

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition by Progress Energy Florida, Inc. to recover costs of Crystal River Unit 3 uprate through fuel clause.

DOCKET NO. 070052-EI
ORDER NO. PSC-07-0446-PCO-EI
ISSUED: May 23, 2007

FIRST ORDER REVISING ORDER ESTABLISHING PROCEDURE

On September 22, 2006, Progress Energy Florida (“PEF” or “Progress”) filed a Petition for Determination of Need to Expand its Crystal River Unit 3 Nuclear Power Plant in Docket No. 060642-EI. In its petition PEF also requested cost recovery of the expansion through the fuel clause, which issue was bifurcated from the need determination.¹ Docket No. 070052-EI was established to consider PEF’s petition for cost recovery. The Commission then considered and denied the Office Of Public Counsel (“OPC”), AARP, Florida Industrial Power Users Group (FIPUG), and Florida Retail Federation’s (“FRF”) (collectively the “joint movants”) Joint Motion to Abate the cost recovery proceeding.²

On May 2, 2007, the Order Establishing Procedure (“OEP”) was issued establishing an August 7, 2007, hearing date; a July 9, 2007, prehearing conference; and controlling dates for prefiled testimony.³ On May 4, 2007, PEF filed the amended testimony of witnesses Javier Portuondo, Daniel L. Roderick, and Samuel S. Waters.⁴ On May 10, 2007, OPC, AARP, FIPUG, and FRF filed a joint motion seeking to reschedule the hearing, or alternatively to amend the OEP to revise the dates for the prehearing conference and for filing intervenor, staff, and rebuttal testimony. Joint movants subsequently withdrew their request to reschedule the evidentiary hearing. Accordingly, the only motion before me is a motion to revise the procedural timelines established by the OEP. The joint movants allege that the current controlling dates compress the time available for the parties to prepare for hearing and thus, they seek additional time to submit their prefiled testimony. The joint movants assert that modifying the procedural milestones in this docket would not create a hardship for PEF and would allow the intervenors the additional time needed to prepare their testimony. PEF responded in opposition arguing that the joint movants have not shown good cause why the existing dates cannot be met.

This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code (F.A.C.), which allows the presiding officer to “issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.” Based on PEF’s petition, the numerous motions filed by the parties, and the pre-filed testimony of PEF’s witnesses, it appears that this docket contains complex issues for the Commission to resolve. It is to the Commission’s benefit to have a

¹ Order No. PSC-07-0119-FOF-EI, issued February 8, 2007, in Docket No. 060642-EI.

² Order No. PSC-07-0334-PCO-EI, issued April 17, 2007.

³ Order No. PSC-07-0390-PCO-EI.

⁴ PEF prefiled its testimony on September 22, 2006 concurrent with the filing of its petition.

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complete and thorough record, so that the Commission has before it all aspects of the case. While delaying the case by extending the hearing date would not be appropriate under the circumstances alleged, moving the current schedule for pre-filing testimony would not delay the scheduled hearing. By moving the prehearing conference from July 9, 2007, to July 23, 2007, the joint movants would be allowed an additional three weeks to prefile testimony. Staff and PEF will not be harmed in their preparations for hearing as they will still have the same amount of time after intervenor testimony to prefile responsive or rebuttal testimony.

Therefore, in consideration of the nature of this proceeding, I find that granting joint movant's request to adjust procedural milestones will not delay the proceeding and will provide the parties with the opportunity to develop a complete record. Accordingly, the controlling dates in this docket will be modified as indicated in the table below:


- | | |
|--------------------------------------------|---------------|
| (1) Intervenors' testimony and exhibits | June 19, 2007 |
| (2) Staff's testimony and exhibits, if any | July 5, 2007 |
| (3) Rebuttal testimony and exhibits | July 19, 2007 |
| (4) Prehearing Statements | July 9, 2007 |
| (5) Prehearing Conference | July 23, 2007 |

Based on the foregoing, it is

ORDERED by Commissioner Matthew M. Carter II, as Prehearing Officer, that the controlling dates for this docket shall be modified as discussed in the body of this Order. It is further

ORDERED that Order No. PSC-07-0390-PCO-EI is reaffirmed in all other respects.

By ORDER of Commissioner Matthew M. Carter II, as Prehearing Officer, this 23rd day of May, 2007.


MATTHEW M. CARTER II
Commissioner and Prehearing Officer

(S E A L)

LCB/pz

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 25-22.060, 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.