BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Progress Energy Florida, Inc. to modify scope of existing environmental program.	DOCKET NO. 120103-EI ORDER NO. PSC-12-0432-PAA-EI ISSUED: August 20, 2012

The following Commissioners participated in the disposition of this matter:

RONALD A. BRISÉ, Chairman
LISA POLAK EDGAR
ART GRAHAM
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING PETITION

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission (Commission) that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Case Background

On March 29, 2012, Progress Energy Florida, Inc. (Progress or the Company) filed a petition with this Commission to modify its previously approved Integrated Clean Air Compliance Program to include additional activities (Petition), with associated costs to be recoverable through the Environmental Cost Recovery Clause (ECRC). The Company's Petition was filed pursuant to Section 366.8255, Florida Statutes (F.S.), and Commission Order Nos. PSC 94-0044-FOF-EI and PSC-99-2513-FOF-EI.[1]

Progress notes that the Environmental Protection Agency (EPA) has issued new air emission standards for coal and oil-fired electric generating units. In particular, the EPA's Mercury Air Toxics Standards[2] (MATS), became effective in February 2012. As currently configured, the Company's Anclote Units 1 and 2 burn a mixture of heavy fuel oil and natural

[1] Order No. PSC-94-0044-FOF-EI, issued January 12, 1994, in Docket No. 930613-EI, In re: Petition to establish an environmental cost recovery clause pursuant to Section 366.0825, F.S., by Gulf Power Company; Order No. PSC 99-2513-FOF-EI, issued December 22, 1999, in Docket No. 990007-EI, In re: Environmental Cost Recovery Clause.
[2] Successor to the Clean Air Mercury Rule.

gas, and thus, are subject to the MATS. In order to comply with the MATS, Progress proposes to convert these two units to operate on 100% natural gas; the Company seeks recovery of the conversion costs through the ECRC.

Electric utilities may petition this Commission to recover projected environmental compliance costs that are required by environmental laws or regulations.[3] Environmental laws or regulations include, "all federal, state or local statutes, administrative regulations, orders, ordinances, resolutions, or other requirements that apply to electric utilities and are designed to protect the environment."[4] If this Commission approves a utility's petition for cost recovery through this clause, only prudently incurred costs may be recovered.[5] We have jurisdiction over this matter pursuant to Section 366. 8255(2), F.S.

Review and Decision

In our 2007 ECRC proceeding, we approved the Company's Integrated Clean Air Compliance Plan (Compliance Plan) as a means to satisfy the requirements associated with, among others, the Clean Air Mercury Rule (CAMR) and related regulatory requirements. We have reiterated our approval of Progress' Compliance Plan in each subsequent ECRC proceeding. The EPA has adopted new emission standards; the MATS rule, which replaced the CAMR, became effective in February 2012.[6]

The MATS rule sets emission limits for metals and gases emitted from coal and oil-fired EGUs.[7] These emission standards apply to the continued operation of oil-fired EGUs as defined by the regulation.[8] Progress indicates that the MATS rule may apply to its Crystal River Units 1, 2, 4 and 5, Anclote Units 1 and 2, and Suwannee Units 1, 2 and 3. The Company asserts that compliance is required by 2015, but that an additional year may be allowed by the permitting agency, and the President is authorized to allow an additional two years.

The Company's instant Petition pertains to only its Anclote Units 1 and 2. The maximum summer ratings of the Company's Anclote Units 1 and 2 are 500 MW and 510 MW, respectively. As presently engineered, the maximum heat input of each unit from natural gas is 40% with remaining heat input coming from heavy fuel oil. By relying on a heavy fuel oil

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[3] Section 366.8255(2), F.S.
[4] Section 366.8255(1)(c), F.S.
[5] *See* Order No. PSC 11-0080-PAA-EI, issued January 31,2011, in Docket No. 100404-EI, recounting history of ECRC eligibility criteria pursuant to Section 366.8255, F.S.
[6] National Emission Standards for Hazardous Air Pollutants, 77 Fed. Reg. 9304 (Feb.16, 2012) (codified at 40 C.F.R. pt. 63, subpart UUUUU) .
[7] The new standards are found at Table 2 to 40 C.F.R. Part 63, Subpart UUUUU.
[8] See 40 CFR 63.9981 (applying the regulation to operators of oil-fired EGUs); 40 CFR 63.9982 (describing sources affected by the new regulation including oil-fired EGUs); 40 CFR 63.10042 (defining an oil-fired EGU as "an electric utility steam generating unit meeting the definition of 'fossil fuel-fired' that is not a coal-fired electric utility steam generating unit and that burns oil for more than 10.0 percent of the average annual heat input during any 3 consecutive calendar years or for more than 15.0 percent of the annual heat input during any one calendar year" and providing that "fossil fuel-fired" means, in part, "an electric utility steam generating unit that is capable of combusting more than 25 MW of fossil fuels.").

percentage that exceeds the thresholds established by the rule, Anclote Units 1 and 2 are subject to the MATS for oil-fired EGUs.

Progress evaluated two MATS compliance options for the Anclote units: 1) installation of emission controls – low NOx burners and an electrostatic precipitator (ESP); or 2) conversion of the Anclote units to operate solely on natural gas. The Company compared the capital costs and resulting unit performance of each of the two options, and concluded that fuel conversion is the most cost-effective compliance solution.[9] The Company's analysis indicates that conversion to 100% natural gas will also yield significant fuel cost savings. Progress estimates that the Anclote units will save approximately $57 million in fuel costs over the 2013-2018 period and system fuel cost savings are projected to be in excess of $268 million for the same period. The greater system savings will result from the Company being able to operate the Anclote units more efficiently and thereby either 1) reducing the need to operate other units that are less efficient, or 2) operating other units more efficiently.[10] The Company noted, in particular, that the Anclote fuel conversion project will facilitate more efficient operation of its simple cycle combustion turbines.

The bulk of the facilities to be converted are associated with major boiler plant equipment, and upgrades to the gas supply measurement and regulation facilities. Progress estimates that it will incur approximately $79 million in capital costs associated with converting the Anclote units to fire 100% natural gas. The Company projects that it will incur approximately $26 million in 2012 and about $53 million in 2013. Progress expects that both converted units will be in service in late 2013.

The Company asserts that conversion of the Anclote units to burn 100 percent natural gas constitutes environmental compliance activities that satisfy this Commission's criteria for cost recovery through the environmental cost recovery clause. Pursuant to Order No. PSC-94-0044-FOF-EI, these criteria are:

(a) all expenditures will be prudently incurred after April 13, 1993;

(b) the activities are legally required to comply with a governmentally imposed environmental regulation that was created, became effective, or whose effect was triggered after the company's last test year upon which rates are based; and

(c) none of the expenditures are being recovered through some other cost recovery mechanism or through base rates.

The Progress compliance strategy is unique. The Company acknowledges that it " . . . is not aware of any instances in which Florida utilities have pursued an environmental compliance strategy involving a fuel conversion," and that once this conversion is completed, the MATS rule will no longer apply to the Anclote units. Pursuant to criterion (b), set forth above, costs

[9] Progress estimates that the capital costs of converting the two units to 100 percent natural gas is $12 million less than installing emissions controls.
[10] *E.g.*, by mitigating the need to run units at partial load or with multiple starts.

recoverable through the ECRC must be "legally required to comply with a governmentally imposed environmental regulation." In this context, the Company asserts:

> [Progress] is undertaking the project for the specific purpose of complying with EPA's new MATS rule, which unquestionably constitutes an "environmental law or regulation" as that term is defined in Section 366.8255, F.S. Like many, if not most, environmental regulations involving air emissions, the MATS rule imposes emissions limits, but does not dictate how to comply. . . . In this case, [Progress] essentially has two options to comply with MATS at the Anclote Plant: install emission controls to meet the new emission limits for oil-fired units or discontinue oil-firing. As explained in [the Company's] petition, converting the Anclote units to fire 100% natural gas is the most reasonable and cost-effective compliance option. While the potential to generate fuel savings is an added benefit, it does not detract from [sic] project's purpose – to comply with MATS. Nor does the fact that compliance will be achieved by removing the units from the scope of the MATS emission limits. To conclude otherwise would be an exercise in semantics.

Based on the specific facts before us, and the representations made by the Company, we find that the fuel conversion of the Anclote units 1) is being made first and foremost to comply with the MATS rule, 2) is the most cost-effective option to comply with the MATS, 3) is reasonable, and 4) is an innovative compliance strategy. Thus, we find that the Anclote fuel conversion project complies with the criteria which are enumerated in Order No. PSC-94-0044-FOF-EI, and set forth above. Accordingly, we shall approve the Anclote fuel conversion for ECRC recovery.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Progress Energy Florida, Inc.'s Petition to recover the costs of converting its Anclote units to burn 100 percent natural gas through the Environmental Cost Recovery Clause is hereby approved. It is further,

ORDERED that this docket shall be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of this proposed agency action.

By ORDER of the Florida Public Service Commission this 20th day of August, 2012.

ANN COLE
Commission Clerk
Florida Public Service Commission
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Tallahassee, Florida 32399
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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 that is available under Section 120.57, 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 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.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 10, 2012.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.