

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-13-0175-PCO-EI  
ISSUED: April 26, 2013

THIRD ORDER REVISING ORDER ESTABLISHING PROCEDURE

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., was opened at the request of Progress Energy Florida (PEF) to address the extended outage at its nuclear plant Crystal River Unit 3 (CR3), and the resulting replacement fuel/power costs. By Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, in Docket No. 120022-EI, the Commission approved a global stipulation and settlement that addressed outstanding issues in several dockets, including issues raised in this docket concerning the CR3 outage (2012 Settlement). On February 5, 2013, PEF announced that its parent company Duke Energy, Inc.'s Board of Directors made the decision to retire CR3. On February 8, 2013, PEF filed an unopposed Motion to Lift Stay on Phase II of Docket No. 100437-EI and to Establish Procedural Case Schedule.<sup>1</sup> By Order No. PSC-13-0080-PCO-EI, issued on February 13, 2013, the Prehearing Officer lifted the stay. Additionally, on February 13, 2013, the Second Revised Order Establishing Procedure, Order No. PSC-13-0084-PCO-EI (Second Revised OEP), was issued to establish the schedule by which the Commission would resolve Phases II and III.

On April 5, 2013, by joint motion, PEF, the Office of Public Counsel (OPC), the Florida Retail Federation (FRF), the Florida Industrial Power Users Group (FIPUG), and PCS Phosphate (PCS), all signatories (the Parties) to the 2012 Settlement, filed a joint motion specifically requesting that the following threshold question be resolved:

What issues, if any, does the Settlement Agreement, approved by Commission vote on February 22, 2012 and in Order No. PSC-12-0104-FOF-EI, preclude the Commission from determining in this docket?

On April 11, 2013, by Order No. PSC-13-0155-PCO-EI, the parties joint motion was granted to allow the filing of initial briefs, and responsive briefs if necessary, and to present oral argument on the disputed threshold question. Oral argument was set for April 30, 2013. As stated in the Order, the parties asserted that over the last several months, they have been diligently working with Commission staff to develop a list of issues that remain to be resolved in

<sup>1</sup> Phases II and III were stayed by Order No. PSC-12-0115-PCO-EI, issued March 14, 2012, in 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.

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this docket.<sup>2</sup> Three separate issue identification meetings were held since the Second Revised OEP was issued, and the Parties and staff have made substantial progress in developing an agreed-to list of issues to submit to the Commission for consideration. There were concerns raised during this process by several parties regarding sufficient time to conduct discovery and file testimony and exhibits under the current case schedule set forth in the Second Revised OEP. It is to the Commission's benefit to have a complete and thorough record, so that the Commission has before it all relevant aspects of the case.

Therefore, I find that a rescheduling of the hearing and controlling dates is necessary to facilitate the Commission having a complete and thorough record for its review and to give staff and the Parties additional time in their preparation for hearing. Accordingly, the controlling dates in this docket will be modified as set forth below:

- |  |                     |
|--|---------------------|
| (1) Utility's testimony and exhibits       | June 17, 2013       |
| (2) Intervenors' testimony and exhibits    | September 9, 2013   |
| (3) Staff's testimony and exhibits, if any | September 16, 2013  |
| (4) Rebuttal testimony and exhibits        | October 1, 2013     |
| (5) Prehearing Statements                  | October 1, 2013     |
| (6) Prehearing Conference                  | October 14, 2013    |
| (7) Discovery deadline                     | October 14, 2013    |
| (8) Hearing                                | October 21-23, 2013 |
| (9) Briefs                                 | November 8, 2013    |

Additionally, I find that Section IV of the Second Revised OEP must be modified to require discovery responses to be served within 25 calendar days (inclusive of mailing) of receipt of the discovery request. In addition, Section IV is hereby modified to require discovery responses related to matters addressed in the utility's rebuttal testimony and exhibits to be served within 7 calendar days (inclusive of mailing) of receipt of the discovery request. Furthermore, Section IV of the Second Revised OEP is modified to require the respondent intending to seek clarification of any portion of the discovery request to do so within 8 days for direct and within 4 days for discovery requests served relating to matters raised in the utility's rebuttal testimony and exhibits. Finally, Section IV is further modified to require any specific objections to a discovery request be made within 8 days of service of the discovery request and within 4 days for discovery requests related to matters raised in the utility's rebuttal testimony and exhibits.

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<sup>2</sup> Order No. PSC-13-0155-PCO-EI, issued April 11, 2013, in 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.

This Revised Order is issued pursuant to the authority afforded to me 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.

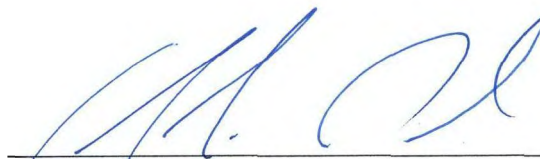
It is therefore:

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer, that the controlling dates contained in Order No. PSC-13-0084-PCO-EI, Second Revised Order Establishing Procedure, shall be modified as set forth in the body of this Order. It is further

ORDERED that Section IV of Order No. PSC-13-0084-PCO-EI, Second Revised Order Establishing Procedure shall be modified as set forth in the body of this Order. It is further

ORDERED that Order No. PSC-13-0084-PCO-EI is reaffirmed in all other aspects.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 26th day of April, 2013.



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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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.