

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-13-0080-PCO-EI  
ISSUED: February 13, 2013

ORDER GRANTING IN PART AND DENYING IN PART PROGRESS ENERGY FLORIDA, INC.'S MOTION TO LIFT STAY OF PHASE 2 OF DOCKET NO. 100437-EI

On February 5, 2013, Progress Energy Florida, Inc. (PEF) announced that its parent company Duke Energy, Inc.'s Board of Directors has made the decision to retire Crystal River Unit 3 (CR3). On February 8, 2013, PEF filed an unopposed Motion to Lift Stay on Phase II of Docket No. 100437-EI and to Establish Procedural Case Schedule. Phases II and III were stayed by Order No. PSC-12-0115-PCO-EI, issued in this docket. In its Motion, PEF contends that its decision to retire CR3 is now ripe for Commission review and the Phase II stay should be lifted for the Commission to review and determine the prudence of said decision. PEF asserts that the presiding officer has the discretion to lift the stay when appropriate. It contends that the parties and Prehearing Officer to this docket acknowledged at Status Conferences in this docket that Phase II is ripe for hearing when a repair or retire decision is made by the Duke Energy Board of Directors. In addition, the Commission has previously lifted a stay of the proceedings which was requested by one of the parties in a docket.

PEF expressed a desire for the Commission to establish a procedural case schedule consistent with the existing hearing dates reserved by Commission staff for Phase II of this docket. PEF's proposed case schedule is outlined below:

- |   |                   |
|---|-------------------|
| (1) Utility's testimony and exhibits            | February 13, 2013 |
| (2) Intervenors' testimony and exhibits, if any | March 14, 2013    |
| (3) Staff's testimony and exhibits, if any      | March 21, 2013    |
| (4) Rebuttal testimony and exhibits             | March 29, 2013    |
| (5) Prehearing Statements                       | April 1, 2013     |
| (6) Prehearing Conference                       | April 9, 2013     |
| (7) Discovery deadline                          | April 1, 2013     |
| (8) Hearing                                     | April 15-17, 2013 |
| (9) Briefs                                      | May 13, 2013      |

DOCUMENT NUMBER-DATE

00833 FEB 13 2013

FPSC-COMMISSION CLERK

Having reviewed and analyzed the Motion, I find that PEF's request to lift the stay of Phase II is granted. Order No. PSC-11-0352-PCO-EI (Order Establishing Procedure) divided this docket into three phases: 1) a prudence review of the events and decisions of PEF leading up to the October 2, 2009 delamination event; 2) a consideration of the prudence of PEF's decision to repair rather than decommission CR3; and 3) a prudence review of the decisions and events subsequent to the October 2, 2009 delamination leading up to the March 14, 2011 delamination event and the subsequent repair of the containment building. The Commission issued Order No. PSC-12-0104-FOF-EI, Final Order Approving Stipulation and Settlement Agreement, which settled Phase I of this docket, and Phase I was subsequently dismissed. PEF through its parent company (Duke Energy) Board of Directors made the decision to retire CR3, thus, Phase II is now ripe for Commission review and determination of prudence. However, Order No. PSC-11-0352-PCO-EI was issued with the understanding that CR3 was going to be repaired. As discussed during the August 8, 2011 Status Conference, PEF indicated that the Company was continuing to engage in negotiations with contractors to effectuate the repair of CR3.<sup>1</sup> Since CR3 will not be repaired, but rather retired, Phase III is also ripe for Commission review and determination of prudence. Order No. PSC-12-0115-PCO-EI grants the Presiding Officer with the discretion to lift the stay when appropriate. Pursuant to this authority, I find that it is appropriate to lift the stay on Phases II and III. Therefore, PEF's proposed case schedule is denied, and a Revised Order Establishing Procedure shall be issued setting a case schedule for Commission review and determination of prudence of both Phases II and III.

Based on the foregoing, it is

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer, that Progress Energy Florida, Inc.'s Motion to Lift Stay on Phase II of Docket No. 100437-EI is granted. It is further

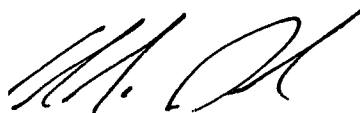
ORDERED that the stay on Phase III of Docket No. 100437-EI is also lifted. It is further

ORDERED that Progress Energy Florida, Inc.'s proposed case schedule is denied and a Revised Order Establishing Procedure shall be issued setting a case schedule for Commission review and determination of the prudence of both Phases II and III.

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<sup>1</sup> August 8, 2011, Status Conference, Tr. 6-9.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 13th day of February, 2013.



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EDUARDO E. BALBIS  
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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.

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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.