

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval of renewable energy tariff standard offer contract, by Florida Power & Light Company. | DOCKET NO. 070234-EQ
ORDER NO. PSC-07-0492-TRF-EQ
ISSUED: June 11, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
MATTHEW M. CARTER II
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

ORDER APPROVING STANDARD OFFER CONTRACT AND
ASSOCIATED TARIFFS FILED BY FLORIDA POWER & LIGHT COMPANY

BY THE COMMISSION:

In its 2005 session, the Florida Legislature enacted Section 366.91, Florida Statutes, regarding renewable energy which states:

The Legislature finds that it is in the public interest to promote the development of renewable energy resources in this State. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the State, improve environmental conditions, and make Florida a leader in new and innovative technologies.

Section 366.91(3), Florida Statutes, enumerates requirements to promote the development of renewable energy resources. In summary:

- a) By January 1, 2006, each investor-owned electric utility (IOU) and municipal utility subject to the Florida Energy Efficiency and Conservation Act (FEECA) of 1980 must continuously offer to purchase capacity and energy from specific types of renewable resources;
- b) the contract shall be based on the utility's full avoided costs, as defined in Section 366.051, Florida Statutes;
- c) each contract must provide a term of at least ten years; and
- d) the Commission shall establish requirements relating to the purchase of capacity and energy by public utilities from renewable energy producers and may adopt rules to administer this section.

On March 8, 2007, proposed amendments to Part III, Rule 25-17.0832, Florida Administrative Code, and Part IV, Chapter 25-17, Florida Administrative Code (Rules 25-

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17.200 through 25-17.310, Florida Administrative Code), implementing Section 366.91, Florida Statutes, became effective.

The rules require each investor-owned utility (IOU) to continuously make available standard offer contracts based on a portfolio approach of utility fossil-fueled units; establish a methodology to calculate capacity payments using value of deferral methodology based on the utility's full avoided costs and need for power; 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 credits; provide for an expedited dispute resolution process; and require annual reporting from all utilities.

On April 2, 2007, Gulf Power Company (Gulf), Florida Power & Light Company (FPL), Progress Energy Florida, Inc. (PEF), and Tampa Electric Company (TECO) each filed a Petition for approval of new standard offer contracts with accompanying tariff sheets.¹ On May 8, 2007, FPL filed an Amended Petition with accompanying tariff sheets in order to make minor revisions and editorial "clean-up" changes to its proposed standard offer contract, and to include additional language clarifying the circumstances under which a renewable energy facility may use fossil fuel. On May 17, 2007, FPL filed its Second Amended Petition and accompanying tariff sheets in order to withdraw its previous request that the Commission approve an imputed debt equivalent adjustment in its standard offer contract, and to add a right of first refusal for FPL with respect to renewable energy credits under the contract.

This Order addresses whether FPL's proposed standard offer contract and associated tariffs are in compliance with Rules 25-17.200 through 25-17.310, Florida Administrative Code, and should therefore be approved. We have jurisdiction over this matter pursuant to Sections 366.04 through 366.06, 366.91 and 366.92, Florida Statutes.

Each new rule requirement is summarized below along with an analysis of whether FPL is in compliance.

Small QFs

Rule 25-15.250(1), Florida Administrative Code, requires IOUs to provide standard offer contracts to both renewable generating facilities and small qualifying facilities with a design capacity of 100 KW or less. FPL's Standard Offer Contract is in compliance with this requirement. (See Sheet No. 10.350)

¹ We approved proposed standard offer contracts and associated tariffs filed by Florida Public Utilities Company (FPUC) by Order No. PSC-05-1260-EQ, issued December 27, 2006, in Docket No. 050809-EQ – In re: Petition for approval of renewable energy tariff by Florida Public Utilities Company. Because FPUC does not own any generation, the payment provisions of FPUC's Standard Offer Contract are based on its next identifiable purchased power agreement. As such, FPUC was not required to submit another standard offer contract to comply with Rules 25-17.200 through 25-17.310, Florida Administrative Code.

Fossil-fueled Portfolio Approach

IOUs are required to continuously offer standard contracts based on a portfolio approach of utility fossil-fueled units which are identified in the utility’s annual Ten-Year Site Plan. Pursuant to Rule 25-17.250(2)(a) Florida Administrative Code, a utility must offer a standard offer on each type of fossil-fueled generating unit until either an RFP has been issued, a need determination has been filed, or the unit is under construction.

On April 1, 2007, FPL filed its Ten-Year Site Plan. While several units were identified, only one unit in FPL’s Ten-Year Site Plan is eligible for inclusion in a Standard Offer Contract. For FPL, the avoided unit is a 2015 combined cycle unit because either an RFP or need determination has been filed for all other units identified. Even though FPL filed a single Standard Offer Contract for approval, FPL’s filing is in compliance with regard to Rule 25-17.250(2)(a), Florida Administrative Code.

The table below summarizes FPL’s generation expansion plans and resulting units eligible to be included in its Standard Offer Contract.

FPL’s 2007 Ten-Year Site Plan					
Number of Units	Unit Type	Size (MW)	In-service Date	RFP Issued (Y or N)	Need filed or Under Const. (Y or N)
1	CC	1,144	2007	Y	Y
1	CC	1,219	2009	Y	Y
1	CC	1,219	2010	Y	Y
1	USCPC	980	2013	N	Y
1	USCPC	980	2014	N	Y
1	CC	1,219	2015	N	N
Unit available for Std. Offer			Combined cycle in 2015		

Note: CC stands for combined cycle, CT stands for combustion turbine, IGCC stands for integrated gasified combined cycle, and USCPC stands for ultra super critical pulverized coal.

Value of Deferral

The new rules adopted in January preserve the current value of deferral (VOD) methodology which provides flexibility to renewable generators by allowing a renewable generator to select a contract term which is less than the life of the avoided unit. Rule 25-17.250(4), Florida Administrative Code, clarifies that a renewable generating facility may select any 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. The cumulative present value of payments made may not exceed the cumulative present value of the sum of the year-by-year values of deferral. Where any annual payment is greater than the value of deferral for that year, additional security or other performance requirements may be required. FPL’s Standard Offer Contract is in compliance

with this requirement. (See Sheet Nos. 10.350 through 10.352) The table below summarizes the normal value of deferral payment stream for FPL's Standard Offer Contract.

Monthly Capacity Payment Rate (\$/kW/month)	
Year	
2010	
2011	
2012	
2013	
2014	
2015	7.17
2016	7.37
2017	7.58
2018	7.79
2019	8.01

Fixed Energy Payments

Rule 25-17.250(6)(a), Florida Administrative Code, allows a renewable generator to fix as-available energy prices made prior to the in-service date of the avoided unit on an annual basis. Fixed as-available energy prices would be based on the utility's projection of system incremental fuel costs based on normal conditions. A risk premium, mutually agreed to by the utility and renewable generator, would be added to account for anticipated fuel price volatility above normal conditions and would be treated for cost recovery as a "hedging cost."

Rule 25-17.205(6)(b), Florida Administrative Code, allows a renewable generator to fix a portion of avoided unit fuel costs, which start with the in-service date of the avoided unit, and amortize this portion of fuel costs, on a present value basis, starting as early as the in-service date of the renewable generating facility. The portion of avoided unit fuel costs amortized would be mutually agreed upon by the utility and the renewable generator.

FPL's Standard Offer Contract is in compliance with the above provisions. (See Sheet Nos. 10.352 through 10.353)

Contract Term

Rule 25-17.250(3), Florida Administrative Code, allows the developer of a renewable generation facility the option to select the term of the contract, from a minimum of ten years up to the life of the avoided unit. FPL's Standard Offer Contract is in compliance with this requirement. (See Sheet Nos. 10.350 and 10.370)

Future Carbon Regulations

Rule 25-17.270, Florida Administrative Code, specifically requires standard offer contracts to allow either party to reopen a contract if avoided unit costs change as a result of new environmental and other regulatory requirements, such as carbon emission standards, enacted during the term of the contract. FPL's Standard Offer Contract is in compliance with this requirement. (See Section No. 17.6.3)

Tradable Renewable Energy Credits (TRECs)

Rule 25-17.280, Florida Administrative Code, requires that TRECs shall remain the exclusive property of the renewable generator. A utility shall not place any conditions upon such incentives in a standard offer contract, unless agreed to by the renewable generating facility.

FPL acknowledged that TRECs are the property of the renewable generator, and also has included a right of first refusal with specific timelines for responding. Such a condition will insure that Florida's ratepayers enjoy all of the attributes associated with renewable generation without imposing a financial penalty to the owner of the renewable generation facility. (See Section 17.6.2)

Imputed Debt Equivalent Adjustments (Equity Adjustments)

Pursuant to Rule 25-17.290, Florida Administrative Code, "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." FPL's original Petition filed May 2, 2007, with accompanying tariff sheets, requested approval to include an equity adjustment in the calculation of capacity payments to be made under its Standard Offer Contract. However, on May 17, 2007, FPL filed its Second Amended Petition withdrawing its request that the Commission approve an imputed debt equivalent adjustment in its standard offer contract.

Conclusion

Based on the above, we find that FPL's Standard Offer Contract and associated tariffs are in compliance with Rules 25-17.200 through 25-17.310, Florida Administrative Code, and are therefore approved, effective May 22, 2007. If a protest is filed within 21 days of the issuance of this Order, the tariffs shall remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that FPL's tariffs and standard offer contract may be subject to a request for hearing, and if a hearing is held, may subsequently be revised. If no timely protest is filed, this docket shall be closed upon the issuance of a Consummating Order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Standard Offer Contract and associated tariffs proposed by Florida Power & Light Company are hereby approved, effective May 22, 2007. It is further

ORDERED that if a protest is filed within 21 days of issuance of this Order, the tariffs shall remain in effect pending resolution of the protest. It is further

ORDERED that if no timely protest is filed, this docket shall be closed upon the issuance of a Consummating Order.

By ORDER of the Florida Public Service Commission this 11th day of June, 2007.



ANN COLE
Commission Clerk

(S E A L)

LAH

NOTICE OF FURTHER PROCEEDINGS

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review 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.

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The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the proposed action files 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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 2, 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 docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.