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Subject: Electronic Filing for Docket No. 060426-EI - Comments With Respect To Its Petition
Attachments: FPL Comments 08.09.06.pdf

<<FPL Comments 08.09.06.pdf>>

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b. Docket No. 060426-EI

c. Document being filed on behalf of Florida Power & Light Company (FPL).

d. There are a total of 11 pages in the attached document.

e. The document attached for electronic filing is Florida Power & Light Company's Comments With Respect To Its Petition To Request Exemption Under Rule 25-22.082(18), F.A.C., From Issuing A Request For Proposals (RFP).

(See attached file: FPL Comments 08.09.06.pdf)

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Thank you for your attention and cooperation to this request.

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ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Florida Power & Light Company's)
Petition to Request Exemption under Rule)
25-22.082(18), F.A.C., From Issuing a)
Request for Proposals (RFP))
_____)

Docket No.: 060426-EI

Dated: August 9, 2006

**FLORIDA POWER AND LIGHT COMPANY'S
COMMENTS WITH RESPECT TO ITS PETITION TO REQUEST
EXEMPTION UNDER RULE 25-22.082(18), F.A.C., FROM
ISSUING A REQUEST FOR PROPOSALS (RFP)**

Florida Power & Light Company ("FPL" or "Company") hereby submits its comments with respect to its Petition to Request Exemption Under Rule 25-22.082(18), F.A.C., From Issuing a Request For Proposals ("RFP"), filed with the Commission on May 26, 2006 (the "Petition"), and in light of the recommendation memorandum submitted by the Staff of the Florida Public Service Commission on August 3, 2006 (the "Staff Recommendation") concerning this matter. The purpose of these comments is to provide clarification with respect to the relief that FPL is requesting in this proceeding. The comments take into consideration the points made in the Staff Recommendation, and clarify and renew FPL's request that the Commission grant an exemption from the Bid Rule with respect to each of the two advanced technology coal-fired electric generating units proposed by FPL, under the limited and unique circumstances of the present Petition.

Introduction and Summary

FPL filed its Petition in this matter on May 26, 2006, requesting that the Florida Public Service Commission (the "Commission") grant FPL an exemption from Rule 25-22.082, the "Bid Rule," which would otherwise direct the issuance of an RFP in connection with FPL's proposed advanced technology coal project, consisting of a supercritical pulverized coal power

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plant, made up of two electric generating units, with advanced emissions control equipment (the "Project").

FPL wishes to clarify that through this proceeding it requests that the Commission grant an exemption from the Bid Rule applicable to each of the two coal-fired generating units making up the Project. Granting an exemption for both units will result in (i) saving about \$400 to \$600 million in Project costs (exclusive of fuel cost savings); and (ii) saving at least six months and providing a higher degree of certainty with respect to the timely delivery of both the first and second coal-fired generating units, when compared with granting an exemption for only the first unit. These benefits are achievable, however, only through granting an exemption for both units of the Project. As explained in more detail in the Comments below, granting the exemption for the two units together will facilitate conducting all of the other regulatory and business processes for both units of the Project in tandem, resulting in much more efficient permitting, contracting, procurement, construction, fuel supply and fuel delivery.

FPL also wishes to clarify that through the requested exemption it is not seeking to be excused from its obligation to demonstrate the need for the Project as provided for under the requirements of Florida law, in a separate proceeding required to be filed with the Commission. The need determination proceeding remains the vehicle for the Commission to review and analyze the cost of and need for a proposed plant. FPL projects that if a Bid Rule exemption is granted in this proceeding with respect to both units of the Project, FPL could file a Need Petition for the two-unit coal plant Project on or before May 1, 2007.

FPL also wishes to clarify for the Commission and interested parties that through this proceeding, FPL is seeking an exemption from the Bid Rule only for the specific Project described in its Petition and these Comments, and in light of the unique circumstances presented

in this case. The Company is not, through its petition for an exemption from the Bid Rule for the Project, or through these Comments, suggesting or requesting that such exemptions should be granted or applicable more generally with respect to other projects or under other circumstances not present with respect to this Project.

FPL therefore respectfully renews its request that the Commission grant an exemption for the Project as a whole – for both the first and second proposed coal-fired generating units. As detailed in the Petition, granting FPL’s requested exemption will result in sooner (i) utilization of lower cost fuel for FPL’s customers; (ii) increased supply of reliable electricity for FPL’s customers; and (iii) serving the public welfare by diversifying the generating technologies, fuel delivery methods and fuel types used to serve FPL’s customers, and by decreasing reliance on natural gas as a fuel.

The balance of these Comments provides additional supporting detail concerning the cost and schedule advantages for customers associated with granting an exemption for the Project, both generating units together, as a whole.

I. **Granting FPL’s Requested Bid Rule Exemption For Both Units Will Save At Least \$400 to \$600 Million When Compared With A One-Unit Exemption.**

Granting FPL’s requested bid rule exemption for both units will save at least \$400 to \$600 million when compared with granting a one-unit exemption, exclusive of fuel cost savings. This is because of the substantial synergies involved in planning, permitting, contracting, procuring equipment and constructing the two units together, as well as fuel supply and fuel delivery, made possible by granting an exemption for the Project as a whole and allowing it to go forward through the Commission’s need process, other government approvals, development and delivery as a two-unit project.

For example, granting an exemption for both units permits the sharing during project development and construction of all of the common costs, such as land, the fuel handling and processing facility, the byproduct storage facility, transmission interconnection and integration, and any other shared facility, for both units.

Further, granting an exemption for both units will permit FPL to apply the multiple synergies possible when two units are planned, designed, developed, contracted for, permitted and constructed as a single Project. For example, granting the requested exemption will facilitate constructing the units in tandem, as opposed to one at a time, as would be required with a one-unit exemption, and thus (i) avoids the necessity of mobilizing and demobilizing for separate construction of each unit; (ii) decreases engineering, procurement and construction cost escalation due to reduction of delays in both units of the Project; (iii) decreases costs of major equipment due to the fact that both units' equipment may be sourced together; (iv) decreases costs for transmission interconnection and electric system integration costs due to the fact that interconnection and integration can be planned and completed in tandem for both units; and (v) decreases AFUDC due to avoidance of delays in the construction of the second unit, in particular. In summary, because coal-fired generation is an "economies-of-scale" technology (i.e. significant cost advantages are realized by either increasing the size of individual units or building multiple units under one construction contract), granting a Bid Rule exemption for both units of the Project will best permit capturing the "economies-of-scale" benefits for customers.

The \$400 to \$600 million in estimated Project savings understates the true benefit to customers of granting an exemption for the entire Project, compared with granting an exemption for one unit, because these Project savings are exclusive of fuel cost savings. FPL expects that

granting an exemption for both units of the Project will enable FPL to obtain fuel cost savings for customers through fuel procurement efficiencies.

For example, by helping to keep the two units in tandem by granting an exemption for the entire Project, FPL's fuel requirement for bidding purposes will be larger. This permits the opportunity to have water-borne coal from multiple sources delivered to Florida ports, and thereby increased fuel source diversity, because the larger quantity of coal needed for two units would increase the throughput that FPL could offer terminal operators to a level that would make it economic for those terminal operators to develop and construct the new terminal capacity necessary to support the construction of an advanced technology coal generation project in South Florida. The increased diversity in fuel sourcing that would result from having water-borne coal and a port in the mix would, in turn, make fuel costs more competitive, as well as less susceptible to future price increases and/or potential regional supply deficiencies.

In summary, the interests of FPL's customers are greatly advanced, by more than \$400 to \$600 million, by granting an exemption from the Bid Rule for both units, compared with granting an exemption for the first unit due to the much lower Project development and construction costs, and fuel costs, associated with keeping the units together in tandem through the regulatory approval, project development and delivery processes.

II. Granting FPL's Requested Exemption Will Help FPL Add Two Coal Units At Least Six Months Earlier than if an RFP is Required for One or Two Units.

Granting an exemption from the Bid Rule for both units is not only more cost-efficient, but results in a shorter overall project development and delivery schedule, compared with granting an exemption for only one unit. This is because FPL needs to do the same amount and type of work to develop detailed engineering plans and obtain cost estimates in preparation for a

Need Filing as it would need to prepare to issue an RFP. Therefore, FPL could not issue an RFP (were that required) any earlier than it would be able to file a Need Petition absent an RFP.

In other words, the delay of at least six months that would result from conducting an RFP will exist irrespective of when FPL is in a position to file a Need Petition. Therefore, the true schedule benefit to customers of granting FPL its requested exemption for the Project will always be preserved.

FPL recognizes the Commission's and the Staff's interest, as well as FPL's customers' interests, in expediting regulatory consideration and further business development of the Project. Accordingly, if the Commission grants an exemption for both units of the Project as requested in its Petition and clarified in these Comments, FPL anticipates that it will be in a position to file a Need Petition for its proposed two-unit coal plant by May 1, 2007.

Granting the Bid Rule exemption for the Project will give FPL an opportunity (but not certainty) to place the first coal unit in commercial operation by the summer of 2012. The benefits of an exemption on the Project's schedule are clear. For example, if FPL conducts an RFP rather than receives the requested Bid Rule exemption for the Project, it is expected that the commercial operation of FPL's first coal unit (if selected through the RFP process) would be substantially later.

When FPL stated in its September 2005 RFP that it planned to issue an RFP for coal capacity in the summer of 2006, the St. Lucie County Commission had not rejected FPL's request for approval to build the coal plant at FPL's preferred site in St. Lucie County. As a result of that rejection, FPL's schedule for development of a coal plant has been delayed by approximately one year while FPL identifies and obtains control of a site for a coal plant. FPL will try to make up a part of that delay by accelerating the Site Certification, engineering and

equipment procuring processes as much as it can. However, FPL cannot make up a year by these means. Therefore, FPL has requested an exemption from the Bid Rule in this proceeding to make up at least six months.

III. Granting an Exemption for the Project Will Result in Other Project Benefits.

FPL's two-unit Project is being developed in a highly resource-constrained equipment and services market. Granting an exemption for both units will enhance prospective suppliers' and contractors' confidence in FPL's Project, which may cause them to direct more of their limited resources to FPL's coal generation project, further advantaging FPL's customers with respect to cost and schedule.

For example, in order to maintain a queue position for shop space for fabricating equipment needed for FPL's proposed two-unit plant, and in order maintain an accelerated schedule, FPL has issued an equipment RFP to potential suppliers for the equipment needed for the entire Project. Granting an exemption from the Bid Rule for the Project will send a strong message in the marketplace of the substantial opportunity presented for equipment suppliers by the Project, which FPL expects will result in more time and attention being paid to delivering competitive equipment and service bids that will ultimately benefit FPL customers.

IV. Granting an Exemption is Appropriate Under These Unique and Narrow Facts.

The unique facts surrounding this particular Project also help show why a Bid Rule exemption is well suited to the unique and narrow set of facts presented by the Petition. There is no evidence that any entity has sought to obtain control of a site for a plant, and no entity has informed FPL of any concrete plans to develop coal generation to meet FPL's need. To FPL's knowledge, none of the equipment and service suppliers with whom FPL is in ongoing

communication has been approached by any entity expressing interest in developing a competing project for FPL's coal generation need.

It is also reasonable to expect that if viable competitive bidders were waiting for FPL to issue an RFP for either of the proposed units, one would anticipate that such potential bidders would be intervening in this docket, adamantly opposing FPL's request for an exemption from the RFP process. However, no potential bidders have intervened. This further supports that FPL's customers lose nothing, but gain much for the reasons explained above in these Comments, by the Commission granting an exemption for both units in the Project based on the unique facts contained in the Petition in this proceeding.¹

Granting FPL the requested Bid Rule exemption will not detract from the Company's efforts to meet capacity needs by purchasing power from existing coal generation plants, or from encouraging development of renewable generation, as part of its efforts to meet the fast-growing capacity and energy needs of FPL's customers. FPL will continue to seek to purchase coal-fueled generation from existing units, as well as from those that have already been granted a Need determination by the Commission. Such purchases do not require an RFP.

Conclusion

Granting the requested exemption for the Project as a whole – for both proposed electric generating units – is the most beneficial of all options in this proceeding, as doing so would decrease the costs and timeline for siting and constructing both units, compared to exempting only one unit from the Bid Rule.

¹ FPL notes that the Florida Industrial Power Users Group and the Office of Public Counsel have intervened in this case, and that neither party has expressed opposition to FPL receiving an exemption from the Bid Rule for the Project.

Granting the requested exemption will result in savings of \$400 to \$600 million, exclusive of fuel cost savings, and reduce the total timeline for development of the Project by at least six months, compared with granting an exemption for only one unit.

Granting the requested exemption preserves the Commission's jurisdiction and authority to consider the need for the Project in a separate proceeding, as provided for under Florida law. Granting the exemption for both units does not in any way prejudice whether the proposed Project meets any of the requirements for a finding of need, and does not exempt FPL from its legal obligation to prove to the Commission's satisfaction that the Project satisfies all of the requirements for a finding of need.

If FPL is granted an exemption from the Bid Rule as requested in the Petition and clarified in these Comments, FPL anticipates that it will be prepared to file with the Commission an application for a finding of need with respect to the Project not later than May 1, 2007.

By seeking an exemption in the narrow and specific circumstances applicable to the present case, FPL wishes to clarify that it is not seeking to broaden or make more common the granting of Bid Rule exemptions generally.

For all of the reasons stated in its Petition and in these Comments, FPL submits that the public interest is best served by granting an exemption for FPL's Project in this proceeding. FPL respectfully clarifies that its request in this matter pertains to both proposed generating units constituting the Project, and renews its request as stated in its Petition, that the Commission grant

FPL an exemption from the Bid Rule with respect to its proposed two-unit coal-fired electric generating Project.

Respectfully submitted this 9th day of August 2006.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Power & Light Company's Comments With Respect To Its Petition To Request Exemption Under Rule 25-22.082(18), F.A.C., From Issuing a Request For Proposals (RFP) has been furnished by electronic mail and/or U.S. Mail this 9th day of August 2006, to the following:

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