Revised request for confidential classification of [DN 03178-13] Exhs TOJ-13 and SDS-7 [to testimonies of Terry Jones and Steven D. Scroggs].	06/10/2013
03377-13	Request for confidential classification of [DN 03378-13] Audit Report PA-13-01-001.	06/17/2013
03579-13	Request for confidential classification of Audit 13-10-4-1 work papers [DN 03678-13]	6/26/2013
03677-13	Request for confidential classification of Audit 13-10-4-1 work papers [DN 03678-13]	6/28/2013

DEF:

Document No.	Request	Date Filed
01091-13	First request for confidential classification regarding portions of the testimonies and exhibits filed as part of 3/1/13 true-up filing [DN 01092-13].	03/01/2013

Document No.	Request	Date Filed
02196-13	Second request for confidential classification [of DN 02197-13]; includes redacted version.	04/26/2013
02636-13	Third request for confidential classification [of DN 02637-13] regarding the responses to Citizens' 1st request for PODs (Nos. 1-4); includes redacted version.	05/14/2013
02696-13	Fourth request for confidential classification [of DN 02697-13] regarding Audit Control No. 13-010-2-2 workpapers; includes redacted version.	05/16/2013
02826-13	Fifth request for confidential classification [of DN 02827-13] regarding portions of testimonies and exhibits filed as part of the 5/1/13 petition for approval of costs to be recovered; includes redacted version.	05/22/2013
03392-13	Sixth request for confidential classification regarding portions of the review of project management internal controls for nuclear plant uprate and construction projects Audit Report No. PA-13-01-001 (DN 03393-13); includes redacted version.	06/18/2013
03701-13	Fourth Notice of Intent to Request Confidential Classification re: portions of information provided in response to SACE's First Set of Interrogatories, specifically No. 6	07/01/13
03703-13	Fifth Notice of Intent to Request Confidential Classification re: portions of information provided in response to Staff's Fifth Set of Interrogatories No. 24, specifically attachments bearing Bates No. 13NC-STAFFROG5-24-000001 through 13NC-STAFFROG5-24-000039	07/01/13

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 120 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 120 words, it must be reduced to no more than 120 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 50 pages and shall be filed at the same time.

XIV. RULINGS

Opening statements, if any, shall not exceed 10 minutes for FPL and 10 minutes for DEF. All other parties shall have a combined total of 20 minutes to be allocated amongst the parties as they mutually agree.

All parties shall have the option to present written legal briefs on Issues 1, 2 and 3. Legal briefs must be submitted no later than July 29, 2013 and may not exceed 15 pages. All parties shall also have the opportunity to present oral arguments on Issues 1, 2 and 3 during the course of the hearing and may be subject to questions by the Commissioners at that time. Each utility shall have 10 minutes to present its oral argument and the remaining parties shall have 20 minutes to present their arguments with the time to be allocated between them as they see fit.

All opening statements, testimony, and exhibits pertaining to FPL's petition shall be taken up first, followed immediately by all opening statements, testimony and exhibits pertaining to DEF's petition. Oral arguments on Issues 1, 2 and 3 shall occur immediately prior to the commencement of FPL's case.

Each witness shall be given 4 minutes to summarize his or her testimony.

It is therefore,

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 23rd day of July, 2013.



EDUARDO E. BALBIS
Commissioner and Prehearing Officer
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Tallahassee, Florida 32399
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.