

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval of new standard offer contract for qualifying cogeneration and small power production facilities and for approval of associated revisions to tariff schedule COG-2 by Tampa Electric Company. | DOCKET NO. 050293-EQ  
ORDER NO. PSC-05-0783-PAA-EQ  
ISSUED: July 27, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman  
J. TERRY DEASON  
RUDOLPH "RUDY" BRADLEY  
LISA POLAK EDGAR

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING NEW STANDARD OFFER 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 April 25, 2005, Tampa Electric Company (TECO) filed a Petition for Approval of a new Standard Offer Contract (Petition) for qualifying cogeneration and small power production facilities. As the avoided unit used in connection with this standard offer, TECO designated a 5 MW portion of a 180 MW combustion turbine (CT), Bayside Unit 3B, which will be placed in service January 1, 2007. Along with the petition, TECO submitted the associated revised sheets for the COG-2 tariff for firm capacity and energy. By letter dated June 1, 2005, TECO waived the 60-day file and suspend period applicable to tariff filings.

As explained in detail below, we approve TECO's proposed standard offer contract and the proposed revised tariff sheets, effective the date our Order becomes final. We have jurisdiction over the subject matter through several provisions of Chapter 366, Florida Statutes, including Sections 366.04, 366.05, 366.051, 366.06 and 366.80 - 366.82.

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## DECISION

Federal law requires public utilities to make available standard rates for the purchase of electricity produced by fossil-fueled qualifying facilities less than 100 kilowatts (0.1 MW) in size. See, 16 U. S. C. 2601 *et seq.*, 16 U. S. C. 792 *et seq.*, and 18 CFR 292.304. Florida law requires the Commission to “adopt appropriate goals for increasing the efficiency of energy consumption and increasing the development of cogeneration.” Section 366.82(2), Florida Statutes. Florida law also requires the Commission to “establish a funding program to encourage the development by local governments of solid waste facilities that use solid waste for the production of electricity.” Section 377.709, Florida Statutes.

The Commission implements these federal and state requirements in part through its adoption of the Standard Offer Contract in Rule 25-17.0832(4)(a), Florida Administrative Code. The rule requires each investor-owned electric utility to file with the Commission a tariff and a standard offer contract for the purchase of firm capacity and energy from small qualifying facilities. The rule implements the requirements of the federal law and promotes renewables and solid waste-fired facilities by providing a straightforward contract that does not require extensive negotiation with the utility. Larger qualifying facilities and other non-utility generators who wish to sell capacity and energy to investor-owned electric utilities may participate in a utility’s Request for Proposal process pursuant to Rule 25-22.082, Florida Administrative Code, and enter into a negotiated purchased power agreement.

As mentioned above, to comply with Rule 25-17.0832(4)(a), Florida Administrative Code, TECO proposed a new Standard Offer Contract based on a combustion turbine unit with an in-service date of January 1, 2007. Specifically, the contract is based on a 5 MW portion of Bayside Unit 3B which has a 180 MW (winter) rating. The proposed COG-2 (firm capacity and energy) tariff includes a three-week open season when the contract will be available for subscription. The open season period will commence when our Order approving the contract becomes final. The tariff provides for TECO to evaluate and prioritize the contracts received during the open period, then select and accept those that have convincingly demonstrated viability. The processing procedure applied to the contracts is intended to insure that committed capacity and energy will be available by the date specified.

Once the contract becomes fully subscribed or expires, TECO will advise our staff in writing that the Standard Offer Contract should be closed. The notification will indicate whether any acceptances were received and provide the estimated date when a petition would be filed with respect to any new standard offer. The notification will also include revised tariff sheets reflecting closure of the Standard Offer Contract.

It appears to us that TECO’s evaluation criteria will be readily understandable to any developer who signs TECO’s Standard Offer Contract. The avoided unit cost parameters are reasonable for a CT unit, and the resulting capacity payments are appropriate. The performance provisions include dispatch and control and on-peak performance incentives.

Given that the subscription limit for the Standard Offer Contract is only a portion of the CT’s total capacity, it is not likely that it will result in deferral or avoidance of the 2007 unit. If

TECO executes a Standard Offer Contract with a qualifying facility, but the need for the 2007 unit is not deferred or avoided, TECO will be paying twice for the same firm capacity. In that event, qualifying facilities may receive a subsidy. We note, however, that the subsidy could be mitigated by opportunities for TECO to sell surplus capacity on the wholesale market.

Ideally, qualifying facilities should compete on equal footing with all other producers of electricity. Until there is a change in federal and state law, however, qualifying facilities will continue to receive some preferential treatment. We have attempted to minimize this special treatment by requiring standard offer contracts only for small qualifying facilities, renewables, or municipal solid waste facilities. These facilities may not be in a position to effectively negotiate a purchased power agreement due to their size or timing. Our rules on cogeneration represent an effort to balance market imperfections with existing public policy to promote qualifying facilities.

While we do not expect TECO's proposed Standard Offer Contract to avoid the 2007 CT unit, the contract and the proposed tariffs comply with our cogeneration rules. Therefore, for this reason, and for the reasons stated above, we approve TECO's petition to establish its new Standard Offer Contract and associated tariffs.

Based on the foregoing, it is

ORDERED by the Florida public Service Commission that the Petition for approval of new standard offer contract for qualifying cogeneration and small power production facilities and for approval of associated revisions to tariff schedule COG-2 by Tampa Electric Company is granted. It is further

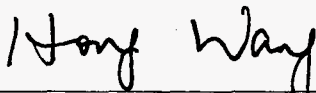
ORDERED that the proposed Standard Offer Contract and its associated tariffs shall become effective when this Order approving it becomes final. It is further

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.

By ORDER of the Florida Public Service Commission this 27th day of July, 2005.

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

By:   
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Hong Wang, Supervisor  
Case Management Review Section

( 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 August 17, 2005.

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.