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 27, 2018

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (Lee) POE ALM
Division of Accounting and Finance (D. Smith)
Division of Economics (Guffey) SKG ESJ
Office of the General Counsel (Schrader, Crawford) KS

RE: Docket No. 20180084-EI – Petition for limited proceeding for approval to include in base rates the revenue requirement for the Citrus combined cycle project, by Duke Energy Florida, LLC.

AGENDA: 07/10/18 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

CRITICAL DATES: 12/2/18 (8-Month Effective Date)

SPECIAL INSTRUCTIONS: None

Case Background

On May 27, 2014, Duke Energy Florida, LLC (DEF) filed a petition for a determination of need for the Citrus County Combined Cycle Power Plant Project (Citrus Combined Cycle Project). DEF is planning to complete the construction of the 1,640-megawatt, two-unit plant on a site adjacent to its Crystal River Energy Center in Citrus County, Florida, by December 2018. DEF was granted a determination of need for the Citrus Combined Cycle Project by the Florida Public Service Commission (Commission) by Order No. PSC-14-0557-FOF-EI.[1] In that proceeding, the Commission found that the Citrus Combined Cycle Project, at an estimated construction cost of

[1]Order No. PSC-14-0557-FOF-EI, issued October 10, 2014, in Docket No. 20140110-EI, *In re: Petition for determination of need for Citrus County Combined Cycle Power Plant, by Duke Energy Florida, Inc.*

approximately $1.514 billion, represented the optimal resource option to meet DEF's projected generation need.

On August 29, 2017, DEF filed a petition for a limited proceeding to approve its 2017 Second Revised and Restated Settlement Agreement (2017 Settlement). The 2017 Settlement was signed and executed by DEF, the Office of Public Counsel, the Florida Industrial Power Users Group, the Florida Retail Federation, White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate, and the Southern Alliance for Clean Energy. The signatories to the 2017 Settlement are organizations that represent DEF's major customer groups. The Commission approved the 2017 Settlement on November 20, 2017, by Order No. PSC-2017-0451-AS-EU.[2] The applicable paragraphs of the 2017 Settlement are included in Attachment A.

If DEF constructs and places in service the Citrus Combined Cycle Project in 2018, Paragraph 14(a) of the 2017 Settlement provides a base rate increase referred to as the 2018 Generation Base Rate Adjustment (GBRA). As required under Paragraph 14(a) of the 2017 Settlement, DEF's initial 2018 GBRA for the Citrus Combined Cycle Project should reflect the costs used to support the need determination case.

On April 2, 2018, DEF filed the instant petition for a limited proceeding for approval to include in base rates the revenue requirement for the Citrus Combined Cycle Project. The project is expected to be placed in service in two phases: September 2018 and November 2018. Phase 1 will include the construction of Unit 1 and the associated transmission/common equipment. Phase 2 will include the construction of Unit 2. DEF is requesting that the Commission approve the estimated revenue requirement of $200,488,588 for the entire GBRA and approve the necessary tariffs to reflect the change in base rates in October 2018 and December 2018.

DEF waived the 60-day file and suspend provision of Section 366.06(3), Florida Statutes (F.S.). The Commission has jurisdiction pursuant to Section 366.06 and 366.076, F.S.

[2]Order No. PSC-2017-0451-AS-EU, issued November 20, 2017, in Docket No. 20170183-EI, *In re: Application for limited proceeding to approve 2017 second revised and restated settlement agreement, including certain rate adjustments, by Duke Energy Florida, LLC.*

Discussion of Issues

Issue 1: Should the Commission approve DEF's petition to include in base rates the revenue requirement for the Citrus Combined Cycle Project?

Recommendation: Yes. Consistent with the 2017 Settlement, DEF's 2018 GBRA for the Citrus Combined Cycle Project reflects the costs pursuant to which the need determination was granted. (Lee, D. Smith)

Staff Analysis: DEF stated in its petition that the Citrus Combined Cycle Project will be placed in service in two phases: September 2018 and November 2018. DEF is requesting that the Commission approve the revenue requirement necessary for the rate increase in both phases, with an estimated retail revenue requirement totaling $200,488,588.

As discussed in the case background, the Commission evaluated the estimated cost for the Citrus Combined Cycle Project in the need determination and the GBRA cost recovery method was set forth in the 2017 Settlement. Discussed below is staff's review of DEF's cost estimate and revenue requirement calculations. The rate impact is discussed further in Issue 2.

Cost Estimate

Based upon Exhibit B, which DEF attached to its petition, the total operating expenses for Unit 1, Unit 2, and transmission/common equipment are $53,006,000, $38,811,000, and $2,406,000, respectively, for the first year. These costs include: operating and maintenance (O&M), depreciation, property insurance, and property tax. DEF affirms that these costs are the same as those used by DEF to support its need determination case, consistent with the requirement under Paragraph 14(a) of the 2017 Settlement.[3]

The estimated capital cost of approximately $1.514 billion is the same as in the need determination. DEF stated that while this is a reasonable and accurate projection, there are a variety of events that can impact the schedule and cost of the overall project. These may include skilled labor and supply availability, severe weather events, and other force majeure events.[4]

Paragraph 14(d) of DEF's 2017 Settlement addresses the circumstance in which DEF's actual capital cost is lower than the projected cost used to develop the initial 2018 GBRA factor. Under this circumstance, the lower actual cost will be the basis for the full revenue requirements and a one-time credit is required to be made through the Capacity Cost Recovery Clause. In addition, Paragraph 14(e) addresses the situation in which DEF's actual capital cost is higher than the projected cost used to develop the initial 2018 GBRA factor. Under this circumstance, DEF may, at its option, initiate a limited proceeding to seek to increase the 2018 GBRA factor by the corresponding incremental revenue requirement. Staff believes these measures protect customers against unwarranted cost increases over the cost used in the need determination case.

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[3]Document No. 03716-2018 – DEF's response to staff's second data request, No. 1.
[4]Document No. 03532-2018 – DEF's response to staff's first data request, No. 4.

Revenue Requirement Calculation

Based on the estimated cost of the project and the commercial in-service dates for the two phases as described above, DEF calculated a revenue requirement of $200,488,588 for the entire GBRA. DEF estimates the revenue requirement for Phase 1 to be $123,180,439 and $77,308,149 for Phase 2. In accordance with Paragraph 14(c) of the 2017 Settlement, DEF utilized its projected 13-month average capital structure for the first 12 months of operation, and a 10.50 percent return on equity to calculate the revenue requirement. The revenue requirement calculation also includes the recovery of O&M expenses, depreciation expense, property insurance, property tax, and income tax. Staff has verified the revenue requirement of $200,488,588 based on the capital structure provided by DEF reflecting a projected 13-month average capital structure for the first 12 months of operation. Staff recommends that $200,488,588 is the appropriate revenue requirement based on the 2017 Settlement.

Conclusion

Consistent with the 2017 Settlement, DEF's 2018 GBRA for the Citrus Combined Cycle Project reflects the costs pursuant to which the need determination was granted. Therefore, staff recommends that DEF's petition be approved.

Issue 2: Should the Commission approve DEF's proposed tariffs and associated charges needed to implement the two phases of the Citrus Combined Cycle Project?

Recommendation: Yes. The Commission should give staff administrative authority to approve tariffs and associated charges that implement the Commission vote on Issue 1 regarding the Citrus Combined Cycle Project which will be placed in service in two phases. The tariffs and associated charges for Phase 1 should go into effect with the first billing cycle in October 2018, and the tariffs and associated charges for Phase 2 of the Citrus Combined Cycle Project should go into effect with the first billing cycle in December 2018. If the commercial in-service date of Phase 1 of the project is delayed, the tariff should become effective with the first billing cycle after Phase 1 is completed and placed in commercial service. If Phase 2 is delayed, the tariff should become effective with the first billing cycle after Phase 2 is completed and placed in commercial service. If the Commission order is protested, DEF should implement the rates subject to refund pending the results of any subsequent hearing. (Guffey)

Staff Analysis: As discussed in Issue 1, staff is recommending approval of a revenue requirement totaling $200,488,588 for both phases of the Citrus Combined Cycle Project. Consistent with Paragraph 14(b) of DEF's 2017 Settlement and as shown in Exhibit C of the petition, the requested total amount will be applied as a uniform percentage to all rate classes at 6.88 percent for Phase 1 and at 4.04 percent for Phase 2. At these uniform percentage rates, a residential customer using 1,000 kWh per month will see a bill increase of $3.59 for Phase 1 and $2.25 for Phase 2. The combined base rate increase of $5.84 on a 1,000 kWh bill is $0.71 lower than the estimated increase stated in Docket No. 20140110-EI.

Customer Notification

In response to staff's first data request, DEF stated that the Company will notify its customers of the rate changes via bill inserts in their August 2018 bill for Phase 1 and via bill inserts in their October 2018 bill for Phase 2.[5] Electronic bill customers will receive a link to the bill insert via email and the bill insert will also be posted on DEF's website.

Conclusion

The Commission should give staff administrative authority to approve tariffs and associated charges that implement the Commission vote on Issue 1 regarding DEF's Citrus Combined Cycle Project which will be placed in service in two phases. The tariffs and associated charges for Phase 1 should go into effect with the first billing cycle in October 2018, and the tariffs and associated charges for Phase 2 of the Citrus Combined Cycle Project should go into effect with the first billing cycle in December 2018. If the commercial in-service date of Phase 1 of the project is delayed, the tariff should become effective with the first billing cycle after Phase 1 is completed and placed in commercial service. If Phase 2 is delayed, the tariff should become effective with the first billing cycle after Phase 2 is completed and placed in commercial service. If the Commission order is protested, DEF should implement the rates subject to refund pending the results of any subsequent hearing.

[5] If the implementation of the tariff is delayed, the notice should be delayed accordingly.

Issue 3: Should this docket be closed?

Recommendation: Yes. If Issues 1 and 2 are approved and no timely protest is filed, this docket should be closed upon the issuance of a consummating order. If a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect, with any revenues held subject to refund, pending resolution of the protest. (Schrader)

Staff Analysis: If Issues 1 and 2 are approved and no timely protest is filed, this docket should be closed upon the issuance of a consummating order. If a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect, with any revenues held subject to refund, pending resolution of the protest.

$81,901,218 (retail), as identified in the May 1, 2017 pre-filed testimony of Christopher M. Fallon and Thomas G. Foster (which includes historical litigation costs), at issue in Docket No. 20170009-EI, the $34 million (system) termination fee ordered by the trial court to be paid to WEC, WEC's pending appellate claims for additional cost recovery, and additional future litigation costs, through any and all appeals, for which DEF has not yet sought recovery in Docket 20170009-EI. To the extent DEF agrees to, or is obligated to pay or incur, any additional LNP-related costs of any type or nature whatsoever arising from any claim, legal action, regulatory or other proceedings before any governmental authority, transaction, or any other event whatsoever, including but not limited to any and all litigation costs, damages, regulatory costs, interest, fines, penalties, costs paid pursuant to any agreement or arbitration award, or additional termination costs ordered by the court in connection with the WEC appeal of the order issued in Civil Action No.: 3:14-cv-00141 (appellate case No. 17-1087, consolidated with 17-1151), or in any other litigation, arbitration, regulatory, or any other proceedings, whether currently pending or future, involving any party or entity whatsoever, DEF is forever barred from recovering said costs from retail customers. For clarity, it is the intent of all the Parties that, as a matter of rights between and among the Parties and as a matter of law pursuant to FPSC approval of this 2017 Second Revised and Restated Settlement Agreement, after the Effective Date or December 31, 2017, whichever is sooner, there will never be any LNP-related costs of any type or nature whatsoever recovered from DEF's retail ratepayers.

<u>Base Rate Adjustments:</u>

12.

a. DEF's base rate revenue requirements will change in 2018 pursuant to

Paragraph 14. In addition, there will be an adjustment of base rates among customer rate classes to implement the changes in the delivery voltage credit referenced in Paragraph 21 and to implement the change referenced in Paragraph 24. The tariff sheets reflecting these and other relevant changes necessary to implement this 2017 Second Revised and Restated Settlement Agreement are attached as Exhibits 3 and 4 (clean and legislative, respectively). The Parties agree that all the tariffs in Exhibits 3 and 4 will have an effective date of January 1, 2018.

b. Effective with the first billing cycle for January 2019, DEF will be allowed a multi-year increase to its base rates as reflected in the chart below:

	Total Increase	Uniform % Increase Method (1)	Uniform % Increase Method (2)
2019	$67 million	$50 million	$17 million
2020	$67 million	$50 million	$17 million
2021	$67 million	$50 million	$17 million

Uniform % Increase method (1): Amount to be recovered through a uniform percent increase to the customer, demand and energy base rate charges for all retail customer classes, but, consistent with Paragraph 21, the delivery voltage credits and IS/CS/GSLM-2 credits shall not be adjusted.
Uniform % Increase Method (2): Amount to be recovered through a uniform percent increase to customer charges for all retail rate classes except the Interruptible and curtailable rate classes.

c. If the applicable federal or state income tax rate for DEF changes before any of the increases provided for in Paragraph 7, 12, 14, 15, 21, 24, or 37, DEF will adjust the amount of the base rate increase to reflect the new tax rate before the implementation of such increase, pursuant to the applicable methodology in Exhibit 6 (i.e. lines 1-14). Any base rate adjustments or changes that are implemented before the effective date of the Federal Corporate Income Tax Change will be adjusted as part of the overall method outlined in Paragraph 16 and Exhibit 6. The illustration of the methodology to be utilized for income tax changes described in this Paragraph 12 is shown in Exhibit 6. The Parties expressly agree that any proceeding to implement the base rate revenue increases associated with this Paragraph of the 2017 Second Revised and Restated Settlement Agreement shall not be a vehicle for a "rate case" type inquiry concerning the expenses, investment, or financial results of operations of the Company and shall not apply any form of earnings test or measure or consider previous or current base rate earnings.

d. Except for the base rate increases provided for in Paragraphs 7, 12, 14, 15, 21, 24, and 37, the Company shall freeze its base rates through the last billing cycle for December 2021. As a part of this base rate freeze the Company will not seek Commission approval to defer for later recovery in rates, any costs incurred or reasonably expected to be incurred from the Effective Date through and including December 31, 2021, which are of the type which traditionally or historically have been or would be recovered in base rates, unless such deferral and subsequent recovery is expressly authorized herein or otherwise agreed to by the Parties.

13. DEF shall have an authorized return on equity of 10.5% with a range of reasonableness of +/-100 basis points for the purpose of addressing earnings levels, earnings surveillance and cost recovery clauses. The applicable annual AFUDC rate will be 7.44%, as provided for in the 2013 Settlement, through year-end 2018 and then will be updated periodically consistent with Commission practice going forward.

14. a. Consistent with the 2013 Settlement, DEF was authorized to petition the Commission for a need determination for additional generation, not to exceed 1800 MW, to be placed in service in 2018. DEF filed such a petition for construction of its Citrus County Combined Cycle Units, and the Commission granted that

determination of need in Order No. PSC-14-0557-FOF-EI. If DEF constructs and places in service the Citrus County Combined Cycle Units in 2018, DEF's base rates shall be increased by the annualized base revenue requirement for the first 12 months of operation (the "Annualized Base Revenue Requirement"). The Annualized Base Revenue Requirement shall reflect the costs pursuant to which the need determination was granted by the Commission. This base rate increase shall be referred to as the 2018 Generation Base Rate Adjustment ("GBRA"). The Intervenor Parties retain all rights to challenge DEF's actions made or taken pursuant to Subparagraphs 14.a., 14.b., and 14.e., including, but not limited to, the right to challenge the need for, or prudence of any costs associated with, the construction of any additional generation placed in service in 2018 as well as the initial 2018 GBRA factor and any subsequent revisions to it pursuant to Rule 25.22.082(15), F.A.C., but have waived the right to argue that this 2017 Second Revised and Restated Settlement Agreement prevents DEF from seeking recovery for the costs described in this Paragraph that the Commission determines to be reasonable and prudent.

b. The initial 2018 GBRA factor shall be established by the application of a uniform percentage increase to the demand and energy charges reflected in the Company's base rate schedules existing at the time of the increase, but, consistent with Paragraph 21, the delivery voltage credits and IS/CS/GSLM-2 credits shall not be adjusted. The uniform percentage increase shall be calculated using the billing determinants included in the Company's most recent projection clause filing unless otherwise agreed to by the Original Parties, with the understanding that the Intervenor Parties retain the right to challenge the accuracy and validity of the billing determinants. DEF shall begin applying the 2018 GBRA to

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meter readings made on and after the commercial in-service date(s) of the 2018 Citrus County Combined Cycle Units.

c. The 2018 GBRA Annualized Base Revenue Requirement shall be calculated using a 10.5% ROE and DEF's projected 13-month average capital structure for the first 12 months of operation, including all specific adjustments consistent with DEF's then most recently filed December earnings surveillance report, and adjusted to include an Accumulated Deferred Income Tax ("ADIT") proration adjustment consistent with 26 C.F.R. Section 1.167(l)-1(h)(6). DEF will calculate and submit the 2018 GBRA rates for Commission approval using the billing determinants from the most recent projection clause filings.

d. In the event that the actual capital expenditures are less than the projected costs used to develop the initial 2018 GBRA factor, the lower figure shall be the new basis for the full revenue requirements and a one-time credit will be made through the CCR Clause. In order to determine the amount of this credit, a revised 2018 GBRA factor shall be computed using the same data and methodology incorporated in the initial 2018 GBRA factor, with the exception that the actual capital expenditures shall be used in lieu of the capital expenditures on which the Annualized Base Revenue Requirement was based. This credit shall be the difference between the cumulative base revenues since the implementation of the initial 2018 GBRA factor and the cumulative base revenues that would have resulted if the revised 2018 GBRA factor had been in-place during the same time period and shall be credited to customers through the CCR Clause with interest at the 30-day commercial paper rate as specified in Rule 25-6.109, F.A.C. On a going-forward basis, base rates shall be adjusted to reflect the revised 2018 GBRA factor.

e. In the event that the actual capital expenditures are higher than the projection on which the Annualized Base Revenue Requirement was based, DEF at its option may initiate a limited proceeding pursuant to Section 366.076, F.S., limited to the issue of whether DEF has met the requirements of Rule 25-22.082(15), F.A.C. If the Commission finds that DEF has met the requirements of Rule 25-22.082(15), F.A.C., then DEF shall increase the 2018 GBRA by the corresponding incremental revenue requirement due to such additional capital costs. However, DEF's election not to seek such an increase in the 2018 GBRA shall not preclude DEF from booking any incremental costs for surveillance reporting and all regulatory purposes subject only to a finding of imprudence or disallowance by the Commission. No Party is precluded from participating in any such limited proceeding. The Original Parties expressly agree that any proceeding to recover costs associated with this Subparagraph of the 2017 Second Revised and Restated Settlement Agreement shall not be a vehicle for a "rate case" type inquiry concerning the expenses, investment, or financial results of operations of the Company and shall not apply any form of earnings test or measure or consider previous or current base rate earnings.

<u>Solar Base Rate Adjustment:</u>

15.

a. DEF projects that for purposes of the cost recovery set forth in this Paragraph, it will undertake construction of approximately 175 MW per calendar year of solar generation (for a maximum of 700 MW) reasonably projected to go into service during the Term of this 2017 Second Revised and Restated Settlement Agreement or within one year following expiration of the Term; provided, however, DEF will not implement a Commission-approved base rate adjustment as