

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Planning Hearings on Load)	DOCKET NO. 910004-EU
Forecasts Generation Expansion)	ORDER NO. 24989
Plans, and Cogeneration Prices)	ISSUED: 8-29-91
for Florida's Electric Utilities.)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 J. TERRY DEASON
 BETTY EASLEY
 MICHAEL McK. WILSON

FINAL ORDER

BY THE COMMISSION:

As a result of the revision of the cogeneration rules (Docket No. 891049-EU), we initiated a proceeding to approve new standard offer contracts. Pursuant to Order No. 23625, each utility was required to file by October 30, 1990, its most recent ten-year generation expansion plan, a standard interconnection agreement, and one or more standard offer contracts designed to avoid the construction of capacity identified in its plan.

A hearing was conducted in this docket on May 20, 22, and 23, 1991. Pursuant to Order No. 24142, the scope of this hearing was limited to those issues necessary to approve firm capacity and energy tariffs, standard offer contracts, as-available energy tariffs, and standard interconnection agreements.

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FPC'S FORECASTS, ASSUMPTIONS, AND GENERATION ALTERNATIVES

1. FPC'S RELIABILITY CRITERIA
2. FPC'S LOAD FORECAST
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4. FPC'S FUEL FORECAST
5. FPC'S UNIT PERFORMANCE FORECAST
6. FPC'S PURCHASED POWER FORECAST
7. FPC'S STRATEGIC CONCERNS
8. FPC'S AVOIDED UNIT GENERATING TECHNOLOGIES
9. FPC'S SUPPLY SIDE ALTERNATIVES
10. FPC'S APPROPRIATE GENERATION EXPANSION PLAN

1. FPC'S RELIABILITY CRITERIA

Florida Power Corporation (FPC) utilizes a dual criteria, consisting of a 0.1 Loss of Load Probability (LOLP) and a 10% winter reserve margin. These two reliability criteria have been used by FPC for some time and they are indicators of different system requirements. A reserve margin is an indicator of the system's ability to serve the system-wide seasonal peak demand. The percentage of reserve, usually expressed as a percentage of peak demand, is maintained in order to allow for variations in load and unit availability. The actual percentage planned is a judgement based on the utility's size and its interconnections to neighboring utilities. A LOLP criteria is an indicator of the system's ability to meet daily peak demands. This method considers the forced and planned outage rates of the utility's units, as well as the probability of emergency assistance, if needed.

While these two criteria are adequate, they can only be as good as the assumptions that go into the planning process. For example, the LOLP calculation is very sensitive to assistance from other utilities. Both criteria are also sensitive to errors in load forecasts. These two areas seem to be the major cause of FPC's near term capacity shortage problem. FPC's forecasts for both winter and summer peak demands have been below actual demands for the past five years. FPC's witness Niekum testified that a percentage change in load was about equal to a percentage change in reserve margin. (TR 684) Mr. Niekum also admitted that this concerns him as a planner, and that it may indicate that FPC needs to modify its forecasting criteria. (TR 686)

When questioned as to why FPC's generation plans had changed so radically from data filed with the Commission last year, Mr. Niekum testified that increases in demand and energy forecasts and the modeling of assistance from the Southern Company "were probably

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the two primary reasons that we changed radically." (TR 677) The change in modeling of assistance from the Southern Company was to include transmission limitations on the State transfer capability. Mr. Niekum testified that this change "showed that our reliability was worse than what we had thought in the last plan." (TR 664-665) In simple terms, it appears that FPC has been relying on its neighbors for much of the company's reliability, and now with the recent transmission allocation agreement, they have found themselves in a capacity crunch. This may have been best summarized by FPL's witness, Mr. Waters who stated, "We all can't drive our reserves down and rely on each other to back up the system...common sense tells you that as soon as we see that result, that we all can't do that." (TR 221)

FPC has responded to its newly projected need by signing nine contracts with various cogenerators. While this embraces our desire to promote cogeneration, FPC's sudden change in its planning process has required us to make decisions on reliability with very little notice. Nonetheless, it appears that FPC's assumptions are appropriate and we are somewhat comforted that FPC's planning appears to more closely reflect reality than it has in the past.

2. FPC'S LOAD FORECAST

FPC's forecast predicts an average annual growth rate in demand of 2.55% over the period from 1990 through 2010. The forecast also predicts an average annual growth rate in energy of 2.94% over the same time period. No other forecast was offered by any of the parties.

We are concerned that FPC's past forecasts were overly optimistic. We intend to closely monitor FPC's future forecasts.

3. FPC'S CONSERVATION FORECAST

FPC has adopted a wide array of conservation programs, and it has been very aggressive in its direct load control programs. The total capacity for existing and contracted cogenerators is about 325 MW in 1995. The projected total cogeneration capacity by the year 2009 is 1422 MW.

FPC projects a need of 2,796 MW of additional resources between 1991 and 2005. Load management and conservation combined is projected to meet 19% of this need, and cogeneration is projected to meet 18.7% of this need.

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While FPC's conservation plans appear to be reasonable for planning purposes, FPC should be more aggressive in the areas of energy reducing and renewable programs.

4. FPC'S FUEL FORECAST

The fuel forecasts presented by the Company are based on experience at making forecasts, information available in trade publications, and advice from reputable, nationally well known consultants. The sources of data and references used include DRI for general inflation estimates, Electric Fuels Corporation for coal projections, PIRA and Chem Data for natural gas, and oil estimates. Potential impacts of the Clean Air Act Amendments of 1990, oil supplies/interruptions from OPEC nations, and Company specific transportation concerns are addressed in the forecasts. There is no indication that the FPC fuel forecasts are unreasonable or inadequate for the purpose of this proceeding. We will continue to monitor and review all fuel costs incurred by FPC.

5. FPC'S UNIT PERFORMANCE FORECAST (STIPULATED)

All parties to this docket have stipulated to FPC's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that FPC's assumptions regarding the performance of existing units on their system are reasonably adequate for planning purposes.

6. FPC'S PURCHASED POWER FORECAST (STIPULATED)

All parties to this docket have stipulated to FPC's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that FPC's assumptions regarding the performance of operating parameters and cost of existing purchased power contracts are adequate for planning purposes.

7. FPC'S STRATEGIC CONCERNS

FPC has adequately addressed risk and other strategic concerns. We share FICA's concern regarding the security of gas supplies to drive FPC's new plan. We intend to monitor FPC's efforts toward securing adequate gas supplies to support the new generation plan. FPC appears to be aware of the potential for

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restrictions on the emission of carbon dioxide. The company should continue to include this consideration in future planning exercises. Momentum for governmental intervention is growing, despite disagreement in the scientific community over the impact of carbon dioxide emissions. FPC's other assumptions appear to be reasonable.

8. FPC'S AVOIDED UNIT GENERATING TECHNOLOGIES

The pricing and operating parameters of generating technologies considered by FPC were developed internally by FPC, and are reasonable when compared to other sources of cost estimates and performance requirements. For example, FPC's cost estimate of 399 \$/kw for CT capacity compares favorably to the estimated cost of 462 \$/kw contained in the EPRI TAG document for similar capacity additions. Also, the projected availability and operating heat rate are comparable. We approve of the use of in-house cost estimates because a utility can be more site specific when estimating its costs. FICA's concerns over capital additions are answered by a conservative fixed O&M rate and a 5% contingency factor. (TR 1656-1659) More specifically, capital additions may have the effect of lowering the overall \$/KW cost of the plant or increasing its efficiency. FICA's witness ignored these facts. (TR 1543-1544) Also, capital additions are made over the life of the unit, so it would not make any sense to apply these additions to a standard offer contract that has a minimum term of ten years. (TR 1544-1545)

We believe that the pricing and operating parameters used by FPC are reasonable.

9. FPC'S SUPPLY SIDE ALTERNATIVES (STIPULATED)

All parties to this docket have stipulated to FPC's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that FPC adequately considered reasonable forms of available supply side technologies in order to meet its future load growth.

10. FPC'S APPROPRIATE GENERATION EXPANSION PLAN

A generation expansion plan is only as good as its assumptions. The record indicates that FPC's assumptions are suitable for planning purposes given the caveats previously

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elaborated. We are most concerned about the accuracy of the load forecast and the availability of natural gas supplies. We intend to monitor these matters in future proceedings. With these concerns noted, we find that the most appropriate generation expansion plan for FPC consists of 300 MW of CT capacity in 1992 and 1993, 500 MW of purchased power in 1995, 150 MW of CT capacity in 1997, and 700 MW of coal capacity added in the years 1998 and 2000.

FPL'S FORECASTS, ASSUMPTIONS, AND GENERATION ALTERNATIVES

1. FPL'S RELIABILITY CRITERIA
2. FPL'S LOAD FORECAST
3. FPL'S CONSERVATION FORECAST
4. FPL'S FUEL FORECAST
5. FPL'S UNIT PERFORMANCE FORECAST
6. FPL'S PURCHASED POWER FORECAST
7. FPL'S STRATEGIC CONCERNS
8. FPL'S AVOIDED UNIT GENERATING TECHNOLOGIES
9. FPL'S SUPPLY SIDE ALTERNATIVES
10. FPL'S APPROPRIATE GENERATION EXPANSION PLAN

1. FPL'S RELIABILITY CRITERIA

Florida Power & Light Company (FPL) utilizes a dual criteria, consisting of a .1 Loss of Load Probability (LOLP) and a 15% summer reserve margin. These two reliability criteria have been used by FPL for some time and each are indicators of different system requirements. A reserve margin is an indicator of the system's ability to serve the system-wide seasonal peak demand. The percentage of reserve, usually expressed as a percentage of peak demand, is maintained in order to allow for variations in load and unit availability. The percentage allowed is based on the utility's size and interconnections to neighboring utilities.

A LOLP criteria is an indicator of the systems ability to meet daily peak demands. This method considers the forced and planned outage rates for the utility's units, as well as the probability of emergency assistance if needed. Mr. Waters, who testified on behalf of FPL stated that even if FPL's criteria were raised to 20% reserve margins, FPL's generation expansion plans would remain the same. (TR 216) This indicates that FPL's planning is driven more by LOLP than by reserve margin. FPC, on the other hand, is more affected by reserve margin than LOLP. This may be due to the seasonal difference between a summer and winter reserve margin.

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The LOLP calculation is sensitive to assistance from other utilities. FPL has modeled the assistance from Southern Company as being half of the remaining Statewide transmission capability after firm purchases are considered. This transmission capacity is not owned by FPL, but is controlled by the Jacksonville Electric Authority (JEA). The amount estimated, 454 MW, was based on FPL's approximate share of Peninsular Florida's load. (TR 1558, 1569) Mr. Ross, on behalf of Falcon Seaboard, did not agree with this assumption. Mr. Ross testified that a utility should only rely on transmission capacity that it either owns or has contractual rights to operate. (TR 1253) We disagree. To totally ignore the availability of additional transmission capacity just because it is not contracted for would be irresponsible and shortsighted on the utility's part. FPL is not relying on a price, only a quantity, and until that quantity is fully contracted for, or utilized for firm service, FPL and other utilities are prudent in making estimations concerning the availability of this resource for emergency service. Mr. Ross is correct in that we should review the assumptions used by other utilities to avoid double or triple counting of this resource. The only utility that could double count this resource is FPC, whose transmission import capability is capped by its allocated share of the Statewide transmission import limit. Until the in-service date of a proposed new 500 kV line, FPC assumed 400 MW from Southern, which is its firm commitment. (TR 664) Assistance from peninsular Florida is limited to 1200 MW and is further restricted by the availability of generation from the other peninsular utilities. Therefore, there does not appear to be any double counting of the available Statewide transmission capacity.

2. FPL'S LOAD FORECAST

FPL's forecast predicts an average annual growth rate in winter peak demand of 3.0% over the period from 1990 through 1999. The forecast also predicts an average annual growth rate in energy of 2.6% over the same time period. No other forecast was offered by any of the parties.

We have previously expressed our concern about FPC's past forecasts being optimistic. We have the same concern with FPL's forecasts. We intend to closely monitor FPL's future forecasts.

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3. FPL'S CONSERVATION FORECAST (STIPULATED)

All parties to this docket have stipulated to FPL's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that forecasts of existing and projected conservation and cogeneration are reasonably and adequately considered in FPL's load and energy forecasts.

4. FPL'S FUEL FORECAST

FPL stated that its forecasts are based on a combination of practical experience, information from trade publications, and advice from reputable, nationally-known consultants. The sources of data and references used include ICF (for coal projections), PIRA, and Groppe-Long-Littel (for natural gas and oil estimates). The FPL forecast considers potential impacts of the Clean Air Act Amendments of 1990, oil supplies/interruptions from OPEC nations and company specific transportation considerations. FPL's oil and gas price projections are higher than its coal price projections. This would tend to favor the use of coal in the long term. FPL's oil and gas projections are higher than those submitted by FPC, which we believe to be more realistic. However, since FPL's proposed IGCC unit is coal fired, and since lower oil and gas prices would not alter the technology selected, there is no indication that FPL's fuel forecasts are unreasonable or inadequate for the purpose of this proceeding. We will continue to monitor and review all fuel costs incurred by FPL's customers.

5. FPL'S UNIT PERFORMANCE FORECAST

The performance projections of FPL's fossil units have not been challenged and appear reasonable. The future performance for FPL's Turkey Point nuclear units 3 and 4 have been disputed in this proceeding by Nassau Power Corporation.

FPL is projecting a significant improvement in performance for these two units over the next several years. Nassau correctly points out that Turkey Point 3 and 4 have had a poor performance record in the late 1980s. FPL states that in addition to repairs and other projects presently underway at Turkey Point 3 and 4, a proactive program is being instituted to reach the performance targets in the planning period.

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We have some concern as to whether the performance improvements at Turkey Point 3 and 4 projected by FPL will be attained, given the history of the units. Therefore, FPL's filings in the Generating Performance Incentive Factor docket will be closely monitored as a check on the company's projections in this docket. Because the performance projections appear to be potentially achievable given reasonable management prudence, we accept FPL's performance projections as reasonable for planning purposes.

6. FPL'S PURCHASED POWER FORECAST (STIPULATED)

All parties to this docket have stipulated to FPL's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that FPL's assumptions regarding the performance of operating parameters and cost of existing purchased power contracts are adequate for planning purposes.

7. FPL'S STRATEGIC CONCERNS

It appears that FPL has adequately addressed risk and strategic concerns, including the potential for Greenhouse Effect legislation. FPL appears to be aware of the potential for governmental restrictions on the emission of carbon dioxide.

Intervenors contested the inclusion of 454 MW of emergency assistance from the Southern Company. Nassau stated that FPL should not rely on transmission capacity that it does not own. As previously discussed, we believe it is proper for FPL to include the capacity for emergency purposes.

8. FPL'S AVOIDED UNIT GENERATING TECHNOLOGIES

The pricing and operating parameters of generating technologies considered by FPL were developed internally by FPL, and they appear reasonable when compared to other sources of cost estimates and performance requirements. For example, FPL's cost estimate of 1749 \$/kw for IGCC capacity compares favorably to the estimated cost of 2075 \$/kw contained in the EPRI TAG document for similar type capacity additions. Also, the projected availability and operating heat rate are comparable. We approve of the use of in-house cost estimates because a utility can be more site specific when estimating its cost. It appears that the pricing and operating parameters used by FPL are reasonable.

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9. FPL'S SUPPLY SIDE ALTERNATIVES (STIPULATED)

All parties to this docket have stipulated to FPL's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that FPL adequately considered reasonable forms of available supply-side technologies in order to meet its future load growth.

10. FPL'S APPROPRIATE GENERATION EXPANSION PLAN

The record indicates that FPL's assumptions are suitable for planning purposes given the caveats elaborated previously. We are most concerned about the accuracy of the load forecast and about FPL's involvement in load management. We intend to monitor these areas in future proceedings. With these concerns noted, we find that the most appropriate generation expansion plan for FPL consists of 907 MW of IGCC capacity in 1997 and 1998.

GULF'S FORECASTS, ASSUMPTIONS, AND GENERATION ALTERNATIVES

1. GULF'S RELIABILITY CRITERIA
2. GULF'S LOAD FORECAST
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6. GULF'S STRATEGIC CONCERNS
7. GULF'S AVOIDED UNIT GENERATING TECHNOLOGIES
8. GULF'S SUPPLY SIDE ALTERNATIVES
9. GULF'S APPROPRIATE GENERATION EXPANSION PLAN

1. GULF'S RELIABILITY CRITERIA (STIPULATED)

All parties to this docket have stipulated to Gulf's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that the reliability criteria used by Gulf are reasonably adequate for planning purposes.

2. GULF'S LOAD FORECAST (STIPULATED)

All parties to this docket have stipulated to Gulf's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of

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the parties that the forecasts of energy and seasonal peak demand as presented in Gulf's load forecast are reasonably adequate for planning purposes.

3. GULF'S CONSERVATION FORECAST (STIPULATED)

All parties to this docket have stipulated to Gulf's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that forecasts of existing and projected conservation and cogeneration are reasonably and adequately considered in Gulf's load and energy forecasts.

4. GULF'S FUEL FORECAST (STIPULATED)

All parties to this docket have stipulated to Gulf's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that the forecasts of fuel prices and availability as presented in Gulf's generation expansion plan are reasonably adequate for planning purposes.

5. GULF'S UNIT PERFORMANCE FORECAST (STIPULATED)

All parties to this docket have stipulated to Gulf's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that Gulf's assumptions regarding the performance of existing units on its system are reasonably adequate for planning purposes.

6. GULF'S STRATEGIC CONCERNS (STIPULATED)

All parties to this docket have stipulated to Gulf's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that Gulf's generation expansion plan adequately addresses risk and other strategic concerns including, but not limited to, fuel flexibility, weather uncertainty, environmental restrictions, assistance from the Southern Company, constraints in transmission, and state and national energy policies.

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7. GULF'S AVOIDED UNIT GENERATING TECHNOLOGIES

The pricing and operating parameters of generating technologies considered by Gulf were developed internally by Gulf and are reasonable when compared to other sources of cost estimates and performance requirements. For example, Gulf's cost estimate of 345 \$/kw for CT capacity compares favorably to the estimated cost of 462 \$/kw contained in the EPRI TAG document for similar type capacity additions. Also, the projected availability and operating heat rate are comparable. We approve of the use of in-house cost estimates because a utility can be more site specific when estimating its cost. We find that the pricing and operating parameters used by Gulf are reasonable.

8. GULF'S SUPPLY SIDE ALTERNATIVES (STIPULATED)

All parties to this docket have stipulated to Gulf's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that Gulf adequately considered all reasonable forms of available supply-side technologies in order to meet its future load growth.

9. GULF'S APPROPRIATE GENERATION EXPANSION PLAN (STIPULATED)

All parties to this docket have stipulated to Gulf's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that the generation expansion plan prepared by Gulf is appropriate.

TECO'S FORECASTS, ASSUMPTIONS, AND GENERATION ALTERNATIVES

1. TECO'S RELIABILITY CRITERIA
2. TECO'S LOAD FORECAST
3. TECO'S CONSERVATION FORECAST
4. TECO'S FUEL FORECAST
5. TECO'S UNIT PERFORMANCE FORECAST
6. TECO'S STRATEGIC CONCERNS
7. TECO'S AVOIDED UNIT GENERATING TECHNOLOGIES
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1. TECO'S RELIABILITY CRITERIA (STIPULATED)

All parties to this docket have stipulated to TECO's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that the reliability criteria used by TECO are reasonably adequate for planning purposes.

2. TECO'S LOAD FORECAST (STIPULATED)

All parties to this docket have stipulated to TECO's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that the forecasts of energy and seasonal peak demand as presented in TECO's load forecast are reasonably adequate for planning purposes.

3. TECO'S CONSERVATION FORECAST (STIPULATED)

All parties to this docket have stipulated to TECO's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that forecasts of existing and projected conservation are reasonably and adequately considered in TECO's loan and energy forecasts.

4. TECO'S FUEL FORECAST

The fuel forecasts presented by the Company are based primarily on its existing coal requirements and reports from the independent consulting firm Groppe-Long-Littel. These reports address potential impacts of the Clean Air Act Amendments of 1990 and oil supplies/interruptions from OPEC nations. TECO added its transportation cost projections to the reports supplied by Groppe-Long-Littel. The resulting fuel oil and natural gas prices are close to those submitted by FPL, and higher than those submitted by FPC. Although we believe the FPC forecasts are more realistic, there is no indication that the TECO fuel forecasts are unreasonable or inadequate for the purpose of this proceeding. Lower oil and gas forecasts would not alter TECO's need for peaking and intermediate cycling units. We will continue to monitor and review all fuel costs incurred by TECO's customers.

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5. TECO'S UNIT PERFORMANCE FORECAST (STIPULATED)

All parties to this docket have stipulated to TECO's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that TECO's assumptions regarding the performance of existing units on its system are reasonably adequate for planning purposes.

6. TECO'S STRATEGIC CONCERNS (STIPULATED)

All parties to this docket have stipulated to TECO's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that TECO's generation expansion plan adequately addresses risk and other strategic concerns including, but not limited to fuel flexibility, weather uncertainty, environmental restrictions, assistance from the Southern Company, constraints in transmission, and state and national energy policies.

7. TECO'S AVOIDED UNIT GENERATING TECHNOLOGIES

The use of the EPRI TAG document by TECO is reasonable for planning purposes. As previously discussed, the TAG document served as a point of reference for other in-house estimates and has also been used by the Commission and other utilities in past planning hearings. The Tag estimates for CT capacity are comparable to other utility's estimates.

We find that the pricing and operating parameters considered by TECO are reasonable.

8. TECO'S SUPPLY SIDE ALTERNATIVES (STIPULATED)

All parties to this docket have stipulated to TECO's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that TECO adequately considered all reasonable forms of available supply-side technologies in order to meet its future load growth.

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9. TECO'S APPROPRIATE GENERATION EXPANSION PLAN (STIPULATED)

All parties to this docket have stipulated to TECO's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that the generation expansion plan proposed by TECO is appropriate.

FPC'S STANDARD OFFER CONTRACT

1. FPC'S AVOIDED UNIT DETERMINATION
2. FPC'S SUBSCRIPTION LIMIT
3. FPC'S AVOIDED UNIT PARAMETERS
4. FPC'S CAPACITY PAYMENTS
5. FPC'S AVOIDED COST CALCULATION
6. FPC'S LOCATION FACTORS
7. FPC'S CLEAN AIR IMPACT
8. FPC'S STANDARD OFFER TAX PROVISION
9. FPC'S CAPACITY BENEFITS FOR EARLY DELIVERY
10. FPC'S PERFORMANCE REQUIREMENTS
11. FPC'S SLIDING SCALE CAPACITY PAYMENTS
12. FPC'S COMPLETION SECURITY
13. FPC'S COMPLETION SECURITY ALTERNATIVES
14. FPC'S PROJECT MANAGEMENT REQUIREMENTS
15. FPC'S MILESTONE PROVISIONS
16. FPC'S CAPACITY ACCOUNT SECURITY
17. FPC'S PERFORMANCE SECURITY
18. FPC'S DEFAULT PROVISIONS
19. FPC'S REGULATORY OUT CLAUSE
20. FPC'S BILLING METHOD PROVISIONS
21. FPC'S INTERCONNECTION INSURANCE REQUIREMENT
22. NOTICE TO QF
23. FPC'S STANDARD OFFER CONTRACT AND INTERCONNECTION AGREEMENT APPROVAL
24. FPC'S SUBSCRIPTION

1. FPC'S AVOIDED UNIT DETERMINATION

FPC first proposed a 1991 coal unit, a 1991 combustion turbine, and a 1997 combustion turbine unit as its avoided unit. While the 1991 units could be avoided through negotiated contracts, the designation of 1991 units as avoided units in the standard offer contract violates Rule 25-17.0832 (3)(e)4, Florida Administrative Code, which states:

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Each standard offer contract shall, at a minimum, specify...the date on which the standard contract offer expires. The date shall be at least four years before the anticipated in-service date of the avoided unit or units unless the avoided unit could be constructed in less than four years, or when the subscription limit is reached....

A coal unit or a combustion turbine unit could probably not be constructed in less than one year in order to meet 1991 in-service dates. These units were identified for the purpose of attracting cogeneration capacity within a short time frame. When asked what other unit(s) would FPC propose if the 1991 units were not selected, FPC's witness Niekum stated that the next available unit would be a 1997 combustion turbine. (TR 605) In order to develop the payment stream for this unit, FPC proposed to allow the cogenerator the choice of either a 1997 coal unit or a 1997 combustion turbine. The coal unit was added as an option because on a NPV basis, the coal unit costs less than the CT unit. While this may sound like a good choice, the coal unit does not become cost effective until the last few years of a thirty year analysis. FPC, therefore, chose to include CT capacity in 1997 in its facility plan in order to avoid the risk of reliance on later year fuel savings to justify a project.

We find that FPC's avoided unit for its standard offer contract should be a 1997 combustion turbine.

2. FPC'S SUBSCRIPTION LIMIT

Setting the limit to the amount of capacity available under the standard offer contract requires a careful balance. There are negative effects associated with setting the limit too low or too high. If the subscription is set too low, the standard offer will be fully subscribed too quickly and QFs wishing to sign a standard offer will have to wait for the next one. If the subscription is set too high, large QFs that may be needed will not be able to negotiate against that capacity.

We believe that the consequences of setting the subscription limit too high are greater than the consequences of setting it too low. If the subscription limit is set too low, and it is subscribed quickly, small QFs have the option of negotiating a contract.

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However, if the subscription limit is set too high and there are not enough small QFs (the standard offer is available only to QFs less than 75 MW) willing to sign the standard offer, large QFs cannot negotiate against that capacity, even if FPC needs the capacity.

FPC proposed that 80 MW of its 150 MW, 1997 combustion turbine unit be designated as its standard offer avoided unit, leaving the remaining 70 MW available for negotiated contracts. While its proposed subscription limit may seem low, FPC has demonstrated that QFs are more likely to sign negotiated contracts with FPC than to sign its standard offer contracts. Under the old cogeneration rules, FPC has 410 MW of contracts and only 50 MW of those contracts are standard offer contracts. (TR 798) Since FPC has only received 50 MW of standard offer capacity in the past seven years, and since QFs have been more likely to sign negotiated contracts with FPC than sign a standard offer contract, it is reasonable to set FPC's standard offer subscription at 80 MW.

3. FPC'S AVOIDED UNIT PARAMETERS

We adopt the parameters provided by FPC for its 1997 Combustion Turbine unit, as shown below:

FPC 1997 COMBUSTION TURBINE UNIT

a.	Type of fuel	Distillate
b.	Average annual heat rate	11610 BTU/kWh
c.	Cost of fuel	Distillate at Bartow CT Units
d.	Construction cost (mid-1991 \$/kW)	\$399
e.	Construction escalation rate	5.1%
f.	In-service cost (10/1996 \$/kW)	\$525
g.	Incremental capital structure	
	1. Debt	45%
	2. Preferred Stock	10%
	3. Common Stock	45%
h.	Cost of capital	
	1. Debt	10.0%
	2. Preferred Stock	8.5%
	3. Common Stock	14.0%
i.	Book life	20 years
j.	AFUDC rate	9.96%
k.	Effective tax rate	37.63%
l.	Other taxes	1.57%
m.	Discount rate	9.96%
n.	Fixed O&M costs (mid-1991 \$/kW/yr)	\$6.18

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o.	Variable O&M (mid-1991 \$/MWh)	\$1.83
p.	O&M escalation rate	5.1%
q.	Value of K	1.5259

The above parameters are required by Rule 25-17.0832, Florida Administrative Code, to calculate the value of QF capacity and energy payments pursuant to a standard offer contract.

FPC, in its original testimony prefiled in October 1990, had chosen as avoided units a 1991 Coal unit, a 1991 Combustion Turbine unit, and a 1997 Combustion Turbine unit. However, at the hearing, FPC noted that its 1991 avoided unit choices were in direct conflict with Rule 25-17.0832(3)(e)4, Florida Administrative Code, which requires that an avoided unit be at least four years into the future. (TR 606-607) This left FPC with its 1997 Combustion Turbine unit. FPC has offered to price this unit at both coal and combustion turbine prices, at the option of the QF. (TR 607) We have rejected FPC's offer to price this unit at coal prices, and specifically find that the parameters designated by FPC for its combustion turbine unit are appropriate.

4. FPC'S CAPACITY PAYMENTS

We find that the revised capacity payments provided in FPC's COG-2 tariff have been properly calculated using the preceding parameters, in accordance with the formulas set forth in Rule 25-17.0832(5), Florida Administrative Code.

5. FPC'S AVOIDED COST CALCULATION

FICA's testimony asserts that FPC, as well as the other three utilities, have failed to fully quantify the cost of constructing avoided units. (TR 1044-1045) FICA stated that cogeneration prices should be set "with an intent to encourage cogeneration and avoid confusion, thereby maximizing the benefits of cogeneration." (TR 1043)

FICA stated that none of the utilities have included, in the installed cost of their avoided units, the cost of capital additions over the life of the units. (TR 1048) FICA's testimony proposed that a "conservative" 10% capital addition factor be added to the installed cost of avoided units to account for capital additions. (TR 1048)

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We do not agree with FICA's proposal to add a 10% capital addition factor onto the in-service cost of an avoided unit. FICA based this 10% figure on a "limited survey" of capital additions to existing plants in Florida. (TR 1048) FICA has not provided a case-by-case calculation of construction costs for FPC's or any other utility's avoided units. We therefore find that FICA's 10% value is arbitrary and should not be added to the in-service cost.

FICA further stated that QF capacity could avoid risks that occur when a utility constructs and operates a power plant, and that these risks could be quantified and should be included in the avoided cost calculation. (TR 1055) FICA provided examples of these risks, such as: the possibility that the in-service date of a utility's unit may be delayed; the installed cost of a utility's unit may exceed projections; energy production by the plant may be less than projected; and capital costs may be added over the life of the unit. (TR 1053)

FICA proposed in its testimony that we add a 25% "risk aversion premium" to the installed cost of each utility's avoided units. (TR 1057) FICA has proposed this risk aversion premium to account for the risks discussed above and for the capital additions (the 10% discussed above). In its brief, FICA changed its position to state that the risk aversion premium should be 23%.

We do not agree with FICA's quantification of risks with respect to the construction cost of an avoided unit. FICA assumed that any risks caused by delays in a unit's in-service date, cost overruns, or reduction in performance will result in excessive costs which are always passed on to ratepayers. FICA did not consider the chance that future events might decrease the cost of the unit as well. (TR 1656) Furthermore, there is no guarantee that we would allow excess costs to be passed on to ratepayers. (TR 1658) FICA's proposal to increase the in-service cost of FPC's avoided unit by 23% would result in ratepayers paying more than full avoided cost for cogeneration, and we therefore reject FICA's proposal.

We find that FPC has included all costs related to the calculation of the construction cost of the avoided unit in its standard offer contract.

6. FPC'S LOCATION FACTORS

FPC has demonstrated that it will be unable to accept capacity from QFs in north Florida unless import capacity is acquired. (TR 1669) Such import capability would not have to be purchased if FPC

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constructed its avoided unit, which would have been located in Polk County or Hardee County. Because the costs associated with transporting QF capacity will depend on the QF's location and may be different from those associated with FPC's avoided unit, FPC may include location factors in its standard offer contract. These factors ensure that the ratepayers will not pay for transmission they would not have paid for, had FPC constructed its avoided unit.

By incorporating factors relating to the QF's location into its standard offer contract, FPC is in compliance with Section 366.051, Florida Statutes, which defines avoided cost as "incremental costs to the utility of the electric energy or capacity, or both, which, but for the purchase from cogenerators or small power producers, such utility would generate itself or purchase from another source." It also complies with section 16 U.S.C. 824-3(b)(2) of PURPA which contains a similar definition of avoided cost.

FICA maintains that location penalties should not be assessed to QFs since, "it is the planning choices of the utilities and not the availability of the QF alternatives that causes the diminishing of and the cost to replace tie-line capability." (TR 1059) We disagree. FPC has reasonably demonstrated that, from a planning perspective, units on its Polk County site provide lower cost electricity than those located in northern Florida. FICA has not demonstrated that ratepayers should pay additional costs associated with a QF's choice of location.

There are several methods that could be used to account for the effects of a QF's location, such as adjusting a northern QF's capacity payments to reflect its reduced value to FPC's system, or charging the QF for the transmission capacity it uses. FPC proposes that the standard offer only be available to QFs located north of FPC's Central Florida Substation if: "(i) by the Contract In-Service date the Company can make available an amount of Import Capability equal to the diminution of Import Capability caused by the Facility during the Term of the Agreement; and (ii) the QF shall reimburse the Company for such costs incurred by the Company to make available such Import Capability." (Sheet 9.511) Under this provision, QFs will pay the exact costs for obtaining import capability. (TR 773)

FPC's method of considering a QF's location is different from FPL's method because FPC has different transmission concerns. FPC has no firm interface to the Southern Company available; whereas, FPL has some firm import capability available. If FPC were to use FPL's method of adjusting capacity payments, the penalty assessed to the QFs would be 100 percent.

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We approve FPC's method for accounting for a QF's location. It ensures that the ratepayers do not pay for transmission capacity that they would not have purchased, had FPC constructed its avoided unit in Polk or Hardee County. It is fair to the QFs in that it ensures that they are paid full avoided cost and that they pay the exact cost of obtaining their needed import capability. It provides incentives for QFs to locate where their capacity is most valuable.

7. FPC'S CLEAN AIR IMPACT

FPC has submitted a clause for inclusion in its standard offer contract that would allow for a credit to the QF if a benefit occurs to the company as a result of the purchase of firm capacity and energy from the QF. We approve of this change to FPC's standard offer.

8. FPC'S STANDARD OFFER TAX PROVISION

FPC proposed language in its tariff which makes the QF liable for any taxes or impositions for which FPC would not have been liable if it had produced the energy and constructed the facility itself. The purpose of such a clause is to insure that the QF pays all costs that it causes, leaving the ratepayer neutral to the source of the capacity and energy. (TR 1679) Several intervenors argued that the utilities' tax clauses should not be open-ended and should be more specific. Witness Dolan testified that FPC could not provide an all-inclusive list of liabilities because tax laws and interpretations can change. (TR 759)

On cross examination Witness Dolan agreed that FPC should refund QFs any tax savings FPC obtains by virtue of purchasing power from the QF. (TR 794) We believe that this is a reasonable compromise and that FPC should modify its standard offer contract to refund QFs any tax savings or carrying costs that FPC obtains by virtue of purchasing power from the QF.

9. FPC'S CAPACITY BENEFITS FOR EARLY DELIVERY

The Florida Public Service Commission's rules on cogeneration and small power production require QFs to deliver firm capacity and energy as a condition for receiving early capacity payments. Rule 25-17.0832(3)(g)2, Florida Administrative Code, states, "early capacity payments may commence at any time after the specified early capacity payment date and before the anticipated in-service

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date of the avoided unit provided that the qualifying facility is delivering firm capacity and energy to the utility."

FPC's standard offer contract recognizes that QFs must deliver capacity and energy in order to receive capacity payments, whether early or normal. No party has objected to this language in FPC's proposed standard offer contract. We therefore approve of that language in sections 6.1, 8.1 and 9.1 of FPC's standard offer which specifies that capacity payments will not commence until the contract in-service date.

10. FPC'S PERFORMANCE REQUIREMENTS

Since FPC's standard offer contract does not allow for dispatchability, performance parameters for a CT unit are very difficult to define. If a utility owns a CT, the unit would typically be operated at extreme peak periods, not all peak hours. However, the true value of a CT unit is its ability to be called upon for service on short notice. This means that a more representative measure of a CT's performance is its availability, not its capacity factor. Since availability is virtually impossible to measure without dispatchability, the utility must rely on a capacity factor measure which can be easily monitored. By requiring a high on-peak capacity factor of 90%, FPC will be encouraging a high availability factor as well. FPC is also offering optional performance adjustments which would encourage the QF to perform when FPC's customers need the power and which would reward the QF for this energy.

We therefore find that the operating performance requirements contained in FPC's standard offer contract are reasonable.

11. FPC'S SLIDING SCALE CAPACITY PAYMENTS

Section 8.5 of FPC's standard offer contract discusses the components of the monthly capacity payment made to cogenerators. One of these components is a capacity payment adjustment. FPC proposes an adjustment which exponentially reduces the QF's capacity payment in a month when the twelve-month rolling average of the on-peak capacity factor is below the avoided unit minimum. (TR 757) This adjustment broadens the range of performance in which the QF can be paid for performance, while encouraging the QF to provide capacity during FPC's peak periods. Under our previous rules regarding standard offer payments, a QF did not receive any capacity payment if the QF did not meet the minimum capacity factor.

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FPC has proposed that QFs submit a \$10 per kW security deposit within 60 days of contract execution, to be refunded if the QF achieves commercial in-service status on or before the contract in-service date. FPC's \$10 per kW is very favorable to QFs when compared to security deposits required by other utilities in the country. FPC introduced an exhibit listing performance securities required by 31 utilities. Except for projects under 1 MW, these deposits range from \$15 per kW to \$55 per kW. We believe a \$10 per kW security provides sufficient incentive for a QF project to come on-line. We approve FPC's security deposit of \$10/kW.

Nassau Power and Falcon Seaboard have no objection to the level of FPC's security deposit. (TR 1371) However, they maintain that FPC should phase in its security deposit, rather than requiring its submission at one time. Falcon's suggestion is reasonable, but we believe that FPC's security deposit is too low to be phased in.

We are not requiring that all of the utilities' performance securities be for the same amount of money. There is no "correct" amount for a security deposit. Throughout the country, utilities require different security deposits. It may be advantageous to allow Florida's utilities to set different security deposits, so that we can study their effects. At this point, we do not favor the setting of statewide security deposits; rather, we make our findings based on the reasonableness of each utility's proposal.

13. FPC'S COMPLETION SECURITY ALTERNATIVES

Section 13.1 of FPC's standard offer allows the QF to provide a cash deposit or an unconditional, irrevocable direct pay letter or other promise to pay provided that the method of securing the deposit is acceptable to FPC. Rule 25-17.0832(3)(f)1, Florida Administrative Code, specifies that the security, "may be in the form of an up-front payment, surety bond, or equivalent assurance of payment." While a surety bond would qualify as an "other promise to pay", we find that the surety bond option should be specifically set forth in the standard offer contract. In addition to these alternatives FPC should allow governmental solid waste facilities to use an unsecured promise to pay pursuant to Rule 25-17.091, Florida Administrative Code.

FICA argues in favor of the following options for providing security: 1) a surety bond; 2) an irrevocable letter of credit; 3) an escrow; 4) an unsecured promise to pay by the owners of the facility; or 5) other acceptable guarantees. Except for an unsecured promise to pay, FPC offers the alternatives above. We

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date of the avoided unit provided that the qualifying facility is delivering firm capacity and energy to the utility."

FPC's standard offer contract recognizes that QFs must deliver capacity and energy in order to receive capacity payments, whether early or normal. No party has objected to this language in FPC's proposed standard offer contract. We therefore approve of that language in sections 6.1, 8.1 and 9.1 of FPC's standard offer which specifies that capacity payments will not commence until the contract in-service date.

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We therefore find that the operating performance requirements contained in FPC's standard offer contract are reasonable.

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FICA's position is that a QF should not be penalized in the manner that FPC proposes. Rather FICA argues that a QF should be rewarded with incentive payments for performance in excess of the stated capacity factor. These incentive payments would result in a capacity payment which would be in excess of the utility's full avoided cost.

We do not believe that FICA's proposal should be part of the standard offer contract. FPC's adjustment to capacity payments is reasonable, given that a QF can still receive a payment in a month that the capacity factor does not meet the required value. Therefore, we find that the capacity payment adjustment proposed in section 8.5 of FPC's standard offer contract for calculating monthly capacity payments to the QF is reasonable.

12. FPC'S COMPLETION SECURITY

FPC proposed that its standard offer contract contain a security deposit of \$10 per kW of committed capacity. This proposal is consistent with Rule 25-17.0832(3)(f)1, Florida Administrative Code, which states, "[t]he Commission may approve contracts that specify...provisions to protect the purchasing utility's ratepayers in the event the qualifying facility fails to deliver firm capacity and energy in the amount and times specified in the contract...."

It is important for utilities to include provisions to protect the purchasing utility's ratepayers from the risk of a QF not coming on-line as contracted. Requiring a security deposit is a reasonable way of protecting the utility's ratepayers because: 1) it provides assurance that the QF will reach commercial in-service status; and 2) it will help to mitigate damages if the QF doesn't achieve commercial in-service status.

FICA argues that utilities should not require security deposits because they are not paying full avoided costs. Witness Seidman claims that utilities are not paying full avoided costs because their avoided costs do not reflect the risk of utility construction. (TR 1073-1077) This argument assumes that utility-constructed plants will always be over budget and behind schedule. It also fails to consider the risks associated with QF construction. (TR 1062-1175) We disagree with FICA's assertion that utilities should not require security deposits because they are not paying full avoided costs.

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FPC has proposed that QFs submit a \$10 per kW security deposit within 60 days of contract execution, to be refunded if the QF achieves commercial in-service status on or before the contract in-service date. FPC's \$10 per kW is very favorable to QFs when compared to security deposits required by other utilities in the country. FPC introduced an exhibit listing performance securities required by 31 utilities. Except for projects under 1 MW, these deposits range from \$15 per kW to \$55 per kW. We believe a \$10 per kW security provides sufficient incentive for a QF project to come on-line. We approve FPC's security deposit of \$10/kW.

Nassau Power and Falcon Seaboard have no objection to the level of FPC's security deposit. (TR 1371) However, they maintain that FPC should phase in its security deposit, rather than requiring its submission at one time. Falcon's suggestion is reasonable, but we believe that FPC's security deposit is too low to be phased in.

We are not requiring that all of the utilities' performance securities be for the same amount of money. There is no "correct" amount for a security deposit. Throughout the country, utilities require different security deposits. It may be advantageous to allow Florida's utilities to set different security deposits, so that we can study their effects. At this point, we do not favor the setting of statewide security deposits; rather, we make our findings based on the reasonableness of each utility's proposal.

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Section 13.1 of FPC's standard offer allows the QF to provide a cash deposit or an unconditional, irrevocable direct pay letter or other promise to pay provided that the method of securing the deposit is acceptable to FPC. Rule 25-17.0832(3)(f)1, Florida Administrative Code, specifies that the security, "may be in the form of an up-front payment, surety bond, or equivalent assurance of payment." While a surety bond would qualify as an "other promise to pay", we find that the surety bond option should be specifically set forth in the standard offer contract. In addition to these alternatives FPC should allow governmental solid waste facilities to use an unsecured promise to pay pursuant to Rule 25-17.091, Florida Administrative Code.

FICA argues in favor of the following options for providing security: 1) a surety bond; 2) an irrevocable letter of credit; 3) an escrow; 4) an unsecured promise to pay by the owners of the facility; or 5) other acceptable guarantees. Except for an unsecured promise to pay, FPC offers the alternatives above. We

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will not allow QFs to secure their projects with an unsecured promise to pay. By its name, an unsecured promise to pay provides little, if any, security that the QF will perform as contracted, and it provides no discouragement against frivolous signing of FPC's standard offer contract. Allowing an unsecured promise to pay would remove the benefits gained by requiring a security guarantee.

14. FPC'S PROJECT MANAGEMENT REQUIREMENTS

It is prudent for a utility to monitor the development of QFs that have signed the standard offer contract through quarterly progress reports. These reports will provide FPC with an early warning of any potential difficulties associated with the development of the QF's facility. Such an early warning will put FPC in a better position to accommodate a change in the QF's in-service date. This will reduce the probability that FPC will have to purchase high cost replacement power or suffer blackouts if the QF doesn't come on-line as scheduled.

15. FPC'S MILESTONE PROVISIONS

Section 4.2 of FPC's standard offer requires the QF to specify the dates of: 1) the execution of the Transmission Agreement (if the QF has to wheel power to FPC); 2) construction commencement; and 3) commercial in-service status. Section 4.2 is reasonable because it allows the QF to specify these dates, and it allows these dates to be modified by up to sixty days because of a force majeure event.

It is prudent for FPC to have a means of terminating a contract prior to the in-service date if it is evident that the QF will not perform as specified in the contract. As Witness Dolan stated, "[a] commitment to milestones is an on-going means of ensuring that the QF will come on line by the in-service date of the avoided unit as well as a contractually-specified means of monitoring the progress of QF development...The sooner a utility knows that a QF will not be operational by its expected in-service date, then the utility will have more time to try to arrange alternative supplies." (TR 1670) Without milestone requirements there would be no clear signal that a QF contract would not be fulfilled and FPC could be reluctant to secure replacement power. A QF's failure to meet milestones will provide FPC with a clear signal that it should acquire replacement power.

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FICA argues that the utilities should not require QFs to post security deposits and meet specified milestones, and that specifying milestones should be an alternative to posting a security deposit. We disagree. Milestone provisions and security deposits serve two different purposes. Security deposits provide some assurance that the QF will reach commercial in-service status and help to mitigate damages if the QF doesn't achieve commercial in-service status. Milestone requirements give the utility the authority to terminate the contract if it is clear that the QF will not perform its duties under the contract.

16. FPC'S CAPACITY ACCOUNT SECURITY

Section 8.6.3 of FPC's standard offer contract requires QFs to execute a promise to pay the balance of their Capacity Accounts and to secure that promise by a means acceptable to FPC, but it does not identify any means that would be acceptable. We believe that QFs need some guidance as to what means would be acceptable.

FPC's standard offer should specify the following alternatives for securing early or levelized payments: 1) a letter of credit; or 2) a surety bond; or 3) other means acceptable to FPC. In addition, pursuant to Rule 25-17.091, Florida Administrative Code, governmental solid waste facilities should be allowed to secure their early or levelized payments using an unsecured promise to pay. If this is done, there is no need to specify criteria for approval of the security alternative.

17. FPC'S PERFORMANCE SECURITY

Section 7.4 of FPC's proposed standard offer contract requires QFs to annually re-demonstrate their commercial in-service status within 60 days of demand by FPC. It is reasonable to require QFs to demonstrate that they are capable of delivering the amount of capacity that they contracted to deliver. Section 7.4 provides the QFs with a reasonable time frame of 60 days in which to so demonstrate.

18. FPC'S DEFAULT PROVISIONS

Under Section 15.1(b) of FPC's proposed standard offer contract, a QF is in pre-operational default if: 1) the QF becomes insolvent; 2) any representation made by the QF is false or misleading (60 day cure period allowed); 3) the QF has not entered into a transmission service agreement (if it has to wheel to FPC);

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4) construction has not commenced by the date specified by the QF; 5) QF fails to diligently pursue construction; 6) QF fails to achieve in-service by the date; 7) QF fails to comply with other material terms of contract (60 day cure period allowed).

Nassau Power and Falcon Seaboard maintain that FPC should allow a 60 day cure period for all events of default. (TR 1373) We disagree. If the QF fails to meet the milestones it specifies, or if it becomes insolvent, it is unlikely that the QF will perform as contracted. FPC's previous standard offer contract did not allow for a cure period, and no compelling reasons to change the existing practice were introduced at the hearing. We therefore approve section 15.1 of FPC's standard offer contract.

Sections 13.3 and 15.2 of FPC's standard offer contract specify that in the event of a pre-operational default, FPC may terminate the contract and retain the security deposit. This is a reasonable approach. The idea behind the security deposit is that the utility keeps the deposit if the QF defaults. We therefore approve section 13.3 and 15.2 of FPC's standard offer contract.

Under section 15.3, a QF is in operational default if: 1) the QF fails to re-demonstrate commercial in-service status; 2) the QF fails to qualify for capacity payments for twenty-four consecutive months; 3) the QF fails to comply with material terms or conditions (60 day cure period allowed); or 4) the QF becomes insolvent. These events of default are reasonable. If a QF fails to perform as contracted, FPC should have the right to declare the QF in default.

19. FPC'S REGULATORY OUT CLAUSE

As discussed below, we have instructed each of the utilities (including FPC) to remove the regulatory out clause from standard offer contracts.

20. FPC'S BILLING METHOD PROVISIONS (STIPULATED)

All parties to this docket have stipulated to FPC's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that section 6.2 of FPC's standard offer contract, which permits a one-time only election of billing methodologies, be approved.

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21. FPC'S INTERCONNECTION INSURANCE REQUIREMENT

A \$1,000,000 minimum insurance requirement is in compliance with Rule 25-17.087(6)(c), Florida Administrative Code, which calls for "public liability insurance, including property damage, in an amount not less than \$300,000 for each occurrence; more insurance may be required as deemed necessary by the utility." Throughout the course of this docket, most parties, including Staff, have come to the general agreement that \$1,000,000 for each occurrence is an appropriate minimum insurance requirement to cover potential public liabilities associated with the interconnection facilities. We therefore approve FPC's \$1,000,000 minimum interconnection insurance requirement.

FPC's insurance provision also leaves any amount over the minimum insurance requirement of \$1,000,000 to the discretion of the QF. We approve this provision which permits the QF to set any additional coverage it may wish over the \$1,000,000 minimum.

22. NOTICE TO QF

18 C.F.R. § 292.304(f)(2) requires that a utility may refuse to purchase energy only when it has provided sufficient notice to the qualifying facility in time to cease generation. While section 6.3 of FPC's proposed standard offer contract contains no language which would directly conflict with 18 C.F.R. § 292.304(f)(2), it does not contain any notice provision. FPC is therefore instructed to amend its tariff to include a notice provision in section 6.3 of its standard offer contract.

23. FPC'S STANDARD OFFER CONTRACT AND INTERCONNECTION AGREEMENT APPROVAL

We approve FPC's standard offer contract and interconnection agreement subject to the changes we require in this order.

FPC's standard offer contract and tariff provide for the payment of full avoided cost as required by Rule 25-17.0832(5)(a), Florida Administrative Code. In addition, the standard offer and tariff contain security provisions which consider the technical reliability, viability, and financial stability of the qualifying facility as set forth in Rule 25-17.0832(2)(d), Florida Administrative Code.

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We find that the terms and conditions of FPC's standard offer contract, once modified pursuant to the requirements of this order, constitute a reasonable and prudent expenditure by FPC based on the information submitted to the Commission at this time.

24. FPC'S SUBSCRIPTION

Once FPC's standard offer is fully subscribed, FPC should file a petition requesting the closure of its standard offer contract. In its petition, FPC should provide the Commission with an estimate of the date that it will be filing an updated standard offer contract for approval. FPC should then reassess its needs for capacity, and petition the Commission for approval of a new standard offer contract which reflects its updated needs for capacity. If FPC's new standard offer contract is based on a different generation expansion plan than its previously approved standard offer contract, FPC should include the generation expansion plan supporting its choice of avoided unit in its petition for approval of its new standard offer contract.

FPL'S STANDARD OFFER CONTRACT

1. FPL'S AVOIDED UNIT DETERMINATION
2. FPL'S SUBSCRIPTION LIMIT
3. FPL'S AVOIDED UNIT PARAMETERS
4. FPL'S CAPACITY PAYMENTS
5. FPL'S AVOIDED COST CALCULATION
6. FPL'S LOCATION FACTORS
7. FPL'S CLEAN AIR IMPACT
8. FPL'S STANDARD OFFER TAX PROVISION
9. FPL'S CAPACITY BENEFITS FOR EARLY DELIVERY
10. FPL'S PERFORMANCE REQUIREMENTS
11. FPL'S SLIDING SCALE CAPACITY PAYMENTS
12. FPL'S MAINTENANCE SCHEDULING
13. FPL'S VIABILITY DOCUMENTS
14. FPL'S COMPLETION SECURITY
15. FPL'S PROJECT MANAGEMENT REQUIREMENTS
16. FPL'S PERFORMANCE SECURITY
17. FPL'S EARLY OR LEVELIZED CAPACITY PAYMENT SECURITY
18. FPL'S DEFAULT PROVISIONS
19. FPL'S DEFAULT CURE PERIODS
20. FPL'S LIQUIDATED DAMAGES PROVISIONS
21. FPL'S FORCE MAJEURE PROVISIONS
22. FPL'S REGULATORY OUT CLAUSE
23. FPL'S QF CERTIFICATION PROVISION
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25. FPL'S NOTICE BEFORE REFUSAL TO PURCHASE
26. FPL'S FIRM ENERGY PAYMENTS
27. FPL'S STANDARD OFFER APPROVAL
28. FPL'S SUBSCRIPTION

1. FPL'S AVOIDED UNIT DETERMINATION

FPL's plan shows a need for capacity in 1997 and 1998. Without QF contracts, FPL would construct a 907 MW IGCC. FPL would have phased in the unit by constructing 272 MW of combustion turbines in 1997 and by constructing the remainder of the unit in 1998. FPL intends to avoid this unit through the purchase of QF capacity, and it has designated a portion of the 1997 phase of this unit as its avoided unit in its standard offer contract. Since FPL's plan shows that capacity is needed in 1997, and that an IGCC unit is the most cost-effective way to meet its needs, FPL's designation of a 1997 IGCC unit as an avoided unit is reasonable.

2. FPL'S SUBSCRIPTION LIMIT

FPL wishes to avoid its 907 MW IGCC by purchasing QF power. A portion of this unit will be avoided through standard offer contracts and a portion will be avoided through negotiated contracts. Any QF can negotiate a contract, while only QFs under 75 MW can sign standard offer contracts. If the subscription limit is set too low, and it is subscribed quickly, small QFs have the option of negotiating a contract. However, if the subscription limit is set too high, and there are not enough small QFs willing to sign the standard offer, large QFs cannot negotiate against that capacity, even if FPL needs the capacity.

FPL set its subscription amount by projecting the number of small QFs that will be willing to sign a standard offer contract. Witness Cepero stated that FPL projects 125 MW of small QFs that can deliver by 1997. (TR 320) No party has demonstrated that FPL's prediction is not reasonable. While it is difficult to project the number of QFs who will want to sign a standard offer contract, we find that FPL has made a reasonable prediction. Therefore, FPL's proposal of a 125 MW subscription limit is approved.

3. FPL'S AVOIDED UNIT PARAMETERS

The appropriate values for the parameters associated with FPL's avoided unit are:

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FPL 1997 INTEGRATED GASIFICATION UNIT

a.	Type of Fuel	Coal
b.	Average Annual Heat Rate	8,420 BTU/kWh
c.	Cost of Fuel	Coal delivered to St. Johns River Power Park plus transportation differential
d.	Mid-Year 1990 Construction Cost \$/kW	\$1,074.52
e.	Construction Escalation Rate	5.0% per year
f.	In-Service Cost (\$/kW)	\$1,749
g.	Incremental Capital Structure	
	1. Debt	46%
	2. Preferred Stock	9%
	3. Common Stock	45%
h.	Cost of Capital	
	1. Debt	10.3%
	2. Preferred Stock	9.8%
	3. Common Stock	14.6%
i.	Book Life	30 Years
j.	AFUDC Rate	12.0%
k.	Effective Tax Rate	37.63%
l.	Other Taxes	1.64%
m.	Discount Rate (After Tax)	10.41%
n.	Beginning 1997 Fixed O&M Cost (\$/kW-yr)	\$101.86
o.	Beginning 1997 Variable O&M Costs (\$/mWh)	\$1.94
p.	O&M Escalation Rate	5.1%
q.	Value of K	1.711

The above parameters are required by Rule 25-17.0832, Florida Administrative Code, to calculate the value of QF capacity and energy payments pursuant to a standard offer contract.

The parameters designated by FPL for its IGCC unit are comparable to other units of the same technology type. We find that FPL's parameters are appropriate for the type of unit chosen.

4. FPL'S CAPACITY PAYMENTS

In its original filing of the COG-2 tariff sheets in this docket in October 1990, FPL incorrectly included the variable O&M cost component as part of the capacity payment instead of the energy payment. This error was realized prior to the hearing; during the hearing, FPL sponsored revised tariff sheets with properly calculated capacity and energy payments.

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We find that the capacity payments in FPL's revised COG-2 tariff (Exhibit 19) have been properly calculated using the preceding parameters, in accordance with the formulas set forth in Rule 25-17.0832(5), Florida Administrative Code.

5. FPL'S AVOIDED COST CALCULATION

FICA argued that the in-service cost of FPL's proposed avoided unit has been understated by 23%. FICA's position is that FPL failed to include all costs associated with the calculation of the avoided capital cost of FPL's avoided unit. See our previous analysis of FICA's position with respect to FPC's avoided cost calculation above.

FICA's proposal to increase the in-service cost of FPL's avoided unit by 23% will result in ratepayers paying more than full avoided cost for cogeneration. We find that FPL has included all costs related to the calculation of the construction cost of the avoided unit in its standard offer contract.

6. FPL'S LOCATION FACTORS

FPL has demonstrated that a QF located in northern Florida avoids less capacity than it would avoid had the QF located near the Martin site (the site of FPL's avoided unit). This happens because QFs in northern Florida would need to use FPL's transmission system to transmit their capacity to FPL's load center, decreasing FPL's ability to import emergency assistance from Southern. This causes FPL to have a lower system reliability than it would have achieved if the QFs were located near the Martin site, and this forces FPL to add additional capacity in later years to compensate for the relative reduction in reliability. (TR 113)

QFs should be paid based on their ability to avoid the construction of capacity at FPL's Martin site. Since FPL has demonstrated that the amount of capacity a QF avoids at FPL's Martin site depends on the location of the QF, FPL should incorporate factors relating to the QF's location into its standard offer contract. If a utility's avoided cost payment rates do not recognize this, the utility's ratepayers will pay for a level of capacity deferral benefit that they do not receive. (TR 109)

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Nassau (TR 1221) and FICA (TR 1059-1060) took the position that prices paid QFs should not reflect the location of the QF. We do not accept this position. A QF's location affects the amount of capacity that is deferred at FPL's Martin site, and consequently the magnitude of the avoided capacity and energy cost on the system.

FPL's scheme does not result in payment to the QFs of less than FPL's avoided costs. Since the siting of a plant in a remote location will result in less avoided costs to FPL, a consistent reduction in the prices paid to the QF is not violative of Section 366.05, Florida Statutes.

Methods that could be used to account for the effects of a QF's location include adjusting a northern QF's capacity payments to reflect the reduced value to FPL's system, or charging the QF for the transmission capacity the QF uses. FPL has proposed that an adjustment be made to a QF's capacity payment so that the QF is paid for the amount of capacity it avoids at FPL's Martin site.

Falcon Seaboard and Nassau Power maintain that FPL's proposed location adjustment is ill-conceived because it penalizes a QF, even though the QF allowed the utility to satisfy system reliability criteria. (TR 1221-1225) They also maintain that FPL should use the cost of firm transmission service to determine its location penalty. (TR 1258) We disagree. The QF should only be paid for the amount of capacity it avoids at FPL's Martin site.

We approve FPL's method of accounting for a QF's location. It is fair to the QFs in that it ensures that they are paid full avoided costs for the capacity that they avoid. It provides monetary incentives for QFs to locate where the capacity of the QFs is most valuable.

FPL's standard offer contract provides that FPL will calculate the location adjustment on a case-by-case basis, but it does not say when such determination will be made. Witness Waters stated that such a determination can be made within 60 days of request. (TR 127) Air Products recommended and we agree that FPL's standard offer contract should be modified to notify QFs that FPL will provide them with the calculation of the location adjustment within 60 days of receipt of a standard offer contract.

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7. FPL'S CLEAN AIR IMPACT

A QF may provide benefits to a utility by allowing the utility to retain emission allowances or to avoid the purchase of allowances it would have otherwise needed to operate the avoided unit. At this time, the cost of emission allowances are yet to be determined. Despite the uncertainty of the cost of emission allowances, a provision regarding emission allowance cost benefits should be included in the standard offer contract to allow a QF the opportunity to capture potential cost benefits in the future.

Under cross examination, Mr. Waters agreed that a clause could be included in the standard offer contract acknowledging emission allowance benefits so that once a value was placed on the emission allowances, a QF could receive credit for any benefits it may produce. (TR 174) In addition, Florida Power Corporation and Tampa Electric Company have provided standard offer contract language recognizing emission allowance cost benefits. We therefore instruct FPL to submit a clause for inclusion in its standard offer tariff that would allow for a credit to the QF if a benefit occurs to FPL as a result of the purchase of firm capacity and energy from the QF.

8. FPL'S STANDARD OFFER TAX PROVISION

FPL originally proposed language in its tariff which made the QF liable for any taxes or impositions for which FPL would not have been liable if it had produced the energy and constructed the facility itself. Several intervenors criticized this language as being too vague. We agree that this language can and should be modified to be more favorable to the QFs while maintaining revenue neutrality for FPL's ratepayers. FPL has agreed to modify the language in section 12.12 to specify which taxes the QF will be responsible for paying, by substituting the language it has provided in Exhibit 26.

Exhibit 26 contains tariff language which specifies that, "In the event that FPL becomes liable for additional taxes, including interest and/or penalties arising from the Internal Revenue Service's determination...that FPL's early, levelized or early levelized capacity payments to the QF are not fully deductible when paid (additional tax liability), FPL may bill QF monthly for the costs, including carrying charges, interest and/or penalties, associated with the fact that all or a portion of these early, levelized capacity payments are not currently deductible for federal and state income tax purposes...These costs would be calculated so as to place FPL in the same economic position as it

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would have been in if the entire early, levelized or early levelized capacity payments had been deductible in the period in which the payments were made...." We approve the language in Exhibit 26.

FICA argued that the Commission should require utilities to seek an IRS ruling prior to assessing any possible tax effects on QFs. We expect that FPL will take reasonable and prudent steps to identify, clarify, and minimize the effects of such taxes. We will not, however, require FPL to seek an IRS ruling in all cases.

9. FPL'S CAPACITY BENEFITS FOR EARLY DELIVERY

FPL's standard offer contract should and does recognize that a QF must deliver firm capacity and energy as a condition of receiving early capacity payments. Section 9 need not specify this condition because Section 4.1 (via COG-2 tariff sheet 10.201) and Section 11 specify that capacity payments will not commence until the contract in-service date.

10. FPL'S PERFORMANCE REQUIREMENTS (STIPULATED)

All parties to this docket have stipulated to FPL's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that the operating performance requirements in FPL's standard offer contract reasonably reflect the performance of FPL's avoided unit.

11. FPL'S SLIDING SCALE CAPACITY PAYMENTS

Appendix C to FPL's standard offer contract provides the computation of the monthly capacity payment made to cogenerators. FPL proposes an adjustment which exponentially reduces the QF's capacity payment in a month when the twelve-month rolling average of the on-peak capacity factor is below the avoided unit minimum. This adjustment broadens the range of performance in which the QF can be paid for performance while encouraging the QF to provide capacity during FPL's peak periods.

FPL's adjustment to capacity payments is reasonable. Therefore, we approve the capacity payment adjustment proposed in Appendix C of FPL's standard offer contract for calculating monthly capacity payments to the QF.

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12. FPL'S MAINTENANCE SCHEDULING

The QF and the utility should work together to ensure that the QF's maintenance schedule is acceptable to both parties. However, FPL must have the ultimate ability to reject a QF's maintenance schedule to prevent planned outages when FPL needs the capacity.

The language in sections 6.1 and 6.2 of FPL's standard offer provides a mechanism for the QF and the utility to develop a mutually acceptable maintenance schedule. These sections allow the QF to perform its maintenance when it wishes, if possible. If the QF requests a maintenance schedule that would lessen FPL's reliability, FPL will advise the QF of an acceptable time period which is close to the one it requested. This approach is reasonable.

13. FPL'S VIABILITY DOCUMENTS

FPL's original tariff requires: a) articles of incorporation or partnership agreement and recent annual report; b) description of the QF's experience; c) letters of intent on financing, fuel, and architect; d) evidence of property options or ownership; e) prospectus for securities or bond offerings; f) contract with municipality; g) description of facility; h) technical and environmental data; and i) feasibility studies. FPL stated that it needs these documents to determine whether it is prudent and reasonable to rely on a particular QF. (TR 1592)

Witness Divine testified that these documents are not readily available to QF developers. (TR 1365) In response, witness Cepero said that FPL would be willing to add language making the section more flexible and allowing QFs to submit the documents to the extent that the documents are available. He cautioned that the absence of such documents will affect FPL's assessment of the project's viability. (TR 1593) The alternate language FPL submitted in exhibit 27 provides the QFs with more flexibility in submitting the requested documents. We instruct FPL to include in its standard offer tariff the language submitted in Exhibit 27, which provides that QFs must submit documents that are "substantially similar" to those required "to the extent the documents are available."

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14. FPL'S COMPLETION SECURITY

We support the concept of using security deposits as a means of protecting the purchasing utility's ratepayers from the possibility of a QF project not coming on line (see our previous discussion on the need for security deposits). However, we believe that FPL's proposed security requirements are too burdensome.

FPL's proposed standard offer contract requires a completion security of \$20/kW, as well as a \$20/kW performance security to be submitted at the same time, resulting in a combined security deposit of \$40/kw. FPL maintains that its proposed security deposit is reasonable and comparable to deposits required by other utilities. FPL argues that it chose a \$40/kW deposit because it reflects FPL's assessment of the risks associated with QF facilities signing the standard offer contract. (TR 1585-1586)

Falcon Seaboard and Nassau Power maintain that FPL can gain assurance that the QF will perform using a lower security deposit. (TR 1356) We agree. A combined \$40/kW security deposit is too burdensome to the QF. Thirty-one utilities listed on Exhibit 45 required security deposits between \$10/kW and \$55/kW, with the majority (21 of 31 utilities) requiring deposits in the \$15/kW to \$20/kW range. Only three of the 31 utilities listed required security deposits in excess of \$40/kW. We find that FPL's standard offer contract should require a maximum combined security deposit of \$25/kW to be divided equally between completion and performance security.

Nassau Power and Falcon Seaboard propose that the deposit be phased in, since the risk to the ratepayer grows through time. (TR 1356) While we found that FPC's security deposit is too low to be phased in, we believe that a \$25/kW security deposit is high enough to be phased in. We find that FPL should require a completion security of \$12.5/kW within 90 days of contract execution and that it require a performance security of \$12.5/kW on the latter of: 1) eighteen months after contract execution; or 2) three years prior to the date the QF must commence delivery of firm capacity and energy. Phasing in the security would require the QF to re-evaluate the feasibility of its project at least two and a half years prior to submitting performance security, providing FPL with updated information on the feasibility of the project.

An up-front security deposit of \$12.5/kW with an additional \$12.5/kW performance deposit required two years prior to in-service is sufficient to deter QFs that are not likely to pursue projects.

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Falcon Seaboard and Nassau Power argue that FPL's proposal to retain 20 percent of the security deposit for each month the QF misses the commercial in-service date is unreasonable because it fails to consider the small size of the cogenerators. They also argue that QFs should be allowed a 60 day cure period. (TR 1358) We do not find Falcon and Nassau's argument to be compelling. A 60 day cure period would have the effect of delaying the in-service date of the contract at the QF's option, possibly leaving FPL without the QF's capacity during peak periods. We therefore reject Falcon and Nassau's argument.

Finally, sections 7.1 and 7.3 of FPL's standard offer do not provide sufficient alternatives for a QF to provide completion security. In addition to allowing QFs to provide cash or an unconditional, irrevocable direct pay letter, section 7.1 should allow a QF to use a surety bond to secure completion of the project. FPL's standard offer contract should also specify that governmental solid waste facilities may use an unsecured promise to pay to secure the completion of their projects pursuant to Rule 25-17.091, Florida Administrative Code.

15. FPL'S PROJECT MANAGEMENT REQUIREMENTS

It is prudent for a utility to monitor the progress of QFs that have signed the standard offer contract. Progress reports are necessary because they allow the utility to monitor the progress of the QF on an ongoing basis. As Mr. Cepero stated, "[t]he project management requirements are included as an early warning system to indicate to FPL whether the project is on schedule...." (TR 314) An early warning of potential difficulties will put FPL in a better position to adjust its planning to accommodate a change in the QF's in-service date. This will reduce the probability that FPL will have to purchase high cost replacement power or suffer blackouts if the QF doesn't come on-line as scheduled.

16. FPL'S PERFORMANCE SECURITY

As discussed previously we find that FPL's performance security should be reduced to \$12.5/kW and that it be submitted to FPL on the latter of: 1) eighteen months after contract execution; or 2) three years prior to the date the QF must commence delivery of firm capacity and energy.

Falcon Seaboard and Nassau Power criticized as vague the standard FPL proposed to use when determining whether FPL would release the performance security. (TR 1359) In response, FPL

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submitted tariff language specifying the procedure to determine whether the facility can deliver the amount of capacity and energy contracted. We find that FPL should include the language submitted in Exhibit 28 in its standard offer tariff.

17. FPL'S EARLY OR LEVELIZED CAPACITY PAYMENT SECURITY

Section 9 of FPL's standard offer allows QFs to secure early or levelized capacity payments by a letter of credit, surety bond, or equivalent means of repayment. Governmental solid waste facilities are exempt from securing their promise to repay early or levelized payments pursuant to Rule 25-17.091, Florida Administrative Code. These alternatives provide sufficient guidance to QFs as to what types of security are acceptable.

18. FPL'S DEFAULT PROVISIONS

Under section 11 of FPL's standard offer, a QF is in default if it: a) fails to maintain QF status; b) fails to maintain a capacity factor of 60% for twelve consecutive months (can be extended if major equipment needs replacement); c) fails to maintain a capacity factor of 60% for 24 consecutive months; d) becomes insolvent; e) fails to give proper assurance of adequate performance within 30 days of FPL's request; or f) fails to materially perform under contract, including under sections 6, 7, 8, 9, and 12.

Except for event (a), the events of default in section 11 are reasonable and similar to the events of default in FPL's previous standard offer contract. These events provide a reasonable means to ensure that the QF complies with the terms of the contract and delivers capacity and energy in the amounts and times required by FPL. No compelling reasons have been presented to change the previous contract terms. As previously discussed, event (a) should be clarified to allow QFs to "self certify" with the FERC or to obtain certification from this Commission.

FPL's contract does not contain language which specifies the consequences if a QF defaults. FPL has agreed to add language which provides that FPL can terminate the contract and retain money owed to FPL by the QF if the QF defaults. We find that such language clarifying the consequences of default should be included in FPL's tariff.

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19. FPL'S DEFAULT CURE PERIODS

FPL's contract allows a reasonable cure period if the QF defaults because of operational difficulties. Cure periods are not provided for other default events. If a QF cannot meet a deadline because of events that are beyond its control, it may claim force majeure. Further cure periods could delay FPL's search for replacement power in a time when the power is critically needed. For these reasons, we will not require FPL to allow cure periods for all events of default.

20. FPL'S LIQUIDATED DAMAGES PROVISIONS

There are two reasons FPL should be able to pursue additional remedies against a QF that does not perform: 1) the damages FPL incurs will likely exceed the amount of the security deposits (TR 1611); and 2) since the security deposit is fully refunded six months after the QF comes on-line, FPL would have no remedy for any breach occurring after a timely completion, and the QF would receive no penalty for non-compliance. (TR 1408-1410) Security deposits are not meant to approximate the damages a utility will incur. If this were the intent, security deposits would be higher, and they would be held by the utility for the life of the contract.

FICA, Falcon Seaboard, and Nassau Power maintain that forfeiture of completion security or performance security should constitute full liquidated damages if the QF defaults. They argue that since a utility can retain the security deposits even if it has no damages, that such deposit should constitute full liquidated damages. We do not agree. FPL should not be prevented from seeking damages after it refunds the security deposit, or damages that exceed the security deposit.

21. FPL'S FORCE MAJEURE PROVISIONS

Section 12.6 of FPL's proposed standard offer contract defines Force Majeure as, "an event or circumstance that is not reasonably foreseeable, is beyond the reasonable control and is not caused by the negligence or lack of due diligence of the affected Party or its contractors or suppliers... Equipment breakdown or inability to use equipment caused by its design, construction, operation, maintenance or inability to meet regulatory standards, or otherwise caused by an event originating in the facility, shall not be considered Force Majeure."

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FPL argues that the risk for nonperformance for equipment breakdown should be borne by the QF, not the ratepayers. (TR 318) We agree with FPL in part--when nonperformance results from the QF's negligence or lack of due diligence, the risk of nonperformance should be borne by the QF. However, when nonperformance results from events that are beyond the control of the QF, and when the QF can conclusively demonstrate that the events were beyond its reasonable control, the QF should be able to claim Force Majeure. (TR 1367) As written, section 12.6 of FPL's proposed standard offer contract could prevent the QF from making such a claim. We do not believe that this is fair to the QFs. FPL should modify the language excluding equipment breakdown from its definition of Force Majeure, in order to provide that equipment breakdown will only be considered Force Majeure if the QF can conclusively demonstrate that the event was beyond its reasonable control.

22. FPL'S REGULATORY OUT CLAUSE

As discussed below, we have instructed each of the utilities to remove the regulatory out clause of their standard offer contract.

23. FPL'S QF CERTIFICATION PROVISION

Section 1 of FPL's standard offer can be interpreted as prohibiting a QF from self-certifying with FERC, or from obtaining certification from us. Section 1 and section 11 of FPL's standard offer should be clarified to allow the facility to obtain certification from the Florida Public Service Commission as a QF under Rule 25-17.080(1), Florida Administrative Code, or to "self-certify" with FERC.

24. FPL'S COMMITTED CAPACITY ADJUSTMENT

FPL submitted tariff language in Exhibit 30, defining "small discrepancies" as the lesser of +/- 5% of the committed capacity, or +/- 3MW. FICA, Falcon Seaboard, Nassau Power, and Air Products maintain that QFs should be able to adjust committed capacity by +/- 10% because, according to Witness Waters, it is unlikely that eight megawatts will have a significant impact on FPL's capacity needs. (TR 78) FPL argues that small discrepancies should be limited to +/- 5% since 10% is outside what would be expected in ratings of equipment. (TR 434) We find these arguments to be equally compelling. We therefore find that section 5.2.2 should be

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revised to define "small discrepancies" as plus or minus 7.5 percent of the QF's committed capacity so long as the QF's committed capacity does not exceed 75 MW.

25. FPL'S NOTICE BEFORE REFUSAL TO PURCHASE

18 C.F.R. § 292.304(f)(2) requires that a utility may refuse to purchase energy only when it has provided sufficient notice to the qualifying facility in time to cease generation. While section 6.4.6 of FPL's proposed standard offer contract contains no language which would directly conflict with 18 C.F.R. § 292.304(f)(2), it does not contain a notice provision. FPL concedes in its brief:

Any contention that Section 6.4.6 does not appear to comply with 18 C.F.R. Section 292.304(f)(2) is easily addressed by adding the introductory phrase, "After providing notice to the QF", to the first sentence of Section 6.4.6.

We find that FPL should so amend section 6.4.6.

26. FPL'S FIRM ENERGY PAYMENTS

Rule 25-17.0832(4)(b), Florida Administrative Code, states, in part:

To the extent that the avoided unit would have been operated, had that unit been installed, avoided energy costs associated with firm energy shall be the energy cost of this unit. To the extent that the avoided unit would not have been operated, the avoided energy costs shall be the as-available avoided energy cost....

Under FPL's standard offer contract, energy payments made after the in-service date will be the lesser of an hour-by-hour comparison of: (1) the utility's as-available energy cost and (2) the utility's actual avoided energy cost.

FPL's position is that this provision for firm energy payment is consistent with Rule 25-17.0832(4)(b), Florida Administrative Code. FPL asserts that this provision assures that a QF will receive the avoided unit's energy cost when the avoided unit would

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have been operated and the utility's as-available energy cost when the avoided unit would not have been operated. Furthermore, the avoided unit would be dispatched, and the QF would receive the actual avoided energy cost, only when the avoided unit's energy cost would be less than FPL's as-available energy cost. The avoided unit would not be dispatched to operate at times when its energy cost exceeds FPL's as-available energy costs.

For example, during a given hour, FPL might need to dispatch only a 25 MW block of its avoided unit. A QF might generate 75 MW during that hour. In this example, the QF's energy payment will be based on FPL's actual avoided energy cost for the first 25 MW, and FPL's as-available energy cost for the remaining 50 MW.

Despite FPL's intent to pay firm energy to a QF only when the avoided unit would operate, FPL's COG-2 tariff does not explicitly state this. Therefore, we find that FPL should refile sheet no. 10.203 of its COG-2 tariff to include explicit language regarding the time a QF would receive firm energy payments, in accordance with Rule 25-17.0832(4)(b), Florida Administrative Code.

27. FPL'S STANDARD OFFER APPROVAL

We approve FPL's standard offer contract subject to the changes we have delineated in this order. When FPL's standard offer conforms to the mandates of this order, it will be administratively approved in its entirety.

We find that the terms and conditions of FPL's standard offer contract, once modified pursuant to the requirements of this order, constitute a reasonable and prudent expenditure by FPL based on the information submitted to the Commission at this time.

28. FPL'S SUBSCRIPTION

Once FPL's standard offer is fully subscribed FPL should file a petition requesting the closure of its standard offer contract. In its petition, FPL should provide the Commission with an estimate of the date that it will be filing an updated standard offer contract for approval. FPL should then reassess its need for capacity and petition the Commission for approval of a new standard offer contract which reflects its updated need. If FPL's new standard offer contract is based on a different generation expansion plan than its previously approved standard offer contract, FPL should include the generation expansion plan

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supporting its choice of avoided unit in its petition for approval of its new standard offer contract.

FPL'S INTERCONNECTION AGREEMENT

1. FPL'S TRANSMISSION SYSTEM INTERNAL IMPROVEMENTS
2. FPL'S INTERCONNECTION INSURANCE REQUIREMENT
3. FPL'S INTERCONNECTION TAX ASSESSMENTS
4. FPL'S INTERCONNECTION CONSTRUCTION TIMING
5. FPL'S INTERCONNECTION COST OBLIGATION
6. FPL'S GOOD FAITH ESTIMATES
7. FPL'S INTERCONNECTION INDEMNITY PROVISION
8. FPL'S INTERCONNECTION AGREEMENT APPROVAL

1. FPL'S TRANSMISSION SYSTEM INTERNAL IMPROVEMENTS (STIPULATED)

All parties to this docket have stipulated to FPL's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that the third paragraph of section 2 of FPL's standard interconnection agreement, which obligates QFs to pay for internal improvements to the FPL transmission system, should be approved.

2. FPL'S INTERCONNECTION INSURANCE REQUIREMENT

Rule 25-17.087(6)(c), Florida Administrative Code, which addresses the interconnection insurance requirement, calls for "public liability insurance, including property damage, in an amount not less than \$300,000 for each occurrence; more insurance may be required as deemed necessary by the utility." Throughout the course of this docket, most parties, including Staff, have come to the general agreement that \$1,000,000, for each occurrence, is an appropriate minimum insurance requirement to cover potential public liabilities associated with the interconnection facilities, and that \$1,000,000 is the current standard adopted by all utilities except FPL. FPL's standard offer still calls for the \$300,000 minimum requirement in the rule.

With a stated minimum standard of \$300,000, FPL's Exhibit 25 showed insurance amounts ranging from \$2,000,000 to \$30,000,000 for existing facilities. The exhibit did not indicate whether these amounts were voluntary or mandatory. In its position statement, FPL argues that it is necessary to assess QF insurance on a case-by-case basis. At the hearing, FPL submitted Exhibit 24 which adds (to section 12.4.2 of its standard offer and section 10 of its

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interconnection agreement) the factors which FPL will use to establish case-by-case insurance limits. While we agree that FPL's Exhibit 24 does list factors which impact on relative interconnection risk, it is still not clear how FPL intends to weigh these factors. For instance, it is difficult to understand how a 69 kV facility on Exhibit 25 can be assigned a relative public liability risk of \$30,000,000 which is 100 times the \$300,000 amount established as reasonable in rulemaking.

We therefore find that FPL should raise its minimum insurance requirement from \$300,000 to \$1,000,000. We also instruct FPL to include a provision which would leave any amount over the minimum insurance requirement of \$1,000,000 to the discretion of the QF. Said provision would permit the QF to set any additional coverage it may wish over the \$1,000,000 minimum. These modifications shall be made to FPL's interconnection insurance requirements in section 12.4.2 of its standard offer contract and should be duplicated in section 10 of FPL's standard interconnection agreement.

3. FPL'S INTERCONNECTION TAX ASSESSMENTS

FPL originally proposed language in its standard interconnection agreement which made the QF liable for any taxes or impositions for which FPL would not have been liable if it had produced the energy and constructed the facility itself. Several intervenors criticized this language as being too vague. We agree that this language can and should be modified to be more favorable to the QFs while maintaining revenue neutrality for FPL's ratepayers. FPL has agreed to modify the language in section 11 to specify which taxes the QF will be responsible for paying. The proposed language in Exhibit 26, page 1 of 2, is as follows:

In the event that FPL becomes liable, after the execution of this Agreement, for additional taxes, including interest and/or penalties, as a result of failing any of the tests in Internal Revenue Service (IRS) Notice 88-129, 1988-2 CD 541 (identified through an IRS audit or otherwise), thus causing the QF's payment for interconnection facilities to be taxable income for federal and/or state income tax purposes, FPL may bill the QF monthly for such additional costs, including taxes, interest and/or penalties, or may offset them against amounts due the QF under any FPL/QF power purchase agreement. These costs would be calculated so as to place FPL in the same

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economic position as it would have been in if the payment for interconnection facilities has not been deemed to be taxable income. If FPL decides to appeal the IRS' determination, the decision as to whether the appeal should be made through the administrative or judicial process or both, and all subsequent decisions pertaining to the appeal (both substantive and procedural) shall rest exclusively with FPL. In the event that IRS Notice 88-129 is modified, clarified, explained or changed in any manner, all recognized IRS authority on this issue shall be used to determine if any additional costs are due under this section.

We agree that the modified language in Exhibit 26 is appropriate and instruct FPL to substitute the language for the current language in Section 11 of the standard interconnection agreement.

FICA argued that the Commission should require utilities to seek an IRS ruling prior to assessing any possible tax effects on QFs. We expect that FPL will take reasonable and prudent steps to identify, clarify, and minimize the effects of such taxes. One such step may be seeking an IRS ruling; however, we will not require FPL to seek an IRS ruling in all cases. FPL should assess QF's for the tax effects they cause, subject to refund if the IRS should make a refund to FPL.

4. FPL'S INTERCONNECTION CONSTRUCTION TIMING

Rule 25-17.087(10), Florida Administrative Code, requires utilities, prior to any work being done, to supply the QF with a written cost estimate of all its required materials and labor, and an estimate of the date by which construction of the interconnection will be complete. The intent of this provision was to give QFs an up-front opportunity to challenge estimates they feel are unreasonable. Section 2 of FPL's proposed standard interconnection agreement should be modified to comply with the "written estimate" provision of Commission Rules.

We therefore instruct FPL to add to section 2 of its proposed standard interconnection agreement the requirement that FPL, within 60 days of receiving instructions to commence construction, supply the QF with a written estimate of cost for materials and labor as well as an estimate of the expected completion date.

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5. FPL'S INTERCONNECTION COST OBLIGATION

Rule 25-17.087(10), Florida Administrative Code, requires the QF to bear all costs associated with the construction of the interconnection beyond those which would be required to provide normal service to the qualifying facility, if the qualifying facility were a non-generating customer.

We have previously required FPL to incorporate the "written estimate" language of the rule into section 2 of its proposed standard interconnection agreement. This should let prospective QFs know they have an up-front right to review cost estimates, and, therefore, question any costs they feel are more appropriately borne by FPL. With this modification, we feel that section 2 of FPL's standard interconnection agreement, which sets forth the interconnection costs the QF is obligated to pay, conforms to Rule 25-17.087(10), Florida Administrative Code, and that it is reasonable.

6. FPL'S GOOD FAITH ESTIMATES

We instruct FPL to include language in both section 3 of its proposed standard interconnection agreement and Appendix A to that agreement which provides that estimates for the cost of interconnection construction work are FPL's good faith estimates.

7. FPL'S INTERCONNECTION INDEMNITY PROVISION

We find that Rule 25-17.087(6)(b) and (c), Florida Administrative Code, clearly intended for the utility and the QF to each be responsible separately for its own facility's liabilities and insurance. The specific sections of the rule are:

Regarding Indemnity:

25-17.087(6)(b)1. The utility and the qualifying facility shall each be responsible for its own facilities.

25-17.087(6)(b)2. The utility and the qualifying facility shall each be responsible for ensuring adequate safeguards for other utility customers, utility and qualifying facility personnel and equipment, and for the protection of its own generating system.

25-17.087(6)(b)3. The utility and the qualifying facility shall each indemnify and save the other harmless from any and all claims.

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Regarding Liability Insurance:

25-17.087(6)(c) The (QF) shall deliver to the utility a certificate of insurance naming the (QF) as named insured, and the utility as an additional named insured.

Section 9 (the indemnification section) of FPL's proposed standard interconnection agreement contains language which is in compliance with Rule 25-17.087(6)(b), Florida Administrative Code. But section 10 (the insurance section) appears to take a departure from the concept of separate insurance liability. It requires the QFs to have insurance which at a minimum contains, "broad form contractual liability endorsement for FPL Entities and QF entities." FPL further requires that the QF's policy "shall be endorsed to be primary to (i) any insurance which may be maintained by, or on behalf of, FPL Entities, and (ii) any indemnity-related obligation(s) of either party pursuant to section 9 hereof."

FPL is essentially asking the QF to shield it from liability and it has agreed in the revised language of Late-Filed Exhibit 24 to make up any incremental difference in cost the QF would bear under such an arrangement: "FPL will pay the reasonable incremental cost of covering liabilities arising from FPL's negligent acts or omissions, and will assist the QF in obtaining the above policy or policies if requested by the QF."

We find that the insurance requirements of section 10 of FPL's standard interconnection agreement, which require the QF to procure insurance to cover FPL's liabilities, do not conform to Rule 25-17.087(6)(b) and (c), Florida Administrative Code. FPL may require only that it be an additional named insured on the QF's interconnection insurance policy. We also find that FPL's own insurance policies must indemnify the QF and save the QF harmless from FPL's actions.

8. FPL'S INTERCONNECTION AGREEMENT APPROVAL

We approve FPL's standard interconnection agreement subject to the changes we have delineated in this order. When FPL's standard interconnection agreement conforms to the mandates of this order, it will be administratively approved in its entirety.

GULF'S STANDARD OFFER CONTRACT

1. GULF'S AVOIDED UNIT DETERMINATION
2. GULF'S SUBSCRIPTION LIMIT
3. GULF'S AVOIDED UNIT PARAMETERS

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4. GULF'S CAPACITY PAYMENTS
5. GULF'S AVOIDED COST CALCULATION
6. GULF'S LOCATION FACTORS
7. GULF'S CLEAN AIR IMPACT
8. GULF'S STANDARD OFFER TAX PROVISION
9. GULF'S CAPACITY BENEFITS FOR EARLY DELIVERY
10. GULF'S PERFORMANCE REQUIREMENTS
11. GULF'S PERFORMANCE REQUIREMENTS
12. GULF'S PERFORMANCE REQUIREMENTS
13. GULF'S COMPLETION SECURITY
14. GULF'S COMPLETION SECURITY ALTERNATIVES
15. GULF'S CAPACITY ACCOUNT SECURITY
16. GULF'S DEFAULT PROVISIONS
17. GULF'S LIQUIDATED DAMAGES PROVISIONS
18. GULF'S REASSIGNMENT PROVISION
19. GULF'S REGULATORY OUT CLAUSE
20. GULF'S COMMITTED CAPACITY ADJUSTMENT
21. GULF'S FIRM ENERGY PAYMENTS
22. GULF'S STANDARD OFFER APPROVAL
23. GULF'S SUBSCRIPTION

1. GULF'S AVOIDED UNIT DETERMINATION (STIPULATION)

All parties to this docket have stipulated to FPC's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that the technology, timing, and number of units Gulf has identified as avoided units are reasonable as a means of setting standard offer pricing for the purchase of firm capacity and energy.

2. GULF'S SUBSCRIPTION LIMIT

Gulf has proposed that its standard offer contract be available to 79 MW of QFs. There is no evidence in the record that shows that the subscription limit should be greater than 79 MW. During the past year, no QFs have approached Gulf wishing to sell firm capacity and energy. (TR 1001; Exhibit 74) Gulf's proposal of 79 MW is reasonable because: 1) it is large enough to accommodate a 75 MW QF; 2) it would allow Gulf to fully avoid its combustion turbine through standard offer contracts; and 3) there is no evidence that the subscription limit should be greater than 79 MW.

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3. GULF'S AVOIDED UNIT PARAMETERS

We find that the following parameters provided by Gulf for its 1995 combustion turbine unit are appropriate:

GULF 1995 COMBUSTION TURBINE UNIT

a.	Type of Fuel	Natural Gas/#2 oil
b.	Average Annual Heat Rate	12,985 BTU/KWH
c.	Cost of Fuel (cents/KWH)	
	1995	3.88
	1996	4.36
	1997	4.91
	1998	5.52
	1999	6.21
	2000	7.02
	2001	7.65
	2002	8.35
	2003	9.13
	2004	9.97
d.	Mid-Year 1991 Construction Cost \$/kW	\$345/KW (\$1991)
e.	Construction Escalation Rate	
	1991	3.7%
	1992	4.1%
	1993	4.0%
	1994	4.2%
	1995	4.5%
	1996	4.5%
	1997	4.5%
	1998	4.6%
	1999	4.6%
	2000	4.7%
f.	In-Service Cost (\$/kW)	\$453/KW (\$1995)
g.	Incremental Capital Structure	
	1. Debt	45%
	2. Preferred Stock	10%
	3. Common Stock	45%
h.	Cost of Capital	9.51%
i.	Book Life	30 years
j.	AFUDC Rate	11.16%
k.	Effective Tax Rate	37.63%
l.	Other Taxes	Ad Valorem - 1.1%
m.	Discount Rate (After Tax)	9.51%
n.	Beginning 1995 Fixed O&M Cost (\$/kW-yr)	\$2.44

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o. Beginning 1995 Variable O&M Costs (\$/KW-Mo)

1995	0.34
1996	0.36
1997	0.37
1998	0.39
1999	0.41
2000	0.43
2001	0.45
2002	0.48
2003	0.50
2004	0.52

p. O&M Escalation Rate

	fixed	var.
1991	3.2%	3.8%
1992	4.9%	4.2%
1993	3.5%	4.2%
1994	4.0%	4.7%
1995	4.2%	4.8%
1996	4.1%	5.0%
1997	4.1%	5.3%
1998	4.1%	5.5%
1999	4.1%	5.7%
2000	4.4%	6.0%

q. Value of K

1.4893

The parameters proposed by Gulf are required by Rule 25-17.0832, Florida Administrative Code, to calculate the value of QF capacity and energy payments pursuant to a standard offer contract.

The parameters designated by Gulf for its combustion turbine unit are comparable to other units of the same technology type. Gulf's parameters are appropriate for the type of unit chosen.

4. GULF'S CAPACITY PAYMENTS

The capacity payments in Gulf's COG-2 tariff incorrectly include the variable O&M component, which should be included as part of the avoided energy payment. Gulf should refile its COG-2 tariff to reflect this change so that its capacity payments are properly calculated in accordance with the formulas set forth in Rule 25-17.0832(5), Florida Administrative Code.

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5. GULF'S AVOIDED COST CALCULATION

FICA's proposal to increase the in-service cost of Gulf's avoided unit by 23% will result in ratepayers paying more than full avoided cost for cogeneration. As previously discussed, we reject FICA's position. We believe that Gulf has included all costs related to the calculation of the construction cost of the avoided unit in Gulf's standard offer contract.

6. GULF'S LOCATION FACTORS

Gulf should not incorporate any transmission factors into its standard offer because Gulf has no major transmission constraints that would cause the value of QF capacity to depend on its location. However, witness Pope testified that there are several locations within Gulf's system where the siting of a large QF could cause Gulf to accelerate the construction of certain transmission facilities. (TR 1002) Gulf proposes to charge the QF, as part of the interconnection expense, an amount equal to the carrying charge on any accelerated transmission investment caused by the QF. We agree that such limitations are more appropriately dealt with through interconnection costs than through a major transmission adjustment. We therefore find that Gulf may charge QFs for the cost of accelerating local transmission construction if it is required, as part of the interconnection expense.

7. GULF'S CLEAN AIR IMPACT (STIPULATED)

All parties to this docket have stipulated to Gulf's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that Gulf adequately and fairly incorporated factors relating to compliance with the Clean Air Act, as amended in 1990, which would affect the price contained in its standard offer contract.

8. GULF'S STANDARD OFFER TAX PROVISION

Gulf's standard offer contract should be modified to require a QF to be responsible for taxes, assessments, and impositions Gulf incurs by virtue of purchasing power from the QF. It should also refund the QF for any tax savings it causes.

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Gulf provided language in Exhibit 76 which would pass any tax savings Gulf obtains by virtue of the purchase power contract on to the QF. This is a reasonable provision and Gulf should modify its contract to reflect the language in Exhibit 76.

FICA argued that the Commission should require utilities to seek an IRS ruling prior to assessing any possible tax effects on QFs. We expect that Gulf will take reasonable and prudent steps to identify, clarify, and minimize the effects of such taxes. One such step may be seeking an IRS ruling; however, we will not make an across-the-board ruling that Gulf must seek an IRS ruling in every circumstance that a tax question arises.

9. GULF'S CAPACITY BENEFITS FOR EARLY DELIVERY

Gulf's standard offer contract should and does recognize that a QF must deliver firm capacity and energy as a condition of receiving early capacity payments. We therefore approve section 7 of Gulf's standard offer contract which specifies that early payments will be paid for capacity delivered prior to June 1, 1995.

10. GULF'S PERFORMANCE REQUIREMENTS (STIPULATED)

All parties to this docket have stipulated to Gulf's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that the methodology for calculating equivalent availability proposed in section 4.2.3 of Gulf's standard offer contract is reasonable.

11. GULF'S PERFORMANCE REQUIREMENTS (STIPULATED)

All parties to this docket have stipulated to Gulf's position or have agreed not to object to the stipulation on this issue. Based upon our Staff's analysis, we will accept the stipulation of the parties that the provision in section 4.2.3 of Gulf's standard offer which requires a QF to meet the equivalent availability of at least 98% for on-peak periods in order to receive capacity payments is reasonable.

12. GULF'S PERFORMANCE REQUIREMENTS (STIPULATED)

All parties to this docket have stipulated to Gulf's position or have agreed not to object to the stipulation on this issue.

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Based upon our Staff's analysis, we will accept the stipulation of the parties that paragraph 6(e) of Gulf's standard offer which requires the QF to notify Gulf six hours prior to peak period of inability to produce committed capacity is reasonable.

13. GULF'S COMPLETION SECURITY

We accept the concept of using security deposits as a means of protecting the purchasing utility's ratepayers from the possibility of a QF project not coming on line. Witness Pope stated the purpose of Gulf's security deposit: "The completion security is intended to provide the utility with additional and immediately available funds to secure replacement and reserve power in the event that the QF fails to complete construction. It can also be viewed as a success incentive for the QF." (TR 1727)

Under section 2 of Gulf's standard offer contract, QFs are required to submit a \$20/kW security deposit upon execution of the contract. Section 8 specifies that Gulf will refund the QF's security deposit upon achieving commercial in-service status, provided that it is reached prior to June 1, 1995. The level of Gulf's proposed security deposit is reasonable and comparable to the levels of completion security required by other utilities throughout the country. Therefore, we approve the \$20/kW level of Gulf's security deposit.

We will, however, require Gulf to phase its completion security. \$10/kW should be required at the time of contract execution and the other \$10/kW twelve months after contract execution. If Gulf's standard offer contract is available until June 1, 1992, Gulf will receive the full security deposit at least two years prior to the in-service date of the avoided unit.

Gulf's phase-in schedule is different than that recommended for FPL or TECO because Gulf's avoided unit has an earlier in-service date than FPL or TECO's avoided units. In addition, Gulf's avoided unit is a combustion turbine unit which has a shorter lead-time than a combined cycle or a gasified combined cycle unit.

14. GULF'S COMPLETION SECURITY ALTERNATIVES

Gulf's proposed standard offer contract does not allow for sufficient alternatives for a QF to provide completion security. Gulf's standard offer should specify that QFs may secure completion using a cash deposit, an unconditional, irrevocable direct pay letter, surety bond, or other means acceptable to Gulf. Gulf should also allow governmental solid waste facilities to use an

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unsecured promise to pay pursuant to Rule 25-17.091, Florida Administrative Code.

15. GULF'S CAPACITY ACCOUNT SECURITY

Option B of Gulf's standard offer should specify the following alternatives for securing early or levelized payments: 1) a letter of credit; or 2) a surety bond; or 3) other means acceptable to Gulf. In addition, pursuant to Rule 25-17.091, Florida Administrative Code, governmental solid waste facilities should be allowed to secure early or levelized payments using an unsecured promise to pay.

16. GULF'S DEFAULT PROVISIONS

Section 9.3 of Gulf's proposed standard offer provides that the only remedy for default by the QF is termination of the contract and forfeiture to Gulf of the entire Capacity Account including accrued interest. Section 7, which deals with the QF's obligations if it receives early capacity payments, specifies that upon default, the QF will pay Gulf the credit in its capacity account. Section 9.3 is redundant and could be misinterpreted to limit Gulf's options for remedy under law if a QF defaults. We therefore find that section 9.3 of Gulf's proposed standard offer contract should be deleted.

17. GULF'S LIQUIDATED DAMAGES PROVISIONS

We find that if repayment of the Capacity Account is required upon default, such repayment should not constitute full liquidated damages to Gulf. The Capacity Account is designed to secure early or levelized payments that are in excess of the value of deferral payments in any given year. These early payments are, in effect, a loan to the QF. If the QF does not perform later in the contract term, it must pay back the money it received for capacity it did not deliver. Thus payment of the Capacity Account constitutes payment of a debt owed to a utility and does not constitute a penalty or damages for non-performance.

If payment of the Capacity Account constituted full liquidated damages, the utility would not be compensated for any damages resulting from having to procure potentially expensive replacement power. Thus, repayment of the Capacity Account should not constitute full liquidated damages to Gulf if the QF defaults.

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18. GULF'S REASSIGNMENT PROVISION

It is reasonable for Gulf to retain the right to approve assignment of its contract to another QF. Rule 25-17.0832(3)(d)2, Florida Administrative Code, allows a utility to petition the Commission to reject a standard offer contract if it believes there is, "material evidence that because the qualifying facility is not financially or technically viable, it is unlikely that the committed capacity and energy would be made available to the utility by the date specified in the standard offer." This language gives Gulf the right to petition to reject a contract if it believes that a QF is not viable. If Gulf does not retain the right to approve the assignment of its contract to another utility, a financially and technically viable QF could assign its contract to a less viable QF, bypassing Gulf's right to review the project. This would result in an increased risk to Gulf and its ratepayers. Therefore, we find section 10.5 of Gulf's standard offer, which gives Gulf approval authority over assignment of the contract, is reasonable.

19. GULF'S REGULATORY OUT CLAUSE

As discussed below, we have instructed each of the utilities to remove the regulatory out clause from their standard offer contracts.

20. GULF'S COMMITTED CAPACITY ADJUSTMENT

The provision in section 4.2.1 of Gulf's proposed standard offer contract, which provides that the QF may finalize its committed capacity only after initial facility testing and prior to June 1, 1995, is reasonable.

21. GULF'S FIRM ENERGY PAYMENTS

Gulf's proposed COG-2 tariff provides for the QF to receive payment equal to the avoided energy cost of Gulf's proposed avoided unit during the time the QF operates as if it were Gulf's avoided unit. The QF is paid for delivered energy at Gulf's as-available energy rate at all other times.

We find that sheet 9.10 of Gulf's proposed COG-2 tariff complies with Rule 25-17.0832(4)(b), Florida Administrative Code.

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22. GULF'S STANDARD OFFER APPROVAL

We approve Gulf's standard offer contract subject to the changes we have required Gulf to make pursuant to this order. When Gulf's standard offer contract fully conforms to the mandates of this order, it will be administratively approved.

We find that the terms and conditions of Gulf's standard offer contract, when modified pursuant to this order, constitute a reasonable and prudent expenditure by Gulf, based on the information which has been submitted to the Commission at this time.

23. GULF'S SUBSCRIPTION

Once Gulf's standard offer is fully subscribed, Gulf should file a petition requesting the closure of its standard offer contract. In its petition, Gulf should provide the Commission with an estimate of the date that it will be filing an updated standard offer contract for approval. Gulf should then reassess its need for capacity and petition the Commission for approval of a new standard offer contract which reflects its updated need. If Gulf's new standard offer contract is based on a different generation expansion plan than its previously approved standard offer contract, Gulf should include the generation expansion plan supporting its choice of avoided unit in its petition for approval of its new standard offer contract.

GULF'S INTERCONNECTION AGREEMENT

1. GULF'S INTERCONNECTION CONSTRUCTION TIMING
2. GULF'S GOOD FAITH ESTIMATES
3. GULF'S INTERCONNECTION INDEMNIFICATION PROVISION
4. GULF'S INTERCONNECTION INSURANCE REQUIREMENT
5. GULF'S INTERCONNECTION AGREEMENT APPROVAL

1. GULF'S INTERCONNECTION CONSTRUCTION TIMING

Rule 25-17.087(10), Florida Administrative Code, requires utilities, prior to any work being done, to supply the QF with a written cost estimate of all its required materials and labor and an estimate of the date by which construction of the interconnection will be complete. The intent of this provision was to give QFs an up-front opportunity to challenge estimates they feel are unreasonable. Section 2 of Gulf's proposed standard

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interconnection agreement should be modified to specifically comply with the "written estimate" provision of Commission Rules.

We therefore instruct Gulf to add to section 2 of its proposed standard interconnection agreement the requirement for Gulf, within 60 days of receiving instructions to commence construction, to supply the QF with a written estimate of what cost will be required for materials and labor as well as an estimated completion date.

2. GULF'S GOOD FAITH ESTIMATES

Both section 3 of Gulf's proposed standard interconnection agreement, and Appendix A to that agreement, should provide that estimates for the cost of interconnection construction work are Gulf's good faith estimates. We direct Gulf to make these changes.

3. GULF'S INTERCONNECTION INDEMNIFICATION PROVISION

Rule 25-17.087(6)(b), Florida Administrative Code, provides that the utility and the qualifying facility shall each be responsible for ensuring adequate safeguards and protection for the other party, and shall indemnify and save the other harmless.

In section 9 of Gulf's proposed standard interconnection agreement, Gulf appears to be holding the QF responsible for jointly protecting and indemnifying both the QF and the Company, "The QF shall deliver...a certificate of insurance...jointly protecting and indemnifying the QF and the Company...against all liability and expense on account of claims and suits...arising out of the performance by the QF or the Company..." Gulf argues that its indemnity language in section 9 is consistent with the requirement that the QF procure insurance with Gulf designated as an "additional named insured." We disagree. The rule intended for both the QF and the utility to have separate policies. Gulf is allowed to benefit from the QF's policy by being an additional named insured.

The insurance requirements of section 9 of Gulf's proposed standard interconnection agreement do not conform to Rule 25-17.087(6)(b) and (c), Florida Administrative Code, regarding liability. Gulf should amend section 9 to require only that it be an additional named insured on the QF's interconnection insurance policy.

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4. GULF'S INTERCONNECTION INSURANCE REQUIREMENT

A \$1,000,000 minimum insurance requirement is in compliance with Rule 25-17.087(6)(c), Florida Administrative Code, which calls for "public liability insurance, including property damage, in an amount not less than \$300,000 for each occurrence; more insurance may be required as deemed necessary by the utility." Throughout the course of this docket, most parties, including Staff, have come to the general agreement that \$1,000,000 for each occurrence is an appropriate minimum insurance requirement to cover potential public liabilities associated with the interconnection facilities. We therefore approve Gulf's \$1,000,000 minimum interconnection insurance requirement.

We find that Gulf's insurance provision should leave any amount over the minimum insurance requirement of \$1,000,000 to the discretion of the QF. Said provision should permit the QF to set any additional coverage it may wish over the \$1,000,000 minimum.

We further find that there is a discrepancy between Gulf's current proposed standard interconnection agreement and its tariff. Gulf should remedy this discrepancy upon resubmission of its interconnection agreement and tariff in compliance with the mandates of this order.

5. GULF'S INTERCONNECTION AGREEMENT APPROVAL

We approve Gulf's interconnection agreement subject to the changes we have delineated in this order. When Gulf has made the requisite changes to its proposed interconnection agreement pursuant to the mandates of this order, the agreement will be administratively approved.

TECO'S STANDARD OFFER CONTRACT

1. TECO'S AVOIDED UNIT DETERMINATION
2. TECO'S SUBSCRIPTION LIMIT
3. TECO'S AVOIDED UNIT PARAMETERS
4. TECO'S CAPACITY PAYMENTS
5. TECO'S AVOIDED COST CALCULATION
6. TECO'S LOCATION FACTORS
7. TECO'S CLEAN AIR IMPACT
8. TECO'S STANDARD OFFER TAX PROVISION
9. TECO'S EARLY PAYMENT DATE
10. TECO'S CAPACITY BENEFITS FOR EARLY DELIVERY
11. TECO'S PERFORMANCE REQUIREMENTS

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12. TECO'S COMPLETION SECURITY
13. TECO'S COMPLETION SECURITY ALTERNATIVES
14. TECO'S PERFORMANCE SECURITY
15. TECO'S PERFORMANCE SECURITY ALTERNATIVES
16. TECO'S DEFAULT PROVISIONS
17. TECO'S DEFAULT PROVISIONS
18. TECO'S LIQUIDATED DAMAGES PROVISIONS
19. TECO'S REASSIGNMENT PROVISION
20. TECO'S QF CERTIFICATION PROVISION
21. TECO'S REGULATORY OUT CLAUSE
22. TECO'S COMMITTED CAPACITY ADJUSTMENT
23. TECO'S ENERGY PROJECTION PROVISION
24. TECO'S OUTAGE SCHEDULE PROVISION
25. TECO'S METER PURCHASE PROVISION
26. TECO'S STANDARD OFFER APPROVAL
27. TECO'S SUBSCRIPTION

1. TECO'S AVOIDED UNIT DETERMINATION

TECO is proposing to build two 220 MW CC units that are phased into service over a three year period. In-service dates for the CC units are 1/1997 and 1/2000. As it's avoided unit, TECO has proposed to offer one of the CT's used to make up the CC unit. Even if one CT were fully subscribed, TECO would still build the second CT, and then complete the CC unit. For this reason, we believe that the proper avoided unit would be the 1997 CC unit. To offer a piece of a phased unit does not make sense if the total unit is going to be constructed anyway. By making the in-service date match the in-service date of the last phase, the QF has more time to decide whether to sign a standard offer or to negotiate a contract.

We therefore find that TECO's avoided unit should be a 1997 combined cycle unit.

2. TECO'S SUBSCRIPTION LIMIT

TECO has proposed to make its standard offer contract available to 75 MW of QFs. We approve TECO's proposed 75 MW subscription limit for the following reasons: 1) seventy-five megawatts represents a full year's requirements of capacity needs for TECO (TR 936); 2) TECO's proposed 75 MW subscription limit is large enough to allow a 75 MW QF to sign TECO's standard offer contract; and 3) a subscription limit larger than 75 MW is not required since TECO forecasts that only 50 MW of QF capacity will be added to its system through 2,000.

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3. TECO'S AVOIDED UNIT PARAMETERS

We find that the following parameters associated with a 1997 Combined Cycle unit are appropriate.

TECO 1997 COMBINED CYCLE UNIT

a.	Type of fuel	Natural Gas/#2 Oil
b.	Average annual heat rate	8250 BTU/kWh
c.	Cost of fuel:	Gas/Oil at Hardee Power or Polk site
	Natural Gas (\$1997)	\$7.95/MBTU
	Distillate (#2 Oil) (\$1997)	\$10.64/MBTU
d.	Construction cost (1991 \$/kW)	\$649.09
e.	Construction escalation rate	5.1%
f.	In-service cost (1997 \$/kW)	\$906.32
g.	Incremental capital structure	
	1. Debt	45%
	2. Preferred Stock	7%
	3. Common Stock	48%
h.	Cost of capital	
	1. Debt	10.1%
	2. Preferred Stock	9.1%
	3. Common Stock	13.5%
i.	Book life	30 years
j.	AFUDC rate	8.53%
k.	Effective tax rate	37.63%
l.	Other taxes	2.5%
m.	Discount rate	9.95%
n.	Fixed O&M costs (1997 \$/kW/yr)	\$6.07
o.	Variable O&M (1997 \$/MWh)	\$5.56
p.	O&M escalation rate	4.8%
q.	Value of K	1.6940

The above parameters are required by Rule 25-17.0832, Florida Administrative Code, to calculate the value of QF capacity and energy payments pursuant to a standard offer contract. We have designated a 1997 Combined Cycle unit as TECO's avoided unit. At the hearing, Staff requested TECO to revise its COG-2 tariff to include the cost parameters and payments associated with the 1997 CC unit. The above parameters were taken directly from TECO's Revised COG-2 Tariff.

The above cost and operating parameters for TECO's combined cycle unit are comparable to those parameters of other units of the same technology type. We find that these parameters are appropriate for a combined cycle unit.

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4. TECO'S CAPACITY PAYMENTS

The capacity payments in TECO's Revised COG-2 Tariff have been properly calculated using the preceding parameters, in accordance with the formulas set forth in Rule 25-17.0832(5), Florida Administrative Code.

5. TECO'S AVOIDED COST CALCULATION

FICA's proposal to increase the in-service cost of TECO's avoided unit by 23% will result in ratepayers paying more than full avoided cost for cogeneration. We find that TECO has included all costs related to the calculation of the construction cost of the avoided unit in its standard offer contract.

6. TECO'S LOCATION FACTORS

The parties have stipulated that TECO's standard offer contract should not contain factors related to the QF's location. We accept this stipulation.

7. TECO'S CLEAN AIR IMPACT

TECO has submitted a clause for inclusion in its standard offer contract that would allow for a credit to the QF if a benefit occurs to the company as a result of the purchase of firm capacity and energy from the QF. Under cross examination, Mr. Mestas agreed that "to the extent that we could identify benefits that truly related to QF capacity in that area, we would be inclined to include language to address those benefits." (TR 921) We therefore approve the language submitted by TECO which would allow for credits to the QF, for inclusion in the standard offer contract.

8. TECO'S STANDARD OFFER TAX PROVISION

TECO provided language in Exhibit 62 which would pass any tax savings Gulf obtains by virtue of the purchase power contract to the QF. This is a reasonable provision and TECO should modify its contract to reflect the language in Exhibit 62.

FICA argued that the Commission should require utilities to seek an IRS ruling prior to assessing any possible tax effects on QFs. We expect that TECO will take reasonable and prudent steps to identify, clarify, and minimize the effects of such taxes. One

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such step may be seeking an IRS ruling; however, we will not make an across-the-board ruling that TECO seek such a ruling in every instance.

9. TECO'S EARLY PAYMENT DATE

According to Rule 25-17.0832(3)(g)2, Florida Administrative Code, the earliest date a QF is allowed to receive early capacity payments should be an approximation of the lead-time required to construct the unit. A two-year lead time for a combustion turbine unit and a three-year lead time for a combined cycle unit are reasonable. (TR 935) Therefore, January 1, 1994, is a reasonable date for TECO to offer early capacity payments.

We therefore approve the provision in sheet 1.830 of TECO's COG-2 tariff, which specifies January 1, 1994, as the earliest date a QF can receive early capacity payments.

10. TECO'S CAPACITY BENEFITS FOR EARLY DELIVERY

TECO's standard offer contract should and does recognize that a QF must deliver firm capacity and energy as a condition of receiving early capacity payments. Sheet 8.200 need not specify this condition because section 6 of TECO's standard offer contract specifies QFs must deliver capacity in order to receive early capacity payments.

11. TECO'S PERFORMANCE REQUIREMENTS

TECO's proposed standard offer requires a 90% monthly availability factor and an 80% monthly capacity factor. At first glance, these performance provisions appear to be very restrictive. However, when one considers that 75 MW represents approximately 1/3 of the total capacity of the CC unit (which is made up of three separate components), the availability and operating characteristics are appropriate. Because a CC is made up of a combination of components, it can be operated in a number of fashions such as a CT alone, a CT with part of the heat recovery unit, 2 CT's alone, or 2 CT's along with the heat recovery unit. Therefore, at any given time, the availability of 75 MW of capacity should be very high.

For these reasons, we find that the performance requirements contained in Late Filed Exhibit No. 68 appropriately reflect the performance of TECO's avoided unit, a 1997 combined cycle.

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12. TECO'S COMPLETION SECURITY

We accept the concept of using security deposits as a means of protecting the purchasing utility's ratepayers from the possibility of a QF project not coming on line.

Under TECO's standard offer contract, QFs would submit their security deposit within 60 days of the effective date of the contract, subject to refund when the QF meets its commercial in-service date. TECO has proposed that the level of completion security be set at \$20/kW if its avoided unit is a combined cycle unit. This level of completion security is reasonable and consistent with other utilities.

We find, however, that TECO should be required to phase its completion security, that \$10/kW be required within 60 days of contract execution, and that the other \$10/kW be required on the latter of: 1) eighteen months after contract execution; or 2) three years prior to the date the QF must commence delivery of firm capacity and energy.

13. TECO'S COMPLETION SECURITY ALTERNATIVES

TECO's standard offer should allow QFs to provide cash, an unconditional and irrevocable direct pay letter of credit, or a performance bond as completion security. In addition, TECO should allow governmental solid waste facilities to use an unsecured promise to pay pursuant to Rule 25-17.091, Florida Administrative Code.

14. TECO'S PERFORMANCE SECURITY

TECO requires QFs to deposit \$20/kW as security for the QF's performance within 60 days of the QF's commercial in-service date. This deposit will be refunded after twelve months if the QF meets the minimum performance standards specified in TECO's standard offer contract. TECO requires the QFs to submit performance security after completion security is refunded, so the maximum security the QF will ever have to post is \$20/kW. We believe that TECO's proposal to require a \$20/kW performance security is reasonable.

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15. TECO'S PERFORMANCE SECURITY ALTERNATIVES

TECO's proposal in section 4.2.4.2 of the standard offer would allow QFs to secure performance in the same manner as it secures completion. We find that TECO's proposal is reasonable.

Section 6 of TECO's standard offer should specify the following alternatives for securing early or levelized payments: 1) a letter of credit; or 2) a surety bond; or 3) other means acceptable to TECO. In addition, pursuant to Rule 25-17.091, Florida Administrative Code, governmental solid waste facilities should be allowed to secure their early or levelized payments using an unsecured promise to pay.

16. TECO'S DEFAULT PROVISIONS

As previously discussed, forfeiture of completion or performance security should not constitute full liquidated damages if the QF defaults. The utility should be able to seek whatever damages it suffers in the event of default.

17. TECO'S DEFAULT PROVISIONS

Pursuant to section 8.3 of TECO's standard offer, the only remedy for default by the QF is termination of the contract, and forfeiture to TECO of the Capacity Account, including interest. We approve this provision. For reasons previously discussed, we do not think that TECO should be required to give a QF a time period to cure defaults.

18. TECO'S LIQUIDATED DAMAGES PROVISIONS

If, pursuant to section 8.3 of TECO's standard offer contract, repayment of the Capacity Account is required upon default, we find that such repayment shall not constitute full liquidated damages.

19. TECO'S REASSIGNMENT PROVISION

We find that section 9.6 of TECO's standard offer, which gives TECO approval authority over assignment by the QF of its obligations and duties, is reasonable.

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20. TECO'S QF CERTIFICATION PROVISION

Section 9.6 of TECO's standard offer contract allows QFs to self-certify with FERC or to certify with the FPSC under Rule 25-17.080(1), Florida Administrative Code. We therefore find that section 9.6 is reasonable.

21. TECO'S REGULATORY OUT CLAUSE

As discussed below, we have instructed each of the utilities to remove the regulatory out clause from standard offer contracts.

22. TECO'S COMMITTED CAPACITY ADJUSTMENT

The provision in section 4.2.1 of TECO's proposed standard offer contract, which provides that the QF may finalize its committed capacity only after initial facility testing and prior to January 1, 1996, is not appropriate for a 1997 combined cycle avoided unit. We find that this provision should be changed to January 1, 1997, to accommodate the change to TECO's in-service date.

23. TECO'S ENERGY PROJECTION PROVISION

TECO begins to schedule the maintenance of its own units each spring. It is reasonable for TECO to require QFs to supply their next year's energy production schedule by April 1st so that TECO can use this information when scheduling its own maintenance. We therefore find that section 5.0 of TECO's proposed standard offer contract, which requires QFs to provide a projection of energy production for the following year by April 1st, is reasonable.

24. TECO'S OUTAGE SCHEDULE PROVISION

The QF and utility should work together to ensure that the QF's maintenance schedule is acceptable to both parties. However, TECO must have the ultimate ability to reject a QF's maintenance schedule to prevent planned outages when TECO needs the capacity.

The language in section 5.0 of TECO's standard offer contract provides a mechanism for the QF and utility to arrive at a mutually acceptable maintenance schedule, while giving TECO the ultimate ability to approve the schedule. This section allows the QF to perform its maintenance when it wishes, whenever possible. If the

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QF requests a maintenance schedule that would reduce TECO's reliability, TECO will advise the QF of an acceptable time period, close to the one requested. This approach is reasonable.

25. TECO'S METER PURCHASE PROVISION

Sheet 8.220 of TECO's proposed COG-2 tariff requires a QF to purchase its metering equipment from TECO. FICA maintains that the QF should be able to purchase its own metering equipment. Rule 25-17.087(9), Florida Administrative Code, states, "[t]he utility will provide, at the qualifying facility's expense, the necessary additional metering equipment to measure energy deliveries by the qualifying facility to the utility." We find that TECO's provision requiring QFs to purchase metering equipment from the utility is consistent with the FPSC rules.

26. TECO'S STANDARD OFFER APPROVAL

We approve TECO's standard offer contract subject to the changes we have delineated in this order.

When TECO's standard offer conforms to the mandates of this order, it will be administratively approved in its entirety.

We find that the terms and conditions of TECO's standard offer contract, once modified pursuant to the requirements of this order, constitute a reasonable and prudent expenditure by TECO based on the information submitted to the Commission at this time.

28. TECO'S SUBSCRIPTION

Once TECO's standard offer is fully subscribed, TECO should file a petition requesting the closure of its standard offer contract. In its petition, TECO should provide the Commission with an estimate of the date that it will be filing an updated standard offer contract for approval. TECO should then reassess its need for capacity and petition the Commission for approval of a new standard offer contract which reflects its updated need. If TECO's new standard offer contract is based on a different generation expansion plan than its previously approved standard offer contract, TECO should include the generation expansion plan supporting its choice of avoided unit in its petition for approval of its new standard offer contract.

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TECO'S INTERCONNECTION AGREEMENT

1. TECO'S INTERCONNECTION CONSTRUCTION TIMING
2. TECO'S GOOD FAITH ESTIMATES
3. TECO'S INTERCONNECTION INSURANCE REQUIREMENT
4. TECO'S INTERCONNECTION AGREEMENT APPROVAL

1. TECO'S INTERCONNECTION CONSTRUCTION TIMING

Section 2 of TECO's interconnection agreement is in compliance with Rule 25-17.087(10), Florida Administrative Code, which requires utilities, prior to any work being done, to supply the QF with a written cost estimate of required materials and labor and an estimate of the date by which construction of the interconnection will be complete. The intent of this provision was to give QFs an up-front opportunity to challenge estimates they feel are unreasonable.

The 24 month time constraint on construction imposed by section 2 is not required by Commission rules. However, this generally benefits the QF by binding the utility to a maximum time frame. We find that section 2 of TECO's interconnection agreement is reasonable.

2. TECO'S GOOD FAITH ESTIMATES

We instruct TECO to include language in both section 3 of its proposed standard interconnection agreement and Appendix B to that agreement which provides that estimates for the cost of interconnection construction work are TECO's good faith estimates.

3. TECO'S INTERCONNECTION INSURANCE REQUIREMENT

A \$1,000,000 minimum insurance requirement is in compliance with Rule 25-17.087(6)(c), Florida Administrative Code, which calls for "public liability insurance, including property damage, in an amount not less than \$300,000 for each occurrence; more insurance may be required as deemed necessary by the utility." Most parties, including Staff, have come to the general agreement that \$1,000,000, for each occurrence, is an appropriate minimum insurance requirement to cover potential public liabilities associated with the interconnection facilities. We therefore approve TECO's \$1,000,000 minimum interconnection insurance requirement.

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TECO's insurance provision also leaves any amount over the minimum insurance requirement of \$1,000,000 to the discretion of the QF. We approve this provision which permits the QF to set any additional coverage it may wish over the \$1,000,000 minimum.

4. TECO'S INTERCONNECTION AGREEMENT APPROVAL

We approve TECO's standard interconnection agreement subject to the changes we have delineated in this order. When TECO's standard interconnection agreement conforms to the mandates of this order it will be administratively approved in its entirety.

GENERIC POLICY ISSUES

1. CONSISTENCY WITH STATEWIDE NEED
2. DATE OF FILING AFTER VOTE
3. EFFECTIVE DATE
4. ADMINISTRATIVE APPROVAL
5. FILING OF SIGNED CONTRACTS
6. REGULATORY OUT CLAUSE
7. EFFECT OF COMMISSION APPROVAL
8. FINALITY OF COMMISSION APPROVAL

1. CONSISTENCY WITH STATEWIDE NEED

The Florida Electric Power Coordinating Group (FCG) filed with the Commission a compilation of the generation expansion plans of Florida's utilities. After reviewing this compilation we find that the information submitted by the FCG is a reasonable representation of the future needs of Florida.

2. DATE OF FILING AFTER VOTE

Utilities should file standard offer contracts, tariffs, and interconnection agreements which conform to the Commission's vote within 30 days of the Commission's vote, which will be September 6, 1991. This will enable the standard offer contracts to be effective on September 20, 1991.

Utilities are not required to file conforming generation expansion plans since we do not "approve" generation expansion plans; rather, we review them and use them for informational purposes.

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3. EFFECTIVE DATE

The effective date for the approved standard offer contracts, tariffs, and interconnection agreements shall be September 20, 1991, which is two weeks after we receive conforming tariffs, standard offer contracts, and interconnection agreements. This will give the QFs time to read the new standard offers and analyze the feasibility of projects under the various standard offers before a contract is signed.

4. ADMINISTRATIVE APPROVAL

When utilities refile any standard offer contracts, tariffs, or standard interconnection agreements to conform to the mandates of this order, they will be administratively approved by Staff, should they so conform.

The Commission does not approve the utilities' generation expansion plans; therefore, there is no need for Staff to be given the authority to approve such plans.

5. FILING OF SIGNED STANDARD OFFER CONTRACTS

Rule 25-17.0832(1)(b), Florida Administrative Code, requires utilities to submit a copy of the signed contract, and a summary, within 10 working days of receipt of a standard offer contract. The submission shall be to the Director of the Electric and Gas Division of the Florida Public Service Commission.

6. REGULATORY OUT CLAUSE

We find that regulatory out provisions should not be included in the standard offer contracts submitted by the utilities in this docket. There is no need for a regulatory out provision in standard offer contracts in the State of Florida.

Our decision here applies only to standard offer contracts for the purchase of firm capacity and energy from small qualifying facilities less than 75 MW or from solid waste facilities as defined in Rule 25-17.091, Florida Administrative Code. A significant difference between standard offer and negotiated contracts is that we require utilities to purchase firm capacity and energy pursuant to standard offer contracts. The utilities are given no choice. Therefore, when we approve the standard offer contract, we make a commitment that we will allow cost recovery of

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payments made to small QFs. Because we have made such a commitment, there is no need for a regulatory out provision in the standard offer. We have no intention of revisiting our decision to allow cost recovery. Therefore, the regulatory out provision has become unnecessary surplusage. Such provisions create a mistaken perception that revenues under a standard offer are not reliable. This is not the case. See our discussion below at Section 8, "Finality of Commission Approval."

7. EFFECT OF COMMISSION APPROVAL (STIPULATED)

Commission approval of the terms and conditions of each utility's standard offer contract and tariff, and the firm capacity and energy prices stated therein, constitutes a determination by the Commission that any payments made to a QF under the standard offer constitute a reasonable and prudent expenditure by the utility under section 366.06, Florida Statutes, based on information reasonably available to the utility and the Commission at this time.

8. FINALITY OF COMMISSION APPROVAL

We have previously ruled that our approval of a standard offer contract constitutes a determination that payments made by a utility to a QF under the standard offer constitute a prudent expenditure by the utility. We now find that once our determination of prudence becomes final by operation of law, we cannot deny the utility cost recovery of payments made to the QF pursuant to the standard offer contract, absent some extraordinary circumstance, such as where our finding of prudence was induced through perjury, fraud or the intentional withholding of key information.

This Commission has previously stated that we "cannot bind future Commissions." (Order No. 13846 at p.3) This statement is true, to the extent this Commission cannot dictate the votes of Commissioners who will later sit on the Commission. However, case law indicates that the Commission has only limited power to change its prior decisions. In fact, at some point the Commission loses the power to change its decisions and must live with them.

The Supreme Court of Florida has set the ground rules under which the Commission may correct or amend its orders. If an order has not become final by operation of law, the Commission may, on its own motion or by request, correct or amend any order under its control without notice and hearing if the matters corrected and

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amended were embraced in the testimony taken at a previous hearing. Alterman Transport Line v. Yarborough, 267 So.2d 34 (Fla. 1973).

Orders of administrative agencies must eventually pass out of the agency's control and become final, and, therefore, no longer subject to modification. There must be in every proceeding a terminal point at which the parties and the public may rely on a decision of an administrative agency as final and dispositive of the rights and issues involved therein. Peoples Gas Systems, Inc. v. Mason, 187 So.2d 335 (Fla. 1966); also, Austin Tupler Trucking, Inc. v. Hawkins, 377 So.2d 679 (Fla. 1979). However, the Supreme Court of Florida has recognized the rule that "[o]rders, decrees, or judgments, made through fraud, collusion, deceit, or mistake, may be opened, vacated, or modified at any time, on the proper showing made by the parties injured." Davis v. Combination Awning & Shutter Co., 62 So.2d 742, 745 (Fla. 1953).

The Court has acknowledged that the Commission has some inherent power to modify its orders. Peoples Gas System v. Mason, 187 So.2d 335, 339 (Fla. 1966); Reedy Creek Utilities Company v. Florida Public Service Commission, 418, So.2d 249, 253 (Fla. 1982). However, the Supreme Court has determined that our inherent power to modify is not without limitation. As stated in Reedy Creek, "an underlying purpose of the doctrine of finality is to protect those who rely on a judgment or ruling." In this respect, we believe that the parties to approved standard offer contracts should be entitled to rely on our decision to approve cost recovery of payments made pursuant to those contracts.

The doctrine of administrative finality is one of fairness. It is based on the premise that the parties, as well as the public, may rely on Commission decisions. We therefore find that a utility and a QF should be able to rely on the finality of a Commission ruling approving cost recovery under a standard offer contract.

Commissioner Deason Dissents in Part as Follows:

I dissent only from the Commission's decision not to require a regulatory out clause. I believe such a clause may be necessary for the protection of the utility's ratepayers.

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It is therefore,

ORDERED by the Florida Public Service Commission that Florida Power Corporation, Florida Power & Light Company, Gulf Power Company, and Tampa Electric Company shall each submit tariffs in compliance with this order on or before September 6, 1991. It is further

ORDERED that Florida Power Corporation, Florida Power & Light Company, Gulf Power Company, and Tampa Electric Company shall each submit standard offer contracts in compliance with this order on or before September 6, 1991. It is further

ORDERED that Florida Power Corporation, Florida Power & Light Company, Gulf Power Company, and Tampa Electric Company shall each submit standard interconnection agreements in compliance with this order on or before September 6, 1991. It is further

ORDERED that each utility's tariff, standard offer contract, and standard interconnection agreement shall have an effective date of September 20, 1991.

By ORDER of the Florida Public Service Commission, this
29th day of AUGUST, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

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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.

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Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this Order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or 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 after the issuance 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.