



# Public Service Commission

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## -M-E-M-O-R-A-N-D-U-M-

DATE: NOVEMBER 5, 1998

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (EAYO)

FROM: DIVISION OF ELECTRIC AND GAS (HAFF, GOAD) <sup>20</sup> *MAN* *TKB 27*  
DIVISION OF LEGAL SERVICES (C. KEATING) <sup>WCK</sup> *AVE* *PLT*

RE: DOCKET NO. 981346-EQ - PETITION TO ESTABLISH NEW STANDARD OFFER FOR PURCHASE OF FIRM CAPACITY AND ENERGY FROM SMALL QUALIFYING FACILITIES (UNDER 100 MW) OR FROM SOLID WASTE FACILITIES BY GULF POWER COMPANY.

AGENDA: NOVEMBER 17, 1998 - REGULAR AGENDA - TARIFF FILING - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: 60-DAY SUSPENSION DATE: DECEMBER 14, 1998

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\981346.RCM

### CASE BACKGROUND

On October 14, 1998, Gulf Power Company (Gulf) filed a Petition to Establish a New Standard Offer Contract for the Purchase of Firm Capacity and Energy From Qualifying Facilities as defined in Rule 25-17.0832(4)(a), Florida Administrative Code. Gulf's petition requests approval of the proposed standard offer contract and the revised tariff sheets corresponding to the new avoided unit.

The Commission's bidding rules require that investor-owned utilities issue a request for proposals (RFP) on any proposed new generating unit requiring certification under the Florida Electrical Power Plant Siting Act. Rule 25-22.082(2), Florida Administrative Code, states:

Prior to filing a petition for determination of need for an electrical power plant pursuant to Section 403.519, Florida Statutes, each investor-owned electric utility shall evaluate supply-side alternatives to its next

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planned generating unit by issuing a Request for Proposals (RFP).

Commission rules also govern the issuance of standard offer contracts for a utility's purchase of firm capacity and energy from qualifying facilities (QFs), including the utility's obligations with respect to the RFP process. Rule 25-17.0832(4)(e)(5), Florida Administrative Code, requires that each utility's standard offer contract must specify:

A reasonable open solicitation period during which time the utility will accept proposals for standard offer contracts. Prior to the issuance of timely notice of a Request for Proposals (RFP) pursuant to Rule 25-22.082(3), the utility shall end the open solicitation period.

For purposes of the proposed new standard offer contract, Gulf chose as its avoided unit a 30 MW combustion turbine (CT) unit with an in-service date of June, 2006. However, Gulf's June, 1998 Ten-Year Site Plan identifies the next planned generating unit as a 532 MW combined cycle (CC) unit with an in-service date of June, 2002. This raises a question as to whether Gulf's petition complies with Rule 25-17.0832(4)(e)(5), Florida Administrative Code.

This recommendation does not address the merits of Gulf's petition with respect to standard offer contract language or proposed payments to cogenerators contained in the tariffs. This recommendation addresses the sole issue of whether Gulf's petition complies with Rule 25-17.0832(4)(e)(5), Florida Administrative Code.

DISCUSSION OF ISSUES

ISSUE 1: Should Gulf's Petition for Approval of a Standard Offer Contract be approved? (Haff)

RECOMMENDATION: No. Gulf's next planned generating unit addition, a 532 MW combined cycle unit with a June, 2002 in-service date, was not made available for standard offer contracts as required by Rule 25-17.0832(4)(e)(5), Florida Administrative Code. To address this situation, Staff recognizes three options available to Gulf: (1) seek a waiver of Rule 25-17.0832(4)(e)(5), Florida Administrative Code; (2) seek repeal of the Rule; or, (3) file a standard offer contract in which avoided cost is based on Gulf's next planned generating unit addition.

STAFF ANALYSIS: This recommendation does not address the merits of Gulf's petition with respect to standard offer contract language or proposed payments to cogenerators contained in the tariffs. This recommendation addresses the sole issue of whether Gulf's petition complies with Rule 25-17.0832(4)(e)(5), Florida Administrative Code.

In Gulf's petition, Gulf chose as its avoided unit a 30 MW combustion turbine (CT) unit with an in-service date of June, 2006. The 2006 CT unit is not the next generating unit identified in Gulf's June, 1998 *Ten-Year Site Plan*. Gulf's next planned generating unit is a 532 MW combined cycle (CC) unit at the Smith site with an in-service date of June, 2002. This unit requires certification under the Power Plant Siting Act and, therefore, is also subject to the Commission's rule requiring the unit to be bid through an RFP process (Rule 25-22.082(2), Florida Administrative Code).

Rules 25-22.082(2) and 25-17.0832(4)(e)(5), Florida Administrative Code, are related and, when read together, clearly require an open solicitation period for accepting standard offer contracts on a utility's next planned generating unit prior to issuance of an RFP for that unit. Thus, Gulf's choice of the 2006 CT unit as its avoided unit violates Rule 25-17.0832(4)(e)(5), Florida Administrative Code, because Gulf failed to offer a reasonable solicitation period for accepting standard offer contracts based on its next planned unit, the 2002 CC unit.

The Commission adopted its cogeneration rules to ensure that a qualifying facility (QF) is paid fairly for capacity and energy delivered to utilities. Inherent in that assurance is that QFs be paid based on the cost of avoiding or deferring the utility's next identified generating unit, because the need for that unit is theoretically deferred or avoided by the capacity and energy sold to the utility by the QF. This assurance was codified by the Commission in Rule 25-17.0832(4)(e)(5), Florida Administrative

Code, which requires investor-owned utilities to identify their next planned generating unit as the avoided unit. The terms "avoided unit" and "next planned generating unit" are one and the same. Gulf's petition suggests that a utility may select any generating unit in its plan as the avoided unit. Staff believes that this approach would render the Commission's cogeneration rules meaningless.

Gulf is not alone in its choice to offer an avoided unit for cogeneration which is not its next generating unit addition. FPL's next unit additions in its April, 1998 *Ten-Year Site Plan* are six CT units due to be placed into service in 2002. These units are part of the proposed repowering of the Ft. Myers site. FPL changed its expansion plan in midyear by moving up the in-service date of two of the six 2002 CT units to 2001. FPL has indicated to staff its plans to identify one of the remaining 2002 CT units as the avoided unit for its upcoming standard offer contract. TECO's next unit addition in its April, 1998 *Ten-Year Site Plan* is a 2003 CT unit. TECO changed its expansion plan in midyear by moving up the in-service date of the 2003 CT to 2001. TECO has indicated to staff that the avoided unit associated with TECO's upcoming standard offer contract is expected to be the former 2003 CT unit. FPC's next unit addition in its April, 1998 *Ten-Year Site Plan* is the Hines 2 CC unit due to be placed into service in 2004. This unit is subject to the requirements of both the Power Plant Siting Act and the Commission's bidding rules. Like FPL and TECO, FPC has also changed its expansion plan in midyear by moving up the in-service date of the CC unit from 2004 to 2001. FPC has recently petitioned the Commission for waiver of the bidding rules for this unit (Docket No. 981360-EI). FPC has not indicated to staff whether a standard offer contract will be filed in the near future.

Because Gulf failed to issue a standard offer contract for its 2002 CC unit prior to issuing an RFP for the unit, as required by Rule 25-17.0832(4)(e)(5), Florida Administrative Code, staff recommends that Gulf's Petition for Approval of a Standard Offer Contract be denied.

Staff recognizes three options available to Gulf to address the requirements of Rule 25-17.0832(4)(e)(5), Florida Administrative Code:

- (1) Seek a waiver of the Rule;
- (2) Seek repeal of the Rule; or
- (3) File a standard offer contract in which avoided cost is based on Gulf's next planned generating unit addition, the 532 MW CC unit.

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ISSUE 2: Should the tariffs contained in Gulf's Petition for Approval of a Standard Offer Contract be suspended? (Goad)

RECOMMENDATION: If the Commission approves staff's recommendation in Issue 1, no action is necessary. If the Commission denies staff's recommendation in Issue 1, the tariffs should be suspended to allow staff additional time to submit a recommendation addressing the merits of Gulf's petition.

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, it will not be necessary to address suspension of the tariffs contained in Gulf's petition because the petition would be moot. However, if the Commission denies staff's recommendation in Issue 1, staff will submit a new recommendation, at a later date, which would address the merits of Gulf's petition. In that instance, it would be necessary to suspend the tariffs contained in Gulf's petition.

ISSUE 3: Should this docket be closed? (C. Keating)

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1 and no protest is filed within 21 days of the issuance of the Commission's order, this docket should be closed. If the Commission denies staff's recommendation in Issue 1, this docket should remain open to allow staff to address the merits of Gulf's petition.

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1 and no protest is filed within 21 days of the issuance of the Commission's order, this docket should be closed. If the Commission denies staff's recommendation in Issue 1, this docket should remain open to allow staff to address the merits of Gulf's petition.