

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to approve transaction for Accelerated decommissioning services at CR3 Facility, transfer of title to spent fuel and Associated assets, and assumption of operations Of CR3 facility pursuant to the NRC license, And request for waiver from future applications of Rule 25-6.04365, F.A.C. for nuclear decommissioning study, by Duke Energy Florida, LLC.

DOCKET NO.: 20190140-EI
FILED: June 22, 2020

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

The Florida Industrial Power Users Group (FIPUG), pursuant to Order No. PSC-2019-0320-PCO-EI, files its Prehearing Statement.

A. APPEARANCES:

Jon C. Moyle, Jr.
Karen Putnal
Moyle Law Firm, P.A.
118 North Gadsden Street
Tallahassee, FL 32312

Attorneys for the Florida Industrial Power Users Group

B. WITNESSES AND EXHIBITS:

FIPUG reserves the right to call witnesses listed by other parties in this docket.

C. STATEMENT OF BASIC POSITION:

FIPUG appreciates DEF's efforts actively manage the vexing questions regarding how to best manage nuclear material, including spent nuclear fuel rods at DEF's Crystal River 3 (CR3) closed nuclear power plant site. Given the unexpected series of events that prompted the closure of CR3, the parties and the Commission should closely and actively review DEF's proposal to transfer legal ownership of nuclear waste material, including spent nuclear fuel rods, to a third party. This active review should include:

- ensuring that the third party is financially capable of meeting its obligations and that sufficient financial assurance instruments are in place;
- protecting DEF’s customers from fiscal responsibility should the third party not meet its financial or contractual obligations;
- ensuring that sufficient funds exist in DEF’s nuclear decommissioning trust fund, and to the extent of overfunding, pursue steps to return overfunded amounts to DEF’s customers;
- returning a portion of any projected savings to DEF’s customers resulting from DEF’s proposed transaction to DEF’s customers now rather than in 30 years;
- having an independent third party retained by the Commission monitor the project and provide periodic reports to the Commission and the parties.

D. STATEMENT OF ISSUES AND POSITIONS:

E. LIST OF ISSUES

ISSUE 1: Should the Florida Public Service Commission approve the transactions as contemplated by the Agreement (Decommissioning Services Agreement), the SNF PSA (Spent Nuclear Fuel Purchase and Sale Agreement), and the Ancillary Agreements (as defined in Article I, Section 1.1.1 of the Agreement)?

FIPUG: Yes, if the conditions set forth in FIPUG’s Statement of Basic Position are met.

ISSUE 2: Is DEF’s proposed transaction with ADP and its subsidiaries for decommissioning CR3 consistent with DEF’s 2017 2nd Revised and Restated Stipulation and Settlement Agreement (2017 Settlement)?

FIPUG: Adopt position of Office of Public Counsel.

ISSUE 3: Should the Commission approve DEF’s 2019 Accelerated Nuclear Decommissioning Study?

FIPUG: Adopt position of Office of Public Counsel.

ISSUE 4: What is the appropriate annual accrual in equal dollar amounts necessary to recover the proposed decommissioning costs of CR3?

FIPUG: Adopt position of Office of Public Counsel.

ISSUE 5: What is the appropriate accrual effective date for adjusting the accrual amount, if any adjustment is needed?

FIPUG: Adopt position of Public Counsel.

ISSUE 6: Should the Commission approve DEF's request to waive, if necessary, the future filing of CR3 decommissioning studies every five years as provided in Rule 25-6.04365, F.A.C.?

FIPUG: No, not unless the Commission imposes suitable reporting requirements as detailed in FIPUG's position on Issue 7 and an independent monitor to oversee the project on behalf of the Commission and consumer parties is put in place.

ISSUE 7: What reports should be given to the Commission to ensure that the decommissioning and spent fuel activities outlined in the DSA are completed, NDT funds are reasonably spent, and sufficient funds remain to complete the decommissioning and spent fuel activities?

FIPUG: The Commission should require that DEF provide it with timely and regular reports to ensure that decommissioning and spent fuel activities in the DSA are completed, that NDT funds are prudently spent and that sufficient funds remain to complete the decommissioning and spent fuel activities. The Commission should not grant any rule waiver or other waiver request to delay or excuse the submission of these or similar reports related to the handling of nuclear waste.

ISSUE 8: Should this docket be closed?

FIPUG: No, the Commission should retain jurisdiction over this matter to oversee the implementation of DEF's proposed handling of the nuclear material in question.

CONTESTED ISSUES

ISSUE A: What monetary benefits, if any, should be provided to customers presently related to this matter?

FIPUG: As part of this proceeding, the Commission should review the funding level of CR3 decommissioning costs and projected cost savings of DEF's proposal. To the extent that the CR3 decommissioning costs are overfunded, or the DEF proposal will save ratepayers money, a portion of the overfunded sums or projected savings resulting from the DEF proposal should be provided to DEF's

customers now, especially considering the challenging economic conditions related to the COVID-19 pandemic. DEF has placed these matters at issue, as its Petition states in pertinent part “It [DEF’s proposed transaction of transferring ownership of certain nuclear material, including spent nuclear fuel rods to a third party] also gives DEF a potential opportunity to return the majority of unused trust fund dollars back to customers more than three decades sooner than the current 60- year decommissioning model.” See DEF Petition, p. 2. Put simply, if significant monetary savings will result from this transaction, a portion of those savings should be returned to DEF’s customers now rather than 30 years from now.

F. STIPULATED ISSUES:

None at this time.

G. PENDING MOTIONS:

None at this time.

H. STATEMENT OF PARTY’S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:

None.

I. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

FIPUG objects to a witness being considered an expert witness unless the witness affirmatively states the subject matter area(s) in which he or she claims expertise.

J. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Florida Industrial Power Users Group cannot comply at this time.

/s/ Jon. C. Moyle

Jon C. Moyle, Jr.
Moyle Law Firm, P.A.
118 North Gadsden Street
Tallahassee, FL 32301
(850) 681-3828 (Voice)
(850) 681-8788 (Facsimile)
jmoyle@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 Petition to Intervene has been furnished by electronic mail this 22nd day of June 2020 to the following:

Suzanne Brownless
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399
sbrownle@psc.state.fl.us

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

J.R. Kelly
Charles J. Rehwinkel
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

Daniel Hernandez
Nicole Zaworska
Shutts Law Firm
4301 W. Boy Scout Blvd., Suite 300
Tampa, FL 33607
DHernandez@shutts.com
DEF-CR3@shutts.com
NZaworska@shutts.com

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

/s/ Jon C. Moyle, Jr. _____
Jon C. Moyle, Jr.