

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Florida Power & Light Company.

DOCKET NO. 080677-EI

In re: 2009 depreciation and dismantlement study by Florida Power & Light Company.

DOCKET NO. 090130-EI
ORDER NO. PSC-09-0744-PCO-EI
ISSUED: November 10, 2009

ORDER GRANTING MOTION TO REOPEN THE RECORD FOR THE LIMITED PURPOSE OF PROPERLY ADMITTING EXHIBIT 180 INTO EVIDENCE

On August 24-28 and 31, September 2-5 and 16-17, and October 21-23, 2009, the Commission conducted administrative hearings to take testimony and evidence in Florida Power & Light Company's (FPL) petition for a rate increase. The case is scheduled for the Commission's final decision on January 13 and 29, 2010.

On November 6, 2009, FPL filed a motion requesting that the record in Docket No. 080677-EI be reopened for the limited purpose of properly admitting into the evidence FPL's Minimum Filing Requirements (MFRs) and associated schedules for 2009, 2010, and 2011. The MFRs were identified as Exhibit 180 on the Comprehensive Exhibit List for the hearing. FPL asserted that while the MFRs were marked for identification, due to an inadvertent oversight they were never formally admitted into the evidentiary record. FPL asserted that the MFRs are a valuable resource for all participants in the rate case, and to facilitate deliberation on FPL's Petition, the record should be reopened to formalize their admission into the record.

In any matter which goes to hearing, the Commission reserves "the right to reopen the record if at the conclusion of the proceeding we determine that the record is insufficient."¹ On several prior occasions, the Commission has reopened the record of proceedings to admit evidence when the public interest would be served by doing so. For example, it reopened the record in Docket No. 070299-EI to admit Gulf Power Company's Amended Storm Hardening Plan, where the Plan had been provided to all parties, relied upon in testimony and briefing, and positions of the parties were predicated upon it, but the Plan itself had not been admitted into the record. The Commission found that reopening the record served the public interest, because no one was prejudiced by its admission, and excluding it would result in unnecessary delay.²

The public interest will be served by reopening the record in this proceeding to formally admit Exhibit 180 into the evidentiary record, so that all participants may rely upon the information it contains in their deliberations. FPL asserts that it has contacted all parties to this

¹ Order No. PSC-04-0395-PCO-TP, issued April 14, 2004, in Docket No. 001503-TP, In re: Cost recovery and allocation issues for number pooling trials in Florida, page 3, n.2

² See Order No. PSC-07-1022- FOF-EI, issued December 28, 2007, In re: Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Gulf Power Company, pages 6-7.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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docket. FPL has notified Commission staff that it has spoken to counsel for the Office of Public Counsel, Office of the Attorney General, South Florida Hospital and Healthcare Association, Florida Retail Federation, Florida Industrial Power Users Group, Associated Industries Of Florida, Federal Executive Agencies, Florida Association for Fairness in Rate Making, City of South Daytona, IBEW System-Council U-4 , and Mr. Ungar and none of the parties object to this motion.

For the reasons outlined herein, the record in Docket Nos. 080677-EI and 090130-EI is re-opened for the limited purpose of admitting Exhibit 180 into the record. Exhibit 180 is admitted into the record. Thereafter, the record shall be closed.

Based on the foregoing, it is


ORDERED by Chairman Matthew M. Carter II, as Presiding Officer in this proceeding, that Florida Power & Light's motion to reopen the record to properly admit Exhibit 180 into the record is granted. It is further

ORDERED that Exhibit 180 is admitted into the evidentiary record of this proceeding. It is further

ORDERED that the record is closed upon the admission of Exhibit 180. It is further

ORDERED that this docket shall remain open.

By ORDER of Chairman Matthew M. Carter II, as Presiding Officer this 10th day of November, 2009.


MATTHEW M. CARTER II
Chairman and Presiding Officer

(S E A L)

LCB

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.