

RICHARD A. ZAMBO, P.A.
ATTORNEYS AND COUNSELLORS
2336 S. East Ocean Blvd. # 309
Stuart, Florida 34996-3310
Telephone (772) 225-5400
FAX (772) 232-0205
Email: richzambo@aol.com

ORIGINAL

RECEIVED-FPSC

05 JAN 17 PM 1:42

REGISTERED PROFESSIONAL ENGINEER
REGISTERED PATENT ATTORNEY

COGENERATION & ALTERNATIVE ENERGY
ENERGY REGULATORY LAW
COMMISSION CLERK

January 17, 2006
Via Hand Delivery

Ms. Blanca S. Bayó, Director
Division of Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: **Petitions for approval of renewable energy contract tariffs**
Docket No. 050805-EQ – Gulf Power Company
Docket No. 050806-EQ – Florida Power & Light Company
Docket No. 050807-EQ – Progress Energy Florida, Inc.
Docket No. 050810-EQ – Tampa Electric Company

Dear Ms. Bayó:

Attached hereto for filing in the referenced proceedings find the original and 7 copies of the Petition for Formal Hearing and for Leave to intervene filed on behalf of the Florida Industrial Cogeneration Association.

If you have any questions or require additional information, please contact this office.

CMP _____

COM 5

CTR _____

ECR _____

GCL ~~RAZ~~/nb

OPC _____

RCA ~~xc~~ Parties of record via U.S. Mail

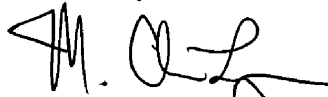
SCR _____

SGA _____

SEC 1

OTH Lockard
Kimf. ABF

Sincerely,


/s/ for Richard A. Zambo

Richard A. Zambo
Florida Bar No. 312525

RECEIVED & FILED

Dh
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

00409 JAN 17 06

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of new standard offer for purchase of firm capacity and energy from renewable energy facilities and approval of tariff schedule REF-1, by Gulf Power Company.

Docket No. 050805-EQ

In re: Petition for approval of renewable energy tariff and standard offer contract, by Florida Power & Light Company.

Docket No. 050806-EQ

In re: Petition for approval of amended standard offer contract tariff and renewable energy tariff, by Progress Energy Florida, Inc.

Docket No. 050807-EQ

In re: Petition for approval of standard offer contract for small qualifying facilities and producers of renewable energy, by Tampa Electric Company.

Docket No. 050810-EQ

FILED: January 17, 2006

**The Florida Industrial Cogeneration Association's
Petition For Formal Hearing and For Leave to Intervene**

Pursuant to Sections 120.57 and 120.569(1), Florida Statutes, Rules 25-22.029 and 28-106.201, Florida Administrative Code, and in accordance with the provisions of Order No. PSC-05-1260-TRF-EQ the Florida Industrial Cogeneration Association (FICA) and its members, by and through their undersigned attorney, file this Petition for formal Hearing and for Leave to Intervene in each of the above captioned proceedings. In support thereof, FICA says:

1. The name, address, and telephone number of the Petitioners are as follows:

Florida Industrial Cogeneration Association
c/o Richard A. Zambo
Richard A. Zambo, P.A.
2336 S.E. Ocean Boulevard, #309
Stuart, Florida 34996
Phone: (772) 225-5400
FAX: (772) 232-0205

DOCUMENT NUMBER - DATE

00409 JAN 17 06

FPSC-COMMISSION CLERK

2. Copies of all correspondence, pleadings, and other documents should be provided to:

Florida Industrial Cogeneration Association
c/o Richard A. Zambo
Richard A. Zambo, P.A.
2336 S.E. Ocean Boulevard, #309
Stuart, Florida 34996
Phone: (772) 225-5400
FAX: (772) 232-0205

3. FICA is a trade association of Florida industrial cogenerators the members of which purchase and consume substantial amounts of electricity, and cogenerate substantial amounts of electricity and thermal energy using renewable energy resources.

4. **Statement of Substantial Interests**

FICA members produce and consume large quantities of electricity, the cost of which comprises a substantial portion of manufacturing costs. The Commission's decisions in these proceedings will determine the extent to which renewable energy resources are promoted and developed in the State, thereby affecting the availability, cost and reliability of supply of electricity to FICA members.

5. FICA members own and operate cogeneration facilities that utilize recovered waste heat from the manufacturing processes to produce electricity and useful thermal energy. Such recovered waste heat is considered a renewable energy resource pursuant to Chapter 366.91, F.S. Accordingly, the renewable energy contracts (and tariffs) that are the subject of these proceedings will be applicable to FICA's members and generating facilities that produce electricity from waste heat thereby further affecting the substantial interests of FICA's members.

5. The purpose of this proceeding is to implement the legislative mandate of Chapter 366.91, F.S., which requires the promotion of renewable energy resources such as waste heat.

Accordingly, this proceeding is designed to protect the interests of Florida electric customers and owners of renewable energy facilities such as FICA's members.

6. The substantial interests of FICA's members will be directly affected by the Commission's decision in this proceeding and are the type of interests that this proceeding is designed to protect. *See, e.g., Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981).

7. **Disputed Issues Of Fact**

- Whether the renewable energy contracts filed by the utilities (as subsequently modified) and which are the subject of the Commission's December 27, 2005 PAA Order No. PSC-05-1260-TRF-EQ will appropriately promote the development of renewable energy resources in the State.
- Whether the mere "renaming" of standard offer contracts as "renewable energy contracts" in the absence of any substantive change can be expected to appropriately promote and provide additional encouragement to renewable energy facilities.
- Whether the payment levels, contract terms and conditions established by, and the policies reflected in, said renewable energy contracts are specifically designed to promote renewable energy resources in the State.
- The payment, terms, conditions established by said renewable energy contracts raise additional disputed issues of material fact that can only be resolved by a formal hearing.

8. **Disputed Issues of Law**

- Whether the renewable energy contracts filed by the utilities (as subsequently modified), and which are the subject of the Commission's December 27, 2005 PAA Order No. PSC-05-1260-TRF-EQ, are in compliance with the requirements and intent of the Legislature as articulated in Chapter 366.91, F.S.
- The payment, terms and conditions established by said renewable energy contracts raise numerous additional disputed issues of law.

9. **Statement Of Ultimate Facts**

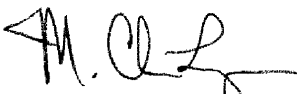
Without waiving or otherwise relinquishing the right to allege additional ultimate facts at a later date, FICA's allegations of ultimate facts include but are not limited to the following:

- (i) that matters within the scope of this proceeding will affect the cost, availability, and reliability of electricity supplies;
- (ii) that matters within the scope of this proceeding will determine to what extent renewable energy resources will be promoted;
- (iii) that the renewable energy contracts filed by the utilities (as subsequently modified) and which are the subject of the Commission's December 27, 2005 PAA Order No. PSC-05-1260-TRF-EQ are not specifically designed to promote renewable energy resources and fail to appropriately promote such resources;
- (iv) that the renewable energy contracts filed by the utilities (as subsequently modified) and which are the subject of the Commission's December 27, 2005 PAA Order No. PSC-05-1260-TRF-EQ, do not comply with the requirements, intent and policies of the Legislature as articulated in Chapter 366.91, F.S.

10. Without waiving or otherwise relinquishing any right to a formal hearing in this matter, neither FICA nor its members would object to the Commission's deferral of formal hearings for a to-be-agreed-upon period of time in order to allow the proposed workshop process and possible rulemaking proceedings a reasonable opportunity to resolve FICA's concerns. FICA's purpose is not to unnecessarily delay implementation of renewable energy contracts specifically designed to promote renewable energy resources; but rather, it is to assure that such contracts advance and are in full compliance with the important energy policies regarding renewable energy resources that are contained in Chapter 366.91, F.S.

WHEREFORE, FICA respectfully requests that the Commission enter an Order granting this Petition for Formal Hearings in each of the captioned proceedings and for Leave to Intervene as a full party in interest to each of the captioned proceedings.

RESPECTFULLY submitted on the January 17, 2006.


/s/ for Richard A. Zambo

Richard A. Zambo
Florida Bar No. 312525

Richard A. Zambo, P.A.
2336 S.E. Ocean Boulevard, #309
Stuart, Florida 34996
Phone: (772) 225-5400
FAX: (772) 232-0205
Email: richzambo@aol.com

Attorney for:

Florida Industrial Cogeneration Association