

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 23, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Brown) *SB*
Office of Industry Development and Market Analysis (Breman) *JAN 23 J.W.P.*
Office of the General Counsel (Lawson) *JB CH MT*

RECEIVED FPSC
14 JAN 23 PM 2:02
COMMISSION CLERK

RE: Docket No. 080271-EI – Status of Joint-Ownership of discussions associated with Florida Power & Light's Turkey Point Units 6 and 7.
Docket No. 140009-EI – Nuclear Cost Recovery Clause.

AGENDA: 02/04/14 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Balbis (080271-EI) *CB*
Brown (140009-EI)

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On October 16, 2007, Florida Power & Light Company (FPL) filed a petition seeking approval from the Florida Public Service Commission (Commission) for a determination of need for the Turkey Point Nuclear Units 6 and 7 (Turkey Point 6 and 7), pursuant to Section 403.519, Florida Statutes (F.S.), and Rule 25-22.080, Florida Administrative Code (F.A.C.). The Office of Public Counsel (OPC), Florida Municipal Electric Association (FMEA), Florida Municipal Power Agency (FMPA), JEA, Seminole Electric Cooperative, Inc. (Seminole), Orlando Utilities Commission (OUC), and Bob and Jan Krasowski (Krasowski) submitted petitions to intervene, and were granted permission to participate in the proceeding.

A formal administrative hearing was held on January 30 through February 1, 2008. At the beginning of the hearing, the Commission took up a preliminary matter regarding a proposed

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stipulation to Issue 7 in the case. Issue 7 addressed whether or not FPL's petition contained a required summary of any discussions with electric utilities regarding joint ownership of a portion of the capacity from the plant, consistent with the requirements of 403.519(4)(a)5., F.S., and Rule 25-22.081, F.A.C. The Commission found that the stipulation between FPL, FMEA, FMPPA, JEA, OUC, and Seminole was reasonable. The Commission's approval of the stipulation was memorialized in the final order approving FPL's petition for determination of need.¹ As a result of the stipulation, FMEA, FMPPA, JEA, OUC, and Seminole were excused from the hearing.

The stipulation approved in Order No. PSC-08-0237-FOF-EI committed the parties to hold good faith discussions regarding the potential for joint ownership in the capacity from Turkey Point 6 and 7. The Commission further required FPL to submit a summary or report of those discussions to the Commission on a quarterly basis. Docket No. 080271-EI² was opened as a vehicle to monitor the status of joint ownership discussions associated with purchasing power from FPL's Turkey Point 6 and 7. This recommendation addresses a proposed adjustment to the reporting requirements in the Commission's order.

The Commission has jurisdiction over the subject matter of this proceeding pursuant to Sections 366.04(2)(c) and (5), 403.507(4), and 403.519, F.S.

¹ Order No. PSC-08-0237-FOF-EI, in Docket No. 070650-EI, In re: Petition to determine need for Turkey Point Nuclear Units 6 & electrical power plant, by Florida Power & Light Company, issued April 11, 2008.

² Docket No. 080271-EI, In re: Status of Joint-Ownership of discussions associated with Florida Power & Light's Turkey Point 6 and 7.

Discussion of Issues

Issue 1: Should the Commission continue to require Florida Power & Light Company to file quarterly reports regarding joint discussions pertaining to joint ownership in Turkey Point 6 and 7?

Recommendation: No. FPL should be required to file an annual report on the progress discussions with FMEA, FMPA, JEA, Seminole, and OUC. In addition, the report should be included as part of FPL's recurring filings concerning the feasibility of completing the Turkey Point 6 and 7 Project as filed in the Commission's Nuclear Cost Recovery Clause beginning with Docket No. 140009-EI. Furthermore, the parties to the stipulation should no longer be prohibited from intervening in the NCRC docket for the purpose of addressing issues related to joint participation associated with FPL's Turkey Point 6 and 7. If any pending contract is agreed upon between FPL and any utility, FPL should be required to immediately inform the Commission and the other utilities who are parties to the stipulation. (S. Brown)

Staff Analysis: During the formal administrative hearing in FPL's petition to determine need for Turkey Point 6 and 7, a discussion was held regarding a proposed stipulation to Issue 7 between FPL, FMEA, FMPA, JEA, Seminole, and OUC. The Commission found that the stipulation between the companies was reasonable and as a result it was approved. The stipulation read as follows:

FPL has had initial discussions with FMEA, FMPA, and OUC regarding any mutual benefits that may accrue from joint participation in Turkey Point Units 6 & 7. No later than July 1, 2009, FPL will continue its good faith discussions with FMEA, FMPA, and OUC, and will also commence good faith discussions of joint participation in Turkey Point Units 6 & 7 with JEA and Seminole. FPL will report the status of such ongoing status discussions to the FPSC every quarter thereafter. The results of these status discussions shall be reported to the FPSC as part of a docket which will be opened by the FPSC pursuant to its authority under the Grid Bill as codified in the Florida Statutes, in order to provide the parties with such rights and remedies as may exist to the extent of the FPSC's jurisdiction thereunder. (emphasis added) FPL, FMPA, FMEA, JEA, OUC and Seminole each agree that such docket to be opened by the Commission pursuant to its Grid Bill authority is the sole forum for raising issues concerning joint participation in Turkey Point 6 and 7. FMPA, FMEA, JEA, OUC and Seminole each agree not to intervene or otherwise participate directly or indirectly in section 366.93, Florida Statutes, cost recovery proceedings for the purpose of addressing joint participation in Turkey Point 6 and 7. Nothing in this stipulation is intended to imply that ongoing status discussions necessarily will lead to an agreement among any of the parties for joint participation in Turkey Point 6 and 7 or that any party is obligated to enter into any such agreements.

Order No. PSC-08-0237-FOF-EI at pp. 3-4 (emphasis added).

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As a result of the approved stipulation, the Commission opened Docket No. 080271-EI. The docket was opened to monitor the status of joint ownership discussions associated with FPL's Turkey Point 6 and 7. The Commission acknowledged that FPL and the other parties associated with the stipulation agreed to hold discussions regarding joint ownership. FPL has provided the Commission with a report on discussions the Company has held with the interested utilities on a quarterly basis since July 2009.

The reports have stated that FPL has conducted good faith discussions with interested parties regarding joint ownership of Turkey Point 6 and 7. In addition, as of the last report submitted to the Commission on January 2, 2014, no pending contracts have been signed.

In an effort to streamline the reporting process, while still meeting the intent of the Commission's order, staff considered the possibility of reducing the reporting requirements from quarterly to annually. Staff also considered whether to close the instant docket and move the reports to the Nuclear Cost Recovery Clause (NCRC) docket in order to improve administrative efficiency.

Staff notes that the prior stipulation approved in Order No. PSC-08-0237-FOF-EI also prohibits the parties from intervening in the NCRC for the purpose of addressing joint participation in Turkey Point 6 and 7. Staff believes that shifting the reporting requirement to the NCRC would require elimination of that prohibition in order to provide an opportunity for parties to address any issues concerning joint participation in Turkey Point 6 and 7 which may arise. If such issues do arise, the Commission may consider them in the NCRC docket or establish a spinoff docket.

Staff contacted the parties to the Commission-approved stipulation and inquired about their concerns if an annual report replaced quarterly reports. The responses from the parties varied; however, no party expressed objections to requiring annual, rather than quarterly reports. Several parties expressed the desire that the meetings continue because of the importance of remaining informed on any pending negotiations with other utilities. None objected to the NCRC docket being the vehicle for reporting on the status of discussions.

Future Compliance with the Order

This recommendation does not alter the Commission's instructions that FPL should provide status reports on meetings held with parties to explore possible joint ownership opportunities with respect to Turkey Point 6 and 7. Annual reporting is administratively more efficient and the NCRC is the appropriate docket to make this information available to all parties and other interested persons. Lastly, if any pending contract is agreed upon between FPL and any utility, FPL should be required to immediately inform the Commission and the other utilities who are parties to the stipulation.

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Conclusion

Based on the foregoing, staff believes that FPL should continue to conduct meetings with the parties to the stipulation as stipulated in Order No. PSC-08-0237-FOF-EI. However, instead of filing quarterly reports with the Commission on those meetings, FPL should be directed to file an annual report commencing in the Commission's 2014 NCRC docket (Docket No. 140009-EI), as part of FPL's recurring filings concerning the feasibility of completing the Turkey Point 6 and 7 project. Furthermore, the parties to the stipulation should no longer be prohibited from intervening in the NCRC docket for the purpose of addressing issues related to joint participation associated with FPL's Turkey Point 6 and 7. If any pending contract is agreed upon between FPL and any utility, FPL should be required to immediately inform the Commission and the other utilities who are parties to the stipulation.

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these dockets *(CSA)*
Issue 2: Should ~~this docket~~ be closed?

Recommendation: *(CSA)* ~~Yes:~~ If the Commission approves staff's recommendation in Issue 1, then Docket No. 080271-EI should be closed and Docket No. 140009-EI should remain open. (Lawson)

Staff Analysis: If the Commission approves staff's recommendation in Issue 1, then Docket No. 080271-EI should be closed and Docket No. 140009-EI should remain open.