

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:** July 17, 2008

**TO:** Office of Commission Clerk (Cole)

**FROM:** Office of Strategic Analysis & Governmental Affairs (Sickel)  
Division of Economic Regulation (Kummer)  
Office of the General Counsel (Hartman)

*Handwritten signatures and initials: JSB, RT, and others.*

**RE:** Docket No. 080283-EQ – Petition for approval of revisions to renewable energy tariff, by Florida Public Utilities Company.

**AGENDA:** 07/29/08 – Regular Agenda –Tariff Filing – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** 01/20/09 (8-Month-Effective-Date)

**SPECIAL INSTRUCTIONS:** Place next to items on Agenda for Docket Nos. 080184-EQ, 080187-EQ, 080193-EQ, and 080194-EQ

**FILE NAME AND LOCATION:** S:\PSC\SGA\WP\080283.RCM.DOC

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### Case Background

Since January 1, 2006, each investor-owned electric utility (IOU) has been required to continuously offer to purchase capacity and energy from specific types of renewable sources. Section 366.91(3), Florida Statutes (F.S.), specifies that the contracts for purchase must be based on the utility's full avoided cost as defined in Section 366.051, F.S., and provide a term of at least ten years. Rules 25-17.200 through 25-17.310, Florida Administrative Code (F.A.C.), implement the statutes.

On April 14, 2008, Florida Public Utilities Company (FPUC or Company) provided a letter to staff advising that FPUC had an approved energy tariff and standard offer contract in

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force for renewable generators, available and in effect since it was approved by the Commission on December 27, 2005.<sup>1</sup> FPUC explained further that some revisions would be needed to reflect the results of a pending rate case. On May 20, 2008, FPUC filed a petition requesting approval of revisions to the Renewable Energy Tariff.

Because FPUC does not own or operate any electric generating plants, this utility does not have any planned generating unit that can be avoided. For such a circumstance, Rule 25-17.250(1), F.A.C., requires the utility to base the standard offer contract on avoiding or deferring a planned purchase. In the current filing, FPUC proposes modifications and revisions to costs that reflect the Company's recently concluded rate case.<sup>2</sup>

The Commission has jurisdiction over this matter pursuant to Sections 366.04 through 366.06, 366.91, and 366.92, F. S.

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<sup>1</sup> See Order No. PSC-05-1260-TRF-EQ issued in Docket No. 050809-EQ, In Re: Petition for Approval of renewable energy tariff by Florida Public Utilities Company.

<sup>2</sup> See Order No. 080327-FOF-EI, issued may 19, 2008 in Docket No. 070304-EQ, In Re: Petition for rate increase by Florida Public Utilities Company.

### Discussion of Issues

**Issue 1:** Is the standard offer contract filed by Florida Public Utilities Company in compliance with Rules 25-17.200 through 25-17.310, F.A.C.?

**Recommendation:** Yes. The Standard Offer Contract proposed by FPUC is in compliance with Rules 25-17.200 through 25-17.310, F.A.C., and therefore should be approved. (Kummer, Sickel)

**Staff Analysis:** Because the company is an IOU, Rule 25-17.250(1), F.A.C., requires FPUC to continuously make available a standard offer contract for purchase of firm capacity and energy from renewable generating facilities and small qualifying facilities with a design capacity of 100 kW or less. Since FPUC does not generate any electric energy for sale to retail customers, FPUC does not file a Ten-Year Site Plan and has no planned unit that can serve as an avoided unit. In such a case, Rule 25-17.250(1), F.A.C., requires that the standard offer be based on avoiding or deferring a planned purchase. The standard offer provided by FPUC meets this requirement.

The petition by FPUC seeks limited modifications to the utility's standard offer for renewable generation that has been in effect since it was first approved on December 27, 2005.<sup>3</sup> The changes include revisions to change all references formerly reading the "Marianna Division" to read "Northwest Florida Division"; all references to "Fernandina Beach" to read "Northeast Florida Division"; and various revisions to the rates and fees set out in the tariff.

FPUC explains that portions of the tariff require revision to reflect decisions in the recent rate case.<sup>4</sup> Various tariff sheets are revised to be consistent with revised costs for operation and maintenance activities, as well as other expenses that were included in the rate case. The proposed revisions merely update the information relating to payments to the cogenerator, or add payment information for an additional year.

FPUC has not made any change to the operating arrangements that were in the standard offer contract that has been in force since it was approved on December 27, 2005, in Docket No. 050809-EQ.<sup>5</sup> The contract has no subscription limit, and is based on full avoided cost for the power purchase agreements under which the company is now operating. The contract term is for not less than ten years.

In the view of staff, the proposed tariff revisions are reasonable updates that reflect the changes to costs incurred by the Company. The provisions of the standard offer, including proposed tariff revisions, are in compliance with Rules 25-17.200 through 25-17.310, F.A.C., and continue to satisfy the intent of the Legislature to encourage renewable energy projects.

In conclusion, staff believes that FPUC's proposed standard offer contract is in compliance with Rules 25-17.200 through 17-25.310, F.A.C., and should therefore be approved.

<sup>3</sup> See Order No. PSC-05-1260-TRF-EQ, op. cit.

<sup>4</sup> See Docket No. 070304-EQ, op. cit.

<sup>5</sup> Op. cit.

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**Issue 2:** Should this docket be closed?

**Recommendation:** If the Commission approves staff's recommendation to approve the proposed Standard Offer Contract and tariffs filed by FPUC, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 080283-EQ should be closed, and the Standard Offer Contracts and tariffs filed by FPUC should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that FPUC's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised. (Hartman)

**Staff Analysis:** If the Commission approves staff's recommendation to approve the proposed Standard Offer Contract and tariffs filed by FPUC, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 080283-EQ should be closed, and the Standard Offer Contracts and tariffs filed by FPUC should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that FPUC's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.