

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Planning Hearings on load)	DOCKET NO. 900004-EU
forecasts, generation expansion plans,)	ORDER NO. 23235
and cogeneration prices for Peninsular)	ISSUED: 7-23-90
Florida's electric utilities.)	
)	

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 BETTY EASLEY
 GERALD L. GUNTER
 THOMAS M. BEARD

NOTICE OF PROPOSED AGENCY ACTION
ORDER ON SUBSCRIPTION

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

In Order No. 22341 we approved the concepts of subscription and allocation of the statewide avoided unit. The details of implementing the subscription and allocation limits, however, were left to determined after a one-day hearing which would address same. Order No. 22341 at 20-23. In an effort to avoid that hearing, all of the parties to the Planning Hearing docket and its companion docket, Docket No. 900004-EU-A were invited to attend a meeting with our Staff for discussion of these issues.

The first issue raised is: How should standard offer contracts and negotiated contracts for the purchase of firm capacity and energy be prioritized to determine the current subscription level? Essentially, all contracts should be prioritized according to the execution date of the contract. With regard to standard offer contracts, the execution date is the date on which the cogenerator signs the standard offer and

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tenders it to the utility. With regard to negotiated contracts, the execution date is the date on which the last party to the contract signs the agreement. All execution dates are contingent upon final approval by this Commission.

Due to the fact that under existing Rule 25-17.083(8), Florida Administrative Code, payments made pursuant to standard offer contracts are recoverable without further action by the Commission, a standard offer contract will have the same approval date as execution date. Negotiated contracts will "lock in" their execution date upon approval of the Commission. Negotiated contracts will not officially count toward the subscription limit until approved by the Commission but will be considered as "executed" contracts when determining the priority of all contracts. A standard offer contract executed on the same date as a negotiated contract will take precedence over the negotiated contract.

The second issue is: How should the utilities who are subject to the Commission designated subscription amounts notify the Commission on the status of capacity signed up against the designated statewide avoided unit? Utilities subject to Commission-designated subscription amounts shall be required to submit to the Director of the Division of Electric and Gas of the Florida Public Service Commission an informal notice of contract execution within five days of the contract execution date. This notice should include, at a minimum: the type of the contract, the in-service year of the project, the amount (MW) committed, the contracting party or parties, and the amount (MW) remaining under the current subscription level. Either the utility or the cogenerator can submit the notice of the contract execution. If a notice of contract execution is not received within five days, priority will then be based upon the date the notice is ultimately received. Filing of the contract should occur within 30 days of the date of the notice.

The third issue is: What happens when a utility reaches its own subscription limit? On our own motion for reconsideration of Order No. 22341, we have eliminated the allocation of the MW associated with the statewide avoided unit to the individual peninsular investor-owned electric utilities, i.e., FPL, TECO and FPC. When we are satisfied that 500 MW of the 1996 statewide avoided coal unit is fully

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subscribed, in accord with Order No. 23234, we will close that standard offer and consider the options available to us at that time.

The fourth issue is: Does the subscription limit prohibit any utility from negotiating, and the Commission from subsequently approving, a contract for the purchase of firm capacity and energy from a qualifying facility? We find that the subscription limit approved by Order No. 22341 and the current criteria of Rule 25-17.083(2), Florida Administrative Code, for approval of negotiated contracts should only apply to contracts negotiated against the current designated statewide avoided unit, a 1996 coal unit. Any negotiated contract with an in-service date later than 1996 should be evaluated against a utility's individual needs and costs, i.e., evaluated against the units identified in each utility's own generation expansion plan.

The fifth issue is: Should a negotiated contract whose project has an in-service date which does not match the in-service date of the statewide avoided unit be counted towards that utility's subscription limit? As discussed above, we find that the subscription limits set forth in Order No. 22341 and the current criteria for approval of negotiated contracts should only apply to the statewide avoided unit. Any contract outside of these boundaries should be judged against each utility's own avoided cost.

Therefore, it is

ORDERED by the Florida Public Service Commission that issues one through five as stated above, are hereby resolved as set forth in the body of this order.

By ORDER of the Florida Public Service Commission,
this 23rd day of JULY, 1990.


STEVE TRIBBLE, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on August 13, 1990.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent 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.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.