

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Proposed amendments to Rule 25-17.0832, F.A.C., Firm Capacity and Energy Contracts. | DOCKET NO. 060555-EI
ORDER NO. PSC-06-0820-NOR-EI
ISSUED: October 5, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

NOTICE OF RULEMAKING

BY THE COMMISSION:

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 October 13, 2006 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., Thursday, November 9, 2006
Betty Easley Conference Center
Room 148, 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 November 3, 2006.

DOCUMENT NUMBER - DATE

09192 OCT -5 8

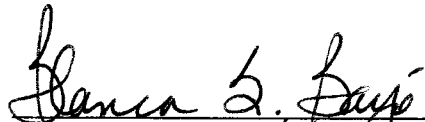
FPSC - COMMISSION CLERK

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By ORDER of the Florida Public Service Commission this 5th day of October, 2006.



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

(SEAL)

LDH

NOTICE OF PROPOSED RULEMAKING

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 060555-EI

RULE TITLE:

RULE NO.:

Firm Capacity and Energy Contracts

25-17.0832

PURPOSE AND EFFECT: To expand alternatives for standard offer contracts for renewable generators.

SUMMARY: The proposed amendments implement Section 366.91, F.S., to encourage the development of renewable generators in Florida. The proposed amendments will expand standardized contracts available to renewable generators as well as extending the minimum term of a contract from 5 to 10 years and allowing a renewable generator to select from a portfolio of standardized contracts with varying terms, conditions, operating characteristics and pricing.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The SERC estimates that this rule will impact the state's investor-owned electric utilities with a range of approximately \$500 to \$10,000 per year. There should be no impact on state or local government entities, and a positive impact on small businesses, cities and counties.

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), 366.91(3), FS

LAW IMPLEMENTED: 366.051, 366.81, 366.91, 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.

A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 A.M., Thursday, November 9, 2006

PLACE: Room 148, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry Harris, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6076.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-17.0832 Firm Capacity and Energy Contracts.

(1) No Change.

(2) Negotiated Contracts. Utilities and qualifying facilities are encouraged to negotiate contracts for the purchase of firm capacity and energy to avoid or defer the construction of all planned utility generating units which are not subject to the requirements of Rule 25-22.082, F.A.C. If a utility is required to issue a Request for Proposals (RFP) pursuant to Rule 25-22.082, F.A.C., negotiations with qualifying facilities shall be governed by the utility's RFP process. Negotiated contracts will be considered prudent for cost recovery purposes if it is demonstrated by the utility that the purchase of firm capacity and energy from the qualifying facility pursuant to the rates, terms, and other conditions of the contract can reasonably be expected to contribute towards the deferral or avoidance of additional capacity construction or other capacity-related costs by the purchasing utility at a cost to the utility's ratepayers which does not exceed full avoided costs, giving consideration to the characteristics of the capacity and energy to be delivered by the

qualifying facility under the contract. Negotiated contracts with small qualifying facilities and renewable generators, as defined by Section 366.91, F.S., shall not be counted towards the subscription limit of the avoided unit in a standard offer contract, thus preserving the standard offer for small qualifying facilities as described in subsection (4).

(3) 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 and renewable generators, as defined by Section 366.91, F.S. In lieu of a separately negotiated contract, standard offer contracts are available to the following types of qualifying facilities:

1. ~~A small power producer or other qualifying facility using renewable or non-fossil fuel where the primary energy source in British Thermal Units (BTUs) is at least 75 percent biomass, waste, solar or other renewable resource;~~ renewable generating facility as defined by Section 366.91, F.S.; or

2. A qualifying facility, as defined by subsection 25-17.080(3), F.A.C., with a design capacity of 100 kW or less; ~~or,~~

~~3. A municipal solid waste facility as defined by Rule 25-17.091, F.A.C.~~

(b) By April 1 of each year, concurrent with filing a Ten-Year Site Plan, each public utility shall submit standard offer contract(s) based on the next avoidable fossil fueled generating unit of each technology type identified in its Ten-Year Site Plan. Each public utility with no identified planned generating units shall submit a standard offer contract based on a planned purchase.

(c) Individual standard offer contracts shall remain open until either: 1. a request for proposals pursuant to Rule 25-17.082, F.A.C., is issued for the generating unit; 2. the utility files a petition for need determination or commences construction for generating units not subject to Rule 25-17.082, F.A.C.; or 3. the contract's subscription limit, equal to the capacity of the avoided unit, is reached. Before a contract is closed, the utility shall file a petition for approval of a new contract based on the next unit of the same generating technology in its Ten-Year Site Plan, if any. If no generating unit of the same technology is in its Ten-Year Site Plan, the utility shall notify the Director of the Division of Economic Regulation when a standard offer contract is closed.

(db) (b) and (c) renumbered as (d) and (e) No Change.

(fd) A standard offer contract which has been accepted by a utility ~~qualifying facility~~ shall apply towards the subscription limit of the unit designated in the contract effective the date the utility receives the accepted contract. If the contract is not accepted by the utility, its effect shall be removed from the subscription limit effective the date of the Commission order granting the utility's petition.

(ge) No Change.

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

4. No Change.

~~5. A reasonable open solicitation period during which time the utility will accept proposals for standard offer contracts. Prior to the issuance of timely notice of a Request for Proposals (RFP) pursuant to subsection 25-22.082(3), F.A.C., the utility shall end the open solicitation period;~~

56. No Change.

67. The 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 ten five years, and, at a maximum the life of the avoided unit, 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;~~

78. 8. through 10. renumbered as 7. through 9. No Change.

(h) (f) and (g) renumbered as (h) and (i) No Change.

1. No Change.

2. Early capacity payments. Each standard offer contract shall specify the earliest date prior to the anticipated in-service date of the avoided unit when early capacity payments may commence. The early capacity payment date shall be an approximation of the lead time required to site and construct the avoided unit. Early capacity payments shall consist of monthly payments escalating annually of the avoided capital and fixed operation and maintenance expense associated with the avoided unit, calculated in conformance with paragraph (6)(b) of the rule. At the option of the qualifying facility, early capacity payments may commence at any time after the specified early capacity payment date and before the anticipated in-service date of the avoided unit provided that the qualifying facility is delivering firm capacity and energy to the utility. Where early capacity payments are elected, the cumulative present value of the capacity payments made to the

qualifying facility over the term of the contract shall not exceed the cumulative present value of the capacity payments which would have been made to the qualifying facility had such payments been made pursuant to subparagraph (4)(ig)1. of this rule.

3. Levelized capacity payments. Levelized capacity payments shall commence on the anticipated in-service date of the avoided unit. The capital portion of capacity payments under this option shall consist of equal monthly payments over the term of the contract, calculated in conformance with paragraph (6)(c) of this rule. The fixed operation and maintenance portion of capacity payments shall be equal to the value of the year-by-year deferral of fixed operation and maintenance expense associated with the avoided unit calculated in conformance with paragraph (6)(a) of this rule. Where levelized capacity payments are elected, the cumulative present value of the levelized capacity payments made to the qualifying facility over the term of the contract shall not exceed the cumulative present value of capacity payments which would have been made to the qualifying facility had such payments been made pursuant to subparagraph (4)(ig)1. of this rule, value of deferral capacity payments.

4. Early levelized capacity payments. Each standard offer contract shall specify the earliest date prior to the anticipated in-service date of the avoided unit when early levelized capacity payments may commence. The early capacity payment date shall be an approximation of the lead time required to site and construct the avoided unit. The capital portion of capacity payments under this option shall consist of equal monthly payments over the term of the contract, calculated in conformance with paragraph (6)(c) of this rule. The fixed operation and maintenance expense shall be calculated in conformance with paragraph (6)(b) of this rule. At the option of the qualifying facility, early levelized capacity payments shall commence at any time after the specified early capacity date and before the anticipated in-service date of the

avoided unit provided that the qualifying facility is delivering firm capacity and energy to the utility. Where early levelized capacity payments are elected, the cumulative present value of the capacity payments made to the qualifying facility over the term of the contract shall not exceed the cumulative present value of the capacity payments which would have been made to the qualifying facility had such payments been made pursuant to subparagraph (4)(g)1. of this rule.

(5) – (8)(c) No Change.

Specific Authority 350.127, 366.05(1), 366.91(3) FS.

Law Implemented 366.051, 366.81, 366.91 FS.

History–New 10-25-90, Amended 1-7-97, 5-18-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Judy Harlow

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE:

Florida Public Service Commission.

DATE PROPOSED RULE(S) APPROVED: October 3, 2006.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Volume 32,
Number 31, August 4, 2006.

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

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contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).