

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for certification as a qualifying facility pursuant to Rule 25-17.080, F.A.C., by Innovative Energy Group of Florida, LLC. | DOCKET NO. 070723-EQ
ORDER NO. PSC-08-0093-PAA-EQ
ISSUED: February 14, 2008

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING CERTIFICATION AS A QUALIFYING FACILITY

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 (F.A.C.).

BACKGROUND

On October 10, 2007, Progress Energy Florida, Inc. (PEF) and Innovative Energy Group of Florida, LLC, (IEG) filed a joint petition requesting our approval of amendments to a previously approved negotiated contract for purchase of firm capacity and energy from a qualifying facility (QF). IEG is an assignee of Florida Biomass Energy Group, LLC, the original QF party to the contract.¹ IEG proposes to construct, own, and operate an electric generating plant that would use a biomass fuel crop called "e-grass." The crop would be grown and harvested in a continuous cycle for conversion into a liquid fuel to be used in a traditional combined cycle generator. PEF and IEG sought our approval for specific modifications to the previously approved contract to include a counterparty with associated contact information, revised dates pertinent to the supply of electric capacity and energy, and clarification of conditions regarding termination rights. We approved the proposed amendments to the contract by Order No. PSC-08-0064-PAA-EQ, issued January 28, 2008, in Docket No. 070645-EQ, In re: Joint petition to amend negotiated contract for firm capacity and energy from qualifying facility

¹ The original contract was approved by Commission Order No. PSC-06-0743-PAA-EQ, issued September 1, 2006, in Docket No. 060387-EQ, In re: Request for approval of a contract with a qualifying facility for purchase of firm capacity and energy between Florida Power Corporation d/b/a Progress Energy Florida, Inc. and Florida Biomass Energy Group, LLC. Florida Biomass Energy Group also had previously been certified as a QF by Commission Order No. PSC-06-0596-PAA-EQ, issued July 7, 2006, in Docket No. 060367-EQ, In re: Petition for Certification as a qualifying facility pursuant to Rule 25-17.080, F. A. C. by Florida Biomass Energy Group, L.L.C.

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between Florida Power Corporation d/b/a Progress Energy Florida, Inc. and Innovative Energy Group of Florida.

The amended contract, between PEF and IEG, is conditioned upon our certification of IEG as a QF. Accordingly, on December 13, 2007, to ensure compliance with the contract's terms and Commission rules, IEG filed a petition requesting certification as a qualifying facility pursuant to Rule 25-17.080, F.A.C. We have jurisdiction over this matter pursuant to Sections 366.051, 366.80 through 366.85, and 366.91, Florida Statutes.

DECISION

IEG's petition requested qualifying facility status under our Rule 25-17.080(1), F.A.C. Our rule adopts the Federal Energy Regulatory Commission (FERC) Rules regarding criteria for designation as a qualifying facility in Florida. Our rule also offers an exception for power producers who do not meet all the FERC criteria, "but otherwise meet the objectives of economically reducing Florida's dependence on oil and the economic deferral of utility power plant expenditures." The FERC rules state that a small power producer is a qualifying facility if 1) power production does not exceed 80 MW, 2) at least 50 percent of the energy source is biomass, waste, or another renewable, and 3) less than 50 percent of the facility ownership is related to a retail power provider. The petitioner has provided a description of the ownership of IEG, and no electric utility, utility holding company, or utility subsidiary has an ownership interest in IEG.

On March 12, 2007, we adopted an entire section of rules dedicated solely to renewable generation facilities, Rules 25-17.200 to 25-17.310, F.A.C. The overall intent of those rules is contained in Rule 25-17.200, F.A.C., which states:

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.

Rule 25-17.210, F.A.C., defines a renewable generating facility as:

. . . 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.

Further, Rule 25-17.220, F.A.C., states: "For purposes of these rules, a renewable generating facility shall be deemed a qualifying facility pursuant to subsection 25-17.080(1), F.A.C., and shall have all the rights, privileges, and responsibilities specified in Rules 25-17.082 through 25-17.091, F.A.C."

The IEG facility will use a liquid fuel obtained by pyrolysis conversion of an agricultural (biomass) crop. The biomass crop was initially to have been grown in Florida; however, IEG encountered significant challenges in obtaining suitable Florida land for the farm at an economically feasible cost. It is now possible that the farm will be located in Texas. Nonetheless, the electrical generation plant will still be located in Florida with no change to the power generation technology. The fuel produced from the biomass will be transported from the farm, wherever it may be located, to the generating plant in Florida. Estimates for this project are that renewable energy will provide at least 95 percent of the energy production. We find that since the IEG facility will continue to use biomass as the primary fuel source, the facility is a qualifying facility pursuant to Rule 25-17.080(1), F.A.C.

The potential relocation of the farm outside Florida raises two questions relative to the original project. First, does farming of the biomass crop outside Florida encourage investment within the state? Second, does the additional transportation requirement improve the environmental conditions in Florida? The simple answers to these questions is probably "no." Since the IEG facility will continue to use biomass as the primary fuel source, however, the facility will continue to meet many of the objectives outlined in Rule 25-17.200, F.A.C. Furthermore, neither the FERC rules nor Florida's rules establish origin of the renewable fuel source as a criterion for certification as a QF in Florida.

The proposed project by the IEG organization would replace fossil-fueled generation with generation from a renewable energy source and contribute to the deferral of utility power plant expenditures for additional generation. We are concerned that a potential change in location of the biomass farm may impact the feasibility of the project; and therefore, we direct PEF, the contracted buyer of IEG's generated power, to closely monitor the development of the project to ensure the facility remains a reliable generation source.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the petition for certification as a qualifying facility by Innovative Energy Group of Florida, LLC. is approved. 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 Commission Clerk, 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 14th day of February, 2008.


ANN COLE
Commission Clerk

(S E A L)

MCB

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 6, 2008.

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.