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Public Service Commission

February 14, 2007

HAND DELIVER

Mr. Scott Boyd, Executive Director
Joint Administrative Procedures Committee
Room 120 Holland Building
Tallahassee, FL 32399-1300

RE: Docket No. 060508-EI, Proposed adoption of new rule regarding nuclear power plant cost recovery.

Dear Mr. Boyd:

The Commission has approved the adoption of Rule 25-6.0423, with changes.

Enclosed is the notice of change, which will be published in the Florida Administrative Weekly on February 23, 2007, and the statement of changes for the proposed Rule 25-6.0423.

We plan to file the rule for adoption on March 16, 2007.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry D. Harris".

Larry D. Harris
Associate General Counsel

060508 JAPCchange.ldh.doc

Enclosure

c: Division of the Commission Clerk
and Administrative Services

STATEMENT OF CHANGES

The Commission voted to propose new Rule 25-6.0423 on December 19, 2006, but directed the Commission staff to meet with interested persons to draft rule language which would be acceptable to all interested persons. While these negotiations were being conducted, two investor-owned utilities timely filed a request for hearing. All interested persons were able to reach consensus on rule language that satisfied all participant's concerns, and the request for hearing was withdrawn February 9, 2007. On February 13, 2007, the Commission voted to adopt new Rule 25-6.0423 with the changes agreed to by all participants in the rulemaking.

The changes to the Rule: clarify that pre-construction costs may be recovered over a period longer than one (1) year; clarify that there will be no further Commission review of an annual prudence determination, once made, except for cases of fraud, perjury, or intentional withholding of key information; change dates for the filing of a utility's cost information and the deadline for the Commission to hold the annual hearing; and add a new subsection to require utilities to annually file detailed statements of project costs.

Notice of Change/Withdrawal

PUBLIC SERVICE COMMISSION

RULE NO: RULE TITLE

25-6.0423: Nuclear Power Plant Cost Recovery

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 32 No. 52, December 29, 2006 issue of the Florida Administrative Weekly.

Docket No. 060508-EI

25-6.0423 Nuclear Power Plant Cost Recovery

(1) No changes.

(2) Definitions. As used in this rule, the following definitions shall apply:

(a) "Nuclear power plant" or "plant" is an electrical power plant that utilizes nuclear materials as fuel, as defined in Sections 403.503(13), ~~Florida Statutes~~ and Section 366.93(1)(c), Florida Statutes.

(b) No Changes.

(c) "Site selection." A site will be deemed to be selected upon ~~issuance of a final order granting~~ the filing of a petition for a determination of need for a nuclear power plant pursuant to Section 403.519, Florida Statutes.

(d) – (3) No Changes.

(4) Site Selection Costs. After the Commission has issued a final order granting a determination of need for a nuclear power plant pursuant to Section 403.519, Florida Statutes, a utility may file a petition for a separate proceeding, to recover prudently incurred site selection costs. This separate proceeding will be limited to only those issues necessary for the determination of prudence and alternative method for recovery of site selection costs of a nuclear power plant.

(5) Pre-Construction Costs and Carrying Costs on Construction Cost Balance. After the Commission has issued a final order granting a determination of need for a nuclear power plant pursuant to Section 403.519, Florida Statutes, a utility may petition the Commission for recovery of pre-construction costs and carrying costs of construction cost balance as follows:

(a) Pre-Construction Costs. A utility is entitled to recover, through the Capacity Cost Recovery Clause, its actual and projected pre-construction costs. The utility may also recover the related carrying charge for those costs not recovered on a projected basis. Such costs will be recovered within 1 year, unless the Commission approves a longer recovery period. Any party may, however, propose a longer period of recovery, not to exceed 2 years on an annual basis, or may, as proposed by the utility in its petition or any other party and approved by the Commission, be recovered over a greater period of years.

1. No Changes.

2. The Commission shall include pre-construction costs determined to be reasonable and prudent in setting the factor in the annual Capacity Cost Recovery Clause proceedings, as specified in subparagraph (5)(c)3 of this rule. Such costs shall not be subject to disallowance or further prudence review ~~in that proceeding.~~

(b) – 2. No Changes.

3. The Commission shall include carrying costs on the balance of construction costs determined to be reasonable or and prudent in setting the factor in the annual Capacity Cost Recovery Clause proceedings, as specified in Paragraph (5)(c) of this rule. ~~Such factor shall not be subject to disallowance or further prudence review in that proceeding.~~

(c) Capacity Cost Recovery Clause for Nuclear Costs.

1. Each year, a utility shall submit, for Commission review and approval, as part of its Capacity Cost Recovery Clause filings:

a. True-Up for Previous Years. By March 1, April 1, a utility shall submit its final true-up of pre-construction expenditures, based on actual preconstruction expenditures for the prior year and previously filed expenditures for such prior year and a description of the pre-construction work actually performed during such year; or, once construction begins, its final true-up of carrying costs on its

construction expenditures, based on actual carrying costs on construction expenditures for the prior year and previously filed carrying costs on construction expenditures for such prior year and a description of the construction work actually performed during such year.

b. – c. No Changes.

2. The Commission shall, prior to October 1 ~~August 15~~ of each year, conduct a hearing and ~~to~~ determine the reasonableness of projected pre-construction expenditures and the prudence of actual pre-construction expenditures expended by the utility; or, once construction begins, to determine the reasonableness of projected carrying costs on construction expenditures and the prudence of actual ~~carrying costs on~~ construction expenditures expended by the utility, and the associated carrying costs. Within 15 ~~30~~ days of the Commission's vote, the Commission shall enter its order. Annually, One year after the true-up of actual carrying charges, the Commission shall make a an annual prudence determination of the prior year's annual actual construction costs and associated carrying costs. To facilitate this determination, the Commission shall conduct an on-going auditing and monitoring program of construction costs and related contracts pursuant to Section 366.08, Florida Statutes. In making its determination of reasonableness and prudence the Commission shall apply the standard provided pursuant to Section 403.519(4)(e), Florida Statutes.

3. The Commission shall include those costs it determines, pursuant to this subsection, to be reasonable or prudent in setting the ~~factor in the annual~~ Capacity Cost Recovery Clause factor in the annual Fuel and Purchased Power Cost Recovery proceedings. Such prior year actual costs associated with nuclear power plant construction subject to the annual proceeding shall not be subject to disallowance or further prudence review in that proceeding.

4. The final true-up for the previous year, actual/estimated true-up for the current year, and subsequent year's projected nuclear power plant costs as approved by the Commission pursuant to subparagraph (5)(c)2. will be included for cost recovery purposes as a component of the ~~over/under recovered balance to be included in the~~ following year's capacity nuclear power plant cost recovery factor in the Fuel and Purchase Power Cost Recovery proceeding. The utility must file all necessary revisions to the fuel and purchased power cost recovery filings no later than October 15 of the current year.

5. No Changes.

(6) – (a) No Changes.

(b) The amount recovered under this subsection will be the remaining unrecovered Construction Work in Progress (CWIP) balance at the time of abandonment and future payment of all outstanding costs and any other prudent and reasonable exit costs. The unrecovered balance during the recovery period will accrue interest at the utility's overall pretax weighted average midpoint cost of capital on a Commission adjusted basis as reported by the utility in its Earnings Surveillance Report filed in December of the prior year, utilizing the midpoint of return on equity (ROE) range or ROE approved for other regulatory purposes, as applicable.

(7) Commercial Service. As operating units or systems associated with the nuclear power plant and the nuclear power plant itself are placed in commercial service:

(a) The utility shall file a petition for Commission approval of the base rate increase pursuant to Section 366.93(4), Florida Statutes, separate from any cost recovery clause petitions, that includes any and all costs reflected in such increase, whether or not those costs have been previously reviewed by the Commission; provided, however, that any actual costs previously reviewed and determined to be prudent in the Capacity Cost Recovery Clause ~~to which administrative finality has attached,~~ shall not be subject to disallowance or further prudence review except for fraud, perjury, or intentional withholding of key information.

(b) – (e) No Changes.

(8) A utility shall, contemporaneously with the filings required by paragraph (5)(c) above, file a detailed statement of project costs sufficient to support a Commission determination of prudence, including, but not limited to, the information required in paragraphs (8)(b) - (8)(e), below.

(a) Subject to suitable confidentiality agreements or, to the extent necessary, protective orders issued by the Commission, a utility will ensure reasonably contemporaneous access, which may include access by electronic means, for review by parties of all documents relied on by utility management to approve expenditures for which cost recovery is sought. Access to any information that is "Safeguards Information" as defined in 42 U.S.C. 2167 and 10 C.F.R. 73.21, incorporated by reference into this Rule, shall only be

in accordance with applicable Nuclear Regulatory Commission requirements.

(b) Regarding technology selected, a utility shall provide a description of the technology selected that includes, but is not limited to, a review of the technology and the factors leading to its selection.

(c) The annual true-up and projection cost filings shall include a list of contracts executed in excess of \$1 million to include the nature and scope of the work, the dollar value and term of the contract, the method of vendor selection, the identity and affiliation of the vendor, and current status of the contract.

(d) Final true-up filings and actual/estimated true-up filings will include monthly expenditures incurred during those periods for major tasks performed within Site Selection, Preconstruction and Construction categories. A utility shall provide annual variance explanations comparing the current and prior period to the most recent projections for those periods filed with the Commission.

(e) Projection filings will include monthly expenditures for major tasks performed within Site Selection, Preconstruction and Construction categories.

(f) No Changes.

Specific Authority 350.127(2), 366.05(1) FS

Law Implemented 366.93 FS

History: New