RESOLUTION NO. 4-14

A RESOLUTION AUTHORIZING THE WITHDRAWAL OF THE UTILITIES COMMISSION’S FUNDS FROM THE RESTRICTED SINKING FUND BANK ACCOUNT FOR DECOMMISSIONING COSTS FOR THE CRYSTAL RIVER UNIT NO. 3 (CR-3) NUCLEAR GENERATING UNIT UPON THE NUCLEAR REGULATORY COMMISSION’S (NRC) APPROVAL OF DUKE ENERGY’S CR-3 NUCLEAR LICENSE AMENDMENT IN ACCORDANCE WITH THE CR-3 SETTLEMENT, RELEASE, AND ACQUISITION AGREEMENT, TO ENABLE A CLOSING TRANSACTION AND THE TRANSFERENCE OF THE U.C.’S JOINT OWNERSHIP INTERESTS TO DUKE ENERGY; RESCINDING ALL RESOLUTIONS, OR PORTIONS THEREOF, IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Utilities Commission, City of New Smyrna Beach, Florida, was duly created and validly existing under and by virtue of Chapters 67-1754 and 85-503, Laws of Florida, as the governing body of the utility system of the City of New Smyrna Beach, Florida; and

WHEREAS, the Utilities Commission entered into a participation agreement with Duke Energy (fka Florida Power Corporation and Progress Energy) and became a joint owner in the Crystal River Unit No. 3, Nuclear Generating Unit (ownership interest of 0.5608%); and

WHEREAS, as a requirement of the joint ownership in this nuclear unit, the establishment of a restricted fund was required for the associated and future decommissioning of this unit, and the U.C.’s decommissioning funds were continuously segregated and restricted in separate general ledger accounts and transparently depicted in the U.C.’s annual comprehensive financial reports, and were fully funded at the required levels, and these restricted funds are currently residing in an account at the Bank of America entitled “Restricted Sinking Fund for the Decommissioning Costs CR-3 Nuclear Plant”; and

WHEREAS, a failed CR-3 steam generator replacement project by Duke Energy resulted in delamination, extended outage, and early retirement of this nuclear unit and a negotiated settlement agreement is in the process of approval by the affected participants.

NOW, THEREFORE, BE IT RESOLVED BY THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, AS FOLLOWS:

SECTION 1: The Utilities Commission does hereby approve and authorize the withdrawal of the CR-3 Decommissioning funds residing in the above referenced Bank of America account upon the U.C.’s CEO/General Manager and U.C.’s CFO/Director Finance written request, this resolution a required part of this request thereof, and said written request must be after the Nuclear Regulatory Commission’s approval of Duke Energy’s CR-3 nuclear license amendment and in accordance with the CR-3 Settlement, Release, and Acquisition Agreement, to become available for the closing transaction to transfer all of the U.C.’s joint ownership interests in the CR-3 nuclear unit to Duke Energy.
SECTION 2: If the above referenced actions and specified closing transaction does not come to fruition, this resolution and said authorization for withdrawal of the CR-3 Decommissioning funds becomes null and void.

SECTION 3: If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4: All Resolutions, or portions thereof, in conflict herewith are hereby rescinded and superseded.

SECTION 5: After adoption by the Utilities Commission, this Resolution shall take effect immediately upon passage.

THE ABOVE AND FOREGOING RESOLUTION was introduced at a special meeting of the Utilities Commission, City of New Smyrna Beach, Florida, held on June 25, 2014, by Commissioner _____ Griffith ___________, who moved its adoption, which motion was seconded by Commissioner _____ Biedenbach ____________, and upon roll call vote of the Commission was as follows:

CHAIRMAN

VICE CHAIRMAN

SECY.-TREAS.

ASST. SECY.-TREAS.

COMMISSIONER

APPROVED:

William 2 Hall

CHAIRMAN

ATTEST:

SECRETARY TREASURER

APPROVED AS TO FORM AND CORRECTNESS:

Utilities Commission Attorney