

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval to construct an independent spent fuel storage installation and an accounting order to defer amortization pending recovery from the Department of Energy, by Duke Energy Florida, Inc.

DOCKET NO. 140113-EI
ORDER NO. PSC-15-0027-PAA-EI
ISSUED: January 7, 2015

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING DUKE ENERGY FLORIDA, INC.'S PETITION TO CONSTRUCT AN
INDEPENDENT SPENT FUEL STORAGE INSTALLATION AND
TO DEFER AMORTIZATION PENDING RECOVERY FROM THE
DEPARTMENT OF ENERGY

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

Background

In February 2013, Duke Energy Florida, Inc. (DEF or Company) made the decision to retire its Crystal River Unit 3 (CR3) nuclear-fueled generator. On November 12, 2013, Order No. PSC-13-0598-FOF-EI was issued in Docket No. 130208-EI, approving the Revised and Restated Stipulation and Settlement Agreement (RRSSA or 2013 Settlement Agreement) concerning the recovery of certain costs related to CR3. In the RRSSA, the signatories agreed that, effective the earlier of the first billing cycle for January 2017, or the expiration of the Levy Nuclear Project cost recovery charge, DEF was authorized to begin recovery of the final amount of the CR3 Regulatory Asset. The recovery amount is calculated based on two components: the projected amount for dry cask storage (DCS) facility costs; and the CR3 Regulatory Asset as defined in paragraph 5b of the RRSSA.

At paragraph 5(e)(1) of the RRSSA, DEF is authorized to petition us “for approval of the reasonable and prudent projected DCS facility capital costs.”¹ After a final decision is made by us, DEF is entitled to add the DCS facility costs to the CR3 Regulatory Asset for recovery purposes. Then, once the DCS facility capital costs become final, DEF is authorized a one-time “true-up” in order to make any necessary adjustments to the amount being recovered to account for differences in the projected costs and the final costs.

In nuclear decommissioning cost studies performed prior to the 2013 decision to retire CR3, the assumption was made that an independent spent fuel storage installation (ISFSI) – another term for dry cask storage – would have been constructed before 2036 (the originally planned CR3 decommissioning date), because the continued operation of the unit would have produced more spent fuel than could be contained in the existing spent fuel pool. For this reason, the cost of ISFSI construction was not included in those previous cost studies. However, since the unit has been retired, spent fuel is no longer being generated. This development created a situation in which DEF had certain options available to it for long-term storage of the spent fuel.

Another situation impacting DEF’s handling of and accounting for the spent fuel storage issue is DEF’s litigation against the U.S. Department of Energy (DOE). DEF contends that, due to the federal government’s partial breach of its contractual obligation to pick up the spent fuel from DEF and store it in a federal repository, most of the costs for construction of the ISFSI are potentially recoverable from the DOE. DEF intends to use any judgment amounts received from the DOE to reduce the ISFSI portion of the CR3 Regulatory Asset.

DEF filed its petition in this docket on May 27, 2014. Along with the petition, the direct testimonies of two DEF witnesses were filed. Marcia J. Olivier provided testimony regarding the accounting order DEF is requesting to defer the amortization expense until after the litigation against the DOE is concluded. Michael R. Delowery’s testimony includes a discussion and analysis of the cost-effectiveness of the various options for storing spent nuclear fuel until it is picked up by the DOE. In addition, DEF provided responses to three of our data requests in this matter.

This Order addresses DEF’s petition for approval to construct an ISFSI and an accounting order to defer amortization of the costs pending recovery from the DOE. We have jurisdiction over these matters pursuant to Sections 366.04(1), 366.05, and 366.06, Florida Statutes (F.S.).

Decision

As stated, in its petition in this docket, DEF requested our approval of its decision to construct an ISFSI for the storage of spent nuclear fuel at its Crystal River Unit 3 location. The ISFSI was originally designed to support the extended operating period of CR3, but the early

¹ See Order No. PSC-13-0598-FOF-EI, issued November 12, 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.

retirement of the unit changed the timing and scope of the project. With spent nuclear fuel no longer being generated, only the storage of existing spent fuel is required.

Dry cask storage (DCS) is a term which refers to a method of storing spent nuclear fuel for long periods of time in order to allow the radioactivity of the material to decay naturally. The spent nuclear fuel is placed in containers approved for disposal by the U.S. Nuclear Regulatory Commission (NRC). The containers, also called dry shielded canisters, are then placed into horizontal storage modules for long-term storage. We note that this type of configuration is not considered permanent storage. Each license for long-term storage issued by the NRC must have a specified term that cannot exceed 40 years; however, the license can be renewed for a period not to exceed an additional 40 years.² DEF's internal evaluation determined that, in the most likely scenario, the DOE will begin removing the spent nuclear fuel from the CR3 site in 2032, and the removal is estimated to be completed by the end of 2036.³

The ISFSI is needed until the federal government fulfills its contractual obligation to pick up the spent nuclear fuel from the CR3 site and transport it to a federal repository. The initial litigation against the DOE resulted in a favorable outcome for DEF with a judgment of over \$21 million being awarded, and to which the DOE did not file an appeal. For this reason, DEF expects to be awarded additional judgments in the future.

Because no construction costs for a storage facility were included in any previous CR3 decommissioning studies, DEF evaluated three options for long-term storage of the spent nuclear fuel. One option available is to leave the spent fuel in its current location, which is the existing spent fuel pool (wet storage). A second option is to construct an ISFSI. A third option is to relocate the spent fuel by transporting it to another site or facility for long-term storage.

As explained by DEF witness Delowery in his prefiled testimony, DEF performed studies to analyze each of these three options. After the initial study was completed, DEF determined that moving the spent fuel to another location for storage was the least cost-effective option. The costs for offsite storage would include not only many of the same costs as for onsite dry storage, but also other costs including transportation, higher operations and maintenance (O&M) and security expenses, and environmental planning costs. In addition, DEF's analysis determined that there is a "high potential for intervenors and media concerns associated with spent fuel shipping."⁴ Therefore, the offsite storage option was eliminated from further consideration.

The remaining two onsite storage options were then studied in more depth by DEF to determine which is the most cost-effective solution. The detailed economic evaluations for both of these alternatives were included as an attachment to the prefiled testimony of witness Delowery.

The onsite wet storage option entails leaving the fuel in the existing spent fuel pool currently located at the CR3 site with alternate cooling systems installed in order to reduce the

² See Responses to staff's First Data Request, No. 9.

³ See Exhibit MRD-1, p. 12 of 51, Section 4.4 (1).

⁴ See Exhibit MRD-1, p. 16 of 51, at "Option 3."

O&M expenses associated with relying on existing plant systems. The onsite dry storage option analyzed was a modification to the original design for the ISFSI. Because no more spent fuel is being generated, the concrete pad size was reduced to accommodate a smaller number of canisters than the original design required. Both of these options meet the project requirements; accordingly, DEF made its selection based solely on the outcome of the cost-effectiveness analysis.

Both the onsite wet and dry storage options have advantages and disadvantages. The wet storage option allows for greater flexibility in the event of changing requirements including future implementation of dry storage or removal to another offsite location. Also, this option requires lower upfront costs because fewer immediate modifications are required, and no alterations to NRC licensing are required. However, storing the spent fuel in the existing spent fuel pool requires the maintenance of an active cooling system and the consolidation of the pool and its supporting equipment into a “nuclear island” concept. These factors necessitate higher long-term O&M costs (approximately \$20 million per year higher than dry storage) for maintenance of cooling equipment, plus higher security costs.

In the case of dry storage, an ISFSI is a passive system which requires little interaction other than security activities. The ISFSI concept is the spent fuel storage configuration most commonly utilized at other decommissioned nuclear plants, and it will leave the smallest area to be maintained if the fuel remains at the CR3 site longer than anticipated. On the other hand, the upfront costs to construct the facility and procure the canisters are substantial. Also, contingency plans are required to maintain the ability to unload canisters and/or repackage the fuel for transport. It is for this reason that DEF plans to maintain the spent fuel pool in a recoverable condition, the cost of which was included in the analysis of the dry storage option.

DEF’s analyses show that the onsite dry storage option is the most cost-effective solution. However, these costs are estimated based on the date selected for DOE pick-up of the spent nuclear fuel. In order to account for uncertainties in O&M costs, DEF evaluated sensitivities using three different dates on which the removal of spent nuclear fuel by DOE is expected to be completed. Because DOE currently has no plan for removing or storing spent nuclear fuel, it will be several years before for any removal activity can begin.

The three scenarios estimating timeframes for DOE removal of spent nuclear fuel were described in DEF’s Spent Fuel Management Options Analysis Report.⁵ The dates are based on a directive from the U.S. Congress to DOE to report on its plans for spent nuclear fuel disposal, and were used to estimate the timeframes for the earliest, most likely, and latest DOE pick-up dates. The smallest savings occur at the earliest pick-up date, and increase from that time on.

The table below illustrates the comparison of the cumulative costs of the wet storage and the onsite dry storage options. All figures reflect net present value (NPV). The analyses were done in 2013; therefore, the values are in 2013 dollars.

⁵ See Exhibit MRD-1, “Attachment 3: Estimation of Pickup Date for Crystal River 3 Used Fuel,” pp. 35-47 of 51.

Comparison of Spent Nuclear Fuel Storage Costs at DEF’s Crystal River Unit 3

	2024 DOE Pick-up Date (early)	2036 DOE Pick-up Date (most likely)	2050 DOE Pick-up Date (late)
Wet Storage	\$229,163,534	\$506,172,450	\$746,539,677
Dry Storage	\$202,577,243	\$324,410,813	\$428,076,127
Cumulative Savings (Wet minus Dry option)	\$26,586,291	\$181,761,637	\$318,463,550

Source: Exhibit MRD-1, p. 26 of 51.

As shown in the table above, the dry storage is the most cost-effective selection for storage, regardless of the time the fuel is picked up by DOE. Based on DEF’s evaluation, the most likely time frame for DOE to accomplish completion of spent nuclear fuel pick-up is in 2036. In the cost-effectiveness analysis for that year, the dry storage option is projected to save almost \$182 million in net present value compared to the wet storage option.

DEF performed additional sensitivities centered around the most likely pick-up date for both the wet and dry storage options. In the wet storage scenario, one sensitivity was done with the annual security costs being decreased by 50 percent. This modification is substantial because security costs are approximately 45 percent of the annual O&M costs. Another sensitivity for wet storage deferred required modifications to the CR3 infrastructure until the two years preceding the removal of spent nuclear fuel. For the dry storage scenario, the two sensitivities analyzed changed the location of the ISFSI, which added \$35 million for the first two years, and increased the cost of ISFSI construction by 25 percent. In each sensitivity analyzed, the dry storage option remained the most cost-effective solution with projected net present value savings ranging between \$79 and \$172 million.

As stated in the RRSSA, the intervenor parties are entitled to challenge the reasonableness and prudence of the ISFSI costs and do not waive any rights related to participation in such proceedings. This Order addresses only the method of storage and the process for recovering the costs for the ISFSI.

In conclusion, we find that DEF has demonstrated that the ISFSI is the most efficient and most cost-effective means to provide temporary storage capability of spent nuclear fuel; therefore, DEF’s petition is approved.

Pursuant to Order No. PSC-13-0598-FOF-EI, the parties to the settlement agreed that the dry cask storage or ISFSI would be recovered in accordance with Exhibit 10 of the RRSSA. According to the RRSSA, recovery would begin the earlier of the first billing cycle for January 2017 or the expiration of the Levy Nuclear Project cost recovery charge.⁶ In the instant petition, DEF has requested to defer the amortization expense until all recoveries have been received from the DOE and to adjust base rates at that time. The Company stated it anticipates the litigation with the DOE will conclude in 2021.

In response to Commission staff's second data request, number 7, DEF stated:

...[T]he Commission does not need to receive agreement from the signatories to the 2013 settlement before approving DEF's accounting order petition because all signatories have the right to protest the PAA order if they have valid grounds to do so. DEF notes that the signatories to the 2013 settlement will retain the ability to fully vet the reasonableness and prudence of the dry cask storage costs when DEF seeks to include those costs into rates. Further, DEF also notes that its proposed petition is favorable to customers and the signatories to the settlement were fully briefed on this petition prior to DEF filing it, and they did not have an objection to the filing of this petition.

We find that it is appropriate to defer the amortization effective January 2014 as this will benefit customers by lessening the impact on base rates. We approve DEF's request for an accounting order to defer amortization of the ISFSI portion of the CR3 regulatory asset until litigation with the DOE has concluded and all recoveries have been received, and to adjust base rates going forward at that time.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Duke Energy Florida, Inc.'s petition to construct an Independent Spent Fuel Storage Installation shall be approved. It is further

ORDERED that we hereby approve DEF's request for an Accounting Order to defer amortization of the ISFSI portion of the CR3 regulatory asset, which was created when we approved the RRSSA in 2013, until litigation with the DOE has concluded. Once all recoveries have been received, base rates shall be adjusted going forward at that time. It is further

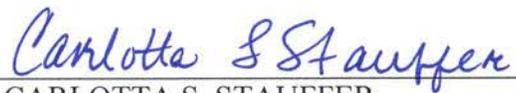
ORDERED that if no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the order, a consummating order shall be issued and the docket shall be closed. It is further

⁶ See Order No. PSC-13-0598-FOF-EI, issued November 12, 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.

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 7th day of January, 2015.



CARLOTTA S. STAUFFER

Commission Clerk

Florida Public Service Commission

2540 Shumard Oak Boulevard

Tallahassee, Florida 32399

(850) 413-6770

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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 that is available under Section 120.57, 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 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.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 28, 2015.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.