

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO: 020398-EQ

IN RE: PROPOSED REVISIONS TO RULE 25-22.082, F.A.C.,  
SELECTION OF GENERATING CAPACITY

NOTICE OF PROPOSED RULE DEVELOPMENT

AND COMMISSION WORKSHOP

TO

ALL INTERESTED PERSONS

ISSUED: May 29, 2002

NOTICE is hereby given pursuant to Section 120.54, Florida Statutes, that the Florida Public Service Commission staff has initiated the development of Rule 25-22.082, Florida Administrative Code, to amend provisions relating to selection of generating capacity.

The attached Notice of Proposed Rule Development will appear in the June 7, 2002, edition of the Florida Administrative Weekly. A rule development workshop will be held at the following time and place:

Florida Public Service Commission  
9:30 a.m., July 19, 2002  
Betty Easley Conference Center  
Room 148, 4075 Esplanade Way  
Tallahassee, Florida

The workshop is being held pursuant to the Notice of Proposed Rule Development published with the preliminary rule text in the June 7, 2002, Florida Administrative Weekly.

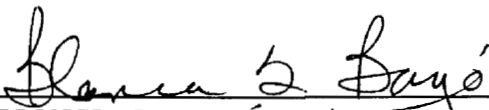
Written comments on the proposed rule amendments are encouraged. Please submit your comments no later than June 28, 2002, to Martha C. Brown, Appeals, Rules & Mediation Section, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0852, (850) 413-6245. A copy of the agenda will be available after July 1, 2002.

DOCUMENT NUMBER-DATE  
05648 MAY 29 02  
FPSC-COMMISSION CLERK

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Any person requiring some accommodation at this workshop 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 impaired should contact the Florida Public Service Commission using the Florida Relay Service, which can be reached at 1-800-955-8771 (TDD).

By Direction of the Florida Public Service Commission, this 29th day of May, 2002.

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

( S E A L )

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NOTICE OF PROPOSED RULE DEVELOPMENT

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO: 020398-EQ

RULE TITLE: Selection of Generating Capacity  
RULE NO.: 25-22.082

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to require utilities to issue a Request for Proposals for all major generating capacity additions as an effective means to ensure the cost-effectiveness of the additional generating capacity.

SUBJECT AREA TO BE ADDRESSED: The subject matter to be addressed is the cost-effective selection of additional generating capacity by Florida's electric utilities.

SPECIFIC AUTHORITY: 350.127(2), 366.05(1), 366.06(2), 366.07, 366.051, F.S.

LAW IMPLEMENTED: 403.519, 366.04(1), 366.06(2), 366.07, 366.051, F.S.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 A.M. Friday, July 19, 2002

PLACE: Betty Easley Conference Center, Room 148, 4075 Esplanade Way, Tallahassee, Florida

Any person requiring some accommodation at this workshop 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 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 AND A COPY OF THE PRELIMINARY DRAFT IS: Tom Ballinger, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-22.082 Selection of Generating Capacity.

(1) Definitions. For the purpose of this rule, the following terms shall have the following meaning:

(a) Public Utility: all electric utilities subject to the Florida Public Service Commission's ratemaking authority, as defined in Section 366.02(1), Florida Statutes.

(b) Major Capacity Addition: any capacity addition which will require certification pursuant to Section 403.519, Florida Statutes, or any capacity addition of 150 MW or more which does not

require certification pursuant to Section 403.519, Florida Statutes, including but not limited to the repowering of an existing generating facility. ~~Next Planned Generating Unit: the next generating unit addition planned for construction by an investor-owned utility that will require certification pursuant to Section 403.519, Florida Statute.~~

(~~cb~~) Request for Proposals (RFP): a document in which an public investor-owned utility publishes the price and non-price attributes of its next planned major capacity addition generating unit in order to solicit and screen, for potential subsequent contract negotiations, competitive proposals for supply-side alternatives to the public utility's next planned ~~generating unit~~ major capacity addition.

(~~de~~) Participant: a potential generation supplier who submits a proposal in compliance with both the schedule and informational requirements of a public utility's RFP. A participant may include, but is not limited to, utility and non-utility generators, Exempt Wholesale Generators (EWGs), Qualifying Facilities (QFs), marketers, and affiliates of public utilities, as well as providers of turnkey offerings, distributed generation, and other utility supply side alternatives.

(ed) Finalist: one or more participants selected by the public utility with whom to conduct subsequent contract negotiations.

~~(2) 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 planned generating unit by issuing a Request for Proposals (RFP). A Public Utility is required to provide reasonably sufficient, adequate, and efficient service to the public at fair and reasonable rates. In order to assure an adequate and reliable source of energy, a public utility must plan and construct or purchase sufficient generating capacity. To assure fair and reasonable rates and to avoid the further uneconomic duplication of generation, transmission, and distribution facilities in Florida, a public utility must select the most economical and cost-effective mix of supply-side and demand-side resources to meet the demand and energy requirements of its end-use consumers. The Commission finds that the use of RFPs to select additional generating resource requirements is an appropriate means by which to ensure that a public utility meets its obligation to provide an adequate, reliable, and cost-efficient supply of capacity and energy. Each public utility, therefore, shall issue an~~

RFP prior to the commencement of construction of a major capacity addition. Public utilities are encouraged to issue an RFP, using these rules as guidelines, prior to the construction or purchase of any other generating resource addition.

(3) Each public investor-owned utility shall provide timely notification of its issuance of an RFP by publishing public notices in major newspapers, periodicals and trade publications to ensure statewide and national circulation. The public notice given shall include, at a minimum:

(a) the name and address of the contact person from whom an RFP package may be requested;

(b) a general description of the public utility's next planned ~~generating unit~~ major capacity addition, including its planned in-service date, MW size, location, fuel type and technology; and

(c) a schedule of critical dates for the solicitation, evaluation, screening of proposals and subsequent contract negotiations.

(47) Each public electric utility shall file a copy of its RFP with the Commission upon issuance.

(54) Each public utility's RFP shall include, at a minimum:

(a) a detailed technical description of the public utility's

next planned major capacity addition ~~generating unit or units~~ on which the RFP is based, all costs that are associated with the major capacity addition, as well as the financial assumptions and parameters associated with it, including, at a minimum, the following information:

1. a description of the public utility's next planned major capacity addition ~~generating unit(s)~~ and its proposed location(s);
2. the MW size;
3. the estimated in-service date;
4. the primary and secondary fuel type;
5. an estimate of the total direct cost;
6. an estimate of the annual revenue requirements;
7. an estimate of the annual economic value of deferring construction;
8. an estimate of the fixed and variable operation and maintenance expense;
9. an estimate of the fuel cost;
10. the costs of common facilities at the site allocated to the major capacity addition, including, but not limited to land, improvements, transmission facilities, cooling



water facilities, fuel transportation and handling facilities, and other infrastructure.

101. an estimate of the planned and forced outage rates, heat rate, minimum load and ramp rates, and other technical details;

112. a description and estimate of the costs required for associated facilities such as gas laterals and transmission interconnection;

123. a discussion of the actions necessary to comply with environmental requirements; and

134. a summary of all major assumptions used in developing the above estimates;

(b) Detailed information regarding the public utility's ten year historical and ten year projected net energy for load, and summer and winter peak demand by class of customers;

(cb) a schedule of critical dates for solicitation, evaluation, screening of proposals, selection of finalists, and subsequent contract negotiations, and submission for Commission approval, if necessary;

(de) a description of the price and non-price attributes to be addressed by each alternative generating proposal including, but

not limited to:

1. technical and financial viability;
2. dispatchability;
3. deliverability (interconnection and transmission;
4. fuel supply;
5. water supply;
6. environmental compliance;
7. performance criteria; and
8. pricing structure, and

(e) a detailed description of the methodology to be used to evaluate alternative generating proposals on the basis of price and non-price attributes.

(f) All criteria, including all weighting and ranking factors that will be applied to select the finalists. Such criteria may include price and non-price considerations, but no criterion shall be employed that is not expressly identified in the RFP absent a showing of good cause. No adjustment to purchase power proposals due to the imputation of an increase to the public utility's cost of capital shall be made absent a showing of good cause. The RFP shall be structured to allow a participant to propose to supply all or a portion of the major capacity addition, and for the public

utility to select one or a combination of proposals as the most cost-effective means of meeting the specified need;

(g) Any application fees that will be required of a participant. Any such fees or deposits shall be cost-based but shall not exceed \$10,000 in the aggregate, with no more than \$500 required to obtain the RFP;

(h) Any information regarding system-specific conditions which may include, but not be limited to, preferred locations proximate to load centers, transmission constraints, the need for voltage support in particular areas, and/or the public utility's need or desire for greater diversity of fuel sources.

(6) A participant may submit and the public utility shall evaluate proposals to collocate the participant's proposed generating facility and to utilize the common facilities at a public utility's existing power plant site. The public utility may require compensation for such collocation and use of its common facilities.

(75). As part of its RFP, the public utility shall require each participant to publish a notice in a newspaper of general circulation in each county in which the participant's proposals to build an electrical power plant generating facility would be

located. The notice shall be at least one-quarter of a page and shall be published no later than 10 days after the date that proposals are due. The notice shall state that the participant has submitted a proposal to build an electrical power plant, and shall include the name and address of the participant submitting the proposal, the name and address of the public utility that solicited proposals, and a general description of the proposed power plant and its location.

(8) A pre-bid meeting shall be conducted by the public utility within two weeks after the issuance of the RFP. Each participant which obtains the RFP, the Office of Public Counsel, and the Commission staff shall be notified in a timely manner of the date, time, and location of the meeting.

(9) A minimum of 60 days shall be provided between the issuance of the RFP, and the due date for proposals in response to the RFP.

(10) Any potential participant in the RFP may file comments with the Commission regarding any aspect of the RFP prior to the due date for proposals specified in the RFP. The Commission may take such action with respect to any comments filed as it deems appropriate.

(11) The public utility shall evaluate the proposals received in response to the RFP in a fair comparison with the public utility's next planned major capacity addition identified in the RFP.

(126) Within 30 days after the public utility has selected finalists, if any, from the participants who responded to the RFP, the public utility shall publish notice in a newspaper of general circulation in each county in which a finalist ~~has~~ proposeds to build an electrical power plant. The notice shall include the name and address of each finalist, the name and address of the public utility, and a general description of each proposed electrical power plant, including its location, size, fuel type, and associated facilities.

(13) The Commission, upon its own motion, or a participant may challenge the results of an RFP. A participant may file a complaint with the Commission or intervene in a subsequent need determination or cost recovery proceeding. Any complaint will be processed by the Commission on an expedited basis. In resolving a challenge to the results of an RFP, the Commission may take such action as it deems appropriate.

(14) Upon conclusion of an RFP process, the public utility may

petition the Commission for approval of the public utility's selection. If the Commission approves a purchase power agreement as a result of the RFP, the public utility shall be authorized to recover the prudently incurred costs of the agreement through the public utility's capacity, and fuel and purchased power cost recovery clauses absent evidence of fraud, mistake, or similar grounds sufficient to disturb the finality of the approval under governing law.

(15) Nothing in this rule shall prohibit a public utility from entering into short-term bilateral contracts, having a term of three years or less, for the purchase of capacity and energy. If the public utility chooses this option, it must justify the prudence of its decision prior to recovering the costs of the contract from its retail customers. A public utility, however, shall not enter into a bilateral contract for the purchase of capacity and energy with an affiliate outside of the RFP process.

~~8. The Commission shall not allow potential suppliers of capacity who were not participants to contest the outcome of the selection process in a power plant need determination proceeding.~~

~~9. The Commission may waive this rule or any part thereof upon a showing that the waiver would likely result in a lower cost~~

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~~supply of electricity to the utility's general body of ratepayers,  
increase the reliable supply of electricity to the utility's  
general body of ratepayers, or is otherwise in the public interest.~~