

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power Corporation for approval of a negotiated qualifying contract with Jefferson Power, LLC.

DOCKET NO. 020557-EQ
ORDER NO. PSC-02-1296-PAA-EQ
ISSUED: September 23, 2002

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING NEGOTIATED COGENERATION CONTRACT

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose substantial interests are substantially affected files a petition for a formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

On June 21, 2002, Florida Power Corporation (FPC) filed a petition seeking approval of a negotiated contract to purchase firm capacity and energy from Jefferson Power, LLC. An amendment to the contract was filed on August 9, 2002. Jefferson owns a generating facility (Facility) in Jefferson County with a net output of 8.0 MW. The Facility is interconnected to FPC's system and provided firm capacity and energy to FPC under a previous negotiated cogeneration contract which expired on April 30, 2002.

Jefferson's Facility is a "small power producer" pursuant to Federal Energy Regulatory Commission (FERC) regulations because the Facility uses wood waste as a primary fuel. Due to its "small power producer" status, the Facility is also a "qualifying facility" (QF) under FERC regulations.

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FPSC-COMMISSION CLERK

Pursuant to the negotiated contract, as amended, FPC began receiving capacity and energy from Jefferson on July 1, 2002. The scheduled termination date of the contract is December 31, 2005, although the contract may be extended by mutual agreement for up to five additional years.

This Order addresses FPC's petition for approval of the negotiated contract with Jefferson. We have jurisdiction in this matter pursuant to Section 366.051, Florida Statutes.

Section 25-17.082, Florida Administrative Code, requires electric utilities to purchase electricity produced and sold by QFs at rates which have been agreed upon by the utility and QF or at the utility's published tariff rate, whichever is less.

Section 25-17.0832(3), Florida Administrative Code, states that in reviewing a negotiated firm capacity and energy contract for purposes of cost recovery, the Commission shall consider the utility's need for power, the cost-effectiveness of the contract, security provisions for capacity payments, and QF performance guarantees. Each of these factors is evaluated below.

A. Need for Power

The additional 8.0 MW of firm capacity and energy sold by Jefferson to FPC pursuant to the negotiated contract will not defer or avoid the construction of any new generating capacity by FPC. The contract is short-term, with a scheduled termination date of December 31, 2005. The avoided unit identified in FPC's current standard offer contract is Hines Unit 3, with a net capacity of approximately 530 MW and an in-service date of November, 2005.

However, it has been our policy to approve facilities, such as Jefferson's, that use renewable resources as a primary fuel. Rule 25-17.001(5)(d), Florida Administrative Code, encourages electric utilities to:

. . . aggressively integrate nontraditional sources of power generation including cogenerators with high thermal efficiency and small power producers using renewable fuels into the various utility service areas near utility load centers to the extent cost-effective and reliable.

The negotiated contract meets the goals of Rule 25-17.001(5)(d), Florida Administrative Code.

B. Cost-Effectiveness

Over the 42-month term of the negotiated contract, capacity and energy payments to Jefferson are expected to result in net present value savings of \$695,317 to FPC's ratepayers. The early capacity and energy payment option contained in FPC's current standard offer contract, based on Hines Unit 3, was used for comparison because Jefferson will provide capacity in advance of the in-service date of Hines Unit 3. Both the Jefferson contract and FPC's avoided unit were modeled at a committed capacity of 8.0 MW at a 75% on-peak capacity factor to calculate the \$695,317 in forecasted savings.

C. Security for Capacity Payments

Certain existing cogeneration contracts have "front-loaded" capacity payments; that is, capacity payments made by a utility to a QF may exceed the utility's avoided cost in a given year but not over the term of the contract. In these instances, Rule 25-17.0832(3)(c), Florida Administrative Code, requires the QF to post some form of security to repay the utility for dollars exceeding avoided cost in the event of QF default.

FPC's negotiated contract with Jefferson does not contain front-loaded capacity payments, so no form of security is required. FPC's capacity and energy payments to Jefferson, both on an annual and cumulative basis, are expected to be less than the value of early capacity payments under FPC's standard offer contract.

D. Performance Guarantees

FPC's negotiated contract with Jefferson contains provisions to protect FPC's ratepayers if Jefferson fails to deliver firm capacity and energy as specified by the contract. The Facility must operate at a 12-month rolling average monthly capacity factor of at least 75% during on-peak hours in order for Jefferson to receive a full capacity payment. On-peak hours are as follows: 6:00 AM to 6:00 PM during winter periods (between December 15 and March 15); and 10:00 AM to 10:00 PM during summer periods (between

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April 15 and October 15). FPC will reduce the capacity payment due to Jefferson in proportion to any reduction in the Facility's capacity factor. FPC will make no capacity payment in the event that the Facility's 12-month rolling average monthly capacity factor falls below 50% during on-peak hours.

E. Conclusion

In conclusion, we find that the negotiated contract between FPC and Jefferson provides FPC with a viable source of electric capacity and energy that meets all requirements and rules governing QFs and small power producers. For these reasons, the negotiated contract shall be approved.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power Corporation's Petition for approval of a negotiated contract to purchase firm capacity and energy from Jefferson Power, LLC is approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

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By ORDER of the Florida Public Service Commission this 23rd
day of September, 2002.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 14, 2002.

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

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