

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval of new standard offer for purchase of firm capacity and energy from renewable energy facilities and approval of tariff schedule REF-1, by Gulf Power Company.

DOCKET NO. 050805-EQ

In re: Petition for approval of renewable energy tariff and standard offer contract, by Florida Power & Light Company.

DOCKET NO. 050806-EQ

In re: Petition for approval of amended standard offer contract tariff and renewable energy tariff, by Progress Energy Florida, Inc.

DOCKET NO. 050807-EQ

In re: Petition for approval of standard offer contract for small qualifying facilities and producers of renewable energy, by Tampa Electric Company.

DOCKET NO. 050810-EQ  
ORDER NO. PSC-07-0196-PAA-EQ  
ISSUED: March 5, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman  
MATTHEW M. CARTER II  
KATRINA J. McMURRIAN

NOTICE OF PROPOSED AGENCY ACTION  
ORDER REQUIRING THE FILING OF NEW STANDARD OFFER CONTRACTS AND  
ORDERING TARIFFS TO BE CLOSED

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

In its 2005 session, the Florida Legislature enacted Section 366.91, Florida Statutes (F.S.), regarding renewable energy which became effective on October 1, 2005. Our staff conducted a rule development workshop on September 12, 2005, to discuss the implementation

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of the statute. At the workshop, our staff suggested that the statute's requirements could be implemented initially under this Commission's existing rule pertaining to standard offer contracts, Rule 25-17.0832(4) and (5), Florida Administrative Code (F.A.C.). Our staff suggested this approach in an effort to meet the January 1, 2006, implementation date required by the statute.

Gulf Power Company (Gulf), Florida Power & Light Company (FPL), Progress Energy Florida, Inc. (PEF), Florida Public Utilities Company (FPUC) and Tampa Electric Company (TECO) filed petitions seeking approval of their proposed standard offer contracts on October 14, 2005. We approved FPUC's proposed contract on December 27, 2005, by Order No. PSC-05-1260-TRF-EQ.<sup>1</sup> We also approved the remaining four contracts with modifications through June 1, 2006, to allow time for additional discussion on policy issues associated with implementing Section 366.91, F.S. On January 17, 2006, the Florida Industrial Cogeneration Association (FICA) and Bay County each filed a protest of Order No. PSC-05-1260-TRF-EQ and requested a formal hearing. Both parties, however, requested that any hearing be deferred until after an additional workshop was held.<sup>2</sup>

On March 6, 2006, our staff held an additional workshop to obtain further information on implementing the statute. The methodology to be used to set avoided costs for standard offer contracts was still unresolved. FPL, PEF, Gulf and TECO filed petitions seeking approval for their revised standard offer contracts on April 3, 2006. All four proposed standard offer contracts continued to limit avoided cost offerings based on the utility's next single generating unit. On June 6, 2006, by Order No. PSC-06-0486-TRF-EQ, we approved each of the IOUs' proposed revised standard offer contracts with an effective date of June 2, 2006, and adopted the Fossil Fuel Unit Type Portfolio approach to require each IOU to file a standard offer contract for each type of planned generating unit its in Ten Year Site Plan (TYSP). We also required FPL, PEF and TECO to file additional contracts within 90 days based on their additional planned generating units to fulfill the requirements of the Fossil Fuel Unit Type Portfolio approach. Since Gulf had only one planned generating unit in its ten-year site plan, Gulf was not required to file additional contracts. In addition, we directed our staff to initiate rulemaking to implement Section 366.91, F.S. On June 26, 2006, FICA filed a protest of Order No. PSC-06-0486-TRF-EQ and requested a formal hearing. FICA, however, agreed to a reasonable delay of the hearing

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<sup>1</sup> Order No PSC-05-1260-TRF-EQ was issued in Docket Nos. 050805-EQ, 050806-EQ, 050807-EQ, 050809-EQ and 050810-EQ, In Re: Petition for approval of new standard offer for purchase of firm capacity and energy from renewable energy facilities and approval of tariff schedule REF-1 by Gulf Power Company; Petition for approval of renewable standard offer contract by Florida Power & Light Company; Petition for approval of amended standard offer contract tariff and renewable energy tariff by Progress Energy Florida; Petition for approval of renewable energy tariff by Florida Public Utilities Company; and Petition for approval of standard offer contract for small qualifying facilities and producers of renewable energy by Tampa Electric Company, respectively.

<sup>2</sup> The protests of the initial standard offer contracts approved in Order No. PSC-05-1260-TRF-EQ are now moot because the initial standard offer contracts of FPL, PEF, Gulf, and TECO expired as of June 1, 2006. Further, although FPUC's initial standard offer contract has not expired, on August 4, 2006, Bay County withdrew its protest.

until after the rulemaking proceeding was completed. Docket No. 060555-EI was opened to address the mandated rulemaking.

After FICA's second protest, FPL, PEF, and TECO each submitted additional tariffs containing standard offer contracts based on additional planned generating units to fulfill the requirements of the Fossil Fuel Unit Type Portfolio approach. On September 21, 2006, FPL filed its Notice of Withdrawal of its additional tariffs and standard offer contracts, citing FICA's protest of Order No. PSC-06-0486-TRF-EQ, but also stating that FPL remained committed to promptly re-submitting renewable energy tariffs and standard offer contracts when appropriate. Both PEF and TECO initially submitted letters waiving the 60-day statutory timeframe by which we must suspend tariffs as required by Section 366.06, F.S., pending disposition of FICA's protest. Both TECO and PEF subsequently withdrew their additional tariffs and standard offer contracts on January 29, 2007, and January 31, 2007, respectively.

On August 23, 2006, our staff held a rule development workshop in Docket No. 060555-EI to discuss changes to our existing cogeneration rule, Rule 25-17.0832, F.A.C. Our staff based its draft rule language on the Fossil Fuel Unit Type Portfolio approach approved in Order No. PSC-06-0486-TRF-EQ. At our October 3, 2006 Agenda Conference, we voted to propose amendments to Rule 25-17.0832, F.A.C. We also set a hearing date of November 9, 2006, to allow interested persons to provide additional comments and alternative rule language. We voted to adopt these rules, with changes, at our January 9, 2007, Agenda Conference. The rules were filed for adoption with the Florida Department of State on February 20, 2007, with an effective date of March 8, 2007. A copy of the rules, as adopted, is attached hereto.

This Order addresses whether Gulf, FPL, PEF and TECO should be required to file tariffs containing new standard offer contracts with terms that are consistent with our stated policy as expressed by the adoption of the rules addressing renewable energy; whether the tariffs that were approved by Order No. PSC-06-0486-TRF-EQ should be closed; and the status of FICA's protest of Order No. PSC-06-0486-TRF-EQ. We have jurisdiction over this matter pursuant to Sections 366.04 through 366.06, 366.91 and 366.92, F.S.

#### Standard Offer Contracts

By Order No. PSC-06-0486-TRF-EQ we approved tariffs containing revised standard offer contracts which were filed on April 3, 2006, by FPL, PEF, Gulf, and TECO. We also directed FPL, PEF, and TECO to file additional standard offer contracts based on the Fossil Fuel Unit Type Portfolio approach within 90 days of the Order.<sup>3</sup> In addition, we directed staff to initiate rulemaking to implement Section 366.91, F.S. The rules reiterate our choice of the Fossil Fuel Unit Type Portfolio approach and value of deferral methodology to determine an IOU's total avoided costs. The rules also require IOUs to expand the capacity and energy payment options to facilitate the financing of renewable generation facilities; allow for reopening of the contract in the event of future carbon taxes; clarify ownership of transferable renewable energy

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<sup>3</sup> Because Gulf had only a single planned generating unit in its TYSP, Gulf was not required to file additional contracts.

credits; provide for an expedited dispute resolution process; and require annual reporting from the utilities.

The existing revised standard offer contracts that we approved by Order No. PSC-06-0486-TRF-EQ do not reflect our current policy because they limit the contract offering to the utility's next single planned generating unit. Although FPL, TECO, and PEF submitted additional tariffs containing standard offer contracts consistent with the requirements of a Fossil Fuel Unit Type Portfolio approach, due to FICA's protest and the ongoing rulemaking proceeding, no action was taken to approve those tariffs. Furthermore, the standard offer contracts submitted by FPL, TECO, and PEF were based on each IOU's 2006 TYSP, and were thus based on outdated planning assumptions. These additional contracts have since been withdrawn by the utilities.

Accordingly, Gulf, FPL, PEF, and TECO shall be required to file new tariffs by April 1, 2007, that contain new standard offer contracts with terms that are consistent with our policy as expressed by Rules 25-17.200 through 25.17.310, F.A.C., which became effective March 8, 2007. The standard offer contracts shall be based on each type of fossil fuel generating unit contained in each IOUs' 2007 TYSP, which should also be filed on April 1, 2007. Furthermore, because the standard offer contracts approved by Order No. PSC-06-0486-TRF-EQ will be replaced by tariffs containing the IOUs' proposed standard offer contracts that reflect our stated policy, the tariffs approved by Order No. PSC-06-0486-TRF-EQ shall be closed upon the filing of tariffs containing the new standard offer contracts as described above.

#### FICA's Protest

Based on our action herein, we find that FICA's protest of Order No. PSC-06-0486-TRF-EQ is rendered moot. FICA's protest raises disputed issues of fact and law concerning outdated renewable energy contracts that were filed by the utilities. Once Gulf, FPL, PEF, and TECO file tariffs with new standard offer contracts, we will issue an order approving or denying those tariffs. Consistent with our practice, that decision will be issued in the form of a Tariff Order, which will afford any substantially affected person a twenty-one day period to protest our decision and request a hearing. Thus, FICA will not be harmed or prejudiced by the determination that its protest of Order No. PSC-06-0486-TRF-EQ has been rendered moot.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Gulf Power Company, Florida Power & Light Company, Progress Energy Florida, Inc., and Tampa Electric Company shall be required to file tariffs by April 1, 2007, that contain new standard offer contracts with terms that are consistent with our policy as expressed by Rules 25-17.200 through 25.17.310, F.A.C., which were adopted in Docket No. 060555-EI. It is further

ORDERED that the tariffs approved by Order No. PSC-06-0486-TRF-EQ shall be closed upon the filing of tariffs containing new standard offer contracts as described in the body of this Order. It is further

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ORDERED that the Florida Industrial Cogeneration Association's protest of Order No. PSC-06-0486-TRF-EQ is hereby rendered moot. 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, Docket Nos. 050805-EQ, 050806-EQ, 050807-EQ, and 050810-EQ shall be closed.

By ORDER of the Florida Public Service Commission this 5th day of March, 2007.

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

By:



Ann Cole, Chief  
Bureau of Records

( S E A L )

LAH

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 March 26, 2007.

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.

ATTACHMENT A

PART IV UTILITIES' OBLIGATIONS WITH REGARD TO RENEWABLE GENERATING FACILITIES

25-17.200 Application and Scope. The purpose of these rules is to promote the development of renewable energy; protect the economic viability of Florida's existing renewable energy facilities; diversify the types of fuel used to generate electricity in Florida; lessen Florida's dependence on natural gas and fuel oil for the production of electricity; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and, at the same time, minimize the costs of power supply to electric utilities and their customers. Unless otherwise stated, these rules apply to all investor-owned utilities.

Specific Authority: 350.127(2), 366.05(1), F.S.

Law Implemented: 366.051, 366.81, 366.91, 366.92, F.S.

History—New \_\_\_\_\_.

25-17.210 Definitions.

For purposes of these rules:

(1) "Renewable Generating Facility" means an electrical generating unit or group of units at a single site, interconnected for synchronous operation and delivery of electricity to an electric utility, where the primary energy in British Thermal Units (BTUs) used for the production of electricity is from one or more of the following sources: hydrogen produced from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, hydroelectric power, or waste heat from a commercial or industrial manufacturing process.

(2) “Biomass” means a fuel source that is comprised of, but not limited to, combustible residues or gases from forest products manufacturing, agricultural and orchard crops, waste products from livestock and poultry operations and food processing, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, and landfill gas.

(3) “Full Avoided Costs,” as defined in 366.051, Florida Statutes, means the incremental costs to the purchasing utility of the electric energy or capacity, or both, which, but for the purchase from a renewable generating facility, such utility would generate itself or purchase from another source.

(4) “Investor-owned utility” shall have the same meaning as Section 366.02(1), Florida Statutes.

(5) “Electric utility” shall have the same meaning as Section 366.02(2), Florida Statutes.

Specific Authority: 350.127(2), 366.05(1), F.S.

Law Implemented: 366.051, 366.81, 366.91, 366.92, F.S.

History–New \_\_\_\_\_.

#### 25-17.220 Qualifying Criteria.

For purposes of these rules, a renewable generating facility shall be deemed a qualifying facility pursuant to Rule 25-17.080(1) and shall have all the rights, privileges, and responsibilities specified in Rules 25-17.082 through 25-17.091, F.A.C.

Specific Authority: 350.127(2), 366.05(1), F.S.

Law Implemented: 366.051, 366.81, 366.91, 366.92, F.S.

History–New \_\_\_\_\_.



25-17.230 The Utility's Obligation to Purchase and Sell.

(1) Each investor-owned utility shall purchase electricity produced and sold by renewable generating facilities at rates that have been agreed upon by the utility and renewable generating facility or at the utility's published tariff. Each investor-owned utility shall file a tariff or tariffs and a standard offer contract or contracts for the purchase of energy or capacity, or both, from renewable generating facilities that reflects the provisions set forth in these rules.

(2) Each investor-owned utility's tariff or standard offer contract shall specify the metering requirements for billing purposes in accordance with Rule 25-17.082 subsections (2) and (3), F.A.C.

(3) Each investor-owned utility shall interconnect with any renewable generating facility in accordance with Rule 25-17.087, F.A.C.

(4) Each investor-owned utility shall sell energy to renewable generating facilities in accordance with Rule 25-17.084, F.A.C.

(5) Each investor-owned utility shall provide, upon request by a renewable generating facility, transmission service to wheel as-available energy or firm energy and capacity produced by the renewable generating facility from the renewable generating facility to another electric utility in accordance with Rule 25-17.0889, F.A.C.

Specific Authority: 350.127(2), 366.05(1), F.S.

Law Implemented: 366.051, 366.81, 366.91, 366.92, F.S.

History—New\_\_\_\_\_.

25-17.240 Negotiated Contracts.

(1) Investor-owned utilities and renewable generating facilities are encouraged to

negotiate contracts for the purchase of firm capacity and energy to avoid or defer construction of planned utility generating units and provide fuel diversity, fuel price stability, and energy security.

(2) Negotiated contracts will be considered prudent for cost recovery purposes if it is demonstrated by the investor-owned utility that the purchase of firm capacity and energy from the renewable generating 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 and provide fuel diversity, fuel price stability, and energy security 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 renewable generating facility under the contract.

Specific Authority: 350.127(2), 366.05(1), F.S.

Law Implemented: 366.051, 366.81, 366.91, 366.92, F.S.

History--New .

25-17.250 Standard Offer Contracts.

(1) Standard Offer Contract. In addition to the requirements contained in Rules 25-17.082 through 25-17.091, F.A.C., each investor owned utility shall, by April 1 of each year, file with the Commission a standard offer contract or contracts for the purchase of firm capacity and energy from renewable generating facilities and small qualifying facilities with a design capacity of 100 kW or less. A separate standard offer contract shall be based on the next avoidable fossil fueled generating unit of each technology type identified in the utility's Ten-Year Site Plan filed pursuant to Rule 25-22.071, F.A.C. Each standard offer contract based on each of the utility's

avoidable units shall be consistent with the requirements of Rule 25-17.0832(4), (5), and (6), F.A.C., except as modified by this rule. Each investor-owned utility with no planned generating unit identified in its Ten-Year Site Plan shall submit a standard offer based on avoiding or deferring a planned purchase.

(2) Continuous Offers.

(a) In order to ensure that each utility continuously offers a purchase contract to producers of renewable energy, each standard offer contract shall remain open until:

1. A request for proposals (RFP) pursuant to Rule 25-22.082, F.A.C., is issued for the utility's planned generating unit; or

2. The utility files a petition for a need determination or commences construction for generating units not subject to Rule 25-22.082, F.A.C.

3. The generating unit upon which the standard offer contract was based is no longer part of the utility's generation plan, as evidenced by a petition to that effect filed with the Commission or by the utility's most recent Ten Year Site Plan.

(b) Before a standard contract offering is closed, the utility shall file a petition for approval of a new standard offer contract based on the next unit of the same generating technology, if any, in its Ten-Year Site Plan. If no generating unit of the same technology is in the utility's Ten-Year Site Plan, the utility shall notify the Director of the Division of Economic Regulation prior to closing a standard offer.

(3) Term. At the election of the renewable generating facility, the term of each standard offer contract shall be for a minimum of 10 years from the in-service date of the avoided unit up to a maximum of the life of the avoided unit.

(4) Capacity Payments Options. In addition to the capacity payment options contained

in Rule 25-17.0832(4)(g), F.A.C., and subject to the provisions of Rule 25-17.0832(3)(a) through (d), F.A.C., a renewable generating facility may elect a payment stream for the capital component of the utility's avoided unit, including front-end loaded capacity payments, that best meets the financing requirements of the renewable generating facility. Early capacity payments consisting of the capital component of the avoided unit may, at the election of the renewable generating facility, commence any time after the actual in-service date of the renewable generating facility and before the anticipated in-service date of the utility's avoided unit. Regardless of the payment stream elected by the renewable generating facility, the cumulative present value of capital cost payments made to the renewable generating facility over the term of the contract shall not exceed the cumulative present value of the capital cost payments which would have been made to the renewable generating facility had such payments been made pursuant to Rule 25-17.0832(4)(g)(1), F.A.C. Fixed operation and maintenance expense shall be calculated in conformance with Rule 25-17.0832(6), F.A.C.

(5) Content. Unless otherwise modified by these rules, the contents of each standard offer contract shall be in accordance with Rule 25-17.0832(4), F.A.C.

(6) Fixed Energy Payments. In order to facilitate third-party financing of renewable generating facilities and provide fuel price stability to electric ratepayers, upon request by a renewable generating facility, each investor-owned utility shall provide for the following fixed energy payment options:

(a) As-available energy payments. As-available energy payments made prior to the in-service date of the avoided unit shall be based on the utility's year-by-year projection of system incremental fuel costs, prior to hourly economy energy sales to other utilities, based on normal weather and fuel market conditions plus a fuel market volatility risk premium mutually agreed

upon by the utility and the renewable generating facility.

(b) Firm energy payments. Subsequent to the determination of full avoided cost and subject to the provisions of Rule 25-17.0832(3)(a) through (d), F.A.C., a portion of the base energy costs associated with the avoided unit, mutually agreed upon by the utility and renewable energy generator, shall be fixed and amortized on a present value basis over the term of the contract starting, at the election of the renewable generating facility, as early as the in-service date of the renewable generating facility. "Base energy costs associated with the avoided unit" means the energy costs of the avoided unit to the extent the unit would have been operated.

Specific Authority: 350.127(2), 366.05(1), F.S.

Law Implemented: 366.051, 366.81, 366.91, 366.92, F.S.

History—New \_\_\_\_\_.

25-17.260 Subscription Limits.

There shall be no preset subscription limits for the purchase of capacity and energy from renewable generating facilities. To the extent that the purchase of capacity and energy from a renewable generating facility is not needed for reliability or will increase costs to the general body of ratepayers above full avoided cost, the utility shall petition the Commission for relief. In any such proceeding, the Commission shall determine the need for power and the utility's full avoided cost, including strategic benefits such as fuel diversity and energy security, that are in the best interests of the general body of ratepayers.

Specific Authority: 350.127(2), 366.05(1), F.S.

Law Implemented: 366.051, 366.81, 366.91, 366.92, F.S.

History—New \_\_\_\_\_.

25-17.270 Changes in Environmental and Governmental Regulations.

All contracts for the purchase of capacity and energy from a renewable generating facility shall include a provision to reopen the contract, at the election of either party, limited to changes affecting the utility's full avoided costs of the unit on which the contract is based as a result of new environmental and other regulatory requirements enacted during the term of the contract.

Specific Authority: 350.127(2), 366.05(1), F.S.

Law Implemented: 366.051, 366.81, 366.91, 366.92, F.S.

History–New \_\_\_\_\_.

25-17.280 Tradable Renewable Energy Credits (TREC)s).

Tradable renewable energy credits and tax credits shall remain the exclusive property of the renewable generating facility. A utility shall not reduce its payment of full avoided costs or place any other conditions upon such government incentives in a negotiated or standard offer contract, unless agreed to by the renewable generating facility.

Specific Authority: 350.127(2), 366.05(1), F.S.

Law Implemented: 366.051, 366.81, 366.91, 366.92, F.S.

History–New \_\_\_\_\_.

25-17.290 Imputed Debt Equivalent Adjustments.

An investor-owned utility shall not impose any imputed debt equivalent adjustments (equity adjustments) to reduce the avoided costs paid to a renewable generating facility unless the utility has demonstrated the need for the adjustment and obtained the prior approval of the

Commission.

Specific Authority: 350.127(2), 366.05(1), F.S.

Law Implemented: 366.051, 366.81, 366.91, 366.92, F.S.

History–New \_\_\_\_\_.

25-17.300 Reporting. Each electric utility shall report, by April first of each year, the following information, actual and projected:

(1) The total megawatts and percentage of each utility’s total capacity mix comprised of renewable generating capacity.

(2) The total megawatt-hours and percentage of each utility’s net energy for load and fuel mix of energy purchased from renewable generation.

(3) The total megawatts and megawatt-hours of self-service generation by renewable generation.

Specific Authority: 350.127(2), 366.05(1), F.S.

Law Implemented: 366.04(5), 366.05(7), F.S.

History–New \_\_\_\_\_.

25-17.310 Dispute Resolution

(1) The purpose of this rule is to establish an expedited process for resolution of disputes between renewable generating facilities and investor-owned utilities.

(2) To be considered for an expedited proceeding, the companies involved in the dispute must have attempted to resolve their dispute either through negotiation or by seeking mediation from an independent third party or Commission staff.

(3) Subject to subsection (2) of this rule, any party negotiating an agreement under this Part may, at any point in the negotiation, petition the Commission to resolve any differences arising in the course of the negotiation. The petition shall contain, at a minimum:

- (a) an overview of the issues discussed and resolved by the parties;
- (b) the unresolved issues;
- (c) the position of each of the parties with respect to each unresolved issue;
- (d) all relevant documentation concerning each unresolved issue.

(4) A party petitioning the Commission under subsection (1) shall provide a copy of the petition and any other documentation accompanying the petition to the other party or parties not later than the day on which the petition is filed with the Commission. A non-petitioning party may respond to the petition and provide additional information within 30 days after the petition is filed with the Commission.

(5) The Commission will require the petitioning party and the responding party to provide additional information if it determines the additional information is necessary for the Commission to reach a decision on the unresolved issues. If any party refuses or fails to respond on a timely basis to any request from the Commission, then the Commission shall proceed on the basis of the best information available to it from whatever source derived.

(6) The Commission will resolve each issue set forth in the petition and the response, if any, in an expedited manner, normally within 90 days unless waived by the parties or on the Commission's own motion. The Commission shall base its decision on whether the provision in dispute will encourage the development of renewable generation in the State and is in the best interests of the purchasing utility's general body of ratepayers pursuant to the provisions of this Part.



Specific Authority: 350.127(2), 366.05(1), F.S.

Law Implemented: 366.051, 366.076, 366.81, 366.91, 366.92, F.S.

History–New \_\_\_\_\_.

### PART III UTILITIES' OBLIGATIONS WITH REGARD TO COGENERATORS AND SMALL POWER PRODUCERS

25-17.0832 Firm Capacity and Energy Contracts.

25-17.0832(1) through 25-17.0832(3) – No changes

25-17.0832(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 negotiated contract, standard offer contracts are available to qualifying facilities, as defined by subsection 25-17.080(3), F.A.C., with a design capacity of 100 kW or less. ~~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;~~
- ~~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.~~

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25-17.0832(4)(b) through end – no changes.

Specific Authority: 350.127, 366.05(1), F.S.

Law Implemented: 366.051, 366.81, F.S.

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

Rule 25-17.-2xx.doc