

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of demand-side management plan of Florida Power & Light Company.

DOCKET NO. 100155-EG

In re: Petition for approval of demand-side management plan of Progress Energy Florida, Inc.

DOCKET NO. 100160-EG
ORDER NO. PSC-11-0469-PCO-EG
ISSUED: October 18, 2011

ORDER CONSOLIDATING DOCKETS
AND
ESTABLISHING PROCEDURE

I. Case Background

On August 16, 2011, in Docket No. 100155-EG, the Commission issued Order PSC-11-0346-PAA-EG, Modifying and Approving the Demand Side Management Plan of Florida Power & Light Company (FPL). Also on that date, in Docket Number 100160-EG, the Commission issued Order PSC-11-0347-PAA-EG, Modifying and Approving Demand Side Management Plan of Progress Energy Florida, Inc. (PEF). In both orders, issued as Proposed Agency Action, the Commission modified the DSM plans of FPL and PEF, such that the approved plans would consist of those programs in effect as of the date of the order.

On September 6, 2011, the Southern Alliance for Clean Energy (SACE) timely protested portions of the FPL and PEF Orders. SACE's Protests specifically state: "[w]hile SACE does not agree with the material facts the Commission utilized to reach its decision, SACE is not alleging any disputed issues of material fact in this protest in order to focus on the legal infirmity of the Commission's decision." As relief, SACE specifically requests the Commission vacate the PAA orders and order the approval of plans which meet FPL and PEF's previously established energy savings goals, or in the alternative, approve those portions of FPL and PEF's DSM plans which meet Commission approval and order the companies to submit modified plans which address specific deficiencies identified by the Commission.

An Issue Identification/Status Meeting (status meeting) was held October 5, 2011, at which representatives of SACE, FPL, PEF, and other interested parties participated.¹ During the status meeting, the parties agreed to file briefs and participate in an Oral Argument before the Commission, after which the protest hearing record would be closed. Staff would then file a written recommendation, and the Commission would vote on this matter at an Agenda Conference. The parties also agreed on a Tentative Issues List.

¹ Intervenors to Dockets 100155-EG and 100160-EG participating in the status meeting included the Florida Industrial Power User's Group (FIPUG) and the Florida Solar Energy Industry Association (FlaSEIA). Representatives of Tampa Electric Company also monitored the status meeting.

DOCUMENT NUMBER-DATE

07622 OCT 18 =

FPSC-COMMISSION CLERK

This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code (F.A.C.), which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

II. Consolidation of Dockets

During the October 5, 2011, status meeting, the issue of consolidation of both the FPL and PEF dockets was discussed. Given that the relief SACE requests in both protests is identical, and the issues in both protests are similar, all parties agreed that consolidation of the dockets for hearing and decision purposes would be the most efficient way of proceeding.

Upon review, I find that consolidation of these dockets will promote the just, speedy and less expensive resolution of the proceedings, and will not unduly prejudice the rights of any party. Accordingly, Docket Nos. 100155-EG and 100160-EG are hereby consolidated for hearing and decision purposes. Both dockets shall remain open, and while all filings shall be made in Docket No. 100155-EG,² all filings shall be captioned with both docket numbers. The consolidated cases will be governed by the procedures set forth below.

III. General Filing Procedures

In accordance with Rule 25-22.028, F.A.C., parties filing documents in this proceeding shall submit the original document and the appropriate number of copies to the Office of Commission Clerk for filing in the Commission's docket file. Filings may be made by mail, hand delivery, courier service, or in some instances, electronically. Please refer to the rule for the requirements of filing on diskette for certain utilities. To the extent possible, all filings made electronically or on diskette shall be provided in Microsoft Word format. Filings pertaining to this docket should identify the assigned docket number and should be addressed to:

Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

IV. Tentative List of Issues

A list of the issues identified thus far in this proceeding is attached hereto as Attachment A. The scope of this proceeding will be based upon these issues, unless modified by the Commission.

² Simple economy dictates that filings should only be made in one docket. I am advised that this Commission's Clerk has procedures so that documents filed in one docket are cross-referenced in the other.

V. Briefs and Oral Argument

Each party and intervenor to these dockets may file a brief. SACE and any parties supporting SACE's protest of the PAA orders shall be referred to as "supporting the protest." FPL, PEF, and any intervenors in opposition to SACE's protest shall be referred to as "opposing the protest." Briefs shall be due on the dates set forth in Section VI, below, and shall be limited to 30 pages.

After the briefs have been filed, intervenors and parties shall be allowed oral argument before the Commission. Those parties supporting the protest and those opposing the protest shall be allowed 20 minutes per side. The oral argument shall be held on the date set forth in Section VI, below.

VI. Controlling Dates

The following dates have been established to govern the key activities of this case:

- | | |
|-------------------------------|------------------|
| (1) Briefs supporting protest | October 24, 2011 |
| (2) Briefs opposing protest | November 7, 2011 |
| (3) Oral Argument | December 6, 2011 |

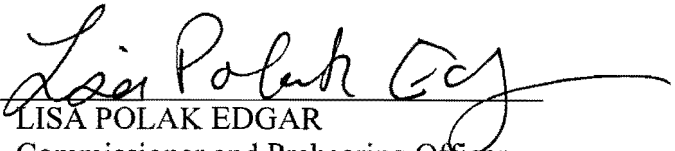
In addition, the Prehearing Officer may exercise the discretion to schedule additional prehearing conferences or meetings of the parties as deemed appropriate. Such meetings will be properly noticed to afford the parties an opportunity to attend.

Based upon the foregoing, it is

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that Docket Nos. 100155-EG and 100160-EG are hereby consolidated for hearing purposes. It is further

ORDERED that the provisions of this Order shall govern this proceeding unless modified by the Commission.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 18th day of October, 2011.


LISA POLAK EDGAR
Commissioner and Prehearing Officer
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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

ATTACHMENT A
ISSUES LIST

1. Whether the commission violated Florida Statute §366.82(7) by ordering a “Newly Modified DSM Plan” for FPL that matches its DSM plan currently in place?
2. Whether the Commission violated Florida Statute §366.82(7) by not requiring FPL to submit a modified plan following the denial of FPL’s “Modified DSM Plan” and “Alternate DSM Plan” submitted on March 25, 2011?
3. Whether the Commission violated Florida Statute §366.82(7) by ordering a “Newly Modified DSM Plan” for PEF that matches its DSM plan currently in place?
4. Whether the Commission violated Florida Statute §366.82(7) by not requiring PEF to submit a modified plan following the denial of PEF’s “Original Goal Scenario DSM Plan” and “Revised Goal DSM Plan” submitted on November 29, 2010?