

State of Florida



Public Service Commission

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-M-E-M-O-R-A-N-D-U-M-

DATE: July 18, 2013

TO: Office of Commission Clerk (Cole)

FROM: Division of Accounting and Finance (Lester, Mouring, Prestwood)
Division of Economics (Wu) *sw J.W.*
Division of Engineering (Graves) *Ry*
Office of the General Counsel (Murphy) *Can AF mel BH*
Office of Industry Development and Market Analysis (Laux)

COMMISSION CLERK

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RECEIVED PSC

RE: Docket No. 130091-EI – Petition of Progress Energy Florida, Inc. to approve establishment of a regulatory asset and associated three-year amortization schedule for costs associated with PEF's previously approved thermal discharge compliance project.

AGENDA: 07/30/13 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\AFD\WP\130091.RCM.DOC

Case Background

On April 1, 2013, Progress Energy Florida, Inc. filed a petition in Docket No. 130007-EI seeking approval of its environmental cost recovery final 2012 true-up, approval to establish a regulatory asset and associated amortization schedule, and approval to modify the scope of an existing environmental program. (Petition) On April 29, 2013, Docket No. 130091-EI was opened to process the request for establishment of a regulatory asset and associated amortization

schedule. Relevant parts of the Petition and testimony from the environmental cost recovery docket are the basis for Docket No. 130091-EI. On May 6, 2013, Progress Energy Florida, Inc. filed a letter in Docket Nos. 130007-EI and 130091-EI stating its name had changed to Duke Energy Florida, Inc. d/b/a Duke Energy. Staff abbreviates Duke Energy Florida as DEF.

Duke Energy Florida, Inc.'s (DEF's) request for a regulatory asset and associated amortization schedule stems from a project at the Crystal River site intended to bring Crystal River Units 1, 2, and 3 (CR1, CR2, and CR3) into compliance with thermal discharge limits for water used for cooling. The project provided additional cooling in the form of an additional cooling tower for these units and was approved by Order No. PSC-08-0775-FOF-EI, issued November 24, 2008 in Docket No. 080007-EI.¹ On February 5, 2013, DEF announced that it will retire CR3, making the thermal discharge compliance project no longer necessary. By its Petition, DEF proposes to treat the cost of the project, for CR1 and CR2, as a regulatory asset to be amortized and recovered over three years in the environmental cost recovery clause (ECRC).²

On May 17, 2013, staff sent DEF its first set of data requests regarding the project and on June 7, 2013 DEF filed responses to the requests. On June 19, 2013, staff held a noticed informal meeting with DEF and parties to this docket. On June 21, 2013, staff sent DEF its second set of data requests and on June 28, 2013, DEF responded to the requests.

The Commission has jurisdiction over this subject matter pursuant to the provisions of Section 366.8255, Florida Statutes (F.S.).

¹ See Order No. PSC-08-0775-FOF-EI, issued November 24, 2008 in Docket No. 080007-EI, In re: Environmental cost recovery clause.

² The scope of this recommendation does not extend to any issues related to the decision to retire CR3; rather, this recommendation takes as a given that CR3 is retiring and addresses the regulatory treatment of costs for a thermal discharge compliance project that is no longer needed based on that retirement.

Discussion of Issues

Issue 1: Should the Commission approve DEF's request for the establishment of a regulatory asset and associated three year amortization schedule?

Recommendation: Yes. These costs are associated with the Commission-approved thermal discharge compliance project that is no longer necessary. The establishment of a regulatory asset is appropriate for these costs. In addition, a three year amortization schedule for the regulatory asset is appropriate. (Lester, Graves, Laux, Wu)

Staff Analysis: By Order No. PSC-07-0722-FOF-EI, the Commission approved DEF's request to recover the cost of leased modular cooling towers for CR1 and CR2 through the ECRC.³ The additional cooling allowed DEF to maintain compliance with its industrial wastewater discharge permit and was necessary due to higher Gulf of Mexico inlet temperatures. The additional cooling prevented derates, or reductions of capacity, for these coal units.

In the 2008 ECRC proceeding, DEF proposed building a cooling tower and expanding the number of helper cooling tower cells as a permanent solution to the need for additional cooling. This proposal entailed replacement of the leased modular cooling towers as well as handling the additional cooling needs brought on by the CR3 uprate. By Order No. PSC-08-0775-FOF-EI, the Commission approved DEF's request to implement the thermal discharge compliance project.⁴

The project was originally scheduled to be completed in 2011 ahead of the completion of the final phase of the CR3 uprate. In response to staff's data requests, DEF stated that, after the 2009 delamination at CR3, the schedule was revised to maintain the ability to bring the tower into service in coordination with the CR3 uprate while minimizing additional capital spending.

On February 5, 2013, DEF announced that it would retire CR3. This retirement reduces future cooling needs and makes the thermal discharge compliance project no longer necessary. In the instant docket, DEF requests that the Commission allow it to create a regulatory asset for the cost of the project that has already been incurred, amortize the cost over three years, and earn a return on the unamortized balance. As of December 31, 2012, the unrecovered project cost attributable to CR1 and CR2 is approximately \$18.1 million. DEF allocated this cost based on the ratio of heat removal attributable to CR1 and CR2 and to the CR3 uprate – 64 percent for CR1 and CR2 and 36 percent for the CR3 uprate. DEF proposes recovering the cost of the CR1 and CR2 portion in the ECRC and the CR3 portion in the Nuclear Cost Recovery Clause (NCRC). This recommendation addresses only the CR1 and CR2 portion.

The thermal discharge compliance project originally was essential because it was a permanent solution to the additional cooling needs for CR1, CR2, and CR3. It would have prevented derates at CR1 and CR2 and it would have handled the additional cooling needs

³ See Order No. PSC-07-0722-FOF-EI, issued September 5, 2007 in Docket No. 060162-EI, In re: Petition by Progress Energy Florida, Inc. for approval to recover modular cooling tower costs through environmental cost recovery clause.

⁴ See Order No. PSC-08-0775-FOF-EI, issued November 24, 2008 in Docket No. 080007-EI, In re: Environmental cost recovery clause.

caused by the CR3 uprate. With the retirement of CR3, future cooling needs are reduced, making the project no longer necessary. Ending the project will not cause derates at CR1 and CR2.

Since the thermal discharge compliance project is no longer necessary, DEF requests Commission approval to create a regulatory asset for the cost of the project.⁵ Consistent with the rationale of the Commission's decision to amortize DEF's cost of nitrogen oxide (NOx) emission allowances that were thought to be unusable as a result of regulatory developments, DEF proposes to amortize the asset over three years.⁶ Based on the Petition, the three year amortization would begin on January 1, 2013.

Staff recommends that the Commission approve DEF's request to establish a regulatory asset for the thermal discharge compliance project. DEF received Commission approval for the project and was prudent in starting the project. Due to changed circumstances – the retirement of CR3, DEF was prudent in stopping the project because the additional cooling is no longer necessary. DEF indicates that some components of the project may have salvage value and the amount of any salvage value realized will reduce the regulatory asset.

The approval to record the regulatory asset for accounting purposes does not limit the Commission's ability to review the amounts for reasonableness in the ECRC. Project costs included in the ECRC are audited by the Commission staff and can be reviewed as part of the annual ECRC proceeding.

DEF estimates the effect of the amortization and return on the regulatory asset on the monthly 1,000 kWh residential bill is \$0.35 for 2014 and \$0.15 for 2015. This is based on the amortization beginning in 2013 and no change in 2013 rates. Rates for 2014 would include any over/under recovery accrued in 2013.

Staff also believes the three year amortization schedule is appropriate. Since DEF will earn a return on the unamortized balance of the regulatory asset, the cumulative revenue requirement with a three year amortization is less than with longer periods because of the accrual of interest. While the Commission has used longer amortization periods, e.g., four years for rate case expense, staff agrees with DEF that this regulatory asset is more similar to the NOx allowances that were allowed to be amortized over three years. Staff notes that this three year

⁵ Regulatory assets and liabilities are defined as follows:

Regulatory Assets and Liabilities are assets and liabilities that result from rate actions of regulatory agencies. Regulatory assets and liabilities arise from specific revenues, expenses, gains, or losses that would have been included in net income determination in one period under the general requirements of the Uniform System of Accounts but for it being probable:

- A. that such items will be included in a different period(s) for purposes of developing the rates the utility is authorized to charge for its utility services; or
- B. in the case of regulatory liabilities, that refunds to customers, not provided for in other accounts, will be required. Definition 31, Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of The Federal Power Act., 18 CFR Part 101 (4-1-12 Edition).

⁶ See Order No. PSC-11-0553-FOF-EI, issued December 7, 2011 in Docket No. 110007-EI, In re: Environmental cost recovery clause.

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amortization period is only for the ECRC part of the project. The NCRC portion, which will be addressed in Docket No. 130009-EI, is subject to Rule 25-6.0425(6)(a), Florida Administrative Code, which may require a different amortization period.⁷

In conclusion, staff believes DEF was prudent in implementing the thermal discharge compliance project and is prudent in stopping the project given that the retirement of CR3 makes the project no longer necessary. Therefore, staff recommends that the Commission approve DEF's request for the establishment of a regulatory asset and associated three year amortization schedule for the CR1 and CR2 portion of the thermal discharge compliance project.

⁷ Rule 25-6.0423(6)(a), F.A.C., states: "The utility shall recover such cost through the Capacity Cost Recovery Clause over a period during which costs were incurred or 5 years, whichever is greater."

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Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Murphy)

Staff Analysis: At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.