

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of the retail  
rates of Florida Power & Light  
Company.

DOCKET NO. 001148-EI  
ORDER NO. PSC-02-0089-PCO-EI  
ISSUED: January 15, 2002

ORDER REVISING SCHEDULE SET FORTH IN ORDER ESTABLISHING  
PROCEDURE, REQUIRING EXPEDITED RESPONSES TO DISCOVERY, AND  
REQUIRING SERVICE OF TESTIMONY VIA OVERNIGHT COURIER, HAND  
DELIVERY OR FACSIMILE TRANSMISSION

On November 5, 2001, the Office of Public Counsel (OPC) filed a Motion for Reconsideration of the Procedural Order (Order No. PSC-01-2111-PCO-EI) issued October 23, 2001, in this docket. On November 14, 2001, OPC filed a Motion Asking Prehearing Officer to Reject Florida Power & Light Company's (FPL) November 9, 2001, MFR filing. On December 11, 2001, FPL and OPC filed an Agreed Motion to Revise Schedule Set Forth in Order Establishing Procedure. The motion states that if the proposed revisions are adopted, OPC agrees to withdraw its Motion for Reconsideration of the Procedural Order, filed November 5, 2001, and its Motion Asking Prehearing Officer to Reject FPL's November 9, 2001, MFR filing. In addition, FPL agrees to withdraw its Response to the Motion for Reconsideration, dated November 15, 2001, and its Response to the MFR Motion, dated November 20, 2001.

On December 19, 2001, the South Florida Hospital and Healthcare Association (SFHHA) filed an answer to FPL and OPC's Agreed Motion, and, in that same pleading, proposed certain procedural modifications. On December 27, 2001, FPL filed a response to SFHHA's motion. This order addresses both the Agreed Motion and SFHHA's proposed revisions. This order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

AGREED MOTION

FPL and OPC state that the following concerns are enumerated in the prior motions:

1. OPC's Motion for Reconsideration objects to the two-week time period between the Procedural Order's deadline for FPL's prefiled testimony and its deadline for intervenor testimony. OPC states that this is not enough time to respond to FPL's testimony. FPL's Reconsideration Response states that FPL does not generally object to providing the intervenors additional time to file their testimony, but that the case schedule in the Procedural Order cannot accommodate as long an extension as OPC requests.

2. OPC's MFR Motion asks the Prehearing Officer in this docket to reject the revised MFRs that FPL filed on November 9, 2001. OPC states that the revised MFRs were filed after the MFR deadlines stated in the Procedural Order and that FPL did not timely seek reconsideration of those deadlines. FPL's MFR Response states that the revisions to the MFRs were occasioned by changed circumstances related to the September 11 terrorist attacks and deterioration in the U.S. economy, which FPL brought to the Commission's attention when it filed the original MFRs, that FPL filed the revised MFRs as promptly as possible, and that FPL did not violate or deviate from the MFR deadlines. While not expressly stated in the MFR Motion, one of OPC's principal reasons for objecting to the revised MFRs is the impact that filing them later than the original MFRs has on OPC's preparation of testimony.

FPL and OPC state that revising certain controlling dates in the Procedural Order as follows would adequately address the foregoing concerns:

Event	Current Date	Proposed Date
Utility Direct Testimony (ROE expert only)	January 28, 2002	January 18, 2002
Utility Direct Testimony (all other subjects)	January 28, 2002	January 28, 2002
Intervenor Testimony	February 11, 2002	March 4, 2002
Staff Testimony	February 25, 2002	March 4, 2002
Prehearing Statements	February 28, 2002	March 14, 2002
Rebuttal Testimony	March 11, 2002	March 18, 2002
Prehearing Conference	March 14, 2002	March 20, 2002

MODIFICATIONS PROPOSED BY SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION

SFHHA is concerned that there be enough time to provide intervenors an opportunity to obtain meaningful discovery responses and adequate time to incorporate those responses into their case preparation. To provide that opportunity, SFHHA makes two suggestions. First, SFHHA suggests that FPL be required to produce all discovery responses on an expedited basis, i.e. within 20 days from the request, rather than a 30 day response time. Second, SFHHA suggests that FPL should be required to deliver its direct testimony by hand-delivery or overnight delivery so that all parties can commence their review and analysis of the testimony without waiting to obtain the testimony through regular mail service. These slight modifications, SFHHA asserts, would give intervenors approximately 15 days to formulate their discovery requests, analyze FPL's responses and incorporate the discovery into their prepared testimony. SFHHA states that this would also allow intervenors to obtain discovery responses concerning FPL's rebuttal testimony two days before the commencement of the evidentiary hearing.

In its response, FPL states that it does not object to SFHHA's second request and suggests that it may be appropriate for all rounds of testimony for all parties to this proceeding. As to the requests for expedited discovery, FPL states that 20 days is simply not adequate.

CONCLUSION

Since it appears that FPL and OPC have found a solution that adequately addresses the concerns outlined in OPC's Motion for Reconsideration and its MFR Motion, and FPL's Reconsideration Response and MFR Response, the procedural schedule is revised as set forth below:

Utility Direct Testimony (ROE expert only)	January 18, 2002
Utility Direct Testimony (all other subjects)	January 28, 2002
Intervenor Testimony	March 4, 2002
Staff Testimony	March 11, 2002
Prehearing Statements	March 14, 2002
Rebuttal Testimony	March 22, 2002
Prehearing Conference	March 25, 2002

While this schedule is slightly different from that proposed by OPC and FPL, it addresses the concerns raised by OPC and FPL, gives due consideration to the Commission's calendar, and is consistent with the procedure set forth in Order No. PSC-01-2111-PCO-EI. With these modifications, the Commission need not address OPC's Motion for Reconsideration or its MFR Motion. Expedited discovery and providing as much time as possible for the analysis of testimony will further facilitate the fact-finding process. It is appropriate to require all parties to meet the time requirements suggested by SFHHA for FPL. Therefore, all discovery responses for discovery requests propounded after the date of this Order shall be served within 20 days of the request and all testimony shall be served by hand-delivery, facsimile transmission, or overnight delivery. The Prehearing Officer recognizes that expediting discovery responses may be challenging in certain instances. As FPL states, a substantial volume of discovery has already been propounded, and the prospective nature of the expedited response requirement will limit this impact. The parties are expected to work cooperatively to resolve any disputes before seeking relief from the Prehearing Officer.

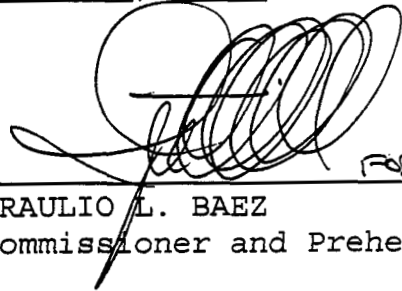
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Based on the foregoing, it is

ORDERED by Commissioner Braulio Baez, as Prehearing Officer, that Florida Power & Light Company's and Office of Public Counsel's Joint Motion to Revise Schedule is hereby granted as set forth in the body of this Order. It is further

ORDERED that South Florida Hospital and Healthcare Association's requested modifications to the procedure are granted as set forth in the body of this Order.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 15th day of January, 2002.



FOR BAEZ

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BRAULIO L. BAEZ  
Commissioner and Prehearing Officer

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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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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.