

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power
& Light Company for approval of
a standard offer contract and
revised COG-2 tariff.

DOCKET NO. 990249-EG
ORDER NO. PSC-00-0505-TRF-EG
ISSUED: March 7, 2000

The following Commissioners participated in the disposition of
this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
FIRST AMENDED PETITION FOR APPROVAL OF STANDARD OFFER CONTRACT

BY THE COMMISSION:

By Order No. PSC-99-1713-TRF-EG, issued September 2, 1999, we denied Florida Power & Light Company's (FPL) petition for approval of a standard offer contract. The Order, however, granted FPL its requested variance from Rule 25-17.0832(4)(e), Florida Administrative Code, in order to allow a five year term limit for the Standard Offer Contract. On September 23, 1999, FPL filed an Opposition to Order No PSC-99-1713-TRF-EG or Petition for Hearing (Petition), requesting that the Commission revisit the Order on several points. Alternatively, FPL requested that the Commission set the matter for hearing.

In its Petition, FPL specifically argued that the Order did not reflect our vote at the July 27, 1999, Agenda Conference. FPL contended that the proper avoided unit was not decided upon by the Commission at the Agenda Conference, though the Order incorporated a ruling on the avoided unit issue. FPL also argued that it was understood by all concerned that the Order would only address FPL's petition for a variance from Rule 25-17.0832(4)(e), Florida Administrative Code. FPL, therefore, protested the Order to the extent that the Order:

1. Required FPL to revise its standard offer contract using the Fort Myers repowering project; and

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PSC-PROGRAM/REPORTING

2. Suggested that FPL might have deferred or avoided the Fort Myers repowering project had FPL filed a "proper" standard offer contract.

By its protest of Order No. PSC-99-1713-TRF-EG, FPL rendered a nullity only those portions of that Order dealing with the avoided unit. The Order, however, granted FPL its requested variance from Rule 25-17.0832(4)(e), Florida Administrative Code. This portion of the Order was finalized by Order No. PSC-99-2401-CO-EI, issued December 7, 1999. On January 24, 2000, FPL filed its First Amended Petition for Approval of a Standard Offer Contract.

I. The Law of Standard Offer Contracts

Pursuant to federal law, the availability of standard rates is required for fossil-fueled qualifying facilities less than 100 kilowatts (0.1 MW) in size. 16 U.S.C. 2601 et seq., 16 U.S.C. 792 et seq., 18 CFR 292.304. Florida law requires us to "adopt appropriate goals for increasing the efficiency of energy consumption and increasing the development of cogeneration." Chapter 366.82(2), Florida Statutes. We are further directed to "establish a funding program to encourage the development by local governments of solid waste facilities that use solid waste as a primary source of fuel for the production of electricity." Chapter 377.709, Florida Statutes.

We implemented these federal and state requirements through the adoption of the Standard Offer Contract in Rule 25-17.0832(4)(a), Florida Administrative Code. Pursuant to this rule, each investor-owned electric utility must file a tariff and a Standard Offer Contract with the Commission. These provisions implement the requirements of the Public Utilities Regulatory Policies Act and promote renewables and solid waste-fired facilities by providing a straightforward contract. Larger qualifying facilities and other non-utility generators may participate in a utility's Request For Proposal process pursuant to Rule 25-22.082, Florida Administrative Code.

II. FPL's Standard Offer Contract

FPL's amended Standard Offer Contract is based upon a 5 MW portion of a 163 MW combustion turbine unit (CT) with an in-service date of January 1, 2001. According to FPL's 1999 Ten-Year Site plan, the next major generation addition for FPL is the repowering project at the Fort Myers site. Over a period of three years (2000 to 2002) FPL intends to add six, 150 MW class CTs and two heat

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recovery steam generators at the Fort Myers site. The existing steam boilers will be removed from service. The proposed avoided unit is virtually identical to the CTs being installed at the Fort Myers Site. Rule 25-17.0832(4)(b) states that "[T]he rates, terms, and conditions contained in each utility's standard offer contract or contracts shall be based upon 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." (Emphasis added). Since the proposed avoided unit is consistent with a portion of FPL's next planned generation addition, we believe that the proposed Standard Offer Contract is based upon an appropriate avoided unit.

While the 5 MW subscription limit is not supported by any market analysis, the small limit does mitigate the potential subsidy associated with Standard Offer contracts. As previously stated, construction of the Fort Myers repowering project is currently underway. We believe, however, that the potential subsidy could be mitigated, as FPL may have opportunities to sell any surplus capacity to the wholesale market. Because the possibility of avoiding a portion of the Fort Myers repowering project is unlikely, we believe that the 5 MW subscription limit is reasonable given the specific circumstances.

Ideally, qualifying facilities should compete on equal footing with all other producers of electricity. However, until and unless there is a change in federal and state law, qualifying facilities are to be given some preferential treatment. We have minimized this unequal footing by requiring Standard Offer Contracts only for qualifying facilities less than 100 kW, renewables, or municipal solid waste facilities. These types of facilities may not be in a position to negotiate a purchased power agreement because of their size or timing. Thus, our rules balance market imperfections while promoting qualifying facilities.

In summary, we do not expect that FPL's proposed Standard Offer Contract will result in the avoidance of the 2001 CT unit. Nonetheless, FPL's proposed contract and tariffs comply with the Commission's cogeneration rules. For this reason, we approve FPL's first amended petition to establish its new Standard Offer Contract and associated tariffs.

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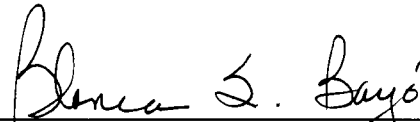
Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that Florida Power & Light Company First Amended Petition for Approval of Standard Offer Contract is approved, effective February 15, 2000. It is further

ORDERED that the tariffs shall remain in effect pending resolution of any protest. It is further

ORDERED that if no protest is filed in accordance with the requirements set forth below, this docket shall be closed upon the issuance of a consummating order.

By ORDER of the Florida Public Service Commission this 7th day of March, 2000.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

GAJ

NOTICE OF FURTHER PROCEEDINGS

The Florida Public Service Commission is required by Section 120.569(1), 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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Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the proposed action files a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 28, 2000.

In the absence of such a petition, this Order shall become final and effective upon the issuance of a Consummating Order.

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

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March 6, 2000

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (JAYE) *RVE For GAT*
RE: DOCKET NO. 990249-EQ -- FIRST AMENDED PETITION OF FLORIDA
POWER & LIGHT COMPANY FOR APPROVAL OF STANDARD OFFER
CONTRACT.

0505- 1/1

Attached is an ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
FIRST AMENDED PETITION FOR APPROVAL OF STANDARD OFFER CONTRACT to
be issued in the above-referenced docket. (Number of pages in
order - 5)

GAJ/jb

cc: Division of Electric and Gas (BALLINGER)

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see 2-5-04

*faxed -
created, 2/1*