

Diamond Williams

100437-EI

From: Tibbetts, Arlene [Arlene.Tibbetts@pgnmail.com]
Sent: Monday, April 04, 2011 4:06 PM
To: Filings@psc.state.fl.us
Cc: Keino Young; Lisa Bennett; 'vkaufman@kagmlaw.com'; 'jmoyle@kagmlaw.com'; 'jbrew@bbrslaw.com'; 'Al.taylor@bbrslaw.com'; 'kelly.jr@leg.state.fl.us'; Charles Rehwinkel; Charles Beck; Burnett, John
Subject: Docket 100437-EI
Attachments: PEF Status Update 4-4-2011.pdf

This electronic filing is made by:

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Docket: 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.

On behalf of Progress Energy Florida

Consisting of 10 pages

The attached document for filing is PEF's Motion to Bifurcate

DOCUMENT NUMBER-DATE

02250 APR -4 =

FPSC-COMMISSION CLERK

4/5/2011



April 4, 2011

Ms. Ann Cole, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket 100437-EI

Dear Ms. Cole:

Pursuant to Commission Order No. PSC-11-0108-PCO-EI in the above-referenced docket, PEF provides herein a detailed status update on the anticipated return to service of Crystal River Unit 3, along with PEF's Motion to Bifurcate.

Thank you for your assistance in this matter and please let me know if you have any questions.

Sincerely,



John T. Burnett

JBT/at

DOCUMENT NUMBER-DATE

02250 APR-4 =

FPSC-COMMISSION CLERK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail this 4th day of April, 2011 to all parties of record as indicated below.



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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
Submitted for Filing: April 4, 2011

PROGRESS ENERGY FLORIDA, INC.'S MOTION TO BIFURCATE

Progress Energy Florida, Inc. ("PEF or the "Company"), pursuant to Rules 28-106.211 and 28-106.204, Florida Administrative Code ("F.A.C."), hereby moves to bifurcate the issues in this Docket into two phases, and in support of this motion states as follows:

BACKGROUND

1. On October 8, 2010, PEF moved the Commission to establish a docket to examine the outage and replacement fuel and power costs associated with the Crystal River Unit 3 ("CR3") steam generator replacement ("SGR") project. PEF proposed a case schedule commencing in mid-January with PEF filing its petition and testimony, followed by intervenor, staff, and rebuttal testimony, and a hearing in August 2011 based on the expectation at that time that CR3 would return to service near the end of 2010. In Order No. PSC-10-0632-PCO-EI, issued October 25, 2010, the Florida Public Service Commission ("FPSC" or "Commission") established a separate docket to review the actions at PEF's CR3 nuclear power plant which have resulted in an extended outage and the need for PEF to purchase replacement power due to the outage. As stated in the Order "...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." On November 10, 2010, Commission Staff filed a request with the Office of the Commission Clerk to establish Docket No. 100437-EI.

2. On December 3, 2010, PEF filed a motion to establish case scheduling order. PEF proposed a modified case schedule based on the return to service of CR3, which PEF anticipated in the first quarter 2011 based on the Company's repair schedule, recognizing however that the schedule for the return of CR3 to service was affected by a number of factors, including emergent work, engineering designs, and other developments. Because of the uncertainty associated with the complexity of the CR3 repair work and, therefore, the actual return to service date for CR3, PEF proposed a case management schedule that established a time period for testimony and the hearing subsequent to the return to service date for CR3. A case management conference was set before the prehearing officer to discuss scheduling issues in January 2011.

3. The Office of Public Counsel ("OPC") did not object to PEF's motion, but both Florida Industrial Users Group ("FIPUG") and White Springs Agricultural Chemicals, Inc. ("White Springs") expressed concerns regarding the timing of the hearing based on the schedule proposed by PEF. FIPUG urged the Commission to set a date certain for this proceeding to ensure that a decision is reached by the end of 2011. Their express concern was the need for a speedy resolution because the Commission had included, subject to refund, certain replacement fuel and power costs related to the CR3 extended outage in the 2011 fuel factor. *See* Order No. PSC-11-0108-PCO-EI, pp. 2-3. "FIPUG asserted that they would like to see the case scheduled and determined, not in a rush, but as quickly and efficiency as possible." *Id.* White Springs similarly expressed "concern over waiting until CR3 was in commercial operation to schedule the hearing." *Id.* at, p. 3. The concern was with an "open-ended" hearing date.

4. Following the case management conference the prehearing officer ultimately decided that “setting a definitive schedule to conduct a hearing in this docket would be premature.” The prehearing officer recognized that the docket involves complex issues and that the exact date CR3 would return to service was not definitive. The prehearing officer further expressed concern with an open-ended schedule and, therefore, required PEF to file a detailed status update no later than April 4, 2011 if CR3 had not returned to service by the end of March. The Order required a detailed status update “on the anticipated return of CR3 to commercial service and any adjustments to the hearing schedule proposed by PEF’s December 3, 2010 motion.” Subsequent to intervenor comments the prehearing officer indicated another status conference will be noticed and held. *Id.* at p. 3.

5. Concurrent with this Motion, PEF has filed the required detailed status update with the Commission. A copy of that status update is attached as Exhibit A to this Motion. As explained in that status update, PEF was in the process of completing the final stages of retensioning the CR3 containment building when PEF’s surveillance and monitoring equipment alerted PEF to possible issues in the containment structure. PEF immediately stopped work, commenced an investigation, and, as a result of that preliminary investigation, determined that an additional “delamination” or separation of sections of concrete within the containment wall has taken place in a containment bay adjacent to the bay in which the initial concrete delamination occurred. PEF is in the process of finalizing the investigation into the extent of this condition. PEF will be in a position to provide more information to the Commission once this investigation is complete, but at this time PEF cannot reasonably estimate the conclusion of that investigation, its results, and the ultimate return to service date for CR3. *See* Exhibit A to this Motion.

ARGUMENT

6. PEF moves the Commission to bifurcate the issues currently in Docket No. 100437-EI into two phases. Specifically, PEF moves the Commission to establish the first phase of issues to include the inception of the SGR project execution through the time that PEF discovered the second delamination event on March 14, 2011. PEF proposes the schedule set forth in Order No. PSC-11-0108-PCO-EI for this phase. That is, from the date of the Order granting this Motion, the proposed schedule is as follows:

60 days	PEF files petition and direct testimony regarding Phase 1
180 days	Intervener testimony regarding Phase 1
210 days	Staff testimony regarding Phase 1
240 days	Rebuttal testimony regarding Phase 1

PEF further moves the Commission to create a second phase of issues that will encompass the analysis of the second delamination event to the resolution of the second delamination event (i.e. March 15, 2011 until the ultimate resolution) on a schedule to be set by the Commission at a later date. In this second phase, PEF proposes that PEF will follow the procedure established by the prehearing officer in Order No. PSC-11-0108-PCO-EI, requiring PEF to file with the Commission a status update on a date set by the prehearing officer or Commission regarding the status of the second delamination and the anticipated return of CR3 to commercial service. PEF proposes that discovery on both phases can proceed in the docket regardless of the current indeterminate schedule for phase two issues.

7. Bifurcation resolves all issues previously raised by the parties regarding case scheduling. As a result of the second delamination, a failure to bifurcate the issues in this proceeding into separate phases will result in the open-ended schedule that intervenors opposed and the prehearing officer feared. PEF cannot reliably determine at this time when its investigation of the second delamination will be complete, what the results of that investigation

will be, and when CR3 will return to service. PEF is working diligently on a resolution at this time, but PEF simply cannot definitively provide the Commission with a date when this resolution will occur. The issues surrounding the execution of the SGR project, the resulting first delamination, the root cause investigation and report, and the repair process leading up to the second delamination, however, can be resolved without the need to address and resolve the issues surrounding the analysis of the second delamination and the ultimate resolution of the second delamination event. As a result, bifurcation of these issues into separate phases will aid in the just, speedy, and efficient determination of all issues.

8. Bifurcation allows PEF, the intervenors, and the Commission to proceed with a prudence determination of issues that can be now resolved in a timely manner while the evidence is not stale and the facts are available to all parties and the Commission. This is the most efficient use of the Commission's resources. It allows the Commission to focus on past issues that can be resolved while separating out issues that are still developing due to on-going events and circumstances for monitoring and resolution in a separate phase when those events and circumstances are over. The intervening parties will obtain the timely hearing on issues that can be and are ready to be resolved that they requested. Further, bifurcation of the issues into separate phases ensures that the issues will be taken up in a timely, orderly, and efficient process without the potential for confusion on issues where the underlying events and circumstances have not yet occurred. For all these reasons, PEF accordingly moves the Commission to bifurcate the issues into separate phases.

9. The presiding officer has the authority to "issue any order necessary to effectuate discovery, to prevent delay, and to promote the just, speedy, and inexpensive determination of all aspects of the case, including bifurcating the proceeding." *See* Rule 28-106.211, F.A.C. The

Commission has routinely utilized this authority to bifurcate proceedings to promote a just and speedy determination of the case. *See, e.g.*, Order No. PSC-06-1059-PCO-EI; Order No. PSC-07-0232-PCO-EI; Order No. PSC-05-0433-PCO-TP.

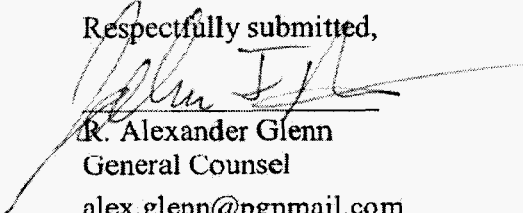
10. Pursuant to Rule 28-106.204(3), F.A.C., PEF has today conferred or attempted to confer with all parties of record and is authorized to represent the following: OPC, White Springs, and FIPUG are unable to take a position on this motion at this time and need more time to review this motion and PEF's April 4, 2011 status report filed today with the Commission before they can do so.

WHEREFORE, PEF respectfully moves for the Commission to enter an Order:

- (1) Bifurcating this proceeding into separate phases in the manner discussed above;
and
- (2) Establishing the case schedule for "Phase 1" in Docket No. 100437-EI that, from the date of the Order granting this Motion, is as follows:

60 days	PEF files petition and direct testimony regarding Phase 1
180 days	Intervener testimony regarding Phase 1
210 days	Staff testimony regarding Phase 1
240 days	Rebuttal testimony regarding Phase 1

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic and U.S. Mail this 4th day of April, 2011.



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April 4, 2011 Status Report to the Florida Public Service Commission Regarding Docket Number 100437-EI

Pursuant to Order PSC-11-0108-PCO-EI ("Order"), Progress Energy Florida ("PEF") is required to file a detailed status update with the Commission regarding Crystal River Unit 3 ("CR3") no later than April 4, 2011 detailing the "anticipated return of CR3 to commercial service and any adjustments to the hearing schedule proposed by PEF's December 3, 2010 motion." Order at 3. Accordingly, PEF hereby submits the following in compliance with the Order:

On March 14, 2011, PEF was in the process of completing the final stages of retensioning the CR3 containment building. Up until that time, PEF had completed 100 of the total 112 retensioning passes without incident. PEF was in the process of completing pass 101 of 112 and PEF's surveillance and monitoring equipment alerted PEF to possible issues in the containment structure. PEF immediately stopped work and launched an investigation, which determined that an additional "delamination" or separation of sections of concrete of the containment wall has taken place within Bay 5-6; the bay adjacent to the bay in which the initial concrete delamination occurred. PEF has also determined that this second delamination does not pose any threat to public or worker safety, nor does it pose any threat to nuclear safety. PEF will be in a position to provide more information to the Commission once an engineering analysis is completed. At this time, however, PEF cannot reasonably estimate a return to service date for CR3.

Given these facts, PEF proposes that the Commission bifurcate Docket No. 100437-EI into two phases. Specifically, PEF proposes that "Phase 1" of this docket would encompass the inception of the execution of the steam generator replacement project through the time that PEF discovered the second delamination event. PEF proposes that this first phase proceed under the schedule set forth in the Order on page 3--that is, from the date of the Commission's order granting bifurcation:

60 Days	PEF files petition and direct testimony
180 Days	Intervener testimony
210 Days	Staff testimony
240 Days	Rebuttal testimony

PEF further proposes that "Phase 2" of this docket would encompass the analysis of the second delamination event to the resolution of the second delamination event on a schedule to be set by the Commission at a later date. PEF has filed a Motion to Bifurcate in this manner along with this update filing.

DOCUMENT NUMBER-DATE
02250 APR -4 =
FPSC-COMMISSION CLERK

