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Sent: Thursday, August 25, 2011 2:30 PM
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Subject: e-filing (Dkt. No. 110009-EI)
Attachments: 110009.Reg. Official Recog. GA order.pdf

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 110009-EI

In re: Nuclear Cost Recovery Clause.

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 11 pages.

e. The document attached for electronic filing is OPC's Request for Official Recognition.
(See attached file: 110009.Reg.Official Recog.GA order.pdf)

Thank you for your attention and cooperation to this request.

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8/25/2011

DOCUMENT NUMBER-DATE

06130 AUG 25 =

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery
Clause.

DOCKET NO.: 110009-EI

FILED: August 25, 2011

OPC'S REQUEST FOR OFFICIAL RECOGNITION

Pursuant to Section 120.569(2)(i), Florida Statutes, the Citizens of the State of Florida, through the Florida Office of Public Counsel, hereby request the Commission to take official recognition of the attached order of the Georgia Public Service Commission, which it issued on February 21, 2011 in its Docket 29849.

The docket in which the Georgia Commission issued this order is the same docket from which FPL rebuttal witness Dr. Sim offered, and the Commission accepted, an excerpt from panel testimony as Exhibit 133. The order is relevant to the Commission's consideration of FPL's rebuttal testimony and exhibit.


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DOCUMENT NUMBER-DATE

06130 AUG 25 =

FPSC-COMMISSION CLERK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and foregoing **OPC'S REQUEST FOR OFFICIAL RECOGNITION** has been furnished by electronic mail and U.S. Mail on this 25th day of August, 2011, to the following:

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Review of Proposed Revisions and Verification)	
Of Expenditures Pursuant to Georgia Power)	
Company's Certificate of Public Convenience and)	Docket No. 29849
Necessity for Plant Vogtle Units 3 and 4, Third)	
Semi-Annual Construction Monitoring Report)	
For the Period January 1, 2010 – June 30, 2010)	

ORDER ON THE THIRD SEMI-ANNUAL CONSTRUCTION MONITORING REPORT FOR THE PERIOD JANUARY 1, 2010 – JUNE 30, 2010

Background

In Docket No. 27800, Georgia Power Company ("Georgia Power" or "Company") filed an application on August 1, 2008 for the Certification of Units 3 and 4 at Plant Vogtle and Updated Integrated Resource Plan ("Application"). In its Application, the Company sought Commission approval of its addition of Units 3 and 4 at Plant Vogtle ("Vogtle Units 3 and 4"). In its Amended Certification Order issued February 26, 2010, the Commission approved the Company's application for the certification of Vogtle Units 3 and 4 as modified by a Stipulation entered into between the Commission Public Interest Advocacy Staff ("PIA Staff" or "Staff") and the Company ("Stipulation").

Paragraph 2 of the Stipulation requires the Company to file Semi-Annual Monitoring Reports with the Commission as provided by O.C.G.A. § 46-3A-7(b). These Semi-Annual Monitoring Reports must include any proposed revisions in the cost estimates, construction schedule, or project configuration, as well as a report of actual costs incurred in the period covered by the report.

On August 31, 2010, the Company filed with the Commission its Third Semi-Annual Construction Monitoring Report ("Third Monitoring Report," "Third Progress

Report” or “Third VCM Report”). The Third Monitoring Report covers construction costs spent up to and including June 30, 2010.

Statement of Jurisdiction

This matter is ripe for decision by this Commission. Georgia Code § 46-3A-7(b) states:

In addition to the review of the continuing need for an electric plant under construction prescribed in Code Section 46-3A-6, the commission, upon its own motion, may conduct or the utility may request that the commission conduct an ongoing review of such construction as it proceeds. Every one to three years, or at such lesser intervals upon the direction of the commission or request of the utility, the applicant shall file a progress report and any proposed revisions in the cost estimates, construction schedule, or project configuration. Within 180 days of such filing, the commission shall verify and approve or disapprove expenditures made pursuant to the certificate and shall approve, disapprove, or modify any proposed revisions. If the commission fails to so act within 180 days after such filing, the previous expenditures and any proposed revisions shall be deemed approved by operation of law.

Initial Issues Involved

1. Whether the Commission should verify and approve or disapprove the expenditures as made pursuant to the certificate issued by the Commission.

The Commission established in its Certification Order dated March 30, 2009 that Semi-Annual Progress Reports are to be filed by Georgia Power. On August 31, 2010, Georgia Power filed its Third Semi-Annual Construction Monitoring Report for Vogtle Units 3 and 4. The August 2010 Monitoring Report included expenditures incurred from January 1, 200 through June 30, 2010, which Georgia Power stated were made pursuant to the Certificate.

Within 180 days of the filing of a progress report, “the commission shall verify and approve or disapprove expenditures made pursuant to the certificate. If the Commission fails to so act within 180 days after such filing, the previous expenditures shall be deemed approved by operation of law.” O.C.G.A. § 46-3A-7(b)

If the Commission verifies expenditures as made pursuant to a certificated capacity resource, that verification forecloses subsequent exclusion of those costs from the utility’s rate base, absent fraud, concealment, failure to disclose a material fact, imprudence, or criminal misconduct. O.C.G.A. § 46-3A-7(c).

2. Whether the Commission should approve, disapprove or modify any proposed revisions to the certificated resource.

Within 180 days of the filing of any proposed revisions in the cost estimates, construction schedule, or project configuration, "the commission shall approve, disapprove, or modify any proposed revisions. If the commission fails to so act within 180 days after such filing, any proposed revisions shall be deemed approved by operation of law. O.C.G.A. § 46-3A-7(c).

3. Whether the Commission should approve any Risk Sharing Mechanism developed by the PIA Staff and the Company, or adopt a different proposal brought forward by either the PIA Staff or Company, or any combination thereof, the Commission believes is reasonable and necessary.

The Commission found and concluded that in its Order dated August 27, 2010 that a Risk Sharing Mechanism should be in place prior to the periods of heaviest construction activity on the Project. To that end, the Commission instructed in its Order that the PIA Staff and the Company use their best efforts to develop a mutually agreeable mechanism by the end of the next Semi-Annual preceding. (Order on Second Semi-Annual Construction Monitoring Report, p. 9)

Statement of Proceedings

The Commission issued a Procedural and Scheduling Order which provided for the following:

Georgia Power Company, on October 29, 2010, consistent with the Stipulation adopted by the Commission in Docket 27800 on March 30, 2009, filed with the Commission, in the form of testimony and exhibits, its justification for why the Commission should verify and approve the actual expenditures through June 30, 2010 as made pursuant to the certificated capacity resource including why the Commission should approve any proposed revisions to the certified capacity resource;

The Company presented its direct case before the Commission on November 22, 2010;

The PIA Staff and Intervenors were instructed to file separate direct testimony on December 10, 2010;

On December 21, 2010, the Commission conducted hearings on the direct cases of Staff and Intervenors;

Georgia Power filed its rebuttal testimony on January 7, 2011. The Commission heard the rebuttal testimony on January 20, 2011; and

Final briefs were filed by the Company, PIA Staff and the Southern Alliance for Clean Energy ("SACE") on January 28, 2011.

The statutory deadline for decision in this docket is 180 days from filing of the Semi-Annual Report, or February 27, 2011.

Discussion

1. Verify And Approve Expenditures Made Pursuant To The Certificate in Accordance With O.C.G.A. § 46-3A

In the Third VCM Report, the Company asked the Commission to verify and approve its expenditures for the Project for the period January 1, 2010 through June 30, 2010. PIA Staff recommended that the Commission verify and approve the total Project-to-date costs, which are shown in Table 1.1 of the Third VCM Report. (Tr. 880). Throughout the Commission's review of the Third VCM Report, there has been no objection or criticism raised contesting the expenditures made during the Reporting Period. The PIA Staff and the Company recommended Commission verify and approve such expenditures as made pursuant to the Certificate.

Based upon the evidence in the record, the Commission finds that it is appropriate to verify and approve the expenditures made during the period of January 1, 2010 through June 30, 2010 as requested by Georgia Power Company.

2. Project's Schedule And Budget In Accordance With O.C.G.A. § 46-3A-7(b)

Georgia Power asserted that the project remains cost effective for customer and noted that the PIA Staff and Construction Monitor have been informed of the progress of construction through their monthly review of the level 1 schedule, which shows progress to date against the milestones. The Company did not request any adjustments to the project schedule. (GPC Brief p. 5).

The Company reports against a revised certification amount of \$6.113 billion pursuant to the stipulation adopted by the Commission during its review of the First VCM Report (the "Stipulation"), which reflects the savings to be achieved by the adoption of the Georgia Nuclear Energy Financing Act (Senate Bill 31) that allows for Construction Work in Progress to be included in rate base. See Order, Para. 4 of Stipulation, Docket No. 29849 (February 26, 2010). The forecasted Project expenditures are currently tracking under the \$6.113 billion certified amount. Report at 6. As with any project of this magnitude, it is now apparent that the cost of several individual items will be greater than budgeted, while the cost of others will be less than budgeted; however, the overall net change in the projected cost of the Project is favorable. Thus, the Company is not requesting any changes to the Project budget.

SACE continues to not support the Vogtle nuclear reactor project and advocates the cancellation of the Project in favor of alternative capacity resources that it claims are more cost effective, cleaner and more sustainable. If the Commission allows the Project to continue, SACE would respectfully request that the Commission consider their recommendations and objections.

The Commission rejects the request of SACE for cancellation of the Project, and instead, finds and concludes that, based on the evidence, the Project remains the most economic and viable capacity resource. Further, as the Company is not requesting any change to the Project budget, no action pertaining to budget and schedule revision is necessary by the Commission.

3. Maintenance Of Project Cost Data In Monthly Form

The PIA Staff urged the Commission to require the Company to maintain the Project cost data in a monthly form that allows Staff and consultants to trace the cost data from the summary to the detailed documents as recommended by PIA Staff witness Cook.

PIA Staff witness Cook's proposed recommendations are designed to make the flow of data from the supplemental reports and general ledger data queries more understandable and more easily traced from detailed supporting data for the monthly summary reports. Specifically, he recommended that for future reviews, the Company maintain the monthly Vogtle 3 & 4 cost data in a more organized form that allows the Staff and its consultants or other outside reviewers to easily trace the cost data from supporting detailed document pages to the summary report pages provided in the Monthly Status Reports. Mr. Cook testified that this process can be achieved by providing detailed explanatory footnotes and tabbed supporting pages within each month's notebook. (Tr. 910)

Company witness Burleson testified that Georgia Power is in agreement with the PIA Staff witness Cook's recommendation to maintain the project cost data in a monthly form that allows Staff and consultants to trace the cost data from summary to the detailed documents. (Tr. 1040)

The Commission finds the parties' positions on this matter are reasonable and without dispute. Therefore, the Commission adopts the recommendation to require the Company to maintain the Project cost data in a manner prescribed by PIA Staff witness Cook.

4. Probabilistic Analysis And Rough Cancellation Estimate

PIA Staff witness Hayet testified that in order to provide the Commission with the most meaningful and relevant comparison of the economics of the Units to other capacity options, the Commission should require the Company to provide further analysis of its results and explain which cases it would expect to have lower probabilities of occurring. The Company should be required to calculate a weighted average expected value result, by weighting each of the individual results by some assumed probability that each case would occur, and summing up the results across all of the cases. The objective would be to determine if the expected value still showed a potential economic benefit and to consider whether the size of the potential benefit was considered significant. Additionally, the Company did not consider cancellation costs in its economic evaluations of Vogtle Units 3 & 4 because it did not believe such an assessment was warranted. According to testimony of PIA Staff witness Hayet, the Company explained in a data request response that "developing these costs would require significant direct involvement of the Consortium" and there would be a "significant effort and cost required to undertake such as assessment." Even though PIA Staff agreed, PIA Staff witness Hayet stated that PIA Staff would like Georgia Power to explore whether some sort of rough estimate could be developed in the next filing that would not require a significant amount of time or cost. (Hayet Direct, pp 7-8)

On rebuttal, Georgia Power argued that it is unwarranted and runs contrary to the philosophy underlying the Company's use of scenarios for the Company to perform a probabilistic assessment of its CO2 and natural gas price scenarios. The Company claims that performing a probabilistic assessment would undercut the value of utilizing a wide range of scenarios and would rely on the Company's ability to accurately predict which scenarios are more likely to occur, which is the very outcome that the use of the scenarios is intended to avoid.

The Company also asserted that it is not necessary or beneficial for it to calculate a rough estimate of cancellation costs for the Project, as was proposed by PIA Staff. As an initial matter, cancellation is a highly unlikely outcome. Furthermore, the assumptions that would be required to make such estimate, as well as the "shelf life" of the estimate, would further undercut any perceived value in such an estimate.

SACE asked the Commission to order the Company to use the Staff's recommended "weighted average expected value results" and to use additional carbon tax/natural gas price scenarios as part of future alternative capacity analyses. See Pre-Filed Testimony of Philip Hayet - December 10, 2010.

In Docket No. 27800, the Commission adopted a Stipulation that directed the Company to perform "An updated comparison of the economics of the certified project to other capacity options" each time the Company submits its Semi-Annual Construction Monitoring Report. It was determined that calculating a weighted average expected value

result would provide a more accurate and meaningful method of comparing the economic viability of the Units to the next best capacity resource option.

PIA Staff noted that this comparison becomes even more critical in the next several years as the bulk of the construction costs of the Units will be incurred. The Commission finds that Company's argument that it has presented numerous scenarios because it does not know, and cannot predict, which scenario is more likely than another to play out over the sixty year period of time relevant to the expected operation of the Units is not persuasive. Therefore, the Commission finds it appropriate to require Georgia Power, when performing an economic evaluation of the units, to calculate a weighted average expected value result as requested by PIA Staff witness Hayet.

As noted by Georgia Power, given the unlikelihood of cancellation, the significant resources required to generate an estimate and the limited accuracy and usefulness of such an estimate, the Commission declines to order Georgia Power to make such calculations for each Semi-Annual proceeding. Rather, in subsequent Procedural and Scheduling Orders, the Commission may direct Georgia Power to make such a calculation as part of its testimony for that proceeding.

Risk Sharing Mechanism

PIA Staff, the Company and SACE addressed, or in some manner, discussed the implementation of a risk sharing mechanism. However, in its Administrative Session on February 21, 2011, the Commission found it reasonable and appropriate to allow the parties thirty (30) days to seek any potential areas of agreement in the development and implementation of a risk sharing mechanism. Therefore, this issue will be the subject of a Supplemental Order.

Findings of Fact and Conclusions of Law

1.

The Commission finds and concludes that, based on the evidence in the record, it is appropriate to verify and approve the expenditures made during the period of January 1, 2010 through June 30, 2010 in accordance with O.C.G.A § 46-3a-7(b).

2.

The Commission rejects the request of SACE for cancellation of the Project, and instead, finds and concludes that, based on the evidence, the Project remains the most economic and viable capacity resource. Further, as the Company is not requesting any change to the budget, no action pertaining to the budget or schedule revision is necessary by the Commission.

3.

The Commission finds the parties' positions regarding the organization and presentation of the Project cost data are reasonable and without dispute. Therefore, the Commission adopts the recommendation to require the Company to maintain the Project cost data in a manner prescribed by PIA Staff witness Cook.

4.

The Commission finds it appropriate to require Georgia Power, when performing an economic evaluation of the units, to calculate a weighted average expected value result in accordance with the manner outlined by PIA Staff witness Hayet.

5.

The Commission finds and concludes that, given the unlikelihood of cancellation, the significant resources required to generate an estimate and the limited accuracy and usefulness of such an estimate, the Commission declines to order Georgia Power to calculate a rough estimate of cancellation costs for each semi-annual proceeding. Rather, in subsequent Procedural and Scheduling Orders, the Commission finds and concludes that it may direct Georgia Power to make such a calculation as part of its testimony for that proceeding.

6.

The Commission finds that it is reasonable and appropriate to allow thirty (30) additional days for the parties to seek areas of agreement with respect to the structure and necessity of a risk sharing mechanism for future Semi-Annual proceedings.

* * * * *

WHEREFORE IT IS ORDERED that all findings, conclusions, statements, and directives made by the Commission and contained in the foregoing sections of this Order are hereby adopted as findings of fact, conclusions of law, statements of regulatory policy, and orders of this Commission.

ORDERED FURTHER, that a motion for reconsideration, rehearing, or oral argument or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

ORDERED FURTHER, that jurisdiction over these matters is expressly retained for the purpose of entering such further Order or Orders as this Commission may deem just and proper.

The above by action of the Commission in its Administrative Session on the 21st day of February, 2011.

Reece McAlister
Secretary

Stan Wise
Chairman

Date

Date