State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 29, 2009

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Slemkewicz, D. Buys, Davis, Laux, P. Lee, Draper) EJD
Office of the General Counsel (Brown) MCB JSB

JS ALM CH

RE: Docket No. 090421-EI – Petition for Commission approval of base rate increase for costs associated with CR3 uprate project, pursuant to Section 366.93(4), F.S. and Rule 25-6.0423(7), F.A.C., by Progress Energy Florida, Inc.

AGENDA: 11/10/09 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

RECEIVED-FPSC
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COMMISSION CLERK

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Argenziano

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\090421.RCM.DOC

Case Background

In 2006, the Florida Legislature adopted legislation, Section 366.93, Florida Statutes (F.S.), encouraging the development of nuclear energy in the state. In that section, the Legislature directed the Commission to adopt rules providing for alternate cost recovery mechanisms that would encourage investor-owned electric utilities to invest in nuclear power plants. The Commission adopted Rule 25-6.0423, Florida Administrative Code (F.A.C.), which provides for an annual clause recovery proceeding to consider investor-owned utilities' requests for cost recovery for nuclear plants.

This Commission granted Progress Energy Florida, Inc.'s (PEF or Company) need determination for the Crystal River 3 (CR3) Uprate on February 8, 2007.[1] Once completed, the CR3 Uprate will provide an additional 180 megawatts of nuclear generation. The CR3 Uprate will be accomplished in three phases.[2] The reasonableness and prudence of the construction expenditures related to each phase of the CR3 Uprate project are subject to review in the Nuclear Cost Recovery Clause.[3]

Phase 1, the Measurement Uncertainty Recapture (MUR) phase, was completed during the 2007 refueling outage and went online on January 31, 2008. A $1,297,979 base rate increase for the MUR phase was granted in Docket No. 080603-EI,[4] effective with the first billing cycle in January 2009.

During 2009, items associated with Phase 2, the Balance of Plant (BOP) phase, of the CR3 Uprate project will go into service. On August 28, 2009, PEF filed a petition to increase its base rates by the $16,559,938 revenue requirements associated with the 2009 BOP phase of the CR3 Uprate project pursuant to Rule 25-6.0423(7), F.A.C. According to PEF, these items do not increase the licensed output of the nuclear reactor, but will improve the efficient use of that output.[5] PEF also has requested an additional $756,338 base rate increase for the 5-year amortization of Extended Power Uprate (EPU) assets that are being retired during 2009 pursuant to Rule 25-6.0423(7)(e), F.A.C. In total, PEF has requested a base rate increase of $17,316,276.

Consistent with PEF's request for permanent rate relief in the Company's base rate proceeding (Docket No. 090079-EI), PEF has requested that the base rate increase for these assets being placed in service in 2009 be made effective with the first billing cycle in January 2010. Given this, the Company plans to file one complete set of tariff sheets with new rates to include the increase requested herein and that approved in Docket No. 090079-EI. These rates and tariff sheets will be filed for approval in compliance with final decisions related to revenue requirements, cost of service, billing determinants, and rate design made in this docket and in Docket No. 090079-EI, in accordance with the schedule established in Docket No. 090079-EI.

The Commission has jurisdiction over this subject matter pursuant to the provisions of Section 366.93, F.S., and other provisions of Chapter 366, F.S.

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[1] Order No. PSC-07-0119-FOF-EI, issued February 8, 2007, in Docket No. 060642-EI, In re: Petition for determination of need for expansion of Crystal River 3 nuclear power plant, for exemption from Bid Rule 25-22.082, F.A.C., and for cost recovery through fuel clause, by Progress Energy Florida, Inc.

[2] Phase 1 – Measurement Uncertainty Recapture, Phase 2 – Balance of Plant, and Phase 3 – Extended Power Uprate.

[3] Docket No. 090009-EI, In re: Nuclear cost recovery clause.

[4] Order No. PSC-08-0779-TRF-EI , issued November 26, 2008, in Docket No. 080603-EI, In re: Petition for expedited Commission approval of base rate increase for costs associated with MUR phase of CR3 uprate project, pursuant to Section 366.93(4), F.S. and Rule 25-6.0423(7), F.A.C., by Progress Energy Florida, Inc.

[5] PEF Petition, p.3, filed August 28, 2009.

Discussion of Issues

Issue 1: Should the Commission approve PEF's request to increase its base rates by $16,559,938 for the BOP phase of the CR3 Uprate project?

Recommendation: No. PEF's request to increase its base rates by $16,559,938 for the BOP phase of the CR3 Uprate project should be reduced to $16,175,437, a reduction of $384,501. This approval should be subject to true-up and revision based on the final review of the 2009 BOP phase expenditures in Docket No. 090009-EI, Nuclear Cost Recovery Clause. (Slemkewicz, P. Lee, D. Buys, Davis, Laux)

Staff Analysis: PEF has requested approval to increase its base rates by $16,559,938 for the BOP phase of the CR3 Uprate project. During 2009, items associated with the BOP phase of the CR3 Uprate project will go into service.

Rule 25-6.0423(7), F.A.C., states the following:

> (7) Commercial Service. As operating units or systems associated with the power plant and the power plant itself are placed in commercial service:
>
> (a) The utility shall file a petition for Commission approval of the base rate increase pursuant to Section 366.93(4), F.S., separate from any cost recovery clause petitions, that includes any and all costs reflected in such increase, whether or not those costs have been previously reviewed by the Commission; provided, however, that any actual costs previously reviewed and determined to be prudent in the Capacity Cost Recovery Clause shall not be subject to disallowance or further prudence review except for fraud, perjury, or intentional withholding of key information.
>
> (b) The utility shall calculate the increase in base rates resulting from the jurisdictional annual base revenue requirements for the power plant in conjunction with the Capacity Cost Recovery Clause projection filing for the year the power plant is projected to achieve commercial operation. The increase in base rates will be based on the annualized base revenue requirements for the power plant for the first 12 months of operations consistent with the cost projections filed in conjunction with the Capacity Cost Recovery Clause projection filing.
>
> (c) At such time as the power plant is included in base rates, recovery through the Capacity Cost Recovery Clause will cease, except for the difference between actual and projected construction costs as provided in subparagraph (5)(c)4. above.
>
> (d) The rate of return on capital investments shall be calculated using the utility's most recent actual Commission adjusted basis overall weighted average rate of return as reported by the utility in its most recent Earnings Surveillance Report prior to the filing of a petition as provided in paragraph (7)(a). The return on equity cost rate used shall be the midpoint of the last Commission approved range for return on equity or the last Commission approved return on equity cost rate established for use for all other regulatory purposes, as appropriate.
>
> (e) The jurisdictional net book value of any existing generating plant that is retired as a result of operation of the power plant shall be recovered through an

> increase in base rate charges over a period not to exceed 5 years. At the end of the recovery period, base rates shall be reduced by an amount equal to the increase associated with the recovery of the retired generating plant.

In compliance with Rule 25-6.0423(7), F.A.C., PEF submitted its calculation of the annualized base revenue requirements for the BOP phase for the first 12 months of operations. This calculation is shown on Schedule 1. Staff has reviewed the calculation of the $16,559,938 jurisdictional annual revenue requirement. In staff's opinion, the annual revenue requirement calculation has been calculated in compliance with Rule 25-6.0423(7), F.A.C.

During staff's review, it was discovered that PEF's calculation included depreciation based on the rates proposed in its rate case in Docket No. 090079-EI.[6] In staff's opinion, it is premature to use the not-yet-approved depreciation rates proposed in the rate case. Instead, staff believes that the current Commission-approved rates authorized in Order No. PSC-05-0945-S-EI[7] are the appropriate rates to be used in the revenue requirement calculation. As shown on Schedule 1, the result of using the currently approved depreciation rates reduces the jurisdictional revenue requirement from $16,559,938 to $16,175,437, a reduction of $384,501. Staff recommends approval of the $16,175,437 base rate increase.

The 2009 expenditures related to the BOP phase are still under review in Docket No. 090009-EI. A final determination of the reasonableness and prudence of the 2009 expenditures will not be made until 2010. Per Attachment A to PEF's petition, the increase in Electric Plant in Service included in the calculation is $111,441,133 ($102,156,973 jurisdictional), net of joint owners. If the $111,441,133 amount is revised based on a final audit and review of the 2009 expenditures, the annual revenue requirement will have to be recalculated. This would require a true-up of the revenues already collected and a revision of the related tariffs. Therefore, staff further recommends that the approval of the $16,175,437 base rate increase be made subject to true-up and revision based on the final review of the 2009 BOP phase expenditures in Docket No. 090009-EI.

[6] Docket No. 090079-EI, In re: Petition for increase in rates by Progress Energy Florida, Inc.

[7] Order No. PSC-05-0945-S-EI., issued September 28, 2005, in Docket No. 050078-EI, In re: Petition for rate increase by Progress Energy Florida, Inc.

Issue 2: Should the Commission approve PEF's request to increase its base rates by $756,338 for the 5-year amortization of the EPU assets that are being retired during 2009?

Recommendation: No. PEF's request to increase its base rates by $756,338 for the 5-year amortization of the EPU assets that are being retired during 2009 should be reduced to $637,168, a reduction of $119,170. (Slemkewicz, P. Lee)

Staff Analysis: PEF has requested approval to increase its base rates by $756,338 for the 5-year amortization of EPU assets that are being retired during 2009 pursuant to Rule 25-6.0423(7)(e), F.A.C., which states:

> The jurisdictional net book value of any existing generating plant that is retired as a result of operation of the power plant shall be recovered through an increase in base rate charges over a period not to exceed 5 years. At the end of the recovery period, base rates shall be reduced by an amount equal to the increase associated with the recovery of the retired generating plant.

Per Attachment C to PEF's petition, the net book value of the EPU asset retirements will be $7,200,939 at December 31, 2009. This results in an annual amortization of $1,440,188 over the 5-year period. In addition, PEF has proposed to offset the annual amortization by an annual depreciation credit of $615,113 resulting in a net annual amortization of $825,075 ($756,338 jurisdictional). The depreciation credit recognizes that the retired EPU assets are included in PEF's projected 2010 test year in its rate case in Docket No. 090079-EI.[8]

During staff's review, it was discovered that PEF's calculation included depreciation based on the rates proposed in its rate case in Docket No. 090079-EI. In staff's opinion, it is premature to use the not-yet-approved depreciation rates proposed in the rate case. Instead, staff believes that the current Commission-approved rates authorized in Order No. PSC-05-0945-S-EI[9] are the appropriate rates to be used in the revenue requirement calculation. As shown on Schedule 1, the result of using the currently approved depreciation rates increases the jurisdictional depreciation credit from $563,868 to $683,038, an increase of $119,170. As a result, the jurisdictional 5-year amortization amount is decreased from $756,338 to $637,168, a reduction of $119,170. Therefore, staff recommends that $637,168 is the appropriate annual amount for the 5-year amortization of the EPU assets that are being retired during 2009.

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[8] Docket No. 090079-EI, In re: Petition for increase in rates by Progress Energy Florida, Inc.

[9] Order No. PSC-05-0945-S-EI., issued September 28, 2005, in Docket No. 050078-EI, In re: Petition for rate increase by Progress Energy Florida, Inc.

Issue 3: Should the Commission approve PEF's proposal to add any revenue requirement increase approved in this docket to any approved revenue requirement increase in the pending base rate proceeding, Docket No. 090079-EI, for determining base rates?

Recommendation: Yes. PEF should file rates and tariff sheets for approval in compliance with final decisions related to revenue requirements, cost of service, billing determinants, rate design, and effective date made in Docket 090079-EI. (Draper)

Staff Analysis: PEF requested that the revenue requirement approved in this docket be added to the approved revenue requirement increase in the pending base rate proceeding, Docket No. 090079-EI. PEF asked that those costs be allocated to retail rate classes and developed into individual rates consistent with methods and billing determinants approved in the base rate proceeding. PEF is also requesting that the base rate increase for the assets placed in service in 2009 be effective with the first billing cycle in January 2010. PEF states that it plans to file one complete set of tariff sheets with new rates to include the increase requested in this docket and that approved in Docket No. 090079-EI.

Staff agrees with PEF that any revenue increase granted in this docket should be added to any revenue increase granted in the rate case. That insures that customers will not experience multiple rate changes which can lead to customer confusion and frustration. The effective date of any base rate change is an issue in the rate case docket, subject to Commission approval. Staff recommends that rates and tariff sheets be filed for approval in compliance with final decisions related to revenue requirements, cost of service, billing determinants, rate design, and effective date made in this docket and Docket No. 090079-EI, in accordance with the schedule established in Docket No. 090079-EI.

Issue 4: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Brown)

Staff Analysis: At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.

Schedule 1

PROGRESS ENERGY FLORIDA, INC.
DOCKET NO. 090421-EI
EPU Assets Placed in Service In 2009
First 12 Months Revenue Requirements Summary Schedule

Line No.		PEF SYSTEM	PEF RETAIL @ 91.669%	STAFF SYSTEM	STAFF RETAIL @ 91.669%
1	Annualized Rate Base				
2	Electric Plant In Service (net of joint owners)	111,441,133	102,156,973	111,441,133	102,156,973
3	Accumulated Reserve for Depreciation	(1,654,283) [1]	(1,516,465) [1]	(1,425,324) [2]	(1,306,579) [2]
4	Fuel Inventory	-----	-----	-----	-----
5	Working Capital - Income Taxes Payable	(1,493,868)	(1,369,414)	(1,406,475)	(1,289,301)
6	Total Annualized Rate Base	108,292,982	99,271,094	108,609,334	99,561,093
7					
8	Annualized NOI				
9	O&M	-----	-----	-----	-----
10	Depreciation Expense	3,308,567 [1]	3,032,930 [1]	2,850,647 [2]	2,613,160 [2]
11	Property Taxes	1,302,700	1,194,172	1,302,700	1,194,172
12	Payroll Taxes & Benefits	-----	-----	-----	-----
13	Income Taxes·	-----	-----	-----	-----
14	Direct Current & Deferred	(1,778,796)	(1,630,605)	(1,602,154)	(1,468,678)
15	Imputed Interest	(1,208,940)	(1,108,223)	(1,210,796)	(1,109,924)
16	Total Annualized NOI	(1,623,531)	(1,488,274)	(1,340,398)	(1,228,729)
17					
18					
19	Calculatipn of Revenue Requirement				
20	Fully Adjusted Cost of Capital (per June 2009 Surveillance)	8.71%	8.71%	8.71%	8.71%
21	NOI Requirement (Line 6 * Line 20)	9,433,402	8,647,505	9,459,873	8,671,771
22	NOI Deficiency (Line 21 less Line 16)	11,056,932	10,135,779	10,800,271	9,900,500
23	Net Operating income Multiplier (MFR C-44)	1.6338	1.6338	1.6338	1.6338
24					
25	Revenue Requirement (Line 22 • Line 23)	18,064,927	16,559,938	17,645,482	16,175,437
26					
27	Annual Amort of Retired BV	1,440,188	1,320,206	1,440,188	1,320,206
28	Less: Annual Deprec. Credit	(615,113) [1]	(563,868) [1]	(745,993) [2]	(683,038) [2]
29					
30	Net Revenue Requirements (Line 25 + Line 27 + Line 28)	18,890,002	17,318,276	18,339,677	16,812,605
31					
32	Calculation of Taxes on Imputed Interest				
33	Weighted Cost of Debt Capital (per June 2009 Surveillance):				
34	Long Term Debt Fixed Rate	2.76%	2.76%	2.76%	2.76%
35	Long Term Debt Variable Rate	0.00%	0.00%	0.00%	0.00%
36	Short Term Debt	0.00%	0.00%	0.00%	0.00%
37	Customer Deposits	0.13%	0.13%	0.13%	0.13%
38	JDIC	0.00%	0.00%	0.00%	0.00%
39	Total	2.89%	2.89%	2.89%	2.89%
40					
41	Imputed Interest (Line 6 * Line 39)	3,133,999	2,872,905	3,138,810	2,877,316
42	Income Taxes on Imputed Interest at 38.575%	(1,208,940)	(1,108,223)	(1,210,796)	(1,109,924)

Notes: [1]PEF's depreciation rates are based on the rates proposed in the 2010 rate case in Docket No. 090079-EI.
[2]Staff's depreciation rates are based on the current Commission-approved rates.