

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Tampa Electric Company )  
for Approval of a New Standard Offer )  
Contract for Qualifying Cogeneration and )  
Small Power Production Facilities. )  
\_\_\_\_\_ )

DOCKET NO. 010334-EL  
FILED: March 19, 2001

**PETITION FOR WAIVER OF RULE 25-17.0832(4)(e)7  
REQUIRING MINIMUM TEN-YEAR CONTRACT TERM**

Tampa Electric Company ("Tampa Electric" or "the company"), pursuant to Section 366.051, Florida Statutes, and Rules 25-22.036(4), 25-17.0832(4), and 28-104.002, Florida Administrative Code, hereby petitions the Florida Public Service Commission ("Commission") for waiver of the requirement in Rule 27-17.0832(4)(e)7, Florida Administrative Code, that Standard Offer Contracts have a ten-year term. In support of this petition, Tampa Electric submits the following:

1. The name, address, telephone number and facsimile number of the petitioner are:

Tampa Electric Company  
Post Office Box 111  
Tampa, FL 33601  
(813) 228-4111  
(813) 118-1770 (fax)

2. Tampa Electric is a public utility subject to the jurisdiction of the Commission under Chapter 366, Florida Statutes.

3. All notices, pleadings, and correspondence required to be served on the petitioner should be directed to:

DOCUMENT NUMBER-DATE

03427 MAR 19 01

FPSC-RECORDS/REPORTING

Lee L. Willis  
James D. Beasley  
Ausley & McMullen  
227 S. Calhoun Street (32301)  
Post Office Box 391  
Tallahassee, FL 32302  
(850) 224-9115  
(850) 222-7952 (fax)

Angela Llewellyn  
Administrator, Regulatory Coordination  
Tampa Electric Company  
Post Office Box 111  
Tampa, FL 33601  
(813) 228-1752  
(813) 228-1770 (fax)

4. Tampa Electric has submitted on this same date under separate cover a petition for approval of its Standard Offer Contract (“Standard Offer”) in accordance with Rule 25-17.0832(4), Florida Administrative Code. The term of the Standard Offer is five years. Rule 25-17.0832(4)(e)7 provides that firm capacity and energy purchased pursuant to a Standard Offer be provided for a minimum period of ten years. Tampa Electric seeks a waiver of this rule so that its Standard Offer will be limited to a term of five years.

5. The Commission may grant a waiver of the ten-year requirement upon a demonstration that the purpose of the statute has been achieved by other means and when application of the rule would create a substantial hardship or would violate principles of fairness, Section 120.542, Florida Statutes. Tampa Electric submits that the purposes of Section 366.051 and the purposes of the Public Utility Regulatory Policies Act of 1978 (“PURPA”) – to encourage cogeneration while at the same time protect ratepayers from paying costs in excess of avoided costs—will be achieved by utilizing a five-year contract term. Tampa Electric further submits that strict adherence to the ten-year term provided for in the Commission’s rules would create a substantial hardship on Tampa Electric and its ratepayers.

6. New technologies and other factors may lower Tampa Electric’s costs over the coming years. Limiting the term of the Standard Offer to five years gives Tampa Electric the opportunity to revisit the issue of its avoided cost and take advantage of lower costs for the benefit of ratepayers prior to the passage of a full ten years. If at the end of five years Tampa

Electric continues to have a need for power and qualifying facilities (“QFs”) offering to sell under a Standard Offer continue to be able to sell at or below the company’s avoided costs, Tampa Electric can renew its Standard Offer for another five-year term. Obligating Tampa Electric to adhere to a ten-year term in the face of declining costs would subject the company to substantial hardship by adversely affecting its cost structure, and would subject its ratepayers to substantial hardship by raising the price that they would otherwise have to pay for electricity.

7. PURPA and Section 366.051, Florida Statutes, do not establish a minimum term for Standard Offer. A Standard Offer with a five-year term at an avoided cost price, coupled with the continued availability of negotiated contracts under existing Commission rules unaffected by the requested waiver, provides more than enough incentive to encourage the development of cogeneration in accordance with the statutes.

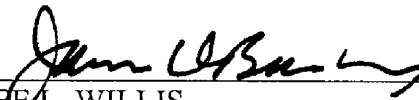
8. In considering the Standard Offer filed by Florida Power & Light Company in Docket No. 990249-EG, the Commission granted a variance from the rule’s minimum ten-year requirement and approved a five-year term (Order No. 99-1713-TRF-EG, issued September 2, 1999 pages 10-16). The policy reasons relied on by the Commission in approving the five-year term – ratepayer protection and adequate QF incentive – are equally applicable to this petition. The Commission, likewise, recently granted a rule waiver allowing Florida Power Corporation to use a five-year term in its Standard Offer. See Order No. 00-0504-PAA-EQ, issued on March 7, 2000 in Docket No. 991973-EQ. The Commission granted the same rule waiver request for Tampa Electric in the company’s last Standard Offer Contract approved in Order No. PSC-00-1773-PAA-EQ issued September 27, 2000 in Docket No. 000684-EQ.

WHEREFORE, for the above-stated reasons, Tampa Electric Company respectfully requests that the Commission grant this petition for a waiver of the minimum ten-year term

requirement for Standard Offer Contracts in Rule 25-17.0832(4)(e)7, Florida Administrative Code.

DATED this 19<sup>th</sup> day of March 2001.

Respectfully submitted,



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LEE L. WILLIS  
JAMES D. BEASLEY  
Ausley & McMullen  
Post Office Box 391  
Tallahassee, FL 32302  
(850) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

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