

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Power Corporation for approval of a standard offer contract based on a 2005 combined cycle avoided unit.

Docket No. 020295-EQ

Submitted for filing:
April 2, 2002

**PETITION FOR WAIVER OF RULE 25-17.0832(4)(e)7
REQUIRING MINIMUM TEN-YEAR CONTRACT TERM**

Florida Power Corporation ("Florida Power"), pursuant to Section 120.542, F.S., and Rule 28-104.002, F.A.C., hereby petitions the Florida Public Service Commission ("the Commission") for waiver of the requirement in Rule 25-17.0832(4)(e)7, F.A.C. that standard offer contract have a ten-year minimum term. In support of this petition, Florida Power submits the following:

1. Florida Power is a public utility subject to the jurisdiction of the Florida Public Service Commission ("Commission") under Chapter 366, F.S.
2. All notices, pleadings and correspondence required to be served on the petitioner should be directed to:

James A. McGee, Esquire
Post Office Box 14042
St. Petersburg, FL 33733-4042
Facsimile: (727) 820-5519

For express deliveries by private courier, the address is:

100 Central Avenue
St. Petersburg, FL 33701

DOCUMENT NUMBER-DATE

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3. Florida Power has submitted on this same date under separate cover a petition for approval of its Standard Offer Contract (“Standard Offer”) in accordance with Rule 25-17.0832(4), F.A.C. Rule 25-17.0832(4)(e)7 provides that firm capacity and energy purchased pursuant to a standard offer contract be provided for a minimum period of ten years. Florida Power seeks a waiver of this rule so that its Standard Offer will be limited to a term of five years.

4. The Commission may grant a waiver of the ten-year requirement upon (a) a demonstration that the purpose of the statute has been achieved by other means, and (b) when application of the rule would create a substantial hardship or would violate principles of fairness. Section 120.542, F.S. Florida Power submits that the purposes of Section 366.051 and the purposes of the Public Utility Regulatory Policies Act of 1978 (“PURPA”) -- to encourage cogeneration while at the same time protecting ratepayers from paying costs in excess of avoided costs--will be achieved by utilizing a five-year contract term. Florida Power further submits that strict adherence to the ten-year term provided for in the Commission’s rules would create a substantial hardship on Florida Power and its ratepayers.

5. New technologies and other factors may lower Florida Power’s costs over the coming years. Limiting the term of the Standard Offer to five years gives Florida Power the opportunity to revisit the issue of its avoided cost and take advantage of lower costs for the benefit of ratepayers prior to the passage of a full ten years. If at the end of five years Florida Power continues to have a need for power and qualifying facilities (“QFs”) offering to sell under a standard offer contract continue

to be able to sell at or below the Company's avoided costs, Florida Power can renew its Standard Offer for another five-year term. Obligating Florida Power to adhere to a ten-year term in the face of declining costs would subject the Company to substantial hardship by adversely affecting its cost structure, and would subject the its ratepayers to substantial hardship by raising the price that they would otherwise have to pay for electricity.

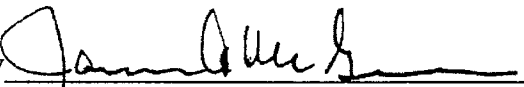
6. PURPA and Section 366.051, F.S. do not establish a minimum term for standard offer contracts. A standard offer contract with a five-year term at an avoided cost price, coupled with the continued availability of negotiated contracts under existing Commission rules unaffected by the requested waiver, provides more than enough incentive to encourage the development of cogeneration in accordance with these statutes.

7. In considering standard offer contracts filed by Florida Power & Light Company in Docket No. 990249-EG, and by Florida Power in Docket Nos. 991526-EQ and 991973-EQ, the Commission granted variances from the rule's minimum ten-year term requirement and approved a five-year term. Order Nos. PSC-99-1713-TRF-EG, issued September 2, 1999, PSC-00-0265-PAA-EQ, issued February 8, 2000, and PSC-00-0504-PAA-EQ, issued March 7, 2000, respectively. The policy reasons relied on by the Commission in approving the five-year standard offer terms -- ratepayer protection and adequate QF incentive -- are equally applicable to this petition.

WHEREFORE, for the above-stated reasons, Florida Power Corporation respectfully requests that the Commission grant this petition for a waiver of the minimum ten-year term requirement for standard offer contracts in Rule 25-17.0832(4)(e)7, F.A.C.

Respectfully submitted,

FLORIDA POWER CORPORATION

By 

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