

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost
recovery clause.

DOCKET NO. 030007-EI

In re: Petition of Progress
Energy Florida, Inc. for
approval of new environmental
programs for cost recovery
through environmental cost
recovery clause.

DOCKET NO. 030711-EI
ORDER NO. PSC-03-1230-PCO-EI
ISSUED: October 31, 2003

ORDER GRANTING MOTION TO CONSOLIDATE

At the Prehearing Conference for Docket No. 030007-EI, on October 23, 2003, Progress Energy Florida (PEF) made a Motion to Consolidate Docket Nos. 030007-EI and 030711-EI. PEF stated that the dockets should be consolidated because they involved similar issues of law or fact and similar parties, and because consolidation would promote administrative efficiency, all of which are criteria for consolidation contained in Rule 28-106.108, Florida Administrative Code. Staff requested additional time to consider the pros and cons of consolidating the two dockets. The Florida Industrial Power Users Group supported staff's request for additional time to evaluate the Motion. None of the other parties objected to the Motion.

After the Prehearing Conference staff and PEF met to discuss the Motion. Staff and PEF agreed that granting the Motion would not prejudice staff under the conditions listed below, pertaining to the Above Ground Storage Tank Secondary Containment Project ("Project") that PEF first proposed in Docket No. 030711-EI.

1. Staff and PEF agree that PEF should be allowed to recover costs through the Environmental Cost Recovery Clause for the installation of or upgrades to secondary containment for field-erected above ground storage tank systems as required by the 1998 amendments incorporated into Rule 62-761.510 (Table AST, Keynotes W and U), Florida Administrative Code. If PEF seeks recovery for any other activities under the Project it shall identify those as new activities in testimony in future proceedings in the ongoing Environmental Cost Recovery Clause Docket. This does not preclude PEF from filing a petition for recovery of Project costs at any other time during the year.

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2. Staff and PEF agree to stipulate the admission of the recommendation filed in Docket No. 030711-EI on October 22, 2003, PEF's interrogatory responses 13, 14 and 15 in Docket No. 030007-EI, and PEF's interrogatory responses 1-13 in Docket No. 030711-EI.
3. Staff agrees to support excusal of PEF's witnesses in Docket No. 030007-EI.

The above conditions appear reasonable, however they are conditions on which the entire Commission must vote at the hearing. Staff and PEF shall take the actions necessary to enable the Commission to vote on the above conditions. Given that staff and PEF have reached an agreement, and that the conditions of the agreement appear reasonable, the Motion shall be granted. Furthermore, I find that, consolidation satisfies the criteria in Rule 28-106.108, Florida Administrative Code.

Based on the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that at the hearing in Docket No. 030007-EI, staff and Progress Energy Florida shall take actions to enable the Commission to vote on the above stated conditions. It is further

ORDERED that Progress Energy Florida's Motion to Consolidate is hereby granted.

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By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 31st Day of October, 2003.


BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

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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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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

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reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, 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.