

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Duke Energy Florida, LLC to Approve Transaction with Accelerated Decommissioning Partners, LLC for Accelerated Decommissioning Services at the CR3 Facility, Transfer of Title to Spent Fuel, and Assumption of Operations of the CR3 Facility Pursuant to the NRC License, and Request for Waiver From Future Application of Rule 25-6.04365, F.A.C. for Nuclear Decommissioning Study

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

**DUKE ENERGY FLORIDA, LLC'S
PREHEARING STATEMENT**

Duke Energy Florida, LLC, (“DEF”), by and through undersigned counsel, and pursuant to Order No. PSC-2020-0105-PCO-EI, hereby submits it Prehearing Statement with respect to its petition for approval of its transaction with Accelerated Decommissioning Partners, LLC for accelerated decommissioning services at the CR3 Facility, transfer of title to spent fuel, and assumption of operations of the CR3 Facility pursuant to the NRC License, and its request for waiver from future application of Rule 25-6.04365, F.A.C., for Nuclear Decommissioning Study.

1. **Known Witnesses** - DEF intends to offer the testimony of:

Witness	Subject Matter	Issue #
Direct		
Terry Hobbs	Background on CR3 Facility and decommissioning plans, costs and characteristics of the transaction, explanation of key components of the Decommissioning Services Agreement (DSA)	1-8
David L. Doss	Explanation of the status of the nuclear decommissioning trust fund	1, 3-5

Matthew Palasek	Explanation of the request for information, request for proposal processes, provide an overview of how and why ADP was selected as the vendor team for the transaction	1
Scott E. State	Background on ADP and its experience with nuclear decommissioning agreement, overview of ADP's role in the transaction	1
Rebuttal		
Terry Hobbs	Rebuttal of Rich Polich testimony	1-8
Jeff Adix	NorthStar financial analysis, rebuttal of Rich Polich testimony	1

2. **Known Exhibits** - DEF intends to offer the following exhibits:

Witness	Proffered By	Exhibit #	Description	Issue #
Direct				
Terry Hobbs	DEF	Exhibit No. __ (TH-1)	Decommissioning Services Agreement between DEF, ADPCR3, and ADPSF1	1-8
Terry Hobbs	DEF	Exhibit No. __ (TH-2)	DEF's Updated Nuclear Decommissioning Study	1-8
Scott E. State	DEF	Exhibit No. __ (SS-1)	NorthStar Projects	1
Scott E. State	DEF	Exhibit No. __ (SS-2)	Orano Projects	1

Matthew Palasek	DEF	Exhibit No.__(MP-1)	Request for Information	1
Matthew Palasek	DEF	Exhibit No.__(MP-2)	RFP Bid Instructions and RFP Project Scope	1
Matthew Palasek	DEF	Exhibit No.__(MP-3)	Bid Evaluation Process Framework	1
Rebuttal				
Jeff Adix	DEF	Exhibit No.__(JA-1)	Jeff Adix' Resume	1
Jeff Adix	DEF	Exhibit No.__(JA-2)	Excerpts from Mr. Polich's Deposition	1

DEF reserves the right to identify additional exhibits for the purpose of cross-examination or rebuttal.

- Statement of Basic Position** - The Commission should (1) approve a transaction between DEF and Accelerated Decommissioning Partners, LLC (“ADP”), pursuant to which DEF will contract with ADP through two of its subsidiaries, ADP CR3, LLC (“ADPCR3”) and ADP SF1, LLC (“ADPSF1”) to decommission the CR3 Facility on an accelerated basis, (2) approve DEF’s updated nuclear decommissioning study, and (3) approve, if necessary, DEF’s request for a waiver from the requirements contained in Rule 25-6.04365, F.A.C., which requires DEF to continue filing updated nuclear decommissioning studies with the Commission every five years. As demonstrated by DEF’s testimony, exhibits, and the extensive discovery produced in this proceeding, this fixed-price transaction provides DEF’s customers with significant benefits and protections that will help ensure the CR3 nuclear plant is safely decommissioned. This transaction is in the best interest of DEF’s customers. DEF’s trust fund is currently sufficient to pay for the plant’s accelerated decommissioning without an increase in customer bills. The fixed-price contract will lock in today’s prices, which provides greater cost certainty relative to a delayed decommissioning approach. Accelerating the decommissioning allows for faster restoration and redevelopment of the nuclear plant property for DEF’s future use and gives DEF a potential opportunity to return unused trust fund dollars to customers more than three decades sooner than the current decommissioning model. The DSA includes significant and appropriate protections for DEF’s customers, the most significant such protection being the fact that DEF owns and controls the trust fund and will only pay for work that is completed. OPC’s witness Richard Polich’s suggested “enhancements” are actually new and unnecessary terms in an attempt to re-negotiate a deal that does not require any such changes. The

Commission should approve the DSA as presented, without modification, and preserve the real value that DEF has negotiated for its customers.

4. **Statement of Facts**

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)?

DEF: Yes. The Commission should approve the transactions as contemplated. The transactions are in the best interest of DEF's customers.

(Witness: Terry Hobbs, Scott State, David Doss, Matt Palasek, Jeff Adix)

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)?

DEF: Yes. DEF's proposed transaction with ADP and its subsidiaries for decommission CR3 is consistent with the 2017 Settlement.

(Witness: Terry Hobbs)

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

DEF: Yes. The Commission should approve DEF's 2019 Accelerated Nuclear Decommissioning Study. DEF's 2019 Accelerated Nuclear Decommissioning Study reflects the new cost estimate included in the transaction.

(Witness: Terry Hobbs, David Doss)

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

DEF: There is no requested annual accrual.

(Witnesses: Terry Hobbs, David Doss)

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

DEF: Not applicable.

(Witnesses: Terry Hobbs, David Doss)

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.?

DEF: Yes, the Commission should waive the future filing of the studies every five years required by Rule 25-6.04365, F.A.C. The purpose of the studies is to ensure that DEF accrues adequate funds in the NDT to cover the projected cost of decommissioning CR3. Once DEF has commenced decommissioning pursuant to the transaction, the studies are no longer necessary because the cost for the accelerate decommissioning of the CR3 Facility is contractually fixed at an amount that is less than the balance of funds currently available for decommissioning in the NDT.

(Witnesses: Terry Hobbs)

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?

DEF: DEF will submit an annual report to the Commission to ensure that the decommissioning activities outlined in the DSA are completed. The report will include the amount of funds paid to ADP CR3 LLC from the NDF during the previous year, the amount of funds remaining in the NDF, ADP CR3 LLC schedule performance for the previous year and project to date and an assessment of future schedule and pay projections.

(Witnesses: Terry Hobbs)

ISSUE 8: Should this docket be closed?

DEF: Yes.

(Witnesses: Terry Hobbs)

5. **Stipulated Issues** - None at this time.

6. **Pending Motions** - None at this time.

7. **Pending Requests for Confidentiality** -

DEF has the following pending requests for confidential classification:

- June 8, 2020, DEF's Sixth Request for Confidential Classification for certain information contained within the documents produced by DEF in response to OPC's 1st request for PODs (Nos. 1-13), as well as portions of both responses OPC's 1st set of interrogatories (Nos. 1-25) and portions of the first interrogatories themselves, (DN 02967-2020);
- June 11, 2020, DEF's Notice of Intent to Request Confidential Classification for certain information contained within the documents produced by OPC in response to Duke Energy's notice of taking deposition duces tecum (DN 02916-2020) of Richard Polich scheduled for 6/12/20; specifically, Bates Nos. Polich DEP DT 000001 through Polich DEP DT 000004 produced by OPC (DN 03041-2020);
- June 18, 2020, DEF's Seventh Request for Confidential Classification for certain information contained within the direct testimony and exhibits of OPC Witness Richard A. Polich, P.E., (DN 03169-2020);
- June 18, 2020, DEF's Notice of Intent to Request Confidential Classification for certain information contained within the deposition transcript of OPC Witness Richard A. Polich, P.E., (DN 03175-2020); and
- June 18, 2020, DEF's Notice of Intent to Request Confidential Classification for certain information contained within DEF's rebuttal testimony and exhibits, (DN 03176-2020).

8. **Objections to Qualifications** - DEF objects to the qualifications of Richard Polich to testify as an expert regarding the financial condition of NorthStar, ADP, ADP CR3 or ADP SF1.

9. **Sequestration of Witnesses** - DEF has not identified any witnesses for sequestration at this time.

10. **Requirements of Order** - At this time, DEF is unaware of any requirements of the Order Establishing Procedure of which it will be unable to comply.

RESPECTFULLY SUBMITTED this 22nd day of June, 2020.

/s/ Daniel Hernandez

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Duke Energy Florida, LLC
Docket No.: 20190140-EI
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail this 22nd day of June, 2020, to all parties of record as indicated below.

/s/ Daniel Hernandez

Attorney

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