



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

DATE: AUGUST 23, 2001

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

FROM: DIVISION OF APPEALS (CIBULA) *SMC*
 DIVISION OF ECONOMIC REGULATION (HEWITT) *BT*
 DIVISION OF LEGAL SERVICES (HELTON, ELIAS) *may*
 DIVISION OF SAFETY AND ELECTRIC RELIABILITY (HARLOW) *RNT*
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RE: DOCKET NO. 001574-EQ - PROPOSED AMENDMENTS TO RULE 25-17.0832, F.A.C., FIRM CAPACITY AND ENERGY CONTRACTS.

AGENDA: 9/04/01 - REGULAR AGENDA - RULE PROPOSAL - INTERESTED PERSONS MAY PARTICIPATE

RULE STATUS: PROPOSAL MAY BE DEFERRED

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\APP\WP\001574PR.RCM

CASE BACKGROUND

Rule 25-17.0832, Florida Administrative Code, requires investor-owned electric utilities (IOUs) to file a tariff and standard offer contract for the purchase of firm capacity and energy from specified types of small qualifying facilities. In addition, the rule sets out the minimum specifications and acceptable pricing methodologies for standard offer contracts. Staff recommends that subparagraphs (4)(e)3. and 7. of Rule 25-17.0832 be amended to reduce the minimum standard offer contract term from ten to five years. In addition, staff recommends making clerical changes to update the rule.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission propose the attached amendments to Rule 25-17.0832, Florida Administrative Code, entitled "Firm Capacity and Energy Contracts"?

RECOMMENDATION: Yes, the Commission should propose the attached amendments.

STAFF ANALYSIS: Paragraph(4)(e) of Rule 25-17.0832 sets forth the minimum specifications of each standard offer contract. These contracts must be approved by the Commission prior to the open season period in which the contracts may be accepted by qualifying facilities. Subparagraph (4)(e)7. requires that standard offer contracts include "[t]he period of time over which firm capacity and energy shall be delivered from the qualifying facility to the utility." Therefore, utilities must provide a specified term within each standard offer contract. Under the current rule, the term specified by a standard offer contract must fit within a range of a minimum of ten years to a maximum of the life of the next avoided unit. This term is reviewed by the Commission during the approval process.

During the last several years, the Commission granted five requests from IOUs to waive the ten year minimum contract term established by Rule 25-17.0832(4)(e).¹ The IOUs requested the

¹ In re: Petition for approval of standard offer contract for qualifying cogeneration and small power production facilities by Tampa Electric Company, Order No. PSC-00-1773-PAA-EQ, 00 FPSC 9:499 (2000); In re: Petition by Florida Power & Light Company for approval of standard offer contract, Order No. PSC-00-1748-PAA-EI, 00 FPSC 9:458 (2000); In re: Petition of Florida Power Corporation for Approval of Standard Offer Contract Based on a 2003 Combined Cycle Avoided Unit and Accompanying Rate Schedule COG-2 Pursuant to Section 366.051, F.S., and Rules, Order No. PSC-00-0504-PAA-EQ, 00 FPSC 3:206 (2000); In re: Petition of Florida Power Corporation for Approval of Standard Offer Contract and Accompanying Rate Schedule COG-2, Order No. PSC-00-0265-PAA-EG, 00 FPSC 2:203 (2000); In re: Petition by Florida Power & Light Company for approval of a standard offer contract and revised COG-2 tariff, Order No. PSC-99-1713-TRF-EG, 99 FPSC 9:23 (1999).

waiver to reduce the risk that ratepayers would be tied to a long-term contract that is above avoided cost because of the uncertainty in the wholesale generation market. In each of these waivers, the minimum contract term was set at five years.

Staff recommends that the language in subparagraph (4)(e)7. be clarified to emphasize that a specific contract term must be included in each standard offer contract filed for approval by the Commission. Staff also recommends that the minimum contract term be changed to five years. A high degree of uncertainty currently exists in the electric market because of recent regulatory changes, potential future regulatory changes, fuel price volatility, and technological change. The attached amendments to Rule 25-17.0832 will reduce the potential for ratepayers to be tied to a purchased power contract that is more expensive than alternative power sources during times of declining avoided cost. Purchased power costs are passed directly to ratepayers through the Fuel and Purchased Power Cost Recovery Clause. The five-year minimum term balances the interests of the ratepayers without unduly discouraging the construction of small qualifying facilities.

Staff recommends no changes to the maximum term of the standard offer contract, which is the expected lifespan of the avoided generating unit. Doing so will provide the Commission with the flexibility to require longer term contracts in the future if avoided costs begin to increase. If avoided costs are increasing, it may be in the ratepayers' best interest to require longer term standard offer contracts.

Staff also recommends that paragraph (1)(a) of Rule 25-17.0832 be updated to reflect that the Division of Safety and Electric Reliability, instead of the Division of Electric and Gas, should receive the notification required by the rule. Finally, staff recommends several grammatical changes.

Statutory Authority: Section 366.051, Florida Statutes, requires the Commission to "establish guidelines relating to the purchase of power or energy by public utilities from cogenerators or small power producers." In addition, the Commission "may set rates at which a public utility must purchase power or energy from a cogenerator or small power producer." Id. Rule 25-17.0832 meets these statutory requirements.

Statement of Estimated Regulatory Costs: Several municipal solid waste (MSWs) facilities oppose the rule amendments. However, the impact on these local government entities depends on future firm capacity and energy prices. If these prices increase, a shorter contract term would benefit MSW facility owners because they could enter a new standard offer contract sooner with higher payments. On the other hand, if firm capacity and energy prices decrease, MSW owners would be faced with lower payments. One MSW argued that because MSW facilities are publicly owned, any shortfall or reduction in electrical revenues will require increasing solid waste disposal costs. In addition, at least one MSW argued that adoption of the rule amendments will result in MSWs having to negotiate more contracts, which will increase transaction costs for the MSWs. The MSWs overlook that longer contracts are still possible under the rule. The MSWs also do not acknowledge that the Commission is required to keep IOU rates reasonable and shortening the standard offer contract term is best for IOU ratepayers in an environment in which wholesale generation costs are falling.

Keeping the ten year minimum term would continue the possibility that IOUs and their ratepayers would be faced with higher cost capacity and energy costs for an additional five years for new standard offer contracts, even if market costs declined. However, wholesale generation costs may increase and IOUs would lose the benefits of a fixed price contract for an additional five years. Allowing a qualifying facility to choose the contract term would abrogate the Commission's regulatory responsibility over capacity and energy contracts.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if no requests for hearing or comments are filed, the rule amendments as proposed should be filed for adoption with the Secretary of State and the docket be closed.

STAFF ANALYSIS: Unless comments or requests for hearing are filed, the rules as proposed may be filed with the Secretary of State without further Commission action. The docket may then be closed.

1
2 25-17.0832 Firm Capacity and Energy Contracts.

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

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

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

- 20 1. The name of the utility and the owner and operator
21 of the qualifying facility, who are signatories of
22 the contract;
- 23 2. The amount of committed capacity specified in the
24 contract, the size of the facility, the type of
25

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1 facility, its location, and its interconnection and
2 transmission requirements;

3
4 3. The amount of annual and on-peak and off-peak
5 energy expected to be delivered to the utility;

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

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

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

11 (2) Negotiated Contracts. Utilities and qualifying
12 facilities are encouraged to negotiate contracts for the purchase
13 of firm capacity and energy to avoid or defer the construction of
14 all planned utility generating units which are not subject to the
15 requirements of Rule 25-22.082. If a utility is required to issue
16 a Request for Proposals (RFP) pursuant to Rule 25-22.082,
17 negotiations with qualifying facilities shall be governed by the
18 utility's RFP process. Negotiated contracts will be considered
19 prudent for cost recovery purposes if it is demonstrated by the
20 utility that the purchase of firm capacity and energy from the
21 qualifying facility pursuant to the rates, terms, and other
22 conditions of the contract can reasonably be expected to contribute
23 towards the deferral or avoidance of additional capacity
24 construction or other capacity-related costs by the purchasing
25 utility at a cost to the utility's ratepayers which does not exceed

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2 full avoided costs, giving consideration to the characteristics of
3 the capacity and energy to be delivered by the qualifying facility
4 under the contract. Negotiated contracts shall not be counted
5 towards the subscription limit of the avoided unit in a standard
6 offer contract, thus preserving the standard offer for small
7 qualifying facilities as described in subsection (4).

8 (3) Cost Recovery for Negotiated Contracts. In reviewing
9 negotiated firm capacity and energy contracts for the purpose of
10 cost recovery, the Commission shall consider factors relating to
11 the contract that would impact the utility's general body of retail
12 and wholesale customers including:

13 (a) Whether additional firm capacity and energy is needed by
14 the purchasing utility and by Florida utilities from a statewide
15 perspective;

16 (b) Whether the cumulative present worth of firm capacity and
17 energy payments made to the qualifying facility over the term of
18 the contract are projected to be no greater than:

- 19 1. The cumulative present worth of the value of a
20 year-by-year deferral of the construction and
21 operation of generation or parts thereof by the
22 purchasing utility over the term of the contract,
23 calculated in accordance with subsection (5) and
24 paragraph (6)(a) of this rule, provided that the
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2 contract is designed to contribute towards the
3 deferral or avoidance of such capacity; or

4 2. The cumulative present worth of other capacity and
5 energy related costs that the contract is designed
6 to avoid such as fuel, operation, and maintenance
7 expenses or alternative purchases of capacity,
8 provided that the contract is designed to avoid
9 such costs;

10 (c) To the extent that annual firm capacity and energy
11 payments made to the qualifying facility in any year exceed that
12 year's annual value of deferring the construction and operation of
13 generation by the purchasing utility or other capacity and energy
14 related costs, whether the contract contains provisions to ensure
15 repayment of such payments exceeding that year's value of deferring
16 that capacity in the event that the qualifying facility fails to
17 deliver firm capacity and energy pursuant to the terms and
18 conditions of the contract, provided, however, that provisions to
19 ensure repayment may be based on forecasted data; and

20 (d) Considering the technical reliability, viability, and
21 financial stability of the qualifying facility, whether the
22 contract contains provisions to protect the purchasing utility's
23 ratepayers in the event the qualifying facility fails to deliver
24 firm capacity and energy in the amount and times specified in the
25 contract.

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2 (4) Standard Offer Contracts.

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

- 10 1. A small power producer or other qualifying facility
11 using renewable or non-fossil fuel where the
12 primary energy source in British Thermal Units
13 (BTUs) is at least 75 percent biomass, waste, solar
14 or other renewable resource;
- 15 2. A qualifying facility, as defined by Rule 25-
16 17.080(3), with a design capacity of 100 kW or
17 less; or
- 18 3. A municipal solid waste facility as defined by Rule
19 25-17.091.

20 (b) The rates, terms, and other conditions contained in each
21 utility's standard offer contract or contracts shall be based on
22 the need for and equal to the avoided cost of deferring or avoiding
23 the construction of additional generation capacity or parts thereof
24 by the purchasing utility. Rates for payment of capacity sold by
25 a qualifying facility shall be specified in the contract for the

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2 duration of the contract. In reviewing a utility's standard offer
3 contract or contracts, the Commission shall consider the criteria
4 specified in paragraphs (3) (a) through (3) (d) of this rule, as well
5 as any other information relating to the determination of the
6 utility's full avoided costs.

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

- 11 1. Accept and sign the contract and return it within
12 five days to the qualifying facility; or
- 13 2. Petition the Commission not to accept the contract
14 and provide justification for the refusal. Such
15 petitions may be based on:
 - 16 a. A reasonable allegation by the utility
17 that acceptance of the standard offer
18 will exceed the subscription limit of the
19 avoided unit or units; or
 - 20 b. Material evidence showing that because
21 the qualifying facility is not
22 financially or technically viable, it is
23 unlikely that the committed capacity and
24 energy would be made available to the
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2 utility by the date specified in the
3 standard offer.

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

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

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

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- 2 4. The date on which the standard contract offer
- 3 expires;
- 4 5. A reasonable open solicitation period during which
- 5 time the utility will accept proposals for standard
- 6 offer contracts. Prior to the issuance of timely
- 7 notice of a Request for Proposals (RFP) pursuant to
- 8 Rule 25-22.082(3), the utility shall end the open
- 9 solicitation period;
- 10 6. The date by which firm capacity and energy
- 11 deliveries from the qualifying facility to the
- 12 utility shall commence. This date shall be no
- 13 later than the anticipated in-service date of the
- 14 avoided unit specified in the contract;
- 15 7. The specific period of time over which firm
- 16 capacity and energy shall be delivered from the
- 17 qualifying facility to the utility. Firm capacity
- 18 and energy shall be delivered, at a minimum, for a
- 19 period of five ~~ten~~ years, commencing with the
- 20 anticipated in-service date of the avoided unit
- 21 specified in the contract. At a maximum, firm
- 22 capacity and energy shall be delivered for a period
- 23 of time equal to the anticipated plant life of the
- 24 avoided unit, commencing with the anticipated in-
- 25 service date of the avoided unit;

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2 8. The minimum performance standards for the delivery
3 of firm capacity and energy by the qualifying
4 facility during the utility's daily seasonal peak
5 and off-peak periods. These performance standards
6 shall approximate the anticipated peak and off-peak
7 availability and capacity factor of the utility's
8 avoided unit over the term of the contract;
- 9 9. The description of the proposed facility including
10 the location, steam host, generation technology,
11 and fuel sources;
- 12 10. Provisions to ensure repayment of payments to the
13 extent that annual firm capacity and energy
14 payments made to the qualifying facility in any
15 year exceed that year's annual value of deferring
16 the avoided unit specified in the contract in the
17 event that the qualifying facility fails to perform
18 pursuant to the terms and conditions of the
19 contract. Such provisions may be in the form of a
20 surety bond or equivalent assurance of repayment of
21 payments exceeding the year-by-year value of
22 deferring the avoided unit specified in the
23 contract.

24 (f) The utility may include the following provisions:
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2 1. Provisions to protect the purchasing utility's
3 ratepayers in the event the qualifying facility
4 fails to deliver firm capacity and energy in the
5 amount and times specified in the contract which
6 may be in the form of an up-front payment, surety
7 bond, or equivalent assurance of payment. Payment
8 or surety shall be refunded upon completion of the
9 facility and demonstration that the facility can
10 deliver the amount of capacity and energy specified
11 in the contract; and
- 12 2. A listing of the parameters, including any impact,
13 on electric power transfer capability, associated
14 with the qualifying facility as compared to the
15 avoided unit necessary for the calculation of the
16 avoided cost.
- 17 3. Provisions that allow for revisions to the contract
18 based upon changes to the purchasing utility's
19 avoided costs.

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

- 24 1. Value of deferral capacity payments. Value of
25 deferral capacity payments shall commence on the

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2 anticipated in-service date of the avoided unit.
3 Capacity payments under this option shall consist
4 of monthly payments escalating annually of the
5 avoided capital and fixed operation and maintenance
6 expense associated with the avoided unit and shall
7 be equal to the value of a year-by-year deferral of
8 the avoided unit, calculated, in accordance with
9 paragraph (6) (a) of this rule.

10 2. Early capacity payments. Each standard offer
11 contract shall specify the earliest date prior to
12 the anticipated in-service date of the avoided unit,
13 when early capacity payments may commence. The
14 early capacity payment date shall be an
15 approximation of the lead time required to site and
16 construct the avoided unit. Early capacity
17 payments shall consist of monthly payments
18 escalating annually of the avoided capital and
19 fixed operation and maintenance expense associated
20 with the avoided unit, calculated in conformance
21 with paragraph (6) (b) of the rule. At the option
22 of the qualifying facility, early capacity payments
23 may commence at any time after the specified early
24 capacity payment date and before the anticipated
25 in-service date of the avoided unit provided that

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2 the qualifying facility is delivering firm capacity
3 and energy to the utility. Where early capacity
4 payments are elected, the cumulative present value
5 of the capacity payments made to the qualifying
6 facility over the term of the contract shall not
7 exceed the cumulative present value of the capacity
8 payments which would have been made to the
9 qualifying facility had such payments been made
10 pursuant to subparagraph (4)(g)1. of this rule.

11 3. Levelized capacity payments. Levelized capacity
12 payments shall commence on the anticipated in-
13 service date of the avoided unit. The capital
14 portion of capacity payments under this option
15 shall consist of equal monthly payments over the
16 term of the contract, calculated in conformance
17 with paragraph (6)(c) of this rule. The fixed
18 operation and maintenance portion of capacity
19 payments shall be equal to the value of the year-
20 by-year deferral of fixed operation and maintenance
21 expense associated with the avoided unit calculated
22 in conformance with paragraph (6)(a) of this rule.
23 Where levelized capacity payments are elected, the
24 cumulative present value of the levelized capacity
25 payments made to the qualifying facility over the

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2 term of the contract shall not exceed the
3 cumulative present value of capacity payments which
4 would have been made to the qualifying facility had
5 such payments been made pursuant to subparagraph
6 (4)(g)1. of this rule, value of deferral capacity
7 payments.

- 8 4. Early levelized capacity payments. Each standard
9 offer contract shall specify the earliest date
10 prior to the anticipated in-service date of the
11 avoided unit when early levelized capacity payments
12 may commence. The early capacity payment date
13 shall be an approximation of the lead time required
14 to site and construct the avoided unit. The
15 capital portion of capacity payments under this
16 option shall consist of equal monthly payments over
17 the term of the contract, calculated in conformance
18 with paragraph (6)(c) of this rule. The fixed
19 operation and maintenance expense shall be
20 calculated in conformance with paragraph (6)(b) of
21 this rule. At the option of the qualifying
22 facility, early levelized capacity payments shall
23 commence at any time after the specified early
24 capacity date and before the anticipated in-service
25 date of the avoided unit provided that the

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2 qualifying facility is delivering firm capacity and
3 energy to the utility. Where early levelized
4 capacity payments are elected, the cumulative
5 present value of the capacity payments made to the
6 qualifying facility over the term of the contract
7 shall not exceed the cumulative present value of
8 the capacity payments which would have been made to
9 the qualifying facility had such payments been made
10 pursuant to subparagraph (4)(g)1. of this rule.

11 (5) Avoided Energy Payments for Standard Offer Contracts.

12 (a) For the purpose of this rule, avoided energy costs
13 associated with firm energy sold to a utility by a qualifying
14 facility pursuant to a utility's standard offer contract shall
15 commence with the in-service date of the avoided unit specified in
16 the contract. Prior to the in-service date of the avoided unit,
17 the qualifying facility may sell as-available energy to any utility
18 pursuant to Rule 25-17.0825.

19 (b) To the extent that the avoided unit would have been
20 operated, had that unit been installed, avoided energy costs
21 associated with firm energy shall be the energy cost of this unit.
22 To the extent that the avoided unit would not have been operated,
23 the avoided energy costs shall be the as-available avoided energy
24 cost of the purchasing utility. During the periods that the
25 avoided unit would not have been operated, firm energy purchased

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2 from qualifying facilities shall be treated as as-available energy
3 for the purposes of determining the megawatt block size in Rule 25-
4 17.0825(2)(a).

5 (c) The energy cost of the avoided unit specified in the
6 contract shall be defined as the cost of fuel, in cents per
7 kilowatt-hour, which would have been burned at the avoided unit
8 plus variable operation and maintenance expense plus avoided line
9 losses. The cost of fuel shall be calculated as the average market
10 price of fuel, in cents per million Btu, associated with the
11 avoided unit multiplied by the average heat rate associated with
12 the avoided unit. The variable operating and maintenance expense
13 shall be estimated based on the unit fuel type and technology of
14 the avoided unit.

15 (6) Calculation of standard offer contract firm capacity
16 payment options.

17 (a) Calculation of year-by-year value of deferral. The year-
18 by-year value of deferral of an avoided unit shall be the
19 difference in revenue requirements associated with deferring the
20 avoided unit one year and shall be calculated as follows:

21
$$\underline{VAC_m = 1/12 [KI_n(1-R)/(1-R^L) + O_n]}$$

22 Where, for a one year deferral:

23 VAC_m = utility's monthly value of avoided capacity, in
24 dollars per kilowatt per month, for each month of
25 year n;

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- K = present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present value to the middle of the first year;
- R = $(1+i_p)/(1+r)$;
- I_n = total direct and indirect cost, in mid-year dollars per kilowatt including AFUDC but excluding CWIP, of the avoided unit with an in-service date of year n, including all identifiable and quantifiable costs relating to the construction of the avoided unit that would have been paid had the avoided unit been constructed;
- O_n = total fixed operation and maintenance expense for the year n, in mid-year dollars per kilowatt per year, of the avoided unit;
- i_p = annual escalation rate associated with the plant cost of the avoided unit(s);
- i_o = annual escalation rate associated with the operation and maintenance expense of the avoided unit(s);
- r = annual discount rate, defined as the utility's incremental after tax cost of capital;
- L = expected life of the avoided unit; and

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2 n = year for which the avoided unit is deferred
3 starting with its original anticipated in-service
4 date and ending with the termination of the
5 contract for the purchase of firm energy and
6 capacity.

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

9
$$A_m = [A_c (1 + i_p)^{(m-1)} + A_o (1 + i_o)^{(m-1)}] / 12 \quad \text{for } m=1 \text{ to } t$$

10 Where: A_m = monthly early capacity payments to be made to
11 the qualifying facility for each month of the
12 contract year n, in dollars per kilowatt per month;

13 i_p = annual escalation rate associated with the plant
14 cost of the avoided unit;

15 i_o = annual escalation rate associated with the
16 operation and maintenance expense of the avoided
17 unit(s);

18 m = year for which early capacity payments to a
19 qualifying facility are made, starting in year
20 one and ending in the year t;

21 t = the term, in years, of the contract for the
22 purchase of firm capacity;

23
$$A_c = F [(1-R) / (1-R^t)]$$

24 Where: F = the cumulative present value in the year that
25 the contractual payments will begin, of the

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2 avoided capital cost component of capacity
3 payments which would have been made had
4 capacity payments commenced with the
5 anticipated in-service date of the avoided
6 unit(s);

7 $R = (1+ip)/(1+r);$ and

8 $r =$ annual discount rate, defined as the
9 utility's incremental after tax cost of
10 capital; and

11 $A_0 = G[(1-R)(1-R^t)]$

12 Where: $G =$ The cumulative present value in the year that the
13 contractual payments will begin, of the avoided
14 fixed operation and maintenance expense component
15 of capacity payments which would have been made had
16 capacity payments commenced with the anticipated
17 in-service date of the avoided unit; and

18 $R = (1+io)/(1+r).$

19 (c) Levelized and early levelized capacity payments. Monthly
20 levelized and early levelized capacity payments shall be calculated
21 as follows:

22 $P_L = F/12\{r/[1-(1+r)^{-t}]\} + 0$

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

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

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

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

12 O = the monthly fixed operation and maintenance
13 component of the capacity payments, calculated
14 in accordance with paragraph (5)(a) for
15 levelized capacity payments or with paragraph
16 (5)(b) for early levelized capacity payments.

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

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

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

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

12 (c) Firm energy and capacity payments made pursuant to a
13 standard offer contract signed by the qualifying facility, for
14 which the utility has petitioned the Commission to reject, is
15 recoverable through the Commission's periodic review of fuel and
16 purchased power costs if the Commission requires the utility to
17 accept the contract because it satisfies subsection (4) of this
18 rule.

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

21 Law Implemented: 366.051, 366.81 ~~403.503~~, F.S.

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


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M E M O R A N D U M

May 31, 2001

TO: DIVISION OF APPEALS (HELTON)

FROM: DIVISION OF ECONOMIC REGULATION (HEWITT) *BN content 192* 

SUBJECT: STATEMENT OF ESTIMATED REGULATORY COSTS FOR DOCKET NO. 001574-EQ, PROPOSED AMENDMENTS TO RULE 25-17.0832, F.A.C., FIRM CAPACITY AND ENERGY CONTRACTS

SUMMARY OF THE RULES

Currently, Rule 25-17.0832, F.A.C., Firm Capacity and Energy Contracts, contains the standards and requirements for investor-owned utilities (IOUs) to file a tariff for a standard offer contract for the purchase of firm capacity and energy from specified types of small qualifying facilities (QFs). Section (4)(e)(7) requires a ten year minimum contract term for standard offer contracts with a maximum term being the expected life of the avoided unit. The Commission approves the time period when a standard offer contract tariff is requested.

The proposed amendments would reduce the minimum standard offer contract period for the purchase of QF firm capacity and energy from ten years to five years. The proposed amendments would also update the rule to include a new division name and other editorial changes.

ESTIMATED NUMBER OF ENTITIES REQUIRED TO COMPLY AND GENERAL DESCRIPTION OF INDIVIDUALS AFFECTED

There are five investor-owned electric utility companies operating in Florida and there are approximately 60 QFs; 30 with firm capacity contracts. QFs are not limited to selling their output to IOUs and would only be affected by the proposed rule changes if they seek a new standard offer contract with an IOU.

RULE IMPLEMENTATION AND ENFORCEMENT COST AND IMPACT ON REVENUES FOR THE AGENCY AND OTHER STATE AND LOCAL GOVERNMENT ENTITIES

The Public Service Commission and other state entities are not expected to experience implementation costs other than the costs associated with promulgating a proposed rule. Existing Commission staff would continue to handle the monitoring and review of QF contracts.

Local government entities that have an interest in solid waste facilities could be impacted. There are various cities in Florida that have interests in municipal solid waste (MSWs) facilities which are covered by this rule change. The City of Tampa and Miami-Dade responded to a data request and objected to the shortening of the possible minimum time period for a standard offer contract from ten years to five years. Tampa predicated its response on the rule limiting the maximum contract length to a five year term. However, the maximum contract term, the anticipated life of the avoided unit, would not change. Moreover, the Commission determines the period of time when a standard offer contract is approved and has granted requests for a rule waiver for a five year term limit in several recent standard offer contracts.

Although the existing MSW facility contracts would not be affected by the proposed rule changes, future contracts could be affected. Whether the effects of the proposed rule changes would be positive or negative for local governments depends on the future price for firm capacity and energy. If energy and capacity prices are increasing in the future, a shorter contract would benefit MSW facility owners and their ratepayers since they could enter a new standard offer contract sooner with higher payments. If energy and capacity prices are decreasing in the future, a shorter contract would cost MSW facility owners and their ratepayers because a new standard offer contract would have lower payments. Longer contracts would still be possible up to the anticipated life of the avoided unit if approved by the Commission. The Commission is required to keep IOU rates reasonable and shortening the term for standard offer contracts is best for IOU ratepayers in a falling electricity price environment.

ESTIMATED TRANSACTIONAL COSTS TO INDIVIDUALS AND ENTITIES

All the IOUs that responded stated that there should not be additional costs to comply with the proposed rule changes. One IOU stated that the proposed rule amendment would give it more flexibility in tailoring the terms of the contract to specific needs.

Montenay Power Corporation (MPC), which operates the Miami-Dade County Resources Recovery Facility and the Bay County Resources Recovery Facility, responded to the data request with its opposition to the proposed rule changes. MPC particularly objected to the reduction in the duration of power purchase agreements as they may apply to standard offer contracts. MPC pointed out that since these MSW facilities are publicly owned, any shortfall or reduction in electrical revenues would require increasing of solid waste disposal costs to the residents and businesses of the respective counties.

The existing minimum contract term limit of ten years does not remove the uncertainties that surround future prices and costs and the viability of contract renewability. The reduction of

the minimum contract term to five years would have the same uncertainties, the value would be “marked to market” sooner rather than later, if the contract is for the minimum term. As noted above, the costs or benefits accruing to an existing or planned facility’s value when a contract is renewed depends upon the price of firm capacity and energy at that future time. Whether conditions will benefit the owner of the MSW facility and its ratepayers or an IOU and its ratepayers is unknown at present.

MPC further contends that because the proposed rule changes would reduce the attractiveness of utilities’ standard offer contracts, it would be more necessary for MPC and other QFs to negotiate power purchase agreements rather than accepting a standard offer. This situation would significantly increase MPC’s transaction costs in obtaining a purchase power agreement pursuant to the Public Utility Regulatory Policies Act of 1978, section 366.051, Florida Statutes, and the Commission’s rules. MPC estimates that the increase in transaction costs could easily well exceed \$100,000, including the engagement of attorneys to participate in negotiations and review draft contracts offered by utilities and the engagement of consultants to evaluate the utility’s avoided costs estimates. If negotiations were difficult and took six months or more, MPC estimates that the transaction costs could run well over \$250,000.

IMPACT ON SMALL BUSINESSES, SMALL CITIES, OR SMALL COUNTIES

Small businesses, small cities, and small counties that may have interests in MSW facilities would face the same situation as the larger cities stated above. The shorter minimum contract term may benefit or cost these entities depending on price conditions in five years.

Small businesses, small cities, and small counties that are customers of IOUs would have lower electricity costs if rates fall because IOUs can obtain capacity and energy for shorter contract periods in a falling price environment.

ALTERNATIVE METHODS

Maintaining the current rule would continue the possibility that IOUs and their ratepayers would be saddled with higher cost capacity and energy costs for an additional five years for new small standard offer contracts if market prices declined. However, prices may increase and IOUs would lose the benefits of a fixed price contract for an additional five years. MPC suggests that an eligible QF be allowed to choose to accept a standard offer contract for any period between five years and the life of the avoided unit designated in the contract. However, the Commission can not give up its responsibility to regulate the IOUs and their capacity and energy contracts.

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