

**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. )  
)  
In re: Petition for issuance of nuclear asset- )  
recovery financing order, by Duke Energy Florida, )  
Inc. d/b/a Duke Energy. )  
\_\_\_\_\_ )

Docket No. 150148-EI  
Docket No. 150171-EI  
Filed: September 21, 2015

**PREHEARING STATEMENT OF  
WHITE SPRINGS AGRICULTURAL CHEMICALS, INC.  
d/b/a PCS PHOSPHATE – WHITE SPRINGS**

Pursuant to the Florida Public Service Commission’s Order No. PSC-15-0340-PCO-EI, White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (“PCS Phosphate”), through its undersigned attorneys, files its Prehearing Statement in the above matter.

**A. APPEARANCES**

James W. Brew  
Owen J. Kopon  
Laura A. Wynn  
Stone Mattheis Xenopoulos & Brew, PC  
1025 Thomas Jefferson Street, NW  
Eighth Floor, West Tower  
Washington, D.C. 20007  
(202) 342-0800  
(202) 342-0807 (fax)  
Email: [jbrew@smxblaw.com](mailto:jbrew@smxblaw.com)  
[ojk@smxblaw.com](mailto:ojk@smxblaw.com)  
[laura.wynn@smxblaw.com](mailto:laura.wynn@smxblaw.com)

**B. WITNESSES**

PCS Phosphate does not plan to call any witnesses at this time.

**C. EXHIBITS**

PCS Phosphate does not plan to offer any exhibits at this time, but may introduce exhibits during the course of cross-examination.

**D. STATEMENT OF BASIC POSITION**

PCS Phosphate, along with the Office of Public Counsel, the Florida Retail Federation, and the Florida Industrial Power Users Group entered into a stipulation with Duke Energy Florida, LLC (“DEF”) with respect to the CR3 Regulatory Asset-related issues in this docket (“Stipulation”). DEF filed the Stipulation with the Commission on August 31, 2015 and the Commission approved the Stipulation on September 15, 2015. The Stipulation reduced the value of the CR3 Regulatory Asset that will be included in base rates. The Stipulation also amended the Revised and Restated Stipulation and Settlement Agreement, which was approved in Order NO. PSC-13-0598-FO-EI, to clarify the appropriate recovery period if nuclear asset-recovery bonds are issued.

As for the remaining securitization issues in this matter, any financing order adopted by the Commission should seek to minimize rate impacts to customers. PCS Phosphate will consider future discovery prior to taking final positions on the securitization issues in this docket. However, the primary purpose of any financing order that results from this proceeding should be to protect the interest of ratepayers and minimize future costs for which customers may be responsible.

**E. STATEMENT ON SPECIFIC ISSUES**

**CR3 Regulatory Asset Issues**

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

**PCS Phosphate:** No Position.

**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)?

**PCS Phosphate:** 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?

**PCS Phosphate:** 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?

**PCS Phosphate:** 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?

**PCS Phosphate:** 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?

**PCS Phosphate:** 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?

**PCS Phosphate:** 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?**

**PCS Phosphate:** 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?**

**PCS Phosphate:** 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?**

**PCS Phosphate:** 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 trueed-up? If so, how should the true-up be accomplished?**

**PCS Phosphate:** 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?**

**PCS Phosphate:** 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?**

**PCS Phosphate:** 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?

**PCS Phosphate:** 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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

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

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

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

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

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

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

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

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

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

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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.?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

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

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

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

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

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

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

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

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

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

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

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

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

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

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

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

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.



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

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**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?

**PCS Phosphate:** PCS agrees with the Office of Public Counsel.

**Issue 52:** Should this docket be closed?

**PCS Phosphate:** No.

F. **PENDING MOTIONS**

None.

G. **PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY**

None.

**H. OBJECTIONS TO QUALIFICATIONS OF WITNESS AS EXPERT**

None at this time.

**I. REQUIREMENTS OF ORDER ESTABLISHING PROCEDURE**

There are no requirements of the Procedural Order with which PCS Phosphate cannot comply.

Respectfully submitted

**STONE MATTHEIS XENOPOULOS & BREW, PC**

/s/ James W. Brew

James W. Brew

Owen J. Kopon

Laura A. Wynn

Stone Mattheis Xenopoulos & Brew, PC

1025 Thomas Jefferson Street, NW

Eighth Floor, West Tower

Washington, D.C. 20007

(202) 342-0800

(202) 342-0807 (fax)

E-mail: [jbrew@smxblaw.com](mailto:jbrew@smxblaw.com)

[owen.kopon@smxblaw.com](mailto:owen.kopon@smxblaw.com)

[laura.wynn@smxblaw.com](mailto:laura.wynn@smxblaw.com)

*Attorneys for*

*White Springs Agricultural Chemicals, Inc. d/b/a*

*PCS Phosphate – White Springs*

Dated: September 21, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing Petition to Intervene has been furnished by electronic mail and/or U.S. Mail this 21st day of September 2015 to the following:

Dianne M. Triplett  
Duke Energy Florida, LLC  
299 First Avenue North  
St. Petersburg, FL 33701  
[Dianne.triplett@duke-energy.com](mailto:Dianne.triplett@duke-energy.com)

Office of Public Counsel (15b)  
J. R. Kelly/Charles J. Rehwinkel  
c/o The Florida Legislature  
111 W. Madison Street, Room 812  
Tallahassee, FL 32399-1400  
[kelly.jr@leg.state.fl.us](mailto:kelly.jr@leg.state.fl.us)  
[rehwinkel.charles@leg.state.fl.us](mailto:rehwinkel.charles@leg.state.fl.us)

Robert Scheffel Wright  
John T. La Via  
Gardner Law Firm  
1300 Thomaswood Drive  
Tallahassee, FL 32308  
[schef@gbwlegal.com](mailto:schef@gbwlegal.com)  
[jlavia@gbwlegal.com](mailto:jlavia@gbwlegal.com)

Matthew R. Bernier  
Duke Energy Florida, LLC  
106 East College Avenue, Suite 800  
Tallahassee, FL 32301-7740  
[matthew.bernier@duke-energy.com](mailto:matthew.bernier@duke-energy.com)

Jon C. Moyle, Jr.  
Karen A. Putnal  
Florida Industrial Power Users Group  
c/o Moyle Law Firm, P.A.  
118 North Gadsden Street  
Tallahassee, FL 32301  
[jmoyle@moylelaw.com](mailto:jmoyle@moylelaw.com)  
[kputnal@moylelaw.com](mailto:kputnal@moylelaw.com)

Keino Young  
Rosanne Gervasi  
Lee Eng Tan  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399  
[kyoung@psc.state.fl.us](mailto:kyoung@psc.state.fl.us)  
[rgervasi@psc.state.fl.us](mailto:rgervasi@psc.state.fl.us)  
[ltan@psc.state.fl.us](mailto:ltan@psc.state.fl.us)

/s/ Owen J. Kopon