

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed amendments to  
Rule 25-17.0832, F.A.C., Firm  
Capacity and Energy Contracts.

DOCKET NO. 001574-EQ  
ORDER NO. PSC-03-0178-NOR-EQ  
ISSUED: February 6, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

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, Florida Administrative Code, relating to firm capacity and energy contracts.

The attached Notice of Rulemaking will appear in the February 14, 2003 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. - March 19, 2003  
Room 148, Betty Easley Conference Center  
4075 Esplanade Way  
Tallahassee, Florida

Written comments or suggestions on the rule must be received by the Director, Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than March 7, 2003. Comments previously filed in this docket will be considered part of the rulemaking record.

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FPSC-001 DIVISION CLERK

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By ORDER of the Florida Public Service Commission, this 6th  
day of February, 2003.

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 )

RCB

NOTICE OF PROPOSED RULEMAKING

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 001574-EQ

RULE TITLE:

RULE NO.:

Firm Capacity and Energy Contracts

25-17.0832

PURPOSE AND EFFECT: The purpose of the amendment is to reduce the minimum term for standard offer contracts from 10 to five years. The rule amendment also requires investor-owned electric utilities to specify the term of the standard offer when filing the contract for approval with the Commission. The effect is to reduce the risk that ratepayers will be tied to long-term contracts that are above avoided cost.

SUMMARY: Rule 25-17.0832 requires investor-owned utilities to file tariff and a standard offer contract for the purchase of firm capacity and energy from specified types of small qualifying facilities. The rule sets forth the minimum specifications and acceptable pricing methodologies for standard offer contracts. The amendment to subparagraph (4) (e)3. and 7. would reduce the ten year minimum contract term for standard offer contracts to five years. In addition, the amendment to subparagraph (4) (e)7. would require

investor-owned utilities to specify the contract term when filing the standard offer for approval by the Commission.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Several municipal solid waste (MSWs) facilities oppose the rule amendments. However, the impact on these local government entities depends on future firm capacity and energy prices. If these prices increase, a shorter contract term would benefit MSW facility owners because they could enter a new standard offer contract sooner with higher payments. On the other hand, if firm capacity and energy prices decrease, MSW owners would be faced with lower payments. One MSW argued that because MSW facilities are publicly owned, any shortfall or reduction in electrical revenues will require increasing solid waste disposal costs. In addition, at least one MSW argued that adoption of the rule amendments will result in MSWs having to negotiate more contracts, which will increase transaction costs for the MSWs. The MSWs overlook that longer contracts are still possible under the rule. The MSWs also do not acknowledge that the Commission is required to keep IOU rates reasonable and shortening the standard offer contract term is best for IOU ratepayers in an environment in which wholesale generation costs are falling. Keeping the ten year minimum term would continue the

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possibility that IOUs and their ratepayers would be faced with higher cost capacity and energy costs for an additional five years for new standard offer contracts, even if market costs declined. However, wholesale generation costs may increase and IOUs would lose the benefits of a fixed price contract for an additional five years. Allowing a qualifying facility to choose the contract term would abrogate the Commission's regulatory responsibility over capacity and energy contracts.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127, 366.05(1), FS

LAW IMPLEMENTED: 366.051, 366.81, FS

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Bellak, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6245.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-17.0832 Firm Capacity and Energy Contracts.

(1) No Change.

(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 Economic Regulation ~~Electric and Gas~~ and provide the amount of committed capacity and the type of generating unit, if any, which the contracted capacity is intended to avoid or defer.

(b) Within 10 working days of the execution of a negotiated contract or 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 summary shall include ~~report~~:

1. - 3. No Change.

4. The type of unit being avoided, its size, and its in-service year;

5. - 6. No Change.

(2) - (3)(d) No Change.

(4) 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. In lieu of a separately ~~separately~~ negotiated contract, standard offer contracts are available to the following types of qualifying facilities:

1. - (e)2. No Change.

3. The 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 five ~~ten~~ year term contract commencing with the in-service date of the avoided unit for each payment option;

4. - 6. No Change.

7. The specific 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 five ~~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. - (8)(c) No Change.

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

Law Implemented: 366.051, 366.81 ~~403.503~~, F.S.

History: New 10/25/90, amended 01/07/97, amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tom Ballinger

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE:  
Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: February 4, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Volume  
26, Number 44, November 3, 2000.

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if



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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 the Commission Clerk and Administrative Services at (850) 413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).