

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO: 020398-EQ

IN RE: SELECTION OF GENERATING CAPACITY

NOTICE OF CHANGE

TO

ALL INTERESTED PERSONS

ISSUED: April 16, 2003

NOTICE is hereby given pursuant to Section 120.54, Florida Statutes, that the Florida Public Service Commission has approved a change to proposed Rule 25-22.082, Florida Administrative Code.

The attached Notice of Change will appear in the April 25, 2003, edition of the Florida Administrative Weekly.

By DIRECTION of the Florida Public Service Commission, this 16th day of April, 2003.

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

JSB

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FLORIDA PUBLIC SERVICE COMMISSION

OFFICE OF THE GENERAL COUNSEL

DOCKET NO. 020398-EQ

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

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Volume 28, No. 43, October 25, 2002, issue of the Florida Administrative Weekly. The Notice of Rule Development was published in Volume 28, Number 23, June 7, 2002, issue of the Florida Administrative Weekly.
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 Section 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) - (a) No change.

(b) Next Planned Generating Unit: the next generating unit addition planned for construction by a public ~~an investor-owned~~ utility that will require certification pursuant to Section 403.519, Florida Statutes.

(c) - (e) No change.

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

(4) - (c) No change.

(5) No term of the RFP shall be unfair, unduly discriminatory, onerous, or commercially infeasible. Each public utility's RFP shall include, at a minimum:

(a) - 13. No change.

(b) a copy of the public utility's most recent Ten-Year Site Plan ~~Detailed information regarding the public utility's ten year historical and ten year projected net energy for load;~~

(c) - 8. No change.

(e) a detailed description of the criteria and the methodology, including any weighting and ranking factors, 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,~~

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

~~(g)(h)~~ best available 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) No attribute, criterion, or methodology shall be employed that is not identified in the RFP absent a showing that such attribute, criterion, or methodology is necessary for and consistent with the purpose of this rule.

(6) through (8) renumbered as (7) through (9) No change.

~~(10)(9)~~ The public utility shall allow participants to formulate creative responses to the RFP, such as responses which employ innovative or inventive technologies or processes. The public utility shall evaluate all proposals.

(10) renumbered as (11) No change.

~~(12)(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~~ limited to specific allegations of violations of this rule within 10 days of the ~~post-issuance of the RFP meeting.~~ The public utility may file a written response within 5 days. Within 30 days from the date of the objection, the Commission panel assigned shall determine

whether the objection as stated would demonstrate that a rule violation has occurred, based on the written submission and oral argument by the objector and the public utility, without discovery or an evidentiary hearing. The RFP process will not be abated pending the resolution of such objections. 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) renumbered as (13) No change.

(14)-(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. The public utility may modify the construction costs and/or performance parameters affecting revenue requirements in its next planned generating unit that it included in the RFP. However, if it chooses to do so, it must inform participants of its intent, and provide the participants (limited to the remaining finalists) a corresponding opportunity to revise their bids.

(15)-(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 due to extraordinary circumstances unforeseen and beyond its control.

(15) renumbered as (16) No change.

(17) In implementing an RFP under this rule, the public utility may use or incorporate an auction process.

(18) (16) Upon a showing by a public utility and a finding by the Commission that a proposal not in compliance with the rule's provisions will likely result in a lower cost 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 otherwise will serve the public welfare, the Commission shall exempt the utility from compliance with the rule or any part of it for which such justification is found.
~~The Commission may waive this rule or any part thereof upon a showing~~

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~~that the waiver would likely result in a lower cost 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.~~

Specific Authority: 350.127(2), 366.01, 366.05(1), 366.05(7),
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 01/20/94, Amended.