

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of renewable energy tariff standard offer contract, by Florida Power & Light Company.	DOCKET NO. 070234-EQ
In re: Petition for approval of standard offer contract for purchase of firm capacity and energy from renewable energy producer or qualifying facility less than 100 kW tariff, by Progress Energy Florida, Inc.	DOCKET NO. 070235-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. 070236-EQ FILED: February 15, 2008

**WHEELABRATOR TECHNOLOGIES, INC.’S
MOTION TO HOLD DOCKET IN ABEYANCE**

Wheelabrator Technologies, Inc. (Wheelabrator), pursuant to rule 28-106.204, Florida Administrative Code, files this motion and requests that the Commission hold this docket in abeyance, and toll all deadlines, including the requirements for prefiled testimony, discovery responses, and the evidentiary hearing, and reschedule all activities, including the hearing, to follow Florida Power & Light’s (FPL) filing of its new standard offer contract on April 1, 2008. As grounds therefor, Wheelabrator states:

Procedural Background

1. On April 2, 2007, FPL filed its Petition for Approval of Renewable Energy Tariff and Standard Offer Contract in alleged conformance with Commission rules 25-17.0832, 25-17.200 – 25.17.310, Florida Administrative Code. The Commission promulgated these rules as a result of the passage of sections 366.91, .92, Florida Statutes, requiring the promotion of the development of renewable energy and the protection of Florida’s existing renewable facilities.

2. After FPL filed two amended petitions, the Commission issued Order No. PSC-07-0492-TRF-EQ preliminarily approving FPL's filing. No hearing was held prior to the issuance of the Proposed Agency Action (PAA) Order. The PAA Order was protested.

3. Thereafter, various motions and responses were filed which the Commission regarding the protest.

4. After resolution of the pending motions, the hearing in this matter was set for April 10-11, 2008, with post-hearing briefs due on May 9, 2008. Though no Staff recommendation date or agenda date has yet been set, it is reasonable to assume that those actions will occur sometime in the summer of 2008. That is, a decision on the FPL contract filed in April 2007 will not occur until sometime in the summer of 2008.

The Commission Should Hold This Docket and All Activities Related to It in Abeyance

5. Rule 25-17.250(1), Florida Administrative Code, requires each investor-owned utility to file a new standard offer contract on April 1 of each year based on its Ten Year Site Plan filing. Thus, FPL will file a new Ten Year Site Plan and a new tariff and standard offer contract on April 1, 2008 – **before** this docket even goes to hearing. FPL's new filing will supersede the contract under consideration at the April 10-11, 2008 hearing currently set in this docket and will render the currently scheduled activity in this docket moot.

6. It will be an inefficient and wasteful use of the time and resources of the Commission, Staff and parties to file testimony, engage in discovery, and conduct a hearing on a contract that will be out of date before the hearing even occurs and before a Commission decision is rendered.

7. In order to ensure that the process which addresses FPL's standard offer contract and tariff is efficient, effective and meaningful, Wheelabrator requests that the Commission

cancel the April 10-11 hearing on the 2007 FPL contract. Once FPL has filed its new standard offer contract on April 1, 2008, the Commission should direct its Staff to open a new docket (or to “roll over” this docket) to address the 2008 filing, and to schedule the events in that docket so that the proceeding will be concluded and a decision rendered well before the filing of the next round of standard offer contracts. In that way, any changes which the Commission may order as to the April 2008 contract and tariff can be efficiently incorporated into future filings.

8. This procedure will result in a process which is meaningful for the Commission and the parties rather than a proceeding which addresses matters that will be moot long before a final decision is rendered.

9. The Commission should further hold all activities in this docket in abeyance, including testimony requirements and discovery, until the new docket is opened.

10. Wheelabrator further requests that Order No. Order PSC-07-0492-TRF-EQ be found moot, as no final decision based on an evidentiary record is possible before the contract in this case is superceded.

11. In accordance with rule 28-106.204(3), Florida Administrative Code, Wheelabrator has contacted the parties to these dockets to attempt to ascertain their position on the motion. FICA and SWA support the motion. PCS Phosphate – White Springs has no position on the motion. FPL and Progress Energy object to the motion. Tampa Electric had not responded as of the time of the filing of this motion.

WHEREFORE, Wheelabrator requests that the Commission hold the all activities in this docket in abeyance and toll all deadlines, reschedule the hearing set for April 10-11, 2008, and open a new docket to address FPL’s April 1, 2008 standard offer filing.

s/ Vicki Gordon Kaufman

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically, by electronic mail and U.S. mail this 15th day of February, 2008, to the following:

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