

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 130007-EI
ORDER NO. PSC-13-0490-PCO-EI
ISSUED: October 16, 2013

ORDER RESOLVING MOTIONS
BY DESOTO COUNTY GENERATING COMPANY, LLC,
OFFICE OF PUBLIC COUNSEL,
AND
FLORIDA INDUSTRIAL POWER USERS GROUP
REGARDING
FLORIDA POWER & LIGHT COMPANY'S
PROPOSED COMBUSTION TURBINE PROJECT

On October 3, 2013, Florida Industrial Power Users Group (FIPUG) filed a Motion to Establish Separate "Spin-Off" Docket to Examine Florida Power & Light Company's (FPL) Petition to Replace Existing Peaking Gas Turbines with New Combustion Turbine Equipment (FIPUG Motion) which was supported by the Office of Public Counsel (OPC) and DeSoto County Generating Company, LLC, (DeSoto) (FIPUG, OPC, and DeSoto collectively are referred to as Intervenors).

On October 4, 2013, Desoto and OPC filed a Joint Motion for Leave to file Surrebuttal Testimony (Joint Motion) which was supported by FIPUG.

On October 10, 2013, FPL filed a Response to the Joint Motion and the FIPUG Motion in which FPL opposes the FIPUG Motion and the Joint Motion unless surrebuttal testimony is limited. FPL asserts that FIPUG's Motion should be denied because "[a] separate docket and protracted testimony schedule are unnecessary to address the Intervenors' concerns, and may instead cause delays and inefficiencies." FPL also argues that "leave to file surrebuttal testimony should not be granted unless such testimony is strictly limited to addressing the additional economic evaluations presented by FPL witness Enjamio's rebuttal testimony and appropriate provisions are made for FPL discovery regarding surrebuttal testimony." FPL proposes a process to accommodate the Intervenor's need for additional information and time to prepare for hearing. Subsequent to the filing of FPL's Response, FPL and the Intervenors have worked with the Commission staff to refine the details of FPL's proposal.

Having reviewed FIPUG's Motion, the Joint Motion, and the FPL Response, I want to commend FPL and the Intervenors for working together to resolve these procedural matters. I shall approve the following procedures, which FPL and the Intervenors have developed.

Issues related to FPL's proposed NO₂ Compliance Project (Project) shall not be addressed in the Commission's hearing in this docket that is scheduled for November 4-6, 2013.

Instead, a hearing on the spin-off issues related to the Project shall be held, in this docket, on December 19 and 20, 2013, with post hearing briefs due on January 13, 2013. Pending a final Commission decision regarding the Project, FPL's projected 2013 and 2014 Project costs shall be included in setting the 2014 factor. Inclusion of the Project costs in the factor does not create any implication or presumption with respect to whether the Project should be approved or, if approved, how the costs for the Project should be allocated to rate classes. Such inclusion does not constitute any form of waiver of positions that parties may wish to take with respect to any issues. If the Commission does not approve the Project, FPL shall be required to refund the costs that have been recovered, with interest, through the true-up process. The Intervenor's surrebuttal testimony shall be filed subject to the following conditions:

The surrebuttal testimony may address only FPL's new economic evaluations that are reflected in FPL witness Enjamio's and witness Yeager's rebuttal testimony, which compare available compliance alternatives including buying the DeSoto facility or purchasing power from it.

Surrebuttal testimony shall be filed no later than October 23, 2013, and served on FPL electronically at the same time that it is filed.

Because the filing date for surrebuttal will be after the prehearing conference, FPL shall have until November 29, 2013, to revise its positions on Issues 10, 10A-10C, and 11 as may be needed to address the surrebuttal testimony.

Solely with respect to FPL discovery addressing the surrebuttal testimony, the discovery deadline shall be extended until November 17, 2013, with responses required to be served electronically within seven days after the discovery requests are received.

Based on the foregoing, it is

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer, that the Motion to Establish Separate "Spin-Off" Docket to Examine Florida Power & Light Company's Petition to Replace Existing Peaking Gas Turbines with New Combustion Turbine Equipment, filed by Florida Industrial Power Users Group, and the Joint Motion for Leave to file Surrebuttal Testimony, filed by DeSoto County Generating Company, LLC and the Office of Public Counsel, are resolved as set forth in the body of this Order. It is further

ORDERED that, except as set forth above, the Procedural Orders issued in this Docket¹ are reaffirmed in every respect.

¹ Order No. PSC-13-0070-PCO-EI, issued on February 4, 2013, Order No. PSC-13-0115-PCO-PU, issued on March 7, 2013, and Order No. PSC-13-0165-PCO-PU, issued on April 22, 2013.

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



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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.

CWM

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.