

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of

DOCKET NO. 110001-EI

FUEL AND PURCHASED POWER
COST RECOVERY CLAUSE WITH
GENERATING PERFORMANCE
INCENTIVE FACTOR.

_____ /

VOLUME 5

Pages 570 through 615

COMMISSIONERS
PARTICIPATING:

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

DATE: Wednesday, November 2, 2011

TIME: Commenced at 9:30 a.m.
Concluded at 10:18 a.m.

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

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
(850) 413-6732

APPEARANCES: (As heretofore noted.)

DOCUMENT NUMBER-DATE

08120 NOV-3=

FLORIDA PUBLIC SERVICE COMMISSION

FPSC-COMMISSION CLERK

I N D E X

WITNESSES

NAME: PAGE NO.

ROBERT OLIVER

Prefiled Testimony Inserted 575

MARCIA OLIVIER

Cross Examination by Ms. Barrera 587

Further Cross Examination by
Mr. Rehwinkel 591

Further Cross Exam. by Mr. Moyle 600

Further Cross Exam. by Mr. Rehwinkel 605

Further Cross Exam. by Mr. Brew 606

EXHIBITS

	NUMBER:	ID.	ADMTD.
1			
2			
3	21 and 22		574
4	26, 27, 27A		598
5	91 Replacement Power by Month	607	607
6	90		607
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

P R O C E E D I N G S

1
2 (Transcript follows in sequence from
3 Volume 4.)

4 **CHAIRMAN GRAHAM:** Good morning, everyone.
5 Glad to see everybody made it back here safely this
6 morning. Before we get started where we left off, my
7 understanding is that Progress has got a request.

8 **MR. BURNETT:** Yes, sir. Good morning. Thank
9 you.

10 Our understanding from speaking, again, with
11 FIPUG after we concluded yesterday is that they do not
12 have questions for Mark Oliver. So unless the
13 Commission or staff had questions, he would be subject
14 to excusal.

15 **CHAIRMAN GRAHAM:** Staff, do you have any
16 questions for Mr. Oliver?

17 **MS. BENNETT:** We do not.

18 **CHAIRMAN GRAHAM:** Commissioners, do you have
19 any questions for Mr. Oliver?

20 Give us just a minute. (Pause.)

21 It doesn't look like there are any questions
22 for Mr. Oliver, so as far as I can see, Mr. Oliver can
23 be excused.

24 **MR. BURNETT:** Thank you, sir.

25 If appropriate, we would move Mr. Oliver's

1 testimony and Exhibits 21 and 22 into evidence.

2 **CHAIRMAN GRAHAM:** Exhibits 21 and 22 will be
3 moved into evidence, unless there's any objections?

4 Seeing none. Sounds good.

5 **MR. BURNETT:** Thank you, sir.

6 (Exhibit Number 21 and 22 admitted into the
7 record.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

PROGRESS ENERGY FLORIDA**DOCKET No. 110001-EI****GPIF Schedules for
January through December 2010****DIRECT TESTIMONY OF
ROBERT M. OLIVER****March 15, 2011**

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

2 A. My name is Robert M. Oliver. My business address is 100 East Davie Street,
3 Raleigh, North Carolina, 27601.

4

5 **Q. By whom are you employed and in what capacity?**

6 A. I am employed by Progress Energy Carolinas as Manager of Portfolio
7 Management.

8

9 **Q. Describe your responsibilities as Manager of Portfolio Management.**

10 A. As Manager of Portfolio Management, I am responsible for managing the
11 development and application of the model, analysis and data used for the
12 short term generation planning. As relates to this process, my duties include
13 responsibility for the preparation of the information and material required by
14 the Commission's GPIF True-Up and Targets mechanisms.

15

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

2 A. The purpose of my testimony is to describe the calculation of PEF's GPIF
3 reward/penalty amount for the period of January through December 2010.
4 This calculation was based on a comparison of the actual performance of
5 PEF's twelve GPIF generating units for this period against the approved
6 targets set for these units prior to the actual performance period.

7
8 **Q. Do you have an exhibit to your testimony in this proceeding?**

9 A. Yes, I am sponsoring Exhibit No. _____ (RMO-1T), which consists of the
10 schedules required by the GPIF Implementation Manual to support the
11 development of the incentive amount. This 34-page exhibit is attached to my
12 prepared testimony and includes as its first page an index to the contents of
13 the exhibit.

14
15 **Q. What GPIF incentive amount has been calculated for this period?**

16 A. PEF's calculated GPIF incentive amount is a penalty of \$2,980,090. This
17 amount was developed in a manner consistent with the GPIF Implementation
18 Manual. Page 2 of my exhibit shows the system GPIF points and the
19 corresponding reward (penalty). The summary of weighted incentive points
20 earned by each individual unit can be found on page 4 of my exhibit.

21
22 **Q. How were the incentive points for equivalent availability and heat rate
23 calculated for the individual GPIF units?**

24 A. The calculation of incentive points was made by comparing the adjusted
25 actual performance data for equivalent availability and heat rate to the target

1 performance indicators for each unit. This comparison is shown on each
2 unit's Generating Performance Incentive Points Table found on pages 9
3 through 20 of my exhibit.

4
5 **Q. Why is it necessary to make adjustments to the actual performance data**
6 **for comparison with the targets?**

7 A. Adjustments to the actual equivalent availability and heat rate data are
8 necessary to allow their comparison with the "target" Point Tables exactly as
9 approved by the Commission prior to the period. These adjustments are
10 described in the Implementation Manual and are further explained by a Staff
11 memorandum, dated October 23, 1981, directed to the GPIF utilities. The
12 adjustments to actual equivalent availability concern primarily the differences
13 between target and actual planned outage hours, and are shown on page 7 of
14 my exhibit. The heat rate adjustments concern the differences between the
15 target and actual Net Output Factor (NOF), and are shown on page 8. The
16 methodology for both the equivalent availability and heat rate adjustments are
17 explained in the Staff memorandum.

18
19 **Q. How did you determine Crystal River 3's heat rate performance in 2010**
20 **when the unit did not generate any energy nor use any fuel for the**
21 **twelve month period of January through December 2010?**

22 A. Strictly speaking, the heat rate for Crystal River 3 during 2010 is an undefined
23 value. As described in the Implementation Manual, average net operating
24 heat rate is defined as the fuel burned during the period while the unit is
25 synchronized to the system, exclusive of start-up BTU, divided by the total net

1 generation, exclusive of station use, produced during the period while the unit
2 is synchronized to the system. Because Crystal River 3 never synchronized
3 during 2010, the amount of fuel, zero divided by the generation, also zero
4 equals an undefined value. To account for this, Crystal River 3's heat rate
5 performance in its Actual Unit Performance Data table is represented as zero.
6

7 **Q. How did you adjust the Incentive Points for Crystal River 3's heat rate?**

8 A. Because Crystal River 3, with a zero Net Operating Factor and a zero actual
9 heat rate, has an adjusted heat rate less than zero, it would earn 10 incentive
10 points for beating the lower limit of its target range. However, since Crystal
11 River 3's actual heat rate performance is essentially incalculable, its heat rate
12 incentive point was adjusted to zero to prevent it from earning a reward on
13 this measure.
14

15 **Q. How did you determine Crystal River 3's availability performance in 2010
16 and what adjustments were made to its final EAF measure?**

17 A. Crystal River 3 was in a forced outage for all 2010 and all of its 8,760 hours
18 for the year have been logged as FOH, as is reflected in its Actual Unit
19 Performance Data table on page 25 in the exhibits. Since Crystal River 3 was
20 completely unavailable for 2010, its EAF is 0. There were no adjustments
21 made to Crystal River 3's EAF performance.
22

23 **Q. What is the impact of Crystal River 3's EAF performance on GPIF?**

1 A. Because Crystal River 3's EAF performance is at or below the bottom end of
2 its EAF Range, it earns -10 Equivalent Availability points, incurring the
3 maximum penalty it can receive for EAF performance.

4

5 **Q. Have you provided the as-worked planned outage schedules for PEF's**
6 **GPIF units to support your adjustments to actual equivalent availability?**

7 A. Yes. Page 33 of my exhibit summarizes the planned outages experienced by
8 PEF's GPIF units during the period. Page 34 presents an as-worked
9 schedule for each individual planned outage.

10

11 **Q. Does this conclude your testimony?**

12 A. Yes.

**PROGRESS ENERGY FLORIDA
DOCKET No. 110001-EI**

**GPIF Targets and Ranges for
January through December 2012**

**DIRECT TESTIMONY OF
ROBERT M. OLIVER**

September 1, 2011

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

2 A. My name is Robert M. Oliver. My business address is P.O. Box 1551,
3 Raleigh, North Carolina 27602.

4

5 **Q. By whom are you employed and in what capacity?**

6 A. I am employed by Progress Energy Carolinas Inc. as Manager of Portfolio
7 Management for Fuels and Power Optimization.

8

9 **Q. What are your duties and responsibilities in that capacity?**

10 A. As Manager of Portfolio Management for Fuels and Power Optimization, I
11 oversee the management of energy portfolios for Progress Energy Florida,
12 Inc. ("Progress Energy" or "Company"), as well as Progress Energy
13 Carolinas, Inc. My responsibilities include oversight of planning and
14 coordination associated with economic system operations, including unit
15 commitment and dispatch, fuel burns, and power marketing and trading
16 functions.

17

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

2 A. The purpose of my testimony is to provide a recap of actual reward /
3 penalty for the period of January through December 2010 and also to
4 present the development of the Company's GPIF targets and ranges for
5 the period of January through December 2012. These GPIF targets and
6 ranges have been developed from individual unit equivalent availability and
7 average net operating heat rate targets and improvement/degradation
8 ranges for each of the Company's GPIF generating units, in accordance
9 with the Commission's GPIF Implementation Manual.

10

11 **Q. What GPIF incentive amount was calculated for the period January**
12 **through December 2010?**

13 A. PEF's calculated GPIF incentive amount for this period was a penalty of
14 \$2,980,090. Please refer to my testimony filed March 15, 2011 for the
15 details of how this incentive amount was calculated.

16

17 **Q. Do you have an exhibit to your testimony in this proceeding?**

18 A. Yes, I am sponsoring Exhibit No. ____ (RMO-1P) which consists of the
19 GPIF standard form schedules prescribed in the GPIF Implementation
20 Manual and supporting data, including unplanned outage rates, net
21 operating heat rates, and computer analyses and graphs for each of the
22 individual GPIF units. This 76-page exhibit is attached to my prepared
23 testimony and includes as its first page an index to the contents of the
24 exhibit.

1 **Q. Which of the Company's generating units have you included in the**
2 **GPIF program for the upcoming projection period?**

3 A. For the 2012 projection period, the GPIF program includes the following
4 units: Bartow Unit 4, Crystal River Units 4 and 5; and Hines Units 1
5 through 4. Combined, these units account for 82% of the estimated total
6 system net generation for the period. Bartow 4 was included even though
7 it has only 25 months of commercial history since it accounts for 19% of
8 generation.

9
10 **Q. Have you determined the equivalent availability targets and**
11 **improvement/degradation ranges for the Company's GPIF units?**

12 A. Yes. This information is included in the GPIF Target and Range Summary
13 on page 4 of my Exhibit No. ____ (RMO-1P).

14
15 **Q. How were the equivalent availability targets developed?**

16 A. The equivalent availability targets were developed using the methodology
17 established for the Company's GPIF units, as set forth in Section 4 of the
18 GPIF Implementation Manual. This includes the formulation of graphs
19 based on each unit's historic performance data for the four individual
20 unplanned outage rates (i.e., forced, partial forced, maintenance and
21 partial maintenance outage rates), which in combination constitute the
22 unit's equivalent unplanned outage rate (EUOR). From operational data
23 and these graphs, the individual target rates are determined through a
24 review of three years of monthly data points during the three year period.

1 The unit's four target rates are then used to calculate its unplanned outage
2 hours for the projection period. When the unit's projected planned outage
3 hours are taken into account, the hours calculated from these individual
4 unplanned outage rates can then be converted into an overall equivalent
5 unplanned outage factor (EUOF). Because factors are additive (unlike
6 rates), the unplanned and planned outage factors (EUOF and POF) when
7 added to the equivalent availability factor (EAF) will always equal 100%.
8 For example, an EUOF of 15% and POF of 10% results in an EAF of 75%.

9 The supporting tables and graphs for the target and range rates are
10 contained in pages 41-76 of my exhibit in the section entitled "Unplanned
11 Outage Rate Tables and Graphs."

12
13 **Q. Please describe the methodology utilized to develop the**
14 **improvement/degradation ranges for each GPIF unit's availability**
15 **targets?**

16 **A.** The methodology described in the GPIF Implementation Manual was used.
17 Ranges were first established for each of the four unplanned outage rates
18 associated with each unit. From an analysis of the unplanned outage
19 graphs, units with small historical variations in outage rates were assigned
20 narrow ranges and units with large variations were assigned wider ranges.
21 These individual ranges, expressed in term of rates, were then converted
22 into a single unit availability range, expressed in terms of a factor, using
23 the same procedure described above for converting the availability targets
24 from rates to factors.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

Q. Were adjustments made to historical unit availability to account for significant anomalies in the historical period?

A. No.

Q. Have you determined the net operating heat rate targets and ranges for the Company's GPIF units?

A. Yes. This information is included in the Target and Range Summary on page 4 of my Exhibit No. ____ (RMO-1P).

Q. How were these heat rate targets and ranges developed?

A. The development of the heat rate targets and ranges for the upcoming period utilized historical data from the past three years, as described in the GPIF Implementation Manual. A "least squares" procedure was used to curve-fit the heat rate data within ranges having a 90% confidence level of including all data. The analyses and data plots used to develop the heat rate targets and ranges for each of the GPIF units are contained in pages 26-40 of my exhibit in the section entitled "Average Net Operating Heat Rate Curves."

Q. Were adjustments made to historical heat rates to account for estimated net output changes associated with scrubber and SCR installations?

1 A. Yes. Historical heat rates for Crystal River units 4 and 5 were restated as
2 if the scrubbers and SCRs were in place during the historical data period
3 prior to the in-service dates of the scrubbers and SCRs.

4
5 **Q. Please describe the overall impact of the adjustment on the Crystal
6 River Units 4 and 5 heat rate targets.**

7 A. The adjustment raised the heat rate targets, making the targets higher
8 than if using the unadjusted historical average.

9
10 **Q. How were the GPIF incentive points developed for the unit availability
11 and heat rate ranges?**

12 A. GPIF incentive points for availability and heat rate were developed by
13 evenly spreading the positive and negative point values from the target to
14 the maximum and minimum values in case of availability, and from the
15 neutral band to the maximum and minimum values in the case of heat
16 rate. The fuel savings (loss) dollars were evenly spread over the range in
17 the same manner as described for incentive points. The maximum
18 savings (loss) dollars are the same as those used in the calculation of the
19 weighting factors.

20
21 **Q. How were the GPIF weighting factors determined?**

22 A. To determine the weighting factors for availability, a series of simulations
23 was made using a production costing model in which each unit's maximum
24 equivalent availability was substituted for the target value to obtain a new

1 system fuel cost. The differences in fuel costs between these cases and
2 the target case determine the contribution of each unit's availability to fuel
3 savings. The heat rate contribution of each unit to fuel savings was
4 determined by multiplying the BTU savings between the minimum and
5 target heat rates (at constant generation) by the average cost per BTU for
6 that unit. Weighting factors were then calculated by dividing each
7 individual unit's fuel savings by total system fuel savings.

8
9 **Q. What was the basis for determining the estimated maximum incentive**
10 **amount?**

11 A. The determination of the maximum reward or penalty was based upon
12 monthly common equity projections obtained from a detailed financial
13 simulation performed by the Company's Corporate Model.

14
15 **Q. What is the Company's estimated maximum incentive amount for**
16 **2012?**

17 A. The estimated maximum incentive for the Company is \$19,755,160. The
18 calculation of the estimated maximum incentive is shown on page 3 of my
19 Exhibit No. ___ (RMO-1P).

20
21 **Q. Does this conclude your testimony?**

22 A. Yes, it does.

1 **CHAIRMAN GRAHAM:** Thank you.

2 All right. We left off with the staff was
3 getting ready to start their cross. Let's confirm that
4 the witness was sworn.

5 **MS. BARRERA:** Yes, Commissioner. This is
6 Martha Barrera. I'm calling Ms. Marcia Olivier to the
7 stand.

8 Ms. Olivier, you were sworn in yesterday?

9 **THE WITNESS:** Yes.

10 **MS. BARRERA:** Okay. Preliminarily,
11 Commissioners, yesterday Ms. Bennett stated that on
12 Exhibit 77, the credit reports, that we would ask
13 additional questions of Ms. Olivier concerning those
14 exhibits. In retrospect, we feel that the questions
15 that were asked yesterday of Mr. Garrett established
16 that the company does rely on these reports, and so we
17 feel that we don't need to ask additional questions of
18 Ms. Olivier regarding these exhibits, unless the
19 Commission wishes to hear more information on that.

20 **CHAIRMAN GRAHAM:** I think you sufficiently
21 made your point yesterday.

22 **MS. BARRERA:** Okay. Thank you.

23 **MARCIA OLIVIER**
24 continues her testimony under oath from Volume 4:

25 **CROSS EXAMINATION**

1 BY MS. BARRERA:

2 Q. Ms. Olivier, is it correct that the NEIL
3 insurance program stands for Nuclear Electric Insurance
4 Limited?

5 A. Yes.

6 Q. And is it true that the maximum recovery under
7 the NEIL policy is 489.6 million?

8 A. That's correct.

9 Q. And is that the maximum for the CR-3 event or
10 for the entire policy, if you know?

11 A. That is the maximum for the replacement fuel
12 costs associated with the event that occurred at CR-3 in
13 December of '09.

14 Q. Okay. Is the amount of CR-3 replacement power
15 net of NEIL receipts for 2011 and 2012, \$176,603,289?

16 A. Yes.

17 Q. Please refer to your projection testimony, and
18 to your Exhibit MO-2, Part 2. And specifically refer to
19 the E1 schedule.

20 A. Okay. I'm there.

21 Q. Okay. This schedule calculates the level of
22 fuel factor for 2012, is that correct?

23 A. Yes, it does.

24 Q. Okay. How much of the 176,603,289 is the
25 calculation of the 2012 fuel factors?

1 A. The amount that is in the 2012 fuel factor
2 related to the outage at CR-3 is \$143,136,744, less any
3 amount that would be considered recovered through the
4 environmental clause. So this incorporates the total
5 net fuel and environmental replacement costs. And so we
6 established yesterday that that amount would have to be
7 then reduced by the amount that we have included in the
8 environmental clause.

9 Q. And do you have that amount today?

10 A. Yes.

11 Q. And that is?

12 A. We provided the amounts in response to
13 Interrogatory 104. And in 2011 -- in 2011 we had from
14 January through June, \$331,853, plus 181,000 for July
15 through December of '11, and then 2,466,000 for 2012.

16 Q. Would you agree, subject to check, that as of
17 November 1st, the commercial paper rate was 9/100ths of
18 one percent?

19 A. I would agree with that, subject to check. I
20 don't have that with me.

21 Q. And Progress has applied NEIL receipts to
22 offset all costs in the capacity clause that are
23 associated with the CR-3 outage, is that correct?

24 A. That's correct.

25 Q. Progress expects CR-3 to return to service in

1 2014, is that correct?

2 A. That's our understanding today, yes.

3 Q. If the Commission were to defer some or all of
4 the replacement power in 2012 to a future year, would
5 that increase 2013 or subsequent years' fuel factors
6 higher than they otherwise would be, subject to the
7 ultimate prudent cost determination?

8 A. Yes.

9 Q. Would you agree that the practice in fuel
10 clause proceedings is to allow recovery of projected
11 costs and net true-up amounts?

12 A. Yes, I would.

13 Q. Would you agree that the fuel and purchased
14 power costs that Progress is projecting is to meet its
15 projected load requirements?

16 A. Yes, I would.

17 MS. BARRERA: I have no more questions.

18 CHAIRMAN GRAHAM: Okay. Commissioners.

19 MR. REHWINKEL: Mr. Chairman.

20 CHAIRMAN GRAHAM: Yes, Mr. Rehwinkel.

21 MR. REHWINKEL: Before you go to the
22 Commissioners, would I be able to ask one factual
23 clarification? And it is not a substantive question.
24 Mr. Garrett and Ms. Olivier have referred to the
25 delamination in 2009 as being in December when, in fact,

1 it was October 2nd, 2009. And just for clarity of the
2 record, I would just like to clarify that, because there
3 was no December event.

4 **CHAIRMAN GRAHAM:** Sure.

5 **MR. REHWINKEL:** If I may.

6 **FURTHER CROSS EXAMINATION**

7 **BY MR. REHWINKEL:**

8 **Q.** Ms. Olivier, was the 2009 delamination event
9 that caused the extended outage discovered on
10 October 2nd, 2009?

11 **A.** I don't have the exact date that that was
12 discovered. The December 2009 date was the date that
13 the plant was expected to return to service, so it would
14 have been prior to December of '09.

15 **Q.** Okay. Subject to check you would accept
16 October 2nd?

17 **A.** Yes.

18 **MR. REHWINKEL:** Thank you.

19 **CHAIRMAN GRAHAM:** No problem. Commissioner
20 Balbis.

21 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

22 And thank you, Mr. Rehwinkel. I actually was
23 going to point that out, because I have the distinct
24 pleasure of being the Prehearing Officer for the CR-3
25 extended outage docket.

1 **CHAIRMAN GRAHAM:** You're welcome.

2 (Laughter.)

3 **COMMISSIONER BALBIS:** I'm very familiar with
4 those dates. And the question for you, Ms. Olivier, is
5 the prudency hearing that we are going to be holding in
6 June that has been the subject of a lot of discussion
7 here is actually just for the first phase, what I
8 determined was the first phase, which is all of
9 Progress' actions leading up to and including the first
10 delamination event which, again, was October 2nd, 2009.
11 And then the second phase being the prudency of whether
12 to repair or decommission the unit. And then the third
13 phase, which has yet to be scheduled, is subsequent from
14 the 2009 event.

15 So the question is between the first discovery
16 of delamination in October 2nd, 2009, and then the
17 discovery of the second delamination, which was
18 March 14th, 2011, what portion of the 2011 costs cover
19 that time frame that Progress is seeking to recover? Or
20 could we just take 25 percent of the 2011 costs?

21 **THE WITNESS:** I'm not sure exactly what
22 portion would cover that period. We would have to -- we
23 could find out. We have got calculations that show the
24 monthly net replacement costs associated with that. I
25 don't have that here with me by month, but we do have

1 that information available and we could say exactly how
2 much that is. And I'm not sure if it works out that we
3 could take a quarter of that amount, because depending
4 on which month of the year we are in, whether it is a
5 peak or a shoulder month, the replacement costs would be
6 different. So the NEIL reimbursements would be the
7 same, but the actual replacement costs would be
8 different. So we have that information available, and
9 we would have to get that.

10 **COMMISSIONER BALBIS:** Okay. Thank you. And
11 if you could provide that, that would be great in the
12 follow-up information. And the last question I have,
13 and I think you answered this yesterday, but since we
14 did have a break in the proceeding, I just wanted to be
15 clear.

16 There has been a lot of discussion on the ECCR
17 clause and the recovery of the environmental costs
18 associated with the CR-3 outage. And just to be clear,
19 is Progress -- well, Progress is not asking for recovery
20 of that same amount in both dockets, is that correct?

21 **THE WITNESS:** That is absolutely correct. We
22 are only asking for the replacement fuel costs, the net
23 replacement fuel costs in the fuel clause, and then the
24 environmental clause costs are all included in the
25 environmental clause, and we're not including any of

1 those costs in both.

2 **COMMISSIONER BALBIS:** Okay. Thank you.

3 I have no further questions.

4 **CHAIRMAN GRAHAM:** Commissioner Brown.

5 **COMMISSIONER BROWN:** Thank you.

6 And just for clarity, you mentioned that the
7 maximum -- pardon my voice -- the maximum recoverable
8 amount under the NEIL policy for replacement fuel costs
9 is 489 million for the December or October event of
10 2009. If the NEIL company found -- if NEIL found that
11 there were two separate events, would that be an
12 additional -- would there be an additional recoverable
13 amount equivalent to another amount?

14 **THE WITNESS:** It would be another amount. It
15 wouldn't necessarily be another 489.6 million, because
16 the way the policy works, after the 12-week deductible
17 period, we receive 4.5 million per week for 52 weeks,
18 and then an additional 3.6 million per week for 71
19 weeks. And so depending on the date of that second --
20 if it is determined that there are two events by NEIL,
21 then that March 14th date would start the clock again.
22 So the difference between the two would not be the
23 489.6, it would be less than that amount.

24 **COMMISSIONER BROWN:** Okay. And, again, when
25 does the company expect to hear back from NEIL regarding

1 whether that second event is covered under the policy?

2 **THE WITNESS:** My understanding is that we are
3 working with NEIL. NEIL is taking a break, and they are
4 doing an analysis to make sure that they determine the
5 appropriate coverage. And so we haven't heard back, and
6 I don't know when we will actually hear back from NEIL.

7 **COMMISSIONER BROWN:** Okay. Thank you.

8 **CHAIRMAN GRAHAM:** Commissioner Brisé.

9 **COMMISSIONER BRISÉ:** Thank you, Mr. Chairman.

10 I just want to follow-up on Commissioner
11 Brown's question about whether it's one event or two
12 events. I think yesterday you stated that we are not
13 sure how NEIL is going to look at it, as one or two
14 events. And from, I guess, your experience, and I guess
15 this is sort of an odd situation, but from your
16 experience, or maybe looking at what has happened in the
17 market with other similar situations, do you think there
18 is a chance that this will be dealt with as one event,
19 or is it likely that it will be dealt with as two
20 separate events?

21 **THE WITNESS:** Well, it's my understanding that
22 this is a first-of-a-kind event, and that's the reason
23 that NEIL is really taking some time to make sure that
24 they did this appropriately. And so I don't think we
25 have that past precedent to determine whether that will

1 be one or two events. So we are going with what we know
2 today, which is that it is currently one event.

3 But I think I would be just speculating as to
4 what NEIL is going to determine if I were to say, and I
5 don't even -- I wouldn't even begin to be able to
6 speculate.

7 **COMMISSIONER BRISÉ:** So from your perspective,
8 the company is dealing with it as one event based upon
9 the best information that it has at this moment, and is
10 prepared to deal with it as two separate events based
11 upon whatever NEIL provides in terms of their
12 decision-making?

13 **THE WITNESS:** That's correct.

14 **COMMISSIONER BRISÉ:** Okay. Thank you.

15 **CHAIRMAN GRAHAM:** Commissioner Balbis.

16 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
17 And just one additional question.

18 And I asked another witness this, but the NEIL
19 insurance, that was the coverage was in place prior to
20 the cutting of the opening for the generator project, is
21 that correct?

22 **THE WITNESS:** That's correct.

23 **COMMISSIONER BALBIS:** Were there any
24 discussions that you had or were aware of of getting
25 additional coverage prior to that activity, or not?

1 **THE WITNESS:** I am not aware of any
2 discussions or activities that took place with regards
3 to obtaining coverage for liability coverage with NEIL.
4 I wasn't involved in that, and I actually haven't heard
5 that any additional coverage had been sought.

6 **COMMISSIONER BALBIS:** Okay. Thank you.

7 **CHAIRMAN GRAHAM:** Commissioner Edgar.

8 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

9 There have been statements yesterday and today
10 that the situation that we are in as far as the CR-3
11 status is unprecedented. I certainly agree with that in
12 my knowledge, and I recognize, and I think this
13 statement has been made by you and others that more
14 analysis is ongoing by all entities that have a role. I
15 would say that's part of what we are doing here today,
16 and what this Commission will be ongoing.

17 So my question is, realizing that there is not
18 precedent, but from your knowledge and experience, if
19 state or federal entities that have a role were to start
20 approaching the situation as two events rather than one,
21 would that be a factor in the NEIL analysis?

22 **THE WITNESS:** I don't know. I really don't
23 know. I'm sorry.

24 **COMMISSIONER EDGAR:** That's okay. Nor do I.
25 Thank you.

1 **CHAIRMAN GRAHAM:** Redirect?

2 **MR. BURNETT:** No, sir. And at this time we
3 would move Exhibits 26, 27, and 27 Alpha into evidence.

4 **CHAIRMAN GRAHAM:** 26, 27, 27A, did you say?

5 **MR. BURNETT:** Yes, sir.

6 **CHAIRMAN GRAHAM:** Into the record?

7 **MR. BURNETT:** Yes, sir.

8 **CHAIRMAN GRAHAM:** Okay.

9 (Exhibit Numbers 26, 27, and 27A admitted into
10 the record.)

11 **MS. BENNETT:** Mr. Chairman, Commissioner
12 Balbis asked for an allocation of replacement fuel costs
13 that Ms. Olivier will place in the record. We would ask
14 that that be marked and moved into the record as Exhibit
15 91.

16 **CHAIRMAN GRAHAM:** Do you have a title for
17 that?

18 **MR. MOYLE:** Just so we have this -- this is
19 the proverbial late-filed exhibit that we have had lots
20 of discussions about over the years, and so I'm not sure
21 I'm going to object, I just want to understand how it's
22 going to work. Because if we have no opportunity to say
23 anything, or review anything, or cross anything -- we
24 have had some situations in the past that have not
25 worked out very well for the consumers on late-filed

1 exhibits. So maybe we can have a little discussion
2 about that.

3 **CHAIRMAN GRAHAM:** Okay.

4 **MR. BURNETT:** Mr. Chairman, if I may. I would
5 propose -- we actually can have people start working on
6 this now and perhaps get it to all the intervenors and
7 staff to review it as quickly as we can. And if they
8 have any objections they could let us know. And if not,
9 then hopefully we could resolve that and then present
10 it. But I think it is factual data that is pretty much
11 going to be broken out. I would hope there is not a lot
12 of controversy.

13 **CHAIRMAN GRAHAM:** Well, if there is -- there
14 is also the opportunity at the end in your closing
15 briefs.

16 **MR. MOYLE:** Except to the extent that it has
17 factual information. You know, the witness is gone and
18 you can't say, well, wait a minute. This number says
19 480; is that a typo? There's no ability to do that.

20 **CHAIRMAN GRAHAM:** Any idea when you will have
21 these numbers?

22 **MR. BURNETT:** May I have a minute, sir?

23 **CHAIRMAN GRAHAM:** Sure. Let's recess for five
24 minutes.

25 **MR. MOYLE:** And I have a request which --

1 **CHAIRMAN GRAHAM:** After the recess.

2 **MR. MOYLE:** Okay.

3 (Off the record.)

4 **CHAIRMAN GRAHAM:** Before we went to recess,
5 Mr. Moyle, you said you had one other request?

6 **MR. MOYLE:** Yes, sir. I had one question that
7 I would like to ask the witness that I failed to ask her
8 yesterday. I talked to Mr. Burnett and he didn't
9 object. I know that typically it doesn't happen. It
10 happens sometimes, and I think previously that has
11 sometimes been allowed. But I have one question that I
12 think is relevant and pertinent that I'd like to ask for
13 latitude to pose to her.

14 **CHAIRMAN GRAHAM:** And what does it refer to?

15 **MR. MOYLE:** The insurance issue.

16 **CHAIRMAN GRAHAM:** Sure.

17 FURTHER CROSS EXAMINATION

18 **BY MR. MOYLE:**

19 Q. You were asked questions yesterday about NEIL,
20 and, again, some questions today by some of the
21 Commissioners about the NEIL insurance policies and the
22 status of the claims. Have you reviewed and read the
23 operative NEIL insurance policy?

24 A. No, I have not read the policy.

25 **MR. MOYLE:** That's all I have.

1 **CHAIRMAN GRAHAM:** Okay. Mr. Burnett.

2 **MR. BURNETT:** Yes, sir. Mr. Chair, I believe
3 we have located the document that would have the
4 information that Commissioner Balbis has requested, so
5 at your pleasure I can circulate that to the parties, or
6 have copies made, perhaps, or whatever you would like to
7 do.

8 **CHAIRMAN GRAHAM:** Let's just go ahead and make
9 copies. Take another five minutes and make copies and
10 pass them around and deal with this now.

11 **MR. BURNETT:** Yes, sir.

12 **CHAIRMAN GRAHAM:** And when this comes back it
13 is going to be Exhibit 91. Do we have a title for this?

14 **MR. BURNETT:** I believe it has one on the
15 document, but we can call it replacement power by month.

16 (Brief recess.)

17 **CHAIRMAN GRAHAM:** Commissioner Balbis, when
18 you are ready, you have the floor.

19 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

20 And I don't know if you have had time to
21 review this or not, or if you prepared it, but just to
22 clarify what we're looking at here. If we were to
23 determine what in this proceeding is Progress seeking
24 recovery for, we would just take from the January 11
25 amount forward, is that correct? Leading up to the

1 second delamination of March 14th, 2011.

2 **THE WITNESS:** Yes. Well, the amounts that we
3 are seeking to recovery in replacement fuel for each of
4 these months would be included here in this schedule,
5 which was also provided in response to, I think,
6 interrogatory, or PODs 14 through 16. So that's where
7 the schedule comes from.

8 And this is the output from the model that our
9 portfolio management department runs in the with and
10 without CR-3 case. So that's how we get the replacement
11 fuel costs applicable to each of these months. And then
12 they have also provided the replacement environmental
13 costs to get to the total fuel and environmental, plus
14 the capacity, and that gives us the gross replacement
15 costs.

16 The next column over is the NEIL
17 reimbursement, so then we have got the cumulative or net
18 replacement fuel costs for each of these months. So
19 what we would be asking to recover in this proceeding
20 would be the actual replacement costs through June, and
21 then the projected replacement, net replacement costs
22 for the remainder of 2011, and then for 2012.

23 **COMMISSIONER BALBIS:** Okay. Thank you. And,
24 thank you, Mr. Chairman. This is what I was looking
25 for.

1 **CHAIRMAN GRAHAM:** Commissioner Brown.

2 **COMMISSIONER BROWN:** Thank you.

3 And do you know what date this document was
4 prepared and whether these are accurate numbers to date?

5 **THE WITNESS:** Yes, these are the actual
6 replacement costs, so these are the -- these are
7 accurate amounts. As far as the date that this was
8 prepared, this would have been prepared in July of this
9 year.

10 **COMMISSIONER BROWN:** Okay. And then those
11 items shown in italics under NEIL reimbursement,
12 starting with December 2010, those are still accurate
13 that they are pending?

14 **THE WITNESS:** That's correct. They are
15 pending, and they are accurate. These are the NEIL
16 reimbursements applicable to each of these months based
17 on the policy.

18 **COMMISSIONER BROWN:** Okay. Thank you.

19 **THE WITNESS:** You're welcome.

20 **CHAIRMAN GRAHAM:** All right. For the record,
21 we have labeled this as Exhibit 91. A short title is
22 Replacement Power by Month. And you had no --

23 **MR. MOYLE:** Could I ask a couple of questions,
24 if I may?

25 **CHAIRMAN GRAHAM:** Sure.

FURTHER CROSS EXAMINATION

1
2 BY MR. MOYLE:

3 Q. We had a discussion yesterday about the
4 environmental costs, and I guess this documentary
5 reflects the environmental cost, is that right?

6 A. That's correct.

7 Q. And following up on the question by
8 Commissioner Brown, you haven't gotten any money from
9 NEIL since December 10th?

10 A. That's correct.

11 Q. And why is that?

12 A. And, actually, we have received monies from
13 NEIL after December 10th. The most recent payment that
14 we received from NEIL was in May of 2011, but it was
15 applicable for the period through -- we have been
16 reimbursed for the period through mid-December of 2010.
17 And the reason for that is that NEIL is taking a break
18 to analyze the events that have occurred here at CR-3
19 and making sure that they make a correct determination
20 of the amount that we can recover.

21 Q. I mean, that's a lot of money cumulatively.
22 How do you treat interest related to monies that
23 arguably you should receive and be able to enjoy, but
24 are not being paid, if you know?

25 A. As far as the interest goes, I'm not sure.

1 The bottom line is we're working very closely with NEIL
2 on recovering these dollars, and we have submitted
3 claims for the repair costs, and we are doing everything
4 we can to recover these dollars. But NEIL is taking a
5 break to just make sure that they are assessing the
6 situation appropriately, and so that's where we are
7 today.

8 Q. Okay. So to the extent that there was an
9 interest in asking questions of somebody within the
10 company most knowledgeable about insurance matters, you
11 haven't read the policy and that's not your daily job,
12 insurance issues, correct?

13 A. That's correct.

14 Q. Who would that person be?

15 A. That would be Gary Little.

16 MR. MOYLE: That's all I have. Thank you.

17 CHAIRMAN GRAHAM: Mr. Rehwinkel.

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

19 FURTHER CROSS EXAMINATION

20 BY MR. REHWINKEL:

21 Q. I understand, Ms. Olivier, your testimony
22 about NEIL taking a break. I think Commissioner Balbis'
23 question that caused you to produce this was geared
24 towards March 14th, which was the date of the second
25 delamination discovery, right?

1 A. Correct.

2 Q. But you're telling us that mid-December is the
3 period for which reimbursement has been received. That
4 is the last period for which NEIL reimbursement was
5 received, and that was approximately in May of '11?

6 A. That's correct.

7 Q. Is there something about mid-December that
8 caused NEIL to stop making payments instead of
9 March 14th?

10 A. I don't have that information, I'm sorry. I
11 don't know.

12 MR. REHWINKEL: Okay.

13 CHAIRMAN GRAHAM: Any other intervenors?

14 MR. BREW: Mr. Chairman, just one question.

15 CHAIRMAN GRAHAM: Yes.

16 FURTHER CROSS EXAMINATION

17 BY MR. BREW:

18 Q. Is there any dispute with NEIL over the
19 January to March replacement power costs?

20 A. I'm not aware of any activities that are
21 taking place with NEIL.

22 Q. With respect to that period?

23 A. That's correct.

24 MR. BREW: Thank you.

25 CHAIRMAN GRAHAM: Staff, did you have any

1 questions of this document?

2 **MS. BENNETT:** No, sir. We'll just move it
3 into the record at the appropriate time.

4 **CHAIRMAN GRAHAM:** Any redirect of the
5 questions?

6 **MR. BURNETT:** No, sir.

7 **CHAIRMAN GRAHAM:** Okay. We will move this
8 document as Exhibit 91.

9 (Exhibit Number 91 marked for identification
10 and admitted into the record.)

11 **CHAIRMAN GRAHAM:** Mr. Wright.

12 **MR. WRIGHT:** Thank you, Mr. Chairman. I would
13 move Exhibit 90.

14 **CHAIRMAN GRAHAM:** Okay. We are moving 91 in.
15 We also need to move Exhibit 90 in if there are no
16 objections.

17 **MR. WRIGHT:** Thank you, Mr. Chair.

18 (Exhibit Number 90 admitted into the record.)

19 **CHAIRMAN GRAHAM:** For the record, I think this
20 is a staff document. Did we ever move in Exhibit 88?

21 **MR. MOYLE:** My memory from yesterday is 89 was
22 previously admitted.

23 **CHAIRMAN GRAHAM:** Yes, 89 was already in.
24 Just 88.

25 **MS. BENNETT:** My record reflects that Exhibit

1 88 was moved into the record, which was the Report of
2 Christensen and Associates.

3 **CHAIRMAN GRAHAM:** Okay.

4 **MS. BENNETT:** Staff will not be moving its
5 Exhibit 56 into the record.

6 **CHAIRMAN GRAHAM:** Okay. I just wanted to make
7 sure, because I didn't have it checked off on my list.

8 All right. I think you're excused.

9 **THE WITNESS:** Thank you.

10 **CHAIRMAN GRAHAM:** Mr. Burnett, if you would
11 call your next witness.

12 **MR. BURNETT:** Sir, that concludes our case in
13 this docket.

14 **MR. MOYLE:** Mr. Chairman, before we wrap this
15 up, FIPUG would like to make a motion. I can make it
16 now or whenever you would prefer.

17 **CHAIRMAN GRAHAM:** Now is the appropriate time.

18 **MR. MOYLE:** So the motion -- we had a lot of
19 discussion yesterday about the Moody's and Standard &
20 Poor's, and Fitch's documents and raised the objections.
21 I would move to strike any testimony as to what any of
22 the rating agencies may or may not do as a result of any
23 decision you make in this case, and the grounds for that
24 is it's purely speculative.

25 The witness testified she doesn't know what

1 they will or will not do. And in response to a question
2 about NEIL, about is it one or two, she kind of said I
3 don't know. It's speculation as to what a third-party
4 may or may not do. And for the same reasons that this
5 witness couldn't testify to what NEIL may or may not do,
6 Mr. Garrett can't testify to what rating agencies may or
7 may not do. And some of that was elicited, and we would
8 move to strike portions of his testimony that talked
9 about what rating agencies may or may not do in response
10 to any decision you all make.

11 **CHAIRMAN GRAHAM:** I believe some of the
12 testimony -- and I'm going back to recall what the
13 testimony was. A lot of questions I heard Ms. Bennett
14 ask were in performance of your job, do you pay
15 attention to what the rating agencies do and what they
16 say. I believe some of his response talked to what he
17 believes they may or may not do. But, once again,
18 that's just his opinion.

19 Staff, do you have any comments?

20 **MS. BENNETT:** No, sir. I think that it goes
21 to the weight of the evidence and would be certainly
22 something that FIPUG could present in its brief that I
23 understand he's requesting to file.

24 **CHAIRMAN GRAHAM:** I think I'm going to
25 overrule the objection. I think, once again, that the

1 witness was giving his opinion and his role at the
2 company.

3 Mr. Rehwinkel.

4 **MR. REHWINKEL:** Mr. Chairman, I just wanted to
5 state for the record that Public Counsel supports
6 FIPUG's motion. Our motion yesterday to strike Mr.
7 Garrett's testimony that was elicited on the rating
8 agency documents was based not only on it being hearsay,
9 but that it was outside the scope of his direct
10 testimony, and thus prejudicial. And I'm just stating
11 that for the record and renewing it. But I understand
12 your ruling.

13 **CHAIRMAN GRAHAM:** Sure. Duly noted. Mr.
14 Brew.

15 **MR. BREW:** In the same vein, I wanted for the
16 record to state our support for FIPUG's motion. It was
17 clear that the questions being asked called for
18 speculation that was beyond the witness' personal
19 knowledge and went far beyond the scope of his testimony
20 in the case.

21 **CHAIRMAN GRAHAM:** Okay.

22 **MR. WRIGHT:** We would join the motion. I
23 don't have any problem with the hearsay issue. I do
24 have a problem with it being speculative and beyond the
25 scope of the witness' direct testimony, so we support

1 the motion and respect your ruling. Thank you.

2 **CHAIRMAN GRAHAM:** Duly noted.

3 Okay. Staff, where are we?

4 **MS. BENNETT:** I believe we are finished with
5 all testimony. Everything has been admitted into the
6 record, and so we are at the point of decision-making.
7 My understanding is that the parties have all asked to
8 brief this issue of replacement power costs, as well as
9 the issue for Florida Public Utilities' Issue 3B. And
10 so with that, we are expecting briefs from the parties
11 by November 8th, and it will be a recommendation to you
12 all on November 22nd.

13 **CHAIRMAN GRAHAM:** Is that sufficient time for
14 everybody to get briefs to us, November 8th?

15 **MR. BURNETT:** Mr. Chairman, actually Progress
16 will be happy to brief, but we are not requesting one.
17 And to answer your question, yes, we can make that time.

18 **CHAIRMAN GRAHAM:** Intervenors?

19 **MR. MOYLE:** If there's any latitude at all, I
20 mean, that's next Tuesday. I am supposed to be in a
21 mediation next Tuesday. It's going to put a lot of time
22 pressure on us. I don't know if we have transcripts
23 even that will be available then. So if there's two or
24 three days, you know, anything going in the direction of
25 giving us a little more time it would be appreciated.

1 **CHAIRMAN GRAHAM:** How about that Friday, which
2 would be the 11th?

3 **MS. BENNETT:** Staff has somewhat of a major
4 time constraint, in that normally our recommendation
5 would be filed on the 9th, which is the day after the
6 briefs are right now currently due. We really review
7 the briefs in detail and use them in writing our
8 recommendation, especially in this docket and in this
9 particular issue. We have gotten permission to file a
10 late-filed on, I believe, Monday, the 14th, and -- or
11 maybe the 15th, and so to give them until Friday would
12 just give us the weekend to review the briefs and file
13 the recommendation. And everybody is reminding me its
14 Veterans Day. Oh, I'm sorry, November 11th is Veterans
15 Day.

16 **CHAIRMAN GRAHAM:** That Friday is Veterans Day.

17 **MS. BENNETT:** Friday, November 11th, is
18 Veterans Day.

19 **CHAIRMAN GRAHAM:** And we have to have
20 everything filed by the 15th, or the 14th, that Monday.

21 **MS. BENNETT:** The 15th. November 15th at 9:00
22 a.m. is our deadline for filing the recommendation.

23 **CHAIRMAN GRAHAM:** Okay. We've been saying a
24 lot of split the baby; how about --

25 **MR. MOYLE:** I guess the only question in my

1 mind is I guess you are going to have your Agenda
2 Conference on the 22nd, is that right? So there's seven
3 days there. I don't know, you know, if you all need
4 seven days to review the rec. I mean, there might be
5 some time that could be picked up.

6 **CHAIRMAN GRAHAM:** This stuff has all got to be
7 filed. There's people in that big building down the
8 street over there that tell us when it has to be filed.

9 **MS. BENNETT:** I think there might be some
10 noticing issues under 120. I would have to go back and
11 look, but I think we would have to have the
12 recommendation filed seven days ahead of your agenda
13 conference.

14 **CHAIRMAN GRAHAM:** It looks like the best we
15 can do is probably the end of the day on the 8th. So
16 5:00 o'clock on the 8th to get everything in here filed.
17 And if you can get it earlier, then we can process it
18 earlier.

19 **MR. MOYLE:** The 8th is next Tuesday, right?

20 **CHAIRMAN GRAHAM:** Yes. End of the day, 5:00
21 o'clock. Anything else in this docket?

22 **MS. BENNETT:** I don't believe there are any
23 other matters. We will be filing our final order on
24 December 12th in this docket.

25 **CHAIRMAN GRAHAM:** Okay. That all being said,

1 then this docket is adjourned.

2 (The hearing concluded at 10:18 a.m.)

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

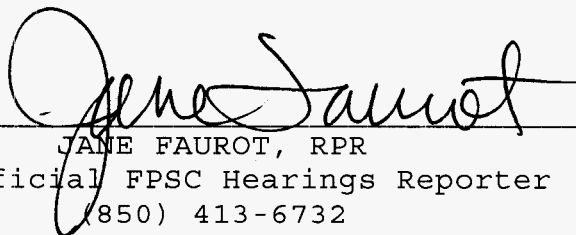
3 COUNTY OF LEON)

4
5 I, JANE FAUROT, RPR, Chief, Hearing Reporter
6 Services Section, FPSC Division of Commission Clerk, do
7 hereby certify that the foregoing proceeding was heard at
8 the time and place herein stated.

9 IT IS FURTHER CERTIFIED that I
10 stenographically reported the said proceedings; that the
11 same has been transcribed under my direct supervision; and
12 that this transcript constitutes a true transcription of my
13 notes of said proceedings.

14 I FURTHER CERTIFY that I am not a relative,
15 employee, attorney or counsel of any of the parties, nor am
16 I a relative or employee of any of the parties' attorney or
17 counsel connected with the action, nor am I financially
18 interested in the action.

19 DATED THIS 3rd day of November, 2011.

20
21
22
23
24
25


JANE FAUROT, RPR
Official FPSC Hearings Reporter
(850) 413-6732