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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20240001-EI

In re: Fuel and purchased power
cost recovery clause with generating
performance incentive factor.

_____ /

PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONERS
PARTICIPATING: GABRIELLA PASSIDOMO
PREHEARING OFFICER

DATE: Tuesday, March 19, 2024

TIME: Commenced: 1:30 p.m.
Concluded: 1:44 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK
Court Reporter

PREMIER REPORTING
TALLAHASSEE, FLORIDA
(850) 894-0828

1 APPEARANCES:

2 MARIA JOSE MONCADA and DAVID M. LEE, ESQUIRES,
3 Florida Power & Light Company, 700 Universe Boulevard,
4 Juno Beach, Florida 33408; appearing on behalf of
5 Florida Power & Light Company (FPL).

6 WALT TRIERWEILER, PUBLIC COUNSEL; CHARLES
7 REHWINKEL, DEPUTY PUBLIC COUNSEL; PATRICIA A.
8 CHRISTENSEN, OFFICE OF PUBLIC COUNSEL, c/o The Florida
9 Legislature, 111 West Madison Street, Room 812,
10 Tallahassee, Florida 32399-1400, appearing on behalf of
11 the Citizens of the State of Florida (OPC).

12 JON C. MOYLE, JR. and KAREN A. PUTNAL,
13 ESQUIRES, Moyle Law Firm, 118 North Gadsden Street,
14 Tallahassee, FL 32301; appearing on behalf of Florida
15 Industrial Users Group (FIPUG).

16 ROBERT SCHEFFEL WRIGHT and JOHN T. LAVIA, III,
17 ESQUIRES, Gardner, Bist, Bowden, Dee, LaVia, Wright,
18 Perry & Harper, P.A., 1300 Thomaswood Drive,
19 Tallahassee, Florida 32308, appearing on behalf of
20 Florida Retail Federation (FRF).

21 SUZANNE BROWNLESS and RYAN SANDY, ESQUIRES,
22 FPSC General Counsel's Office, 2540 Shumard Oak
23 Boulevard, Tallahassee, Florida 32399-0850, appearing on
24 behalf of the Florida Public Service Commission (Staff).

25

1 APPEARANCES CONTINUED:

2 KEITH HETRICK, GENERAL COUNSEL; MARY ANNE
3 HELTON, DEPUTY GENERAL COUNSEL, Florida Public Service
4 Commission, 2540 Shumard Oak Boulevard, Tallahassee,
5 Florida 32399-0850, Advisor to the Florida Public
6 Service Commission.

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1 P R O C E E D I N G S

2 COMMISSIONER PASSIDOMO: Okay. Good
3 afternoon, everyone. Today is Tuesday, March 19th,
4 2024. It is 1:30 p.m., and I will now call this
5 Prehearing Conference to order.

6 Just as a preliminary thing that I want to
7 say. This is my first time using GoToMeeting, so
8 there might be a time when I am going to ask
9 whether the parties are in agreement to something,
10 and instead, I am just going to go through -- I
11 might just kind of go down the list to get verbal
12 confirmation from everybody. And that's not to,
13 like, be repetitive or anything. I just want to
14 make sure, since we do have the time, that I am not
15 skipping anybody.

16 So with that being said, staff, would you
17 please read the notice?

18 MS. BROWNLESS: By notice issued on March
19 12th, 2024, this time and place has been set for a
20 Prehearing Conference in Docket No. 20240001-EI.

21 The purpose of the prehearing is to determine
22 the prudence and potential replacement power cost
23 recovery associated with Florida Power & Light
24 Company's actions or failure to act resulting in
25 unplanned nuclear power plant outages during the

1 2020 through 2022 time period.

2 COMMISSIONER PASSIDOMO: Thank you, Ms.
3 Brownless.

4 Let's move to appearances.

5 Florida Power & Light.

6 MS. MONCADA: Thank you, Commissioner.

7 Maria Moncada for Florida Power & Light
8 Company. I would like to also enter an appearance
9 for David Lee.

10 And thank you for allowing me the opportunity
11 to appear via GoToMeeting.

12 COMMISSIONER PASSIDOMO: Thanks, Ms. Moncada.
13 Office of Public Counsel.

14 MR. REHWINKEL: Good morning -- good
15 afternoon, Commissioner.

16 Charles Rehwinkel, Patty -- on behalf of the
17 Office of Public Counsel. I would also like to
18 enter an appearance for Patty Christensen and Walt
19 Trierweiler, the Public Counsel.

20 COMMISSIONER PASSIDOMO: Thank you.

21 FIPUG.

22 MR. MOYLE: Thank you.

23 Jon Moyle on behalf of the Florida Industrial
24 Power Users Group, FIPUG. And I would like to
25 enter an appearance for Karen Putnal as well.

1 COMMISSIONER PASSIDOMO: Thank you, Mr. Moyle.

2 FRS -- FRF.

3 MR. WRIGHT: Thank you, Commissioner.

4 Robert Scheffel Wright on behalf of the
5 Florida Retail Federation. I would like to also
6 enter an appearance for my law partner, John T.
7 LaVia, III.

8 Thank you.

9 CHAIRMAN LA ROSA: Thank you, Mr. Wright.
10 Staff.

11 MS. BROWNLESS: Yes, ma'am.

12 Suzanne Brownless and Ryan Sandy on behalf of
13 Commission staff.

14 MS. HELTON: And Mary Anne Helton is here as
15 your Advisor. I would also like to enter an
16 appearance for your General Counsel, Keith Hetrick.

17 COMMISSIONER PASSIDOMO: Thank you, Mary Anne.

18 Okay. Staff, are there any preliminary
19 matters we need to address before we get to the
20 Draft Prehearing Order?

21 MS. BROWNLESS: Yes, ma'am.

22 This proceeding comes to the Commission in an
23 unusual procedural posture. The issues to be
24 determined in this proceeding were deferred from
25 the 2023 fuel clause docket, and are associated

1 with nuclear power plant outages that occurred at
2 FPL, St. Lucie Units 1 and 2, and Turkey Point
3 Units 3 and 4 between 2020 and 2022.

4 At this time, there are only four parties to
5 the fuel clause docket that have standing to
6 participate in this proceeding, FPL, the Office of
7 Public Counsel, Florida Industrial Power Users
8 Group and Florida Retail Federation.

9 The other parties to the docket that are
10 without standing to participate in this proceeding
11 are the other investor-owned electric utilities,
12 TECO, DEF and FPUC, Nucor and PSC Phosphate. TECO,
13 DEF Nucor and PCS Phosphate have orally asked and
14 been granted leave to be excused from participating
15 in this proceeding.

16 OPC and FPL have stipulated to the two issues
17 in this case. FRF and FIPUG have stated that they
18 take no position on the issues raised in this
19 proceeding.

20 FPL filed an unopposed motion to stay filing
21 its rebuttal testimony on March 8th, which was
22 granted by Order No. PSC-2024-0062-PCO-EI, issued on
23 March 11th.

24 If the stipulations for the two issues are
25 approved at the final hearing, the testimony and

1 exhibits will be moved into the record without
2 objection and the case will be closed.

3 If the stipulations for the two issues are not
4 approved at the final hearing, the case will be
5 continued until a later date, and a new trial
6 schedule will be set with new filing dates for
7 rebuttal testimony, revised prehearing statements,
8 et cetera.

9 No testimony or exhibits will be admitted into
10 the record if the stipulations are not approved.

11 COMMISSIONER PASSIDOMO: Okay. Thank you, Ms.
12 Brownless.

13 All right. Now we are going to go through the
14 draft prehearing order. I will identify the
15 sections and want the parties to let me know if
16 there are any corrections or changes or to be made.
17 Some of the sections I will probably go through
18 fairly quickly, so please just speak up if there is
19 a change or correction you would like to make.

20 So we will start Section I, Case
21 Backgrounding.

22 Section II, Conduct of Proceedings.

23 Section III, Jurisdiction.

24 Section IV, Procedure for Handling
25 Confidential Information.

1 Section V, Prefiled Testimony and Exhibits,
2 Witnesses.

3 MS. BROWNLESS: Yes, ma'am.

4 And again, all parties have agreed that all
5 witnesses can be excused from the final hearing on
6 March 26th, as have all Commissioners. That being
7 the case, there will be no witness summaries given
8 at the hearing.

9 COMMISSIONER PASSIDOMO: Thank you.

10 Section VI now, Order of Witnesses.

11 MS. BROWNLESS: And again, all Commissioners
12 and parties have agreed that all witnesses can be
13 excused. Therefore, the order of witnesses will be
14 addressed only if stipulations are not approved by
15 the Commission.

16 COMMISSIONER PASSIDOMO: Section VII, Basic
17 Positions. So do any of the parties have any
18 changes to their basic positions?

19 MR. REHWINKEL: No.

20 MR. WRIGHT: No.

21 MS. MONCADA: FPL has no changes.

22 COMMISSIONER POLMANN: Thank you, Ms. Moncada.

23 MR. MOYLE: No changes.

24 COMMISSIONER PASSIDOMO: Okay. Thank you.

25 All right. So then with no changes, we will

1 move -- we will move on to the issues, and I will
2 kind of go through those in numerical order.

3 So -- yeah, go ahead, staff.

4 MS. BROWNLESS: In this case, the issues and
5 positions reflect the proposed stipulation for both
6 Issues 1 and 2 and will be discussed in more detail
7 in Section X.

8 COMMISSIONER PASSIDOMO: All right. Let's
9 move to the comprehensive exhibit list.

10 MS. BROWNLESS: Staff has prepared a
11 comprehensive exhibit list which lists all prefiled
12 exhibits and those exhibits staff wishes to include
13 in the record. The draft list was provided to the
14 parties to see if there were any changes or
15 objection to the CEL. We would ask at this time if
16 there are any changes to the CEL.

17 Per the proposed stipulation, the parties have
18 agreed that the exhibits listed on the CEL will be
19 placed into the record should the proposed
20 stipulation be approved by the Commission. If the
21 Commission does not approve the proposed
22 stipulation, the admission of the CEL exhibits into
23 the record will be taken up when the final hearing
24 is reconvened.

25 So I guess what we need now the now is

1 confirmation that the confidential exhibit list is
2 correct.

3 COMMISSIONER PASSIDOMO: Ms. Moncada?

4 MS. MONCADA: FPL agrees that the list is
5 correct.

6 Thank you.

7 COMMISSIONER PASSIDOMO: Mr. Rehwinkel?

8 MR. REHWINKEL: The Public Counsel agrees.

9 MR. WRIGHT: FRF agrees. Thank you.

10 MR. MOYLE: As does FIPUG.

11 COMMISSIONER PASSIDOMO: Thank you. Thank you
12 all.

13 Okay. Section X, Proposed Stipulations.

14 MS. BROWNLESS: Yes, ma'am.

15 OPC and FPL have stipulated to the two issues
16 in the case, and I will read them now.

17 Issue 1: What adjustment should be made with
18 respect to replacement power costs associated with
19 any unplanned outages that occurred at Turkey Point
20 or St. Lucie during the calendar years 2020, 2021
21 and 2022?

22 And the stipulation is as followed: FPL shall
23 credit customers five million, inclusive of
24 interest, through the fuel clause. The credit
25 shall be included in the calculation of FPL's fuel

1 factors the next time the fuel factors are reset.
2 The prudence of, and replacement power cost
3 calculations associated with, all forced or
4 unplanned outages or down power events at the
5 Turkey Point and St. Lucie nuclear facilities,
6 which occurred during the calendar years 2020
7 through 2022, are hereby fully resolved and shall
8 not be subject to further challenge or litigations
9 in the future.

10 Issue No. 2: Should FPL be subject to a
11 follow-up nuclear operations and management audit
12 covering the 2024 to 2029 time period?

13 Stipulation: Yes, a follow-up audit may be
14 conducted no earlier than 2030.

15 COMMISSIONER PASSIDOMO: All right. Parties,
16 does this correctly reflect the stipulations that
17 have been agreed to? Ms. Moncada?

18 MS. MONCADA: Correctly reflects the
19 stipulations. Yes.

20 COMMISSIONER PASSIDOMO: Thank you.

21 Mr. Rehwinkel?

22 MR. REHWINKEL: Yes, it correctly reflects the
23 stipulation between the Public Counsel and FPL.

24 COMMISSIONER PASSIDOMO: Thank you.

25 Mr. Wright?

1 MR. WRIGHT: It correctly reflects that we
2 take no position on the issue.

3 Thanks.

4 COMMISSIONER PASSIDOMO: Same with Mr. Moyle?

5 MR. MOYLE: And FIPUG takes no position as
6 well.

7 COMMISSIONER PASSIDOMO: Okay. Thank you.

8 Okay. Section -- we are going to move to
9 Section XI, Pending Motions.

10 MS. BROWNLESS: There are no pending motions
11 at this time.

12 COMMISSIONER PASSIDOMO: Section XII, Pending
13 Confidential Matters.

14 MS. BROWNLESS: There are no pending
15 confidentiality matters at this time.

16 COMMISSIONER PASSIDOMO: Section XIII,
17 Post-Hearing Procedures.

18 MS. BROWNLESS: Post-hearing procedures will
19 be dep-- will depend upon whether the proposed
20 stipulations are approved by the Commission or are
21 not approved. If approved, all issues you will be
22 resolved and no further action needs to be taken by
23 the parties. If the Commission does not approve
24 the proposed stipulations, the hearing will be
25 continued, and a revised procedural order will be

1 issued.

2 COMMISSIONER PASSIDOMO: Are all parties in
3 agreement to this?

4 Ms. Moncada? I am sorry I have to keep doing
5 this.

6 MS. MONCADA: Thank you for allowing me,
7 again, to appear virtually and having to go through
8 this.

9 FPL agrees.

10 COMMISSIONER PASSIDOMO: Thank you.

11 Mr. Rehwinkel?

12 MR. REHWINKEL: We agree.

13 MR. WRIGHT: The FRF agrees with these
14 procedural notes.

15 Thanks.

16 MR. MOYLE: So does FIPUG.

17 COMMISSIONER PASSIDOMO: Thank you.

18 Section XIV, Rulings.

19 MS. BROWNLESS: The staff recommends that
20 opening statements be limited to five minutes per
21 party.

22 COMMISSIONER PASSIDOMO: Are the parties in
23 agreement to five minutes for opening statements?

24 Ms. Moncada?

25 MS. MONCADA: FPL agrees to five minutes.

1 COMMISSIONER PASSIDOMO: Mr. Rehwinkel?

2 MR. REHWINKEL: We agree.

3 MR. WRIGHT: That's completely fine with the
4 FRF. We hope it doesn't come to that.

5 COMMISSIONER PASSIDOMO: Yeah. Thank you.

6 MR. MOYLE: And I heard earlier there were
7 some people being excused, and I talked with staff,
8 and I think given where things are, FIPUG is going
9 to respectfully also ask to be excused. So given
10 that, we don't have a position on the opening
11 statement.

12 COMMISSIONER PASSIDOMO: Okay. Right. Okay.
13 Thank you.

14 So let's just conclude up with other matters.
15 Any other matters, staff, to address in this
16 prehearing conference?

17 MS. BROWNLESS: Yes, ma'am.

18 Due to the unusual nature of this proceeding,
19 staff would like to review the procedure to be
20 followed at the March 26th hearing with the
21 parties. And I am just going to go down the list.

22 Call the hearing to order.

23 Read the notice.

24 Take appearances.

25 Preliminary matters, if any.

1 Identification of CEL exhibits.

2 Identification of prefiled testimony.

3 Opening statements.

4 Commission discussion of proposed stipulation.

5 Motion and vote.

6 And again, if the vote is to approve the
7 proposed stipulation, the CEL and exhibits and the
8 prefiled testimony will be moved into evidence in
9 and the hearing will be adjourned.

10 If the vote is not to approve the proposed
11 stipulation, no further action will be taken on
12 either the CEL exhibits or the prefiled testimony.
13 The hearing will be then be continued until a later
14 date, and a new trial schedule will be set with new
15 filing dates.

16 COMMISSIONER PASSIDOMO: Thank you, Ms.
17 Brownless.

18 Do any parties have any comments or changes to
19 the process as outlined?

20 MR. WRIGHT: Commissioner, that -- no problem
21 at all with the process as outlined. I would like
22 to chime in, following up on what Mr. Moyle said,
23 and ask that, respectfully, that we might be
24 excused also from the --

25 COMMISSIONER PASSIDOMO: Yes.

1 MR. WRIGHT: -- from the March 26th hearing.
2 Hopefully that's the end of all of this.

3 COMMISSIONER PASSIDOMO: Sure. Yeah.

4 MR. WRIGHT: Thank you.

5 COMMISSIONER PASSIDOMO: Okay. Do we have any
6 other matters --

7 MS. MONCADA: No changes to the procedure from
8 FPL.

9 COMMISSIONER PASSIDOMO: Oh, thank you. Thank
10 you, Ms. Moncada.

11 So any other matters to discuss?

12 MS. BROWNLESS: Since FIPUG and FRF have asked
13 to be excused, is it appropriate to rule upon that
14 at this time?

15 COMMISSIONER PASSIDOMO: I believe I can do
16 that, yes. So, I mean, at this -- we will go ahead
17 and say that FRF and FIPUG will be excused from the
18 March 26th hearing.

19 MR. MOYLE: Thank you.

20 MR. WRIGHT: Thank you.

21 COMMISSIONER PASSIDOMO: Yep.

22 Okay. Well, I just want to say thank you all
23 for all your hard work on this. Seeing no
24 additional matters, this prehearing conference is
25 adjourned.

1 MS. BROWNLESS: Thank you.

2 MR. MOYLE: Thank you.

3 MS. MONCADA: Thank you.

4 (Proceedings concluded.)

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CERTIFICATE OF REPORTER


STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby
certify that the foregoing proceeding was heard at the
time and place herein stated.

IT IS FURTHER CERTIFIED that I
stenographically reported the said proceedings; that the
same has been transcribed under my direct supervision;
and that this transcript constitutes a true
transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative,
employee, attorney or counsel of any of the parties, nor
am I a relative or employee of any of the parties'
attorney or counsel connected with the action, nor am I
financially interested in the action.

DATED this 20th day of March, 2024.


DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH31926
EXPIRES AUGUST 13, 2024