

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Generic investigation
into the aggregate electric
utility reserve margins planned
for Peninsular Florida.

DOCKET NO. 981890-EU
ORDER NO. PSC-99-1937-PCO-EU
ISSUED: September 30, 1999

ORDER DENYING REQUEST TO BIFURCATE INVESTIGATION

On June 30, 1999, a status conference and preliminary prehearing conference was held pursuant to Order No. PSC-99-1229-PCO-EU, issued June 22, 1999. During the conference, several of the parties raised issues challenging the nature of this docket as an investigation being conducted as a formal evidentiary hearing. By Order No. PSC-99-1274-PCO-EU, issued July 1, 1999, the Prehearing Officer¹ ordered that the docket proceed as a formal evidentiary proceeding. That Order defined the scope of the proceeding and established the issues in the docket.

On July 9, 1999, Florida Power Corporation ("FPC") filed a motion for reconsideration of Order No. PSC-99-1274-PCO-EU and a request for oral argument. On July 12, 1999, Florida Power & Light Company ("FPL") filed a motion for reconsideration of the Order and a request for oral argument. On July 20, 1999, Duke Energy New Smyrna Beach Power Company Ltd., L.L.P. and Duke Energy North America, L.L.C. (Duke) filed a consolidated response to the motions for reconsideration. At the Commission's July 27, 1999, agenda conference, FPC and FPL's requests for oral argument were granted and oral argument was heard. After oral argument, the Commission denied both FPC and FPL's motions for reconsideration. The Commission's decision is memorialized in Order No. PSC-99-1716-PCO-EU, issued September 2, 1999.

On July 28, 1999, FPC filed a request to bifurcate the investigation being conducted in this docket. FPC requests that the Commission, in this docket, focus solely on the issue of what methodology is appropriate to calculate reserve margins. Specifically, FPC contends that the Commission should only consider

¹Commissioner Julia L. Johnson was assigned as the Prehearing Officer for this docket at the time Order No. PSC-99-1274-PCO-EU was issued. Chairman Joe Garcia has since replaced Commissioner Johnson as Prehearing Officer for this docket.

DOCUMENT NUMBER DATE

11805 SEP 30 99

FPSC-RECORDS/REPORTING

ORDER NO. PSC-99-1937-PCO-EU
DOCKET NO. 981890-EU
PAGE 2

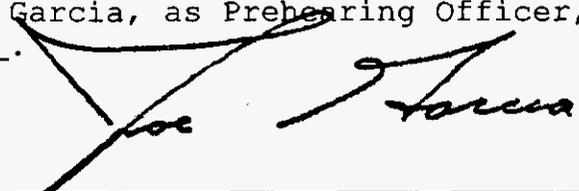
Issues 1, 3-5, 9-11, and 13 established in Order No. PSC-99-1274-PCO-EU. FPC requests that the Commission defer consideration of all other issues established in Order No. PSC-99-1274-PCO-EU (Issues 2, 6-8, 12, and 14-19) to a later proceeding. FPC states that it believes its requests are "consistent with what appeared to be an emerging consensus on the part of at least several Commissioners at the July 27 Agenda Conference to conduct this investigation in phases." FPC also requests that Issue 10 be reworded consistent with discussion at the July 27 agenda conference.

At the July 27, 1999, agenda conference, the Commission and the parties extensively discussed views about how this docket should proceed, including the benefits and disadvantages of different options. Ultimately, the Commission denied FPC and FPL's motions for reconsideration, thus upholding Order No. PSC-99-1274-PCO-EU and the issues set forth therein. I believe that the Commission, having heard extensive discussion on the procedural posture of this docket, will have sufficient guidance to determine what action it believes is appropriate after the hearing on these issues. Therefore, I find that this docket should proceed on the issues set forth in Order No. PSC-99-1274-PCO-EU. As to FPC's request to reword Issue 10, I find that any requests to modify the issues set forth in Order No. PSC-99-1274-PCO-EU may be raised at the prehearing conference for discussion among the parties.

Based on the foregoing, it is

ORDERED by Chairman Joe Garcia, as Prehearing Officer, that Florida Power Corporation's request to bifurcate the investigation in this docket is denied.

By ORDER of Chairman Joe Garcia, as Prehearing Officer, this 30th day of September, 1999.



JOE GARCIA
Chairman and Prehearing Officer

(S E A L)

WCK

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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Director, Division of Records and Reporting, 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. ifurcat.wck