

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of modifications to standard interconnection agreements contained in the approved tariff by Progress Energy Florida, Inc.

DOCKET NO. 120228-EQ
ORDER NO. PSC-12-0538-PAA-EQ
ISSUED: October 11, 2012

The following Commissioners participated in the disposition of this matter:

RONALD A. BRISÉ, Chairman
LISA POLAK EDGAR
ART GRAHAM
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING PROGRESS ENERGY FLORIDA, INC.'S
MODIFICATIONS TO ITS STANDARD INTERCONNECTION AGREEMENTS

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.

Case Background

On August 28, 2012, pursuant to Rule 25-6.065(5), Florida Administrative Code, (F.A.C.) Progress Energy Florida, Inc., (PEF) filed a petition for approval of modifications to its Standard Interconnection Agreements contained in the approved tariff for customer-owned renewable generation. The Standard Interconnection Agreements were originally approved in 2008.¹ PEF is modifying its Standard Interconnection Agreements to execute interconnection agreements with governmental entities without the need to request rule waivers.

PEF's Standard Interconnection Agreements conform with Rule 25-6.065(5)(e), F.A.C., which requires PEF to, at a minimum, include provisions that "[a] requirement for general liability insurance for personal and property damage, or sufficient guarantee and proof of self-insurance, in the amount of no more than \$1 million for Tier 2, and no more than \$2 million for

¹ See Order No. PSC-08-0624-TRF-EI, issued September 24, 2008, in Docket No. 080257-EI, In re: Petition for approval of net metering tariff, new interconnection agreements, and modification of various related tariff sheets, by Progress Energy Florida, Inc.

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Tier 3.” The state and governmental entities asserted that pursuant to Section 768.28, Florida Statutes, (F.S.) governmental agencies are self-insured, are limited by law to a lesser amount of the Tier 2 and Tier 3 insurance provisions, and are not bound by the full \$1 million or \$2 million required by PEF's Standard Interconnection Agreement. Section 768.28(5), F.S., provides that “[n]either the state nor its agencies or subdivisions shall be liable to pay a claim or a judgment by any one person which exceeds the sum of \$200,000 or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the state or its agencies or subdivisions arising of the same incident or occurrence, exceeds the sum of \$300,000.”

Therefore, to interconnect with its government entity customers, PEF is required to seek rule waivers for each interconnection agreement. For administrative efficiency and to ensure compliance with Section 768.28, F.S., and Rule 25-6.065, F.A.C., PEF is requesting modifications to its current Standard Interconnection Agreements, and PEF will update its website to reflect the tariff modifications.

Currently, PEF's Standard Interconnection Agreements require customers owning Tier 2 and Tier 3 renewable facilities to maintain general liability insurance for personal injury and property damage in the amount of not less than \$1 million and \$2 million, respectively. The agreements also recommend that customers owning Tier 1 renewable facilities maintain general liability insurance for personal injury and property damage in the amount of not less than \$100,000.²

PEF is requesting modifications to paragraph 11 of all of its Standard Interconnection Agreements for all three tiers. The tariff modifications will include the following language: (1) that to the extent permitted by law and without waiving or limiting sovereign immunity; and (2) that nothing herein shall be intended to serve as a waiver or limitation of customer's sovereign immunity defenses as allowed by law.

The modifications also include language that all provisions of the tariff will apply to the extent that they are not barred from executing under state or federal law. Additionally, the tariff modifications will add the following language to the liability insurance provision as follows: “to the extent permitted by law.” A new sentence that allows governmental entities to self-insure will also be added to the tariff. The revisions to PEF's Standard Interconnection Agreements contained in its tariff allow PEF to interconnect with governmental entities without requiring rule waivers.

We have jurisdiction over this matter pursuant to Section 366.91, F.S., and Rule 25-6.065, F.A.C.

Decision

Rule 25-6.065, F.A.C., establishes the indemnification and liability insurance provisions required in investor-owned utility standard interconnection agreements for customer-owned

² Tier 1 - 10 kW or less; Tier 2 – greater than 10 kW and less than or equal to 100 kW; Tier 3 – greater than 100 kW and less than or equal to 2 MW.

renewable generation facilities. Government entities are precluded by law from indemnifying other parties and are limited by law as to liability, pursuant to Section 768.28, F.S.

We find that the tariff modifications will improve administrative efficiency for PEF to execute its Standard Interconnection Agreements with governmental entities, considering that governmental entities must conform to state and federal laws limiting their liabilities. These changes will also reduce the regulatory burden on governmental entities and eliminate the need for PEF to request rule waivers to interconnect with governmental entities. We, therefore, approve PEF's modifications to the insurance provisions of the Standard Interconnection Agreements.

We also approve PEF's request to update its reference to the current location of the tariff on the PEF website. The update will ensure that the tariff includes the most up-to-date website location and will allow customers to more easily access information about the Interconnection Agreements.

This modified tariff, as approved, shall become effective on October 2, 2012. If a protest is filed within 21 days of the issuance of the order, this tariff shall remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket shall be closed upon the issuance of a consummating order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Progress Energy Florida, Inc's modifications to its Standard Interconnection Agreements contained in its tariff are hereby approved, effective October 2, 2012. It is further

ORDERED that Progress Energy Florida, Inc's request to update its reference to the current location of the tariff on the Progress Energy Florida, Inc's website is hereby granted. It is further

ORDERED that the provisions of this Order, 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 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 tariff shall remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket shall be closed upon the issuance of a consummating order.

By ORDER of the Florida Public Service Commission this 11th day of October, 2012.



HONG WANG
Chief Deputy Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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 November 1, 2012.

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.