State of Florida

Public Service Commission

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COMMISSION CLERK

DATE: April 22, 2010

TO: Office of Commission Clerk (Cole)

FROM: Division of Regulatory Analysis (Lewis)
Office of the General Counsel (Brown)

RE: Docket No. 100148-EQ – Petition for approval of revisions to renewable energy tariff, by Florida Public Utilities Company.

AGENDA: 05/04/10 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 11/26/10 (8-Month Effective Date)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\RAD\WP\100148.RCM.DOC

Case Background

Since January 1, 2006, each investor-owned electric utility (IOU), as well as each electric municipal utility subject to the Florida Energy Efficiency and Conservation Act (FEECA),[1] has been required to continuously offer to purchase capacity and energy from specific types of renewable sources. Section 366.91(3), Florida Statutes (F.S.), specifies that the contracts for purchase must be based on the utility's full avoided cost as defined in Section 366.051, F.S., and provide a term of at least ten years. Rules 25-17.200 through 25-17.310, Florida Administrative Code (F.A.C.), implement the statutes.

[1] Sections 366.80-366.85 and 403.519, F.S.

On March 26, 2010, Florida Public Utilities Company (FPUC or Company) filed its petition for approval of revisions to the Renewable Energy Tariff. Because FPUC does not own or operate any electric generating plants, this utility does not have any planned generating unit that can be avoided. For such a circumstance, Rule 25-17.250(1), F.A.C., requires the utility to base the standard offer contract on avoiding or deferring a planned purchase.

The Commission has jurisdiction over this matter pursuant to Sections 366.04 through 366.06, 366.91, and 366.92, F.S.

Discussion of Issues

Issue 1: Is the standard offer contract filed by Florida Power Utilities Company in compliance with Rules 25-17.200 through 25-17.310, F.A.C.?

Recommendation: Yes. The Standard Offer Contract proposed by FPUC is in compliance with Rules 25-17.200 through 25-17.310, F.A.C., and therefore should be approved. (Lewis)

Staff Analysis: Because FPUC is an IOU, Rule 25-17.250(1), F.A.C., requires the utility to continuously make available a standard offer contract for purchase of firm capacity and energy from renewable generating facilities and small qualifying facilities with a design capacity of 100 kilowatts (kW) or less. The Commission approved FPUC's initial Renewable Energy Tariff by Order No. PSC-05-1260-TRF-EQ, issued December 27, 2005, in Docket No. 050809-EI, In re: Petition for approval of renewable energy tariff by Florida Public Utilities Company. Since then, updates to FPUC's Renewable Energy Tariff have been approved by Order Nos. PSC-08-0545-TRF-EQ, issued August 19, 2008,[2] and PSC-09-0519-TRF-EQ, issued July 24, 2009.[3]

Since FPUC does not generate any electric energy for sale to retail customers, FPUC does not file a Ten-Year Site Plan and has no planned unit that can serve as an avoided unit. In such a case, Rule 25-17.250(1), F.A.C., requires that the standard offer be based on avoiding or deferring a planned purchase. The standard offer contract provided by FPUC meets this requirement as it is based upon avoiding or deferring planned purchases under the current electric power purchase agreements FPUC holds with Gulf Power Company (Gulf) or Jacksonville Electric Authority (JEA).

FPUC serves two geographic regions, the Northwest Florida division, which consists of FPUC territories in Jackson, Calhoun, and Liberty Counties and the Northeast Florida division, which consists of FPUC territory in Nassau County. Therefore, rate schedules for each division were submitted to reflect pricing, REN-1 or "Standard Rate for Purchase of As-Available Energy from Renewable Energy Production Facilities," and REN-2 or "Standard Rate for Purchase of Firm Energy from Renewable Energy Production Facilities."

Northwest Division

The proposed revisions to the Renewable Energy Tariff FPUC submitted for the Northwest Division consists of Sheet Nos. 18, 20, 21, and 23. The tariff is based upon FPUC avoiding or deferring a planned purchase from its wholesale supplier, Gulf. The Northwest division's proposed rate schedule REN-1 is unchanged in all respects except that the base fuel cost in the energy rate of FPUC's wholesale supplier was reduced from 5.851 to 5.705 cents per KWH. The Northwest division's REN-2 rate schedule has not changed in any respect. Capacity payments from FPUC to the QF remain at $0.00 for each KW of billing capacity and renewable energy providers will continue to receive energy payments but no capacity payments. This is the

[2] Docket No.080283-EQ, In re: Petition for approval of revisions to renewable energy tariff, by Florida Public Utilities Company.
[3] Docket No. 090155-EQ, In re: Petition for approval of revisions to renewable energy tariff by Florida Public Utilities Company.

result of the contract methodology used in FPUC's contract with Gulf for delivery of power to the Northwest division. The contract contains a ratchet provision, establishing a minimum charge to FPUC based upon the level of peak demand observed when the contract was first initiated.[4] FPUC is projected to be at or below this minimum demand level for 2009, so any further reduction in demand would not reduce contracted payments to Gulf. In the event of future projected increases in demand above the minimum set by the contract, a renewable energy provider could contribute to avoiding additional capacity. In this event, FPUC would revise these estimates and offer a capacity payment based upon the avoided cost.

Northeast Division

The proposed revisions to the Renewable Energy Tariff FPUC submitted for the Northeast Division consists of Sheet Nos. 24, 26, 27, and 29. The Renewable Energy Tariff for the Northeast Division is based upon FPUC avoiding or deferring a planned purchase from its wholesale supplier JEA. The Northeast division's proposed rate schedule REN-1 is unchanged in all respects except that the base fuel cost in the energy rate of FPUC's wholesale supplier was reduced from \$5.514 to \$4.416 cents per KWH. The Northeast division's REN-2 rate schedule increased from \$8.91 to \$10.67 for each KW of billing capacity.

Excluding modifications to capacity and energy payments discussed above, no other modifications were made to the Renewable Energy Tariff approved by the Commission last year.

Staff believes that the payments for capacity and energy provided for in the tariff revisions are representative of the Company's avoided cost. The payments for capacity and energy are based on FPUC avoiding or deferring a planned purchase it would otherwise make from one of the wholesale suppliers that it has previously contracted with. The provisions of the standard offer contract, including proposed tariff revisions, are in compliance with Rules 25-17.200 through 25-17.310, F.A.C., and should therefore be approved.

[4] Contract approved by the Commission in Order No. PSC-07-0476-PAA-EI, issued June 6, 2007 in Docket No. 070108-EI, In re: Petition for approval of agreement for generation services and related terms and conditions with Gulf Power Company for Northwest Division (Marianna) beginning 2008, by Florida Public Utilities Company.

Issue 2: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation to approve the proposed Standard Offer Contract and tariffs filed by FPUC, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 100148-EQ should be closed upon issuance of a consummating order, and the Standard Offer Contracts and tariffs filed by FPUC should be effective as of the date of the Commission's vote. If Issue 1 is approved, this tariff should become effective on May 4, 2010. If a protest is filed within 21 days of the issuance of the Commission's order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that FPUC's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised. (Brown)

Staff Analysis: If the Commission approves staff's recommendation to approve the proposed Standard Offer Contract and tariffs filed by FPUC, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 100148-EQ should be closed upon issuance of a consummating order, and the Standard Offer Contracts and tariffs filed by FPUC should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that FPUC's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.