

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 160009-EI
ORDER NO. PSC-16-0266-PCO-EI
ISSUED: July 12, 2016

The following Commissioners participated in the disposition of this matter:

JULIE I. BROWN, Chairman
LISA POLAK EDGAR
ART GRAHAM
RONALD A. BRISÉ
JIMMY PATRONIS

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S MOTION TO DEFER
CONSIDERATION OF ISSUES AND COST RECOVERY

BY THE COMMISSION:

Background

Florida Power & Light Company (FPL) obtained an affirmative need determination in 2008 for the construction of two new nuclear electric generating units: Turkey Point Units 6 and 7 (TP Project).¹ Annually thereafter, FPL has requested recovery of project costs through the nuclear cost recovery proceeding (NCRC) pursuant to Rule 25-6.0423, Florida Administrative Code (F.A.C.), and Section 366.93, Florida Statutes (F.S.).

We established Docket No. 160009-EI to address 2016 petitions for cost recovery through the NCRC. The Order Establishing Procedure (OEP) in this docket set dates for the filing of testimony and exhibits regarding project activities, costs, and long-term feasibility.²

Consistent with the OEP, on March 1, 2016, FPL filed a request for prudence review and final true-up of actual 2015 costs for the TP Project. On April 27, 2016, FPL filed testimony seeking approval of estimated 2016 and 2017 activities and costs for the TP Project. Through these petitions, FPL requested recovery of \$22,081,049, to be collected in 2017 through the Capacity Cost Recovery Clause, Docket No. 160001-EI.

FPL did not, however, file its long-term feasibility testimony and exhibits. Instead, FPL filed a Petition for Waiver of Rule 25-6.0423(6)(c)5., F.A.C., (Petition for Waiver). Rule 25-6.0423(6)(c)5., F.A.C., states:

¹ Order No. PSC-08-0237-FOF-EI, issued on April 11, 2008, in Docket No. 070650-EI, In re: Petition to determine need for Turkey Point Nuclear Units 6 and 7 electrical power plant, by Florida Power & Light Company.

² Order Nos. PSC-16-0105-PCO-EI, issued on March 11, 2016, in Docket 160009-EI, In re: Nuclear cost recovery clause; PSC-16-0140-PCO-EI, issued April 6, 2016, in Docket 160009-EI, In re: Nuclear cost recovery clause.

Along with the filings required by this paragraph, each year a utility shall submit for Commission review and approval a detailed analysis of the long-term feasibility of completing the power plant. Such analysis shall include evidence that the utility intends to construct the nuclear or integrated gasification combined cycle power plant by showing that it has committed sufficient, meaningful, and available resources to enable the project to be completed and that its intent is realistic and practical.

Pursuant to Section 120.542(6), F.S., notice of the Petition for Waiver was published in the Florida Administrative Register on May 2, 2016. Comments were filed by the Office of Public Counsel (OPC), Florida Industrial Power Users Group (FIPUG), Southern Alliance for Clean Energy (SACE), and the City of Miami (Miami).

On June 17, 2016, FPL filed a Motion to Defer Consideration of Issues and Cost Recovery (Motion to Defer). This order grants FPL's Motion to Defer. We have jurisdiction over this matter pursuant to Sections 366.93, 403.519, and 120.542, F.S.

Decision

As noted previously, FPL filed a Petition for Waiver of Rule 25-6.0423(6)(c)5., F.A.C., which requires the submission of a detailed analysis of the long-term feasibility of completing the power plant. On May 16, 2016, OPC, FIPUG, SACE, and Miami filed comments opposing FPL's Petition for Waiver. No comments supporting FPL's Petition for Waiver were received.

On June 17, 2016, FPL filed its Motion to Defer. In its Motion to Defer, FPL states:

It is clear from the parties' comments in opposition to the Petition for Waiver that there is a wide difference of opinion between FPL and parties who oppose FPL's waiver request as to the need for and practical usefulness of a quantitative feasibility analysis at this time. In light of such disagreement, FPL is willing to defer consideration of its cost recovery request.

Further, FPL states that following our approval of this motion, FPL will withdraw its Petition for Waiver. FPL plans to file a long-term feasibility analysis in the 2017 NCRC docket. Additionally, FPL requests that the deferral be implemented consistent with the requirements of Section 366.93, F.S., and Rule 25-6.0423, F.A.C., which afford deferred accounting treatment and accrual of carrying charges equal to FPL's most recently approved allowance for funds used during construction rate until recovered in rates.

Pursuant to Rule 28-106.204, F.A.C., FPL contacted all intervenors to this docket to determine the intervenors' position on FPL's Motion. FPL asserted that OPC, Miami, and SACE do not object to its Motion to Defer. Duke Energy Florida, LLC, Florida Retail Federation, and White Springs Agricultural Chemicals Inc., d/d/a PCS Phosphate-White Springs take no position. Prior to our Agenda Conference, FIPUG stated its opposition to FPL's Motion to Defer, however, FIPUG did not ask to address this Commission on the matter.

We note that neither Section 366.93, F.S., nor Rule 25-6.0423, F.A.C., require a utility to seek recovery of nuclear project costs in any given year. We also note that in previous NCRC proceedings this Commission has deferred consideration of particular issues until the following year.³ Based on the foregoing, we find that FPL's Motion to Defer is reasonable and is hereby granted.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power & Light Company's Motion to Defer Consideration of Issues and Cost Recovery is hereby granted. It is further

By ORDER of the Florida Public Service Commission this 12th day of July, 2016.



HONGWANG

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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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³ Order Nos. PSC-11-0095-FOF-EI, issued on February 2, 2011, in Docket 100009-EI, In re: Nuclear cost recovery clause; PSC-11-0547-FOF-EI, issued on November 23, 2011, in Docket 110009-EI, In re: Nuclear cost recovery clause.

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.