

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval to include in base rates the revenue requirement for the CR3 regulatory asset, by Duke Energy Florida, Inc.

DOCKET NO. 150148-EI

In re: Petition for issuance of nuclear asset Recovery financing order, by Duke Energy Florida, Inc. d/b/a Duke Energy.

DOCKET NO. 150171-EI

DATED: September 21, 2015

**FLORIDA INDUSTRIAL POWER USERS GROUP'S
PREHEARING STATEMENT**

The Florida Industrial Power Users Group (FIPUG), pursuant to Commission Order No. PSC-15-0238-PCO-EI, issued on June 5, 2015, and Order No. PSC-15-0340-PCO-EI, issued on August 21, 2015, hereby files its Prehearing Statement.

A. APPEARANCES

JON MOYLE, JR.
KAREN A. PUTNAL
Moyle Law Firm, P.A.
118 North Gadsden Street
Tallahassee, FL 32301

Attorneys for the Florida Industrial Power Users Group

B. WITNESSES AND EXHIBITS

FIPUG reserves the right to call witnesses listed by Duke Energy Florida (DEF) or others in this proceeding.

C. FIPUG'S STATEMENT OF BASIC POSITION

FIPUG has stipulated to the amount of the CR3 Regulatory Asset. This Commission approved the stipulation on September 15, 2015. Modifications proposed by staff witnesses or

otherwise that are in the best interests of the ratepayers should be adopted so that customers attain reasonable bond issuance costs. Additionally, to reduce customers' exposure to interest rate risk, the financing order and attendant bond financing should move forward expeditiously.

D. FIPUG'S STATEMENT OF ISSUES AND POSITIONS

ISSUE 1: Has DEF provided adequate internal controls and management oversight of its CR3 investment recovery procedure and plan?

FIPUG'S POSITION: No position at this time.

ISSUE 2: Did DEF minimize the current and future costs of the CR3 Regulatory Asset and use reasonable and prudent efforts to curtail avoidable costs or to sell or otherwise salvage assets that would otherwise be included in the CR3 Regulatory Asset, as required by the Revised and Restated Stipulation and Settlement Agreement (RRSSA)?

FIPUG'S POSITION: See position in Exhibit 1 to the Stipulation attached to the August 31, 2015 Motion for Approval of Stipulation, approved by the Commission on September 15, 2015.

ISSUE 3: Should DEF be required to collect the 2016 CR3 Regulatory Asset carrying cost of \$1.50/mWh through the fuel clause as provided in the RRSSA and to reduce the CR3 Regulatory Asset by the projected amount to be recovered?

FIPUG'S POSITION: See position in Exhibit 1 to the Stipulation attached to the August 31, 2015 Motion for Approval of Stipulation, approved by the Commission on September 15, 2015.

ISSUE 4: Has DEF properly categorized and recorded costs associated with the CR3 Regulatory Asset as contemplated by the RRSSA?

FIPUG'S POSITION: See position in Exhibit 1 to the Stipulation attached to the August 31, 2015 Motion for Approval of Stipulation, approved by the Commission on September 15, 2015.

ISSUE 5: Did DEF appropriately apply the accelerated recovery of the carrying charge collected through the Fuel Adjustment Clause to the CR3 Regulatory Asset?

FIPUG'S POSITION: See position in Exhibit 1 to the Stipulation attached to the August 31, 2015 Motion for Approval of Stipulation, approved by the Commission on September 15, 2015.

ISSUE 6: What is the appropriate projected amount of the CR3 Regulatory Asset at December 31, 2015?

FIPUG'S POSITION: See position in Exhibit 1 to the Stipulation attached to the August 31, 2015 Motion for Approval of Stipulation, approved by the Commission on September 15, 2015.

ISSUE 7: Has DEF calculated the annual revenue requirement for the CR3 Regulatory Asset consistent with the requirements of the RRSSA?

FIPUG'S POSITION: See position in Exhibit 1 to the Stipulation attached to the August 31, 2015 Motion for Approval of Stipulation, approved by the Commission on September 15, 2015.

ISSUE 8: What is the appropriate amortization period and annual revenue requirement to amortize the CR3 Regulatory Asset?

FIPUG'S POSITION: See position in Exhibit 1 to the Stipulation attached to the August 31, 2015 Motion for Approval of Stipulation, approved by the Commission on September 15, 2015.

ISSUE 9: Should the Commission approve DEF's proposed treatment to account for nuclear fuel proceeds that will not be received until the future, through the capacity cost recovery clause?

FIPUG'S POSITION: See position in Exhibit 1 to the Stipulation attached to the August 31, 2015 Motion for Approval of Stipulation, approved by the Commission on September 15, 2015.

ISSUE 10: Has DEF calculated the base rate increase consistent with the requirements of the RRSSA?

FIPUG'S POSITION: See position in Exhibit 1 to the Stipulation attached to the August 31, 2015 Motion for Approval of Stipulation, approved by the Commission on September 15, 2015.

ISSUE 11: If the Commission does not issue a financing order pursuant to DEF's Petition, should the projected amounts included in the CR3 Regulatory Asset be true-up? If so, how should the true-up be accomplished?

FIPUG'S POSITION: See position in Exhibit 1 to the Stipulation attached to the August 31, 2015 Motion for Approval of Stipulation, approved by the Commission on September 15, 2015.

ISSUE 12: If the Commission does not issue a financing order pursuant to DEF's Petition, what is the proposed uniform percentage rate increase to the demand and energy charges by customer rate schedule?

FIPUG'S POSITION: See position in Exhibit 1 to the Stipulation attached to the August 31, 2015 Motion for Approval of Stipulation, approved by the Commission on September 15, 2015.

ISSUE 13: If the Commission does not issue a financing order pursuant to DEF's Petition, what should be the effective date of the requested base rate increase for billing purposes?

FIPUG'S POSITION: See position in Exhibit 1 to the Stipulation attached to the August 31, 2015 Motion for Approval of Stipulation, approved by the Commission on September 15, 2015.

FINANCING ORDER ISSUES (Staff/DEF combined)

ISSUE 14: Do the cost amounts contained in DEF's CR3 Regulatory Asset meet the definition of "nuclear asset-recovery costs" pursuant to Section 366.95(1)(k), Florida Statutes?

FIPUG'S POSITION: Yes.

ISSUE 15: Do the ongoing financing costs identified in DEF's Petition qualify as "financing costs" pursuant to Section 366.95(1)(e), Florida Statutes? (Issue 2 from DEF's proposed consolidated issue list)

FIPUG'S POSITION: No position at this time.

ISSUE 16: Has DEF demonstrated that securitization has a significant likelihood of resulting in lower overall costs or would avoid or significantly mitigate rate impacts compared to the traditional method of cost recovery pursuant to Section 366.95(2)(a)6., Florida Statutes?

FIPUG'S POSITION: No position at this time.

ISSUE 17: What amount, if any, should the Commission authorize DEF to recover through securitization?

FIPUG'S POSITION: The amount reflected in the parties' stipulation that the Commission approved on September 15, 2015.

ISSUE 18: What is the appropriate treatment of the deferred tax liability consistent with paragraph 5(j) of the RRSSA?

FIPUG'S POSITION: No position at this time.

ISSUE 19: Should DEF indemnify customers to the extent customers incur losses associated with higher servicing fees payable to a substitute servicer, or with higher administration fees payable to a substitute administrator, as a result of DEF's termination for cause?

FIPUG'S POSITION: No position at this time.

ISSUE 20: What should be the up-front and ongoing fee for the role of servicer throughout the term of the nuclear asset-recovery bonds?

FIPUG'S POSITION: No position at this time.

ISSUE 21: What amount, if any, of DEF's periodic servicing fee in this transaction should DEF be required to credit back to customers through an adjustment to other rates and charges?

FIPUG'S POSITION: No position at this time.

ISSUE 22: What should be the ongoing fee for the role of the administrator throughout the term of the nuclear asset-recovery bonds?

FIPUG'S POSITION: No position at this time.

ISSUE 23: What amount, if any, of DEF's periodic administration fee in this transaction should DEF be required to credit back to customers through an adjustment to other rates and charges?

FIPUG'S POSITION: No position at this time.

ISSUE 24: How frequently should DEF in its role as servicer be required to remit funds collected from customers to the SPE?

FIPUG'S POSITION: No position at this time.

ISSUE 25: If remittances are not daily, should DEF be required periodically to remit actual earnings on collections pending remittance?

FIPUG'S POSITION: No position at this time.

ISSUE 26: Is DEF's proposed process for determining whether the upfront bond issuance costs satisfy the statutory standard of Section 366.95(2)(c)5., Florida Statutes, reasonable and should it be approved?

FIPUG'S POSITION: No position at this time.

ISSUE 28: What additional conditions, if any, should be made in the financing order that are authorized by Section 366.95(2)(c)2.i.?

FIPUG'S POSITION: Appropriate conditions that protect the ratepayers' financial interests should be made part of the financing order.

ISSUE 29: Should all legal opinions be subject to review by the Bond Team?

FIPUG'S POSITION: Bonds should be issued expeditiously to avoid interest rate risk; to the extent that such review will materially delay the issuance of the bonds, an after-the-fact review may be more appropriate.

ISSUE 30: Should all transaction documents and subsequent amendments be filed with the Commission before becoming operative?

FIPUG'S POSITION: Bonds should be issued expeditiously to avoid interest rate risk; to the extent that such review will materially delay the issuance of the bonds, an after-the-fact review may be more appropriate.

ISSUE 31: Is DEF's proposed pre-issuance review process reasonable and should it be approved?

FIPUG'S POSITION: Bonds should be issued expeditiously to avoid interest rate risk; DEF's pre-issuance review process should be approved as reasonable to the extent that it does not result in material delays to the issuance of the bonds.

ISSUE 32: Should the Financing Documents be approved in substantially the form proposed by DEF, subject to modifications as addressed in the draft form of the financing order?

FIPUG'S POSITION: Bonds should be issued expeditiously to avoid interest rate risk; to the extent that such review and alteration will materially delay the issuance of the bonds, without considerably affecting the financial interests of consumers, such modifications should be reconsidered.

ISSUE 33: Is DEF's proposed Issuance Advice Letter process reasonable and consistent with the statutory financing cost objective contained in Section 366.95(2)(c)2.b., Florida Statutes?

FIPUG'S POSITION: No position at this time.

ISSUE 34: Should the Standard True-up Letter be approved in substantially the form proposed by DEF?

FIPUG'S POSITION: No position at this time.

ISSUE 35: Is DEF's proposed process for determining whether the structure, plan of marketing, expected pricing and financing costs of the nuclear asset-recovery bonds have a significant likelihood of resulting in lower overall costs or would avoid or significantly mitigate rate impacts to customers as compared with the traditional method of financing and recovering nuclear asset-recovery costs pursuant to Section 366.95(2)(c)2.b., Florida Statutes, reasonable and should it be approved?

FIPUG'S POSITION: Bonds should be issued expeditiously to avoid interest rate risk; to the extent that DEF's proposed process will not materially delay the issuance of the bonds, it should be pursued.

ISSUE 36: Is the degree of flexibility afforded to DEF in establishing the terms and conditions of the nuclear asset-recovery bonds as described in the proposed form of financing order, reasonable and consistent with Section 366.95(2)(c)2.f., Florida Statutes?

FIPUG'S POSITION: No position at this time.

ISSUE 37: What persons or entities should be represented on the Bond Team?

FIPUG'S POSITION: Consumer interests should be represented on the Bond Team.

ISSUE 38: Based on resolution of the preceding issues, should a financing order in substantially the form proposed by DEF be approved, including the findings of fact and conclusions of law as proposed?

FIPUG'S POSITION: Yes, as appropriately modified to protect consumers interests and to ensure the timely issuance of the bonds in question.

ISSUE 39: If the Commission votes to issue a financing order, what post-financing order regulatory oversight is appropriate and how should that oversight be implemented?

FIPUG'S POSITION: Oversight to ensure that consumers' financial interests are protected should be pursued. Such review may include, but not be limited to, periodic audits.

ISSUE 40: Are the energy sales forecasts used to develop the bond amortization schedules and the recovery mechanism appropriate?

FIPUG'S POSITION: No position at this time.

ISSUE 41: If the Commission approves recovery of any nuclear asset-recovery related costs through securitization, how should the recovery of these costs be allocated to the rate classes consistent with Section 366.95(2)(c)2.g., Florida Statutes?

FIPUG'S POSITION: Costs should be recovered in the same manner as they are currently being recovered in base rates, adjusted for load growth.

ISSUE 42: **If the Commission approves recovery of any nuclear asset-recovery related costs through securitization, what is the appropriate recovery period for the Nuclear Asset-Recovery Charge?**

FIPUG'S POSITION: The scheduled maturity of the bonds should be designed to within the 240-month period agreed to by all parties in the RRSSA, and as modified in the parties' recent stipulation approved by the Commission on September 15, 2015.

ISSUE 44: **What should be the scheduled final maturity and the legal final maturity of the nuclear asset-recovery bonds?**

FIPUG'S POSITION: The scheduled maturity of the bonds should be designed to within the 240-month period agreed to by all parties in the RRSSA, and as modified in the parties' recent stipulation approved by the Commission on September 15, 2015.

ISSUE 45: **Is DEF's proposed Nuclear Asset-Recovery Charge True-Up Mechanism appropriate and consistent with Section 366.95, Florida Statutes, and should it be approved?**

FIPUG'S POSITION: No position at this time.

ISSUE 46: **How frequently should the Nuclear Asset-Recovery Charge True-up Mechanism be conducted?**

FIPUG'S POSITION: No position at this time.

ISSUE 47: **If the Commission approves an amount to be securitized, on what date should the Nuclear Asset-Recovery Charge become effective?**

FIPUG'S POSITION: No position at this time.

ISSUE 49: If the Commission denies DEF's request for a financing order, or if the nuclear asset-recovery bonds are not issued for any reason after the Commission issues a financing order, should the Commission approve DEF's alternative request for a base rate increase pursuant to the RRSSA, to be implemented beginning six months after the final order rejecting DEF's request (in the event the financing order is not issued) or the date upon which DEF notifies the Commission that the bonds will not be issued (in the event the financing order is issued), with carrying costs on the nuclear asset-recovery costs collected from January 1, 2016, through

the Capacity Cost Recovery Clause, until such time as the base rate increase goes into effect?

FIPUG'S POSITION: The nuclear asset-recovery costs should be recovered via a financing order and the timely issuance of bonds, not a base rate increase.

ISSUE 50: Should the form of tariff sheets to be filed under DEF's tariff, as provided in Exhibit __ (MO-6A) of Witness Olivier's testimony, be approved? (Issue 8 from DEF's proposed consolidated issue list)

FIPUG'S POSITION: No position at this time.

ISSUE 51: In accordance with Section 366.95(2)(c)2.h., Florida Statutes, if the Commission does not issue a stop order by 5:00 p.m. on the third business day after pricing, should the nuclear asset-recovery charges become final and effective without further action from the Commission?

FIPUG'S POSITION: No position at this time.

ISSUE 52: Should this docket be closed?

FIPUG'S POSITION: No.

E. STIPULATED ISSUES

None at this time.

F. PENDING MOTIONS OR OTHER MATTERS

None at this time.

G. FIPUG'S REQUESTS FOR CONFIDENTIAL CLASSIFICATION

None at this time.

H. REQUIREMENTS OF PREHEARING ORDER

FIPUG is able to comply with the Prehearing Order at this time.

I. OBJECTIONS TO WITNESSES' QUALIFICATIONS

Only a witness who is tendered as an expert witness, and who expressly identifies his/her field of expertise, should be qualified and treated as an expert witness. If a witness has not been tendered as an expert witness and has not identified his/her area of subject matter expertise, the witness should be treated as a fact witness, not as an expert witness, and FIPUG would object to characterizing such a fact witness as an expert witness.

/s/ Jon C. Moyle _____

Jon C. Moyle, Jr.
Karen A. Putnal
Moyle Law Firm, P.A.
118 North Gadsden Street
Tallahassee, Florida 32301
Telephone: (850)681-3828
Facsimile: (850)681-8788
jmoyle@moylelaw.com
kputnal@moylelaw.com

Attorneys for Florida Industrial Power Users Group

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Florida Industrial Power Users Group's Prehearing Statement has been furnished by electronic mail this 21st day of September, 2015, to the following:

James W. Brew
Stone Mattheis Xenopoulos & Brew, PC
1025 Thomas Jefferson Street, NW,
Eighth Floor, West Tower
Washington, DC 20007-5201
jbrew@smxblaw.com

Matthew R. Bernier
Duke Energy Florida, Inc.
106 East College Avenue, Suite 800
Tallahassee, FL 32301
Matthew.bernier@duke-energy.com

Keino Young
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399
kyoung@psc.state.fl.us

Dianne Triplett
Duke Energy
299 First Avenue North
St. Petersburg, FL 33701
Dianne.triplett@duke-energy.com

J.R. Kelly, Esq.
Charles J. Rehwinkel
John Truitt
Office of Public Counsel
111 West Madison Street, room 812
Tallahassee, FL 32301
kelly.jr@leg.state.fl.us
rehwinkel.charles@leg.state.fl.us
truitt.john@leg.state.fl.us

/s/ Jon C. Moyle

Jon C. Moyle, Jr.