



Bryan S. Anderson, Esq.
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
(561) 304-5253
(561) 691-7135 (Facsimile)

January 14, 2008

VIA HAND DELIVERY

Ms. Ann Cole, Commission Clerk
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

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COMMISSION
CLERK

Re: Petition of Florida Power & Light Company for Approval of
Renewable Energy Tariff and Standard Offer Contract
Docket No. 070234-EQ

Dear Ms. Cole:

Enclosed for filing on behalf of Florida Power & Light Company ("FPL") are an original and 15 copies of the testimony of Thomas L. Hartman.

Thank you for your assistance. Please contact me should you or your staff have any questions regarding this filing.

Sincerely,

Bryan S. Anderson
Authorized House Counsel No. 219511

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00344 JAN 14 8

FPSC-COMMISSION CLERK

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

**DOCKET NO. 070234-EQ
FLORIDA POWER & LIGHT COMPANY**

**IN RE: FLORIDA POWER & LIGHT COMPANY'S
PETITION FOR APPROVAL OF A RENEWABLE ENERGY
TARIFF AND STANDARD OFFER CONTRACT**

DIRECT TESTIMONY OF:

THOMAS L. HARTMAN

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **FLORIDA POWER & LIGHT COMPANY**

3 **TESTIMONY OF TOM HARTMAN**

4 **DOCKET NO. 070234-EQ**

5 **JANUARY 14, 2008**

6
7 **Q. Please state your name and business address.**

8 A. My name is Thomas L. Hartman. My business address is 700
9 Universe Blvd., Juno Beach, FL 33408.

10 **Q. By whom are you employed and what is your position?**

11 A. I am employed by Florida Power & Light Company ("FPL" or the
12 "Company") as the Director of Business Management for Resource
13 Assessment and Planning.

14 **Q. What are your present job responsibilities?**

15 A. My responsibilities include providing analyses and support to assist
16 the Company in determining whether and on what terms to extend or
17 replace expiring purchase power contracts; evaluating and identifying
18 improvement opportunities and negotiating amendments to existing
19 long term power purchase agreements; negotiating new power
20 purchase agreements; and assisting in the development of draft
21 purchase power agreements for future generation capacity purchases.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

1 **Q. Would you please describe your educational background and**
2 **professional experience?**

3 A. I received a Bachelor of Science Degree in Mechanical Engineering
4 and Aerospace Sciences in 1974, and a Master's Degree in Mechanical
5 Engineering in 1975 from Florida Technological University. I
6 received a Masters of Business Administration degree from Georgia
7 State University in 1985. I have been employed in my current position
8 at FPL since July 2003. From 1994 until joining FPL, I was employed
9 by FPL's unregulated affiliate, FPL Energy, LLC and its predecessor
10 company. Throughout my employment at FPL Energy I held a
11 number of positions in Business Management, where I had
12 responsibility for various unregulated power projects, including
13 responsibility for administering, negotiating, and modifying renewable
14 power purchase agreements, as well as participation in the financing of
15 renewable projects. Prior to joining FPL Energy, I was with a number
16 of consulting firms, providing management and technical consulting.

17 **Q. What is the purpose of your testimony?**

18 A. My testimony is provided in support of FPL's Standard Offer Contract
19 ("SOC"), as currently filed with the Commission. My testimony
20 describes this contract as fully compliant with the applicable
21 legislation and rules of this Commission. The Standard Offer Contract
22 encourages the development of renewable resources in the State. The
23 rates in the Standard Offer Contract are at avoided cost, as required by

1 law. The terms and conditions contained in the contract are reasonable
2 and fair to the renewable generators and utility customers. FPL is
3 supportive of development of new renewable generation in Florida,
4 and is happy to purchase for the benefit of its customers capacity and
5 energy from both new and existing renewable generating facilities, as
6 well as other qualified facilities.

7 **Q. Please describe FPL's overall outlook and approach to its**
8 **Standard Offer Contract and to complying with the Commission's**
9 **regulatory requirements for such contracts.**

10 A. FPL is supportive of development of new renewable generation and
11 other qualified facility generation in Florida, as well as continued
12 operation of existing renewable generating facilities and qualified
13 facilities.

14
15 FPL's focus in preparing, submitting and administering its Standard
16 Offer Contract is to make available a fair and reasonable agreement
17 providing an avenue for FPL to make purchases from such facilities,
18 for the benefit and in a manner protective of FPL's customers. FPL
19 also views its Standard Offer Contract as providing a reasonable base
20 from which project owners and developers may, if they choose, seek to
21 negotiate with FPL agreements more closely tailored to the needs of
22 facilities with different fuel types, sizes and operating characteristics,
23 among other unique features.

1 **Q. FICA’s Amended Petition states several times that the “terms are**
2 **inconsistent with the requirement of the section 366.91 and**
3 **implementing rules requiring the promotion of the development of**
4 **renewable energy.” Do you agree with this statement?**

5 A. No, I do not. The Commission through an extensive series of
6 workshops, hearings, and rulemaking adopted rules to implement the
7 requirements of 366.91. These rules require the IOUs to continuously
8 make available Standard Offer Contracts based on a portfolio approach
9 of utility fossil-fueled units; establish a methodology for calculating
10 capacity payments using a value of deferral methodology based on the
11 utility’s full avoided costs and need for power; require IOUs to expand
12 the capacity and energy payment options to facilitate the financing of
13 renewable generation facilities; allow for reopening the contract in the
14 event of future carbon taxes; clarify ownership of transferable
15 renewable energy credits; provide for an expedited dispute resolution
16 process; and require annual reporting from all utilities. These rules
17 strongly encourage the development of renewable resources in Florida,
18 and provide a range of unilateral options to the renewable generator
19 that are unmatched by any other jurisdiction with which I have had
20 experience. FPL’s Standard Offer Contract complies with these rules,
21 and hence complies with F.S. 366.91 and encourages the development
22 of renewable generation in the State.

1 **Q. FICA’s Amended Petition states that “FPL’s standard offer**
2 **contract is not continuous.” Do you agree with this statement?**

3 A. No, I do not agree with this statement. FPL’s Standard Offer Contract
4 offers several different payment options, including two Early Capacity
5 payment options (Option B- Fixed Value of Deferral - Early Capacity
6 and Option D – Fixed Value of Deferral Payment- Early Levelized
7 Capacity). These options allow the Renewable Facility to select the
8 month and year in which firm deliveries of energy and capacity are to
9 commence. As a result, Capacity Payments can start as early as the
10 Renewable Facility is willing and able to deliver firm energy and
11 capacity. Accordingly, FICA’s s assertion in its petition that FPL’s
12 Standard Offer Contract is not a “continuous” offer, claiming that
13 “renewable generators must wait almost eight years until a FPL
14 standard offer contract becomes available,” is simply not true.

15 **Q. FICA’s Amended Petition states that “FPL understates avoided**
16 **costs on which its proposed contract is based.” Do you agree with**
17 **this statement?**

18 A. No, I do not agree with this statement. FPL’s Standard Offer Contract
19 is based on the full avoided cost of the avoided electric generating
20 unit. The selection of the “avoided unit” is prescribed by the
21 applicable rules. Based on FPL’s Ten-Year-Site Plan filed on April 1,
22 2007 (pursuant to Rule 25-22.071, F.A.C.) and the requirements
23 specified in Rule 25-17.250, F.A.C. the only FPL unit that met the

1 conditions for a Standard Offer Contract “avoided unit” was the
2 Combined Cycle Unit with an in-service date of June 1, 2015. While
3 FICA’s Amended Petition makes reference to the fact that FPL filed
4 its petition for an affirmative Determination of Need for FPL Glades
5 Power Park Units 1 and 2 Electrical Power Plant in support of its
6 position that the avoided costs are understated, given that FPL filed its
7 need determination petition for the Glades Power Park Units on
8 February 1, 2007 the 2015 Combined Cycle unit was the only
9 candidate for a Standard Offer Contract on the filing date. The other
10 assertions made by FICA on this point are likewise without basis.
11 Each of the provisions objected to by FICA (e.g.; adjustments to
12 payments to reflect location of the facility, the pay for performance
13 requirements, the calculation of energy payments, the calculation of
14 the “as-available” energy rates) has been included in either (1)
15 previous Standard Offer Contracts approved by the Commission
16 and/or (2) existing individually negotiated contracts. The Commission
17 and the parties that have entered into these contracts with similar terms
18 have had an opportunity to review and “scrutinize” all of these terms
19 in previous proceedings associated with approval of Standard Offer
20 Contracts and/or in proceedings associated with the approval of
21 individually negotiated contracts that include these payment
22 provisions. To now state that these calculations “have not been subject

1 to any formal scrutiny by this Commission or any party” is without
2 basis.

3 **Q. FICA’s Amended Petition states that “FPL’s contract contains**
4 **numerous unreasonable terms and conditions.” Do you agree with**
5 **this statement?**

6 A. No, I do not agree with this statement. FICA has provided a laundry
7 list of terms and conditions which it deems unreasonable, without
8 support. Many of these items are contained in Standard Offer
9 Contracts used in other jurisdictions, and a number of others are terms
10 and conditions that have explicitly been established and deemed
11 prudent in hearings before this Commission. FICA fails to recognize
12 that the Standard Offer Contract is not the result of the give and take of
13 commercial negotiations between an unrestricted buyer and seller, but
14 is in actuality a unilateral “put” right of a renewable generator. As
15 such, it is necessary that the contract as a whole and in specific
16 contract provisions be constituted in such a way as to protect the
17 customers of the utility in a contract that may be entered into by
18 project developers and owners that have facilities with a broad range
19 of sizes, fuel types, types of generation, geographical location, and
20 performance characteristics, among other characteristics.

21
22 Further, FICA fails to recognize that FPL’s actions and activities are
23 subject to the oversight of this Commission and the renewable

1 generators are not. This results in some asymmetry in the provisions.
2 As an example, FICA complains that FPL places record retention
3 requirements on them, but that the Standard Offer Contract does not
4 have similar requirements for FPL. FPL, however, of course is subject
5 to numerous record retention requirements due to its nature as a
6 regulated utility, with provisions placed upon its business both by this
7 Commission and the FERC. Neither this Commission nor the FERC
8 places similar requirements on the renewable generator as a qualified
9 facility ("QF").

10
11 Additionally, FICA does not recognize that the true counterparty in
12 this Standard Offer Contract is FPL's customers, since payments are
13 simply passed through to the fuel and capacity clauses. FPL itself
14 receives no benefit from the contract. Contract provisions which
15 would have the impact of shifting the cost from FPL's customers to
16 FPL's shareholders are simply inappropriate for this reason.

17
18 Finally, many of the contract clauses to which FICA objects are not
19 unusual or unique to Florida. Issues such as dedication of the entire
20 output of the facility, interconnection requirements, locational
21 differences in pricing, provision of financial information, project
22 viability and milestone monitoring, etc. are commonly required and
23 reasonable.

1 Q. FICA's Amended Petition addresses the "Inability to Finance the
2 FPL Standard Offer Contract." Do you agree that this is so?

3 A. No, I do not believe FICA's statement has any merit. First of all, there
4 is no legal or regulatory requirement that a Standard Offer Contract
5 must be financeable to the unilateral satisfaction of FICA or its
6 members. This is important to note because FICA in this and other
7 ways in this proceeding seems to be setting up or suggesting legal
8 requirements that simply do not exist.

9
10 That said, FICA's statement also simply lacks business merit. For
11 example, there are renewable facilities that sell to FPL on a non-firm
12 basis pursuant to FPL's As-Available Tariff. That means that the
13 owners of such facilities have chosen not to enter into a Standard Offer
14 Contract or seek to negotiate a negotiated contract. These facilities
15 were able to obtain financing without the guaranteed revenue stream
16 provided for in the Standard Offer Contract. Second, FICA states that
17 the difficulty in financing these projects is caused by the
18 "unreasonable rates, terms and conditions." As discussed above,
19 however, the terms and conditions included in the Standard Offer
20 Contract are not unreasonable, and the rates in the contracts are tied to
21 avoided cost. It is also worth recalling the point that a Standard Offer
22 Contract by its nature is required to offer a one-size-fits-all approach
23 to a purchase power agreement. While some project

1 developers/lenders may feel more comfortable with a more
2 individualized approach and as a result pursue an individually
3 negotiated contract, other developers may prefer the Standard Offer
4 Contract.

5 **Q. Does that conclude your testimony?**

6 **A. Yes.**