

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.

DOCKET NO. 20230001-EI
ORDER NO. PSC-2023-0207-PCO-EI
ISSUED: July 24, 2023

ORDER GRANTING MOTION TO DEFER ISSUES

On July 14, 2023, Commission Staff (Staff) filed a Motion to Defer Issues requesting that Issues 2G through 2J¹ identified in Order No. PSC-2023-0066-PCO-EI, issued February 3, 2023, be deferred for hearing until the first quarter of 2023. Florida Power & Light Company (FPL) filed its Response to Staff's Motion on July 17, 2023. Florida Retail Federation, Florida Public Utilities Company, Duke Energy Florida, LLC, Tampa Electric Company and PCS Phosphate – White Springs take no position on the Motion; Office of Public Counsel (OPC) and Florida Industrial Power Users Group have no objection.

BACKGROUND

At the Prehearing Conference held on November 2, 2022, in last year's Fuel Clause docket, Issues 2G through 2J that deal with FPL's nuclear plant outages for the years 2020 through 2022 were deferred to this hearing cycle.²

Consistent with that ruling, the Order Establishing Procedure (OEP)³ in this docket established dates for filing company direct, intervenor, and company rebuttal testimony addressing FPL's nuclear power plant outages for the years 2020 through 2022. Compliant with the Prehearing Order, FPL filed the testimony of Dean Curtland and Joel Gebbie on June 9, 2023. Intervenors are required to file their testimony on the FPL nuclear power plant outages on August 11, 2023, with FPL filing its rebuttal testimony on September 28, 2023.

In support of its Motion, Staff states that it has become apparent that additional time is needed for the parties to secure and review the relevant and voluminous data concerning these outages. Staff has requested that the hearing on these issues be held prior to March 31, 2024. Staff has also requested that Section IX(8) of the OEP be revised to eliminate the requirement that OPC/Intervenors file FPL Nuclear Power Plant testimony on August 11, 2023, and that FPL file associated rebuttal testimony on September 28, 2023.

¹ Issue 2G: What is the proper methodology for FPL to calculate replacement power costs associated with an unplanned outage?; Issue 2H: Were FPL's actions, or failures to act, that resulted in unplanned outages that occurred during 2020 prudent? If not, what adjustments should be made?; Issue 2I: Were FPL's actions, or failures to act, that resulted in unplanned outages that occurred during 2021 prudent? If not, what adjustments should be made?; Issue 2J: Were FPL's actions, or failures to act, that resulted in unplanned outages that occurred during 2022 prudent? If not, what adjustments should be made?

² Order No. PSC-2022-0390-PHO-EI, issued November 14, 2022, in Docket No. 20220001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*.

³ Order No. PSC-2023-0066-PCO-EI, issued February 3, 2023, in Docket No. 20230001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*.

FPL agrees that the hearing on these issues can be continued as long as it is held prior to March 31, 2024. However, FPL does not agree that OPC's testimony related to the replacement power costs associated with nuclear power plant outages should be deferred arguing that restarting testimony deadlines in 2024 "may lead to an unduly compressed schedule" and inhibit the ability of the parties to reach a settlement agreement on these issues.

The rationale for continuing the hearing on these issues is based on a unique circumstance that requires extra time to gather vital third-party information that is not available at this time. The Commission's administrative procedures required to secure these documents cannot be completed in a short timeframe. To promote administrative efficiency, it is reasonable to adjust the testimony filing schedule in this docket.

In response to FPL's valid concern about a compressed testimony filing schedule, the following filing schedule shall be followed:

FPL Supplemental Testimony, if any	January 5, 2024
OPC/Intervenor Testimony	February 5, 2024
Staff Testimony	February 5, 2024
Rebuttal Testimony	March 12, 2024
Prehearing Statements	March 12, 2024
Prehearing	March 19, 2024
Hearing	March 26-27, 2024
Posthearing Statements or Briefs	April 8, 2024

This schedule provides approximately the same amount of time for FPL to respond to OPC/Intervenor/Staff testimony as the original schedule set forth in the OEP. This schedule also gives FPL the opportunity to present supplemental testimony based on information developed after its June 9, 2023 testimony was filed. This schedule allows all parties to review all relevant information and provides an adequate opportunity for all parties to file testimony addressing that information. For these reasons, the Commission Staff's Motion to Defer Issues is hereby granted as set forth herein.

Therefore, it is

ORDERED that Commission Staff's Motion to defer Issues is hereby granted as set forth herein. It is further

ORDERED that Section IX(8) of the OEP, Order No. PSC-2023-0066-PCO-EI, is deleted to eliminate the requirement that OPC/Intervenors file FPL Nuclear Power Plant testimony on August 11, 2023 and that FPL file its Nuclear Power Plant rebuttal on September 28, 2023. The new controlling dates with respect to Issues 2G through 2J are set forth above. It is further

ORDERED that Order No. PSC-2023-0066-PCO-EI is reaffirmed in all other respects not inconsistent with this order.

By ORDER of Commissioner Mike La Rosa, as Prehearing Officer, this 24th day of July, 2023.



Mike La Rosa
Commissioner and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

SBr

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.