

STATE OF FLORIDA

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Public Service Commission

October 18, 2002

Joint Administrative Procedures  
Committee  
Room 120 Holland Building  
Tallahassee, FL 32399-1300

RE: Docket No. 020398-EG - Rule No. 25-22.082

Dear Mr. Webb:

Enclosed is an original copy of the following materials concerning the above referenced proposed rule:

1. A copy of the rules.
2. A copy of the F.A.W. notice.
3. A statement of facts and circumstances justifying the proposed rule.
4. A federal standards statement.
5. No statement of estimated regulatory costs was prepared.

If there are any questions with respect to this rule, please do not hesitate to call me.

Sincerely,

Martha Carter Brown  
Senior Attorney

ADM22-082.MCB  
Enclosures  
cc: Division of the Commission Clerk  
and Administrative Services

DOCUMENT NUMBER 11350 OCT 18 2002 FPSC-COMMISSION CLERK

1 25-22.082 Selection of Generating Capacity.

2 (1) Scope and Intent. A Public Utility is required to  
3 provide reasonably sufficient, adequate, and efficient service to  
4 the public at fair and reasonable rates. In order to assure an  
5 adequate and reliable source of energy, a public utility must plan  
6 and construct or purchase sufficient generating capacity. To  
7 assure fair and reasonable rates and to avoid the further  
8 uneconomic duplication of generation, transmission, and  
9 distribution facilities in Florida, a public utility must select  
10 the most economical and cost-effective mix of supply-side and  
11 demand-side resources to meet the demand and energy requirements of  
12 its end-use consumers. The intent of this rule is to provide the  
13 Commission information to evaluate a public utility's decision  
14 regarding the addition of generating capacity pursuant to Chapter  
15 403.519, Florida Statutes. The use of a Request for Proposals  
16 (RFP) process is an appropriate means to ensure that a public  
17 utility's selection of a proposed generation addition is the most  
18 cost-effective alternative available.

19 (2)(1) Definitions. For the purpose of this rule, the  
20 following terms shall have the following meaning:

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

24 (b)(a) Next Planned Generating Unit: the next generating  
25 unit addition planned for construction by an investor-owned utility

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1 that will require certification pursuant to Section 403.519,  
2 Florida Statutes.

3 ~~(c)(b)~~ Request for Proposals (RFP): a document in which an  
4 public investor-owned utility publishes the price and non-price  
5 attributes of its next planned generating unit in order to solicit  
6 and screen, for potential subsequent contract negotiations,  
7 competitive proposals for supply-side alternatives to the public  
8 utility's next planned generating unit.

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

17 ~~(e)(d)~~ Finalist: one or more participants selected by the  
18 public utility with whom to conduct subsequent contract  
19 negotiations.

20 ~~(3)(2)~~ Prior to filing a petition for determination of need  
21 for an electrical power plant pursuant to Section 403.519, Florida  
22 Statutes, each investor-owned electric utility shall evaluate  
23 supply-side alternatives to its next planned generating unit by  
24 issuing a Request for Proposals (RFP).

25 ~~(4)(3)~~ Each public investor-owned utility shall provide

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1 timely notification of its issuance of an RFP by publishing public  
2 notices in major newspapers, periodicals and trade publications to  
3 ensure statewide and national circulation. The public notice given  
4 shall include, at a minimum:

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

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

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

13 ~~(5)~~(4) Each public utility's RFP shall include, at a  
14 minimum:

15 (a) a detailed technical description of the public utility's  
16 next planned generating unit or units on which the RFP is based, as  
17 well as the financial assumptions and parameters associated with  
18 it, including, at a minimum, the following information:

- 19 1. a description of the public utility's next planned  
20 generating unit(s) and its proposed location(s);
- 21 2. the MW size;
- 22 3. the estimated in-service date;
- 23 4. the primary and secondary fuel type;
- 24 5. an estimate of the total direct cost;
- 25 6. an estimate of the annual revenue requirements;

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- 1 7. an estimate of the annual economic value of deferring
- 2 construction;
- 3 8. an estimate of the fixed and variable operation and
- 4 maintenance expense;
- 5 9. an estimate of the fuel cost;
- 6 10. an estimate of the planned and forced outage rates, heat
- 7 rate, minimum load and ramp rates, and other technical
- 8 details;
- 9 11. a description and estimate of the costs required for
- 10 associated facilities such as gas laterals and
- 11 transmission interconnection;
- 12 12. a discussion of the actions necessary to comply with
- 13 environmental requirements; and
- 14 13. a summary of all major assumptions used in developing the
- 15 above estimates;

16 (b) Detailed information regarding the public utility's ten  
17 year historical and ten year projected net energy for load;

18 (c)(b) a schedule of critical dates for solicitation,  
19 evaluation, screening of proposals, selection of finalists, and  
20 subsequent contract negotiations;

21 (d)(e) a description of the price and non-price attributes  
22 to be addressed by each alternative generating proposal including,  
23 but not limited to:

- 24 1. technical and financial viability;
- 25 2. dispatchability;

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- 1 3. deliverability (interconnection and transmission;
- 2 4. fuel supply;
- 3 5. water supply;
- 4 6. environmental compliance;
- 5 7. performance criteria; and
- 6 8. pricing structure~~7.~~ and

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

10 (f) All criteria, including all weighting and ranking factors  
11 that will be applied to select the finalists. Such criteria may  
12 include price and non-price considerations, but no criterion shall  
13 be employed that is not expressly identified in the RFP absent a  
14 showing of good cause;

15 (g) Any application fees that will be required of a  
16 participant. Any such fees or deposits shall be cost-based;

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

22 (6)~~(5)~~ As part of its RFP, the public utility shall require  
23 each participant to publish a notice in a newspaper of general  
24 circulation in each county in which the participant~~s~~ proposeds to  
25 build an electrical power plant ~~generating facility would be~~

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

9 |       ~~(7)(6)~~ Within 30 days after the public utility has selected  
10 | finalists, if any, from the participants who responded to the RFP,  
11 | the public utility shall publish notice in a newspaper of general  
12 | circulation in each county in which a finalist ~~has proposed~~ to  
13 | build an electrical power plant. The notice shall include the name  
14 | and address of each finalist, the name and address of the public  
15 | utility, and a general description of each proposed electrical  
16 | power plant, including its location, size, fuel type, and  
17 | associated facilities.

18 |       ~~(8)(7)~~ Each public ~~electric~~ utility shall file a copy of  
19 | its RFP with the Commission upon issuance.

20 |       (9) The public utility shall allow participants to formulate  
21 | creative responses to the RFP. The public utility shall evaluate  
22 | all proposals.

23 |       (10) The public utility shall conduct a meeting prior to the  
24 | release of the RFP with potential participants to discuss the  
25 | requirements of the RFP. The public utility shall also conduct a

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1 meeting within two weeks after the issuance of the RFP and prior to  
2 the submission of any proposals. The Office of Public Counsel and  
3 the Commission staff shall be notified in a timely manner of the  
4 date, time, and location of such meetings.

5 (11) A potential participant who attended the public utility's  
6 post-issuance meeting may file with the Commission specific  
7 objections to any terms of the RFP within 10 days of the post-  
8 issuance meeting. Failure to file objections within 10 days shall  
9 constitute a waiver of those objections. The Commission will  
10 address any objections to the terms of the RFP on an expedited  
11 basis.

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

15 (13) The public utility shall evaluate the proposals received  
16 in response to the RFP in a fair comparison with the public  
17 utility's next planned generating unit identified in the RFP.

18 (14) If the Commission approves a purchase power agreement as  
19 a result of the RFP, the public utility shall be authorized to  
20 recover the prudently incurred costs of the agreement through the  
21 public utility's capacity, and fuel and purchased power cost  
22 recovery clauses absent evidence of fraud, mistake, or similar  
23 grounds sufficient to disturb the finality of the approval under  
24 governing law. If the public utility selects a self-build option,  
25 any costs in addition to those identified in the need determination

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1 proceeding shall not be recoverable unless the utility can  
2 demonstrate that such costs were prudently incurred and unforeseen  
3 and beyond its control.

4 ~~(15)(8)~~ The Commission shall not allow potential suppliers of  
5 capacity who were not participants to contest the outcome of the  
6 selection process in a power plant need determination proceeding.

7 ~~(16)(9)~~ The Commission may waive this rule or any part  
8 thereof upon a showing that the waiver would likely result in a  
9 lower cost supply of electricity to the utility's general body of  
10 ratepayers, increase the reliable supply of electricity to the  
11 utility's general body of ratepayers, or is otherwise in the public  
12 interest.

13 Specific Authority: 350.127(2), 366.05(1), 366.06(2), 366.07,  
14 366.051, F.S.

15 Law Implemented: 403.519, 366.04(1), 366.04(2), 366.04(5),  
16 366.06(1), 366.06(2), 366.07, 366.041, 366.051, F.S.

17 History: New 01/20/94, Amended \_\_\_\_\_.

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NOTICE OF PROPOSED RULEMAKING

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 020398-EQ

RULE TITLE:

RULE NO.:

Selection of Generating Capacity

25-22.082

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to refine the Commission's requirement that utilities issue a Request for Proposals for all generating capacity additions that must receive certification under Florida's Power Plant Siting Act, Sections 403.501-518, Florida Statutes as an effective means to ensure the cost-effectiveness of the additional generating capacity.

SUMMARY: The proposed amendments to Rule 25-22.082, F.A.C.; 1) clarify the scope and intent of the rule, 2) clarify the definitions of "public utility" and "participant", 3) require additional information to be included by the public utilities in their Requests for Proposals (RFP), 4) require pre-RFP and post-RFP meetings with participants to answer questions about and explain the terms of the RFP, 5) provide for expedited consideration of objections to RFP terms, and provide that those objections must be filed within 10 days of issuance of the RFP, 6) require public utilities to fairly evaluate all proposals against the public utilities' next planned generating unit identified in the RFP, and 7) explicitly recognize existing

regulatory processes and prudence limitations on cost-recovery of capacity additions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost was prepared.

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(2), 366.05(1), 366.06(2), 366.07, 366.051, F.S.

LAW IMPLEMENTED: 403.519, 366.04(1), 366.04(2), 366.04(5), 366.06(1), 366.06(2), 366.07, 366.041, 366.051, F.S.

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.

A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 A.M., December 5-6, 2002

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

25-22.082 Selection of Generating Capacity.

(1) Scope and Intent. 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 intent of this rule is to provide the Commission information to evaluate a public utility's decision regarding the addition of generating capacity pursuant to Chapter 403.519, Florida Statutes. The use of a Request for Proposals (RFP) process is an appropriate means to ensure that a public utility's selection of a proposed generation addition is the most cost-effective alternative available.

(2)~~(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)~~(a)~~ No Change.

~~(c)(b)~~ Request for Proposals (RFP): a document in which an public investor-owned utility publishes the price and non-price attributes of its next planned 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.

~~(d)(c)~~ 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.

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

~~(3)(2)~~ No Change.

~~(4)(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) No Change;

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

(c) No Change.

~~(5)-(4)~~ Each public utility's RFP shall include, at a minimum:

(a) a detailed technical description of the public utility's next planned generating unit or units on which the RFP is based, 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 generating unit(s) and its proposed location(s);
2. - 13. No Change;

(b) Detailed information regarding the public utility's ten year historical and ten year projected net energy for load;

(c)(b) a schedule of critical dates for solicitation, evaluation, screening of proposals, selection of finalists, and subsequent contract negotiations;

(d)(c) a description of the price and non-price attributes to be addressed by each alternative generating proposal including, but not limited to:

1. - 6. No Change;
7. performance criteria; and
8. pricing structure, and

(e)~~(d)~~ No Change.

(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;

(g) Any application fees that will be required of a participant. Any such fees or deposits shall be cost-based;

(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)~~(5)~~ 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~~ ~~proposeds~~ 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.

(7)~~(6)~~ 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.

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

(9) The public utility shall allow participants to formulate creative responses to the RFP. The public utility shall evaluate all proposals.

(10) The public utility shall conduct a meeting prior to the release of the RFP with potential participants to discuss the requirements of the RFP. The public utility shall also conduct a meeting within two weeks after the issuance of the RFP and prior to the submission of any proposals. The Office of Public Counsel and the Commission staff shall be notified in a timely manner of the date, time, and location of such meetings.

(11) A potential participant who attended the public utility's post-issuance meeting may file with the Commission



specific objections to any terms of the RFP within 10 days of the post-issuance meeting. Failure to file objections within 10 days shall constitute a waiver of those objections. The Commission will address any objections to the terms of the RFP on an expedited basis.

(12) 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.

(13) The public utility shall evaluate the proposals received in response to the RFP in a fair comparison with the public utility's next planned generating unit identified in the RFP.

(14) 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. If the public utility selects a self-build option, any costs in addition to those identified in the need determination proceeding shall not be recoverable unless the utility can demonstrate that such costs were prudently incurred and unforeseen and beyond its control.

(8) - (9) renumbered as (15) - (16) No Change.

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

LAW IMPLEMENTED: 403.519, 366.04(1), 366.04(2), 366.04(5),  
366.06(1), 366.06(2), 366.07, 366.041, 366.051, F.S.

HISTORY: New 1/20/94, amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tom Ballinger

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

DATE PROPOSED RULE APPROVED: September 30, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Volume  
28, Number 37, September 13, 2002

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

**STATEMENT OF FACTS AND CIRCUMSTANCES  
JUSTIFYING RULE**

Prior to the construction of a power plant with a steam cycle greater than 75 MW, a utility must receive certification from the Governor and Cabinet pursuant to Sections 403.501-.518, Florida Statutes, also referred to as the Power Plant Siting Act (PPSA). Section 403.519, Florida Statutes, requires utilities to file a petition for Determination of Need with the Florida Public Service Commission (Commission). An affirmative determination of need is a prerequisite to certification pursuant to the PPSA. Under Section 403.519, the Commission is directed to take into account, "the need for electric system reliability and integrity, the need for adequate electricity at a reasonable cost, and whether the proposed plant is the most cost-effective alternative available." With the advent of federal legislation permitting non-utility generators to enter the bulk power supply market, utilities now have more alternatives to select from in order to meet their obligation to provide electrical service to the public.

In 1992 the Commission considered the Joint Petition to Determine Need filed by Cypress Energy Partners, L.P. and Florida Power & Light Company (FPL). During the proceedings, the Commissioners expressed frustration that the limited selection process used by FPL to select Cypress did not facilitate the Commission's statutory responsibility under Section 403.519, Florida Statutes, to determine whether the proposed plant was the most cost-effective generating alternative. The Commission ultimately denied the joint petition and directed its staff to develop a rule instructing utilities in the procedures by which they select projects to provide capacity and energy. Rule 25-22.082, Florida Administrative Code, was originally adopted by the Commission in January 1994, requiring investor-owned electric utilities to issue Requests for Proposals (RFPs) prior to filing a petition for Determination of Need. In adopting the rule, the Commission recognized that the RFP process is a useful tool to measure the cost-effectiveness of a capacity selection. The information obtained through the RFP process improves the efficiency of the regulatory process by providing an objective standard to measure cost-effectiveness and by making information available on a more timely basis as opposed to utilizing a potentially contentious discovery process during the relatively short time frame of a need determination proceeding.

Since it was adopted in 1994, Rule 25-22.082 has been utilized once by Gulf Power Company and once by Florida Power & Light Company. Florida Power Corporation has issued RFPs twice since the Rule's adoption. In each instance the utility has chosen to build, and requested a determination of need for, its own power plant, giving rise to complaints from non-utility wholesale generators that the RFP process is unfair and not likely to result in the most cost-effective alternative for new generating capacity to serve Florida's electric utility customers.

On February 7, 2002, the Commission held a workshop to discuss a staff prepared draft version of suggested changes to Rule 25-22.082, Florida Administrative Code, to improve the effectiveness of the RFP process. On March 15, 2002, post-workshop comments were filed collectively by Florida's four large investor-owned electric utilities and by Florida PACE, a trade association for Florida's non-utility generators. Based upon the discussions at the workshop and the comments filed, the Commission initiated the rule development process and scheduled a rule development workshop for July 19, 2002. See, Order No. PSC-02-0273-PCO-EQ, Issued May 28, 2002.

At the July 19, 2002 workshop, the IOUs presented a stipulation in lieu of continuing with the rule development process. At the conclusion of the July 19, 2002, workshop, the Commission directed the participants to see if a consensus stipulation could be developed, but negotiations were unsuccessful. Consequently, on September 30, 2002, the Commission conducted a day-long special agenda conference to discuss its staff's recommendation on proposed amendments to Rule 25-22.082. After further changes at the agenda conference, the Commission voted to propose the following amendments to the RFP rule:

25-22.082(1) - Scope and Intent.

This language has been added to make clear the Commission's intent that the rule provide the Commission information to evaluate, using current regulatory procedures, a public utility's decision regarding the addition of generating capacity subject to the Power Plant Siting Act. This section also summarizes a public utility's statutory responsibility to provide an adequate, reliable, cost-effective supply of power to its customers, and clarifies that an RFP process is an appropriate tool by which the utility can meet its statutory obligations.

25-22.082 (2)(a) - Definition of "Public Utility" and "Participant".

The term "Public Utility" has been added to make clear the rule only applies to electric utilities subject to the Commission's ratemaking authority, as defined in Section 366.02(1), Florida Statutes. This was also done to bring consistency to the rule as the existing rule refers to "investor-owned utility" and "utility".

The term "Participant" has been modified to include Exempt Wholesale Generators (EWG), Qualifying Facilities (QFs), marketers, affiliates of public utilities, and providers of distributed generation. This modification addresses changes in the electric generation industry.

25-22.082 (6)(b)(f)(g) and (h) - Information to be included in the RFP.

(6)(b) - This provision requiring historical and projected demand and energy data, similar to the information found in Ten-Year Site Plans, has been added to provide more complete information on the utility's need for capacity.

(6)(f), (g) and (h) - These provisions were added to the existing rule in order to provide a clear benchmark by which a proposal will be evaluated. A utility should provide its weighting and ranking criteria, its application fees for the RFP, and any system-specific conditions that would be considered in the utility's evaluation of the RFP responses. Many times, the decision to construct a generating unit is based on factors in addition to meeting a utility's load growth. Such strategic issues such as fuel diversity, location, and operating characteristics must be considered. In order for the respondent to better understand the utility's need for power, and the operational characteristics of the system, the RFP should include information regarding system-specific conditions. The utility should not vary from these criteria absent a showing of good cause.

25-22.082 (7) - Scope of utility evaluation

This provision is intended to require the utility to consider all proposals that may be cost-effective to ratepayers.

25-22.082 (9), (10) and (11) - Pre-RFP meetings, Post-RFP meetings, the opportunity to object, and a minimum time for RFP responses.

These sections were added based on experience in past RFPs and comments from wholesale power providers that the RFP process was not transparent and was sometimes conducted under unreasonably short time restraints. Subsection (9) requires a meeting with potential respondents within two weeks of the issuance of the RFP and within two weeks after the issuance of the RFP to discuss and explain the RFP's requirements. Subsection (10) provides the opportunity for a potential participant in the RFP process to seek redress from the Commission in a timely fashion from perceived onerous provisions in the RFP. Like Section 120.57(3), Florida Statutes, subsection (10) provides that a RFP participant will waive any objections to the terms of the RFP if they are not raised within 10 days of issuance of the RFP. Subsection (11) requires a minimum of 60 days between the issuance of the RFP and the due date for responses.

25-22.082 (12) - Utility evaluation of proposals

Based on experience in past RFPs, this provision was added to explicitly require the public utility to fairly evaluate the proposals received against the utility's proposed next planned generating unit.

25-22.082 (14) - Timing of Cost Recovery Review

This provision was added to recognize existing regulatory processes by which the utility would petition for cost recovery of the utility's capacity addition. The public utility would petition the Commission for cost recovery either through the capacity and fuel recovery clauses or through a base rate proceeding for self-build capacity additions. The provision expressly indicates that additional costs not identified in the need determination proceeding will be recoverable only upon a showing that the costs were prudently incurred and unforeseeable.

**STATEMENT ON FEDERAL STANDARDS**

There is no federal standard on the same subject.