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COGENERATION & ALTERNATIVE ENERGY
ENERGY REGULATORY LAW

VIA FEDERAL EXPRESS

December 11, 2000

Ms. Blanca S. Bayó, Director
Division of Records & Reporting
Florida Public Service Commission
Capitol Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

In Re: Preliminary Comments of Florida Industrial Cogeneration Association
FPSC Docket No. 001574-EQ
Proposed Amendment To Rule 25-17.0832, F.A.C.

Dear Ms. Bayó,

Enclosed for filing in the above captioned proceeding, please find the original and 7 copies of Preliminary Comments Of The Florida Industrial Cogeneration Association. If you have any questions regarding this filing, please do not hesitate to call.

Sincerely,



Richard A. Zambo
Florida Bar No. 312525

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Enclosures

Done 12/13/00

DOCUMENT NUMBER-DATE
15992 DEC 12 8
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Proposed Amendments To Rule)
25-17.0832, FAC, Firm Capacity And)
Energy Contracts.)
_____)

Docket No. 001574-EQ

**PRELIMINARY COMMENTS
OF
THE FLORIDA INDUSTRIAL COGENERATION ASSOCIATION**

December 11, 2000

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15883 DEC 12 8

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Proposed Amendments To Rule)
25-17.0832, FAC, Firm Capacity And)
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Docket No. 001574-EQ

Submitted for filing:

December 11, 2000

PRELIMINARY COMMENTS

OF

THE FLORIDA INDUSTRIAL COGENERATION ASSOCIATION

The Florida Industrial Cogeneration Association (“FICA”) and its members, through their undersigned attorney, hereby submits these comments in opposition to certain of the proposed amendments in the captions proceeding.

1. FICA members own small power production facilities, or other qualifying facilities using renewable or non-fossil fuel where the primary energy source in British Thermal Units (BTUs) is at least 75 percent biomass, waste, solar or other renewable resource, which are small qualifying facility (“SQF”)¹ pursuant to Commission rules.

2. Under current Commission rules, standard offers are only available to certain types of non-utility generating facilities (referred to as SQFs) that this Commission specifically sought to encourage when it last revised its rules. The proposed amendments would deter or eliminate access by SQFs to meaningful standard offer contracts. This would appear to be contrary to both Florida and Federal law².

3. FICA is particularly concerned with those provisions of the proposed amendment - appearing in the notice as proposed rule 25-17.0832(4)(d)2. - which would

¹ FICA member’s facilities are of the described by rule which are eligible for Standard Offer Contracts.

² §366.051, Florida Statutes, and Section 210 of the Public Utility Regulatory Policies Act (PURPA).

change the term of the standard offer to a maximum of 5 years.³ Without conforming changes to the methodology and/or formula by which capacity payments are calculated, the proposed amendment would unlawfully limit standard offer capacity payments to less than avoided cost.

4. The current rules relating to firm energy and capacity contracts require that standard offer capacity prices be based on the utility's actual avoided unit. As provided by rule 25-17.0832 (4) (b), F.A.C.: *"The rates, terms, and other conditions contained in each utility's standard offer contract or contracts shall be based on the need for and equal to the avoided cost of deferring or avoiding the construction of additional generation capacity⁴ or parts thereof by the purchasing utility."* The proposed rule amendment, absent corresponding changes to the pricing provisions of the rules, would render this impossible.

5. A key element of the standard offer rules is the "value of deferral" avoided capacity pricing methodology. This pricing methodology, as the term implies, determines the value of "deferring" the revenue requirements associated with a new utility rate-based generating plant. By its very design, the value of deferral payment mechanism can only result in avoided cost payments if the SQF can sell capacity to the utility over the projected useful life of the avoided unit on which the value of deferral is based. The proposed amendment wrongly decouples contract term from useful life and therefore from avoided cost. Arbitrarily limiting standard offers to 5 year terms would thereby assure that SQFs cannot receive actual avoided cost in direct contravention of applicable law.

³ Current rules call for a minimum contract term of 10 years, and a maximum contract term equal to the useful life of the avoided unit on which the standard offer is based.

⁴FICA is unaware of any "real life" electric generating unit with a useful life of 5 years - as is apparently assumed in the proposed rule amendment. Virtually all recently constructed or planned electric generating units have minimum useful lives in the range of 30 years.

6. The value of deferral methodology essentially “inverts” the stream of capacity payments to the SQF, when compared to what the utility would receive if it constructed the avoided unit and added it to rate base. This is best illustrated by example.

7. Assume that a utility constructed an electric generating unit at a cost of \$100 million. Assume further a useful life of 20 years, straight line depreciation, and a 10% rate-of-return. In very simplified terms, ignoring taxes and other factors, the first year the unit is in rate base, the utility would earn (ie increase its revenue requirement as reflected in rates) \$10 million, the second year would be \$9.5 million, the third year \$9 million, and so on until in the twentieth (final) year the utility would earn \$0.5 million. (A characteristic of the “revenue requirements” payment stream is that payments begin high and decline over time.)

8. If that same generating unit were avoided or deferred by SQF’s entering into standard offer contracts, the revenue stream - and the rate impact on the utility’s customers - would be “inverted” by virtue of the value of deferral methodology. The payments to the SQF would initially be very low - perhaps on the order of \$1 million in the first year - but would escalate annually so that at the end of the 20 year useful life of the avoided unit, the net present value of payments received by the SQF would equal the net present value of revenues earned by the utility had it constructed the unit. (A characteristic of the “value of deferral” is that payments begin low and increase over time⁵.)

9. Integral to the value of deferral payment mechanism is the minimum term of the standard offer. Commission rules currently require that standard offers include “. . .a

⁵ The value of deferral was adopted by the Commission for a number of reasons. For example, it tends to reduce intergenerational inequities as well as “rate shock” to the current utility customers. As payments under the value of deferral grow over time, there will be a larger customer base over which to spread the costs, thus reducing per-customer impacts.

*minimum ten year term contract commencing with the in-service date of the avoided unit*⁶. . .” and that “*At a maximum, firm capacity and energy shall be delivered for a period of time equal to the anticipated plant life of the avoided unit*”⁷. . .”. This requirement assures that an SQF willing to contract for a period equal to the anticipated plant life of the avoided unit, will receive avoided cost, and allows all or part of a proposed generating unit to be avoided. The ten year minimum term was deemed necessary both from the utility planning perspective, and to be of sufficient length to confer substantial capacity benefit on the utility ratepayers⁸. The proposed amendment’s arbitrary imposition of a 5 year contract term minimum/maximum is clearly discriminatory to SQFs, defeats the public policy purpose of the standard offer rules, and assures less than avoided cost payments to SQFs.

10. The current rule implements the provisions of Chapter 366.051, F.S. relating to cogeneration and small power production, which is specifically intended to encourage cogeneration and small power production.⁹ Under the proposed amendment, standard offer capacity prices would not be based on an avoided unit, would not represent avoided cost, and would fall well short of the statutory requirement.

⁶ 25-17.0832(4)(e)3., F.A.C.

⁷ 25-17.0832(4)(e)7., F.A.C.

⁸ See FPSC Order 12634 at page 19

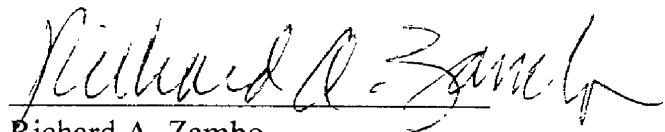
⁹ That section provides in part that: “Electricity produced by cogeneration and small power production is of benefit to the public when included as part of the total energy supply of the entire electric grid of the state or consumed by a cogenerator or small power producer. The electric utility in whose service area a cogenerator or small power producer is located shall purchase, in accordance with applicable law, all electricity offered for sale by such cogenerator or small power producer; or the cogenerator or small power producer may sell such electricity to any other electric utility in the state. The commission shall establish guidelines relating to the purchase of power or energy by public utilities from cogenerators or small power producers and may set rates at which a public utility must purchase power or energy from a cogenerator or small power producer.” In fixing rates for power purchased by public utilities from cogenerators or small power producers, the commission shall authorize a rate equal to the purchasing utility's full avoided costs. A utility's "full avoided costs" are the incremental costs to the utility of the electric energy or capacity, or both, which, but for the purchase from cogenerators or small power producers, such utility would generate itself or purchase from another source. (Emphasis supplied)

11. The proposed decoupling of contract term from useful life (and thereby capacity payments from avoided costs) raises other issues of concern to FICA, such as the appropriate capacity pricing methodology, and the role of subscription limits on standard offers. FICA reserves the right to raise and pursue these and other issues at this or any further proceedings that may be conducted by the Commission in this matter.

12. FICA respectfully suggests that the Commission withdraw the proposed amendments.

December 11, 2000

Respectfully Submitted,



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