

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed amendments to  
Rule 25-17.0832, F.A.C., Firm  
Capacity and Energy Contracts.

DOCKET NO. 001574-EQ  
ORDER NO. PSC-01-1844-NOR-EQ  
ISSUED: September 13, 2001

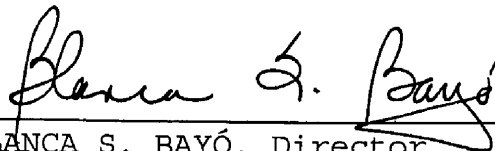
NOTICE OF RULEMAKING

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has initiated rulemaking to amend Rule 25-17.0832, Florida Administrative Code, relating to firm capacity and energy contracts.

The attached Notice of Rulemaking will appear in the September 21, 2001, edition of the Florida Administrative Weekly. If timely requested, a hearing will be held at a time and place to be announced in a future notice.

Written requests for hearing and written comments or suggestions on the rule must be received by the Director, Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than October 12, 2001.

By ORDER of the Florida Public Service Commission, this 13th day of September, 2001.



BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

MAH

( S E A L )

DOCUMENT NUMBER-DATE

11403 SEP 13 2001

FPSC-COMMISSION CLERK

ORDER NO. PSC-01-1844-NOR-EQ  
DOCKET NO. 001574-EQ  
PAGE 2

NOTICE OF PROPOSED RULEMAKING

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 001574-EQ

RULE TITLE:	RULE NO.:
Firm Capacity and Energy Contracts	25-17.0832

PURPOSE AND EFFECT: The purpose of the amendment is to reduce the minimum term for standard offer contracts from 10 to five years. The rule amendment also requires investor-owned electric utilities to specify the term of the standard offer when filing the contract for approval with the Commission. The effect is to reduce the risk that ratepayers will be tied to long-term contracts that are above avoided cost.

SUMMARY: Rule 25-17.0832 requires investor-owned utilities to file a tariff and a standard offer contract for the purchase of firm capacity and energy from specified types of small qualifying facilities. The rule sets forth the minimum specifications and acceptable pricing methodologies for standard offer contracts. The amendment to subparagraphs (4)(e)3. and 7. would reduce the ten year minimum contract term for standard offer contracts to five years. In addition, the amendment to subparagraph (4)(e)7. would

require investor-owned utilities to specify the contract term when filing the standard offer for approval by the Commission.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: 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.

ORDER NO. PSC-01-1844-NOR-EQ  
DOCKET NO. 001574-EQ  
PAGE 4

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.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127, 366.05(1), FS

LAW IMPLEMENTED: 366.051, 366.81, FS

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

ORDER NO. PSC-01-1844-NOR-EQ  
DOCKET NO. 001574-EQ  
PAGE 5

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:  
Director of Appeals, Florida Public Service Commission, 2540  
Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6245.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-17.0832 Firm Capacity and Energy Contracts.

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

(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 Safety Electric and Electric 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. The name of the utility and the owner and operator of the qualifying facility, who are signatories of the contract;
2. The amount of committed capacity specified in the contract, the size of the facility, the type of facility, its location, and its interconnection and transmission requirements;
3. The amount of annual and on-peak and off-peak energy 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.

(2) No change.

(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) through (d) No change.

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

1. through 2. No change.
3. 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 minimum five ~~ten~~ year term contract commencing with the in-service date of the avoided unit for each payment option;

4. through 6. No change.

7. The specific period of time over which firm capacity and energy shall be delivered from the qualifying facility to the utility. Firm capacity and energy shall be delivered, 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;

8. through 10. No change.

(f) through (g) No change.

(5) through (8) No change.



ORDER NO. PSC-01-1844-NOR-EQ  
DOCKET NO. 001574-EQ  
PAGE 9

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

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

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Judy Harlow, Division of  
Safety and Electric Reliability.

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE:  
Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: September 4, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Volume  
26, Number 44, November 3, 2000.

If any person decides to appeal any decision of the Commission with  
respect to any matter considered at the rulemaking hearing, if  
held, a record of the hearing is necessary. The appellant must  
ensure that a verbatim record, including testimony and evidence  
forming the basis of the appeal is made. The Commission usually  
makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of  
a physical impairment should call the Division of the Commission  
Clerk and Administrative Services at (850) 413-6770 at least 48  
hours prior to the hearing. Any person who is hearing or speech

ORDER NO. PSC-01-1844-NOR-EQ

DOCKET NO. 001574-EQ

PAGE 10

impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).