

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: June 23, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Mapp, Leathers) *S.M.C.*
Office of Industry Development and Market Analysis (Whitfield, Breman, Hinton, Laux) *MLC* *9/3* *CH*

RE: Docket No. 160009-EI – Nuclear cost recovery clause.

AGENDA: 07/07/16 – Regular Agenda – Participation at the Commission’s Discretion

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: September 1, 2016 (Statutory Rule Waiver Deadline)

SPECIAL INSTRUCTIONS: None

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Case Background

Florida Power & Light Company (FPL) obtained an affirmative need determination in 2008 for the construction of two new nuclear electric generating units: Turkey Point Units 6 and 7 (TP Project).¹ Annually thereafter, FPL has requested recovery of project costs through the nuclear cost recovery proceeding (NCRC) pursuant to Rule 25-6.0423, Florida Administrative Code (F.A.C.), and Section 366.93, Florida Statutes (F.S.).

The Commission established Docket No. 160009-EI to address 2016 petitions for cost recovery through the NCRC. The Order Establishing Procedure (OEP) in this docket set dates for the filing of testimony and exhibits regarding project activities, costs, and long-term feasibility.²

¹ Order No. PSC-08-0237-FOF-EI, issued on April 11, 2008, in Docket No. 070650-EI, In re: Petition to determine need for Turkey Point Nuclear Units 6 and 7 electrical power plant, by Florida Power & Light Company.

² Order Nos. PSC-16-0105-PCO-EI, issued on March 11, 2016, in Docket 160009-EI, In re: Nuclear cost recovery clause; PSC-16-0140-PCO-EI, issued April 6, 2016, in Docket 160009-EI, In re: Nuclear cost recovery clause.

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Consistent with the OEP, on March 1, 2016, FPL filed a request for prudence review and final true-up of actual 2015 costs for the TP Project. On April 27, 2016, FPL filed testimony seeking approval of estimated 2016 and 2017 activities and costs for the TP Project. Through these petitions, FPL requested recovery of \$22,081,049, to be collected in 2017 through the Capacity Cost Recovery Clause, Docket No. 160001-EI.

FPL did not, however, file its long-term feasibility testimony and exhibits. Instead, FPL filed a Petition for Waiver of Rule 25-6.0423(6)(c)5., F.A.C., (Petition for Waiver). Rule 25-6.0423(6)(c)5., F.A.C., states:

Along with the filings required by this paragraph, each year a utility shall submit for Commission review and approval a detailed analysis of the long-term feasibility of completing the power plant. Such analysis shall include evidence that the utility intends to construct the nuclear or integrated gasification combined cycle power plant by showing that it has committed sufficient, meaningful, and available resources to enable the project to be completed and that its intent is realistic and practical.

Pursuant to Section 120.542(6), F.S., notice of the Petition for Waiver was published in the Florida Administrative Register on May 2, 2016. Comments were filed by the Office of Public Counsel (OPC), Florida Industrial Power Users Group (FIPUG), Southern Alliance for Clean Energy (SACE), and the City of Miami (Miami).

On June 17, 2016, FPL filed a Motion to Defer Consideration of Issues and Cost Recovery (Motion to Defer). This recommendation addresses FPL's Motion to Defer.

The Commission has jurisdiction over this matter pursuant to Sections 366.93, 403.519, and 120.542, F.S.

Discussion of Issues

Issue 1: Should the Commission approve FPL's Motion to Defer Consideration of Issues and Cost Recovery in this docket until the 2017 Nuclear Cost Recovery Clause proceeding?

Recommendation: Yes. The Commission should defer consideration of FPL's issues and cost recovery in this docket until the 2017 Nuclear Cost Recovery Clause proceeding. (Mapp, Leathers, Breman)

Staff Analysis: As noted in the Case Background, FPL filed a Petition for Waiver of Rule 25-6.0423(6)(c)5., F.A.C., which requires the submission of a detailed analysis of the long-term feasibility of completing the power plant. On May 16, 2016, OPC, FIPUG, SACE, and Miami filed comments opposing FPL's Petition for Waiver. No comments supporting FPL's Petition for Waiver were received.

On June 17, 2016, FPL filed its Motion to Defer. In its Motion to Defer, FPL states:

It is clear from the parties' comments in opposition to the Petition for Waiver that there is a wide difference of opinion between FPL and parties who oppose FPL's waiver request as to the need for and practical usefulness of a quantitative feasibility analysis at this time. In light of such disagreement, FPL is willing to defer consideration of its cost recovery request.

Upon approval of the Motion to Defer, FPL will withdraw its Petition for Waiver and will plan to file a long-term feasibility analysis in the 2017 NCRC docket.

If approved, the deferral would be implemented consistent with the requirements of Section 366.93, F.S., and Rule 25-6.0423, F.A.C., which afford deferred accounting treatment and accrual of carrying charges equal to FPL's most recently approved allowance for funds used during construction rate until recovered in rates.

Pursuant to Rule 28-106.204, F.A.C., FPL contacted all intervenors to this docket to determine the intervenors' position on FPL's Motion. FPL asserted that OPC, Miami, and SACE do not object to its Motion to Defer. Duke Energy Florida, LLC, Florida Retail Federation, and White Springs Agricultural Chemicals Inc., d/d/a PCS Phosphate-White Springs take no position. FPL was unable to confirm FIPUG's position prior to filing the Motion to Defer.

Staff notes that neither Section 366.93, F.S., nor Rule 25-6.0423, F.A.C., require a utility to seek recovery of nuclear project costs in any given year. Staff also notes that in previous NCRC proceedings the Commission has deferred consideration of particular issues until the following year.³ Based on the forgoing, staff believes FPL's Motion to Defer is reasonable and should be approved.

³ Order Nos. PSC-11-0095-FOF-EI, issued on February 2, 2011, in Docket 100009-EI, In re: Nuclear cost recovery clause; PSC-11-0547-FOF-EI, issued on November 23, 2011, in Docket 110009-EI, In re: Nuclear cost recovery clause.

Issue 2: Should this docket be closed?

Recommendation: No. The Nuclear Cost Recovery Clause is an on-going docket and should remain open. (Mapp, Leathers)

Staff Analysis: The Nuclear Cost Recovery Clause is an on-going docket and should remain open.