

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission review of numeric conservation goals (Florida Power & Light Company).

DOCKET NO. 130199-EI

In re: Commission review of numeric conservation goals (Duke Energy Florida, Inc.).

DOCKET NO. 130200-EI

In re: Commission review of numeric conservation goals (Tampa Electric Company).

DOCKET NO. 130201-EI

In re: Commission review of numeric conservation goals (Gulf Power Company).

DOCKET NO. 130202-EI

In re: Commission review of numeric conservation goals (JEA).

DOCKET NO. 130203-EM
ORDER NO. PSC-14-0401-PCO-EU
ISSUED: August 6, 2014

ORDER DENYING SIERRA CLUB'S MOTION FOR
LEAVE TO FILE SUPPLEMENTAL TESTIMONY AND EXHIBITS

Pursuant to Section 366.82(6), Florida Statutes (F.S.), the Florida Public Service Commission (Commission) must review a utility's conservation goals no less than every five years. The FEECA statutes are implemented by Rules 25-17.001 and 25-17.0021, Florida Administrative Code (F.A.C.). By the Order Establishing Procedure, Order No. PSC-13-0386-PCO-EU, issued August 19, 2013, Docket Nos. 130199-EI, 130200-EI, 130201-EI, 130202-EI, 130203-EM, 130204-EM, and 130205-EI were consolidated for purposes of hearing and controlling dates were established.

On February 26, 2014, Order No. PSC-14-0112-PCO-EU modified the Order Establishing Procedure and set hearing dates for July 21-23 and July 30-31, 2014. Order No. PSC-14-0154-PCO-EU, issued April 7, 2014, and Order No. PSC-14-0189-PCO-EU, issued April 22, 2014, established the issues and modified procedural filing dates, respectively.

The Utilities timely prefiled direct and rebuttal testimony on April 2 and June 10, 2014, respectively. Sierra Club, along with the other intervenors, timely prefiled testimony on May 19, 2014. The deadline to conduct discovery was July 7, 2014. On Thursday, July 17, 2014, Sierra Club filed a Motion for Leave to File Supplemental Testimony for the hearing scheduled to begin on Monday, July 21, 2014. Sierra Club requested to prefile supplemental testimony to

expand record evidence and address new information raised in the utilities' rebuttal testimony. Sierra Club argues that its supplemental testimony would bridge the gap in the record regarding the U.S. Environmental Protection Agency's proposed rule on greenhouse gas emissions. I note that although Sierra Club has styled its motion as a Motion for Leave to File Supplemental Testimony, the proffered testimony is identified by Sierra Club as surrebuttal testimony.

Rule 28-106.211, F.A.C., provides that the presiding officer before whom a case is pending may issue any orders necessary to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of the case. Historically, the Commission seeks to accommodate all parties and works to provide a complete hearing record. Unfortunately, Sierra Club's request comes too late, as it filed supplemental testimony and exhibits of over 200 pages less than two working days prior to the start of the hearing. No other parties would have sufficient time to review the testimony, much less respond to its filing. Further, there is no meaningful opportunity to conduct discovery, given the passing of the discovery deadline and the proximity to the hearing.

Based on the foregoing, it is

ORDERED by Chairman Art Graham, as Presiding Officer, that Sierra Club's Motion for Leave to File Supplemental Testimony is hereby denied.

By ORDER of Chairman Art Graham, as Prehearing Officer, this 6th day of August, 2014.



ART GRAHAM
Chairman and Prehearing Officer
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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.

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.