

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Progress Energy Florida, Inc.

DOCKET NO. 100437-EI  
ORDER NO. PSC-11-0108-PCO-EI  
ISSUED: February 8, 2011

ORDER GRANTING IN PART PROGRESS ENERGY FLORIDA, INC.'S MOTION TO ESTABLISH CASE SCHEDULING

By Order No. PSC-10-0632-PCO-EI, issued October 25, 2010, in Docket No. 100001-EI, In re: Fuel and purchased power cost recovery clause with generating performance incentive factor, the Commission established a docket separate from the fuel docket to review the actions at Progress Energy Florida, Inc.'s (PEF) Crystal River 3 nuclear plant (CR3) which have resulted in an extended outage and the need for PEF to purchase replacement power due to the outage. The Order states:

. . . the purpose of the docket will be to enable the Commission and all interested parties to review facts and information related to the Crystal River Unit 3 (CR3) steam generator replacement project and the subsequent delamination that was discovered during CR3's Refueling Outage 16. PEF asserts that in this new docket the Commission will be able to evaluate the prudence and reasonableness of PEF's actions concerning the delamination. The new docket will also provide the Commission with the ability to review the prudence of PEF's resulting fuel and purchase power replacement costs associated with the extended CR3 outage.

On November 10, 2010, Commission staff filed a request with the Office of the Commission Clerk to establish Docket No. 100437-EI, In re: Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Progress Energy Florida, Inc. Florida Industrial Power Users Group (FIPUG); White Springs Agricultural Chemicals, Inc., d/b/a PCS Phosphate – White Springs (PCS), and the Office of Public Counsel (OPC) were granted leave to intervene in this docket.

On December 3, 2010, PEF filed a motion to establish case scheduling order. In its motion, PEF requested that the Commission establish a case schedule as follows:

60 days after return to service	PEF files petition and direct testimony
180 days after return to service	Intervenor testimony
210 days after return to service	Staff testimony
240 days after return to service	Rebuttal testimony
270 days after return to service	CR3 hearing

DOCUMENT NUMBER 0111  
00905 FEB-8 =  
FPSC-COMMISSION CLERK

In its motion, PEF stated that OPC did not object to the motion. At the time PEF filed its motion, White Springs had not filed its petition to intervene.

On December 8, 2010, FIPUG filed a response to PEF's motion. In its response, FIPUG urges the Commission to set a date certain for this proceeding to ensure that a decision is reached by the end of 2011 so that the Commission's decision is incorporated into the 2012 fuel factors. FIPUG contends that, in this docket, the Commission will consider the prudence and reasonableness of PEF's actions regarding the extended outage at its CR3 unit. The CR3 unit provides low cost energy to consumers in PEF's service area. PEF must generate or purchase higher costing replacement power while CR3 is out of commercial service.

FIPUG asserts that on November 30, 2010, over the objection of OPC, the Attorney General, FIPUG, and other intervenors, the Commission voted to allow PEF to collect its total replacement power costs related to the CR3 outage from ratepayers and directed that these costs be incorporated into the 2011 factor. FIPUG contends that consumers are now being charged for over \$160 million in CR3 replacement power costs before the Commission has determined if such costs are reasonable or prudent in light of the circumstances surrounding the extended outage. Therefore, FIPUG concludes that this matter must be quickly and expeditiously scheduled so that resolution is reached before new factors are set at the end of 2011.

On December 29, 2010, Order No. PSC-10-0750-PCO-EI was issued holding PEF's motion in abeyance and directing a status conference be conducted in January of 2011. On January 19, 2011, a Commission notice that a status conference will be held on January 24, 2011, was issued. At the status conference PEF provided the latest, detailed information on the anticipated return of service of the CR3. PEF asserted that it anticipates CR3 will be placed back into commercial service on or before March 31, 2011. Also, at the status conference, counsels for all the parties in the docket stated their positions as it relates to setting a schedule for this docket.

OPC stated that it believes this docket will involve a significant amount of complexity. OPC contended that some of the areas to be evaluated for imprudence are: overall project planning, the specific engineering that led to the delamination event, the repair process and timeline, and the replacement power decisions. OPC asserted that it has already begun the discovery process, even before PEF filed testimony. OPC has received over a million pages of documents. OPC also stated that it conducted a two-day deposition of a panel of three PEF engineers. OPC believe that because of the complexity of the case, and the potentially large amount of money involved, the case should not be rushed, just for the happenstance of the annual fuel clause hearing.

FIPUG stated that it is very anxious to have the determination on prudence made. It expressed concern that customers are currently paying for replacement fuel costs when a determination of prudence has not been made. FIPUG asserted that they would like to see the case scheduled and determined, not in a rush, but as quickly and efficiently as possible. FIPUG stated that it would like to have the prudence decision sooner rather than later but also wanted to

be certain that all the parties' rights to discovery are protected and that there be a full and fair process.

White Springs expressed concern over waiting until CR 3 was in commercial operation to schedule the hearing. It was concerned because the hearing date was left open-ended. White Springs suggested that the parties discuss scheduling.

PEF asserted that of all the parties, it was in the best position to proceed to a quick hearing. PEF stated that it too wishes to be fair to all the parties and allow everyone the time they need to take a comprehensive look at the CR3 outage. PEF stated that the replacement power costs it is incurring for 2011 are being borne by PEF not ratepayers.

Commission staff acknowledged that by prior Order No. PSC-10-0734-FOF-EI, issued in Docket No. 100001-EI, the Commission directed that replacement power costs for CR3 are held subject to refund. Staff stated that it too believes this case is complex and that the Commission should have all the information before it prior to conducting a hearing and making a prudence determination.

Having reviewed PEF's motion, FIPUG's response to the motion, and having conducted the status conference, I find that at this time setting a definitive schedule to conduct a hearing in this docket would be premature. As stated throughout the status conference, the exact date for CR3 to be placed back into commercial service is not definitive. Moreover, as expressed by counsel for the parties, this docket involves a significant amount of complexity and to set a schedule now may very well result in one party being prejudiced by said schedule. However, I am mindful that to set a completely open-ended schedule without further monitoring, may not promote the just, speedy and efficient determination of this case.

Accordingly, in the event CR3 does not return to commercial service on or before March 31, 2011, PEF shall file a detailed status update on the anticipated return of CR3 to commercial service and any adjustments to the hearing schedule proposed by PEF's December 3, 2010 motion. The detailed status update shall be filed no later than April 4, 2011. Intervenors shall have 7 days from the date PEF files its status update to file written comments on the hearing schedule, at which time a status conference will be noticed and held.

In the event CR3 returns to operation on or before March 31, 2011, the parties shall adhere to the following schedule:

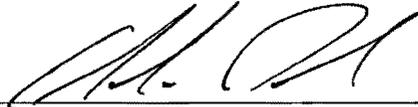
60 days after return to service	PEF files petition and direct testimony
180 days after return to service	Intervenor testimony
210 days after return to service	Staff testimony
240 days after return to service	Rebuttal testimony

An Order Establishing Procedure will be issued setting the prehearing conference, discovery deadlines, and hearing dates once PEF has filed testimony.

Based upon the foregoing, it is

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer, that Progress Energy Florida, Inc.'s Motion to Establish Case Schedule is hereby granted in part, as set forth herein.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 8th day of February, 2011.



EDUARDO E. BALBIS  
Commissioner and Prehearing Officer

( S E A L )

KY

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.