

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Proposed revisions to Rules )	DOCKET NO. 891049-EU
25-17.082, 25-17.0825, 25-17.083, )	
25-17.0831, 25-17.088, 25-17.0882 )	ORDER NO. 23623
25-17.091, and creation of Rules )	
25-17.0832, 25-17.0833, 25-17.0834, )	ISSUED: 10-16-90
and 25-17.089, F.A.C., Cogeneration )	
Rules. )	
_____ )	

NOTICE OF ADOPTION OF RULES

Notice is hereby given that the Commission, pursuant to section 120.54, Florida Statute, has adopted the amendments to Rules 25-17.082, 25-17.0825, 25-17.083, 25-17.0831, 25-17.0832, 25-17.0833, 25-17.0834, 25-17.087, 25-17.088, 25-17.0882, 25-17.0883, 25-17.089, and 25-17.091, F.A.C., relating to cogeneration with changes.

The rule amendment was filed with the Secretary of State on October 5, 1990, and will be effective on October 25, 1990. A copy of the relevant portions of the certification filed with the Secretary of State is attached to this Notice.

In 1978, the Public Utility Regulatory Policies Act (PURPA) was enacted. Certain provisions of PURPA require utilities to offer to purchase electric energy from qualifying facilities at rates which are just and reasonable to the electric consumers of the utility and in the public interest and which do not discriminate against qualifying facilities. In 1980, the Federal Energy Regulatory Commission (FERC) issued its regulation implementing the PURPA. Tracking the law, the FERC regulations established an obligation on the part of utilities to purchase electricity from, and sell electricity to, cogenerators and small power producers. These facilities are referred to as qualifying facilities (QFs).

This Commission originally adopted its PURPA implementing rules in 1981. In 1982, the Commission opened Docket No. 820406-EU, and codified intervening policy decisions into the rules. These rules were adopted in 1983.

In 1989, the Florida Legislature conducted a Sunset review of Chapter 366, Florida Statutes. The Legislature added some new language to the statutes regarding cogeneration. A new section was

DOCUMENT NUMBER-DATE  
09229 OCT 16 1990  
REPORTING

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 3

offer contract, thus increasing capacity payments to qualifying facilities. The standard offer contract also contains an option for qualifying facilities to receive levelized capacity payments.

Electric utilities are required to provide transmission service to transmit energy and capacity produced by qualifying facilities to the purchasing utility. Also, utilities may be required to provide transmission and distribution services to allow customers to transmit power generated by the customer at one location to its facilities at another location.

In summary, major points adopted by the Commission are: the use of individual utility avoided units; a policy that rates are established for the duration of the contract so that there is rate certainty on capacity payments; negotiated contracts do not count against the subscription cap for the avoided unit designated by standard offer contracts; utilities are required to provide projection data to qualifying facilities within a specified time period; standard offer contracts are authorized for small qualifying facilities less than 75 MW or solid waste facilities; a more flexible planning hearing procedure is set forth; utilities are required to negotiate with qualifying facilities in good faith for the purchase of capacity and energy; the Commission may impose penalties if it finds the utility failed to negotiate in good faith; new provisions regarding interconnection and insurance are included; the self-service wheeling rule is revised; and it is clarified that the avoided unit in a standard offer contract could be part of a unit rather than a whole unit.

This docket is closed upon issuance of this notice.

By DIRECTION of the Florida Public Service Commission, this  
16th day of OCTOBER, 1990.

  
STEVE TRIBBLE, Director

Division of Records & Reporting

( S E A L )

CBM

0053

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 2

created, section 366.051, Florida Statutes. It states that electricity produced by cogeneration and small power production is of benefit to the public when included as part of the total energy supply of the electric grid of the State or consumed by a cogenerator or small power producer. It set forth provisions relating to the rates to be paid to cogenerators by public utilities and mandated the FPSC to authorize a rate equal to the purchasing utility's full avoided costs. The statute further provides that, if the qualifying facility provides adequate security, based on its financial stability, and no costs in excess of full avoided costs are likely to be incurred by the electric utility over the term during which electricity is to be provided, the FPSC must authorize the levelization of payments and the elimination of discounts due to risk factors. The statute also addresses self-service wheeling.

Thus, the Commission addressed revisions to the rules to reflect changes to Chapter 366, Florida Statutes. In addition, the FPSC aimed to correct some administrative and technical problems that have arisen since the rules were adopted in 1983. Finally, the rule revisions were needed to reflect case law.

#### Rulemaking

The Commission, after a three-day rulemaking hearing and numerous comment cycles, voted September 18, 1990, to adopt a new package of cogeneration rules.

These rules reflect the Commission's policy to encourage cogeneration and small power production to the extent that it does not result in higher cost electric service to the ratepayers and citizens of the State of Florida. The rules establish a statewide wholesale market for the energy and capacity produced by qualifying facilities in order to help defer or avoid additional generating capacity construction by Florida's electric utilities and to economically conserve expensive fuels.

Public utilities are required to negotiate with qualifying cogenerators and small power producers for the purchase of capacity and energy. The rules require public utilities to negotiate with qualifying facilities in good faith and provide a mechanism for relief should a utility fail to negotiate in good faith.

To further encourage the development of qualifying facilities, public utilities are required to file tariffs for the purchase of noncontractual energy from all qualifying facilities and standard offer contracts for the purchase of firm capacity and energy for solid waste facilities and qualifying facilities under 75 megawatts. The risk factor has been removed from the standard

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 3

offer contract, thus increasing capacity payments to qualifying facilities. The standard offer contract also contains an option for qualifying facilities to receive levelized capacity payments.

Electric utilities are required to provide transmission service to transmit energy and capacity produced by qualifying facilities to the purchasing utility. Also, utilities may be required to provide transmission and distribution services to allow customers to transmit power generated by the customer at one location to its facilities at another location.

In summary, major points adopted by the Commission are: the use of individual utility avoided units; a policy that rates are established for the duration of the contract so that there is rate certainty on capacity payments; negotiated contracts do not count against the subscription cap for the avoided unit designated by standard offer contracts; utilities are required to provide projection data to qualifying facilities within a specified time period; standard offer contracts are authorized for small qualifying facilities less than 75 MW or solid waste facilities; a more flexible planning hearing procedure is set forth; utilities are required to negotiate with qualifying facilities in good faith for the purchase of capacity and energy; the Commission may impose penalties if it finds the utility failed to negotiate in good faith; new provisions regarding interconnection and insurance are included; the self-service wheeling rule is revised; and it is clarified that the avoided unit in a standard offer contract could be part of a unit rather than a whole unit.

This docket is closed upon issuance of this notice.

By DIRECTION of the Florida Public Service Commission, this  
16th day of OCTOBER, 1990.

  
STEVE TRIBBLE, Director  
Division of Records & Reporting

( S E A L )

CBM

0053

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 4

CERTIFICATION OF  
PUBLIC SERVICE COMMISSION ADMINISTRATIVE RULES  
FILED WITH THE  
DEPARTMENT OF STATE

I do hereby certify:

(1) The time limitations prescribed by paragraph 120.54(11)(a), F.S., have been complied with; and

(2) There is no administrative determination under section 120.54(4), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(11)(b), F.S. They are filed not less than 28 days after the notice required by subsection 120.54(1), F.S., and;

(a) And are filed not more than 90 days after the notice; or

(b) Are filed not more than 90 days after the notice not including days an administrative determination was pending; or

(c) Are filed within 21 days after the adjournment of the final public hearing on the rule; or

(d) Are filed within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(e) Are filed within 21 days after the date the transcript was received by this agency.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 5

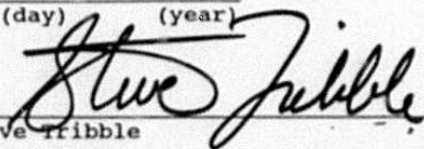
undersigned agency by and upon their filing with the Department of State.

<u>Rule No.</u>	<u>Specific Rulemaking Authority</u>	<u>Law Being Implemented, Interpreted or Made Specific</u>
25-17.082	366.051, 350.127(2), F.S.	366.051, F.S.
25-17.0825	366.051, 350.127(2), F.S.	366.051, F.S.
5-17.083	366.04(1), 366.05(1), 366.05(9), 350.127(2), F.S.	366.05(9), F.S.
25-17.0831	366.05(9), 350.127(2), F.S.	366.05(9), F.S.
25-17.0832	350.127, 366.04(1), 366.051, 366.05(8), F.S.	366.051, 403.503, F.S.
25-17.0833	366.05(8), 366.051, 350.127(2), F.S.	366.051, F.S.
25-17.0834	366.051, 350.127(2), F.S.	366.051, F.S.
25-17.087	366.051, 350.127(2), F.S.	366.051, F.S.
25-17.088	350.127(2), 366.051, F.S.	366.051, 366.04(3), 366.055(3), F.S.
25-17.0882	350.127(2), 366.05(1), F.S.	366.05(9), 366.04(3), 366.055(3), F.S.
25-17.0883	366.051, 350.127(2), F.S.	366.051, F.S.
25-17.089	366.051, 350.127(2), F.S.	366.051, 366.055(3), F.S.
25-17.091	350.127(2), 377.709(5), F.S.	366.051, 366.055(3), 366.709, F.S.

Under the provision of paragraph 120.54(12)(a), F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 6

Effective: \_\_\_\_\_  
(month) (day) (year)

  
\_\_\_\_\_  
Steve Fribble  
Director, Division of Records & Reporting  
Title

\_\_\_\_\_  
Number of Pages Certified

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 7

1           25-17.082 The Utility's Obligation to Purchase; Customer's  
2 Selection of Billing Method.

3           (1) Upon compliance by the qualifying facility with Rule  
4 25-17.087, each utility shall purchase electricity produced and  
5 sold by qualifying facilities at rates which have been agreed upon  
6 by the utility and qualifying facility or at the utility's  
7 published tariff. Each utility shall file a tariff or tariffs and  
8 a standard offer contract or contracts for the purchase of energy  
9 and capacity from qualifying facilities which reflects the  
10 provisions set forth in these rules.

11           (2) Unless the Commission determines that alternative  
12 metering requirements cause no adverse effect on the cost or  
13 reliability of electric service to the utility's general body of  
14 customers, each ~~such~~ tariff and standard offer contract shall  
15 specify the following metering requirements for billing purposes:

16           (a) Hourly recording meters shall be required for qualifying  
17 facilities with an installed capacity of 100 kilowatts or more.

18           (b) For qualifying facilities with an installed capacity of  
19 less than 100 kilowatts, at the option of the qualifying facility,  
20 either hourly recording meters, dual kilowatt-hour register  
21 time-of-day meters, or standard kilowatt-hour meters shall be  
22 installed. Unless special circumstances warrant, meters shall be  
23 read at monthly intervals on the approximate corresponding day of  
24 each meter reading period.

25           (3)(a) A qualifying facility, upon entering into a contract

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.



1 for the sale of firm capacity and energy or prior to delivery of  
2 as-available energy to a utility, shall may elect to make either  
3 simultaneous purchases from the interconnecting utility and sales  
4 to the purchasing utility or net sales to the purchasing utility.  
5 Once made, the selection of a billing methodology may only be  
6 changed:

- 7 1. when a qualifying facility selling as-available  
8 energy enters into a negotiated contract or standard  
9 offer contract for the sale of firm capacity and  
10 energy; or
- 11 2. when a firm capacity and energy contract expires or  
12 is lawfully terminated by either the qualifying  
13 facility or the purchasing utility; or
- 14 3. when the qualifying facility is selling as-available  
15 energy and has not changed billing methods within  
16 the last twelve months; and
- 17 4. when the election to change billing methods will not  
18 contravene the provisions of Rule 25-17.0832 or any  
19 contract between the qualifying facility and the  
20 utility.

21 Firm capacity and energy contracts in effect prior to the  
22 effective date of this rule shall remain unchanged. ~~at the option~~  
23 ~~of the qualifying facility, subject to the following provisions:~~

24 (b) If a qualifying facility elects to change billing methods  
25 in accordance with this rule, such change shall be subject to the

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 9

1 following provisions:

2 ~~(a) -- not more frequently than once every twelve months;~~

3 ~~(b) -- to coincide with the next Fuel and Purchased Power Cost~~

4 ~~Recovery Factor billing period;~~ = ,

5 1. ~~(e)~~ upon at least thirty days advance written  
6 notice;

7 2. ~~(d)~~ upon the installation by the utility of any  
8 additional metering equipment reasonably required to  
9 effect the change in billing and upon payment by the  
10 qualifying facility for such metering equipment and  
11 its installation; and

12 3. ~~(e)~~ upon completion and approval by the utility of  
13 any alterations to the interconnection reasonably  
14 required to effect the change in billing and upon  
15 payment by the qualifying facility for such  
16 alterations. and

17 ~~(f) -- where the election to change billing methods~~  
18 ~~will not contravene the provisions of the tariff~~  
19 ~~under which the qualifying facility receives~~  
20 ~~service from the utility or any other previously~~  
21 ~~agreed upon contractual provision between the~~  
22 ~~qualifying facility and the utility.~~

23 (c) Should a qualifying facility elect to make simultaneous  
24 purchases and sales, purchases of electric service by the  
25 qualifying facility from the interconnecting utility shall be

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 10

1 billed at the retail rate schedule under which the qualifying  
2 facility load would receive service as a non-generating customer  
3 of the utility; sales of electricity delivered by the qualifying  
4 facility to the purchasing utility shall be purchased at the  
5 utility's avoided energy and capacity rates, where applicable, in  
6 accordance with Rules 25-17.0825 and 25-17.0832 ~~25-17.083~~.

7 (d) Should a qualifying facility elect a net billing  
8 arrangement ~~to-make-net-sales~~, the hourly net energy and capacity  
9 sales delivered to the purchasing utility shall be purchased at  
10 the utility's avoided energy and capacity rates, where applicable,  
11 in accordance with Rules ~~Rule~~ 25-17.0825 and 25-17.0832;  
12 ~~25-17.083~~ ~~For those hours which a qualifying facility is a net~~  
13 ~~purchaser~~, purchases from the interconnecting utility shall be  
14 billed pursuant to at the utility's applicable standby service  
15 or supplemental service ~~retail~~ rate schedules ~~schedule~~ ~~under~~  
16 ~~which the qualifying facility would receive service as a~~  
17 ~~non-generating customer of the utility.~~

18 (4)(a) Payments for energy and capacity sold by a qualifying  
19 facility shall be rendered monthly by the purchasing utility and  
20 as promptly as possible, normally by the twentieth business day  
21 following the day the meter is read. The kilowatt-hours sold by  
22 the qualifying facility, the applicable avoided energy rate at  
23 which payments were made, and the rate and amount of the  
24 applicable capacity payment shall accompany the payment by the  
25 utility to the qualifying facility.

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 11

1       **(b)** Where simultaneous purchases and sales are made by a  
2 qualifying facility from and to a single utility, avoided energy  
3 and capacity payments to the qualifying facility may, at the  
4 option of the qualifying facility, be shown as a credit to the  
5 qualifying facility's bill; the kilowatt-hours produced by the  
6 qualifying facility, the avoided energy rate at which payments  
7 were made, and the rate and amount of the capacity payment shall  
8 accompany the bill to the qualifying facility. A credit shall not  
9 exceed the amount of the qualifying facility's bill from ~~the~~  
10 utility and the excess, if any, shall be paid directly to ~~the~~  
11 qualifying facility in accordance with this rule.

12       **(5)** A utility may require a security deposit from each  
13 interconnected qualifying facility in accordance with Rule  
14 25-6.097 for the qualifying facility's purchase of power from the  
15 utility. Each utility's tariff shall contain specific criteria for  
16 determining the applicability and amount of a deposit from an  
17 interconnected a qualifying facility consistent with projected  
18 net cash flow on a monthly basis.

19       **(6)** ~~The~~ Each utility shall keep separate accounts for sales  
20 to qualifying facilities and purchases from qualifying facilities.

21 Specific Authority: 366.051, 350.127(2), P.S.  
22 Law Implemented: 366.051, P.S.  
23 History: New 5/13/81, Amended 9/4/83, formerly 25-17.82,  
24 Amended \_\_\_\_\_.

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 12

1 25-17.0825 As-Available Energy.

2 (1) As-available energy is energy produced and sold by a  
3 qualifying facility on an hour-by-hour basis for which contractual  
4 commitments as to the quantity, time, or reliability of delivery  
5 are not required. Each utility shall purchase as-available energy  
6 from any qualifying facility ~~located within its service~~  
7 ~~territory. Each utility may negotiate a contract for the~~  
8 ~~purchase of as-available energy from any qualifying facility~~  
9 ~~located outside its service territory.~~ As-available energy shall  
10 be sold by a qualifying facility and purchased by a utility  
11 pursuant to the terms and conditions of a published tariff or a  
12 separately negotiated contract.

13 As-available energy sold by a qualifying facility shall be  
14 purchased by the utility at a rate, in cents per kilowatt-hour,  
15 not to exceed the utility's avoided energy cost. Because of the  
16 lack of assurances as to the quantity, time, or reliability of  
17 delivery of as-available energy, no capacity payments shall be  
18 made to a qualifying facility for the delivery of as-available  
19 energy.

20 (a) Tariff Rates: Each utility shall publish a tariff for  
21 the purchase of as-available energy from qualifying facilities.  
22 Each utility's published tariff shall state that the rate of  
23 payment for as-available energy is the utility's avoided energy  
24 cost as defined in subsection Section (2) of this rule, less the  
25 additional costs directly attributable to the purchase of such

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 13

1 energy from a qualifying facility. The additional costs directly  
2 associated with the purchase of as-available energy from  
3 qualifying facilities shall be specifically identified in the  
4 utility's tariff.

5 (b) Contract Rates: Each utility may enter into a separately  
6 negotiated contract for the purchase of as-available energy from a  
7 qualifying facility. All contracts for the purchase of  
8 as-available energy between a qualifying facility and a utility  
9 shall be filed with the Commission within 10 working days of their  
10 signing. Those qualifying facilities wishing to negotiate a  
11 contract for the sale of firm capacity and energy with terms  
12 different from those in a utility's standard offer contract may do  
13 so pursuant to Rule 25-17.0832(2). Where parties cannot agree on  
14 the terms and conditions of a negotiated contract, either party  
15 may apply to the Commission for relief pursuant to Rule 25-17.0834.

16 (2)(a) Avoided energy costs associated with as-available  
17 energy are defined as +

18 ~~(a) -- The utility's actual incremental energy cost for those~~  
19 ~~hours during which no economy energy purchases or sales take~~  
20 ~~place, or~~

21 ~~(b) -- The utility's actual incremental energy cost after the~~  
22 ~~purchase of economy energy, for those hours during which economy~~  
23 ~~purchases take place, or~~

24 ~~(c) -- The the utility's actual avoided incremental energy~~  
25 ~~cost before the sale of interchange ~~economy energy~~ for those~~

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 14

1 ~~hours-during-which-economy-sales-take-place.~~ Avoided energy  
2 costs associated with as-available energy shall be all costs the  
3 utility avoided due to the purchase of as-available energy,  
4 including ~~include~~ the utility's incremental fuel, and  
5 identifiable variable operating and maintenance expense, and  
6 identifiable variable utility power purchases. Demonstrable  
7 utility administrative costs required to calculate avoided energy  
8 costs may be deducted from avoided energy payments. Avoided line  
9 losses reflecting the voltage at which generation by the  
10 qualifying facility is received by the utility shall also be  
11 included in the determination of avoided energy costs. Each  
12 utility shall calculate its avoided energy cost associated with  
13 as-available energy deterministically, on an hour-by-hour basis,  
14 after accounting for interchange sales ~~economy-transactions~~ which  
15 have taken place, using the utility's actual avoided incremental  
16 energy cost curve for the hour, as affected by firm-power  
17 purchases-and-sales-when-applicable-and the output of the  
18 qualifying facilities connected to the utility's system. A  
19 megawatt block size at least equal to the most recent available  
20 estimate of the combined average hourly generation of all  
21 qualifying facilities making as-available energy sales based on  
22 the utility's as-available energy rate and-connected to the  
23 utility ~~utility's-system~~ shall be used to calculate the utility's  
24 hourly avoided energy costs associated with as-available energy.  
25 For the purpose of this subsection, interchange sales are

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 15

1 inter-utility sales which are provided at the option of the  
2 selling utility exclusive of central pool dispatch transactions.

3 (b) Each utility's tariff shall include a description  
4 ~~utility shall submit for Commission approval details~~ of the  
5 methodology to be used in the calculation of avoided energy cost  
6 implementing subsection Section (2) of this Rule. Each utility's  
7 implementation methodology shall specify the method by which the  
8 utility's incremental fuel and operating and maintenance costs and  
9 line losses are determined.

10 (3)(a) For qualifying facilities with hourly recording  
11 meters, monthly payments for as-available energy shall be made and  
12 shall be calculated based on the product of: (1) the utility's  
13 actual avoided energy rate for each hour during the month; and (2)  
14 the quantity of energy sold by the qualifying facility during that  
15 hour.

16 (b) For qualifying facilities with dual kilowatt-hour  
17 register time-of-day meters, monthly payments for as-available  
18 energy shall be calculated based on the average of the utility's  
19 actual hourly avoided energy rate for the on-peak and off-peak  
20 periods during the month.

21 (c) For qualifying facilities with standard kilowatt-hour  
22 meters, monthly payments for as-available energy shall be  
23 calculated based on the average of the utility's actual hourly  
24 avoided energy rate for the off-peak periods during the month.

25 (4) Each utility shall file with the Commission ~~a monthly-~~

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.



ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 16

1 report by the twentieth business day of the following month, a  
2 monthly report of their actual hourly avoided energy costs, the  
3 average of their actual hourly avoided energy costs for the  
4 on-peak and off-peak periods during the month, and the average of  
5 their actual hourly avoided energy costs for the month with the  
6 Commission. A copy shall be furnished to any individual who  
7 requests such information.

8 (5) Upon request by a qualifying facility or any interested  
9 person, each utility shall provide within 30 days its most current  
10 projections of its generation mix, fuel price by type of fuel, and  
11 at least a five year projection of fuel forecasts to estimate  
12 future as-available energy prices as well as any other information  
13 reasonably required by the qualifying facility to project future  
14 avoided cost prices including, but not limited to, a 24 hour  
15 advance forecast of hour-by-hour avoided energy costs. The  
16 utility may charge an appropriate fee, not to exceed the actual  
17 cost of production and copying, for providing such information.

18 ~~Each utility tariff shall include, at minimum, a ten-year rolling~~  
19 ~~estimate of the average of the utility's annual generation mix~~  
20 ~~and fuel price by type of fuel. These estimates shall be updated~~  
21 ~~annually.~~

22 (6) Utility payments for as-available energy made to  
23 qualifying facilities pursuant to the utility's tariff shall be  
24 recoverable by the utility through the Commission's periodic  
25 review of fuel and purchased power ~~Fuel and Purchased Power Cost~~

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 17

1 ~~Recovery-Clause.~~ Utility payments for as-available energy made  
2 to qualifying facilities pursuant to a separately negotiated  
3 contract shall be recoverable by the utility through the  
4 Commission's periodic review of fuel and purchased power costs  
5 ~~Fuel-and-Purchased-Power-Cost-Recovery-Clause~~ if the payments are  
6 not reasonably projected to result in higher cost electric service  
7 to the utility's general body of ratepayers or adversely affect  
8 the adequacy or reliability of electric service to all customers  
9 ~~in-the-best-interest-of-the-utility's-ratepayers.~~

10 Specific Authority: 366.051, 350.127(2), P.S.

11 Law Implemented: 366.051, P.S.

12 History: New 9/4/83, formerly 25-17.82, Amended \_\_\_\_\_  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CODING: Words underlined are additions; words in struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 18

1 25-17.083 Firm Energy and Capacity.

2 (1) Firm energy and capacity are energy and capacity produced  
3 and sold by a qualifying facility and purchased by a utility  
4 pursuant to a negotiated contract or the utility's standard  
5 contract offer and subject to certain contractual provisions as to  
6 the quantity, time, and reliability of delivery.

7 (2) Each utility may negotiate a contract for the purchase of  
8 firm energy and capacity from any qualifying facility. Generally,  
9 such contracts will be considered prudent for cost recovery  
10 purposes if the following criteria are met:

11 (a) it is demonstrated that the purchase of firm energy and  
12 capacity from the qualifying facility pursuant to the terms and  
13 conditions of the contract can reasonably be expected to result in  
14 the economic deferral or avoidance of additional capacity  
15 construction by Florida utilities from a statewide perspective; and

16 (b) the cumulative present worth of firm energy and capacity  
17 payments made to the qualifying facility over the term of the  
18 contract are to be no greater than the cumulative present worth of  
19 the value of a year-by-year deferral of the statewide avoided unit  
20 over the term of the contract; and

21 (c) to the extent that the annual firm energy and capacity  
22 payments made to the qualifying facility in any year exceed that  
23 year's annual value of deferring the statewide avoided unit, the  
24 contract contains adequate provisions to protect the utility's  
25 ratepayers in the event that the qualifying facility fails to

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 19

1 perform pursuant to the terms and conditions of the contract.  
 2 Such provisions may be in the form of a requirement for the  
 3 repayment of firm energy and capacity payments made by the  
 4 utility, a surety bond or equivalent assurance of performance of  
 5 the contract by the qualifying facility, or payment of less than  
 6 full avoided firm energy and capacity costs.

7 (3) Each utility shall submit a tariff containing a standard  
 8 offer for the purchase of firm energy and capacity from any  
 9 qualifying facility in the State for approval by the Commission.  
 10 In lieu of a separately negotiated contract, a qualifying facility  
 11 may accept any utility's standard offer.

12 Each utility's standard offer shall contain, at a minimum, the  
 13 following criteria and rates of payment:

14 (a) A qualifying facility shall be eligible to receive firm  
 15 energy and capacity payments pursuant to a utility's standard  
 16 offer if the qualifying facility is willing to enter into a  
 17 contract for the delivery of firm energy and capacity on the  
 18 following terms and conditions at least two years before the  
 19 anticipated in-service date of the statewide avoided unit:

20 (i) the qualifying facility will agree to deliver energy and  
 21 capacity commencing no later than the anticipated in-service date  
 22 of the statewide avoided unit and continuing for a period of at  
 23 least ten years after the anticipated in-service date of the  
 24 statewide avoided unit; and

25 (ii) the qualifying facility will agree to maintain a seventy

CODING: Words underlined are additions; words in struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 20

1 percent capacity factor for energy delivered by the qualifying  
2 facility on a 12 month rolling average basis. For the purpose of  
3 this subsection, the capacity factor of the qualifying facility  
4 shall be defined as: the total kilowatt-hours of energy delivered  
5 to the utility during the preceding 12 months, divided by the  
6 product of: (1) the maximum kilowatt capacity contractually  
7 committed for delivery to the utility by the qualifying facility  
8 during the preceding 12 months and (2) the sum of the total hours  
9 during the preceding 12 months less those hours during which the  
10 utility was unable to accept energy and capacity deliveries from  
11 the qualifying facility; and

12 (iii) additional criteria reasonably required by the utility  
13 planning the statewide avoided unit, related to the delivery of  
14 firm energy and capacity by the qualifying facility during that  
15 utility's daily and seasonal peak periods.

16 (b) Upon approval by the Commission each utility's standard  
17 offer shall provide the following payment options to a qualifying  
18 facility for the delivery of firm energy and capacity:

19 (i) Capacity payments shall be equal to the value of a  
20 year-by-year deferral of the statewide avoided unit, calculated in  
21 accordance with Section (7) of this rule; energy payments shall be  
22 calculated in accordance with Section (6) of this rule.

23 Normally, payments for firm capacity pursuant to this option  
24 shall not commence until the anticipated in-service date of the  
25 statewide avoided unit. At the option of the qualifying facility,

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 21

1 however, a utility may begin making early capacity payments  
 2 consisting of the avoided capital cost component of the value of a  
 3 year-by-year deferral of the statewide avoided unit starting as  
 4 early as seven years prior to the anticipated in-service date of  
 5 the statewide avoided unit. The avoided operating and maintenance  
 6 expense component of the value of a year-by-year deferral of the  
 7 statewide avoided unit shall be included in the capacity payment  
 8 made to the qualifying facility starting with the anticipated  
 9 in-service date of the statewide avoided unit. Where such early  
 10 capacity payments are made, the cumulative present value of the  
 11 avoided capital cost component of capacity payments made to the  
 12 qualifying facility over the term of the contract shall not exceed  
 13 the cumulative present value of the avoided capital cost component  
 14 of capacity payments which would have been made to the qualifying  
 15 facility had such payments commenced with the in-service date of  
 16 the statewide avoided unit. For the purpose of this option, the  
 17 avoided capital cost component of capacity payments to be made to  
 18 a qualifying facility starting as early as seven years prior to  
 19 the anticipated in-service date of the statewide avoided unit  
 20 shall be paid monthly and shall be calculated as follows:

$$A_m = A \frac{(1+i)^n}{12} ; \text{ for } n = 0, n$$

23 Where:  $A_m$  = monthly avoided capital cost component of  
 24 capacity payments to be made to the qualifying  
 25 facility starting as early as seven years prior

CODING: Words underlined are additions; words in  
 struck-through type are deletions from existing law.

1 to the anticipated in-service date of the  
 2 statewide avoided unit, in dollars per kilowatt  
 3 per month;  
 4  $i_p$  = annual escalation rate associated with the  
 5 plant cost of the statewide avoided unit;  
 6  $n$  = year for which early capacity payments to a  
 7 qualifying facility are made; and  
 8  
 9 [ ]  
 10 [ (1 +  $i_p$ ) ]  
 11  $A = F$  [ 1 - (1 +  $r$ ) ]  
 12 [ (1 +  $i_p$ ) <sup>$t$</sup>  ]  
 13 [ 1 - (1 +  $r$ ) ]  
 14 [ ]  
 15  
 16 Where:  $F$  = the cumulative present value of the avoided  
 17 capital cost component of capacity payments  
 18 which would have been made had capacity  
 19 payments commenced with the anticipated  
 20 in-service date of the statewide avoided unit;  
 21  $r$  = annual discount rate, defined as the utility's  
 22 incremental after tax cost of capital; and  
 23  $t$  = the term, in years, of the contract for the  
 24 purchase of firm capacity commencing prior to  
 25 the in-service date of the statewide avoided

CODING: Words underlined are additions; words in struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 23

1 unit.

2  
3 (ii) Capacity payments shall be equal to the average  
4 embedded book cost of fossil steam production plant of the utility  
5 planning the statewide avoided unit; energy payments shall be  
6 calculated in accordance with Section (6) of this rule.

7 Normally, payments for firm capacity pursuant to this option  
8 shall not commence until the anticipated in-service date of the  
9 statewide avoided unit. At the option of the qualifying facility,  
10 however, a utility may begin making capacity payments pursuant to  
11 this option as early as seven years prior to the anticipated  
12 in-service date of the statewide unit.

13 (c) If capacity payments are to be made prior to the  
14 anticipated in-service date of the statewide avoided unit, the  
15 qualifying facility shall be required to provide a surety bond or  
16 equivalent assurance of repayment of the early capacity payments  
17 if the qualifying facility is unable to meet the terms and  
18 conditions of the contract.

19 (d) Each utility's standard offer shall be revised annually  
20 to reflect changes in the designation of the statewide avoided  
21 unit, its timing, and its cost; and changes in the average  
22 embedded book cost of fossil steam production plant. However, the  
23 statewide avoided unit and the timing of the statewide avoided  
24 unit upon which the value of deferral and contractual rates of  
25 payment for capacity pursuant to Section (3)(b)(i) of this rule

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.



ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 24

1 are calculated shall remain fixed for a qualifying facility upon  
2 acceptance of the value of deferral option of the utility's  
3 standard offer. At the choice of the qualifying facility,  
4 contract rates of payment for capacity sold by a qualifying  
5 facility pursuant to Section (3)(b)(i) of this rule may be revised  
6 annually to reflect changes in the value of deferral or may, at  
7 the time a qualifying facility accepts this option of the  
8 utility's standard offer, be specified for the duration of the  
9 contract to reflect expected changes in the value of deferral.  
10 Once made, the qualifying facility's election of a specified or  
11 annually revised rate of payment for capacity sold pursuant to  
12 Section (3)(b)(i) of this rule may not be changed for the duration  
13 of the contract. Contract rates of payment for capacity sold by a  
14 qualifying facility pursuant to Section (3)(b)(ii), of this rule  
15 shall be revised annually.

16 (4) The Commission shall initiate proceedings on an annual  
17 basis to determine the statewide avoided unit for the purpose of  
18 determining the need for, timing, and pricing of firm energy and  
19 capacity purchases from qualifying facilities. In connection with  
20 these proceedings:

21 (a) Each utility in the State of Florida shall submit an  
22 analysis to the Commission identifying its next planned  
23 uncertified generating unit to be added to its system pursuant to  
24 its most current long range generation expansion plan. The  
25 analysis shall include an estimate of the size, timing, cost, and

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 25

1 operating characteristics of the utility's next planned  
2 uncertified generating unit, and include all assumptions necessary  
3 to make these estimations. The analysis shall exclude from  
4 consideration the anticipated kilowatt and kilowatt-hour  
5 contribution to the utility's system from existing or proposed  
6 qualifying facilities which are not under contract for the  
7 delivery of firm energy and capacity.

8 (b) Each utility in the State which plans to construct or is  
9 constructing a proposed certified generating unit shall submit an  
10 analysis identifying these units. The analysis shall include an  
11 estimation of the construction schedule, anticipated in-service  
12 date, cost, and operating characteristics of the proposed  
13 certified unit and include a detailed time-series estimation of  
14 the cost of cancelling construction of the unit at any time up to  
15 its in-service date.

16 (5) To the extent that firm energy and capacity purchased  
17 from a qualifying facility by a utility pursuant to the utility's  
18 standard offer is not needed by the purchasing utility or that the  
19 avoided energy and capacity cost associated with the statewide  
20 avoided unit exceed the purchasing utility's avoided energy and  
21 capacity cost, these rules shall be construed to encourage the  
22 purchasing utility to sell all or part of the energy and capacity  
23 purchased from a qualifying facility to the utility planning the  
24 statewide avoided unit. The utility which is planning the  
25 designated statewide avoided unit is expected to purchase such

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 26

1 energy and capacity at the original purchasing utility's cost.

2 (6) For the purpose of this rule, avoided energy costs  
3 associated with firm energy sold to a utility by a qualifying  
4 facility pursuant to the utility's standard offer shall be defined  
5 as the lesser of the as-available avoided energy cost of the  
6 utility planning the statewide avoided unit and the statewide  
7 avoided unit energy cost, commencing with the anticipated  
8 in-service date of the statewide avoided unit and continuing  
9 throughout the term of the contract.

10 The statewide avoided unit energy cost shall be defined as the  
11 cost of fuel, in cents per kilowatt hour, which would have been  
12 burned at the statewide avoided unit and shall be calculated as  
13 follows:

14 The average market price of fuel, in cents per million Btu,  
15 associated with the statewide avoided unit multiplied by the  
16 average heat rate associated with the statewide avoided unit.

17 Before the anticipated in-service date of the statewide  
18 avoided unit, a qualifying facility who has accepted a utility's  
19 standard offer may sell electricity pursuant to Rule 25-17.0825.

20 (7) For the purpose of this rule, avoided capacity costs in  
21 dollars per kilowatt per month, associated with firm capacity sold  
22 to a utility by a qualifying facility pursuant to the utility's  
23 standard offer shall be defined as the value of a year-by-year  
24 deferral of the statewide avoided unit and shall be calculated as  
25 follows:

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 27

$$VAC_m = \frac{C}{2} \left[ K In \left[ \frac{1 - (1 + ip)^L}{1 + r} \right] + On \left[ \frac{1 - i}{1 + r} \right] \right]$$

Where, for a one year deferral:

- VAC<sub>m</sub> = utility's value of avoided capacity, in dollars per kilowatt per month, during month m;
- c = a constant risk multiplier equal to 0.8 for the purpose of the utility's standard contract offer;
- K = present value of carrying charges for one dollar of investment over L years with carrying charges assumed to be paid at the end of each year;
- In = total direct and indirect cost, in dollars per kilowatt including AFUDC but excluding CWIP, of the statewide avoided unit with an in-service date of year n;
- On = total first year's fixed and variable operating and maintenance expense, less fuel and in dollars per kilowatt per year, of the statewide avoided unit deflated to the beginning of year n by i<sub>o</sub>;
- ip = annual escalation rate associated with the plant cost of the statewide avoided unit;
- io = annual escalation rate associated with the operation

CODING: Words underlined are additions; words in struck-through type are deletions from existing law.

1 and maintenance expense of the statewide avoided  
 2 unit;  
 3 r = annual discount rate, defined as the utility's  
 4 incremental after tax cost of capital;  
 5 L = expected life of the statewide avoided unit; and  
 6 n = year for which the statewide avoided unit is  
 7 deferred starting with its original anticipated  
 8 in-service date and ending with the termination of  
 9 the contract for the purchase of firm energy and  
 10 capacity.

11 (8) Firm energy and capacity payments made to qualifying  
 12 facilities pursuant to a utility's standard offer shall be  
 13 recoverable by a utility through the Fuel and Purchased Power Cost  
 14 Recovery Clause. Firm energy and capacity payments made to a  
 15 qualifying facility pursuant to a separately negotiated contract  
 16 shall be recoverable by a utility through the Fuel and Purchased  
 17 Power Cost Recovery Clause if the contract is found to be prudent  
 18 in accordance with Section (2) of this rule.

19 Specific Authority: 366.04(1), 366.05(1), 366.05(9), 350.127(2),  
 20 F.S.

21 Law Implemented: 366.05(9), F.S.

22 History: New 9/4/83, formerly 25-17.83, Repealed

23  
 24  
 25

CODING: Words underlined are additions; words in  
 struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 29

1 25-17.0831 Contracts.

2 A utility and a qualifying facility may enter into a contract  
3 which varies from the terms and conditions specified in these  
4 rules. All contracts between a utility and qualifying facility  
5 shall be filed with the Commission. In the event that a utility  
6 and a qualifying facility cannot agree on terms and conditions for  
7 the purchase of energy or capacity, either party may apply to the  
8 Commission for relief, and the Commission shall grant relief in  
9 accordance with Rules 25-17.080 through 25-17.088.

10 Specific Authority: 366.05(9), 350.127(2), P.S.

11 Law Implemented: 366.05(9), P.S.

12 History: New 5/13/81, amended 9/4/83, formerly 25-17.831, Repealed  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 30

1        25-17.0832 Firm Capacity and Energy Contracts

2        (1) Firm capacity and energy are capacity and energy produced  
3 and sold by a qualifying facility and purchased by a utility  
4 pursuant to a negotiated contract or a standard offer contract  
5 subject to certain contractual provisions as to the quantity, time  
6 and reliability of delivery.

7        (a) Within one working day of the execution of a negotiated  
8 contract or the receipt of a signed standard offer contract, the  
9 utility shall notify the Director of the Division of Electric and  
10 Gas and provide the amount of committed capacity and the avoided  
11 unit, if any, to which the contract should be applied.

12        (b) Within 10 working days of the execution of a negotiated  
13 contract for the purchase of firm capacity and energy or within 10  
14 working days of receipt of a signed standard offer contract, the  
15 purchasing utility shall file with the Commission a copy of the  
16 signed contract and a summary of its terms and conditions. At a  
17 minimum, such a summary shall report:

- 18        1. the name of the utility and the owner and/or  
19        operator of the qualifying facility, who are  
20        signatories of the contract;  
21        2. the amount of committed capacity specified in the  
22        contract, the size of the facility, the type of the  
23        facility its location, and its interconnection and  
24        transmission requirements;  
25        3. the amount of annual and on-peak and off-peak energy

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 31

expected to be delivered to the utility;

4. the type of unit being avoided, its size and its in-service year;

5. the in-service date of the qualifying facility; and

6. the date by which the delivery of firm capacity and energy is expected to commence.

(c) Prior to the anticipated in-service date of the avoided unit specified in the contract, a qualifying facility which has negotiated a firm capacity and energy contract or has accepted a utility's standard offer contract may sell as-available energy to any utility pursuant to Rule 25-17.0825.

(2) Negotiated Contracts. Utilities and qualifying facilities are encouraged to negotiate contracts for the purchase of firm capacity and energy. Such contracts will be considered prudent for cost recovery purposes if it is demonstrated that the purchase of firm capacity and energy from the qualifying 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 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 qualifying facility under the contract. Negotiated contracts shall not be evaluated against an avoided unit in a standard offer contract, thus preserving the

CODING: Words underlined are additions; words in struck-through type are deletions from existing law.



ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 32

1 standard offer for small qualifying facilities as described in  
2 subsection (3). In reviewing negotiated firm capacity and energy  
3 contracts for the purpose of cost recovery, the Commission shall  
4 consider factors relating to the contract that would impact the  
5 utility's general body of retail and wholesale customers including:

6 (a) whether additional firm capacity and energy is needed by  
7 the purchasing utility and by Florida utilities from a statewide  
8 perspective; and

9 (b) whether the cumulative present worth of firm capacity and  
10 energy payments made to the qualifying facility over the term of  
11 the contract are projected to be no greater than:

- 12 1. the cumulative present worth of the value of a  
13 year-by-year deferral of the construction and  
14 operation of generation or parts thereof by the  
15 purchasing utility over the term of the contract;  
16 calculated in accordance with subsection (4) and  
17 paragraph (5)(a) of this rule, providing that the  
18 contract is designed to contribute towards the  
19 deferral or avoidance of such capacity; or  
20 2. the cumulative present worth of other capacity and  
21 energy related costs that the contract is designed  
22 to avoid such as fuel, operation and maintenance  
23 expenses or alternative purchases of capacity,  
24 providing that the contract is designed to avoid  
25 such costs; and

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 33

1       (c) to the extent that annual firm capacity and energy  
2 payments made to the qualifying facility in any year exceed that  
3 year's annual value of deferring the construction and operation of  
4 generation by the purchasing utility or other capacity and energy  
5 related costs, whether the contract contains provisions to ensure  
6 repayment of such payments exceeding that year's value of  
7 deferring that capacity in the event that the qualifying facility  
8 fails to deliver firm capacity and energy pursuant to the terms  
9 and conditions of the contract; provided, however, that provisions  
10 to ensure repayment may be based on forecasted data; and

11       (d) considering the technical reliability, viability and  
12 financial stability of the qualifying facility, whether the  
13 contract contains provisions to protect the purchasing utility's  
14 ratepayers in the event the qualifying facility fails to deliver  
15 firm capacity and energy in the amount and times specified in the  
16 contract.

17       (3) Standard Offer Contracts.

18       (a) Upon petition by a utility or pursuant to a Commission  
19 action, each public utility shall submit for Commission approval a  
20 tariff or tariffs and a standard offer contract or contracts for  
21 the purchase of firm capacity and energy from small qualifying  
22 facilities less than 75 megawatts or from solid waste facilities  
23 as defined in Rule 25-17.091.

24       (b) The rates, terms, and other conditions contained in each  
25 utility's standard offer contract or contracts shall be based on

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 34

1 the need for and equal to the avoided cost of deferring or  
2 avoiding the construction of additional generation capacity or  
3 parts thereof by the purchasing utility. Rates for payment of  
4 capacity sold by a qualifying facility shall be specified in the  
5 contract for the duration of the contract. In reviewing a  
6 utility's standard offer contract or contracts, the Commission  
7 shall consider the criteria specified in paragraphs (2)(a) through  
8 (2)(d) of this rule, as well as any other information relating to  
9 the determination of the utility's full avoided costs.

10 (c) In lieu of a separately negotiated contract, a qualifying  
11 facility under 75 megawatts or a solid waste facility as defined  
12 in Rule 25-17.091(1), F.A.C., may accept any utility's standard  
13 offer contract. Qualifying facilities which are 75 megawatts or  
14 greater may negotiate contracts for the purchase of capacity and  
15 energy pursuant to subsection (2). Should a utility fail to  
16 negotiate in good faith, any qualifying facility may apply to the  
17 Commission for relief pursuant to Rule 25-17.0834, F.A.C.

18 (d) Within 60 days of receipt of a signed standard offer  
19 contract, the utility shall either accept and sign the contract  
20 and return it within five days to the qualifying facility or  
21 petition the Commission not to accept the contract and provide  
22 justification for the refusal. Such petitions may be based on:

- 23 1. a reasonable allegation by the utility that  
24 acceptance of the standard offer will exceed the  
25 subscription limit of the avoided unit or units; or

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 35

- 1           2. material evidence that because the qualifying  
2           facility is not financially or technically viable,  
3           it is unlikely that the committed capacity and  
4           energy would be made available to the utility by the  
5           date specified in the standard offer.

6 A standard offer contract which has been accepted by a qualifying  
7 facility shall apply towards the subscription limit of the unit  
8 designated in the contract effective the date the utility receives  
9 the accepted contract. If the contract is not accepted by the  
10 utility, its effect shall be removed from the subscription limit  
11 effective the date of the Commission order granting the utility's  
12 petition.

13           (e) Minimum Specifications. Each standard offer contract  
14 shall, at minimum, specify:

- 15           1. the avoided unit or units on which the contract is  
16           based;  
17           2. the total amount of committed capacity, in  
18           megawatts, needed to fully subscribe the avoided  
19           unit specified in the contract;  
20           3. the payment options available to the qualifying  
21           facility including all financial and economic  
22           assumptions necessary to calculate the firm capacity  
23           payments available under each payment option and an  
24           illustrative calculation of firm capacity payments  
25           for a minimum ten year term contract commencing with

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 36

- 1                   the in-service date of the avoided unit for each  
2                   payment option;
- 3           4.   the date on which the standard contract offer  
4                   expires. This date shall be at least four years  
5                   before the anticipated in-service date of the  
6                   avoided unit or units unless the avoided unit could  
7                   be constructed in less than four years, or when the  
8                   subscription limit has been reached;
- 9           5.   the date by which firm capacity and energy  
10                   deliveries from the qualifying facility to the  
11                   utility shall commence. This date shall be no later  
12                   than the anticipated in-service date of the avoided  
13                   unit specified in the contract;
- 14           6.   the period of time over which firm capacity and  
15                   energy shall be delivered from the qualifying  
16                   facility to the utility. Firm capacity and energy  
17                   shall be delivered, at a minimum, for a period of  
18                   ten years, commencing with the anticipated  
19                   in-service date of the avoided unit specified in the  
20                   contract. At a maximum, firm capacity and energy  
21                   shall be delivered for a period of time equal to the  
22                   anticipated plant life of the avoided unit,  
23                   commencing with the anticipated in-service date of  
24                   the avoided unit;
- 25           7.   the minimum performance standards for the delivery

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO.. 891049-EU  
PAGE 38

1 facility and demonstration that the facility can  
2 deliver the amount of capacity and energy specified  
3 in the contract; and

- 4 2. a listing of the parameters, including any impact on  
5 electric power transfer capability, associated with  
6 the qualifying facility as compared to the avoided  
7 unit necessary for the calculation of the avoided  
8 cost.

9 (g) Firm Capacity Payment Options. Each standard offer  
10 contract shall also contain, at a minimum, the following options  
11 for the payment of firm capacity delivered by the qualifying  
12 facility:

- 13 1. Value of deferral capacity payments. Value of  
14 deferral capacity payments shall commence on the  
15 anticipated in-service date of the avoided unit.  
16 Capacity payments under this option shall consist of  
17 monthly payments escalating annually of the avoided  
18 capital and fixed operation and maintenance expense  
19 associated with the avoided unit and shall be equal  
20 to the value of a year-by-year deferral of the  
21 avoided unit, calculated in accordance with  
22 paragraph (5)(a) of this rule.
- 23 2. Early capacity payments. Each standard offer  
24 contract shall specify the earliest date prior to  
25 the anticipated in-service date of the avoided unit

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

1 when early capacity payments may commence. The  
 2 early capacity payment date shall be an  
 3 approximation of the lead time required to site and  
 4 construct the avoided unit. Early capacity payments  
 5 shall consist of monthly payments escalating  
 6 annually of the avoided capital and fixed operation  
 7 and maintenance expense associated with the avoided  
 8 unit, calculated in conformance with paragraph  
 9 (5)(b) of the rule. At the option of the qualifying  
 10 facility, early capacity payments may commence at  
 11 any time after the specified early capacity payment  
 12 date and before the anticipated in-service date of  
 13 the avoided unit provided that the qualifying  
 14 facility is delivering firm capacity and energy to  
 15 the utility. Where early capacity payments are  
 16 elected, the cumulative present value of the  
 17 capacity payments made to the qualifying facility  
 18 over the term of the contract shall not exceed the  
 19 cumulative present value of the capacity payments  
 20 which would have been made to the qualifying  
 21 facility had such payments been made pursuant to  
 22 subparagraph (3)(g)1 of this rule.

23 3. Levelized capacity payments. Levelized capacity  
 24 payments shall commence on the anticipated  
 25 in-service date of the avoided unit. The capital

CODING: Words underlined are additions; words in  
 struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 40

1 portion of capacity payments under this option shall  
2 consist of equal monthly payments over the term of  
3 the contract, calculated in conformance with  
4 paragraph (5)(c) of this rule. The fixed operation  
5 and maintenance portion of capacity payments shall  
6 be equal to the value of the year-by-year deferral  
7 of fixed operation and maintenance expense  
8 associated with the avoided unit calculated in  
9 conformance with paragraph (5)(a) of this rule.  
10 Where levelized capacity payments are elected, the  
11 cumulative present value of the levelized capacity  
12 payments made to the qualifying facility over the  
13 term of the contract shall not exceed the cumulative  
14 present value of capacity payments which would have  
15 been made to the qualifying facility had such  
16 payments been made pursuant to subparagraph (3)(g)1  
17 of this rule, value of deferral capacity payments.  
18 4. Early levelized capacity payments. Each standard  
19 offer contract shall specify the earliest date prior  
20 to the anticipated in-service date of the avoided  
21 unit when early levelized capacity payments may  
22 commence. The early capacity payment date shall be  
23 an approximation of the lead time required to site  
24 and construct the avoided unit. The capital portion  
25 of capacity payments under this option shall consist

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.



ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 41

of equal monthly payments over the term of the  
contract, calculated in conformance with paragraph  
(5)(c) of this rule. The fixed operation and  
maintenance expense shall be calculated in  
conformance with paragraph (5)(b) of this rule. At  
the option of the qualifying facility, early  
levelized capacity payments shall commence at any  
time after the specified early capacity date and  
before the anticipated in-service date of the  
avoided unit provided that the qualifying facility  
is delivering firm capacity and energy to the  
utility. Where early levelized capacity payments  
are elected, the cumulative present value of the  
capacity payments made to the qualifying facility  
over the term of the contract shall not exceed the  
cumulative present value of the capacity payments  
which would have been made to the qualifying  
facility had such payments been made pursuant to  
subparagraph (3)(g)1 of this rule.

(4) Avoided Energy Payments.

(a) For the purpose of this rule, avoided energy costs  
associated with firm energy sold to a utility by a qualifying  
facility pursuant to a utility's standard offer contract shall  
commence with the in-service date of the avoided unit specified in  
the contract. Prior to the in-service date of the avoided unit,

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 42

1 the qualifying facility may sell as-available energy to the  
2 utility pursuant to Rule 25-17.0825.

3 (b) To the extent that the avoided unit would have been  
4 operated, had that unit been installed, avoided energy costs  
5 associated with firm energy shall be the energy cost of this  
6 unit. To the extent that the avoided unit would not have been  
7 operated, the avoided energy costs shall be the as-available  
8 avoided energy cost of the purchasing utility. During the periods  
9 that the avoided unit would not have been operated, firm energy  
10 purchased from qualifying facilities shall be treated as  
11 as-available energy for the purposes of determining the megawatt  
12 block size in Rule 25-17.0825(2)(a).

13 (c) The energy cost of the avoided unit specified in the  
14 contract shall be defined as the cost of fuel, in cents per  
15 kilowatt-hour, which would have been burned at the avoided unit  
16 plus variable operation and maintenance expense plus avoided line  
17 losses. The cost of fuel shall be calculated as the average  
18 market price of fuel, in cents per million Btu, associated with  
19 the avoided unit multiplied by the average heat rate associated  
20 with the avoided unit. The variable operating and maintenance  
21 expense shall be estimated based on the unit fuel type and  
22 technology of the avoided unit.

23 (5) Calculation of standard offer contract firm capacity  
24 payment options.

25 (a) Calculation of year-by-year value of deferral. The

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 43

1 year-by-year value of deferral of an avoided unit shall be the  
2 difference in revenue requirements associated with deferring the  
3 avoided unit one year and shall be calculated as follows:

$$\begin{aligned}
 & \left[ \right. \\
 & \left[ \quad \left[ 1 - \frac{(1 + ip)}{(1 + r)} \right] \right. \\
 VAC_m = & \frac{1}{12} \left[ KI_n \left[ \frac{(1 + r)}{(1 + ip)^L} \right] + O_n \right. \\
 & \left. \left[ \quad \left[ \frac{(1 + r)}{(1 + ip)^L} \right] \right. \right. \\
 & \left. \left. \left[ \right. \right. \right.
 \end{aligned}$$

11 Where, for a one year deferral:

12 VAC<sub>m</sub> = utility's monthly value of avoided capacity, in  
13 dollars per kilowatt per month, for each month  
14 of year n;

15 K = present value of carrying charges for one dollar  
16 of investment over L years with carrying charges  
17 computed using average annual rate base and  
18 assumed to be paid at the middle of each year  
19 and present value to the middle of the first  
20 year;

21 I<sub>n</sub> = total direct and indirect cost, in mid-year  
22 dollars per kilowatt including AFUDC but  
23 excluding CWIP, of the avoided unit with an  
24 in-service date of year n, including all  
25 identifiable and quantifiable costs relating to

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 44

1 the construction of the avoided unit that would  
2 have been paid had the avoided unit been  
3 constructed;

4  $\underline{O}_n$  = total fixed operation and maintenance expense  
5 for the year n, in mid-year dollars per kilowatt  
6 per year, of the avoided unit;

7  $\underline{i}_p$  = annual escalation rate associated with the plant  
8 cost of the avoided unit(s);

9  $\underline{i}_o$  = annual escalation rate associated with the  
10 operation and maintenance expense of the avoided  
11 unit(s);

12  $\underline{r}$  = annual discount rate, defined as the utility's  
13 incremental after tax cost of capital;

14  $\underline{L}$  = expected life of the avoided unit; and

15  $\underline{n}$  = year for which the avoided unit is deferred  
16 starting with its original anticipated  
17 in-service date and ending with the termination  
18 of the contract for the purchase of firm energy  
19 and capacity.

20 (b) Calculation of early capacity payments. Monthly early  
21 capacity payments shall be calculated as follows:

$$22$$

$$23 \quad A_m = A_C \frac{(1 + ip)^{(m-1)}}{12} + A_O \frac{(1 + io)^{(m-1)}}{12} \quad \text{for } m=1 \text{ to } t$$

$$24 \quad \underline{\hspace{10em}}$$

$$25$$

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
 DOCKET NO. 891049-EU  
 PAGE 45

1 Where:  $\underline{A}_m$  = monthly early capacity payments to be made to  
 2 the qualifying facility for each month of the  
 3 contract year n, in dollars per kilowatt per  
 4 month;  
 5  $\underline{i}_p$  = annual escalation rate associated with the  
 6 plant cost of the avoided unit;  
 7  $\underline{i}_o$  = annual escalation rate associated with the  
 8 operation and maintenance expense of the  
 9 avoided unit(s);  
 10  $\underline{m}$  = year for which early capacity payments to a  
 11 qualifying facility are made, starting in year  
 12 one and ending in the year t;  
 13  $\underline{t}$  = the term, in years, of the contract for the  
 14 purchase of firm capacity;

$$A_C = F \left[ \frac{1 - (1 + r)^{-t}}{r} \right] \left[ \frac{1 - (1 + i_p)^{-m}}{i_p} \right]$$

23 Where:  $\underline{F}$  = the cumulative present value in the year that  
 24 the contractual payments will begin, of the  
 25 avoided capital cost component of capacity

CODING: Words underlined are additions; words in struck-through type are deletions from existing law.

ORDER NO. 23623  
 DOCKET NO. 891049-EU  
 PAGE 46

1 payments which would have been made had  
 2 capacity payments commenced with the  
 3 anticipated in-service date of the avoided  
 4 unit(s); and

5  $r =$  annual discount rate, defined as the utility's  
 6 incremental after tax cost of capital; and

$$A_0 = G \left[ \frac{1 - (1 + r)^t}{(1 + i_0)^t} \right]$$

16 Where:  $G =$  The cumulative present value in the year that  
 17 the contractual payments will begin, of the  
 18 avoided fixed operation and maintenance expense  
 19 component of capacity payments which would have  
 20 been made had capacity payments commenced with  
 21 the anticipated in-service date of the avoided  
 22 unit.

23 (c) Levelized and early levelized capacity payments. Monthly  
 24 levelized and early levelized capacity payments shall be  
 25 calculated as follows:

CODING: Words underlined are additions; words in  
 struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 47

$$P_L = \frac{F}{12} \times \frac{r}{1-(1+r)^{-t}} + 0$$

Where:  $P_L$  = the monthly levelized capacity payment,  
starting on or prior to the in-service date of  
the avoided unit;

$F$  = the cumulative present value, in the year that  
the contractual payments will begin, of the  
avoided capital cost component of the capacity  
payments which would have been made had the  
capacity payments not been levelized;

$r$  = the annual discount rate, defined as the  
utility's incremental after tax cost of  
capital; and

$t$  = the term, in years, of the contract for the  
purchase of firm capacity.

$0$  = the monthly fixed operation and maintenance  
component of the capacity payments, calculated  
in accordance with paragraph (5)(a) for  
levelized capacity payments or with paragraph  
(5)(b) for early levelized capacity payments.

(6) Sale of Excess Firm Energy and Capacity. To the extent  
that firm energy and capacity purchased from a qualifying facility  
pursuant to a standard offer contract or an individually

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 48

1 negotiated contract is not needed by the purchasing utility, these  
2 rules shall be construed to encourage the purchasing utility to  
3 sell all or part of the energy and capacity to the utility in need  
4 of energy and capacity at a mutually agreed upon price which is  
5 cost effective to the ratepayers.

6 (7) Upon request by a qualifying facility or any interested  
7 person, each utility shall provide within 30 days its most current  
8 projections of its future generation mix including type and timing  
9 of anticipated generation additions, and at least a 20-year  
10 projection of fuel forecasts, as well as any other information  
11 reasonably required by the qualifying facility to project future  
12 avoided cost prices. The utility may charge an appropriate fee,  
13 not to exceed the actual cost of production and copying, for  
14 providing such information.

15 (8)(a) Firm energy and capacity payments made to a qualifying  
16 facility pursuant to a separately negotiated contract shall be  
17 recoverable by a utility through the Commission's periodic review  
18 of fuel and purchased power costs if the contract is found to be  
19 prudent in accordance with subsection (2) of this rule.

20 (b) Upon acceptance of the contract by both parties, firm  
21 energy and capacity payments made to a qualifying facility  
22 pursuant to a standard offer contract shall be recoverable by a  
23 utility through the Commission's periodic review of fuel and  
24 purchased power costs.

25 (c) Firm energy and capacity payments made pursuant to a

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.



ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 49

1 standard offer contract signed by the qualifying facility, for  
2 which the utility has petitioned the Commission to reject, is  
3 recoverable through the Commission's periodic review of fuel and  
4 purchased power costs if the Commission requires the utility to  
5 accept the contract because it satisfies subsection (3) of this  
6 rule.

7 Specific Authority: 350.127, 366.04(1), 366.051, 366.05(8), P.S.

8 Law Implemented: 366.051, 403.503, F.S.

9 History: New.

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 50

1 25-17.0833 Planning Hearings.

2 (1) Upon petition or on its own motion, the Commission shall  
3 periodically review optimal generation and transmission plans from  
4 a statewide and individual utility perspective. In connection  
5 with these proceedings, the Commission shall consider the need for  
6 capacity from both a statewide and individual utility perspective,  
7 the adequacy of the transmission grid, and other strategic  
8 planning concerns affecting the Florida electric grid.

9 (2) Upon petition, or on its own motion, the Commission, as  
10 needed, shall review individual utility generation and expansion  
11 plans at any time.

12 Specific Authority: 366.05(8), 366.051, 350.127(2), F.S.

13 Law Implemented: 366.051, F.S.

14 History: New.  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 51

1        25-17.0834 Settlement of Disputes in Contract Negotiations.

2        (1) Public utilities shall negotiate in good faith for the  
3 purchase of capacity and energy from qualifying facilities and  
4 interconnection with qualifying facilities. In the event that a  
5 utility and a qualifying facility cannot agree on the rates,  
6 terms, and other conditions for the purchase of capacity and  
7 energy, either party may apply to the Commission for relief.  
8 Qualifying facilities may petition the Commission to order a  
9 utility to sign a contract for the purchase of capacity and energy  
10 which does not exceed a utility's full avoided costs as defined in  
11 366.051, Florida Statutes, should the Commission find that the  
12 utility failed to negotiate in good faith.

13        (2) To the extent possible, the Commission will dispose of an  
14 application for relief within 90 days of the filing of a petition  
15 by either a utility or a qualifying facility.

16        (3) If the Commission finds that a utility has failed to  
17 negotiate or deal in good faith with qualifying facilities, or has  
18 explicitly dealt in bad faith with qualifying facilities, it shall  
19 impose an appropriate penalty on the utility as approved by  
20 section 350.127, Florida Statutes.

21 Specific Authority: 366.051, 350.127(2), F.S.

22 Law Implemented: 366.051, F.S.

23 History: New.

24  
5  
CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 52

1 25-17.087 Interconnection and Standards.

2 (1) Each utility shall interconnect with any qualifying  
3 facility which:

4 (a) is in its service area;

5 (b) requests interconnection;

6 (c) agrees to meet system standards specified in this rule;

7 and

8 (d) agrees to pay the cost of interconnection; and

9 (e) signs an interconnection agreement.

10 (2) Nothing in this rule shall be construed to preclude a  
11 utility from evaluating each request for interconnection on its  
12 own merits and modifying the general standards specified in this  
13 rule to reflect the result of such an evaluation.

14 (3) Where a utility refuses to interconnect with a qualifying  
15 facility or attempts to impose unreasonable standards pursuant to  
16 subsection Section (2) of this rule, the qualifying facility may  
17 petition the Commission for relief. The utility shall have the  
18 burden of demonstrating to the Commission why interconnection with  
19 the qualifying facility should not be required or that the  
20 standards the utility seeks to impose on the qualifying facility  
21 pursuant to subsection Section (2) are reasonable.

22 (4) Upon a showing of credit worthiness, the ~~The~~ qualifying  
23 facility shall have the option of making monthly installment  
24 payments over a period no longer than 36 months toward the full  
25 cost of interconnection. However, where the qualifying facility

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 53

1 exercises that option the utility shall charge interest on the  
2 amount owing. The utility shall charge such interest at the  
3 30-day commercial paper rate. In any event, no utility may bear  
4 the cost of interconnection.

5 (5) Application for Interconnection. A qualifying facility  
6 shall not operate electric generating equipment in parallel with  
7 the utility's electric system without the prior written consent of  
8 the utility. Formal application for interconnection shall be made  
9 by the qualifying facility prior to the installation of any  
10 generation related equipment. This application shall be  
11 accompanied by the following:

12 (a) Physical layout drawings, including dimensions;

13 (b) All associated equipment specifications and  
14 characteristics including ~~but not limited to~~ technical  
15 parameters, ratings, basic impulse levels, electrical main  
16 one-line diagrams, schematic diagrams, system protections,  
17 frequency, voltage, current and interconnection distance;

18 (c) Functional and logic diagrams, control and meter  
19 diagrams, conductor sizes and length, and any other relevant data  
20 which might be necessary to understand the proposed system and to  
21 be able to make a coordinated system;

22 (d) Power requirements in watts and vars;

23 (e) Expected radio-noise, harmonic generation and telephone  
24 interference factor;

25 (f) Synchronizing methods; and

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 54

1 (g) Operating/instruction manuals.

2 Any subsequent change in the system must also be submitted for  
3 review and written approval prior to actual modification. The  
4 above mentioned review, recommendations and approval by the  
5 utility do not relieve the qualifying facility from complete  
6 responsibility for the adequate engineering design, construction  
7 and operation of the qualifying facility equipment and for any  
8 liability for injuries to property or persons associated with any  
9 failure to perform in a proper and safe manner for any reason.

10 (6) Personnel Safety. Adequate protection and safe  
11 operational procedures must be developed and followed by the joint  
12 system. These operating procedures must be approved by both the  
13 utility and the qualifying facility. The qualifying facility  
14 shall be required to furnish, install, operate and maintain in  
15 good order and repair, and be solely responsible for, without cost  
16 to the utility, all facilities required for the safe operation of  
17 the generation system in parallel with the utility's system.

18 The qualifying facility shall permit the utility's employees  
19 to enter upon its property at any reasonable time for the purpose  
20 of inspection and/or testing the qualifying facility's equipment,  
21 facilities, or apparatus. Such inspections shall not relieve the  
22 qualifying facility from its obligation to maintain its equipment  
23 in safe and satisfactory operating condition.

24 The utility's approval of isolating devices used by the  
25 qualifying facility will be required to ensure that these will

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 55

1 comply with the utility's switching and tagging procedure for safe  
2 working clearances.

3 (a) Disconnect Switch. A manual disconnect switch, of the  
4 visible load break type, to provide a separation point between the  
5 qualifying facility's generation system and the utility's system,  
6 shall be required. The utility will specify the location of the  
7 disconnect switch. The switch shall be mounted separate from the  
8 meter socket and shall be readily accessible to the utility and be  
9 capable of being locked in the open position with a utility  
10 padlock. The utility may reserve the right to open the switch  
11 (i.e. isolating the qualifying facility's generation system)  
12 without prior notice to the qualifying facility. To the extent  
13 practicable, however, prior notice shall be given.

14 Any of the following conditions shall be cause for  
15 disconnection:

- 16 1. Utility system emergencies and/or maintenance  
17 requirements;
- 18 2. Hazardous conditions existing on the qualifying  
19 facility's generating or protective equipment, as  
20 determined by the utility;
- 21 3. Adverse effects of the qualifying facility's  
22 generation to the utility's other electric consumers  
23 and/or system as determined by the utility;
- 24 4. Failure of the qualifying facility to maintain any  
25 required insurance; or

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 56

1           5. Failure of the qualifying facility to comply with  
2           any existing or future regulations, rules, orders or  
3           decisions of any governmental or regulatory  
4           authority having jurisdiction over the qualifying  
5           facility's electric generating equipment or the  
6           operation of such equipment.

7           (b) Responsibility and Liability. The utility and the  
8 qualifying facility shall each be responsible for its own utility  
9 owned facilities. The utility and the qualifying facility  
10 shall each be responsible for ~~the-qualifying-facility's-entire~~  
11 ~~system~~ ensuring adequate safeguards for other utility customers,  
12 utility and qualifying facility personnel and equipment, and for  
13 the protection of its own generating system. The utility and the  
14 qualifying facility shall each indemnify and save the other  
15 ~~utility~~ harmless from any and all claims, demands, costs, or  
16 expense for loss, damage, or injury to persons or property of the  
17 other ~~(including-the-qualifying-facility's-generation-system-and~~  
18 ~~the-utility's-system)~~ caused by, arising out of, or resulting  
19 from:

20           1. Any act or omission by a party ~~the-qualifying~~  
21 ~~facility~~, or that party's ~~qualifying-facility's~~  
22 contractors, agents, servants and employees in  
23 connection with the installation or operation of  
24 that party's ~~the-qualifying-facility's~~ generation  
25 system or the operation thereof in connection with

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.



ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 57

1           the other party's utility's system;

2           2. Any defect in, failure of, or fault related to a  
3           party's the-qualifying-facility's generation system;

4           3. The qualifying-facility's negligence of a party  
5           or negligence of that party's qualifying-facility's  
6           contractors, agents servants and employees; or

7           4. Any other event or act that is the result of, or  
8           proximately caused by, a party the-qualifying  
9           facility.

10       For the purposes of this subsection, the term party shall mean  
11       either utility or qualifying facility, as the case may be.

12       (c) Insurance. The qualifying facility shall deliver to the  
13       utility, at least fifteen days prior to the start of any  
14       interconnection work, a certificate of insurance certifying the  
15       qualifying facility's coverage under certified-copy-or-duplicate  
16       ~~original~~ of a liability insurance policy issued by a reputable  
17       insurance company authorized to do business in the State of  
18       Florida naming the qualifying facility as named insured, jointly  
19       ~~protecting-and-indemnifying-the-qualifying-facility~~ and the  
20       utility as an additional named insured, which policy shall contain  
21       a broad form contractual endorsement specifically covering the  
22       liabilities accepted under this agreement its-officers,  
23       ~~employees,-and-representatives-against-all-liability-and-expense~~  
24       ~~on-account-of-claims-and-suits-for-injuries-or-damages-to-persons~~  
25       ~~or-property~~ arising out of the interconnection to the qualifying

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 58

1 facility, or caused by operation of any of the qualifying  
2 facility's equipment or by the qualifying facility's failure to  
3 maintain the qualifying facility's equipment in satisfactory and  
4 safe operating condition.

5 The policy providing such coverage shall provide public  
6 liability insurance, including property damage, in an amount not  
7 less than \$300,000 for each occurrence; more insurance may be  
8 required as deemed necessary by the utility. In addition, the  
9 above required policy shall be endorsed with a provision whereby  
10 the insurance company will notify the utility thirty days prior to  
11 the effective date of cancellation or material change in the  
12 policy.

13 The qualifying facility shall pay all premiums and other  
14 charges due on said policy and keep said policy in force during  
15 the entire period of interconnection with the utility.

16 (7) Protection and Operation. It will be the responsibility  
17 of the qualifying facility to provide all devices necessary to  
18 protect the qualifying facility's equipment from damage by the  
19 abnormal conditions and operations which occur on the utility  
20 system that result in interruptions and restorations of service by  
21 the utility's equipment and personnel. The qualifying facility  
22 shall protect its generator and associated equipment from  
23 overvoltage, undervoltage, overload, short circuits (including  
24 ground fault condition), open circuits, phase unbalance and  
25 reversal, over or under frequency condition, and other injurious

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 59

1 electrical conditions that may arise on the utility's system and  
2 any reclose attempt by the utility.

3 The utility may reserve the right to perform such tests as it  
4 deems necessary to ensure safe and efficient protection and  
5 operation of the qualifying facility's equipment.

6 (a) Loss of Source: The qualifying facility shall provide,  
7 or the utility will provide at the qualifying facility's expense,  
8 approved protective equipment necessary to immediately,  
9 completely, and automatically disconnect the qualifying facility's  
10 generation from the utility's system in the event of a fault on  
11 the qualifying facility's system, a fault of the utility's system,  
12 or loss of source on the utility's system. Disconnection must be  
13 completed within the time specified by the utility in its standard  
14 operating procedure for its electric system for loss of a source  
15 on the utility's system.

16 This automatic disconnecting device may be of the manual or  
17 automatic reclose type and shall not be capable of reclosing until  
18 after service is restored by the utility. The type and size of  
19 the device shall be approved by the utility depending upon the  
20 installation. Adequate test data or technical proof that the  
21 device meets the above criteria must be supplied by the qualifying  
22 facility to the utility. The utility shall approve a device that  
23 will perform the above functions at minimal capital and operating  
24 costs to the qualifying facility.

5 (b) Coordination and Synchronization. The qualifying

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 60

1 facility shall be responsible for coordination and synchronization  
2 of the qualifying facility's equipment with the utility's  
3 electrical system, and assumes all responsibility ~~responsibility~~  
4 for damage that may occur from improper coordination or  
5 synchronization of the generator with the utility's system.

6 (c) Electrical Characteristics. Single phase generator  
7 interconnections with the utility are permitted at power levels up  
8 to 20 KW. For power levels exceeding 20 KW, a three phase  
9 balanced interconnection will normally be required. For ~~the~~  
10 purpose of calculating connected generation, 1 horsepower equals 1  
11 kilowatt. The qualifying facility shall interconnect with the  
12 utility at the voltage of the available distribution or the  
13 transmission line of the utility for the locality of the  
14 interconnection, and shall utilize one of the standard connections  
15 (single phase, three phase, wye, delta) as approved by the utility.

16 The utility may reserve the right to require a separate  
17 transformation and/or service for a qualifying facility's  
18 generation system, at the qualifying facility's expense. The  
19 qualifying facility shall bond all neutrals of the qualifying  
20 facility's system to the utility's neutral, and shall install a  
21 separate driven ground with a resistance value which shall be  
22 determined by the utility and bond this ground to the qualifying  
23 facility's system neutral.

24 (d) Exceptions. A qualifying facility's generator having a  
25 capacity rating that can:

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 61

- 1           1.    produce power in excess of 1/2 of the minimum  
2                    utility customer requirements of the interconnected  
3                    distribution or transmission circuit; or
- 4           2.    produce power flows approaching or exceeding the  
5                    thermal capacity of the connected utility  
6                    distribution or transmission lines or transformers;  
7                    or
- 8           3.    adversely affect the operation of the utility or  
9                    other utility customer's voltage, frequency, or  
10                   overcurrent control and protection devices; or
- 11           4.    adversely affect the quality of service to other  
12                   utility customers; or
- 13           5.    interconnect at voltage levels greater than  
14                   distribution voltages,

15 will require more complex interconnection facilities as deemed  
16 necessary by the utility.

17           (8) Quality of Service. The qualifying facility's generated  
18 electricity shall meet the following minimum guidelines:

19           (a) Frequency. The governor control on the prime mover shall  
20 be capable of maintaining the generator output frequency within  
21 limits for loads from no-load up to rated output. The limits for  
22 frequency shall be 60 hertz (cycles per second), plus or minus an  
23 instantaneous variation of less than 1%.

24           (b) Voltage. The regulator control shall be capable of  
25 maintaining the generator output voltage within limits for loads

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 62

1 from no-load up to rated output. The limits for voltage shall be  
2 the nominal operating voltage level, plus or minus 5%.

3 (c) Harmonics. The output sine wave distortion shall be  
4 deemed acceptable when it does not have a higher content (root  
5 mean square) of harmonics than the utility's normal harmonic  
6 content at the interconnection point.

7 (d) Power Factor. The qualifying facility's generation  
8 system shall be designed, operated and controlled to provide  
9 reactive power requirements from 0.85 lagging to 0.85 leading  
10 power factor. Induction generators shall have static capacitors  
11 that provide at least 85% of the magnetizing current requirements  
12 of the induction generator field. (Capacitors shall not be so  
13 large as to permit self-excitation of the qualifying facility's  
14 generator field).

15 (e) DC Generators. Direct current generators may be operated  
16 in parallel with the utility's system through a synchronous  
17 inverter. The inverter must meet all criteria in these rules.

18 (9) Metering. The actual metering equipment required, its  
19 voltage rating, number of phases, size, current transformers,  
20 potential transformers, number of inputs and associated memory is  
21 dependent on the type, size and location of the electric service  
22 provided. In situations where power may flow both in and out of  
23 the qualifying facility's system, power flowing into the  
24 qualifying facility's system will be measured separately from  
25 power flowing out of the qualifying facility's system.

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 63

1 The utility will provide, at no additional cost to the  
2 qualifying facility, the metering equipment necessary to measure  
3 capacity and energy deliveries to the qualifying facility. The  
4 utility will provide, at the qualifying facility's expense, the  
5 necessary additional metering equipment to measure energy  
6 deliveries by the qualifying facility to the utility.

7 (10) Cost Responsibility. The qualifying facility is  
8 required to bear all costs associated with the change-out,  
9 upgrading or addition of protective devices, transformers, lines,  
10 services, meters, switches, and associated equipment and devices  
11 beyond that which would be required to provide normal service to  
12 the qualifying facility if the qualifying facility were a  
13 non-generating customer ~~no-regeneration-were-involved~~. These  
14 costs shall be paid by the qualifying facility to the utility for  
15 all material and labor that is required. Prior to any work being  
16 done by the utility, the The utility shall supply the qualifying  
17 facility with a written cost estimate of all its required  
18 materials and labor and an estimate of the date by which  
19 construction of the interconnection will be completed. This  
20 estimate shall be provided to the qualifying facility within 60  
21 days after the qualifying facility supplies the utility with its  
22 final electrical plans. ~~prior-to-any-work-being-done~~ The  
23 utility shall also provide project timing and feasibility  
24 information to the qualifying facility.

5 (11) Each utility shall submit to the Commission, a standard

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 64

1 agreement for interconnection by qualifying facilities as part of  
2 their standard offer contract or contracts required by Rule  
3 25-17.0832(3).  
4 Specific Authority: 366.051, 350.127(2), P.S.  
5 Law Implemented: 366.051, P.S.  
6 History: New 9/4/83, formerly 25-17.87.

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CODING: Words underlined are additions; words in struck-through type are deletions from existing law.



ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 65

1 25-17.088 Transmission Service for Qualifying Facilities.

2 The policy of this Commission as set forth in Rules 25-17.080  
3 through 25-17.087, inclusive, is to encourage the development of  
4 cogeneration and small power production to the extent that it is  
5 cost effective to electric utility ratepayers of the State of  
6 Florida. The Commission has determined that this may be  
7 accomplished through the establishment of a statewide wholesale  
8 market for the sale of energy and capacity produced by Qualifying  
9 Facilities to the electric utilities of the state as an  
10 alternative to the construction of additional central station  
11 generating units in Florida. To enable a statewide market to  
12 function in an efficient and cost-effective manner, transmission  
13 service must be available so that energy and capacity may be  
14 supplied by a Qualifying Facility to that region of the state  
15 where it is needed. Therefore:

16 (1) Each electric utility in Florida shall provide, upon  
17 request, transmission service to wheel as-available energy or firm  
18 energy and capacity produced by a Qualifying Facility from the  
19 Qualifying Facility to another electric utility.

20 (2) The terms and other conditions for transmission service  
21 as described in subsection (1) that is provided by an  
22 investor-owned utility shall be those approved by the Florida  
23 Public Service Commission.

24 (3) The charges, terms and other conditions for transmission  
25 service as described in subsection (1) that is provided by a

CODING: Words underlined are additions; words in  
~~struck-through~~ type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 66

1 municipal utility or Rural Electric Cooperative shall be those  
2 approved by the respective municipal utility or Rural Electric  
3 Cooperative.

4 (4) Each electric utility in Florida shall file a tariff  
5 containing, at a minimum, an estimate of the availability of and  
6 the charges, terms, and other conditions for transmission service  
7 as described in Subsections (2) and (3) with the Florida Public  
8 Service Commission within 90 days of the effective date of this  
9 rule.

10 (5) The Qualifying Facility shall be responsible for all  
11 costs associated with the provision of transmission service by any  
12 electric utility including:

- 13 (a) transmission service charges  
14 (b) line losses incurred by the wheeling utility(s); and  
15 (c) inadvertent energy flows resulting from the provision of  
16 transmission service.

17 This subsection shall apply in all circumstances, including sales  
18 pursuant to a Qualifying Facility's acceptance of a utility's  
19 standard offer in accordance with Rule 25-17.083(3) when it is  
20 necessary for the purchasing utility to resell and wheel the  
21 Qualifying Facility's energy and capacity to another electric  
22 utility in accordance with Rule 25-17.083(5). This subsection  
23 shall not apply, unless agreed to by the Qualifying Facility, when  
24 energy and capacity supplied by a Qualifying facility pursuant to  
25 a utility's standard offer is used by the purchasing utility as

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 67

1 part of its own generating resources and then sold at a later date  
2 to another electric utility.

3 (6) An electric utility may deny, curtail, or discontinue  
4 transmission service to a Qualifying Facility if the provision of  
5 such service would adversely affect the adequacy, reliability, or  
6 cost of providing electric service to the utility's general body  
7 of retail and wholesale customers.

8 Specific Authority: 350.127(2), 366.051, P.S.

9 Law Implemented: 366.051, 366.04(3), 366.055(3), P.S.

10 History: New 10/4/85, formerly 25-17.88, Amended 2/3/87, Repealed

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 68

1 25-17.0882 Transmission Service Not Required for Self-Service.  
2 Public utilities are not required to provide transmission or  
3 distribution service to enable a retail customer to transmit  
4 electrical power generated by the customer at one location to the  
5 customer's facilities at another location unless the customer or  
6 the utility demonstrates that the provision of this service and  
7 the charges, terms, and other conditions associated with the  
8 provision of this service are not likely to result in higher cost  
9 electric service to the utility's general body of retail and  
10 wholesale customers or adversely affect the adequacy or  
11 reliability of electric service to all customers.  
12 Specific Authority: 350.127(2), 366.05(1), F.S.  
13 Law Implemented: 366.05(9), 366.04(3), 366.055(3), F.S.  
14 History: New 10/4/85, formerly 25-17.882, Repealed  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CODING: Words underlined are additions; words in struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 69

1       25-17.0883 Conditions Requiring Transmission Service for  
2 Self-service.

3       Public utilities are required to provide transmission and  
4 distribution services to enable a retail customer to transmit  
5 electrical power generated at one location to the customer's  
6 facilities at another location when the provision of such service  
7 and its associated charges, terms, and other conditions are not  
8 reasonably projected to result in higher cost electric service to  
9 the utility's general body of retail and wholesale customers or  
10 adversely affect the adequacy or reliability of electric service  
11 to all customers. The determination of whether transmission  
12 service for self service is likely to result in higher cost  
13 electric service may be made using cost effectiveness methodology  
14 employed by the Commission in evaluating conservation programs of  
15 the utility, adjusted as appropriate to reflect the qualifying  
16 facility's contribution to the utility for standby service and  
17 wheeling charges, other utility program costs, the fact that  
18 qualifying facility self-service performance can be precisely  
19 metered and monitored, and taking into consideration the unique  
20 load characteristics of the qualifying facility compared to other  
21 conservation programs.

22 Specific Authority: 366.051, 350.127(2), P.S.

23 Law Implemented: 366.051, P.S.

24 History: New.

5

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 70

1        25-17.089 Transmission Service for Qualifying Facilities.

2        (1) Upon request by a qualifying facility, each electric utility  
3        in Florida shall provide, subject to the provisions of subsection  
4        (3) of this rule, transmission service to wheel as-available  
5        energy or firm energy and capacity produced by a Qualifying  
6        Facility from the Qualifying Facility to another electric utility.

7        (2) The rates, terms, and conditions for transmission  
8        services as described in subsection (1) and in Rule 25-17.0883  
9        which are provided by an investor-owned utility shall be those  
10       approved by the Federal Energy Regulatory Commission.

11       (3) An electric utility may deny, curtail, or discontinue  
12       transmission service to a Qualifying Facility on a non-  
13       discriminatory basis if the provision of such service would  
14       adversely affect the safety, adequacy, reliability, or cost of  
15       providing electric service to the utility's general body of retail  
16       and wholesale customers.

17       Specific Authority: 366.051, 350.127(2), P.S.

18       Law Implemented: 366.051, 366.055(3), P.S.

19       History: New.

20  
21  
22  
23  
24  
25  
  
CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 71

1 25-17.091 Governmental Solid Waste Energy and Capacity.

2 (1) Definitions and Applicability:

3 (a) "Solid Waste Facility" means a facility owned or operated  
4 by, or on behalf of, local government, the purpose of which is to  
5 dispose of solid waste, as that term is defined in section  
6 403.703(13), Fla. Stat. (1988), and to generate electricity.

7 (b) A facility is owned by or operated on behalf of a local  
8 government if the power purchase agreement is between the local  
9 government and the electric utility.

10 (c) A solid waste facility shall include a facility which is  
11 not owned or operated by a local government but is operated on its  
12 behalf. When the power purchase agreement is between a  
13 non-governmental entity and an electric utility, the facility is  
14 operated by a private entity on behalf of a local government if:

- 15 1. One or more local governments have entered into a  
16 long-term agreement with the private entity for the  
17 disposal of solid waste for which the local  
18 governments are responsible and that agreement has a  
19 term at least as long as the term of the contract  
20 for the purchase of energy and capacity from the  
21 facility; and  
22 2. The Commission determines there is no undue risk  
23 imposed on the electric ratepayers of the purchasing  
24 utility, based on:  
25 a. The local government's acceptance of

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 72

1 responsibility for the private entity's  
2 performance of the power purchase contract, or  
3 b. Such other factors as the Commission deems  
4 appropriate, including, without limitation, the  
5 issuance of bonds by the local government to  
6 finance all, or a substantial portion, of the  
7 costs of the facility; the reliability of the  
8 solid waste technology; and the financial  
9 capability of the private owner and operator.

10 3. The requirements of subparagraph 2 shall be  
11 satisfied if a local government described in  
12 subparagraph 1 enters into an agreement with the  
13 purchasing utility providing that in the event of a  
14 default by the private entity under the power  
15 purchase contract, the local government shall  
16 perform the private entity's obligations, or cause  
17 them to be performed, for the remaining term of the  
18 contract, and shall not seek to renegotiate the  
19 power purchase contract.

20 (d) This rule shall apply to all contracts for the purchase  
21 of energy or capacity from solid waste facilities entered into, or  
22 renegotiated as provided in subsection (3) ~~(5)~~, after October 1,  
23 1988.

24 (2) Except as provided in subsections (3) and (4) ~~--(6)~~ of  
25 this rule, the provisions of Rules 25-17.080 - 25-17.089, Florida

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.



ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 73

1 Administrative Code, are applicable to contracts for the purchase  
2 of energy and capacity from a solid waste facility.

3 ~~(3) -- In addition to the requirements of Rule 25-17.003,~~  
4 ~~Florida Administrative Code, each utility's standard offer for~~  
5 ~~purchase of energy and capacity from a solid waste facility shall~~  
6 ~~include the following:~~

7 ~~(a) -- Use of a constant risk multiplier of 1.0 in lieu of the~~  
8 ~~constant risk multiplier provided in Rule 25-17.003.~~

9 ~~(b) -- At the election of the solid waste facility, allow for~~  
10 ~~early payment of the operation and maintenance components of the~~  
11 ~~capacity payments, up to a Commission-designated number of years~~  
12 ~~before the in-service date of the avoided units(s), calculated in~~  
13 ~~accordance with Rule 25-17.003(3), FrArCr, and~~

14 ~~(c) -- At the election of the solid waste facility allow for~~  
15 ~~either:~~

16 ~~1r levelized capital payments calculated in accordance~~  
17 ~~with subsection (4) or~~

18 ~~2r early levelized capital payments, up to a~~  
19 ~~Commission-designated number of years before the~~  
20 ~~in-service date of the avoided unit, calculated in~~  
21 ~~accordance with subsection (4).~~

22 ~~(4) -- Levelized capital payments shall be calculated as~~  
23 ~~follows:~~

24 ~~Ph = F - X - r - t~~  
25 ~~--- 12 --- 1 - (1+r) - t~~

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
 DOCKET NO. 891049-EU  
 PAGE 74

1 Wherever--Pb -- the monthly-levelized-capital-portion-of-the  
 2 capacity-payment, starting up to a  
 3 Commission-designated-number-of-years-before  
 4 the-in-service-date-of-the-avoided-unit(s),  
 5 ---P-- -- the-cumulative-present-value, in-the-year-that  
 6 the-contractual-payments-will-begin, of-the  
 7 avoided-capital-cost-component-of-capacity  
 8 payments-which-would-have-been-made-had-the  
 9 capacity-payments-not-been-levelized,  
 10 ---P-- -- the-annual-discount-rate, defined-as-the  
 11 utility's-incremental-after-tax-cost-of  
 12 capital, and  
 13 ---t-- -- the-term-in-years-of-the-contract-for-the  
 14 purchase-of-governmental-solid-waste-capacity.

15 (3)(5) Any solid waste facility which has an existing firm  
 16 energy and capacity contract in effect before October 1, 1988,  
 17 shall have a one-time option to renegotiate that contract to  
 18 incorporate any or all of the provisions of subsection Subsection  
 19 (2) and (4), ~~(3)~~, ~~(4)~~, and ~~(6)~~ into their contract. This  
 20 renegotiation shall be based on the unit that the contract was  
 21 designed to avoid but applying the most recent Commission-approved  
 22 cost estimates of Rule 25-17.0832(5)(a) ~~25-17.083(7)~~, Florida  
 23 Administrative Code, for the same unit type and in-service year to  
 24 determine the utility's value of avoided capacity over the  
 25 remaining term of the contract.

CODING: Words underlined are additions; words in  
 struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 75

1 ~~(4)(6)~~ Because section 377.709(4), Fla. Stat., requires the  
2 local government to refund early capacity payments should a solid  
3 waste facility be abandoned, closed down or rendered illegal, a  
4 utility may not require risk-related guarantees as required in  
5 Rule 25-17.0832, paragraph (2)(c), (2)(d), (3)(e)8, and (3)(f)1 a  
6 surety-or-equivalent-assurance-of-repayment-as-required-in-Rule  
7 25-17.083(3), Florida-Administrative-Code. However, at its  
8 option, a solid waste facility may provide such risk related  
9 guarantee ~~surety-bond-or-equivalent-assurance.~~

10 ~~(5)(7)~~ Nothing in this rule shall preclude a solid waste  
11 facility from electing advance capacity payments authorized  
12 pursuant to section 377.709(3)(b), P.S., which advanced capacity  
13 payments shall be in lieu of firm capacity payments otherwise  
14 authorized pursuant to this rule and Rule 25-17.0832, P.A.C. The  
15 provisions of subsection ~~(4)(6)~~ are applicable to solid waste  
16 facilities electing advanced capacity payments.

17 Specific Authority: 350.127(2), 377.709(5), P.S.

18 Law Implemented: 366.051, 366.055(3), 377.709, P.S.

19 History: New 8/8/85, formerly 25-17.91, Amended 4/26/89.

20  
21  
22  
23  
24  
25

CODING: Words underlined are additions; words in  
struck-through type are deletions from existing law.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 76

Rules 25-17.082  
25-17.0825  
25-17.083  
25-17.0831  
25-17.0832  
25-17.0833  
25-17.0834  
25-17.087  
25-17.088  
25-17.0882  
25-17.0883  
25-17.089  
25-17.091  
Docket No. 891049-EU

SUMMARY OF RULE

Revisions to Rule 25-17.082, F.A.C., provide for each utility to file a standard offer contract or contracts for the purchase of energy and capacity from qualifying facilities. Unless the Commission determines that alternative metering requirements cause no adverse effect on the cost or reliability of electric service to the utility's general body of customers, each tariff and standard offer contract must contain certain metering requirements. A qualifying facility, upon entering into a contract for the sale of firm capacity and energy or prior to the delivery of as-available energy to a utility, must elect to make either simultaneous purchases from the interconnecting utility and sales to the purchasing utility or net sales.

Qualifying facilities selling as-available energy to a utility are permitted to switch billing methods every twelve months.

Qualifying facilities are required to purchase standby service pursuant to the utility's standby service rate schedule.

Revisions to Rule 25-17.0825, F.A.C., on As-Available Energy provide that all contracts for the purchase of as-available energy between a qualifying facility and a utility must be filed with the

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 77

FPSC within 10 working days of their signing. Avoided energy costs associated with as-available shall be all costs the utility avoided due to the purchase of as-available energy, including the utility's incremental fuel, identifiable variable operating and maintenance expense, and identifiable variable power purchases. Demonstrable utility administrative costs required to calculate avoided energy costs may be deducted from avoided energy payments.

Upon request by a qualifying facility or any interested person, each utility must provide within 30 days its most current projections of its generation mix, fuel price, and, at least, a five-year projection of fuel forecasts as well as other information reasonably required by the qualifying facility.

Utility payments for as-available energy are recoverable by the utility through the Commission's periodic review of fuel and purchased power costs if the payments are not reasonably projected to result in higher cost electric service to the utility's general body of ratepayers or adversely affect the adequacy or reliability of electric service to all customers.

Rule 25-17.083, F.A.C., on Firm Energy and Capacity is deleted.

Rule 25-17.0832, F.A.C., on Firm Capacity and Energy Contracts is created. Within one working day of the execution of a negotiated contract or the receipt of a signed standard offer, the utility must notify the Director of Electric and Gas. Within ten working days, a copy of the contract and a summary of its terms and conditions must be filed with the Commission.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 78

Prior to the anticipated in-service date, a qualifying facility may sell as-available energy to any utility.

Negotiated contracts for the purchase of capacity and energy from qualifying facilities are encouraged. Negotiated contracts shall not be evaluated against an avoided unit in a standard offer contract, thus preserving the standard offer for small qualifying facilities. In reviewing negotiated contracts, the Commission must consider certain delineated factors.

Standard offer contracts are authorized for small qualifying facilities less than 75 MW or solid waste facilities.

Within 60 days of receipt of a signed standard offer contract, the utility must either accept and sign the contract or petition the Commission not to accept the contract. The petition may be based on certain justification. Until such a petition is granted by the Commission, the qualifying facility maintains its right to be paid based on the avoided unit in their contract.

A standard offer contract which has been accepted by a qualifying facility shall apply towards the subscription limit of the unit designated in the contract effective the date the utility receives the accepted contract. If the contract is not accepted by the utility, its effect shall be removed from the subscription limit effective the date of the Commission order granting the utility's petition.

Each standard offer contract is required to contain certain information.

The rule provides for provisions in the contracts which the Commission may approve.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 79

Firm capacity payments options are described. They include: value of deferral capacity payments, early capacity payments, levelized capacity payments, early levelized capacity payments.

The definition and calculation of avoided energy payments is provided. Calculation of early capacity payment is provided.

Sale of excess firm energy and capacity is authorized.

Upon request by a qualifying facility or any interested person, each utility must provide information relating to their future capacity needs within 30 days.

Payments made to a qualifying facility pursuant to a negotiated contract are recoverable by the utility when such contracts are found to be prudent in accordance with the rule.

Rule 25-17.0831 on Contracts is deleted.

Rule 25-17.0833 on Planning Hearings is created. It provides for the Commission's periodic review of optional generation and transmission plans from a statewide and individual utility perspective. The Commission, as needed, shall review individual utility generation and expansion plans.

Rule 25-17.0834 on Settlement of Disputes in Contract Negotiations is created. It requires public utilities to negotiate in good faith for the purchase of capacity and energy from qualifying facilities. Qualifying facilities may petition the Commission to order a utility to sign a contract should the Commission find the utility failed to negotiate in good faith. To the extent possible, the Commission must dispose of the application within 90 days. The Commission may impose penalties if it finds the utility failed to negotiate in good faith.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 80

Revisions are made to Rule 25-17.087 on Interconnection and Standards. The utility and the qualifying facility shall each be responsible for its own facilities, and for ensuring adequate safeguards for other utility customers, utility and qualifying facility personnel and equipment, and for the protection of its own generating system. The utility and the qualifying facility shall each indemnify and save the other harmless. New provisions are added regarding insurance.

The subsection on Cost Responsibility is revised. Prior to any work being done by the utility, the utility must supply the qualifying facility with a written cost estimate of all its required materials and labor and an estimate of the date by which the construction of the interconnection will be completed. This estimate must be provided to the qualifying facility within 60 days after the QF supplies the utility with its final electrical plan.

Each utility must submit to the Commission a standard offer agreement for interconnection.

Rule 25-17.088 on Transmission Service for Qualifying Facilities has been deleted.

Rule 25-17.0882 on Transmission Service Not Required for Self Service has been deleted.

Rule 25-17.0883 on Conditions Requiring Transmission Service for Self-Service is created. Public utilities are requested to provide transmission and distribution service to enable a retail customer to transmit electrical power generated at one location to the customer's facilities at another location when such provisions of service are not reasonably projected to result in higher cost



ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 81

electric service to the utility's general body of retail and wholesale customers or adversely affect the adequacy or reliability of electric service to all customers. Reference is made to a cost effectiveness methodology which may be used.

Rule 25-17.089 on Transmission Services for Qualifying Facilities is created. Transmission service by the electric utility for the qualifying facility is mandated under certain circumstances. Reference is made to the Federal Energy Regulatory Commission's jurisdiction over the rates, terms, and conditions for the transmission.

Rule 25-17.091 on Governmental Solid Waste Energy and Capacity is amended to reflect the applicability of other rules to the calculation of payments and to risk-related guarantees.

SUMMARY OF HEARINGS ON THE RULE

The first public hearing on the Cogeneration Rules, Docket No. 891049-EU, was held at Commission Agenda on August 29, 1989. Commission staff presented a summary of the rule proposals and rule revisions. Interested persons also presented their views at that time. Staff was directed to proceed to a workshop. A workshop was held September 18. On November 7, 1989, the Commission addressed the primary issues of whether statewide or individual utility avoided units was more appropriate; whether sufficient guidance was provided on self-service wheeling; whether the 1989 legislation was implemented through the revisions; why there was a need for any revisions, etc. On November 21, the Commission voted at this agenda to proceed to rulemaking. After the FAW publication of the

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 82

rulemaking, a full section 120.54 rulemaking hearing was held on January 9 through 11, 1990.

There were three days of rulemaking hearing, with a transcript in four volumes, with 578 pages. There were 12 participants in the hearing; they consisted of cogenerators, electric utilities, and small power producers.

Staff discussed the basis for the proposed versions. First, the revisions are intended to reflect changes to Chapter 366, Florida Statutes, enacted during the 1989 Legislature. Second, they are to fix a number of administrative and technical problems that have arisen since the rules were first adopted in 1984. A balancing of the interests of ratepayers, the cogenerators, and utilities is necessary.

Some of the cogenerators listed their primary goals of incentives to be included in the rules as the following: the options to choose standby rates; capacity payments for as-available sales; proper pricing of as-available energy; availability of real-time energy information; availability of short-term firm capacity and energy contracts; elimination of excessive assurances against risk; inclusion of all avoided cost in capacity payments; retention of statewide avoided unit; retention of base-load coal-fired unit concept; and assumptions for evaluating self-service wheeling.

Cogenerators urged that the rules should do more to encourage cogeneration.

Utilities supported the concept of individual utility pricing and proposed many technical revisions to the rules.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 83

A small power producer presented comments on the development of PURPA. Also, the additions to Chapter 366 from the 1989 Legislature, including changes to FEECA were assessed. Qualifying facilities supported the statewide avoided unit.

Representatives of qualifying facilities said the litmus test for standard offer contracts is whether they are financeable by a bank. They said regulatory uncertainty is the principal problem with the standard offer that makes it unfinanceable.

A Commissioner noted there are only three issues in this rulemaking: price, price, and price.

Cogenerators said the Federal Energy Regulatory Commission (FERC) rules provide that upon request of a QF, the utility shall provide standby power (referred to as backup owner and maintenance power).

There was much debate about particular and hypothetical factual scenarios.

A Houston company discussed payments for capacity in Texas and the rationale behind the PUC decision in Texas.

Cogenerators said there is a void between as-available and the ten-year contract that could be filled with some type of contractual arrangements. They repeated the point that there is capacity cost deferral benefit to as-available energy, on an aggregate basis, and recommends using a probabilistic approach. They recommended that all QFs be paid the same based on the probability of reliability as a class. It would be a weighted average.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 84

A utility said there is a problem with this "probabilistic no contractual commitment basis." Utilities have an obligation to serve and to back up the QF through standby capacity.

Utilities presented the concern that if you have the sale from a QF from one service to another, then you have to worry about the scheduling of the transaction through the point of interconnection between the two utilities. Once you start spreading out the source of the as-available energy, that is, the source from anywhere in the state into a particular utility's service area, you magnify the potential impact of losses associated with that transaction.

The debate on the use of the individual utility unit versus a statewide unit in Rule 25-17.0832 was lengthy. The qualifying facilities, in urging the statewide unit, said savings would result because when you are planning, instead of building two dozen units scattered all over the place, you may even build two units where the power can be moved around. You get economies of scale, you use less land and resources, you may use a better quality of fuel.

The concept of a bidding system was approached. One company said they have not had a satisfactory experience with it. "There are people in this industry who will go in and sign a blanket contract without worrying about the economics, knowing that there is a value to that contract."

Electric utility counsel pointed out that the FERC regulation defines "avoided cost" as the incremental cost to an electric utility of electric energy or capacity or both which, but for, the purchase from the QF, such utility would generate itself or

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 85

purchase from another source. In other words, it appears to refer to an individual utility avoided unit.

FPSC staff said we're dealing with two plans -- one is the optimum statewide generation plan and the other is the individual utility generation expansion plan. The way things are actually built is pursuant to the individual utility expansion plan. FPL said one of the problems in the past was that the Commission was confronted with quantifying avoided costs associated with the next unit in the state when the unit was not needed in the near term. It put the utilities and the QFs in the posture of having to deal with one another on a price that was somewhat fictional.

Staff discussed a concern with the risk that the QF will not deliver capacity and energy as contracted, and that the utility, having the obligation to serve, will have to replace that capacity. "This is one of the risks that the risk factor will have to cover, and with the removal of the risk factor, we need provisions to protect against this type of risk." Another concern is if the QF were to go bankrupt, that there be a provision that the utility could take over the plant or take ownership and either have somebody else run it or run it themselves.

Regarding fluctuating economic parameters, an electric utility said it would be unfair to either party to change an agreement over the lifetime of it. Cogenerators agreed. Another utility said the Commission may want to have some ability to look periodically and find whether its assumptions are out of line. It was suggested it might be implemented similarly to an adjustable rate mortgage, with some caps and limitations on it. Staff clarified that the only

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 86

parameters to be adjusted are those that if the unit was built, the ratepayer would see adjustments on -- i.e., O&M, cost of capital, tax rate.

Subscription limits were discussed.

An electric utility presented the concept of categorizing the QFs by size. Also, it proposed using five performance factors. If the QF doesn't meet them, the price would be reduced. If the QF meets them, the QF would receive 100% of avoided cost.

One utility suggested language to address the concern of when the utility does not need the energy in later years and wishes to resell it.

FPSC counsel pointed out that PURPA has two mandates. One is that purchases by the electric utilities of the QFs' energy shall not discriminate against QFs. However, the other mandate is that rates shall be just and reasonable to the electric utility consumers and in the public interest.

Municipal electric utilities discussed the situation for municipals in purchasing energy from cogenerators.

The planning hearing rule and Rule 25-17.087 on interconnection standards were addressed. A qualifying facility recommended changes to the rule which would only allow disconnection under emergency conditions. Insurance for interconnection was addressed. One qualifying facility objected that the indemnity only goes from the QF to the utility. There is no recognition that the utility operations could have a damaging effect on the QF.

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 87

The next public meeting was held May 25. This occurred after post-hearing comments were filed, staff distributed a "Proposed Final Version" and comments were received on it. At that agenda, the Commission held a lengthy debate on the following issues: statewide avoided unit versus individual utility avoided unit; re-openers of economic and financial parameters every ten years; a utility's ability to petition the FPSC to reject a standard offer contract, including the issue of subscription caps; changes permitted in the customer's selection of billing methodology; the Commission's policies set forth in proposed Rule 25-17.081; appropriate assurances against the risk of a QF's nonperformance; the utility's marketing of excess QF generated power to other utilities; the treatment of municipal electric utilities and rural electric cooperatives in the rules on wheeling, the planning hearing, and the Commission policies rule; the concept of a 75 MW cut-off for standard offers.

Based on guidance from the Commission at the May 25 agenda, staff prepared a new set of rules. Staff mailed that proposal to participants June 21. Participants provided comments, which were reviewed and summarized. Staff prepared a new recommendation which was heard at the Commission agenda on August 28, 1990. The Commission discussion at that public meeting focused on: individual utility units versus statewide unit; the 75 MW limit for a standard offer contract; the provision of a standard offer for all solid waste facilities; negotiated contract's relationship -- or lack of it -- to subscription caps; the provision of a mini-

ORDER NO. 23623  
DOCKET NO. 891049-EU  
PAGE 88

planning hearing and a more flexible, traditional planning hearing; the issue of a provision for competitive bids.

The staff then took the August 28 Commission guidance, prepared a new rule proposal and submitted it for the September 18 agenda. At that agenda, the Commission discussed the 75 MW cut-off provision in standard offers and negotiated contacts for deferral or avoidance "portions of" capacity and implementation issues.

At the September 18, 1990, agenda, the Commission took final action to adopt the rules.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

The Commission proposed changes in the rules on cogeneration and small power production based on direct changes in section 366.051, Florida Statutes, dealing with state policy in respect to cogeneration, and based on the Commission's experience with the existing rules since their adoption in 1984. First, there is a need to modify the rules to implement the legislative changes in section 366.051, Florida Statutes. Second, the rules need to ensure that all contracts for the purchase of firm energy and capacity accurately reflect full avoided costs of the purchasing utility. Third, the rules need to be revised to remedy a number of administrative and technical problems that have arisen since 1984 when the rules were adopted.