

BEFORE THE 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 ORDER NO. PSC-06-0486-TRF-EQ ISSUED: June 6, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman  
J. TERRY DEASON  
ISILIO ARRIAGA  
MATTHEW M. CARTER II  
KATRINA J. TEW

ORDER APPROVING STANDARD OFFER CONTRACTS FOR  
RENEWABLE ENERGY RESOURCES AND REQUIRING THE FILING OF  
ADDITIONAL STANDARD OFFER CONTRACTS

BY THE COMMISSION:

Background

In its 2005 session, the Florida Legislature enacted Section 366.91, Florida Statutes, regarding renewable energy. The statute became effective October 1, 2005. Section 366.91(1) states:

[T]he Legislature finds that it is in the public interest to promote the development of renewable energy resources in this state. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage

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investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.

Section 366.91(3), Florida Statutes, provides the requirements to meet these objectives. In summary:

- By January 1, 2006, each investor-owned electric utility (IOU) and municipal utility subject to the Florida Energy Efficiency and Conservation Act (FEECA) of 1980 must continuously offer to purchase capacity and energy from specific types of renewable resources.
- The contract shall be based on the utility's full avoided costs, as defined in Section 366.051, Florida Statutes.
- Each contract must provide a term of at least ten years.

Our staff conducted a workshop on September 12, 2005, to discuss implementation of the statute. At the workshop, our staff suggested that the statute's requirements could be implemented initially under this Commission's existing rules pertaining to standard offer contracts – Rule 25-17.0832(4) and (5), Florida Administrative Code. Our staff suggested this approach in an effort to meet the January 1, 2006, implementation date contained in the statute. All of the workshop participants agreed that our existing rules on standard offer contracts could be used to implement the statute.

Gulf Power Company (Gulf), Florida Power & Light Company (FPL), Progress Energy Florida, Inc. (PEF), Florida Public Utilities Company (FPUC), and Tampa Electric Company (TECO) filed petitions for approval of their proposed standard offer contracts on October 14, 2005. JEA and OUC filed their tariffs for informational purposes on January 1, 2006.

In its December 8, 2005, recommendation on the petitions filed by FPL, PEF, Gulf, TECO, and FPUC, our staff proposed two methodologies for setting avoided cost: (1) a single unit approach with one standard offer contract per utility based on the next avoidable unit in the utility's Ten-Year Site Plan (TYSP); and (2) a portfolio approach with multiple standard offer contracts per utility based on all units in the utility's TYSP. Our staff also raised issues regarding the appropriate method to establish the contract term and subscription limit for renewable standard offer contracts. On December 27, 2005, we issued Order No. PSC-05-1260-TRF-EQ approving FPUC's proposed contract. By that Order, we also approved the remaining four contracts, with modifications, to be available through June 1, 2006, to allow time for additional discussion on policy issues associated with implementing Section 366.91, Florida Statutes. We directed our staff to hold an additional workshop to obtain further information on implementing the statute.

On January 17, 2006, the Florida Industrial Cogeneration Association (FICA) and Bay County each filed a protest of Order No. PSC-05-1260-TRF-EQ and requested a formal hearing. Both parties, however, requested that any hearing be deferred until after our additional workshop was held.

A second workshop was held on March 6, 2006. Prior to this workshop, our staff had continued to discuss its concerns with the IOUs about the standard offer contracts. As a result of these discussions, the IOUs agreed that: (1) the ten-year minimum contract terms should begin on the in-service date of the avoided unit; (2) the subscription limit should be set at the size of the avoided unit; and (3) the contracts should include qualifying facilities with capacities less than 100kW as required by Rule 25-17.0832(4)(a)3, Florida Administrative Code. At the workshop, there appeared to be general agreement among the representatives of renewable generators on these issues. However, one of the issues that remained unresolved as of the workshop date was the methodology to be used to set avoided cost for the standard offer contracts. Representatives of renewable generators also expressed concerns regarding the operating characteristics and other contract provisions in the utilities' renewable standard offer contracts. Our staff requested that the workshop participants file written comments addressing any remaining concerns, including the appropriate methodology to set avoided cost. Florida Crystals Corporation and the Florida Renewable Energy Alliance<sup>1</sup> filed post-workshop comments on March 20 and March 24, 2006, respectively. FPL, PEF, Gulf, and TECO agreed to file revised standard offer contracts on April 3, 2006, to replace the contracts we approved in Order No. PSC-05-1260-TRF-EQ.

On April 3, 2006, FPL, PEF, Gulf, and TECO filed petitions for approval of revised standard offer contracts. This Order addresses these four petitions. We have jurisdiction over this matter pursuant to Sections 366.04 through 366.06, Florida Statutes, and Section 366.91, Florida Statutes.

We note that the protests of the initial standard offer contracts approved in Order No. PSC-05-1260-TRF-EQ are now moot. The initial standard offer contracts of FPL, PEF, Gulf, and TECO expired as of June 1, 2006, and are replaced by the contracts approved herein. Further, although FPUC's initial standard offer contract has not expired, Bay County's attorney has represented that Bay County did not and does not intend to pursue its protest with respect to FPUC's standard offer contract.

#### Standard Offer Contracts

In their proposed standard offer contracts, each utility appropriately starts the minimum ten-year term required by Section 366.91, Florida Statutes, on the in-service date of the avoided unit. Further, each utility appropriately sets the subscription limit equal to the capacity of the avoided unit. We believe that these provisions will help promote the development of renewable generating technologies. Each utility also included small qualifying facilities with a capacity of 100kW or less in its proposed standard offer contract. While this is not required by Section 366.91, Florida Statutes, qualifying facilities with capacities less than 100kW are eligible for standard offer contracts pursuant to Rule 25-17.0832(4)(a)3., Florida Administrative Code. We believe that making small qualifying facilities eligible for the renewable standard offer contracts,

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<sup>1</sup> The Florida Renewable Energy Alliance consists of the City of Tampa, Covanta Energy Corporation, Florida Industrial Cogeneration Association, Lee County, Montenay Power Corp, National Public Energy, the Solid Waste Authority of Palm Beach, and Wheelabrator Technologies, Inc.

rather than separate standard offer contracts, will increase administrative efficiency. Despite the inclusion of these terms, one major disputed issue remained as of the date of our vote: how should avoided cost be established?

*Determining Avoided Cost*

The IOUs have proposed using a “single avoided unit approach” similar to the current method used to establish avoided cost for other standard offer contracts. Under this approach, each IOU would file a single standard offer contract based on the next avoidable unit in its TYSP. We do not believe that this approach goes far enough to meet the statute’s intent to promote the development of renewable energy resources. As witnessed in recent standard offers, avoided cost under this approach will likely be based on natural gas-fired combustion turbine (CT) or combined cycle (CC) units, rather than coal-fired units. Due to the volatility of natural gas prices, contracts based solely on natural gas-fired units will not provide ratepayers with the rate stability benefit of coal-based pricing. Further, the single unit approach will reduce the likelihood that renewable generators will be able to perform at the specific operating characteristics of that particular generating technology. Few renewable generators will be able to meet the operating requirements of a contract based on a CT unit because few renewables are able to operate as a peaking unit.

In its December 8, 2005, recommendation on the IOUs’ initial renewable standard offer contracts, our staff proposed a “full portfolio approach” for consideration. Under the full portfolio approach, each utility would file multiple standard offer contracts, with a separate contract for each generating unit included in its most recent TYSP. A renewable generator could choose which standard offer contract best fits its particular needs. This option would allow renewable energy providers to consider all aspects of a utility’s proposed generation expansion plan, including any proposed coal units. The higher capacity payments associated with coal units could benefit renewable energy providers by ensuring them a higher fixed revenue stream. Renewable generators would be afforded the opportunity to determine what is in their best interests – the higher upfront capital costs of a coal unit and lower ongoing fuel costs, or the lower upfront capital costs of a natural gas-fired unit with higher ongoing fuel costs. Florida Crystals Corporation stated in its post-workshop comments that it supports the portfolio approach to designating avoided units and “specifically supports designating a coal unit as an avoided unit.”

In its post-workshop comments, the Florida Renewable Energy Alliance suggested that avoided cost should be based on a theoretical statewide avoided coal unit with an in-service date concurrent with that of the renewable generator. In the 1980s, this Commission experimented with setting avoided costs based on a statewide coal unit. Since there is no statewide rate base or rates, this system was found to be inequitable because it was impossible to allocate cost responsibility to the individual utilities. The Commission modified its rules in the early 1990s to define avoided cost based on each individual utility’s avoided costs. This approach is more ratepayer neutral because it provides a more accurate estimate of a utility’s avoided cost.

We find that a different approach – a “Fossil Fuel Unit Type Portfolio” approach – will best meet the intent of Section 366.91, Florida Statutes, to encourage the development of

renewable energy resources while balancing ratepayer interests. Under this approach, each investor-owned electric utility shall file a portfolio of standard offer contracts comprised of individual contracts based on the next avoidable fossil-fueled generating unit of each technology type in the utility's 2006 Ten-Year Site Plans. Renewable generators may then select a standard offer contract based on the IOU's avoided unit type that best meets the renewable generator's pricing and timing needs and most closely matches the operating characteristics of the renewable technology. Each individual standard offer contract shall remain open until: (1) a request for proposals (RFP) is issued for a generating unit of the technology type covered by that contract, which unit is subject to review under the Florida Electrical Power Plant Siting Act (Siting Act); (2) the utility breaks ground for a unit of the technology type covered by that contract, which unit is not subject to review under the Siting Act; or (3) the contract's subscription limit is reached. After a contract is closed, the utility shall file a new contract based on the next unit of the same technology type in its TYSP, if any.

The Fossil Fuel Unit Type Portfolio approach will promote renewable generation to a greater degree than the single avoided unit approach by offering renewable generators a menu of contracts based on various generating technologies, with different pricing, timing, and operating characteristics. Further, this approach is easier to administer than the full portfolio or statewide avoided unit approaches, and gives renewable generators access to a coal-based contract if a utility has a coal generating unit in its TYSP. Coal-based pricing will reduce ratepayer exposure to natural gas price volatility. Further, because renewable generators can be built in less time than a coal unit, a coal-based standard offer contract can provide ratepayers with the rate stability benefits of coal pricing sooner than if a utility had built a coal generator. Finally, this approach may decrease ratepayer risk compared to a full portfolio approach by reducing the number of contracts offered.

The table below provides a summary of the avoided units for which standard offer contracts must be made available under the Fossil Fuel Unit Type Portfolio approach. This table is based on each IOU's 2006 TYSP.

<b>AVOIDED UNITS UNDER FOSSIL FUEL UNIT TYPE PORTFOLIO APPROACH</b>				
	<b>FPL</b>	<b>PEF</b>	<b>TECO</b>	<b>Gulf</b>
Combustion Turbine (CT) Units	2008 CT (160 MW)	2010 CT (161 MW)	2009 CT (97 MW)	No CTs in TYSP
Combined Cycle (CC) Units	2015 CC (553 MW)	2009 CC (1,159 MW repowering)	No CCs in TYSP	2014 CC (600 MW)
Coal Units	2012 Coal (850 MW)	2013 Coal (750 MW)	2013 IGCC (605 MW)	No coal in TYSP
(Summer Ratings - Based on 4/1/06 TYSPs)				

*Other Matters*

The Florida Renewable Energy Alliance proposes that the in-service date of the avoided unit should be set according to the in-service date of the renewable generator. We disagree. In order to protect ratepayers, a standard offer to purchase capacity from renewable generators must be based on a utility's need for capacity, rather than on a renewable generator's contract timing need. Under our existing standard offer rules, renewable generators cannot receive full capacity payments until the anticipated in-service date of the utility's avoided unit. Rule 25-17.0832(4)(g)2, Florida Administrative Code, provides renewable generators with the option to receive reduced capacity payments beginning at the approximate lead time required to site and construct the utility's avoided unit. If a renewable generator elects early capacity payments, the present value of the total payments made to the renewable generator cannot exceed the payments which would have otherwise been paid if the renewable generator had chosen to receive capacity payments commencing with the in-service date of the avoided unit.

The Florida Renewable Energy Alliance and Florida Crystals Corporation also expressed concerns about the operating characteristics and other provisions of the utilities' contracts in their post-workshop comments. We believe that a standard offer contract should reflect the operating and performance characteristics of the utility's generating unit. If different performance requirements are desired, the renewable generator should negotiate with the utility to address those desires.

*Utility-Specific Standard Offer Contracts*

FPL based its proposed standard offer contract on a 160 MW natural gas-fired CT with a 2008 in-service date. As discussed above, we adopt a Fossil Fuel Unit Type Portfolio approach in which FPL must file standard offer contracts based on the next avoidable unit of each technology type in its 2006 TYSP. Accordingly, we approve FPL's proposed standard offer contract to become effective June 2, 2006, and direct FPL to file, within 90 days, additional standard offer contracts based on the combined cycle and coal units identified in the table above for administrative review and approval.<sup>2</sup>

PEF based its proposed standard offer contract on the repowering of existing oil-fired steam capacity at the Bartow site into 1,159 MW of natural gas-fired combined cycle capacity with a 2009 in-service date. As discussed above, we adopt a Fossil Fuel Unit Type Portfolio approach in which PEF must file standard offer contracts based on the next avoidable unit of each technology type in its 2006 TYSP. Accordingly, we approve PEF's proposed standard offer contract to become effective June 2, 2006, and direct PEF to file, within 90 days, additional standard offer contracts based on the CT and coal units identified in the table above for administrative review and approval.

Gulf based its proposed standard offer contract on the only generating unit in its 2006 TYSP, a 600 MW CC with a 2014 in-service date. Therefore, under the Fossil Fuel Unit Type

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<sup>2</sup> FPL's TYSP shows CC units in 2009 and 2010, but these units are ineligible for standard offer contracts because an RFP has already been issued for these units. Therefore, the 2009 and 2010 CC units may no longer be avoided.

Portfolio approach, we approve Gulf's proposed standard offer contract to become effective June 2, 2006. We note that Gulf's proposed avoided unit, with an in-service date of 2014, involves some risk that Gulf's ratepayers may prematurely commit to capacity needs that may change over time. However, this risk is unavoidable due to the statutory requirement to continuously offer standard offer contracts to renewable generators.

TECO based its proposed standard offer contract on a 97 MW natural gas-fired CT with an in-service date of 2009. TECO does not have any natural gas-fired CCs in its TYSP, and its next avoided unit type is a 2013 integrated coal gasification combined cycle (IGCC) unit. As discussed above, we adopt a Fossil Fuel Unit Type Portfolio approach in which TECO must file standard offer contracts based on the next avoidable unit of each technology type in its 2006 TYSP. Accordingly, we approve TECO's proposed standard offer contract to become effective June 2, 2006, and direct TECO to file, within 90 days, an additional standard offer contract based on the IGCC unit identified in the table above for administrative review and approval.

### Conclusion

In conclusion, we approve the proposed standard offer contracts filed by FPL, PEF, Gulf, and TECO. Further, based on the Fossil Fuel Unit Type Portfolio approach described and adopted herein, we direct FPL, PEF, and TECO to file, within 90 days, additional standard offer contracts for administrative review and approval. We find that use of the Fossil Fuel Unit Type Portfolio approach will best meet the intent of Section 366.91, Florida Statutes, by encouraging the development of renewable energy resources in Florida, providing continuously available standard offers to renewable generators, and encouraging utilities to negotiate contracts with avoided cost and operating characteristics which better match the needs of renewable generators, while balancing the interests of ratepayers.

In addition, we direct our staff to initiate rulemaking related to the implementation of Section 366.91, Florida Statutes.

Potential signatories to the standard offer contracts approved herein should be aware that these tariffs and standard offer contracts may be subject to a request for hearing made within 21 days of the issuance of this Order, and, if a hearing is held, may subsequently be revised.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the tariffs and standard offer contracts for renewable energy resources proposed by Florida Power & Light Company, Progress Energy Florida, Tampa Electric Company, and Gulf Power Company are approved, effective June 2, 2006. It is further


ORDERED that Florida Power & Light Company, Progress Energy Florida, and Tampa Electric Company shall, within 90 days, file additional tariffs and standard offer contracts for renewable energy resources consistent with the Fossil Fuel Unit Type Portfolio approach as described and adopted in this Order. It is further

ORDERED that our staff shall have authority to administratively approve the additional tariffs and standard offer contracts filed pursuant to the requirements of this Order upon verification that the additional tariffs and standard offer contracts are consistent with this Order. It is further

ORDERED that our staff shall initiate rulemaking related to the implementation of Section 366.91, Florida Statutes. It is further

ORDERED that if no person whose substantial interests are affected by the actions proposed herein timely requests a hearing on this matter as set forth in the Notice of Further Proceedings, below, these dockets shall be closed upon the issuance of a Consummating Order.

By ORDER of the Florida Public Service Commission this 6th day of June, 2006.

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

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NOTICE OF FURTHER PROCEEDINGS

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the proposed action files a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 27, 2006.

In the absence of such a petition, this Order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.