

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval to include in base rates the revenue requirement for the CR3 regulatory asset, by Duke Energy Florida, Inc.

DOCKET NO. 150148-EI

In re: Petition for issuance of nuclear asset-recovery financing order, by Duke Energy Florida, Inc. d/b/a Duke Energy.

DOCKET NO. 150171-EI
ORDER NO. PSC-15-0327-PCO-EI
ISSUED: August 13, 2015

ORDER GRANTING DUKE ENERGY FLORIDA, INC.'S
MOTION TO CONSOLIDATE DOCKET NOS. 150148-EI AND 150171-EI

In February 2013, Duke Energy Florida, Inc. (DEF) announced its decision to retire its nuclear plant, Crystal River Unit 3 (CR3), in Citrus County, Florida. The retirement of CR3 was the subject of two settlement agreements. The first settlement agreement, reached in 2012, was a global settlement that addressed several issues, including issues related to the CR3 retirement.¹ The second settlement agreement, reached in 2013, replaced and supplanted the 2012 settlement agreement. The Commission approved the Revised and Restated Stipulation and Settlement Agreement (RRSSA) by Order No. PSC-13-0598-FOF-EI.² Among other things, the 2013 RRSSA contemplated that DEF would create a regulatory asset to account for the recovery of costs associated with the retirement of CR3.

Docket No. 150148-EI – CR3 Regulatory Asset

On May 22, 2015, pursuant to Sections 366.04 and 366.05, Florida Statutes (F.S.), DEF filed its Petition for Approval to Include in Base Rates the Revenue Requirement for the Crystal River Unit 3 Regulatory Asset (CR3 Regulatory Asset Petition), along with supporting testimony and exhibits. DEF intended its petition to be the first step in the securitization process, pursuant to newly enacted statute, Section 366.95, F.S.³

Section 366.95, F.S., authorizes investor-owned electric utilities “subject to a settlement agreement that governs the type and amount of principal costs that could be included in nuclear asset-recovery costs,” such as DEF, to seek a financing order to obtain low-cost funds to recover principal costs of its retired nuclear generation assets. Section 366.95(2)(b), F.S., also provides that before an electric utility can file a petition for a financing order, the utility must file a petition for “review and approval of those principal costs” that could be “included in nuclear

¹ Order No. PSC-12-0104-FOF-EI, issued March 8, 2012, as amended by Order No. PSC-12-0104A-FOF-EI, issued March 15, 2012, in Docket No. 120022-EI, In re: Petition for limited proceeding to approve stipulation and settlement agreement by Progress Energy Florida, Inc. (approving the 2012 settlement agreement).

² Order No. PSC-13-0598-FOF-EI, issued November 12, 2013, in Docket No. 130208-EI, as amended by Order No. PSC-13-0598A-FOF-EI, issued November 13, 2013, In re: Petition for limited proceeding to approve revised and restated stipulation and settlement agreement by Duke Energy Florida, Inc. d/b/a Duke Energy.

³ “DEF’s Petition for Approval to Include in Base Rates the Revenue Requirement for the Crystal River Unit 3 Regulatory Asset,” pgs. 8-10, filed on May 22, 2015, in Docket No. 150148-EI.

asset-recovery costs,” at least 60 days prior to seeking a financing order. DEF’s CR3 Regulatory Asset Petition is the first step in the process required by the new law.

Docket No. 150171-EI – Financing Order

On July 27, 2015, pursuant to Sections 366.04, 366.05, and 366.95, F.S., the RRSSA, and its CR3 Regulatory Asset Petition, DEF filed its Petition for Issuance of a Nuclear Asset-Recovery Financing Order (Financing Order Petition), along with supporting testimony and exhibits, requesting that the Commission issue a financing order to permit DEF to securitize certain costs, including the CR3 Regulatory Asset value as outlined in its CR3 Regulatory Asset Petition filed in Docket No. 150148-EI. DEF also filed a Motion to Consolidate, requesting that its CR3 Regulatory Asset Petition and Financing Order Petition be consolidated for the purposes of hearing, pursuant to Rule 28-106.108, Florida Administrative Code (F.A.C.).

Motion to Consolidate

Rule 28-106.108, F.A.C., provides that “[i]f there are separate matters which involve similar issues of law or fact, or identical parties, the matters may be consolidated if it appears that consolidation would promote the just, speedy, and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party.” DEF asserts that Docket Nos. 150148-EI and 150171-EI should be consolidated because the matters are “inextricably linked,” and consolidation would promote the just, speedy, and inexpensive resolution of the proceedings. DEF asserts that: (1) both dockets involve the same parties, all of which are signatories to the RRSSA; (2) both dockets involve similar issues of law or fact and Section 366.95, F.S., contemplates that a financing order cannot be issued until the value of the CR3 Regulatory Asset has been determined and approved; and (3) consolidation of the dockets would not unduly prejudice the rights of the parties since the parties were advised of its intent to seek consolidation of the dockets in its CR3 Regulatory Asset Petition.

Ruling

Rule 28-106.211, F.A.C., provides that “[t]he presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, to prevent delay, and to promote the just, speedy, and inexpensive determination of all aspects of the case. . . .” Upon review, it appears that Docket Nos. 150148-EI and 150171-EI are interrelated and inextricably linked. The value of the CR3 Regulatory Asset to be determined in Docket No. 150148-EI will directly influence the amount that may be securitized, should this Commission issue a Financing Order in Docket No. 150171-EI. Holding separate hearings in each of the dockets would cause unnecessary duplication of time and resources, and the parties to Docket No. 150148-EI have indicated that they support consolidating the dockets.⁴ Therefore, it appears that consolidation will promote the just, speedy and inexpensive resolution of the proceedings and will not unduly prejudice the rights of any party.

⁴ As of the date of this order, the parties to Docket No. 150148-EI are DEF, the Office of Public Counsel, White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs, and the Florida Industrial Power Users Group.

For the foregoing reasons, Docket Nos. 150148-EI and 150171-EI shall be consolidated into Docket No. 150171-EI. Accordingly, the procedures established by Order No. PSC-15-0238-PCO-EI, issued June 5, 2015, in Docket No. 150148-EI, shall govern this proceeding unless modified by the Commission, and all parties to Docket No. 150148-EI shall also be parties to Docket No. 150171-EI. All filings made in Docket No. 150148-EI shall be combined in the file for Docket No. 150171-EI, and all future filings shall be filed in Docket No. 150171-EI. Both dockets shall remain open.

Based on the foregoing, it is

ORDERED by Commissioner Ronald A. Brisé, as Prehearing Officer, that Duke Energy Florida, Inc.'s Motion to Consolidate Docket Nos. 150148-EI and 150171-EI is hereby granted. It is further

ORDERED that Docket Nos. 150148-EI and 150171-EI are hereby consolidated into Docket No. 150171-EI. It is further

ORDERED that the procedures established by Order No. PSC-15-0238-PCO-EI shall govern this proceeding unless modified by the Commission. It is further

ORDERED that all parties to Docket No. 150148-EI shall also be parties to Docket No. 150171-EI. It is further

ORDERED that all filings made in Docket No. 150148-EI shall be combined in the file for Docket No. 150171-EI, and all future filings shall be filed in Docket No. 150171-EI. It is further

ORDERED that both dockets shall remain open.

ORDER NO. PSC-15-0327-PCO-EI
DOCKET NOS. 150148-EI, 150171-EI
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By ORDER of Commissioner Ronald A. Brisé, as Prehearing Officer, this 13th day
of August, 2015.



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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 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.