

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of Lake )	DOCKET NO. 900149-EQ
County's amendment to small power )	
producer contract between Florida )	ORDER NO. 22993
Power Corporation and NRG/RECOVERY )	
GROUP, INC. )	ISSUED: 5-25-90
)	

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman  
 BETTY EASLEY  
 GERALD L. GUNTER

PROPOSED AGENCY ACTION ORDER  
APPROVING AMENDMENT TO COGENERATION CONTRACT

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Florida Power Corporation (FPC) and NRG Recovery Group Inc. (NRG) entered into a Standard Offer Contract for the purchase of firm energy and capacity, dated October 12, 1988. This contract was acknowledged by the Commission on December 20, 1988 in Order No. 20594. Pursuant to the contract, FPC will purchase 10.25 MW of capacity produced by the solid waste facility with capacity payments commencing in 1995 and continuing until the year 2014.

When the contract was executed, the Commission was in the process of revising its cogeneration rules to allow special provisions for governmentally owned or operated solid waste

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facilities pursuant to the 1988 Solid Waste Management Act, Section 377.709, Florida Statutes. The revisions to Rule 25-17.091, Florida Administrative Code, removed the 80% risk factor from the capacity payments for these types of facilities. These rule revisions became effective on April 26, 1989.

In order to preserve its rights to be eligible for the proposed revisions, NRG and FPC entered into a letter agreement dated October 12, 1988 in which FPC agreed to modify or supplement the terms of the original contract if NRG became eligible for higher capacity payments under the proposed revisions. The Commission was made aware of this agreement prior to the approval of the original contract.

Rule 25-17.091(1)(c), Florida Administrative Code, states that a privately owned solid waste facility will be eligible for special provisions if the local government has entered into a long term agreement for the disposal of solid waste and there is no undue risk to the purchasing utility's ratepayers. The amendments to the existing contract basically consist of making Lake County, Florida (County) a party to the contract and adding a section which states that the County will adhere to the terms and conditions of the contract should NRG default. Thus, the County will be responsible for the delivery of power to FPC should NRG default.

These amendments are consistent with Rule 25-17.091(1)(c) for two reasons: the County agreed to perform the duties of NRG should they default and it has also entered into a long-term service agreement with NRG for the disposal of solid waste.

The revisions removing the 20% risk factor have the affect of increasing the capacity payments by 25%. This increase in capacity payments also causes the contract to be above FPC's own avoided cost on a net present value basis. However, the contract is in accord with Rule 25-17.083, Florida Administrative Code, since the capacity payments are equal to that of the standard offer. All other terms and conditions of the contract remain the same.

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Based on the above, we find that the amended Standard Offer Contract between Florida Power Corporation and NRG/RECOVERY GROUP, INC. is hereby approved for cost recovery purposes.

BY ORDER of the Florida Public Service Commission,  
this 25th day of May, 1990.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

(7038L)SBR:bmi

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 19, 1990.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided

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by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.