

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 040001-EI
ORDER NO. PSC-04-1091-PCO-EI
ISSUED: November 4, 2004

ORDER GRANTING MOTION FOR LEAVE TO FILE SUPPLEMENTAL TESTIMONY

On November 1, 2004, Progress Energy Florida, Inc. (PEF) filed a Motion for Leave to File Supplemental Testimony (motion). In its motion, PEF stated that at the Prehearing Conference on October 25, 2004, Office of Public Counsel (OPC) requested that the Prehearing Officer add the following issue for consideration by the Commission at the hearing commencing November 8, 2004:

Pursuant to Order No. PSC-04-0390-FOF-EI, in Docket No. 940001-EI, issued April 4, 1994, should the Commission make an adjustment to Progress Energy Florida, Inc.'s 2001-2003 waterborne coal transportation costs to account for transloading costs for coal commodity contracts which are quoted FOB Barge?

PEF states that this issue was initially included in Staff's Preliminary List of Issues, filed October 4, 2004, but that Staff withdrew the issue following an informal meeting with PEF on October 15, 2004. PEF further states that OPC and FIPUG participated in the informal meeting and advised Staff that they would concur with whatever position Staff decided to take. According to PEF, OPC notified PEF the following week of its intention to depose company representatives Donna M. Davis and Javier Portuondo regarding the issue now in question. The depositions were conducted on October 26, 2004.

PEF contends that the above-referenced events and activities regarding OPC's issue occurred after PEF's direct testimony for the November 8, 2004, hearing was filed. PEF states that it informed the Prehearing Officer during the Prehearing Conference that it desired to reserve the opportunity to submit supplemental testimony on OPC's issue in the event that the issue could not be resolved following the depositions. PEF asserts that it has received no indication from OPC that such a resolution has been reached. PEF requests that it be granted leave to file the direct testimony of Donna M. Davis to address the issue raised by OPC at the Prehearing Conference. PEF states that it has been advised that Staff and FIPUG take no position on the motion at this time but reserve the right to do so later, and that OPC does not object to the motion but reserves the right to object to the content of the supplemental testimony after it has been reviewed by OPC.

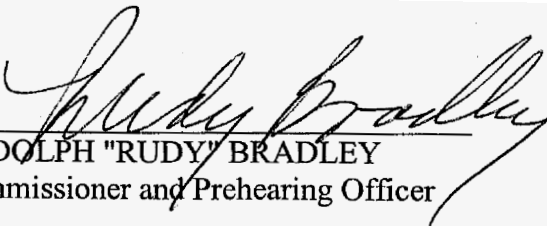
Having reviewed the pleadings and considered the arguments, I find that the motion should be granted.

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Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Progress Energy Florida, Inc.'s Motion for Leave to File Supplemental Testimony is granted.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 4th day of November, 2004.



RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(SEAL)

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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; 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 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.