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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

NOTICE OF PROPOSED RULE DEVELOPMENT

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 001574-EQ

RULE TITLE:

RULE NO.:

Firm Capacity and Energy Contracts

25-17.0832

PURPOSE AND EFFECT: To amend Rule 25-17.0832 (1) to eliminate the subscription limit for standard offers; (2) to limit standard offer contract terms to a maximum of five years; and (3) to change the notification requirements in paragraph (1)(a) from the Division of Electric and Gas to the Division of Safety and Reliability.

SUBJECT AREA TO BE ADDRESSED: Subscription limits and contract terms for Standard Offer Contracts.

SPECIFIC AUTHORITY: 350.127, 366.04(1), 366.051, 366.05(1) & (8), FS

LAW IMPLEMENTED: 366.051, 403.503, FS

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: Tuesday, December 12 at 1:30 p.m.

PLACE: Betty Easley Conference Center, 4075 Esplanade Way, Room 152E, Tallahassee, Florida

THE WORKSHOP REQUEST MUST BE SUBMITTED IN WRITING WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE COMMISSION'S DIVISION OF RECORDS AND REPORTING, 2540 SHUMARD OAK BOULEVARD, TALLAHASSEE, FL 32399-0850.

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FPSC-RECORDS/REPORTING

Any person requiring some accommodation at this workshop because of a physical impairment should call the Division of Records and Reporting at (850) 413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Judy Harlow, Division of Safety & Electric Reliability, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:
25-17.0832 Firm Capacity and Energy Contracts.

(1) No change.

(a) Within one working day of the execution of a negotiated contract or the receipt of a signed standard offer contract, the utility shall notify the Director of the Division of Electric Safety and Reliability ~~Gas~~ and provide the amount of committed capacity and the type of generating unit, if any, which the contracted capacity is intended to avoid or defer.

(b) Within 10 working days of the execution of a negotiated contract or receipt of a signed standard offer contract for the purchase of firm capacity and energy, the purchasing utility shall file with the Commission a copy of the signed contract and a summary of its terms and conditions. At a minimum, the summary

shall include report:

1. through 6. No change.

(2) Negotiated Contracts. Utilities and qualifying facilities are encouraged to negotiate contracts for the purchase of firm capacity and energy to avoid or defer the construction of all planned utility generating units which are not subject to the requirements of Rule 25-22.082. If a utility is required to issue a Request for Proposals (RFP) pursuant to Rule 25-22.082, negotiations with qualifying facilities shall be governed by the utility's RFP process. Negotiated contracts will be considered prudent for cost recovery purposes if it is demonstrated by the utility 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 counted towards the subscription limit of the avoided unit in a standard offer contract, thus preserving the standard offer for small qualifying facilities as described in subsection (4).~~

(3) No change.

(4) Standard Offer Contracts.

(a) Upon petition by a utility or pursuant to a Commission action, each public utility shall submit for Commission approval a tariff or tariffs and a standard offer contract or contracts for the purchase of firm capacity and energy from small qualifying facilities. In lieu of a separately ~~seperately~~ negotiated contract, standard offer contracts are available to the following types of qualifying facilities:

1. A small power producer or other qualifying facility using renewable or non-fossil fuel where the primary energy source in British Thermal Units (BTUs) is at least 75 percent biomass, waste, solar, or other renewable resource;
2. A qualifying facility, as defined by Rule 25-17.080(3), with a design capacity of 100 kW or less; or
3. A municipal solid waste facility as defined by Rule 25-17.091.

(b) No change.

(c) The utility shall evaluate, select, and enter into standard offer contracts with eligible qualifying facilities based on the benefits to the ratepayers. Within 60 days of receipt of a signed standard offer contract, the utility shall either:

1. Accept and sign the contract and return it within

five days to the qualifying facility; or

2. Petition the Commission not to accept the contract and provide justification for the refusal. Such petitions may be based on:

- ~~a. A reasonable allegation by the utility that acceptance of the standard offer will exceed the subscription limit of the avoided unit or units, or~~

- ~~b. Material evidence showing that because the qualifying facility is not financially or technically viable, it is unlikely that the committed capacity and energy would be made available to the utility by the date specified in the standard offer.~~

~~(d) 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.~~

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

1. The avoided unit or units on which the contract is based;
- ~~2. The total amount of committed capacity, in megawatts, needed to fully subscribe the avoided unit specified in the contract,~~
23. The payment options available to the qualifying facility including all financial and economic assumptions necessary to calculate the firm capacity payments available under each payment option and an illustrative calculation of firm capacity payments for a maximum five ~~minimum ten~~ year term contract commencing with the in-service date of the avoided unit for each payment option;
34. The date on which the standard contract offer expires;
45. 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;
56. The date by which firm capacity and energy deliveries from the qualifying facility to the utility shall commence. This date shall be no

later than the anticipated in-service date of the avoided unit specified in the contract;

67. The period of time over which firm capacity and energy shall be delivered from the qualifying facility to the utility. The maximum time firm capacity and energy may ~~shall~~ be delivered is, ~~at a minimum,~~ for a period of five ~~ten~~ years, commencing with the anticipated in-service date of the avoided unit specified in the contract. ~~At a maximum, firm capacity and energy shall be delivered for a period of time equal to the anticipated plant life of the avoided unit, commencing with the anticipated in-service date of the avoided unit;~~

78. The minimum performance standards for the delivery of firm capacity and energy by the qualifying facility during the utility's daily seasonal peak and off-peak periods. These performance standards shall approximate the anticipated peak and off-peak availability and capacity factor of the utility's avoided unit over the term of the contract;

89. The description of the proposed facility including the location, steam host, generation technology, and fuel sources;

910. Provisions to ensure repayment of payments to the

extent that annual firm capacity and energy payments made to the qualifying facility in any year exceed that year's annual value of deferring the avoided unit specified in the contract in the event that the qualifying facility fails to perform pursuant to the terms and conditions of the contract. Such provisions may be in the form of a surety bond or equivalent assurance of repayment of payments exceeding the year-by-year value of deferring the avoided unit specified in the contract.

(ef) The utility may include the following provisions:

1. Provisions to protect the purchasing utility's ratepayers in the event the qualifying facility fails to deliver firm capacity and energy in the amount and times specified in the contract which may be in the form of an up-front payment, surety bond, or equivalent assurance of payment. Payment or surety shall be refunded upon completion of the facility and demonstration that the facility can deliver the amount of capacity and energy specified in the contract; and
2. A listing of the parameters, including any impact on electric power transfer capability, associated

with the qualifying facility as compared to the avoided unit necessary for the calculation of the avoided cost.

3. Provisions that allow for revisions to the contract based upon changes to the purchasing utility's avoided costs.

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

1. Value of deferral capacity payments. Value of deferral capacity payments shall commence on the anticipated in-service date of the avoided unit. Capacity payments under this option shall consist of monthly payments escalating annually of the avoided capital and fixed operation and maintenance expense associated with the avoided unit and shall be equal to the value of a year-by-year deferral of the avoided unit, calculated in accordance with paragraph (6) (a) of this rule.
2. Early capacity payments. Each standard offer contract shall specify the earliest date prior to the anticipated in-service date of the avoided unit when early capacity payments may commence. The

early capacity payment date shall be an approximation of the lead time required to site and construct the avoided unit. Early capacity payments shall consist of monthly payments escalating annually of the avoided capital and fixed operation and maintenance expense associated with the avoided unit, calculated in conformance with paragraph (6)(b) of the rule. At the option of the qualifying facility, early capacity payments may commence at any time after the specified early capacity payment 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 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 (4)(fg)1. of this rule.

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

portion of capacity payments under this option shall consist of equal monthly payments over the term of the contract, calculated in conformance with paragraph (6)(c) of this rule. The fixed operation and maintenance portion of capacity payments shall be equal to the value of the year-by-year deferral of fixed operation and maintenance expense associated with the avoided unit calculated in conformance with paragraph (6)(a) of this rule. Where levelized capacity payments are elected, the cumulative present value of the levelized capacity payments made to the qualifying facility over the term of the contract shall not exceed the cumulative present value of capacity payments which would have been made to the qualifying facility had such payments been made pursuant to subparagraph (4)(fg)1. of this rule, value of deferral capacity payments.

4. Early levelized capacity payments. Each standard offer contract shall specify the earliest date prior to the anticipated in-service date of the avoided unit when early levelized capacity payments may commence. The early capacity payment date shall be an approximation of the lead time required

to site and construct the avoided unit. The capital portion of capacity payments under this option shall consist of equal monthly payments over the term of the contract, calculated in conformance with paragraph (6)(c) of this rule. The fixed operation and maintenance expense shall be calculated in conformance with paragraph (6)(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 (4)(fg)1. of this rule.

(5) through (8) No change.

Specific Authority: 350.127, 366.04(1), 366.051, 366.05(1) & (8),
F.S.

Law Implemented: 366.051, 403.503, F.S.

History: New 10/25/90, amended 01/07/97, amended _____.