

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding to approve revised and restated stipulation and settlement agreement by Duke Energy Florida, Inc. d/b/a Duke Energy.

DOCKET NO. 130208-EI
ORDER NO. PSC-13-0385-PCO-EI
ISSUED: August 16, 2013

PROCEDURAL ORDER

Petition for Limited Proceeding

On August 1, 2013, Duke Energy Florida, Inc. (DEF) filed a Petition for Limited Proceeding to Approve Revised and Restated Stipulation and Settlement Agreement. DEF requested that the Commission hold a limited proceeding pursuant to Sections 366.076 and 120.57(2), Florida Statutes (F.S.), and Rule 28-106.301, Florida Administrative Code (F.A.C.). The purpose of the limited proceeding is for the Commission to review the Revised and Restated Stipulation and Settlement Agreement (Revised and Restated Agreement) which is attached as an exhibit to DEF's Petition and incorporated and made a part of the petition. The Revised and Restated Agreement seeks to replace and supplant the Stipulation and Settlement Agreement (the 2012 Settlement Agreement) approved by the Commission in Order No. PSC-12-0104-FOF-EI, issued in Docket No. 120022-EI. The Revised and Restated Agreement is executed by DEF, the Office of Public Counsel (OPC), the Florida Industrial Power Users Group (FIPUG), the Florida Retail Federation (FRF), and White Springs Agriculture Chemicals, Inc. d/b/a PCS Phosphate (White Springs).

The Revised and Restated Agreement includes an adjustment in the Company's base rates which will become effective with the first billing cycle in January 2014. DEF included with its petition proposed tariff sheets reflecting the changes to rates if the Revised and Restated Agreement is approved.

The Agreement

According to DEF, the Revised and Restated Agreement resolves major outstanding issues in existing, continuing, and prospective Commission dockets, including Docket No. 100437-EI, which involves the examination of the outage and replacement fuel/power costs associated with DEF's Crystal River Unit 3 (CR3) steam generator replacement; Docket No. 130009-EI, the Commission's ongoing Nuclear Cost Recovery Clause; Docket No. 130001-EI, the Fuel and Purchased Power Cost Recovery Clause; Docket No. 130007-EI, the Environmental Cost Recovery Clause; and Docket No. 130091-EI, which involves DEF's petition for approval of a regulatory asset and associated amortization schedule for costs associated with DEF's Commission-approved thermal discharge compliance project. DEF asserts that the Revised and Restated Agreement, among other things, settles issues between the parties in Docket No. 100437-EI, including issues related to the Company's decision to retire CR3 and to settle the CR3 insurance claims with NEIL, which were still pending matters at the time the Commission

approved the 2012 Settlement Agreement in Order No. PSC-12-0104-FOF-EI. DEF states that the Revised and Restated Agreement also settles OPC and FRF's Petition for an Order Investigating the Prudence of Progress Energy Florida's Efforts to Obtain NEIL Insurance Proceeds, Establishing that Customers Have No Responsibility for Costs of Certain Abandoned CR3 Uprate Costs That are No Longer Subject to the Nuclear Cost Recovery Mechanism, and Delineating Parameters of CR3 "Regulatory Asset" (the OPC/FRF Petition), which was filed subsequent to DEF's decision to retire CR3 in Docket No. 100437-EI. DEF asserts that the Revised and Restated Agreement credits customers through the fuel clause the CR3 NEIL insurance settlement proceeds, and credits customers a reduction in the cost of the CR3 plant regulatory asset established as a result of the CR3 retirement. DEF states that to account, primarily, for the retirement of and recovery for the costs of CR3, and the addition of CR3 replacement or other generation on DEF's system, the Revised and Restated Agreement also provides for further adjustments in the Company's base rates.

DEF's Statement of Commission Authority

DEF states that Section 366.076(1), F.S., provides that the Commission may conduct a limited proceeding to consider and act upon any issue within its jurisdiction, including any issue which, once resolved, requires a public utility to adjust its rates. DEF asserts that approval of the Revised and Restated Agreement under Section 366.076(1), F.S., is appropriate because it provides the Commission and the Parties a single proceeding to obtain approval now of all major issues related to CR3, and resolves certain, but not all, issues in the existing and continuing dockets involving DEF without interfering with the issues of other parties to the continuing Commission dockets.

DEF's Statement of No Disputed Issues of Material Fact

DEF states that the signatories to the Revised and Restated Agreement believe that approval of the Revised and Restated Agreement is in their best interests, the best interests of the customers they represent, as well as the public interest. DEF requests, with the consent of the other signatories, that the Commission grant the Petition and approve the Revised and Restated Agreement. DEF asserts that it and the other signatories to the Revised and Restated Agreement believe that there are no disputed issues of material fact that must be resolved in order for the Commission to grant the Petition and approve the Revised and Restated Agreement. DEF states that the Revised and Restated Agreement represents a fair and reasonable resolution of competing and conflicting interests on a unique combination of complex issues, in particular all remaining major issues related to CR3 not preserved by the parties, in a comprehensive manner. Further, DEF argues the rates resulting from approval of the Petition and Revised and Restated Agreement will be fair, just, and reasonable, and the Revised and Restated Agreement is in the public interest. Thus, DEF contends it is entitled to the relief requested pursuant to Chapters 366 and 120, F.S.

Request for Notice and Final Hearing

DEF asks the Commission to provide public notice of the limited proceeding petition and consider the Petition and approval of the Revised and Restated Agreement in a final hearing. DEF requests that the Commission's consideration of the proposed Revised and Restated Agreement be made by a bench vote at the conclusion of the final hearing. DEF states that it has conferred with the other signatories to the Revised and Restated Agreement, and that the other signatories support this approach. DEF asserts that the signatories to the Revised and Restated Agreement include OPC, who represent all customers, and the organizations that represent the major customer groups served by DEF; thus, the customers' interests are fairly represented by the signatories to the Revised and Restated Agreement.

Ruling

Based upon the Petition and DEF's representation that the signatories to the Revised and Restated Agreement are in support of the requested proceedings, the following procedural schedule is set:¹

Commission Hearing pursuant to Section 120.57(2), F.S. (no material issues of disputed fact)	October 16, 2013, commencing at 9:30 a.m.
Continuation of Commission Hearing pursuant to Section 120.57(2), F.S., if needed	October 17, 2013

Section 120.57(4), F.S., permits the Commission to informally dispose of any proceeding by stipulation, agreed settlement, or consent order. Section 120.57(2), F.S., permits the Commission to proceed with hearings not involving disputed issues of material fact. Pursuant to Rule 28-106.302(2), F.A.C., the purpose of this hearing is for the Commission to take oral evidence or argument regarding DEF's Petition for a Limited Proceeding and consider DEF's request for approval of the Stipulation and Settlement Agreement. Commission staff and the parties will be permitted a limited time to send no more than 300 data requests. Parties are directed to respond to the data requests in writing so the response is received within 10 days receipt of the request. Affidavits must accompany all written data responses. All data request responses must be received by October 4, 2013. Information obtained through data requests may be used by the parties in their oral arguments, by staff in advising the Commissioners, and by the Commissioners in consideration of the proposed Revised and Restated Agreement.

The hearing agenda for October 16, 2013, subject to the Presiding Officer's authority and discretion, may include the following:

- o Parties present Opening Statements
- o Public Testimony²

¹ A Prehearing Conference may be held if necessary on October 8, 2013.

- Commission Staff Presentation
- Parties present evidence and respond to questions regarding the Revised and Restated Agreement³

Upon completion of the Commission's questions, the hearing will be closed and the Commission will hold a Special Agenda Conference to render a decision on Thursday, October 24, 2013.⁴

The Commission has jurisdiction pursuant to Chapter 366, F.S., and is proceeding under its authority pursuant to Sections 366.04, 366.041, 366.05, 366.06, 366.07, 366.076, 366.8255, 366.93, and 120.57(2) and (4), F.S., and Rule 28-106.301 and 28-106.302, F.A.C.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 16th day of August, 2013.



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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² Please note that witnesses providing public testimony at the hearing will be sworn.

³ Witnesses testifying at the hearing will be sworn.

⁴ The Commission may render a bench decision at the conclusion of the hearing.

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.