

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Progress Energy Florida, Inc.

DOCKET NO. 090079-EI

In re: Petition for expedited approval of the deferral of pension expenses, authorization to charge storm hardening expenses to the storm damage reserve, and variance from or waiver of Rule 25-6.0143(1)(c), (d), and (f), F.A.C., by Progress Energy Florida, Inc.

DOCKET NO. 090145-EI
ORDER NO. PSC-09-0586-PCO-EI
ISSUED: August 31, 2009

ORDER CONSOLIDATING DOCKETS FOR HEARING

By letter dated March 20, 2009, PEF filed a petition for approval of a permanent increase in its rates and charges, along with supporting testimony and Minimum Filing Requirements (MFRs) based on a 2010 projected test year. A hearing has been scheduled for September 21-25 and September 28-October 2, 2009.

On March 20, 2009, Progress Energy Florida, Inc. (PEF or Company) filed a petition seeking the expedited approval of the deferral of pension expenses, the authorization to charge storm hardening expenses to the storm damage reserve, and the waiver of Rule 25-6.0143(1)(c), (d), and (f), Florida Administrative Code (F.A.C.) (Petition). The Company is engaged in business as a public utility providing electric service as defined in Section 366.02, Florida Statutes (F.S.), and is subject to the jurisdiction of this Commission. PEF's service area comprises approximately 20,000 square miles in 35 of Florida's counties. PEF serves more than 1.6 million retail customers.

On April 3, 2009, the Office of Public Counsel (OPC), the Florida Industrial Power Users Group (FIPUG), the Attorney General's Office, The Florida Retail Federation (FRF), and PCS Phosphate (collectively, Intervenors) filed a joint consolidated response opposing three PEF filings: (1) a request for interim rate relief, (2) a petition related to the accounting treatment for pension and storm hardening expenses, and (3) a petition for limited proceeding to include the Bartow Repowering Project in base rates.

On July 6, 2009, the Commission issued Proposed Agency Action and Tariff Order No. PSC-09-0484-PAA-EI which denied PEF's request for a rule waiver and granted, in part, PEF's request to create a regulatory asset to defer pension expense. On July 27, 2009, the Intervenors filed a joint Petition Protesting Portions of the Proposed Agency Action and Tariff Order No. PSC-09-0484-PAA-EI (Protest). In particular, the Intervenors identified and protested three issues: a) has PEF violated the terms of the Stipulation approved in Order No. PSC-05-0945-S-EI by seeking to create a regulatory asset and to defer pension expenses from a period covered year by the Stipulation in a future period; b) whether the creation of a regulatory asset and deferral of pension expenses from a period covered by the Stipulation constitutes retroactive

DOCUMENT NUMBER - DATE

08999 AUG 31 8

FPSC-COMMISSION CLERK

ratemaking; and c) whether PEF will double-recover its deferred pension expenses deferred from a period covered by the Stipulation since revenue sharing is the exclusive mechanism for determining earnings for the Stipulation's duration. The Intervenor further requested that the Commission set Order No. PSC-09-0484-PAA-EI for hearing on PEF's proposal to create a regulatory asset and defer pension expense.

Docket Consolidation

On August 20, 2009, Commission staff as well as the parties to Docket No. 090079-EI conducted an issue identification meeting for the purpose of determining the issues to be addressed at the hearing in the above-referenced docket. During the pendency of the issue identification meeting the parties agreed to consolidate the Intervenor's issues raised in the Protest into the hearing scheduled in Docket No. 090079-EI.¹

Rule 28-106.108, F.A.C., states, "[i]f there are separate matters which involve similar issues of law or fact, or identical parties, the matters may be consolidated if it appears that consolidation would promote the just, speedy and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of the party." PEF and the Intervenor have asserted that the consolidation of the aforementioned dockets promotes the expeditious resolution of the pension issues and promotes administrative expediency. Moreover, PEF and the Intervenor have agreed that consolidation of these dockets for hearing would be appropriate. Therefore, I find that consolidation of these dockets will promote the just, speedy and inexpensive resolution of the proceedings, and will not unduly prejudice the rights of any party.


Accordingly, Docket Nos. 090145-EI and 090079-EI are hereby consolidated for the purpose of the evidentiary hearing only. This Order is issued pursuant to the authority granted by Rule 28-106.211, 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.

Based on the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that Docket Nos. 090145-EI and 090079-EI are consolidated for the purpose of the evidentiary hearing only.

¹ Document No. 08889-09 filed in Docket No. 090079-EI on August 27, 2009, provides that both PEF and the Intervenor who protested the PAA pension accounting order agree to consolidation of the pension accounting docket (No. 090145-EI) with the rate case docket (No. 090079-EI) so that the protest can be resolved by year's end. Moreover, PEF and the Intervenor asserted that the three issues that the parties agreed to at the issue identification meeting on August 20, 2009, with regard to the creation of a regulatory asset and the deferral of pension expenses (numbers 119, 120 and 121 in staff's composite issue list) are intended as restatements of the three issues raised in the Intervenor's protest, and are the appropriate issues to be included in the consolidated proceeding.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 31st day of August, 2009.



NATHAN A. SKOP
Commissioner and Prehearing Officer

(S E A L)

CMK

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.