

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 30, 2008
TO: Ann Cole, Commission Clerk, Office of Commission Clerk
FROM: Katherine Fleming, Senior Attorney, Office of General Counsel *KEF*
RE: Docket No. 070626 – EI - Review of Florida Power & Light Company's Sunshine Energy Program.

Please place the attached document in the above-referenced docket file. Thank you.

KEF/tfw

RECEIVED-FPSC
08 JUN 30 PM 1:31
COMMISSION
CLERK

DOCUMENT NUMBER-DATE

05654 JUN 30 08

FPSC-COMMISSION CLERK

**Side Letter Agreement re
Addendum to the Trademark License and Services Agreement by and between
Florida Power & Light Company and Green Mountain Energy Company,
entered into agreement on July 30, 2003
in connection with Florida Power & Light Company's Green Power
Pricing Research Project**

Whereas, Florida Power & Light Company ("FPL") filed a petition with the Florida Public Service Commission ("Commission") on August 4, 2003 petitioning the Commission to approve FPL's Green Power Pricing Research Project ("Project") and a tariff for the Project entitled "Original Sheet No. 8.841: Green Power Pricing - ECCR Rider" ("Rider"); and,

Whereas, the Commission opened Docket Number 030752-EI to consider the petition, and issued a preliminary order approving the Project and Rider on December 22, 2003; and,

Whereas, in connection with the Project, FPL entered into that certain Trademark License and Services Agreement, dated as of July 30, 2003, with Green Mountain Energy Company ("Green Mountain"), as such agreement is amended from time-to-time (the "FPL/GMEC Contract");

Whereas, the Project will enable FPL's residential customers to support renewable energy; each residential customer will have the opportunity to pay \$9.75 more on the customer's monthly bill, which FPL will then use to purchase Green Tags (as such term is defined in the FPL/GMEC Contract), each associated with a block of 1,000 kilowatt-hours ("kWh") of renewable energy; the renewable energy will come from facilities powered by renewable fuels such as solar energy, wind energy, ocean currents, tides, landfill gas, and biomass; and,

Whereas, FPL stated in its petition that it would build or purchase 150 kilowatts ("kW") of photovoltaic ("PV") capacity in Florida for every 10,000 customers that participate in the Project; and,

Whereas, Green Mountain Energy Company ("GMEC") is responsible for marketing and Green Tag supply pursuant to the terms of the FPL/GMEC Contract, entered into by FPL in connection with the Project;

Therefore, FPL and GMEC agree that:

1. FPL acknowledges that the Project has certain supply and other costs limitations. GMEC shall use commercially reasonable efforts to acquire, in connection with its obligations pursuant to Section 15 of the FPL/GMEC

DOCUMENT NUMBER-DATE

05654 JUN 30 8

FPSC-COMMISSION CLERK

Contract, Green Tags generated in the following geographic areas: the Florida Reliability Coordinating Council, the Southeastern Electric Reliability Council states, Kansas, Oklahoma, Texas and West Virginia. GMEC shall use commercially reasonable efforts to acquire, in connection with its obligations pursuant to Section 15 of the FPL/GMEC Contract, Green Tags purchased from the above geographic areas in the following order: the Florida Reliability Coordinating Council, the Southeastern Electric Reliability Council states, and then any of the states listed above.

2. GMEC shall use commercially reasonable efforts to acquire, in connection with its obligations pursuant to Section 15 of the FPL/GMEC Contract, Green Tags from at least: 40 percent new sources in the beginning year of the Project, 50 percent new sources by the end of 2005, 55 percent new sources by the end of 2006, and 65 percent new sources by the end of 2007. For purposes of this Side Agreement, "new source" means a renewable energy facility that first began operation no earlier than January 1, 1999.
3. As part of its obligation to build or purchase 150 kW of solar PV for the first 10,000 participating customers, GMEC intends to build or purchase 50 kW of PV capacity as part of the initial market launch of the Project. This 50 kW of PV capacity will count towards the 150 kW PV capacity per 10,000 participating customers commitment FPL made in its petition. If customer participation in the Project reaches a point where the number of customers does not increase above a 10,000 customer increment for a period of one year, then GMEC shall use commercially reasonable efforts to build or purchase PV capacity in an amount equivalent to 0.015 kW times the highest number customers above the last 10,000 customer increment for which GMEC was obligated to build or purchase PV capacity. For example, if participation reaches a maximum of 45,000 customers during a one-year period and GMEC has already built or purchased 600 kW of PV capacity, then GMEC would use commercially reasonable efforts to build or purchase an additional 75 kW of PV capacity.
4. Depending on availability and price, GMEC will use commercially reasonable efforts to include at least 1.5 percent of the total kWh of Green Tags purchased by FPL for the Project from wind energy facilities.
5. Notwithstanding the foregoing, the Parties agree that there will be no penalty to Green Mountain under this Side Letter Agreement or under the FPL/GMEC Contract, and it will not be a default under this Side Letter Agreement or a Default (as such term is defined in the FPL/GMEC Contract) under the FPL/GMEC Contract, in the event that Green Mountain is unable to meet the targets identified in paragraphs 1, 2 and 4.

For FPL

Signed: Dem Pradst Date: 1/9/04

For GMEC

Signed: JRT Swg Date: 1/9/2004

SIDE LETTER AGREEMENT

June 13, 2006

Green Mountain Energy Company
300 West 6th Street, 9th Floor
Austin, Texas 78701
Attention: Paul Markovich

Re: Modifications to the Trademark License and Services Agreement, dated as of July 30, 2003, by and between Florida Power & Light Company ("FPL") and Green Mountain Energy Company ("Green Mountain"), as amended (the "Program Agreement")

Dear Paul,

This letter memorializes the agreement of FPL and Green Mountain as follows:

1. Capitalized terms used but not defined herein shall have the meaning set forth in the Program Agreement.
2. FPL agrees that it shall file with the Florida Public Service Commission such tariffs and other documents as may be required for approval, and FPL shall use its commercially reasonable efforts to cause such approval, of the use of non-photovoltaic solar resources to meet the solar obligations under the FPL Green Pricing Program and the Solar Resource construction obligations under the Program Agreement.
3. In the event that the FPL Green Pricing Program is in any way amended such that Customers continue to be served under such FPL Green Pricing Program, even if new Customers are no longer added to or enrolled in such FPL Green Pricing Program, then Green Mountain and FPL agree that Green Mountain shall have the right, at its sole option, to either: (a) continue to serve such Customers as provided in the Program Agreement; or (b) terminate the Program Agreement upon written notice to FPL, without payment of any termination fee or other penalty, provided Green Mountain is not in Default, as provided in the Program Agreement.
4. The assignment of the Energy Attributes Sale Agreement, by and between PVOne, LLC and Green Mountain dated as of June 13, 2006 ("Solar Tag Agreement"), to FPL in accordance with its terms and the terms of the

Modification to the Trademark License and Service Agreement

June 13, 2006

Page 2

Assignment and Assumption Agreement attached thereto, shall not affect FPL's obligations under the terms of the Program Agreement (including without limitation its obligations to pay any Termination Fee under Section 20.4 of the Program Agreement).

Each of Green Mountain and FPL shall indicate its acknowledgement and approval as described herein, by duly executing this letter below.

Sincerely,

Florida Power & Light Company

By: _____

Name: _____

Title: _____

Acknowledged and Agreed:

Green Mountain Energy Company

By: _____

Name: _____

Title: _____

Date: _____

Modification to the Trademark License and Service Agreement

June 13, 2006

Page 2

Assignment and Assumption Agreement attached thereto, shall not affect FPL's obligations under the terms of the Program Agreement (including without limitation its obligations to pay any Termination Fee under Section 20.4 of the Program Agreement).

Each of Green Mountain and FPL shall indicate its acknowledgement and approval as described herein, by duly executing this letter below.

Sincerely,

Florida Power & Light Company

By: MSantos
Name: Marlene Santos
Title: VP, Customer Service

Acknowledged and Agreed:

Green Mountain Energy Company

By: _____
Name: _____
Title: _____
Date: _____

Modification to the Trademark License and Service Agreement

June 13, 2006

Page 2

Assignment and Assumption Agreement attached thereto, shall not affect FPL's obligations under the terms of the Program Agreement (including without limitation its obligations to pay any Termination Fee under Section 20.4 of the Program Agreement).

Each of Green Mountain and FPL shall indicate its acknowledgement and approval as described herein, by duly executing this letter below.

Sincerely,

Florida Power & Light Company

By: _____
Name: _____
Title: _____

Acknowledged and Agreed:

Green Mountain Energy Company

By: Paul O'R
Name: _____
Title: _____
Date: _____