

REQUEST FOR CHANGE TO AGENDA CONFERENCE
HAND DELIVER

RECEIVED-PPSC

Date of Request: 12/7/2006 Date of Agenda Conference: 12/19/2006 Item No. _____

Docket No.: 060508-EI Brief Title: Proposed Rule for Nuclear Power Plant Cost Recover

06 DEC -7 PM 12: 04

Requested by: Staff Other _____ (Name) COMMISSION CLERK

Please attach a copy of the written documentation filed (IF OTHER)

STAFF's Recommendation to Executive Suite (IF OTHER) Approve Request Deny Request

ACTION REQUESTED [see APM 2.11]

- Defer Item to Agenda Scheduled Date: _____
- Change Order of Item or Take Up at Time Certain
- Withdraw Item (not expected to return to Agenda)
- Late Filed Recommendation (must be filed no later than 3:00 p.m. on the date approved for late filing) A copy of the front page of the recommendation must be provided to CCA by 12 noon on the regular filing date for use as a place-holder during agenda preparation.
- Add Item to Published Agenda [see Section 120.525(2), F.S.] – Issue an ADDENDUM and give Legal NOTICE CMP _____
- Add Emergency Item to Published Agenda [see Section 120.525 (3), F.S.] – Issue an ADDENDUM and Give Fair NOTICE COM _____

Concise explanation, justification or comments (attach additional sheet if necessary):

Staff requests permission to late file this recommendation by 5:00 on 12/7. Staff has a number of last minute changes, and given the technical nature of the docket, and the need for proposed rule language to be precise staff requires additional time to file the recommendation.

CTR _____
 ECR _____
 GCL _____
 OPC _____
 RCA _____
 SCR _____
 SGA _____
 SEC _____
 OTH ¹ BB, KF HW, RT

Signature (Technical Staff): _____

Initials (Division Director or Designee): _____

Signature (Legal Staff): _____

Initials (General Counsel or Designee): _____

EXECUTIVE DIRECTOR:

Recommendation to the Chairman's Office

Initials: MAB

Comments:

Approve Request Deny Request

Date: 12/7/06

CHAIRMAN's OFFICE:

Initials: DE / Psh

Approve Request Deny Request

Date: 12/7/06

Executive Suite will send the original to the Division of Commission Clerk & Administrative Services and return copy to the requesting staff after the Chairman's Office takes action on this request. Requesting staff should distribute copies to the Division Directors (OPR & OCR) and Attorney assigned to the docket.

DOCUMENT NUMBER-DATE

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: December 7, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Office of the General Counsel (Harris)
Division of Economic Regulation (Bulecza-Banks, Hewitt, Kummer, Lester,
Lewis, McNulty, Slemkewicz)

RE: Docket No. 060508-EI – Proposed adoption of new rule regarding nuclear power
plant cost recovery.

AGENDA: 12/19/06 – Regular Agenda – Rule Proposal – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Carter

RULE STATUS: Proposal Should Not Be Deferred

SPECIAL INSTRUCTIONS: 6 Month Statutory Deadline

FILE NAME AND LOCATION: S:\PSC\GCL\WP\060508.RCM.DOC

Case Background

Section 366.93, Florida Statutes, which became law on June 19, 2006, codified the Florida Legislature's desire to promote fuel diversity and electric supply reliability by encouraging utility investment in nuclear power plants. Section 366.93(2) states "[w]ithin 6 months after the enactment of this act, the commission (sic) shall establish, by rule, alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of a nuclear power plant." This recommendation brings specific rule language to the Commission for consideration.

The statute provides that alternative cost recovery mechanisms to allow all prudently incurred costs to be recovered in rates shall include, but are not limited to: recovery through the

Capacity Cost Recovery Clause (CCRC) of nuclear plant pre-construction costs; and carrying costs on the utility's projected construction cost balance associated with the nuclear power plant. The statute also provides that a utility shall be allowed to increase its base rate charges after the nuclear power plant is placed in commercial service.

Staff is mindful of the Florida legislature's instruction that alternative mechanisms for the recovery of costs associated with nuclear power plant siting, design, licensing and construction are to be established through this rulemaking. Staff believes the Commission's current procedures to review and approve costs associated with nuclear power plant construction will not effectively encourage the investment and construction of new nuclear power plants. Construction of a nuclear power plant requires large investments of capital over a long period of time. Therefore, risks must be minimized as much as possible to encourage the necessary investment. Prior to enactment of Section 366.93, F.S., a utility company's concerns about recovering costs may have caused it not to pursue the siting and construction of a nuclear power plant. Because the legislature determined that Florida should increase the diversity of its fuel supply and that doing so would create greater reliability, alternatives to the cost recovery methods the Commission has traditionally used are being established through this rulemaking for investor-owned utilities electing to build new nuclear power plants.

Staff considers recovery of pre-construction costs and carrying charges associated with construction work in progress through the CCRC an "alternative cost recovery mechanism." Typically, these costs would be capitalized during construction of the power plant and recovery would be addressed in a base rate proceeding once the plant enters commercial service. As an additional alternative cost recovery mechanism, staff recommends the Commission allow a limited proceeding to recover site selection costs once a final order is issued granting a determination of need for a new nuclear power plant.

Staff drafted a proposed rule and a notice of rule development workshop was published in the August 4, 2006, Florida Administrative Weekly. Staff held the rule development workshop on August 30, 2006, to discuss the proposed rule and receive comments from interested persons. Progress Energy Florida, Inc. (PEF) provided written comments in the form of revisions to staff's draft rule in advance of the workshop on August 14, 2006. On August 28, 2006, PEF and Florida Power & Light Company (FPL) jointly provided revised draft rule language for consideration. Representatives of the Office of Public Counsel (OPC), FPL, PEF, Florida Industrial Power Users Group, Florida Retail Federation, Tampa Electric Company, Radey Thomas Yon and Clark law firm, and the Nuclear Energy Institute attended the workshop. Interested persons were also invited to provide written comments after the workshop. On September 13, the Office of Public Counsel filed written comments and PEF and FPL made a joint filing in the form of a revised rule.

On October 12, 2006, staff filed a recommendation that the Commission propose Rule 25-6.0423, F.A.C., Nuclear Power Plant Cost Recovery. Subsequently, staff determined that the definition of "pre-construction costs" in the proposed rule contained an apparent contradiction. As this definition was central to the interpretation and implementation of Section 366.93, Florida Statutes, staff requested time to revisit the issue and revise the proposed rule if necessary. On October 18, 2006, approval was granted to defer the Recommendation until the November 21,