

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 120009-EI
ORDER NO. PSC-12-0441-PCO-EI
ISSUED: August 27, 2012

ORDER DETERMINING THE STATUS OF PROPOSED ISSUES 28A AND 29A

Background

The Prehearing Conference in this docket was held on August 15, 2012. Several issues were in dispute, including whether to include two issues proposed by Office of Public Counsel (OPC) regarding Florida Power & Light Company (FPL)'s petition. The issues, identified as 28A and 29A in the parties prehearing statements are as follows:

Issue 28A: Based on the evidence, under current circumstances, should the Commission evaluate the economic feasibility of the Turkey Point and St. Lucie Extended Power Uprate activities separately?

Issue 29A: Should the Commission find that FPL managed the extended power uprate activities in a reasonable and prudent manner? If not, what action should the Commission take?

Parties' and Staff's Positions

Staff and Florida Power & Light Company (FPL) objected to the inclusion of these as separate issues in the docket. FPL and staff opposed the inclusion of these issues on the grounds that the issues were subsumed in other issues, particularly Issues 28 and 29, which deal directly with the Extended Power Uprate (EPU) project. FPL also argues that due to the comprehensive and overlapping nature of the EPU, it is highly impractical to separate the components of the EPU. Furthermore, FPL argues that Issue 29A does not include a year to which the issue should apply.

For issue 28A, OPC contended that given the \$555 million increase in costs associated with the Turkey Point nuclear power plant, the Commission should evaluate the Turkey Point and Port St. Lucie components separately since that would enable the Commission "to identify and take action and to protect customers from, the impact of soaring Turkey Point costs on the viability of that project." According to OPC, in light of its argument for inclusion of Issue 28A, it follows that Issue 29A propounds the follow-up question concerning the reasonableness and prudence of FPL's management of the Turkey Point portion of the EPU project.

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Analysis and Ruling

In 2011, through Order NO. PSC-11-0547-FOF-EI, this Commission addressed the issue of whether there was a need for a separate economic analysis by plant when examining the EPU project in this docket. At that time OPC argued that “the project should be broken up into two separate analyses due to the higher estimated capital costs of the Turkey Point plant portion of the EPU project, and the Turkey Point’s earlier license expiration dates.”¹ While FPL “contended that the EPU project was conceived as a single project that encompassed the capacity of all four units, and that for consistency, should continue being analyzed as a single project.”² FPL also stated that “...while separate contracts were acquired for the plant sites, contracts were negotiated based on an uprate of all four nuclear units, and therefore they could not be used to determine costs for a single site without somehow excluding this benefit.”³ Another FPL witness noted that “...a similar advantage was gained by purchasing multiples of equipment, resulting in cost savings.”⁴ Based on the testimony and evidence presented, the Commission has previously ruled that Issue 28A was not appropriate when it stated “...a separate economic analysis for each of the EPU project plant is unnecessary, and would be difficult to calculate.”⁵

Based on this Commission’s ruling on a similar matter in prior years of this recurring document, there is no basis for including Issue 28A. Furthermore the remaining issues, particularly Issues 28, 29 and 29A, provide ample opportunity for any party to this matter to argue in support or opposition of FPL’s conduct with regard to any aspect of the EPU project. Therefore Issue 28A shall be disallowed and stricken from the Prehearing Order.

Issue 29A specifically frames the issue of management of the EPU project. The inclusion of this Issue will not result in unnecessary duplication. The Issue, however, should be revised to include the appropriate time period that is subject to Commission review. Therefore, Issue 29A is allowed but shall be revised and included in the Prehearing Order as follows:

Issue 29A: Should the Commission find that in the previous year (2011) and the current year to date (2012), FPL managed the Extended Power Uprate activities in a reasonable and prudent manner? If not, what action should the Commission take?

Parties shall have three business days from the date of this order to submit any revised positions resulting from this ruling.

Based on the foregoing it is

¹ Order No PSC-11-0547-FOF-EI, issued November 23, 2011, in Docket No. 110009-EI, In re: Nuclear Cost Recovery Clause, p.40

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer, that Issue 28A is disallowed and shall be stricken. It is further

ORDERED that Issue 29A is allowed as revised and included in the Prehearing Order. It is further

ORDERED that all parties shall have three business days from the date this order is issued to submit any revised positions which arise from the results of this order.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 27th day of August, 2012.



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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

MTL

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-

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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.