

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery
clause with generating performance incentive
factor.

DOCKET NO. 100001-EI
ORDER NO. PSC-10-0577-PCO-EI
ISSUED: September 20, 2010

ORDER GRANTING OFFICE OF PUBLIC COUNSEL AND ATTORNEY GENERAL'S
JOINT MOTION FOR EXTENSION OF TIME TO FILE LIMITED TESTIMONY

Case Background

As part of the Commission's continuing fuel and purchased power cost recovery and generating performance incentive factor proceedings, this docket was opened, and a hearing has been set for November 1-3, 2010. By Order No. PSC-10-0154-PCO-EI (Order Establishing Procedure), issued March 18, 2010, a procedural schedule was established setting forth the controlling dates for this docket.

On September 14, 2008, the Office of Public Counsel (OPC) and the Attorney General's Office (AG) filed a Joint Motion for Extension of Time to File Limited Testimony (Motion) for submission of its direct testimony. Currently, the Order Establishing Procedure requires that intervenor direct testimony in this docket be filed on or before September 22, 2010. OPC and AG request an extension of time for the limited purpose of filing rebuttal testimony regarding fuel savings attributable to FPL's West County Unit 3. OPC and AG request an extension of 12 days and would thus file the limited testimony on October 4, 2010. OPC and AG state that they do not object to an equal extension of the deadline for FPL to file rebuttal testimony on the limited subject of the projection of fuel savings attributable to West County Unit 3.

Unopposed Motion

In its Motion, OPC and AG state that FPL included in its projection testimony, the projected fuel saving that FPL's West County Unit 3 will accomplish during the period June – December 2011. OPC and AG assert that the projection testimony includes a revised fuel factor that is intended to reflect the lower system fuel costs simultaneously with the addition of West County Unit 3 to FPL's system. According to OPC and AG, this FPL filing stems from the proposed settlement agreement between FPL and certain Intervenors presently pending before the Commission in Docket No. 080677-EI. OPC and AG assert that if the Commission approves the settlement agreement, FPL will be permitted to collect through its capacity cost recovery clause the portion of June-December 2011 revenue requirements associated with owning and operating West County Unit 3 that equals the amount by which the unit is projected to reduce system fuel costs during the same time frame. OPC and AG assert that the terms of the settlement agreement call for FPL to provide data to the Intervenors that will enable them to assess and, if warranted, challenge FPL's projection of fuel savings attributable to West County Unit 3. OPC states that it has engaged the services of a consultant who is well versed in the computerized production costing simulations used to model the operation of FPL's system with

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and without the new West County Unit 3. OPC has requested the data from FPL that will enable the consultant to review, analyze, and if warranted, respond to FPL's projection. OPC asserts that the review requires more time to complete than the existing case schedule provides, which is why OPC and AG request the extension of the deadline. OPC and AG state that they have contacted all parties to this docket and there are no objections to the granting of the motion.

Ruling

Having reviewed this Motion, it appears that OPC and AG have alleged sufficient grounds to modify the controlling date for the limited purpose of filing rebuttal testimony regarding fuel savings attributable to West County Unit 3. Accordingly, OPC and AG's Motion for Extension of Time is granted. FPL shall have until October 18, 2010 to file rebuttal testimony regarding the fuel savings attributable to West County Unit 3. In addition, in order to allow Staff and the parties to conduct discovery related to the West County Unit 3 fuel savings testimony, the cut-off date for completion of discovery pertaining to that issue shall be extended to Friday, October 29, 2010. For written discovery requests on the issue of fuel savings attributable to West County Unit 3, the party shall serve its responses to the requesting party, and to staff, via electronic mail, within 7 days of the date of the request. A hard copy of the responses shall also be served by hand-delivery, U.S. Mail or overnight mail on the day that responses are served electronically. All other requirements of Order No. PSC-10-0154-PCO-EI are re-affirmed and those dates control for all testimony except that specifically referenced by this Order. Thus all other OPC and intervenor testimony remains due on September 22, 2010. All other rebuttal testimony remains due on October 6, 2010.

Based on the foregoing, it is

ORDERED by Chairman Nancy Argenziano, as Presiding Officer, that the Office of Public Counsel and the Attorney General's Joint Motion for Extension of Time to File Limited Testimony is hereby granted as set forth in the body of this Order. It is further

ORDERED that Florida Power & Light Company shall have until October 18, 2010 to file rebuttal testimony regarding the fuel savings attributable to West County Unit 3. It is further

ORDERED that the cut-off date for the completion of discovery pertaining to the fuel savings attributable to West County Unit 3 shall be extended to Friday, October 29, 2010. It is further

ORDERED that for written discovery requests on the issue of fuel savings attributable to West County Unit 3, the party shall serve its responses to the requesting party, and to staff, via electronic mail, within 7 days of the date of the request. A hard copy of the responses shall also be served by hand-delivery, U.S. Mail or overnight mail on the day that responses are served electronically. It is further

ORDERED that Order No. PSC-10-0154-PCO-EI is reaffirmed in all other respects.

By ORDER of Chairman Nancy Argenziano, as Presiding Officer, this 20th day of September, 2010.



NANCY ARGENZIANO
Chairman and Presiding Officer

(S E A L)

LCB

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.