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REGISTERED PROFESSIONAL ENGINEER  
REGISTERED PATENT ATTORNEY

COMMISSION  
COGENERATION & ALTERNATIVE ENERGY  
CLERK ENERGY REGULATORY LAW

June 26, 2006  
**Via Hand Delivery**

Ms. Blanca S. Bayó, Director  
Division of Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: **Petitions for approval of renewable energy contract tariffs**  
Docket No. 050805-EQ – Gulf Power Company  
Docket No. 050806-EQ – Florida Power & Light Company  
Docket No. 050807-EQ – Progress Energy Florida, Inc.  
Docket No. 050810-EQ – Tampa Electric Company

Dear Ms. Bayó:

Attached hereto for filing in the referenced proceedings find the original and 7 copies of the Petition for Formal Hearing and for Leave to intervene filed on behalf of the Florida Industrial Cogeneration Association.

If you have any questions or require additional information, please contact this office.

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xc: Parties of record via U.S. Mail

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FPSC-BUREAU OF RECORDS

Sincerely,

*Richard A. Zambo*  
/s/ *Richard A. Zambo*

Richard A. Zambo  
Florida Bar No. 312525

DOCUMENT NUMBER-DATE

05615 JUN 26 06

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for approval of new standard offer for purchase of firm capacity and energy from renewable energy facilities and approval of tariff schedule REF-1, by Gulf Power Company.

DOCKET NO. 050805-EQ

In re: Petition for approval of renewable energy tariff and standard offer contract, by Florida Power & Light Company.

DOCKET NO. 050806-EQ

In re: Petition for approval of amended standard offer contract tariff and renewable energy tariff, by Progress Energy Florida, Inc.

DOCKET NO. 050807-EQ

In re: Petition for approval of standard offer contract for small qualifying facilities and producers of renewable energy, by Tampa Electric Company.

DOCKET NO. 050810-EQ

**Filed June 26, 2006**

**The Florida Industrial Cogeneration Association's  
Petition For Formal Hearing and For Leave to Intervene**

Pursuant to Sections 120.57 and 120.569(1), Florida Statutes, Rules 25-22.029 and 28-106.201, Florida Administrative Code, and in accordance with the provisions of Order No. PSC-06-0486-TRF-EQ, the Florida Industrial Cogeneration Association (FICA) and its members, by and through their undersigned attorney, file this Petition for Formal Hearing and for Leave to Intervene in each of the above captioned proceedings. In support thereof, FICA says:

1. The name, address, and telephone number of the Petitioners are as follows:

Florida Industrial Cogeneration Association  
c/o Richard A. Zambo  
Richard A. Zambo, P.A.  
2336 S.E. Ocean Boulevard, #309  
Stuart, Florida 34996  
Phone: (772) 225-5400  
FAX: (772) 232-0205

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

2. Copies of all correspondence, pleadings, and other documents should be provided to:

Florida Industrial Cogeneration Association  
c/o Richard A. Zambo  
Richard A. Zambo, P.A.  
2336 S.E. Ocean Boulevard, #309  
Stuart, Florida 34996  
Phone: (772) 225-5400  
FAX: (772) 232-0205

3. FICA is a trade association of Florida industrial cogenerators the members of which purchase and consume substantial amounts of electricity, and cogenerate substantial amounts of electricity and thermal energy using renewable energy resources.

**Statement of Substantial Interests**

4. FICA members produce and consume large quantities of electricity, the cost of which comprises a substantial portion of manufacturing costs. The Commission's decisions in these proceedings will determine the extent to which renewable energy resources are promoted and developed in the State, thereby affecting the availability, cost and reliability of supply of electricity to FICA members.
5. FICA members own and operate cogeneration facilities that utilize recovered waste heat from the manufacturing processes to produce electricity and useful thermal energy. Such recovered waste heat is considered a renewable energy resource pursuant to Chapter 366.91, F.S. Accordingly, the renewable energy contracts (and tariffs) that are the subject of these proceedings will be applicable to FICA's members and generating facilities that produce electricity from waste heat thereby further affecting the substantial interests of FICA's members.
6. The purpose of this proceeding is to implement the legislative mandate of Chapter 366.91, F.S., which requires the promotion of renewable energy resources such as waste heat.

Accordingly, this proceeding is designed to protect the interests of Florida electric customers and owners of renewable energy facilities such as FICA's members.

7. The substantial interests of FICA's members will be directly affected by the Commission's decision in this proceeding and are the type of interests that this proceeding is designed to protect. *See, e.g., Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981).

**Disputed Issues Of Fact**

8. Without waiving or relinquishing the right to allege additional disputed issues of fact at a later date, FICA's allegations of disputed issues of fact include the following:
  - (i) Whether the renewable energy contracts filed by the utilities (as subsequently modified) and which are the subject of the Commission's June 6, 2006 PAA Order No. PSC-06-0486-TRF-EQ will appropriately promote the development of renewable energy resources in the State.
  - (ii) Whether what is essentially the "renaming" of previous standard offer contracts for QFs as "renewable energy contracts" in the absence of any substantive changes, including changes in the calculation of avoided costs or the use of a state-wide avoided cost, can be expected to appropriately promote and provide additional encouragement to renewable energy facilities.
  - (iii) Whether the payment levels, contract terms and conditions established by, and the policies reflected in, said renewable energy contracts are specifically designed to promote renewable energy resources in the State.
  - (iv) The payment, terms and conditions established by said renewable energy contracts raise additional disputed issues of material fact that can only be resolved by a formal hearing.

**Disputed Issues of Law**

9. Without waiving or relinquishing the right to allege additional disputed issues of law at a later date, FICA's allegations of disputed issues of law include the following:

- (i) Whether the renewable energy contracts filed by the utilities (as subsequently modified), and which are the subject of the Commission's June 6, 2006 PAA Order No. PSC-06-0486-TRF-EQ, are in compliance with the requirements and intent of the Legislature as articulated in Chapter 366.91, F.S.
- (ii) The payment, terms and conditions established by said renewable energy contracts raise numerous additional disputed issues of law.

**Statement Of Ultimate Facts**

10. Without waiving or relinquishing the right to allege additional ultimate facts at a later date, FICA's allegations of ultimate facts include the following:
- (i) that matters within the scope of this proceeding will affect the cost, availability, and reliability of electricity supplies;
  - (ii) that matters within the scope of this proceeding will determine to what extent renewable energy resources will be promoted;
  - (iii) that the renewable energy contracts filed by the utilities (as subsequently modified) and which are the subject of the Commission's June 6, 2006 PAA Order No. PSC-06-0486-TRF-EQ are not specifically designed to promote renewable energy resources and fail to appropriately promote such resources;
  - (iv) that the renewable energy contracts filed by the utilities (as subsequently modified) and which are the subject of the Commission's June 6, 2006 PAA Order No. PSC-06-0486-TRF-EQ, do not comply with the requirements, intent and policies of the Legislature as articulated in Chapter 366.91, F.S.
11. Without waiving or relinquishing any right to a formal hearing in this matter, neither FICA nor its members would object to the Commission's short-term deferral of the formal hearing to which FICA is entitled for a to-be-agreed-upon period of time in order to allow the

rulemaking proceedings mandated by Order No. PSC-06-0486-TRF-EQ a reasonable opportunity to resolve FICA's issues and concerns.

12. Because the substantial interests of FICA's members will be directly affected by the Commission's decisions regarding renewable energy, including the mandated rulemaking proceedings, FICA requests that the Commission conduct the rulemaking proceedings in accordance with the provisions of Sections 120.569 and 120.57, Florida Statutes. FICA's purpose is not to unnecessarily delay a full and complete implementation of renewable energy contracts specifically designed to promote renewable energy resources; but rather, it is to assure that its substantial interests are protected and that the standard offer contracts advance and are in full compliance with the important energy policies regarding renewable energy resources that are contained in Chapter 366.91, F.S.

WHEREFORE, FICA respectfully requests that the Commission enter an Order granting this Petition for Formal Hearings in each of the captioned proceedings and for Leave to Intervene as a full party in interest to each of the captioned proceedings.

RESPECTFULLY submitted on June 26, 2006.

/s/ *Richard A. Zambo*

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Richard A. Zambo  
Florida Bar No. 312525

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Attorney for: Florida Industrial Cogeneration Association