

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

MEMORANDUM

July 19, 1990

TO : DIRECTOR OF RECORDS & REPORTING

FROM : DIVISION OF ELECTRIC & GAS (Trombino, Ballinger) *T/B*
DIVISION OF LEGAL SERVICES (Palecki) *M* *J.W.D.* *JOS*

RE : DOCKET NO. 900004-EU, PETITION OF FLORIDA POWER CORPORATION FOR APPROVAL OF RATE SCHEDULES COG-1 AND COG-2

AGENDA: JULY 31, 1990 - CONTROVERSIAL - PARTIES MAY PARTICIPATE

CRITICAL DATES: AUGUST 6, 1990 - 60 DAYS EXPIRE

CASE BACKGROUND

On June 6, 1990, Florida Power Corporation (FPC) filed its petition for approval of rate schedules COG-1 and COG-2 pursuant to the Commission vote in Docket No. 900004-EU, Hearings on Load forecasts, Generation Expansion Plans, and Cogeneration Prices for Peninsular Florida's Electric Utilities.

Per the Commission's administrative procedures, On June 13, 1990, Staff approved the FPC's rates for COG-1 and COG-2, except for those portions relating to transmission capacity costs which were not part of the Commission's vote on May 25, 1990.

On June 20, 1990, Staff advised FPC by letter that Seventh Revised Sheet No. 9.104, pertaining to transmission capacity costs, was erroneously approved. On July 6, 1990, the company's response to Staff's letter indicated that FPC would not accept approval of the COG-1 and COG-2 rate schedules excluding provision for transmission capacity costs. FPC stated that it wished a Commission ruling on its entire petition including transmission capacity costs, returning the approved portions of COG-1 and COG-2 to Staff (See attached letter).

Seventh Revised Sheet No. 9.104 and Sixth Revised Sheet No. 9206 must be suspended, denied, or approved by the Commission or the tariff sheets become

DOCUMENT NUMBER-DATE

06481 JUL 19 1990

FPSC-RECORDS/REPORTING

Docket No. 900004-EU
July 19, 1990
COGFPC.FVT

effective 60 days after the filing of the petition by FPC.

DISCUSSION

ISSUE 1: Should the Commission approve Florida Power Corporation's (FPC) petition for approval of tariff provisions relating to transmission capacity costs under its Standard Offer Contract Rate for Purchase of As-Available Energy from Cogeneration and Small Power Production Facilities (COG-1) and Standard Offer Contract for Purchase of Firm Capacity and Energy from Cogeneration and Small Power Production Facilities (COG-2)?

RECOMMENDATION: Staff recommends the Commission deny FPC's petition as regards approval of the tariff language associated with transmission capacity costs found on Seventh Revised Sheet No. 9.104 and Sixth Revised Sheet No. 9.206 because issues regarding transmission capacity costs were not decided by the Commission on May 25, 1990 in Docket No. 900004-EU. All other aspects of rate schedules COG-1 and COG-2 should be approved.

STAFF ANALYSIS: FPC filed its proposed Standard Offer Contract Rate for Purchase of As-Available Energy from Qualifying Cogeneration & Small Power Production Facilities (COG-1) and Standard Offer Contract Rate for Purchase of Firm Capacity and Energy from Qualifying Cogeneration & Small Power Production Facilities (COG-2) on June 6, 1990. These rate schedules were filed in accordance with the May 25, 1990 Commission vote designating a 500 MW coal unit as the statewide avoided unit.

As part of FPC's request for approval of the COG-1 and COG-2 rate schedules, FPC included tariff language requiring transmission capacity costs, be subject to QFs selling power under rate schedules COG-1 and COG-2. Specifically, the costs subject to the proposed COG-1 and COG-2 rate schedules include all costs associated with any impairment or reduction of, or other adverse effect on, the electric power transfer capability between FPC's northern territory and FPC's load centers in central/southern Florida, resulting from and or attributable to the interconnection of the Qualifying Facility with FPC's electrical system (See Attached Tariff Sheets).

Staff recommends the proposed tariff modifications to COG-1, Seventh Revised Sheet No. 9.104 and COG-2, Sixth Revised Sheet No. 9.206 be denied because the proposed tariff language does not comport with the Commission's May 25, 1990 vote. Further, FPC's proposed tariff language pertaining to transmission capacity costs should be denied because it is not part of the Commission's generic policy regarding standard offer contracts, statewide cogeneration pricing, expansion planning, and load forecasting. Staff recommends FPC file revised tariffs in conformance with the Commission's May 25, 1990 decision.



RATE SCHEDULE COG-1
STANDARD RATE FOR PURCHASE OF AS-AVAILABLE ENERGY FROM
QUALIFYING COGENERATION & SMALL POWER PRODUCTION FACILITIES (QUALIFYING FACILITIES)
(Continued from Page No. 4)

Charges to Qualifying Facility: (Continued)

C. Interconnection Charge for Variable Utility Expenses:

The Qualifying Facility shall be billed monthly for the cost of variable utility expenses associated with the operation and maintenance of the interconnection. These include (a) the Company's inspections of the interconnection and (b) maintenance of any equipment beyond that which would be required to provide normal electric service to the Qualifying Facility if no sales to the Company were involved.

In lieu of payments for actual charges the Qualifying Facility may pay a monthly charge equal to 0.50% of the installed cost of the interconnection facilities.

D. Taxes and Assessments:

The Qualifying Facility shall be billed monthly an amount equal to the taxes, assessments, or other impositions, if any, for which the Company is liable as a result of its purchases of As-Available Energy produced by the Qualifying Facility.

E. Transmission Capacity Costs:

The costs subject to this rate schedule include the costs associated with any impairment or reduction of, or other adverse effect on, the electric power transfer capability between the Company's northern Florida territory and the Company's load centers in central and southern Florida, resulting from or attributable to the interconnection of the Qualifying Facility with the Company's electrical system (hereinafter referred to as "Transmission Capacity Costs"), to the extent that such costs are recognized by the FPSC or any other regulatory agency with jurisdiction over such costs, and made the responsibility of the Qualifying Facility via an order applicable to the Qualifying Facility.

The Company and the Qualifying Facility recognize that the Commission will consider issues concerning the determination of, and the responsibility for, Transmission Capacity Costs, if any, as well as related issues, in Docket No. 890779-EU, In Re: Investigation into Adequacy of Transmission Capacity in North Florida. Accordingly, the Company and the Qualifying Facility agree that whether, and in what amount, Transmission Capacity Costs shall be the responsibility of the Qualifying Facility, shall be determined in accordance with the determination as to applicability and method and procedures prescribed by final order of the FPSC in Docket No. 890779-EU, or by final order of any other regulatory agency with jurisdiction over such costs.

Provided however, that nothing in this rate schedule shall prevent the Qualifying Facility from taking any position in Docket No. 890779-EU, or in any other FPSC docket concerning Transmission Capacity Costs, or in any proceeding conducted by any other regulatory agency with jurisdiction over such costs, that such costs should not be the responsibility of the Qualifying Facility. Moreover, nothing in this rate schedule shall prevent the Company from taking any position in Docket No. 890779-EU, or in any other FPSC docket concerning Transmission Capacity Costs, or in any proceeding conducted by any other regulatory agency with jurisdiction over such costs, that such costs should be the responsibility of the Qualifying Facility.

(Continued on Page No. 6)

ISSUED BY: T. M. Saines, Jr., Director, Rate Department

EFFECTIVE:



RATE SCHEDULE COG-2
STANDARD OFFER CONTRACT RATE FOR PURCHASE OF FIRM CAPACITY AND ENERGY FROM
QUALIFYING COGENERATION & SMALL POWER PRODUCTION FACILITIES (QUALIFYING FACILITIES)
(Continued from Page No. 6)

Charges to Qualifying Facility: (Continued)

E. Transmission Capacity Costs:

The costs subject to this rate schedule include the costs associated with any impairment or reduction of, or other adverse effect on, the electric power transfer capability between the Company's northern Florida territory and the Company's load centers in central and southern Florida, resulting from or attributable to the interconnection of the Qualifying Facility with the Company's electrical system (hereinafter referred to as "Transmission Capacity Costs"), to the extent that such costs are recognized by the FPSC or any other regulatory agency with jurisdiction over such costs, and made the responsibility of the Qualifying Facility via an order applicable to the Qualifying Facility.

The Company and the Qualifying Facility recognize that the Commission will consider issues concerning the determination of, and the responsibility for, Transmission Capacity Costs, if any, as well as related issues, in Docket No. 890779-EU, In Re: Investigation into Adequacy of Transmission Capacity in North Florida. Accordingly, the Company and the Qualifying Facility agree that whether, and in what amount, Transmission Capacity Costs shall be the responsibility of the Qualifying Facility, shall be determined in accordance with the determination as to applicability and method and procedures prescribed by final order of the FPSC in Docket No. 890779-EU, or by final order of any other regulatory agency with jurisdiction over such costs.

Provided however, that nothing in this rate schedule shall prevent the Qualifying Facility from taking any position in Docket No. 890779-EU, or in any other FPSC docket concerning Transmission Capacity Costs, or in any proceeding conducted by any other regulatory agency with jurisdiction over such costs, that such costs should not be the responsibility of the Qualifying Facility. Moreover, nothing in this rate schedule shall prevent the Company from taking any position in Docket No. 890779-EU, or in any other FPSC docket concerning Transmission Capacity Costs, or in any proceeding conducted by any other regulatory agency with jurisdiction over such costs, that such costs should be the responsibility of the Qualifying Facility.

Provided further, that if the Qualifying Facility concludes that the amount of its Transmission Capacity Costs responsibility ultimately determined will render the construction of the Qualifying Facility uneconomic or not in the Qualifying Facility's best economic interest, the Qualifying Facility shall have the right to terminate the contemporaneous Standard Offer Contract between the Company and the Qualifying Facility with respect to the Qualifying Facility as follows. The Qualifying Facility may elect, at its single option, to terminate by notifying the Company in writing either (1) within 90 days of the above-referenced final FPSC order, no longer subject to appeal, or (2) within 60 days of the final order, no longer subject to appeal, of any other regulatory agency with jurisdiction over such costs. Upon such election, neither the Company nor the Qualifying Facility shall have any further right or obligation under the Standard Offer Contract.

(Continued on Page No. 8)

ISSUED BY: T. M. Raines, Jr., Director, Rate Department

EFFECTIVE:

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In re: Hearings On Load Forecasts,) Docket No. 900004-EU
Generation Expansion Plans, And)
And Cogeneration Prices For) Filed: June 6, 1990
Peninsular Florida's Electric)
Utilities)

FLORIDA POWER CORPORATION
PETITION FOR APPROVAL
OF RATE SCHEDULES
COG-1 AND COG-2

Pursuant to the oral order of the Commission at the May 25, 1990 agenda conference in this docket, Florida Power Corporation (Florida Power) hereby submits its revised Rate Schedule COG-1, Standard Rate For As-Available Energy From Qualifying Cogeneration & Small Power Production Facilities (Qualifying Facilities), and Rate Schedule COG-2 Standard Offer Contract Rate For Purchase Of Firm Capacity And Energy From Qualifying Cogeneration & Small Power Production Facilities (Qualifying Facilities). In support of this Petition, Florida Power submits the following:

1. Florida Power has revised COG-1 to and COG-2 to update its delivery voltage adjustment factors.

2. Florida Fower has revised COG-2 to reflect the new rates associated with the 1996 avoided coal unit chosen by the Commission on May 25, 1990.

3. Other than the changes described in paragraphs 1 and 2 above, Florida Power has made one further change to both COG-1 and COG-2. This change, already approved by the Commission when it passed on Florida Power's standard offer contract with Timber

DOCUMENT NUMBER-DATE

04911 JUN -6 1990

FPSC-RECORDS/REPORTING

Energy Resources, Inc. (Timber), reflects the fact that qualifying facilities (QF) locating in northern Florida are subject to bearing the costs, if any, associated with impairment or reduction of, or other adverse effect upon, the electric power transfer capability between Florida Power's northern Florida territory and the Company's load centers in central and southern Florida, as such costs are ultimately determined by the Commission.

4. The Public Utility Regulatory Policies Act (PURPA) requires that the rates for purchase from QFs shall not be discriminatory. 16 U.S.C. § 824a-3(b)(2); see also 18 C.F.R. § 292.304(a)(1)(ii). Florida law provides that electric utilities shall purchase from QFs in accordance with applicable law, which of course, includes this provision of PURPA. Fla. Stat. § 366.051 (1989).

5. In accordance with PURPA and Florida law, from the time that Florida Power identified the fact that QFs locating in northern Florida were adversely impacting Florida Power's transfer capability, Florida Power has dealt with all such QFs in a nondiscriminatory way. That is, QFs have been advised that Florida Power intends to be made whole for such costs. The first QF to be so advised was CFR Bio-Gen Corporation (CFR). CFR refused to execute a contract amendment concerning this matter, and the issue of the impairment of transmission capability is currently being litigated in Commission Docket Nos. 900382-EQ and 900383-EQ.

6. The issue of transmission impairment arose again in Florida Power's dealings with Timber. Treating Timber in a manner similar to the way in which CFR was treated, Florida Power

required, and Timber agree, that Timber enter into an amendment which recognizes that whether, and in what amount, the costs associated with transmission impairment shall be the responsibility of Timber, ultimately will be determined by the Commission in Docket No. 890779-EU or another proceeding. A copy of the amendment is attached to this Petition. Importantly, the language of the amendment is neutral--it does not decide the impairment issue in favor of Florida Power or a QF. It properly leaves the ultimate determination up to the Commission in Docket No. 890779-EU or another proceeding.

7. The Commission expressly approved this amendment in Order No. 21858, Order Approving Standard Offer Contract, Docket No. 891005-EQ (September 8, 1989). In that order the Commission found the language of the amendment to be:

. . . prudent for both parties based on FPC's identified transmission constraints in Northwest Florida which are set forth in Docket No. 890779-EU.

8. In Order No. 22341 (December 26, 1989) in this docket, in order to avoid delay in the filing and approval of new tariffs, the Commission directed utilities to make only those changes necessary to implement the Commission's decisions in this docket. Florida Power's proposal to add the Timber amendment language to its tariffs is not inconsistent with this directive, for the following reasons:

a. The purpose of the Commission's ruling was to avoid the delay associated with an examination of new standard offer provisions. The language proposed by Florida Power, however

is not new, as it was already examined by the Commission and found to be prudent. There can be no delay associated with the fact that Florida Power is simply asking the Commission to approve the same provision it already approved in another docket.

b. With this Petition, Florida Power is not proposing a new standard offer contract. When the Commission approved the amendment to the Timber standard offer contract, Florida Power was thereafter bound, in order to avoid discrimination, to offer a similar amendment to all future QFs. Thus, upon Commission approval of the Timber amendment, the amendment necessarily became a permanent fixture of Florida Power's standard offer contract.

c. To do other than approve Florida Power's proposed rates containing the Timber amendment language would cause the Commission to violate PURPA and Florida law by directing Florida Power to treat QFs in a discriminatory fashion. While serving the purposes of administrative convenience by avoiding delay in the filing and approval of new standard offer contracts is important, surely the December 26th order in this docket cannot be construed as requiring discriminatory treatment of QFs.

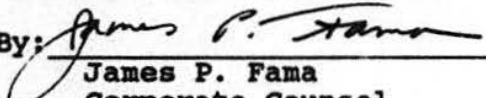
9. To disallow the Timber amendment language in Florida Power's tariffs would not only discriminate against Timber and CFR in favor of new QFs, it would be confiscatory. If the Commission were to require Florida Power to adhere to its old standard offer contracts, without provision for the recovery of transmission

impairment costs and before the Commission had ruled on this issue in Docket No. 890779-EU or elsewhere, the Commission would be confiscating Florida Power property without due process. Furthermore, such action on the part of the Commission would constitute an unlawful impairment of Florida Power's right to contract.

10. Finally, there has been much discussion of the fact that utilities will have an opportunity to file new standard offers after the Commission has issued its new cogeneration rules. Florida Power cannot wait any longer for these rules. They have been under consideration for over nine months, and may not become final for many more months. In the meantime, prior to the resolution of the transmission impairment issue, Florida Power cannot be compelled to offer confiscatory, impaired standard offer contracts which contain no provision for recovery of transmission costs.

WHEREFORE, for all of the reasons stated above, Florida Power respectfully requests approval of its COG-1 and COG-2 rate schedules.

OFFICE OF THE GENERAL COUNSEL
FLORIDA POWER CORPORATION

By: 
James P. Fama
Corporate Counsel
P.O. Box 14042
St. Petersburg, FL 33733
(813) 866-5786

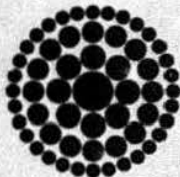
**ATTACHMENT 1
TO INTERCONNECTION AGREEMENT
BETWEEN FLORIDA POWER CORPORATION (THE COMPANY)
AND TIMBER ENERGY RESOURCES, INC. (QF)**

The interconnection costs subject to this Agreement include those costs delineated in the body of the Interconnection Agreement and the costs associated with any impairment or reduction of, or other adverse effect on, the electric power transfer capability between The Company's northern Florida territory and The Company's load centers in central and southern Florida, resulting from or attributable to the interconnection of QF's Facility with The Company's electrical system (hereinafter referred to as "Transmission Capacity Costs"), to the extent that such costs are recognized by the Florida Public Service Commission (the Commission) or any other regulatory agency with jurisdiction over such costs, and made the responsibility of QF via an order applicable to QF.

The Company and QF recognize that the Commission will consider issues concerning the determination of, and the responsibility for, Transmission Capacity Costs, if any, as well as related issues, in Docket No. 890779-EU, In re: Investigation Into Adequacy of Transmission Capacity in North Florida. Accordingly, The Company and QF agree that whether, and in what amount, Transmission Capacity Costs shall be the responsibility of QF, shall be determined in accordance with the determination as to applicability and method and procedures prescribed by final order of the Commission in Docket No. 890779-EU, or by final order of any other regulatory agency with jurisdiction over such costs.

Provided however, that nothing in this Agreement shall prevent QF from taking any position in Docket No. 890779-EU, or in any other Commission docket concerning Transmission Capacity Costs, or in any proceeding conducted by any other regulatory agency with jurisdiction over such costs, that such costs should not be the responsibility of QF. Moreover, nothing in this Agreement shall prevent The Company from taking any position in Docket No. 890779-EU, or in any other Commission docket concerning Transmission Capacity Costs, or in any proceeding conducted by any other regulatory agency with jurisdiction over such costs, that such costs should be the responsibility of QF.

Provided further, that if QF concludes that the amount of its Transmission Capacity Costs responsibility ultimately determined will render the construction of the Facility uneconomic or not in QF's best economic interests, QF shall have the right to terminate this Agreement and the contemporaneous Standard Offer Contract between The Company and QF with respect to QF's Facility as follows. The QF may elect, at its single option, to terminate by notifying The Company in writing either (1) within 90 days of the above-referenced final Commission order, no longer subject to appeal, or (2) within 60 days of the final order, no longer subject to appeal, of any other regulatory agency with jurisdiction over such costs. Upon such election, neither The Company nor QF shall have any further right or obligation under this Agreement and the Standard Offer Contract.



RECEIVED
FLORIDA PUBLIC
SERVICE COMMISSION
1990 JUL -9 AM 9:51
MAIL ROOM

**Florida
Power**
CORPORATION

July 6, 1990

James P. Fama
CORPORATE COUNSEL

RECEIVED
FLORIDA PUBLIC SERVICE COMM.
JUL 9 1990
ELECTRIC AND GAS

Mr. Frank V. Trombino
Regulatory Analyst
Bureau of Electric Rates
Public Service Commission
Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0868

Re: Approval of Rate Schedules COG-1 and COG-2
Docket No. 900004-EU

Dear Mr. Trombino:

This is in response to your letter of June 20, 1990 to Mr. T. W. Raines, Jr. While Florida Power Corporation appreciates your willingness to approve as many of our COG-1 and COG-2 tariff sheets as possible, we are unable to accept partial approvals which exclude provisions for transmission costs. Florida Power's June 5, 1990 Petition For Approval Of Rate Schedules COG-1 and COG-2 (copy enclosed) discusses the reasons why the transmission cost language must be included in our standard offer tariffs.

Florida Power understands the limits of your authority with respect to this matter, and that is why the transmittal of our tariff sheets included a Petition For Approval. Florida Power will await Commission ruling on our Petition. In the meantime, I am returning to you all stamped approved COG-1 and COG-2 tariff sheets.

Thank you for your assistance with this matter. Please do not hesitate to call me at (813) 866-5786 if you need any further clarification of our position.

Sincerely,

James P. Fama
Corporate Counsel

JPF:kc
Enclosures
cc: Robert Trapp
w/o enclosure

State of Florida

Commissioners:
MICHAEL McK. WILSON, CHAIRMAN
THOMAS M. BEAFID
BETTY EASLEY
GERALD L. (JERRY) GUNTER
JOHN T. HERNDON



JOSEPH D. JENKINS
Director
Division of Electric and Gas
(904) 488-8501

Public Service Commission

June 20, 1990

Mr. T. W. Raines, Jr.
Director, Rate Department
Florida Power Corporation
3201 Thirty-fourth Street South
Post Office Box 14042
St. Petersburg, Florida 33733

Dear Mr. Raines:

We are writing to you to inform you that the Seventh Revised Sheet No. 9.104 of rate schedule COG-1, approved on June 13, 1990, was approved administratively, inadvertently by the Commission Staff. Tariff Sheet No. 9.206, Sixth Revised Sheet of your June 6, 1990 petition and tariff filing, was intentionally not returned stamped approved because it contained similar tariff language pertaining to transmission capacity costs as found in Seventh Revised Sheet No. 9.104.

Issues pertaining to these costs were not addressed by the Commission vote on May 25, 1990 in Docket No. 900004-EU and could not be approved administratively. All other aspects of the COG-1 and COG-2 rate schedules were in conformance with the May 25, 1990 Commission vote and were returned approved under Authority No. E-90-27.

Sincerely,

A handwritten signature in cursive script that reads "Frank V. Trombino".

Frank V. Trombino
Regulatory Analyst
Bureau of Electric Rates

FVT/bc

cc: Joseph Jenkins
Robert L. Trapp