



Public Service Commission

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COMMISSION CLERK

DATE: NOVEMBER 20, 2003

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYO)

FROM: DIVISION OF ECONOMIC REGULATION (HARLOW, SICKEL, BRINKLEY, DRAPER) OFFICE OF THE GENERAL COUNSEL (HOLLEY)

RE: DOCKET NO. 030752-EI - PETITION FOR APPROVAL OF GREEN POWER PRICING RESEARCH PROJECT AS PART OF DEMAND-SIDE MANAGEMENT PLAN BY FLORIDA POWER & LIGHT COMPANY.

AGENDA: 12/02/03 - REGULAR AGENDA - TARIFF FILING - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: 60-DAY SUSPENSION DATE WAIVED BY FPL

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\ECR\WP\030752.RCM

CASE BACKGROUND

On June 9, 1995, the Commission issued Order No. PSC-95-0691-FOF-EG, in Docket No. 941170-EG, In Re: Approval of demand-side management plan of Florida Power and Light Company, approving Florida Power and Light Company's (FPL) numeric demand-side management (DSM) plan. In its order, the Commission encouraged FPL to consider green pricing options "to promote the installation of solar water heating and other renewable measures during the program development and submittal stage of the conservation goals process." At the time, green pricing was a relatively new concept. In general, green pricing programs allow interested customers to voluntarily contribute towards purchasing energy produced by renewable resources, which is typically higher cost than energy produced by fossil-fuel based generation.

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FPSC-COMMISSION CLERK

DOCKET NO. 030752-EI
DATE: November 20, 2003

In response to Order No. PSC-95-0691-FOF-EG, on May 17, 1996, FPL filed a request for the approval of a two-year Green Pricing Research and Development Project as part of the Company's DSM Plan. This project was designed to test FPL customer response to a Green Pricing initiative by soliciting funds for FPL to purchase photovoltaic modules. By Order No. PSC-97-0528-FOF-EG, issued May 7, 1997, in Docket No. 960624-EG, In Re: Petition for approval of Green Pricing Research and Development Project by Florida Power and Light Company, the Commission approved a stipulation between FPL and the Legal Environmental Assistance Foundation (LEAF) regarding the project. The Commission approved the project and allowed for the recovery of reasonable and prudent expenditures through the Energy Conservation Cost Recovery Clause (ECCR), to be capped at \$475,000 over two years. As a result of this project, FPL collected \$89,500 in voluntary contributions from participating customers. These contributions were used to construct a 10 kW photovoltaic system at FPL's Martin generating site.

On August 6, 1997, the Commission opened Docket No. 971004-EG to set new numeric DSM goals for FPL. LEAF intervened in this docket, which resulted in a Joint Motion to Approve Stipulation by FPL and LEAF. In Order No. PSC-99-1412-S-EG, issued July 23, 1999, the Commission approved the stipulation between FPL and LEAF, in which LEAF agreed to withdraw from FPL's DSM proceeding. In exchange, FPL agreed to:

Investigate and, if feasible, implement a Green Energy Program under which FPL would purchase energy generated from new renewable resources. The Program would offer to meet all or a part of a customer's load with generation from the new renewable resources for an additional charge calculated to recover no more than FPL's related Program expenses and its incremental cost to purchase the energy.

On May 8, 2000, the Commission issued Order No. PSC-00-0915-PAA-EG, approving FPL's DSM Plan. The Plan included the Green Energy Research and Development Program with an approved budget of \$700,000 over a three-year period. Under this research program, FPL planned additional research on customer preferences regarding renewable energy and the potential for developing a Green Energy Program. In order to gauge cost and availability of renewable energy sources, FPL issued a request for proposals (RFP) in September 2001. FPL received four responses; two were from existing qualifying facilities, while two were from new projects.

Each of the four proposals was priced above FPL's avoided energy costs. FPL then requested and received a declaratory statement from the Commission in Order No. PSC-02-1059-DS-EQ, issued August 6, 2002, in Docket No. 020397-EQ, In Re: Petition for declaratory statement by FPL that FPL may pay a Qualified Facility for purchases of renewable energy an amount representing FPL's full avoided cost plus a premium borne by customers voluntarily participating in FPL's Green Energy Project. The Commission ordered that FPL is authorized to pay a qualifying facility more than FPL's avoided costs, if those excess costs are borne by the voluntary participants in a utility sponsored green pricing program. The Commission ruled that if the costs in excess of avoided costs were funded through voluntary customer contributions, then the federal Public Utility Regulatory Policy Act requirements regarding payments to qualifying facilities would not be violated.

On August 4, 2003, FPL filed its petition for approval of the Green Pricing Research Project. On October 15, 2003, FPL filed a revised tariff for the Green Power Pricing Research project. According to FPL's petition, after further investigation, FPL "discovered an alternate means of potentially supplying energy from renewable resources that offered several advantages over the proposals FPL had received in its RFP." FPL's proposed Green Power Pricing Research project is based on Tradeable Renewable Energy Certificates, or TRECs. FPL requests approval of the Green Power Pricing Research project and its associated tariff sheet, Original Sheet No. 8.841, entitled, "Green Power Pricing - ECCR Rider." FPL further requests approval for the project to be incorporated into FPL's DSM Plan. FPL has proposed reporting all expenditures and revenues through the ECCR clause and requests approval to recover reasonable and prudent expenses in excess of program revenues through the clause.

The Florida Industrial Cogeneration Association, the Florida Phosphate Council, the City of Tampa, the Solid Waste Authority of Palm Beach County, and the Integrated Waste Services Association filed preliminary comments on September 17, 2003. The Southern Alliance for Clean Energy, Inc. filed preliminary comments on October 22, 2003. Audubon of Florida provided written comments to staff on October 31, 2003. These comments will be summarized in Issue 1.

This item was deferred from the November 3, 2003 Agenda Conference. Revisions to the recommendation as filed on October 29, 2003, are underlined.

The Commission has the authority to consider these matters pursuant to Sections 366.82(2), 366.05, 366.06, and 366.075, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should Florida Power and Light Company's petition for approval of a Green Power Pricing Research Project be approved?

RECOMMENDATION: Yes. The use of Tradeable Renewable Energy Credits in FPL's proposed voluntary research project provides a mechanism for interested customers to encourage renewable development. FPL should be authorized to: 1) incorporate the project into its demand-side management plan; 2) report all revenues and expenses through its ECCR clause; 3) recover reasonable and prudent project administrative costs up to \$1.5 million if total expenses exceed total revenues; and, 4) defer excess revenues as a regulatory liability and reinvest these revenues in the project, after the general body of ratepayers has been compensated with interest for any initial costs. FPL should be required to provide semi-annual progress reports to the Commission.

STAFF ANALYSIS: **FPL's Proposed Green Power Pricing Research Project:** According to FPL's petition, "The purpose of the Green Power Pricing Research Project is to develop a cost-effective means of fostering renewable energy development." FPL's proposed Green Power Project will provide residential customers interested in promoting renewable energy with the option of participating in this voluntary program. The customer costs and guidelines for the project will be established by a special tariff, the Green Power Pricing - ECCR Rider, Original Tariff Sheet No. 8.841. This tariff is included as Attachment A. Each participating customer will be charged \$9.75 per month in addition to the customer's charges under the Residential Service rate schedule. Customers may exit the program at any time. In return for each \$9.75 customer contribution, FPL will purchase the Tradeable Renewable Energy Credits, or TRECs, associated with 1,000 kWh of renewable energy. FPL intends to purchase its supply of TRECs from Green Mountain Energy Company, a third-party TREC supplier. FPL has also committed to the development or purchase of 150 kW of photovoltaic capacity within Florida for every 10,000 participating customers.

TRECs, also referred to as 'green tags' or 'renewable credits', are a relatively new marketing concept used to promote renewable energy resources. TRECs are essentially formed by separating the non-electricity attributes, such as the environmental attributes, from the actual energy produced by qualifying renewable generating resources. The energy produced is purchased and flows over the grid in the same manner as any other energy, while the environmental attributes are sold separately in the form of tradeable financial instruments. TRECs may be marketed directly by renewable energy generators, or by utilities which have purchased renewable energy and TRECs as a bundled product. However, TRECs are often marketed by private vendors, such as Green Mountain Energy Company or Sterling Planet. These vendors contract with green energy producers to obtain contracts for the marketable environmental attributes of the actual renewable energy produced. Interested utilities, or, in some cases, interested individuals, may then purchase these environmental attributes in the form of TRECs. Once a TREC is sold to a final customer, for example, a participant in FPL's proposed Green Power Pricing Research project, the TREC is retired. This prevents the same environmental attributes from being sold more than once.

According to FPL's petition, the renewable resources that will be eligible for its proposed project include "photovoltaic facilities, facilities utilizing biomass fuel, facilities using land-fill gas, facilities using wind, ocean currents, tides and other hydrological applications, and other renewable energy sources as approved by FPL and FPL's TREC supplier." Although FPL's petition does not explicitly exclude municipal solid waste and waste heat, FPL indicated to staff that these resources would not be eligible for this program.

FPL's initial TREC purchases will be "associated with new (after 1998) and existing renewable energy facilities in the Southeastern Electric Reliability Council (SERC) geographic area, Florida, and such other geographic areas as FPL and its TREC supplier mutually agree." As the market for TRECs develops in Florida, FPL anticipates purchasing additional TRECs associated with in-state renewable resources. However, FPL has committed to staff that FPL will have a preference for "affordable TRECs from facilities within Florida" throughout the program.

FPL's Green Power Pricing ECCR Rider will terminate on December 31, 2006, unless FPL petitions the Commission for an extension to the program. FPL projects program revenues of \$19.2

million and expenses of \$18.9 million over the life of the project. FPL projects that \$17.9 million of the \$18.9 million expenses will be paid to FPL's TREC provider. FPL therefore expects internal expenses of approximately \$1 million.

FPL proposes to record revenues and expenses for the project as a separate project in its ECCR clause filings, and intends to prepare a status report of the project for each of its ECCR true-up proceedings. Assuming FPL's customer participation forecasts are correct, expenses will initially exceed revenues for the project. However, FPL expects revenues to exceed costs within the first two years. FPL proposes to recover costs in excess of revenues through its ECCR clause. FPL expects to return these funds to ratepayers, with interest, as program revenues exceed costs. If FPL's participation forecasts are overstated, and revenues fall short of expenses throughout the project, FPL proposes that its administrative costs be recovered through the ECCR, with a cap of \$1.5 million over the life of the project. If revenues exceed costs, FPL plans to defer excess revenues as a regulatory liability and reinvest these revenues to increase participation, reduce the monthly fee to participants, or invest in renewable resources.

Preliminary Comments: The City of Tampa, the Florida Solid Waste Authority of Palm Beach County, the Integrated Waste Services Association, the Florida Industrial Cogeneration Association, and the Florida Phosphate Council (Florida QFs) filed preliminary comments on September 17, 2003. Staff also met with representatives of the Florida QFs on September 17, 2003. The Florida QFs expressed concern that omitting municipal solid waste and waste heat from FPL's proposed green pricing program may set a precedent for the definition of eligible renewable resources for future renewable policy initiatives. The Florida QFs urged the Commission to deny FPL's proposed program unless FPL modifies its tariff to: 1) include municipal solid waste and waste heat as eligible resources, and 2) exhaust all opportunities for purchasing renewable energy within Florida prior to purchasing out-of-state TRECs.

Staff met with representatives of the Southern Alliance for Clean Energy, Inc. (SACE) on October 17, 2003. SACE filed Preliminary Comments on October 21, 2003. In its Preliminary Comments, SACE commended FPL for its efforts in launching a green pricing program. However, SACE expressed the following concerns regarding the specifics of FPL's program:

- FPL should deploy 150 kW of in-state solar for every 5,000 participants, rather than every 10,000. Solar deployment should include solar thermal resources.
- FPL's TREC purchases should be limited to those associated with new facilities within the SERC region.
- FPL should expand the program to include commercial customers.
- FPL should seek accreditation by the Center for Resource Solutions, to provide third party oversight.
- TRECs associated with municipal solid waste and waste heat resources should be ineligible for the program.

On October 31, 2003, Audubon of Florida provided written comments to staff in support of FPL's proposed green pricing project. Audubon stated that green energy pricing will expand the use of alternative and renewable energy sources which may reduce the use of combustible fuels for generation. Audubon believes its members support green energy pricing and "deserve the opportunity to participate as electricity consumers in this program." Further, Audubon stated that it does not support the inclusion of municipal solid waste in green pricing programs and believes that the inclusion of municipal solid waste would cause a reduction in participation by its members.

Staff Analysis of FPL's Proposed Green Power Pricing Research Project: FPL's proposed research project is a unique form of green pricing program because it is based primarily on TRECs rather than actual renewable energy. Staff agrees with FPL that TRECs are a viable option to encourage renewable generation by providing additional revenue to renewable generators. TRECs can provide a flexible, low cost method of encouraging renewable development because a utility can purchase only enough TRECs to meet customer demand. This reduces the risk of installing high capital cost renewable assets only to find that customer participation does not materialize. Purchasing TRECs from a third party, as proposed by FPL, can also be beneficial because the third party takes on the risk of obtaining the TRECs for a utility for a contracted price. Staff also notes that seven of the 13 states with renewable portfolio standards have included some form of renewable credit trading system. Renewable credits have also been discussed on a national level as a part of potential federal renewable policy initiatives. Staff believes that the use of TRECs within FPL's

Green Pricing Research project can provide valuable understanding of the TREC market. This understanding will benefit Florida's consumers if a federal or state-wide renewable portfolio standard is adopted in the future.

Many of the TRECs purchased by FPL, particularly in the initial stages of the project, may be associated with out-of-state renewable resources. However, FPL has committed to "a preference for affordable TRECs from facilities located within Florida." Staff believes it is reasonable for FPL to purchase low cost TRECs from outside Florida, particularly in the initial stages of its research project, because Florida's market for TRECs is not fully developed. Both JEA and City of Tallahassee have included green credits as a part of each city's renewable policy efforts. Staff is also aware of several renewable developers that intend to sell TRECs associated with planned in-state renewable projects. FPL's proposed program should further encourage the development of the TREC market in Florida, allowing FPL to purchase TRECs associated with Florida based renewable projects in the future. Staff notes that FPL's parent company has numerous wind generators. FPL stated that several of these wind affiliates currently sell TRECs as a bundled product with the energy produced. Staff believes that the risk of high cost affiliate transactions is reduced because FPL will purchase its TRECs from a third party with the incentive to minimize TREC costs.

FPL based its cost and revenue estimates on an expected participation level of approximately one percent of its residential customers. According to the National Renewable Energy Laboratory, a participation rate of one to two percent is typical for the average green pricing program within the United States. However, FPL's proposed \$9.75 monthly contribution is higher than the average contribution for typical green pricing programs. FPL may therefore experience lower than expected participation and revenues, placing non-participating customers at risk of paying part of the costs for the program. However, staff believes this risk is mitigated somewhat because the bulk of the costs of FPL's program are derived from TREC purchases. If FPL finds that participation is lower than expected, FPL has the flexibility to purchase fewer TRECs. FPL has also proposed a cap of \$1.5 million in recoverable expenses over the life of the program.

Staff believes FPL's proposal to recover costs in excess of revenues through its ECCR clause is reasonable. It is reasonable to expect that expenses will exceed costs in the initial stages of

the project. FPL intends to return these funds to the general body of ratepayers, with interest at the commercial paper rate, as program revenues exceed costs. FPL's proposed cap of \$1.5 million over the life of the project is reasonable. Staff agrees with FPL that it is reasonable to defer excess revenues as a regulatory asset and reinvest these revenues in the project, after the general body of ratepayers has been compensated for any initial cost recoveries.

FPL has stated to staff that TRECs associated with municipal solid waste and waste heat resources will be ineligible for the program. SACE agrees that municipal solid waste and waste heat should be ineligible. Staff disagrees with the Florida QFs that the Commission should require FPL to include municipal solid waste and waste heat resources in its program. FPL's proposed program is voluntary in nature, and therefore staff does not believe it sets a precedent for future state-wide renewable policy initiatives. Staff also notes that FPL's stipulation with LEAF, approved in Order No. PSC-99-1412-S-EG, issued July 23, 1999, explicitly excludes municipal solid waste from green pricing program development. Further, FPL met with several environmental groups during the program development stage, including SACE, the Sierra Club, Florida Audubon, 1000 Friends of Florida, Florida Public Interest Group, and Creative Pursuits, Inc. According to FPL, "There was specific opposition from some groups to include energy created from waste-to-heat, municipal solid waste, and natural gas fuel cells in this program." FPL expressed concern that including municipal solid waste or waste heat in the program could result in reduced participation.

Staff believes that FPL's tariff and marketing materials must accurately reflect the nature of FPL's program in order to prevent customer deception and to ensure that the data obtained from the program are a true representation of customer preferences. FPL's tariff, as filed with the petition on August 4, 2003, seemed to imply that funds received from participating customers would be used to purchase energy rather than primarily TRECs. Staff raised this issue with FPL and FPL subsequently revised its tariff to clarify this point. Staff has reviewed FPL's proposed Green Power Pricing tariff, as filed on October 15, 2003, and believes that the tariff clearly represents that the program is based primarily on TRECs, rather than energy. In addition, FPL provided acceptable language to be used in future marketing materials which indicates the program is based primarily on TRECs and some of these TRECs may

be obtained out-of-state. Staff believes all marketing materials in the future must clearly state these two points.

FPL has proposed that progress reports on the project will be provided to the Commission each year as a part of FPL's ECCR filings. However, because FPL is asking ratepayers to bear the initial cost of a program based on the relatively new TREC market, staff believes the Commission should require FPL to provide semi-annual progress reports. This will facilitate the Commission staff's efforts to monitor the program. FPL's semi-annual reports should be filed with the Director of the Commission's Division of Economic Regulation. At a minimum, the progress reports should include: 1) customer participation data; 2) program revenues and expenses; 3) quantity and sources of TRECs purchased; 4) progress on solar installations; and, 5) copies of marketing materials.

In conclusion, staff recommends that FPL's proposed Green Power Pricing Research project be approved. Including TRECs in FPL's proposed voluntary project provides a flexible, low-cost mechanism for interested customers to encourage renewable development. TRECs from out-of-state projects may be purchased, especially in the project's initial stages. However, FPL's committed preference for Florida TRECs should encourage the development of renewable resources and the TREC market in the state. FPL has also committed to the development or purchase of 150 kW of photovoltaic capacity within Florida for every 10,000 participating customers. Staff believes this advances the policy objectives of the Florida Energy Efficiency and Conservation Act, Section 366.80 through 366.82, Florida Statutes, by encouraging renewable development which might not otherwise be cost effective. Staff also believes the program adequately addresses the intent of FPL's stipulation with LEAF. FPL's proposed cap of \$1.5 million in recoverable project administration expenses over the life of the project is reasonable. FPL should be authorized to: 1) incorporate the project into its demand-side management plan; 2) report all revenues and expenses through its ECCR clause; 3) recover reasonable and prudent project administration costs through its ECCR clause up to \$1.5 million if project administration costs exceed revenues received; and, 4) defer excess revenues as a regulatory liability until FPL has deferred sufficient revenues to reinvest in the project. FPL should be required to provide semi-annual progress reports to the Commission.

DOCKET NO. 030752-EI
DATE: November 20, 2003

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if Issue 1 is approved, this tariff should become effective on November 3, 2003. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect with any increase held subject to refund pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

STAFF ANALYSIS: If Issue 1 is approved, this tariff should become effective on November 3, 2003. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect with any increase held subject to refund pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.