

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 FOF WR
ORDER NO. PSC-14-0019-PCO-EI
ISSUED: January 9, 2014

ORDER GRANTING DUKE ENERGY FLORIDA, INC.'S MOTION TO DISMISS

BY THE COMMISSION:

Background

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, Inc. (now known as Duke Energy Florida, Inc. or DEF), to address the extended outage at its nuclear plant Crystal River Unit 3 (CR3), and the resulting replacement fuel/power costs. In Order No. PSC-11-0352-PCO-EI, the Order Establishing Procedure issued on August 23, 2011, all matters in the docket were divided into three phases with the intent of addressing the issues in each phase once certain requirements had been met.

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). Pursuant to the terms of the 2012 Settlement, DEF filed a motion to dismiss Phase I of this docket and stay Phase 2 and Phase 3. This motion was granted by PSC-12-0115-PCO-EI, issued on March 14, 2012. By Order No. PSC-13-0080-PCO-EI, issued on February 13, 2013, the Prehearing Officer lifted the stay on this docket at the request of DEF after its Board of Directors made the decision to retire CR3.

On August 1, 2013, DEF filed its Petition for Limited Proceeding to Approve the Revised and Restated Stipulation and Settlement Agreement (Revised and Restated Agreement or current agreement) in Docket No. 130208-EI.¹ DEF requested that we hold a limited proceeding pursuant to Sections 366.076 and 120.57(2), Florida Statutes (F.S.), and Rule 28-106.301, Florida Administrative Code (F.A.C.). The purpose of the limited proceeding was for us to consider the Revised and Restated Agreement, which replaces and supplants the 2012 Settlement Agreement. DEF, the Office of Public Counsel (OPC), the Florida Industrial Power Users Group (FIPUG), the Florida Retail Federation (FRF), and White Springs Agriculture Chemicals, Inc. d/b/a PCS Phosphate (White Springs) executed the Revised and Restated Agreement.

¹ See Order No. PSC-13-0598-FOF-EI, issued November 11, 2013, in Docket No. 130208-EI, In re: Petition for limited proceeding to approve revised and restated stipulation and settlement agreement by Duke Energy Florida, Inc. d/b/a Duke Energy.

We provided public notice of the hearing and the opportunity to present evidence and oral argument. On October 16 and 17, 2013, this Commission took testimony and oral argument regarding the Revised and Restated Agreement and engaged in a question and answer period with the signatories. The Revised and Restated Agreement resolves outstanding issues in existing, continuing, and prospective Commission dockets, including Docket No. 100437-EI. Pursuant to paragraph 4 of the Revised and Restated Agreement, the issues concerning the regulatory asset associated with CR3 are preserved and will be addressed in a separate proceeding in the future.² This Commission approved the Revised and Restated Agreement on November 12, 2013, by Order No. PSC-13-0598-FOF-EI.

On October 21, 2013, pursuant to the terms of the Revised and Restated Agreement approved by this Commission, DEF filed a Motion to Dismiss with prejudice, and to close Docket No. 100437-EI. This Order addresses DEF's Motion to Dismiss. We have jurisdiction pursuant to Chapter 366, F.S., including Sections 366.04, 366.041, 366.05, 366.06, 366.07, 366.076, 366.8255, 366.93, and 120.57(2) and (4), F.S., and Rules 28-106.301 and 28-106.302, F.A.C.

Analysis and Ruling

The Revised and Restated Agreement approved by this Commission resolves all outstanding issues in this docket and renders any further inquiry or action moot. In light of this, DEF's motion contends that the parties to the Revised and Restated Agreement agree that this Commission should dismiss Phases 2 and 3 of this docket with prejudice and close the docket. Commission approval of the Agreement on November 12, 2013 recognizes this intent of the parties.³

Furthermore, pursuant to Rule 28-106.204(3), Florida Administrative Code, DEF has conferred with all parties of record in this docket. The parties who are also signatories to the Revised and Restated Agreement support DEF's Motion. In light of these circumstances, the arguments presented by DEF in its motion, and that no party to this docket opposes the granting of the motion, DEF's Motion is hereby approved.

² The issues that are preserved are as follows:

Issue 11: What is the current booked amount of the deferred regulatory asset associated with the retirement of the CR 3 nuclear unit, based on Section 11(b) of the Settlement Agreement approved in Commission Order No. PSC-12-0104-FOF-EI?

Issue 24: What is the salvage value, if any, for any CR3-related asset(s)?

Issue 35: What are the appropriate amounts of the individual components of the CR3 Asset for purposes of establishing customer rates after December 31, 2016?

Issue 36: What criteria, methodologies or procedures, if any, should the Commission establish for determining the components and amounts of the CR3 Asset for purposes of establishing customer rates after December 31, 2016?

Issue 37: What monitoring or auditing measures, if any, should the Commission establish or undertake in order to determine the CR3 Asset for purposes of establishing customer rates after December 31, 2016?

³ See Order No. PSC-13-0598-FOF-EI, p. 12, issued November 11, 2013, in Docket No. 130208-EI, In re: Petition for limited proceeding to approve revised and restated stipulation and settlement agreement by Duke Energy Florida, Inc. d/b/a Duke Energy.

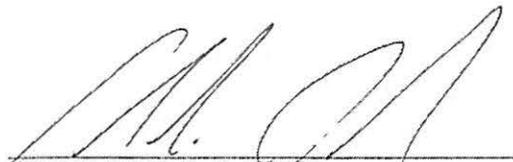
Based on the foregoing, it is

ORDERED that Duke Energy's Motion to Dismiss is granted. It is further

ORDERED that Phases 2 and 3 of this docket as described in Order No. PSC-11-0352-PCO-EI are hereby dismissed with prejudice. It is further

ORDERED that this docket shall be closed.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 9th day of January, 2014.



EDUARDO E. BALBIS
Commissioner and Prehearing Officer
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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.

MTL

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.

Any party adversely affected by the Commission's final action in this matter may request:
1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within

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fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.