

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida
Power Corporation for approval
of negotiated qualifying
facility contract with Timber
Energy Resources, Inc.

DOCKET NO. 020558-EQ
ORDER NO. PSC-02-1300-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 QUALIFYING FACILITY CONTRACT

BY THE COMMISSION:

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

BACKGROUND

On June 21, 2002, Florida Power Corporation (FPC) filed a
petition seeking approval of a negotiated contract to purchase firm
capacity and energy from Timber Energy Resources, Inc. (Timber).
Timber owns a generating facility (Facility) in Liberty County with
a net output of 12.5 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.

DOCUMENT NUMBER DATE

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FPC-02-1300-PAA-EQ CLERK

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

Pursuant to the negotiated contract, FPC began receiving capacity and energy from Timber on June 1, 2002. The scheduled termination date of the contract is September 30, 2004, although the contract may be extended, by mutual agreement, up to two additional years. FPC's petition requests approval of the negotiated contract with Timber. We have jurisdiction in this matter pursuant to Section 366.051, Florida Statutes.

APPROVING NEGOTIATED QUALIFYING FACILITY CONTRACT

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, we 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 12.5 MW of firm capacity and energy sold by Timber 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 September 30, 2004. 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 Timber'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 28-month term of the negotiated contract, capacity and energy payments to Timber are expected to result in net present value savings of \$634,868 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 Timber will provide capacity in advance of the in-service date of Hines Unit 3. Both the Timber contract and FPC's avoided unit were modeled at a committed capacity of 12.5 MW at an 85% capacity factor to calculate the \$634,868 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 Timber does not contain front-loaded capacity payments, so no form of security is required. FPC's capacity and energy payments to Timber, 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 Timber contains provisions to protect FPC's ratepayers if Timber fails to deliver firm capacity and energy as specified by the contract. Under the performance

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provisions of the contract, the Facility must operate at a 12-month rolling average monthly capacity factor of at least 85% in order for Timber to receive a full capacity payment. FPC will reduce the capacity payment due to Timber 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 60%.

In conclusion, we find that the negotiated contract between FPC and Timber 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, we hereby approve the negotiated contract.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Petition by Florida Power Corporation for approval of a negotiated qualifying facility contract with Timber Energy Resources, Inc., is granted. 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 upon issuance of a Consummating Order.

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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)

JSB

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,

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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.