

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine need for Seminole combined cycle facility, by Seminole Electric Cooperative, Inc.

DOCKET NO. 20170266-EC

In re: Joint petition for determination of need for Shady Hills combined cycle facility in Pasco County, by Seminole Electric Cooperative, Inc. and Shady Hills Energy Center, LLC.

DOCKET NO. 20170267-EC
ORDER NO. PSC-2018-0064-PCO-EC
ISSUED: January 24, 2018

FIRST ORDER MODIFYING ORDER ESTABLISHING PROCEDURE
AND GRANTING IN PART REQUEST FOR EXTENSION OF
INTERVENOR TESTIMONY FILING DATES

Background

On December 21, 2017, the above referenced dockets were opened for this Commission's review of the Petition for Determination of Need for Seminole Combined Cycle Facility (Seminole Facility), filed by Seminole Electric Cooperative, Inc. (Seminole) and the Joint Petition for Determination of Need for Shady Hills Combined Cycle Facility (Shady Hills Facility) in Pasco County, filed by Seminole and Shady Hills Energy Center, LLC (Shady Hills). On January 5, 2018, an Order Establishing Procedure and Consolidating Docket Nos. 20170266-EC and 20170267-EC for Hearing was issued (OEP).¹ Section IX of the OEP indicates the dates for the key activities of the proceedings, including the January 25, 2018, due date for Intervenors' testimony and exhibits.

On January 17, 2018, Quantum Pasco Power, L.P. (Quantum) filed a motion to intervene in the proceedings, and Michael Tulk and Patrick Daly filed a joint motion to intervene. On that same date, Quantum, Mr. Tulk, and Mr. Daly (Intervenors) filed a joint motion for extension of intervenor testimony filing dates established by Order No. PSC-2018-0018-PCO-EC (Joint Motion). The Orders resolving Intervenors' requests to intervene in the proceedings are forthcoming.

Intervenors' Joint Motion for Extension of Intervenor Testimony

In their Joint Motion, Intervenors request an 11-day extension of the intervenors' testimony and exhibits deadline, which would change the due date from January 25, 2018 to February 5, 2018. Intervenors assert that more time is needed because Seminole and SHEC filed their need determination petitions just prior to the Christmas and New Year's holidays, and because a deadline of January 25, 2018 would only give Intervenors 20 days from the date the OEP was issued to prepare their testimony and exhibits.

¹ Order No. PSC-2018-0018-PCO-EC, issued in Docket Nos. 20170266-EC and 20170267-EC.

Intervenors state that Rule 28-106.204(4), Florida Administrative Code (F.A.C.), provides that “[m]otions for extension of time shall be filed prior to the expiration of the deadline sought to be extended and state good cause for the request.” Intervenors assert that they have timely filed their Joint Motion, and that they have good cause to request an extension because additional time would allow them a more meaningful opportunity to continue to consult with expert witnesses and prepare testimony. Furthermore, Intervenors aver that extension of this deadline, along with modifications to subsequent controlling dates, would not prejudice any party to the proceedings. Accordingly, Intervenors request that the deadline for Staff testimony be extended by 11 days to February 12, 2018, and that the deadline for petitioners’ rebuttal testimony be extended by 11 days to February 26, 2018.

Petitioners’ Response to Joint Motion for Extension of Intervenor Testimony

On January 19, 2018, Seminole and SHEC (Petitioners) filed a joint response to Intervenors’ Joint Motion (Response). In their Response, Petitioners state that they do not object to a reasonable extension of the intervenor testimony up to 7 days, provided that the same extension is granted for the filing dates for Staff and rebuttal testimony. Petitioners’ oppose an 11-day extension because it would unduly constrict the limited time period between the filing of rebuttal testimony and the dates of the prehearing conference and final hearing.

Decision

Rule 28-106.204(4), F.A.C., states that motions for extension of time must be filed prior to the expiration of the deadline sought to be extended and must state good cause. Since they seek to extend a January 25, 2018 deadline, Intervenors’ Joint Motion is timely filed. Intervenors also state good cause for their request – additional time to file will allow them greater opportunity to consult with expert witnesses and prepare pre-filed testimony and exhibits. However, given that need determination proceedings are statutorily limited to 135 days under Section 403.519(4), Florida Statutes, I find that an 11-day extension would be overly burdensome for these proceedings. Given the high number of government holidays since the petitions were filed, and the need to balance this fact with maintaining an efficient and timely completed docket, I find that a 4-day extension will be sufficient. The deadline for submittal of the intervenors’ testimony and exhibits is accordingly extended from January 25, 2018 to January 29, 2018. I also find that the corresponding deadlines for Staff and rebuttal testimony are also extended by 4 days. Accordingly, the revised dates from Section IX of the OEP are indicated below. Order No. PSC-2018-0018-PCO-EC is reaffirmed in all other respects.

	Current Date	Modified Date
(1) Utility’s testimony and exhibits	December 21, 2017	No change
(2) Intervenors’ testimony and exhibits	January 25, 2018	January 29, 2018
(3) Staff’s testimony and exhibits, if any	February 1, 2018	February 5, 2018

(4)	Rebuttal testimony and exhibits	February 15, 2018	February 19, 2018
(5)	Prehearing Statements	March 5, 2018	No change
(6)	Discovery deadline	March 9, 2018	No change
(7)	Prehearing Conference	March 12, 2018	No change
(8)	Hearing	March 21-22, 2018	No change
(9)	Briefs	April 4, 2018	No change

Therefore, it is


ORDERED by Commissioner Gary F. Clark, as Prehearing Officer, that the Joint Motion for Extension of Intervenor Testimony Filing Dates Established by Order No. PSC-2018-0018-PCO-EC is hereby granted in part and denied in part. It is further

ORDERED that (1) the deadline for Intervenor testimony and exhibits is hereby extended from January 25, 2018 to January 29, 2018; (2) the deadline for Staff testimony and exhibits is hereby extended from February 1, 2018 to February 5, 2018; and (3) the deadline for rebuttal testimony and exhibits is hereby extended from February 15, 2018 to February 19, 2018. It is further

ORDERED that all other dates in Section IX of Order No. PSC-2018-0018-PCO-EC remain the same. It is further

ORDERED that Order No. PSC-2018-0018-PCO-EC is hereby reaffirmed in all other respects.

By ORDER of Commissioner Gary F. Clark, as Prehearing Officer, this 24th day of January, 2018.



GARY F. CLARK
Commissioner and Prehearing Officer
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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.