

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for determination of need for expansion of Crystal River 3 nuclear power plant, for exemption from Bid Rule 25-22.082, F.A.C., and for cost recovery through fuel clause, by Progress Energy Florida, Inc.

DOCKET NO. 060642-EI
ORDER NO. PSC-06-1059-PCO-EI
ISSUED: December 22, 2006

ORDER BIFURCATING THE PROCEEDING

On September 22, 2006, Progress Energy Florida, Inc. (PEF) filed a Petition for Determination of Need for Expansion of its Crystal River Unit 3 Nuclear Power Plant (Petition). Included in its Petition was a request for exemption from Rule 25-22.082, Florida Administrative Code (F.A.C.). Also included in its Petition was a request that PEF be permitted to recover the costs of the expansion through the fuel clause. On November 20, 2006, the Office of Public Counsel (OPC), Florida Industrial Power Users Group (FIPUG), Florida Retail Federation (FRF) and AARP¹ filed a Joint Motion to Sever and Abate the issue on cost recovery from the need determination proceeding (Motion to Sever and Abate). On December 11, 2006, PEF filed its response to the Motion to Sever and Abate. In its response, PEF states it is not opposed to severing the cost recovery portion, but not for the reasons raised in the motion. PEF states that the grounds asserted in the Motion to Sever and Abate are wholly unsupported and inconsistent with established Commission precedent.

The Prehearing Officer has authority pursuant to Rule 28-106.211 F.A.C. to issue orders necessary, among other things, to prevent delay and promote the just, speedy and inexpensive determination of all aspects of the case, including bifurcating the proceeding.

PEF's Petition invokes Commission jurisdiction under Section 403.519, Florida Statutes (F.S.), to determine the need for the expansion of the existing nuclear power plant and asks the Commission to exempt PEF from Rule 25-22.082, F.A.C. (the Bid Rule). The bid rule is integrally intertwined with a need determination proceeding. The need determination is required by the Florida Electrical Power Plant Siting Act, and as such, serves as the Commission's report to the Department of Environmental Protection as required by Section 403.507(4), F.S. Need determinations made pursuant to Section 403.519, F.S. are limited in scope by the statute and are expedited proceedings.

By requesting cost recovery through the fuel clause, PEF also invokes the Commission's ratemaking jurisdiction pursuant to Chapter 366, F.S. The fuel cost recovery docket is an ongoing proceeding with an annual hearing held every November. Each investor-owned utility presents its historical, actual, and projected fuel costs for the Commission to establish an annual cost recovery factor to be charged to ratepayers. The fuel cost recovery docket is not an expedited proceeding, but rather one of continuing and longterm duration. PEF's Petition does

¹ FRF, FIPUG and AARP each filed a Petition to Intervene on November 20, 2006 which had not been granted at the filing of the Motion to Sever and Abate. The Parties' Petitions were granted on December 19, 2006.

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not ask that its proposed cost recovery for the Crystal River Unit 3 expansion be heard in the normal course of the fuel proceeding, but rather in the expedited proceeding for the need determination.

The need determination is an expedited proceeding in which the Commission must make specific findings in a timely manner. Further, cost recovery is a continuous and longterm proceeding involving audits, review of costs, and extensive discovery, all of which may delay the determination of need.

Upon consideration of the relevant pleadings filed in this docket, I find that bifurcating the proceeding will prevent delay of the need determination portion and promote the just, speedy and inexpensive determination of all aspects of the case. The issues of the need for the expansion of Crystal River Unit 3 and the request to exempt PEF from the bid rule will be heard at the January 18, 2007 evidentiary proceeding. The issue of cost recovery of the expansion will be heard by the Commission at a later date.

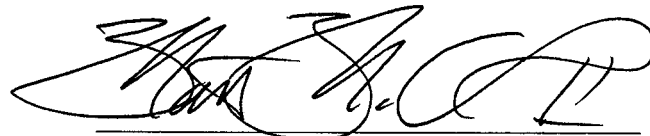
Based on the foregoing, it is

ORDERED by Matthew M. Carter II, as Prehearing Officer, that the issue of cost recovery of the expansion of Progress Energy Florida Inc.'s Crystal River Unit 3 nuclear power plant will not be reviewed in the instant docket. It is further

ORDERED that Progress Energy Florida Inc.'s Petition for Determination of Need for Expansion of its Crystal River Unit 3 Nuclear Power Plant and for Exemption of Rule 25-22.082, Florida Administrative Code, will be heard, as scheduled on January 18, 2007. It is further

ORDERED that the issue of cost recovery will be set for a later date.

By ORDER of Commissioner Matthew M. Carter II, as Prehearing Officer, this 22nd day of December, 2006.



MATTHEW M. CARTER II
Commissioner and Prehearing Officer

(SEAL)

LCB

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.