

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Proposed Amendments to) DOCKET NO. 931186-EQ
Rule 25-17.0832, F.A.C., Firm) ORDER NO. PSC-96-0126-NOR-EQ
Capacity and Energy Contracts;) ISSUED: January 25, 1996
and Proposed Rules 25-17.0836,)
F.A.C., Modification to Existing)
Contracts; Explanation of When)
Approval is Required, and 25-)
17.0837, F.A.C., Negotiations)
with Other Utility and Non-)
Utility Generating Facilities)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF RULEMAKING

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has initiated rulemaking to amend Rule 25-17.0832, F.A.C., and to propose Rules 25-17.0836 and 25-17.0837, F.A.C., relating to standard offer and negotiated contracts for the purchase of firm capacity and energy from qualifying facilities, nonutility providers, and other utilities.

The attached Notice of Rulemaking will appear in the February 2, 1996 edition of the Florida Administrative Weekly. A hearing will be held at the following time and place:

Florida Public Service Commission
9:30 a.m., June 12-13, 1996
Betty Easley Conference Center
Room 148, 4075 Esplanade Way
Tallahassee, Florida

Written comments or suggestions on the rules must be received by the Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0870, no later than May 1, 1996.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

ORDER NO. PSC-96-0126-NOR-EQ
DOCKET NO. 931186-EQ
PAGE 2

By ORDER of the Florida Public Service Commission, this 25th
day of January, 1996.

BLANCA S. BAYÓ, Director
Division of Records & Reporting

by: *Kay J. [Signature]*
Chief, Bureau of Records

(S E A L)

MAH

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 931186-EQ

RULE TITLE:	RULE NO.:
Firm Capacity and Energy Contracts	25-17.0832
Modification to Existing Contracts; Explanation of When Approval is Required	25-17.0836
Negotiations with Other Utility and Nonutility Generating Facilities	25-17.0837

PURPOSE AND EFFECT: The purpose of the amendments to Rule 25-17.0832 is to ensure that it is consistent with Rule 25-22.082, Florida Administrative Code. The proposed amendments to Rule 25-17.0832 also limit the availability of standard offer contracts to "preferred QFs." In addition, proposed Rules 25-17.0836 and 25-17.0837 set procedures concerning contract modifications and encourage utilities to negotiate with other utilities and nonutility generators.

SUMMARY:

25-17.0832(2): The proposed amendments add language to subsection (2) which states that when a utility issues a RFP, the utility may continue negotiations with qualifying facilities. The proposed amendments also provide that if a utility ceases ongoing negotiations with QFs, the utility must notify all affected QFs of the time and date when negotiations shall cease. In addition, the amendments clarify that it is the utility's burden to demonstrate that a firm capacity and energy contract is prudent for cost

recovery purposes. Finally, the proposed language states that negotiated contracts will not be counted towards the subscription limit of a utility's standard offer contract.

25-17.0832(3): The proposed amendments clarify the language of this subsection.

25-17.0832(4)(a): The proposed amendments limit the availability of standard offer contracts to four types of QFs: (1) QFs less than or equal to 100 kW in size; (2) high efficiency QFs with a thermal efficiency of at least 75 percent; (3) renewable or non-fossil fueled QFs; and (4) municipal solid waste facilities.

25-17.0832(4)(c): The proposed amendments strike the existing language in paragraph (4)(c). In addition, the amendments add language to the new paragraph (4)(c) which requires utilities to evaluate, select, and enter into standard offer contracts based on benefits to ratepayers.

25-17.0832(4)(e)4.: The proposed amendments strike the limitations concerning the date when standard offer contracts must expire.

25-17.0832(4)(e)5.: This amendments require utilities to specify the dates of their open solicitation periods as well as providing that open solicitation periods must end prior to issuing a RFP.

25-17.0832(4)(e)9.: The proposed amendments require standard offer applicants to describe their proposed facility, by providing the

location, steam host, generation technology, and fuel source, as well as a calculation of thermal efficiency.

25-17.0832(6)(a): The amendments rewrite the formulas in this subparagraph algebraically.

25-17.0832(6): The proposed amendments strike the obsolete language in this subsection.

25-17.0836, Modification to Existing Contracts; Explanation of When Approval is Required: Proposed Rule 25-17.0836 establishes guidelines to identify which types of contract modifications require Commission approval. The proposed guidelines require utilities to notify the Commission of all contract modifications. In addition, utilities must petition the Commission for approval of material modifications in order to continue to recover costs associated with the contract. Material modifications are defined in subsection (2). Subsection (5) of the rule provides, "[t]he utility shall demonstrate any benefits to the general body of ratepayers that result from contract modifications and renegotiations." In addition, subsection (6) of the rule states that part of the Commission's review will be to evaluate contract modifications "against both the existing contract and the current value of the purchasing utility's avoided cost." No Commission action is necessary for immaterial contract modifications. If an alleged immaterial modification is believed to be material,

ORDER NO. PSC-96-0126-NOR-EQ
DOCKET NO. 931186-EQ
PAGE 6

however, the Commission can review the modification on its own motion to determine whether the modification requires approval.

25-17.0837, Negotiations with Other Utility and Nonutility Generating Facilities: Proposed Rule 25-17.0837 encourages utilities to negotiate with other utility and nonutility generators if their next planned generation unit is not subject to the bidding rule. The proposed rule gives utilities flexibility to determine the appropriate time to stop ongoing negotiations with other IPPs in conjunction with issuing an RFP.

RULEMAKING AUTHORITY: 350.127, 366.05(1) & (8), 366.051, F.S.

LAW IMPLEMENTED: 366.05(7) & (8), 366.051, 403.503, F.S.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, BY MAY 1, 1996, FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

A HEARING WILL BE HELD AT THE DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 A.M., June 12-13, 1996.

PLACE: Room 148, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THESE RULES AND THE ECONOMIC IMPACT STATEMENT IS: Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399.

THE FULL TEXT OF THE RULES IS:

25-17.0832 Firm Capacity and Energy Contracts.

(1) Firm capacity and energy are capacity and energy produced and sold by a qualifying facility and purchased by a utility pursuant to a negotiated contract or a standard offer contract subject to certain contractual provisions as to the quantity, time, and reliability of delivery.

(a) Within one working day of the execution of a negotiated contract or the receipt of a signed standard offer contract, the utility shall notify the Director of the Division of Electric and Gas and provide the amount of committed capacity and the type of generating avoided unit, if any, to which the contracted capacity is intended to avoid or defer contract should be applied.

(b) Within 10 working days of the execution of a negotiated contract ~~for the purchase of firm capacity and energy~~ or ~~within 10 working days of receipt of a signed standard offer contract~~ for the purchase of firm capacity and energy, the purchasing utility shall file with the Commission a copy of the signed contract and a summary of its terms and conditions. At a minimum, ~~the such a~~ summary shall report:

1. ~~The~~ name of the utility and the owner and/or operator of the qualifying facility, who are signatories of the contract;
2. ~~The~~ amount of committed capacity specified in the contract, the size of the facility, the type of the

facility, its location, and its interconnection and transmission requirements;

3. The amount of annual and on-peak and off-peak energy expected to be delivered to the utility;
4. The type of unit being avoided, its size, and its in-service year;
5. The in-service date of the qualifying facility; and
6. The date by which the delivery of firm capacity and energy is expected to commence.

~~(c) Prior to the anticipated in service date of the avoided unit specified in the contract, a qualifying facility which has negotiated a firm capacity and energy contract or has accepted a utility's standard offer contract may sell as available energy to any utility pursuant to Rule 25-17.0825.~~

(2) Negotiated Contracts. Utilities and qualifying facilities are encouraged to negotiate contracts for the purchase of firm capacity and energy to avoid or defer the construction of all planned utility generating units. If a utility is required to issue a Request for Proposals (RFP) pursuant to Rule 25-22.082, it may continue negotiations with qualifying facilities. If a utility chooses to discontinue ongoing negotiations because it has issued a RFP, the utility shall notify all affected qualifying facilities of the date and time when ongoing negotiations with qualifying

facilities shall cease. All qualifying facilities may respond to a RFP. Such Negotiated contracts will be considered prudent for cost recovery purposes if it is demonstrated by the utility that the purchase of firm capacity and energy from the qualifying facility pursuant to the rates, terms, and other conditions of the contract can reasonably be expected to contribute towards the deferral or avoidance of additional capacity construction or other capacity-related costs by the purchasing utility at a cost to the utility's ratepayers which does not exceed full avoided costs, giving consideration to the characteristics of the capacity and energy to be delivered by the qualifying facility under the contract. Negotiated contracts shall not be counted towards the subscription limit of the ~~evaluated against an~~ avoided unit in a standard offer contract, thus preserving the standard offer for small qualifying facilities as described in subsection (4) ~~(3)~~.

(3) Cost Recovery for Negotiated Contracts. In reviewing negotiated firm capacity and energy contracts for the purpose of cost recovery, the Commission shall consider factors relating to the contract that would impact the utility's general body of retail and wholesale customers including:

(a) Whether additional firm capacity and energy is needed by the purchasing utility and by Florida utilities from a statewide perspective; ~~and~~

(b) ~~Whether~~ the cumulative present worth of firm capacity and energy payments made to the qualifying facility over the term of the contract are projected to be no greater than:

1. ~~The~~ cumulative present worth of the value of a year-by-year deferral of the construction and operation of generation or parts thereof by the purchasing utility over the term of the contract, ~~and~~ calculated in accordance with subsection ~~(5)-(4)~~ and paragraph ~~(6)-(5)~~(a) of this rule, provided ~~providing~~ that the contract is designed to contribute towards the deferral or avoidance of such capacity; or
2. ~~The~~ cumulative ~~cummulative~~ present worth of other capacity and energy related costs that the contract is designed to avoid such as fuel, operation, ~~and~~ maintenance expenses or alternative purchases of capacity, provided ~~providing~~ that the contract is designed to avoid such costs; ~~and~~

(c) ~~To~~ the extent that annual firm capacity and energy payments made to the qualifying facility in any year exceed that year's annual value of deferring the construction and operation of generation by the purchasing utility or other capacity and energy related costs, whether the contract contains provisions to ensure repayment of such payments exceeding that year's value of deferring

that capacity in the event that the qualifying facility fails to deliver firm capacity and energy pursuant to the terms and conditions of the contract, ~~it~~ provided, however, that provisions to ensure repayment may be based on forecasted data; and

(d) ~~C~~onsidering the technical reliability, viability, and financial stability of the qualifying facility, whether the contract contains 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.

~~(4)(3)~~ Standard Offer Contracts.

(a) Upon petition by a utility or pursuant to a Commission action, each public utility shall submit for Commission approval a tariff or tariffs and a standard offer contract or contracts for the purchase of firm capacity and energy from small qualifying facilities ~~less than 75 megawatts or from solid waste facilities as defined in Rule 25-17.091.~~ Standard offer contracts are available to a qualifying facility less than or equal to 100 kilowatts as defined in Rule 25-17.080(3) and the following facility types whose net installed generating capacity does not exceed 75 MW:

1. A small power producer or other qualifying facility using renewable or non-fossil fuel where the primary energy source in British Thermal Units (BTUs) is at least 75 percent biomass, waste, or other renewable resource;

2. A high efficiency qualifying facility whose electrical power output in BTUs, plus the thermal output in BTUs used in a residential, commercial, or industrial process, divided by the total energy input in BTUs, is not less than 75 percent of the fossil fuel input on an annual basis; and
3. A municipal solid waste facility as defined in Rule 25-17.091.

(b) The rates, terms, and other conditions contained in each utility's standard offer contract or contracts shall be based on the need for and equal to the avoided cost of deferring or avoiding the construction of additional generation capacity or parts thereof by the purchasing utility. Rates for payment of capacity sold by a qualifying facility shall be specified in the contract for the duration of the contract. In reviewing a utility's standard offer contract or contracts, the Commission shall consider the criteria specified in paragraphs ~~(3)(2)~~(a) through ~~(3)(2)~~(d) of this rule, as well as any other information relating to the determination of the utility's full avoided costs.

~~(c) In lieu of a separately negotiated contract, a qualifying facility under 75 megawatts or a solid waste facility as defined in Rule 25-17.091(1), F.A.C., may accept any utility's standard offer contract. Qualifying facilities which are 75 megawatts or greater may negotiate contracts for the purchase of capacity and energy~~

~~pursuant to subsection (2). Should a utility fail to negotiate in good faith, any qualifying facility may apply to the Commission for relief pursuant to Rule 25-17.0834, F.A.C.~~

(c)(d) The utility shall evaluate, select, and enter into standard offer contracts with eligible qualifying facilities based on the benefits to the ratepayers. Within 60 days of receipt of a signed standard offer contract, the utility shall either:

1. Accept and sign the contract and return it within five days to the qualifying facility; or

2. Ppetition the Commission not to accept the contract and provide justification for the refusal. Such petitions may be based on:

a.1. A—a reasonable allegation by the utility that acceptance of the standard offer will exceed the subscription limit of the avoided unit or units; or

b.2. Mmaterial evidence showing 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.

(d) A standard offer contract which has been accepted by a qualifying facility shall apply towards the subscription limit of the unit designated in the contract effective the date the utility

receives the accepted contract. If the contract is not accepted by the utility, its effect shall be removed from the subscription limit effective the date of the Commission order granting the utility's petition.

(e) Minimum Specifications. Each standard offer contract shall, at minimum, specify:

1. ~~T~~he avoided unit or units on which the contract is based;
2. ~~T~~he total amount of committed capacity, in megawatts, needed to fully subscribe the avoided unit specified in the contract;
3. ~~T~~he payment options available to the qualifying facility including all financial and economic assumptions necessary to calculate the firm capacity payments available under each payment option and an illustrative calculation of firm capacity payments for a minimum ten year term contract commencing with the in-service date of the avoided unit for each payment option;
4. ~~T~~he date on which the standard contract offer expires. ~~This 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 has been reached;~~

5. The open solicitation period during which time the utility will accept proposals for standard offer contracts. Prior to the issuance of timely notice of a Request for Proposals (RFP) pursuant to Rule 25-22.082(3), the utility shall end the open solicitation period.

~~6.5-~~ The date by which firm capacity and energy deliveries from the qualifying facility to the utility shall commence. This date shall be no later than the anticipated in-service date of the avoided unit specified in the contract;

~~7.6-~~ The period of time over which firm capacity and energy shall be delivered from the qualifying facility to the utility. Firm capacity and energy shall be delivered, at a minimum, for a period of ten years, commencing with the anticipated in-service date of the avoided unit specified in the contract. At a maximum, firm capacity and energy shall be delivered for a period of time equal to the anticipated plant life of the avoided unit, commencing with the anticipated in-service date of the avoided unit;

~~8.7.~~ The minimum performance standards for the delivery of firm capacity and energy by the qualifying facility during the utility's daily seasonal peak and off-peak periods. These performance standards shall approximate the anticipated peak and off-peak availability and capacity factor of the utility's avoided unit over the term of the contract;

9. The description of the proposed facility including the location, steam host, generation technology, fuel sources, and a calculation of thermal efficiency; and

~~10.8.~~ Provisions to ensure repayment of payments to the extent that annual firm capacity and energy payments made to the qualifying facility in any year exceed that year's annual value of deferring the avoided unit specified in the contract in the event that the qualifying facility fails to perform pursuant to the terms and conditions of the contract. Such provisions may be in the form of a surety bond or equivalent assurance of repayment of payments exceeding the year-by-year value of deferring the avoided unit specified in the contract.

(f) The Commission may approve contracts that specify:

1. 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 which may be in the form of an up-front payment, surety bond, or equivalent assurance of payment. ~~Such~~ Payment or surety shall be refunded upon completion of the facility and demonstration that the facility can deliver the amount of capacity and energy specified in the contract; and
2. A a listing of the parameters, including any impact on electric power transfer capability, associated with the qualifying facility as compared to the avoided unit necessary for the calculation of the avoided cost.

(g) Firm Capacity Payment Options. Each standard offer contract shall also contain, at a minimum, the following options for the payment of firm capacity delivered by the qualifying facility:

1. Value of deferral capacity payments. Value of deferral capacity payments shall commence on the anticipated in-service date of the avoided unit. Capacity payments under this option shall consist of monthly payments escalating annually of the

avoided capital and fixed operation and maintenance expense associated with the avoided unit and shall be equal to the value of a year-by-year deferral of the avoided unit, calculated in accordance with paragraph ~~(6)~~(5)(a) of this rule.

2. Early capacity payments. Each standard offer contract shall specify the earliest date prior to the anticipated in-service date of the avoided unit when early capacity payments may commence. The early capacity payment date shall be an approximation of the lead time required to site and construct the avoided unit. Early capacity payments shall consist of monthly payments escalating annually of the avoided capital and fixed operation and maintenance expense associated with the avoided unit, calculated in conformance with paragraph ~~(6)~~(5)(b) of the rule. At the option of the qualifying facility, early capacity payments may commence at any time after the specified early capacity payment date and before the anticipated in-service date of the avoided unit provided that the qualifying facility is delivering firm capacity and energy to the utility. Where early capacity payments are elected, the cumulative

present value of the capacity payments made to the qualifying facility over the term of the contract shall not exceed the cumulative present value of the capacity payments which would have been made to the qualifying facility had such payments been made pursuant to subparagraph ~~(4)~~(g)1. of this rule.

3. Levelized capacity payments. Levelized capacity payments shall commence on the anticipated in-service date of the avoided unit. The capital portion of capacity payments under this option shall consist of equal monthly payments over the term of the contract, calculated in conformance with paragraph ~~(6)~~(5)(c) of this rule. The fixed operation and maintenance portion of capacity payments shall be equal to the value of the year-by-year deferral of fixed operation and maintenance expense associated with the avoided unit calculated in conformance with paragraph ~~(6)~~(5)(a) of this rule. Where levelized capacity payments are elected, the cumulative present value of the levelized capacity payments made to the qualifying facility over the term of the contract shall not exceed the cumulative present value of capacity payments which would have been made to the

qualifying facility had such payments been made pursuant to subparagraph ~~(4)~~(3)(g)1. of this rule, value of deferral capacity payments.

4. Early levelized capacity payments. Each standard offer contract shall specify the earliest date prior to the anticipated in-service date of the avoided unit when early levelized capacity payments may commence. The early capacity payment date shall be an approximation of the lead time required to site and construct the avoided unit. The capital portion of capacity payments under this option shall consist of equal monthly payments over the term of the contract, calculated in conformance with paragraph ~~(6)~~(5)(c) of this rule. The fixed operation and maintenance expense shall be calculated in conformance with paragraph ~~(6)~~(5)(b) of this rule. At the option of the qualifying facility, early levelized capacity payments shall commence at any time after the specified early capacity date and before the anticipated in-service date of the avoided unit provided that the qualifying facility is delivering firm capacity and energy to the utility. Where early levelized capacity payments are elected, the cumulative

present value of the capacity payments made to the qualifying facility over the term of the contract shall not exceed the cumulative present value of the capacity payments which would have been made to the qualifying facility had such payments been made pursuant to subparagraph ~~(4)~~(3)(g)1. of this rule.

~~(5)~~(4) Avoided Energy Payments for Standard Offer Contracts.

(a) For the purpose of this rule, avoided energy costs associated with firm energy sold to a utility by a qualifying facility pursuant to a utility's standard offer contract shall commence with the in-service date of the avoided unit specified in the contract. Prior to the in-service date of the avoided unit, the qualifying facility may sell as-available energy to any the utility pursuant to Rule 25-17.0825.

(b) 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 of the purchasing utility. During the periods that the avoided unit would not have been operated, firm energy purchased from qualifying facilities shall be treated as as-available energy

for the purposes of determining the megawatt block size in Rule 25-17.0825(2)(a).

(c) The energy cost of the avoided unit specified in the contract shall be defined as the cost of fuel, in cents per kilowatt-hour, which would have been burned at the avoided unit plus variable operation and maintenance expense plus avoided line losses. The cost of fuel shall be calculated as the average market price of fuel, in cents per million Btu, associated with the avoided unit multiplied by the average heat rate associated with the avoided unit. The variable operating and maintenance expense shall be estimated based on the unit fuel type and technology of the avoided unit.

~~(6)-(5)~~ Calculation of standard offer contract firm capacity payment options.

(a) Calculation of year-by-year value of deferral. The year-by-year value of deferral of an avoided unit shall be the difference in revenue requirements associated with deferring the avoided unit one year and shall be calculated as follows:

$$\begin{aligned}
 & \underline{VAC_n = 1/12 [KI_n(1-R)/(1-R^L) + O_n]} \\
 & \quad \{ \text{-----} \} \\
 & \quad \{ \text{---} [1 \quad (1 + ip)] \text{---} \} \\
 VAC_n = & \quad 1 \quad \{ \text{---} KI_n \quad [\text{---} (1 + r) \text{---}] \text{---} + O_n \text{---} \} \\
 & \quad 12 \quad \{ \text{---} [1 \quad (1 + ip)^L] \text{---} \} \\
 & \quad \{ \text{---} [\text{---} (1 + r)^L] \text{---} \}
 \end{aligned}$$

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Where, for a one year deferral:

VAC_n = utility's monthly value of avoided capacity, in dollars per kilowatt per month, for each month of year n;

K = present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present value to the middle of the first year;

R = $\frac{(1+i_p)}{(1+r)}$;

I_n = total direct and indirect cost, in mid-year dollars per kilowatt including AFUDC but excluding CWIP, of the avoided unit with an in-service date of year n, including all identifiable and quantifiable costs relating to the construction of the avoided unit that would have been paid had the avoided unit been constructed;

O_n = total fixed operation and maintenance expense for the year n, in mid-year dollars per kilowatt per year, of the avoided unit;

i_p = annual escalation rate associated with the plant cost of the avoided unit(s);

- i_o = annual escalation rate associated with the operation and maintenance expense of the avoided unit(s);
- r = annual discount rate, defined as the utility's incremental after tax cost of capital;
- L = expected life of the avoided unit; and
- n = year for which the avoided unit is deferred starting with its original anticipated in-service date and ending with the termination of the contract for the purchase of firm energy and capacity.

(b) Calculation of early capacity payments. Monthly early capacity payments shall be calculated as follows:

$$A_n = \frac{[A_c (1 + i_p)^{(n-1)} + A_o (1 + i_o)^{(n-1)}]}{12} \quad \text{for } m=1 \text{ to } t$$

Where: A_n = monthly early capacity payments to be made to the qualifying facility for each month of the contract year n , in dollars per kilowatt per month;

- i_p = annual escalation rate associated with the plant cost of the avoided unit;
- i_o = annual escalation rate associated with the operation and maintenance expense of the avoided unit(s);

m = year for which early capacity payments to a qualifying facility are made, starting in year one and ending in the year t;

t = the term, in years, of the contract for the purchase of firm capacity;

$$A_c = F \left[\frac{(1-R)}{(1-R^t)} \right]$$

$$A_c = F \left[\frac{1 - \frac{(1+ip)^t}{(1+r)^t}}{(1+ip) - (1+r)} \right]$$

Where: F = the cumulative present value in the year that the contractual payments will begin, of the avoided capital cost component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the avoided unit(s); and

R = $\frac{(1+ip)}{(1+r)}$; and

r = annual discount rate, defined as the utility's incremental after tax cost of capital; and

$$A_c = G \left[\frac{(1-R)}{(1-R^t)} \right]$$

$$A_0 = G \left[\frac{1}{(1+r)^t} + \frac{(1+io)}{(1+r)^t} + \frac{1}{(1+r)^t} + \frac{(1+io)^t}{(1+r)^t} + \frac{1}{(1+r)^t} + \frac{(1+io)^t}{(1+r)^t} \right]$$

Where: G = The cumulative present value in the year that the contractual payments will begin, of the avoided fixed operation and maintenance expense component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the avoided unit; and-

$$R = \frac{(1+io)}{(1+r)}$$

(c) Levelized and early levelized capacity payments. Monthly levelized and early levelized capacity payments shall be calculated as follows:

$$P_L = \frac{F/12 \{ r / [1 - (1+r)^{-t}] \} + Q}{12 \frac{1 - (1+r)^{-t}}{r}}$$

Where: P_L = the monthly levelized capacity payment, starting on or prior to the in-service date of the avoided unit;

- F = the cumulative present value, in the year that the contractual payments will begin, of the avoided capital cost component of the capacity payments which would have been made had the capacity payments not been levelized;
- r = the annual discount rate, defined as the utility's incremental after tax cost of capital; and
- t = the term, in years, of the contract for the purchase of firm capacity.
- O = the monthly fixed operation and maintenance component of the capacity payments, calculated in accordance with paragraph (5)(a) for levelized capacity payments or with paragraph (5)(b) for early levelized capacity payments.

~~(6) Sale of Excess Firm Energy and Capacity. To the extent that firm energy and capacity purchased from a qualifying facility pursuant to a standard offer contract or an individually negotiated contract is not needed by the purchasing utility, these rules shall be construed to encourage the purchasing utility to sell all or part of the energy and capacity to the utility in need of energy and capacity at a mutually agreed upon price which is cost effective to the ratepayers.~~

(7) Upon request by a qualifying facility or any interested person, each utility shall provide within 30 days its most current projections of its future generation mix including type and timing of anticipated generation additions, and at least a 20-year projection of fuel forecasts, as well as any other information reasonably required by the qualifying facility to project future avoided cost prices. The utility may charge an appropriate fee, not to exceed the actual cost of production and copying, for providing such information.

(8) (a) Firm energy and capacity payments made to a qualifying facility pursuant to a separately negotiated contract shall be recoverable by a utility through the Commission's periodic review of fuel and purchased power costs if the contract is found to be prudent in accordance with subsection (2) of this rule.

(b) Upon acceptance of the contract by both parties, firm energy and capacity payments made to a qualifying facility pursuant to a standard offer contract shall be recoverable by a utility through the Commission's periodic review of fuel and purchased power costs.

(c) Firm energy and capacity payments made pursuant to a standard offer contract signed by the qualifying facility, for which the utility has petitioned the Commission to reject, is recoverable through the Commission's periodic review of fuel and purchased power costs if the Commission requires the utility to

accept the contract because it satisfies subsection (4)~~(3)~~ of this rule.

Specific Authority: 350.127, ~~366.04(1)~~, 366.051, 366.05(1) & (8),
F.S.

Law Implemented: 366.051, 403.503, F.S.

History: New 10/25/90, amended _____.

25-17.0836 Modification to Existing Contracts; Explanation
of When Approval is Required.

(1) Each investor-owned utility shall notify the Director of the Division of Electric and Gas of all modifications to existing contracts for the purchase of firm capacity and energy, the costs of which are reviewed through the Commission's periodic review of fuel and purchased power costs, within 30 days of the modification. At a minimum, the following information shall be submitted:

(a) A description of the modification and a statement indicating whether the modification is a material change;

(b) A copy of the documents that evidence the modification;

(c) A detailed statement explaining whether the existing contract would be viable if no modification is made;

(d) A statement indicating whether the in-service date of the project will change because of the modification; and

(e) A description of the price, performance, or other concessions that result from the contract modification between the

purchasing utility and the qualifying facility, nonutility generator, or other utility.

(2) In order for a utility to recover its costs, Commission approval is required for a material modification that affects the overall efficiency or nature of the project. A material modification is one that results in changes to contractual terms such as location, prime mover technology type, fuel type, performance requirements, contracted megawatt output, the timing of capacity payments, or amount of capacity payments.

(3) Commission approval is not required for immaterial modifications or modifications explicitly contemplated by the terms of the contract. For example, modifications that do not require approval include, but are not limited to, an assignment expressly authorized by the terms of the contract, or changes that are routine in the administration of the contract, such as typographical corrections, change of address for payments, and change of name of resident agent.

(4) In cases where approval of a contract modification is required for utility cost recovery, a utility shall file with the Division of Records and Reporting a petition for contract modification approval that provides the information required by paragraphs (1)(a) through (1)(e) above. The petition shall also comply with the requirements of Rule 25-22.036, Florida

Administrative Code. When a petition is filed, the petition shall serve as the notice required by subsection (1) above.

(5) The utility shall demonstrate any benefits to the general body of ratepayers that result from contract modifications and renegotiations.

(6) The modifications and concessions of the utility and developer shall be evaluated against both the existing contract and the current value of the purchasing utility's avoided cost.

(7) On its own motion, the Commission may review a contract modification to determine whether the modification requires approval.

Specific Authority: 350.127(2), 366.05(1), F.S.

Law Implemented: 366.05(7) & (8), 366.051, F.S.

History: New _____.

25-17.0837 Negotiations with Other Utility and Nonutility Generating Facilities.

(1) If an investor owned utility's planned generation unit is not subject to Rule 25-22.082, utilities are encouraged to negotiate contracts for the purchase of firm capacity and energy with other utility and nonutility generators for this capacity.

(2) If a utility has issued a Request for Proposal (RFP) pursuant to Rule 25-22.082, negotiations with other utilities and nonutility generators shall be governed by the utility's request for proposal process. Prior to or in conjunction with issuing a

ORDER NO. PSC-96-0126-NOR-EQ
DOCKET NO. 931186-EQ
PAGE 32

RFP, the utility may specify the date and time when ongoing negotiations shall cease.

Specific Authority: 350.127(2), 366.05(1), F.S.

Law Implemented: 366.05(8), F.S.

History: New _____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Richard Shine, Division of Electric and Gas.

NAME OF SUPERVISOR OR PERSON(S) WHO APPROVED THE PROPOSED RULES: Florida Public Service Commission.

DATE PROPOSED RULES APPROVED: January 16, 1996.

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (904) 413-6770 at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Florida Public Service Commission using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).