

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for short term extension of substation rental agreement with Tropicana Products, Inc., by Florida Power & Light Company.	DOCKET NO. 090338-EI ORDER NO. PSC-09-0557-PAA-EI ISSUED: August 11, 2009
---	---

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman  
LISA POLAK EDGAR  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING AGREEMENT EXTENSION

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

By Order No. 21855, the Commission approved Florida Power & Light Company's (FPL) proposed new Long-Term Substation Rental Agreement (LTSRA or Rental Agreement) for distribution substation facilities. Some large power users require a dedicated substation to serve their load in the most efficient and economical manner. The customer may build and own his own substation. If the customer does not want to be responsible for building and maintaining an electrical substation, the Rental Agreement provides an option to use a substation owned by the utility. FPL entered into such a Rental Agreement with Tropicana Products, Inc. (Tropicana), pursuant to Tariff Sheets 9.730-32 (Agreement). The current Rental Agreement expires, under the terms of the tariff, on October 4, 2009. The existing tariff language is silent on the renewal of a contract. FPL is requesting permission to extend the term of the Agreement up to one year to address renewing the contract for the existing substation. We have jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

DOCUMENT NUMBER-DATE

08320 AUG 11 09

FPSC-COMMISSION CLERK

APPROVING EXTENSION OF RENTAL AGREEMENT

The currently-effective substation Rental Agreement states that the term of the Agreement is for twenty years. FPL is seeking to modify that twenty year time frame by up to 12 months, for the substation Rental Agreement with one customer, Tropicana. The tariff specifically states how the monthly rental amount is to be calculated for new contracts. It also addresses termination of a contract prior to the twenty-year term. The tariff is silent on what happens at the expiration of the initial contract, if the customer wishes to renew the agreement for the existing facilities.

This oversight in the tariff language came to light when the existing contract with Tropicana came up for renewal. Since the existing tariff does not specifically address renewals, the only option is to sign a new Agreement, which, under the existing tariff language, would require using the current replacement costs for the substation. This increase in costs could be significant, and result in Tropicana choosing to build its own substation, rather than renew the Rental Agreement. FPL believes the tariff should be modified to address contract renewals, to recognize cost differentials inherent in continuing to lease in-place equipment.

There are advantages to both parties to continue the Rental Agreement. Tropicana avoids the cost and maintenance expense of building its own substation. FPL avoids potentially stranding the investment in the existing substation, which may not immediately be needed, or appropriately placed, to serve other loads. Tropicana has maintained that it needs several months to build a new substation, should they decide not to continue the Rental Agreement. FPL has requested that it be allowed to extend the existing twenty-year agreement for up to one year, to allow it to file revised tariffs, and allow Tropicana adequate time to evaluate any changes approved by this Commission to address the renewal issue.

We find that the limited extension is appropriate. Agreement renewals are not addressed in the current tariff, and it would be prudent to revise the tariffs to address this issue. It is reasonable to assume that continuation of a lease for in-place equipment would have different cost characteristics than an agreement for completely new facilities. FPL has not indicated that any other substation Rental Agreements are expiring in the proposed time frame. It appears that the issue is customer-specific and has no immediate impact on any other customers. FPL has committed to filing the tariff revisions expeditiously, and the revised tariffs will be brought before this Commission for approval in a new docket.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the one-year extension of the existing substation Rental Agreement between Florida Power & Light Company and Tropicana Products, Inc., is hereby approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by


ORDER NO. PSC-09-0557-PAA-EI  
DOCKET NO. 090338-EI  
PAGE 3

the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if a protest is filed within 21 days of the issuance of the order, the proposed term modification shall remain in effect pending resolution of the protest. It is further

ORDERED that, if no person whose substantial interests are affected requests a hearing to address this matter, then this docket shall be closed upon issuance of a consummating order.

By ORDER of the Florida Public Service Commission this 11th day of August, 2009.

  
\_\_\_\_\_  
ANN COLE  
Commission Clerk

( S E A L )

JSB

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 that is available under Section 120.57, 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 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.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 1, 2009.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.