

151 FERC ¶ 61,265
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

Duke Energy Florida, Inc.

Docket No. ER15-1618-000

ORDER CONDITIONALLY ACCEPTING AND SUSPENDING PROPOSED RATES
SUBJECT TO COMPLIANCE

(Issued June 29, 2015)

1. On April 30, 2015, Duke Energy Florida, Inc. (Duke Energy Florida) submitted its annual cost factor updates of the capacity charges, reservation fees and energy adder for interchange services provided by Duke Energy Florida to its interchange customers. In this order, the Commission conditionally accepts the proposed updates for filing and suspends them for a nominal period, to become effective May 1, 2015, as requested, subject to refund and subject to the outcome of complaints filed in Docket Nos. EL12-39-000, EL13-63-000, and EL14-90-000, as discussed below.¹ The Commission also directs Duke Energy Florida to submit a compliance filing within 30 days of the date of this order.

I. Description of the Filing

2. Duke Energy Florida proposes changes in certain cost components for interchange services. These updates include changes to the capacity charges, reservation fees and energy adder for interchange services. The rates also include an existing return on equity (ROE) of 10.8 percent.² Duke Energy Florida is proposing changes to the following service schedules and contracts: (1) Service Schedule A – Emergency Service; (2) Service Schedule B – Short Term Firm Service; (3) Service Schedule F – Assured

¹ On December 5, 2014, the Commission consolidated these three complaint proceedings and established hearing and settlement judge procedures to resolve them. *Seminole Elec. Coop. and Fla. Mun. Power Agency v. Duke Energy Florida, Inc.*, 149 FERC ¶ 61,210 (2014).

² Duke Energy Florida Transmittal at 4. *See also* Ex. G at 2:38.

Capacity and Energy Service; (4) Service Schedule G – Backup Service; (5) Service Schedule H – Reserve Service; (6) Service Schedule I – Regulation Service; (7) Service Schedule J – Negotiated Interchange Service to Tampa Electric Company; (8) Service Schedule OS – Opportunity Sales; (9) Service Schedule RE – Replacement Energy Service; and (10) Contract for Assured Capacity and Energy with Florida Power & Light Company.³

3. Duke Energy Florida explains that these updates are based on calendar year 2014 data and reflect the same general methodology that was used in its 2014 update filing, which the Commission accepted.⁴ Duke Energy Florida agrees that, consistent with the approach taken by the Commission with respect to Duke Energy Florida's 2013 and 2014 interchange update, it would be appropriate for the Commission to conditionally accept its updates for filing and suspend them for a nominal period, to become effective May 1, 2015, subject to refund and subject to the outcome of ROE complaints pending in Docket Nos. EL12-39-000, EL13-63-000, and EL14-90-000.⁵

4. Duke Energy Florida requests a waiver of the Commission's 60-day prior notice requirement, so that the updated charges, fees and energy adder for interchange services may become effective May 1, 2015, in accordance with the terms of those schedules. Duke Energy Florida states that waiver is necessary because the actual data required to calculate the updated charges could not be compiled and reviewed 60 days prior to May 1, 2015. Duke Energy Florida asserts that waiver is consistent with the Commission's waiver of notice guidelines because the rate schedules impacted by the filing provide for charges to be updated effective annually on May 1.⁶

II. Notice of Filing and Responsive Pleading

5. Notice of the April 30, 2015 filing was published in the *Federal Register*, 80 Fed. Reg. 26,029 (2015), with interventions and protests due on or before May 21, 2015. A timely motion to intervene was filed by Seminole Electric Cooperative, Inc. (Seminole).

³ These service schedules are referenced in FERC Rate Schedule Nos. 80, 81, 82, 86, 88, 91, 92, 94, 95, 101, 102, 103, 104, 105, 108, 119, 122, 128, 139, 141, 148, 171, 175, and 177. See Appendix for eTariff links.

⁴ Duke Energy Florida Transmittal at 2. Duke Energy Florida refers to *Duke Energy Florida, Inc.*, 147 FERC ¶ 61,263 (2014).

⁵ Duke Energy Florida Transmittal at 4 (citing *Duke Energy Florida, Inc.*, 144 FERC ¶ 61,101, at P 14 (2013) and *Duke Energy Florida, Inc.*, 147 FERC ¶ 61,263 at P 16).

⁶ *Id.*

6. Seminole notes that Duke Energy Florida acknowledges that Duke Energy Florida's interchange rates are premised on a 10.8 percent ROE, which is being challenged in three pending complaint proceedings in which Seminole is one of the complainants. Seminole requests that the Commission conditionally accept Duke Energy Florida's filing in this proceeding, effective May 1, 2015, subject to refund and the outcome of the pending ROE complaints, as proposed by Duke Energy Florida.

III. Discussion

A. Procedural Matters

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), Seminole's timely, unopposed motion to intervene serves to make it a party to this proceeding.

B. Commission Determination

8. We find that Duke Energy Florida's filing substantially complies with the threshold filing requirements of section 35.13 of the Commission's regulations.⁷ Additionally, Duke Energy Florida confirms that it has applied the same methodology and the same formulary calculations that have been previously approved by the Commission.⁸

9. However, Duke Energy Florida's filing includes an ROE, which, as noted above, is the subject of three complaints currently pending before the Commission in consolidated Docket Nos. EL12-39-000, EL13-63-000, and EL14-90-000.⁹ The Commission will address the merits of Duke Energy Florida's ROE in those consolidated proceedings. Consistent with the Commission's action as to Duke Energy Florida's 2014 update,¹⁰ we will conditionally accept Duke Energy Florida's updates for filing and suspend them for a nominal period, to become effective May 1, 2015, subject to refund and subject to the outcome of the complaints in consolidated Docket Nos. EL12-39-000, EL13-63-000, and EL14-90-000.

10. We note that Rate Schedule 91, Interchange Agreement with the Jacksonville Electric Authority, at Service Schedule B appears to contain an error. The updated charges from cost support for Service Schedule B show a maximum weekly demand

⁷ See 18 C.F.R. § 35.13(a)(2)(ii).

⁸ Duke Energy Florida Transmittal at 2.

⁹ See *supra* note 1.

¹⁰ *Duke Energy Florida, Inc.*, 147 FERC ¶ 61,263 at P 16.

charge of \$3139.5373, instead of \$3139.53. Accordingly, we conditionally accept Rate Schedule 91, subject to Duke Energy Florida submitting a compliance filing either updating the maximum weekly demand charge to reflect \$3139.53 or providing an explanation and support for the charge as it appears, within 30 days of the date of this order, to become effective consistent with the other tariff sheets in this proceeding.

11. We will grant waiver of the prior notice requirement to make the update effective May 1, 2015, as requested. We find good cause exists because the rate schedules covered by this filing provide for updates to be effective on May 1 of each year.¹¹

The Commission orders:

(A) The proposed cost factor updates are hereby conditionally accepted, suspended for a nominal period, to become effective May 1, 2015, subject to refund, and subject to the outcome of the complaints in consolidated Docket Nos. EL12-39-000, EL13-63-000, and EL14-90-000, as discussed in the body of this order.

(B) Duke Energy Florida is hereby directed to submit a compliance filing regarding Rate Schedule 91, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹¹ *Central Hudson Gas and Elec. Corp.*, 60 FERC ¶ 61,106 at 61,338 (stating that the Commission will grant waiver of notice when the effective date is prescribed by an agreement on file with the Commission), *order on reh'g*, 61 FERC ¶ 61,089 (1992).

Appendix

Duke Energy Florida, Inc., Tariffs, Rate Schedules and Service Agreements,
[Rate Schedule No. 80, Interchange Agmt with Tampa Electric, 8.0.0,](#)
[Rate Schedule No. 81, Interchange Agmt with FPL, 5.0.0,](#)
[Rate Schedule No. 82, Interchange Agmt with Homestead, 5.0.0,](#)
[Rate Schedule No. 86, Interchange Agmt with Orlando, 5.0.0,](#)
[Rate Schedule No. 88, Interchange Agmt with Gainesville, 6.0.0,](#)
[Rate Schedule No. 91, Interchange Agmt with JEA, 5.0.0,](#)
[Rate Schedule No. 92, Interchange Agmt with Lakeland, 5.0.0,](#)
[Rate Schedule No. 94, Interchange Agmt with Kissimmee, 5.0.0,](#)
[Rate Schedule No. 95, Interchange Agmt with St. Cloud, 5.0.0,](#)
[Rate Schedule No. 101, Interchange Agmt with Lake Worth, 5.0.0,](#)
[Rate Schedule No. 102, Assured Capacity Agmt with FPL, 5.0.0,](#)
[Rate Schedule No. 103, Interchange Agmt with Starke, 5.0.0,](#)
[Rate Schedule No. 104, Interchange Agmt with New Smyrna Beach, 5.0.0,](#)
[Rate Schedule No. 105, Interchange Agmt with FMPA, 5.0.0,](#)
[Rate Schedule No. 108, Interchange Agmt with Key West, 5.0.0,](#)
[Rate Schedule No. 119, Interchange Agmt with RCID, 6.0.0,](#)
[Rate Schedule No. 122, Interchange Agmt with Tallahassee, 5.0.0,](#)
[Rate Schedule No. 128, Interchange Agmt with SECI, 5.0.0,](#)
[Rate Schedule No. 139, Interchange Agmt with Oglethorpe, 5.0.0,](#)
[Rate Schedule No. 141, Interchange Agmt with Vero Beach, 5.0.0,](#)
[Rate Schedule No. 148, Interchange Agmt with PowerSouth, 5.0.0,](#)
[Rate Schedule No. 171, Interchange Agmt with SCANA, 5.0.0,](#)
[Rate Schedule No. 175, Interchange Agmt with TEA, 5.0.0,](#) and
[Rate Schedule No. 177, Interchange Agmt with Morgan Stanley, 5.0.0.](#)