

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval of two unit power sales agreements with Southern Company Services, Inc. for purposes of cost recovery through capacity and fuel cost recovery clauses, by Progress Energy Florida, Inc.

DOCKET NO. 041393-EI
ORDER NO. PSC-05-0537-PCO-EI
ISSUED: May 16, 2005

ORDER DENYING REQUEST FOR EXTENSION OF TIME

By Order No. PSC-05-0272-PAA-EI, issued March 14, 2005, the Commission proposed to approve Progress Energy Florida, Inc.'s (PEF) petition for approval of two Unit Power Sales (UPS) agreements. This order was protested by White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (White Springs) on March 31, 2005, and a hearing was scheduled for June 2-3, 2005, to address this protest. The Order Establishing Procedure, Order No. PSC-05-0432-PCO-EI, was issued on April 20, 2005, laying out the key dates for the proceeding. On April 26, 2005, White Springs filed a Request for Extension of Time or, Alternatively, Reconsideration of the Order Establishing Procedure. PEF filed a response in opposition to White Springs' request on April 27, 2005.

White Springs seeks a three week extension of time for all the key dates laid out in the Order Establishing Procedure. White Springs argues that the two Unit Power Sales (UPS) agreements present numerous issues that can only be resolved formally or informally after a reasonable opportunity for discovery and analysis. The schedule adopted in the Order Establishing Procedure, according to White Springs, does not provide a reasonable opportunity for White Springs to address the issues, especially since significant portions of PEF's filings in this proceeding were made on a confidential basis. White Springs also argues that the limited time frame would preclude meaningful settlement discussions. While White Springs states that it does not desire to unduly delay or prolong this proceeding, PEF's need to resolve this proceeding expeditiously must be balanced against the need to assure White Springs' due process rights are protected and the prospects for the parties to reach an informal resolution of the issues. As a result, White Springs requests that the Commission extend the procedural schedule by three weeks. In the alternative, White Springs requests that the Commission grant reconsideration of the Order Establishing Procedure.

In response, PEF states that the unless the Commission acts expeditiously in this matter, PEF could be committed to transmission service without approval of the corresponding power purchases, because transmission service could be offered to PEF at any time. The UPS agreements call for PEF to make diligent efforts to obtain Commission approval of the agreements within 180 days of the effective date of November 24, 2004, a date which may be extended but is tied to the notices related to transmission service. Therefore, according to PEF, a delayed decision by the Commission may put the agreements and their associated benefits at substantial risk. PEF asserts that the schedule laid out in the Order Establishing Procedure is not unusual, and since the Order Establishing Procedure requires PEF to respond to discovery

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requests within seven days, White Springs would have sufficient time to conduct two rounds of discovery before its testimony is due and two subsequent rounds of discovery before the discovery cutoff date.

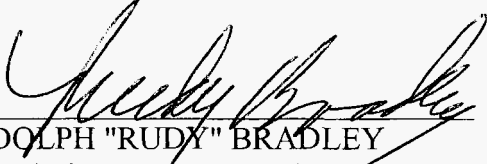
PEF believes that this matter should be resolved without a hearing once White Springs reviews the analyses supporting PEF's petition, which PEF has provided to White Springs in unredacted form. PEF is also willing to participate in informal discussions to the extent they may narrow or resolve the issues raised by White Springs. As a result, PEF maintains that the current procedural schedule would not preclude settlement discussions, contrary to White Springs' assertion. PEF argues that White Springs has provided no basis to conclude that the current schedule constitutes an abuse of discretion or fails to provide due process. Further, White Springs has provided no factual or legal basis to conclude that more time is needed to provide the Commission with the information or expertise it needs to make a decision in this case with the current procedural schedule. With regard to White Springs' alternative request for reconsideration, PEF states that White Springs did not identify any specific point of fact or law that the Prehearing Officer overlooked or failed to consider in rendering the Order Establishing Procedure; accordingly, PEF argues that the alternative request for reconsideration must be denied.

Upon review of the pleadings and consideration of the arguments, I find that White Springs' request for extension of time shall not be granted. White Springs has not demonstrated good cause to alter the existing procedural schedule. Therefore, the request for extension of time filed by White Springs is hereby denied. Because I have ruled on the request for extension of time, no ruling is necessary on the alternate request, for which White Springs provided no supporting argument.

Based on the foregoing, it is,

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that the Request for Extension of Time filed by White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs is hereby denied.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this
16th day of May, 2005



RUDOLPH "RUDY" BRADLEY
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; 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.