

-BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Progress Energy Florida, Inc.	DOCKET NO. 100437-EI ORDER NO. PSC-10-0750-PCO-EI ISSUED: December 29, 2010
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ORDER HOLDING MOTION IN ABEYANCE AND  
SETTING STATUS CONFERENCE

By Order No. PSC-10-0632-PCO-EI, issued October 25, 2010, in Docket No. 100001-EI, In re: Fuel and purchased power cost recovery clause with generating performance incentive factor, the Commission established a docket separate from the fuel docket to review the actions at Progress Energy Florida, Inc.'s (PEF) Crystal River 3 nuclear plant (CR3) which have resulted in an extended outage and the need for PEF to purchase replacement power due to the outage. The Order states:

. . . the purpose of the docket will be to enable the Commission and all interested parties to review facts and information related to the Crystal River Unit 3 (CR3) steam generator replacement project and the subsequent delamination that was discovered during CR3's Refueling Outage 16. PEF asserts that in this new docket the Commission will be able to evaluate the prudence and reasonableness of PEF's actions concerning the delamination. The new docket will also provide the Commission with the ability to review the prudence of PEF's resulting fuel and purchase power replacement costs associated with the extended CR3 outage.

On November 10, 2010, Commission staff filed a request with the Office of the Commission Clerk to establish Docket No. 100437-EI, In re: Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Progress Energy Florida, Inc. Petitions to Intervene were filed by Florida Industrial Power Users Group (FIPUG); White Springs Agricultural Chemicals, Inc., d/b/a PCS Phosphate – White Springs (PCS), and the Office of Public Counsel.

On December 3, 2010, PEF filed a motion to established case scheduling order. In its motion, PEF requested that the Commission establish a case schedule as follows:

60 days after return to service	PEF files petition and direct testimony
180 days after return to service	Intervenor testimony
210 days after return to service	Staff testimony
240 days after return to service	Rebuttal testimony
270 days after return to service	CR3 hearing

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

However, before this motion, PEF filed another motion on October 8, 2010, to establish a docket, and the Commission subsequently granted that motion on October 25, 2010. At the time of filing that motion, PEF asserted that it expected CR3 would return to service near the end of 2010, and requested that the Commission establish a case schedule as follows:

January 11, 2011	PEF files petition and direct testimony
May 1, 2011	Intervenor testimony
June 1, 2011	Staff testimony
July 1, 2011	Rebuttal testimony
August, 2011	CR3 hearing

CR3 has not returned to service as of the filing of PEF's December 3, 2010, motion. PEF asserted that the proposed schedule in its December 3, 2010, motion will allow all parties the same amount of time for filing testimony as PEF proposed in its motion to establish this docket and will accommodate the fact that the precise return to service date for CR3 is unknown. PEF contends that this new proposal will also allow parties and staff to continue to take discovery in this docket prior to unit restart which should help lessen the need for discovery once direct testimony is filed. PEF states that the Office of Public Counsel does not object to PEF's December 3, 2010, motion.

On December 8, 2010, FIPUG filed a response to PEF's motion. In its response, FIPUG urged the Commission to set a date certain for this proceeding, or keep the proposed dates in August, to ensure that a decision is reached by the end of 2011 so that the Commission's decision is incorporated into the 2012 fuel factors. FIPUG contends that, in this docket, the Commission will consider the prudence and reasonableness of PEF's actions regarding the extended outage at its CR3 unit. The CR3 unit provides low cost energy to consumers in PEF's service area. The outage resulted from cracks in the CR3 containment structure that were discovered during a steam generation replacement project. This outage began in September 2009 and CR3 remains out of service today.

FIPUG asserts that, on several occasions, PEF has provided information as to when it expected CR3 to return to service and each estimate has been wrong. FIPUG states that after each erroneous estimate, PEF has provided a new (and later) return to service date estimate. FIPUG contends that these erroneous estimates demonstrate that PEF has a poor track record of determining when the CR3 unit will return to service to provide low cost service to ratepayers, who are paying for this unit through their base rates. According to FIPUG, to date, every time PEF has provided a return to service date, it has been in error and the unit remains out of service today.

Moreover, FIPUG asserts that on November 30, 2010, over the objection of the Office of Public Counsel, the Attorney General, FIPUG, and other intervenors, the Commission voted to allow PEF to collect its total replacement power costs related to the CR3 outage from ratepayers and directed that these costs be incorporated into the 2011 factor. FIPUG contends that consumers are now being charged for over \$160 million in CR3 replacement power costs before the Commission has determined if such costs are reasonable or prudent in light of the circumstances surrounding the

extended outage. Therefore, FIPUG concludes that this matter must be quickly and expeditiously scheduled so that resolution is reached before new factors are set at the end of 2011.

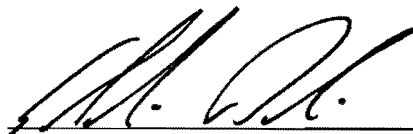
Having reviewed both parties' motions and the history of this case as it relates to the CR3 unit returning to service, I find that the prudent course of action to take in this docket is hold both motions in abeyance and conduct a status conference in January of 2011. At the status conference, PEF will provide the latest, detailed, information on the anticipated return of service of the CR3 unit. This information should include, at minimum, the remaining required steps to be taken (and estimated milestone dates) in order to place CR3 back into safe service. Also, at the status conference, parties must be prepared to present their position on the schedule for filing testimony, and conducting the administrative hearing for the examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project for the hearing going forward so as to incorporate any Commission decision into the 2012 fuel factor, if possible.

Based upon the foregoing, it is

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer, that Progress Energy Florida, Inc.'s Motion to Establish Case Schedule is hereby held in abeyance until a final order on the motion has been issued. It is further

ORDERED that a status conference be held in this docket to discuss scheduling issues in January, 2011.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 29th day of December, 2010.



EDUARDO E. BALBIS  
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 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.