

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery Clause | **DOCKET NO. 150009-EI**

Date: September 4, 2015

**THE SOUTHERN ALLIANCE FOR CLEAN ENERGY'S
POST HEARING STATEMENT, AND FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

The Southern Alliance for Clean Energy ("SACE"), by and through its undersigned counsel, pursuant to Order No. PSC-15-0082-PCO-EI, and PSC-15-0317-PHO-EI, hereby submits its Post-Hearing Statement, and Findings of Fact and Conclusions of Law. References to the hearing transcript will be denoted by V# @ page number. References to exhibits will be denoted as Ex. #.

STATEMENT OF BASIC POSITION

SACE supports the diversification of Florida's energy mix into low cost, low risk energy resources primarily through increased energy efficiency implementation and meaningful renewable energy development. The proposed new Florida Power and Light ("FPL") nuclear reactor project, Turkey Point ("TP") units 6 & 7, is neither low cost, nor low risk. There is great uncertainty and risk surrounding the completion of the proposed project with all the financial risk being borne by its customers. FPL is seven years into the project and will not commit to a price for the two proposed TP reactors, nor commit to actually build the reactors. Further, FPL uses significantly low cost estimates for the two reactors that do not reflect real-world costs experienced by reactor construction projects here in the U.S. As the uncertainty and risk continue to increase, as it has

every year, the non-binding cost estimate range increases and projected in-service dates become nothing more than placeholders for the next projected in-service date delay and price increase announcement.

SACE maintains that the FPL proposed new TP nuclear reactors remain infeasible and that the power company has not met the requirement of Rule 25-6.0423(5)(c)5, F.A.C., requiring that a utility seeking cost recovery must submit for Commission review and approval a detailed analysis demonstrating the long-term feasibility of completing the proposed new nuclear project. By failing to complete and properly analyze a realistic feasibility analysis, the Company has not met its burden of proving that the project is economically feasible.

For instance, several Toshiba Westinghouse AP-1000 projects, the reactor design chosen by FPL, are experiencing delays and significant cost overruns. The two AP-1000 reactor projects currently under construction in the U.S., Southern Company's Vogtle reactor units 3 & 4 in Georgia and SCANA's V.C. Summer reactor units 2 & 3 in South Carolina, are at least 39 months delayed beyond the original in-service estimates of April 2016 and April 2017 respectively. Both projects have experienced significant cost increases and FPL has failed to reflect that reality in its feasibility analysis for TP 6 & 7. In terms of the Vogtle project costs for example, Georgia Power, which is the majority owner in the project at 45.7%, has experienced an additional project cost increase *just for its share of the project* of \$1.4 billion above the certified cost.

From a qualitative feasibility perspective, the net cumulative fuel savings benefits of the project, extolled by FPL as the prime benefit for customers, may

not be realized by customers, in today's dollars, until 60 years from today. Therefore, a 45 year old customer today will not realize a net economic benefit, in today's dollars, until that customer reached 105 years old. This practically means that significant percentage of customers in the counties that FPL serves will move away or pass away or their business will close before realizing a cumulative fuel savings benefit from the project, if at all – forcing customers to pay today for an alleged benefit that they will likely never receive. In the case of Palm Beach County, almost 50 % of the customers are 45 year of age or older – they will not “break even” on the proposed reactors. The Commission cannot ignore this enormous cost and the impact on FPL's customer base, especially its impact on low and fixed-income customers. Moreover, this feasibility analysis, as in years past, has not placed demand side management on a level playing field with the proposed TP reactors as an option in meeting projected demand. There are simply lower cost, lower risk resources available to meet projected demand that do not involve this enormous generational cost. As a result, cost recovery for FPL for costs related to these proposed new nuclear reactors should not be granted, nor should the Commission find that projected 2016 costs are reasonable.

SACE supported the cancellation of the Duke Energy Florida (“DEF”) Levy Nuclear Project (“LNP”) in the 130009 docket. SACE's position continues to be that costs related to the wind down of both the LNP cancellation and the Crystal River Unit 3 (“CR3”) retirement be closely scrutinized to ensure that the recovery of costs protects the interests of DEF customers.

STATEMENT OF ISSUES AND POSITIONS

ISSUE 1: Should the Commission approve as reasonable what FPL has submitted as its 2015 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?

POSITION: *No. FPL has failed to complete and properly analyze a realistic feasibility analysis. It does not consider the reality of the Vogtle or Summer AP-1000 reactors, nor does it place demand side management on a level playing field with the proposed reactors*

ISSUE 1A: What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the proposed Turkey Point Units 6 & 7 nuclear project?

POSITION: *The current estimated costs are too low, and the ultimate cost of the proposed Turkey Point Units 6 & 7 will likely significantly exceed current estimates.*

ISSUE 1B: What is the current estimated planned commercial operation date of the planned Turkey Point Units 6 & 7 nuclear facility?

POSITION: *The in-service dates for the proposed reactors have already been moved back three times. The actual commercial operation dates of these reactors will occur further in time than the current projected dates, if at all.*

ISSUE 2: Should the Commission find that FPL's 2014 project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project?

POSITION: *No position.*

ISSUE 3A: (Legal): Pursuant to Section 366.93, Florida Statutes, can costs, which are not related to, or necessary for, obtaining or maintaining a combined license from the Nuclear Regulatory Commission for a nuclear power plant be incurred prior to the issuance of the COL and deferred for later recovery?

POSITION: *No, such costs cannot be deferred for later recovery.*

ISSUE 3B: Are the Initial Assessment costs incurred as set forth in FPL's Petition and Testimony for which FPL is seeking deferred recovery, costs that are related to or necessary for obtaining or maintaining a combined license?

POSITION: *No, Initial Assessment costs are not related to or necessary for obtaining or maintaining a combined license.*

ISSUE 3C: Should the Commission approve FPL's proposal to incur and defer for later recovery its Initial Assessment costs, as set forth in FPL's petition and supporting testimony?

POSITION: *No, the Commission should not approve FPL's proposal to incur and defer for later recovery its Initial Assessment costs.*

ISSUE 4: What jurisdictional amounts should the Commission approve as FPL's actual 2014 prudently incurred costs and final true-up amounts for the Turkey Point Units 6 & 7 project?

POSITION: *None. SACE has argued that FPL did not complete and properly analyze realistic feasibility analysis in past NCRC proceedings. Therefore requested cost recovery flowing from such analysis are not prudently incurred and should be denied.*

ISSUE 5: What jurisdictional amounts should the Commission approve as reasonably estimated 2015 costs and estimated true-up amounts for FPL's Turkey Point Units 6 & 7 project?

POSITION: *None. FPL did not complete and properly analyze a realistic feasibility analysis in the 2014 & 2015 NCRC proceedings. Therefore, requested cost recovery flowing from such analysis, are not prudently incurred and should be denied.*

ISSUE 6: What jurisdictional amounts should the Commission approve as reasonably projected 2016 costs for FPL's Turkey Point Units 6 & 7 project?

POSITION: *None. FPL did not complete and properly analyze a realistic feasibility analysis. Moreover, the reactors are not qualitatively feasible as they impose enormous costs on customers, many who

will never realize a net economic benefit from the proposed reactors.*

ISSUE 7: What is the total jurisdictional amount to be included in establishing FPL's 2016 Capacity Cost Recovery Clause factor?

POSITION: *No cost recovery should be approved that flows from this year's or last year's flawed feasibility studies.*

ISSUE 8: Should the Commission find that during 2014, DEF's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Levy Units 1 & 2 project?

POSITION: *No position.*

ISSUE 9: What jurisdictional amounts should the Commission approve as DEF's actual 2014 prudently incurred costs for the Levy Units 1 & 2 project?

POSITION: *No position.*

ISSUE 10: What jurisdictional amounts should the Commission approve as reasonably estimated 2015 exit and wind down costs and carrying costs for the Levy Units 1 & 2 project?

POSITION: *No position.*

ISSUE 11: What jurisdictional amounts should the Commission approve as reasonably projected 2016 exit and wind down costs and carrying costs for the Levy Units 1 & 2 project?

POSITION: *No Position.*

ISSUE 12: Should the Commission find that during 2014, DEF's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Crystal River Unit 3 Uprate project?

POSITION: *No position.*

ISSUE 13: What jurisdictional amounts should the Commission approve as DEF's actual 2014 prudently incurred costs for the Crystal River Unit 3 Uprate project?

POSITION: *No position.*

ISSUE 14: What jurisdictional amounts should the Commission approve as reasonably estimated 2015 exit and wind down costs and carrying costs for the Crystal River Unit 3 Uprate Project?

POSITION: *No position.*

ISSUE 15: What jurisdictional amounts should the Commission approve as reasonably projected 2016 exit and wind down costs and carrying costs for the Crystal River Unit 3 Uprate Project?

POSITION: *No position.*

ISSUE 16: What is the total jurisdictional amount to be included in establishing DEF's 2016 Capacity Cost Recovery Clause Factor?

POSITION: *No position.*

FINDING OF FACTS AND CONCLUSIONS OF LAW

Findings of Fact

The FPL non-binding cost estimate for the TP reactors is grossly underestimated

1. Seven years after garnering its determination of need, FPL still offers only a non-binding broad range of estimates of the cost of the proposed TP reactors. FPL uses the bounding approach to provide a range of costs to the Commission for the ultimate cost of the TP reactors. The overnight capital cost estimate range is \$3,844/kW to \$5,589/kW. V2@218.

2. When time-related costs such as inflation and carrying costs are included, and commercial operation dates (CODs) of 2027 and 2028 are assumed, the total project cost ranges from \$13.7 to \$20.0 billion for the 2,200 MW project. V2@218.

3. Last year's non-binding cost estimate range was \$12.6 billion to \$18.4 billion. V2 @ 260. This represents a \$1.1 billion to a 1.6 billion increase in just *one* year. FPL Witness Scroggs claims that the increase is completely related to the five years of additional schedule, and not a change in the capital cost of the project. V2@261. This statement assumes that FPL has strong support for its overnight capital cost estimates, but it does not.

4. FPL admits that when conducting a robust economic feasibility analysis, a company should use the best, most current up-to-date information available. V3@419. Presumably this means that accurate cost estimates of the proposed TP reactors – both overnight costs and time related costs.

5. Yet, in establishing the foundation of a feasibility study – the cost to construct the reactors – FPL's cost estimates are grossly inaccurate and stale. For instance, its capital costs are based on the original cost estimate from the 2008 need determination proceeding – that was done 7 years ago. V5@637-638.

6. Likewise, the last time the Company substantiated a cost estimate was in 2010 and that 2010 estimate is reflected in its estimate now before the Commission in 2015 – hence relying on a cost estimate that is 5 years old. *Id.*

7. Moreover, FPL Witnesses Reed and Scroggs testimony is contradictory on FPL's non-binding upper limit of cost of the TP reactors.

Witness Scroggs position with FPL is Project Developer for the TP reactors. V2@258-259. FPL Witness Reed is a principle of Concentric, which FPL principally relies upon for its cost estimates. V3@376.

8. The status of the Vogtle and Summer AP1000 reactor projects serves as a reference for FPL's cost estimates and post-licensing schedule. V2 @ p.210.

9. FPL Scroggs states that “[t]he cost estimate range is bounding, as you've seen by the Concentric Study. Our cost estimate is above that of the current Southern Vogtle project. V5@675. More explicitly, Witness Scroggs states that “[i]f you look at the Concentric report, you'll see that Turkey Point's cost estimate on a capital overnight cost estimate basis is about 16 percent above or \$757 per kW above where the Vogtle project is right now. So that high end of the range constitutes about \$1.7 billion worth of margin in comparison to where the Vogtle project is today.” V2@254-5.

10. In fact, where we are today, is that Vogtle project is approximately \$4 billion higher than where Witness Sim assumes the project is today. He was contradicted by fellow FPL Witness Reed who states that the Vogtle project is \$3 billion over budget and this amount does not include another approximately \$1 billion in outstanding litigation between the Vogtle Owners and the Contractors, for a total of approximately \$4 billion. V6@775.

11. FPL Witness Reed's testimony corroborates OPC Witness Jacobs testimony that Turkey Point Units 6 and 7 is flawed because the analysis utilizes unreasonably low costs for Turkey Point Units 6 and 7. V4@503.

12. FPL did not make any changes to the nonbinding cost estimates for Turkey Point Units 6 and 7 based on the delays and associated costs recorded for the Summer and Vogtle projects. V2@247. Hence, the FPL cost scenarios are outdated and simply wrong.

13. FPL Witness Sim knows of no nuclear reactor that has been completed at a price that has come in under its budget. V2@302.

14. The proposed reactors, even with using FPL's grossly low (high end) estimate for the TP reactors, when compared to the cost of similarly-sized natural gas plant capacity is not cost-effective. It is a cost-effective option in less than 30% of the scenarios (in only 2 of 7 scenarios). V2@222.

Sunk Costs Continue to Grow

15. The growing sunk costs for the project should alarm the Commission. Sunk costs continue to grow with every granting of cost recovery to FPL in these dockets. FPL customers have now spent \$220 million under the Nuclear Cost Recovery Clause through the end of 2014, and the Company is estimating that by the end of 2015, it will be about \$247 million. V2@264

16. Customers cannot recover these costs pursuant to Section 366.93, Fla. Stat. if FPL abandons the reactor project.

17. If the Commission does not deem TP reactor forward-looking costs as unreasonable in this docket or near-term dockets, the sunk cost will approach \$400 million by 2019. V2@302.

18. There is a danger that an investment such as TP 6 & 7 is initially approved, that gradual investments are made over time, that despite changing

circumstances continued creeping investments are made without a fundamental re-examination, that sunk costs build up, and that ultimately the plant is justifiably completed based on a going forward cost analysis but results in much higher costs for customers than the alternatives because sunk costs of the TP reactors are ignored in the future feasibility analysis. V4@600-01.

Great uncertainty remains on the projected in-service date

19. The proposed TP reactors have already been delayed three times. The in-service dates during the need determination were 2018 and 2020. Then the in-service dates were pushed back to 2022 and 2023. Today, we are told that the new in-service dates are 2027 and 2028. V@267.

20. Similar projects using the exact same AP-1000 design are experiencing significant delays. For instance, there is a 39-month delay on a 34-month construction schedule for the Plant Vogtle expansion in Georgia. FPL is aware of the delay. V2@246.

21. The NRC COL Application (COLA) review is conducted in two parts, an Environmental Review and a Safety Review, before the process can proceed to a contested hearing and the NRC for final vote by the Commissioners. On April 17, 2014 the NRC issued a letter to FPL revising the target dates for the Environmental Review. Scroggs V2 @ 176.

22. The remaining steps in the TP licensing process does not reflect the extension of the EIS comment period provided by the NRC. V2@303; Ex. #13.

23. The federal processes include the safety and environmental reviews that inform the NRC COLA process, as well as additional reviews conducted by the Army Corps of Engineers (USACE) in support of the Section 404(b) wetland permit applications. V2@208.

24. The timing of the Atomic Safety Licensing Board hearing and the outcome of the hearing could affect the issuance of the COL, or the timing of the issuance of the COL. V2@303-4.

25. There has been a challenge to the Continued Storage Rule issued by the Nuclear Regulatory Commission (NRC). If the D.C. Circuit Court vacates the rule prior to the issuance of the Turkey Point COL, that could prevent or delay licensing. V2@304.

26. In fact, there are a number of regulatory activities that could impact the current schedule. *Id.*

FPL will not commit to actually building the proposed TP reactors, nor willing to shoulder any financial risk.

27. When FPL Mr. Scroggs was asked: “as you sit here today, can you state unequivocally that FPL will, in fact, build the proposed Turkey Point 6 and 7 reactors?” The answer was: “No. There are many factors involved.” V2 @ 304.

28. The early cost recovery law allows a power company like FPL to abandon a reactor project and recover construction costs from its customers V2@305.

29. The risk to customers can be reduced through joint ownership of the TP reactors. At this point, as in past proceedings, the Company has failed to procure a partner in the TP reactor venture. V2@306.

30. When FPL Witness Scroggs was asked at the hearing if FPL is willing to relieve its customers of some of the financial risk in this project by agreeing to absorb some of the preconstruction costs, the answer was: “No.” V2@306-7.

FPL failed to provide a realistic feasibility study

31. The TP reactors will use the same Westinghouse AP1000 design under construction for a consortium of companies that own the Vogtle Plant in Georgia. It is also the design being built at the Summer plant in South Carolina.

32. FPL concedes that the issues experienced at Vogtle can affect the timeline and feasibility of its project. FPL monitors issues that can affect the overall timeline or feasibility of the TP project. This information includes the lessons being gathered at the two U.S. AP1000 construction sites, as well as the most current economic forecasts for input into the project planning and analyses processes. V2@208.

33. The status of the new nuclear construction projects at Southern Company's Vogtle plant in Georgia and SCANA Corporation's Summer AP1000 projects in South Carolina allegedly serve as a reference for FPL's cost estimates and post-licensing schedule. V2@ 210.

34. FPL admits that when conducting a robust economic feasibility analysis, a company should use the best, most current up-to-date information available. V3@419.

35. Office of Public Counsel Witness Jacobs testimony related to the Vogtle plant cost overruns should be given added weight as his position is the Georgia Public Service Commission's independent construction monitor for the Vogtle 3 and 4 project and he has a detailed understanding of the costs being incurred on the project. V4@516.

36. Witness Jacobs states that FPL's feasibility analysis for Turkey Point Units 6 and 7 is flawed because the analysis utilizes unreasonably low costs for Turkey Point Units 6 and 7. V4@503.

37. In support, Witness Jacobs states that the costs reported by the Vogtle and Summer owners do not include the costs being incurred by the contractor over and above the contract cost. *Id.*

38. The costs actually being incurred by the contractor are significant and will be fully reflected in the cost for the next AP 1000 plant. *Id.*

39. The costs being publicly reported by Vogtle and Summer are only the owner's costs under their EPC agreements. They do not include the actual costs being incurred (and absorbed to date) by Westinghouse and Chicago Bridge and Iron ("CB&I"), the contractor for these projects. *Id.*

40. Witness Jacobs states that "the costs being incurred by the Vogtle and Summer contractor are substantially higher than those covered by the Vogtle and Summer EPC agreements and these additional contractor costs must be

included in a reasonable estimate of the costs of Turkey Point Units 6 and 7.”
V4@504.

41. For a 39-month delay, this amounts to between \$1.56 billion and \$1.95 billion of additional site labor costs to the contractor, above the original EPC contract amount. In addition, the contractor has hundreds of highly paid engineers working on the project in their home office. Therefore, these additional labor costs are also being incurred but are not being accounted for in FPL's flawed feasibility analysis. V4@505.

42. Another significant cost not included in the publicly reported costs for Vogtle is the \$1.1 billion amount which is now the subject of litigation between the Vogtle owners and the contractor. These are costs that have been claimed to have been incurred by the contractor that will either be borne by the contractor or by the Vogtle owners depending on the outcome of the litigation. *Id.*

43. When Witness Sim was asked: is it correct that FPL did not make any changes to the nonbinding cost estimates for Turkey Point Units 6 and 7 based on the delays recorded for the Summer and Vogtle projects, he answered: “That’s correct.” V2@247. Therefore, the Company is clearly not using the best, most current up-to-date information available – as it admits it should.

44. Moreover, in evaluating FPL’s feasibility study, it is not reasonable to assume a 60-year life for the proposed units. While some nuclear reactor licenses have been renewed for an additional 20 years – no nuclear unit anywhere in the United States has operated for a full 60 years. V6@931.

45. Lastly, FPL's relies heavily on projected CO₂ compliance cost benefits to support the economic feasibility of the proposed units. City of Miami Witness Meehan testifies that, depending upon the environmental case, such compliance cost benefits add from just over \$ 1,400 per KW to over \$2,600 per KW to the breakeven cost. V4@607. It is reasonable to say that the economic feasibility of TP 6 & 7 reactors hinges on the avoided CO₂ compliance costs. *Id.* While it is reasonable to attach a monetary value to CO₂ compliance costs, such costs should not be utilized in an unreasonable way to support the economic viability of a reactor project that is struggling to prove its economic feasibility.

The proposed TP reactors impose enormous costs to customers with net benefit to very few

46. The proposed reactors will raise customer rates. The levelized cost of the proposed TP reactors, at a 90 percent capacity factor is 16.8 cents a kilowatt-hour. V6@ 913. This levelized cost (the cost to build and operate a resource over its lifetime) is well above customer retail rates. V6@915; Ex. #31.

47. Quantitative benefits estimated for the project have decreased since last year. V2@196. FPL provides an estimated fuel cost savings for FPL's customers of approximately \$47 billion (nominal) over a 40 year operating life V2@197. FPL extolls the benefits of fuel savings as a primary benefit of the reactors.

48. Yet, upon closer review, these benefits are illusory to many of today's customers. One need only review the present value revenue requirement net cost projections for Turkey Point 6 and 7. V6@918, Ex. 87. This represents the crossover point where benefits exceed costs to customers in today's dollars.

49. The net present value benefit to customers is not until 60 years from today. When one looks at the midpoint scenario (medium fuel and the Environmental II scenario), the net present value benefit for the customer does not occur until the year 2075 (2075 – 2015 = 60 years). V6@919.

50. This practicably means that a 45-year-old FPL customer today will not receive a net present value cumulative savings until they are 105 years old. *Id.*

51. Likewise, a 70-year-old FPL customer will not receive a net present value cumulative savings until they are 130 years old. *Id.*

52. And lastly, an 80-year-old FPL customer will not receive a net present value of cumulative savings until they reach 140 years old. *Id.* V6@919-20. Clearly, it is not actuarially possible that many of these customers will survive to realize the projected fuel savings benefits.

53. FPL Witness Sim concedes that there is a time value to money V6@920 and that time value of money is reflected in the net present value cumulative savings to customers cited above.

54. This enormous cost is borne by all customers, but only few will benefit, if at all. FPL's service territory includes Palm Beach County. It is one of the most populous counties in FPL's service territory. V6@922-23.

55. The total population of Palm Beach County that is 45 years of age or older comprises 48.4% of the total population of the County. V6@924; Ex. # 88.

56. Therefore, almost half of the population of Palm Beach County, and likely other counties served by FPL, will be 105 years of age, or older, before breaking even on the TP reactor project.

57. This type of enormous cost shift is unique to proposed nuclear reactor projects in Florida, since pursuant to Section 366.93, Fla. Stat., the Company can recover its preconstruction costs and construction carrying costs before ever completing the reactor, and additionally can abandon the a reactor project and recover all construction costs from customers.

Demand side management (DSM) potential to meet demand does not go head-to-head with proposed TP reactors in the feasibility study

58. FPL states it does not view demand-side management (helping customers reduce energy use) as a “logical” alternative, yet provides no data that supports its statement. Ex #31. FPL does not provide scenarios for meeting the projected demand, currently slated by FPL in its resource plan to be met with the TP reactors, with DSM. Hence, its statement related to DSM is unsupported.

59. What we do know is that the TP reactors units were not used as the avoided unit in the cost-effectiveness test utilized during the 2004 Florida Energy Efficiency Conservation Act (FEECA) proceeding. V6@929.

60. The TP reactors units were not used as an avoided unit in the cost-effectiveness test utilized during the 2009 FEECA proceedings. *Id.*

61. Turkey Point units were not used as the avoided cost in the cost-effectiveness test utilized during the 2014 FEECA proceedings V6@930.

Conclusions of Law

1. The Commission has established by rule an “alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of a nuclear power plant.” §366.93(2), Fla. Stat.

2. In implementing the above statute, the Commission promulgated Rule 25-6.0423 F.A.C. It requires FPL to submit for Commission review and approval a detailed analysis demonstrating the long-term feasibility of completing the proposed new nuclear project. *Id.* at (5)(c)5.

3. The feasibility study provides the appropriate checks and balances to ensure that the construction of the nuclear units continues to be in the best interest of ratepayers. (Order No. PSC-09-0783-FOF-EI, page 31).

4. Past Commission guidance *does not limit the Commission's authority* to consider any factor in approving, or disapproving, the feasibility of the proposed TP project. The Commission first provided guidance in its affirmative determination of need order for Turkey Point 6 & 7 (Order No. PSC-08-0237-FOF-EI, page 27), when it stated:

FPL shall provide a long-term feasibility analysis as part of its annual cost recovery process which, in this case, *shall also* include updated fuel costs, environmental forecasts, break-even costs, and capital cost estimates. In addition, FPL should account for sunk costs. Providing this information on an annual basis will allow us to monitor the feasibility regarding the continued construction of Turkey Point 6 and 7. (emphasis added)

5. The factors outlined above are a necessary, but not a sufficient condition, for approval of an FPL feasibility analysis.

6. The guidance above necessarily assumes a presumption that the FPL resource planning process and the associated feasibility analysis is not flawed as to breakeven costs, capital cost estimates, or estimates that reflect time and carrying costs.

7. If the Commission is inclined to find that past costs previously spent were prudently incurred, it is not precluded by statute to disapprove projected (prospective) costs as unreasonable. §403.519(4)(e), Fla. Stat.

After a petition for determination of need for a nuclear or integrated gasification combined cycle power plant has been 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 and new, expanded, or relocated electrical transmission lines or facilities of any size that are necessary to serve the nuclear power plant, shall not be subject to challenge unless and only to the extent the commission finds, based on a preponderance of the evidence adduced at a hearing before the commission under s. 120.57, that certain costs were imprudently incurred. (emphasis added).

8. Section 403.519, F.S. is silent on the Commission's role on prospective costs; therefore, the Commission has great discretion in this area. An agency's interpretation of the statute that it is charged with enforcing is entitled to great deference. *See BellSouth Telecommunications, Inc. v. Johnson*, 708 So. 2d 594, 596 (Fla. 1998).

9. Prudence is backwards looking in nature. The applied standard for determining prudence is consideration of what a reasonable utility manager would have done in light of conditions and circumstances which were known or

reasonably should have been known at the time decisions were made.¹

Prospective costs are judged by a reasonable standard.

10. In applying the law to the facts in the present case, the preponderance of the evidence shows that the non-binding cost used as the foundation of its feasibility analysis grossly underestimates the costs of the TP reactor projects. The filing and approval of a feasibility study necessarily requires, at its foundation, realistic capital cost & break even cost estimates. Yet, FPL has failed to file realistic estimates related to those costs, or costs that take into consideration time and carrying costs. As such, FPL has not met its burden under Commission Rule 25-6.0423 F.A.C.

11. Moreover, the feasibility analysis does not present to the Commission how demand projected to be met by the TP reactors could be met with demand-side management programs that help customers reduce energy use. Nor, does FPL provide data that support its non-inclusion of DSM as a resource. It is not allowed to go head to head with proposed TP reactors in meeting projected demand in FPL's feasibility study. Without that information, the feasibility study does not provide all the appropriate checks and balances to ensure that the construction of the nuclear units continues to be in the best interest of ratepayers.

12. Lastly, the TP reactors, if ever built, will impose enormous costs on customers – many of whom will never come close to “breaking even” on the proposed reactor project. This means that a 45-year-old FPL customer today, will

¹ Order No. PSC-07-0816-FOF-EI, issued October 10, 2007, In Docket No.060658-EI, *In Re: Petition on behalf of Citizens of the State of Florida to require Progress Energy Florida, Inc. to refund customers \$143 million*, at 3.

not receive a net present value cumulative savings until they are 105 years old. In counties served by FPL, such as Palm Beach County, almost half the population is 45 years of age or older. The Commission cannot ignore this enormous cost placed on today's customers, and it is not precluded from making a finding that future costs are not reasonable because of this qualitative defect. Section 403.519, Fla.Stat. is silent on the Commission's role on prospective costs; therefore, the Commission has great discretion in this area and can, based on this enormous cost, deny a finding of reasonableness for proposed 2016 costs.

CONCLUSION

For the reasons stated herein, SACE respectfully requests the Commission, in order to protect the financial interests of FPL customers, to:

1. Disapprove FPL's long-term feasibility analyses submitted in this docket and find that FPL has failed to demonstrate the long-term feasibility of the completion of the TP reactors;
2. Enter a finding that FPL's actual 2014 costs, and actual 2015 costs, were not prudently incurred; and
3. Enter a finding that FPL's estimated 2015, and projected 2016 costs are not reasonable.

Respectfully Submitted,

Date: September 4, 2015

/s/ George Cavros
George Cavros, Esq.
120 E. Oakland Park Blvd, Ste. 105
Fort Lauderdale, FL 33334

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic mail this 4th day of September 2015, to the following:

Martha Barrerra Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850	Kenneth Hoffman Florida Power and Light 215 South Monroe Street, Suite 810 Tallahassee, FL 32301-1858
Diane Triplett Duke Energy Florida, Inc. PO Box 14042 St. Petersburg, FL 33733	Bryan Anderson, Jessica Cano Florida Power and Light 700 Universe Blvd. Juno Beach, FL 33408-00420
Charles Rehwinkel Office of Public Counsel c/o Florida Legislature 111 West Madison Street, #812 Tallahassee, FL 32399	Jon C. Moyle, Jr. Moyle Law Firm, PA 118 N. Gadsden Street Tallahassee, FL 32301
Matthew R. Bernier 106 East College Avenue, Suite 800 Tallahassee, FL 32301	J. Michael Walls, Blaise N. Gamba Carlton Fields P.O. Box 3239 Tampa, FL 33601-3239
James W. Brew, F. Alvin Taylor c/o Brickfield Law Firm 1025 Thomas Jefferson St., NW, Eighth Floor Washington, DC 20007	Robert Scheffel Wright/John T. LaVia, c/o Gardner Law Firm 1300 Thomaswood Drive Tallahassee, FL 32308
City of Miami Victoria Méndez/Matthew Haber 444 SW 2nd Ave, Suite 945 Miami, FL 33130-1910	

/s/ George Cavros
George Cavros, Esq.