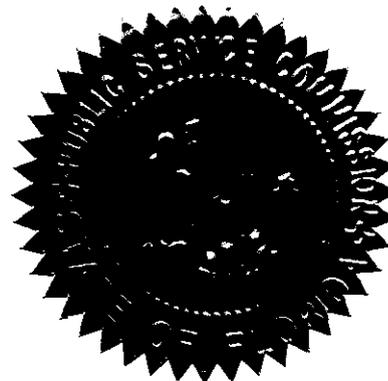


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080193-EQ

In the Matter of:

PETITION FOR APPROVAL OF RENEWABLE
ENERGY TARIFF AND STANDARD OFFER
CONTRACT, BY FLORIDA POWER & LIGHT
COMPANY.



PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 8

BEFORE: CHAIRMAN MATTHEW M. CARTER, II
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, July 29, 2008

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: LINDA BOLES, RPR, CRR
(850) 413-6734

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 07178 AUG 13 8

FPSC-COMMISSION CLERK

1 PARTICIPATING:

2 VICKI GORDON KAUFMAN, ESQUIRE, appearing on behalf of
3 Wheelabrator Technologies, Inc.

4 WADE LITCHFIELD, ESQUIRE, appearing on behalf of
5 Florida Power & Light Company.

6 JENNIFER BRUBAKER, ESQUIRE, appearing on behalf of
7 Commission staff.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

* * * * *

1
2
3 CHAIRMAN CARTER: We now will have -- on Item 8,
4 Commissioners, we have Vicki Kaufman who wanted to make a brief
5 statement.

6 MS. KAUFMAN: Thank you, Mr. Chairman, Commissioners.

7 I am Vicki Gordon Kaufman with the ASG Litigation
8 Group here in Tallahassee, and I'm appearing on behalf of
9 Wheelabrator Technologies, Inc., who, as you know from prior
10 appearances before you, is a renewable generator here in
11 Florida.

12 Our comments concern the Florida Power & Light
13 standard offer contract which is before you today for approval.
14 Essentially we have a number of issues with many of the terms
15 and conditions that are in this contract. I would point out to
16 you that since the requirement that a continuous standard offer
17 be available, which I think the Legislature passed in 2006, we
18 have not had a hearing on the standard offer contract and the
19 terms and conditions. Given all of the attention and the
20 legislation directed toward the encouragement of renewable
21 energy, we think it's time to take a hard look at some of these
22 terms and conditions, go to an evidentiary hearing and let you
23 hear why it is that to our knowledge no one in the State of
24 Florida has signed one of these standard offer contracts.

25 I was prepared to go and give you numerous examples

1 of the clauses that we have issue with and that we think are
2 not commercially reasonable and that we think are not only not
3 encouraging the development of renewable energy but actually
4 discouraging it, and I'd be glad to do that if any of the
5 Commissioners would like me to. I understand you have a full
6 agenda, and if you don't want to hear that presentation, I'll
7 leave it for another time.

8 But my message to you today is Wheelabrator has been
9 attempting for some time to have an evidentiary hearing on this
10 contract. And what we would ask you to do today, since this is
11 a PAA, is to set this matter directly for hearing, have a
12 hearing, hear the evidence, hear from the experts. And to the
13 extent you think, as we do, that some of these terms are
14 inappropriate in the climate that we are in today, to modify or
15 to change them.

16 We've had a timing issue as you're aware in the past
17 because these contracts get filed every April 1, and by the
18 time we get to the point of a hearing, the new vintage of
19 contract has already been filed. That's what happened last
20 year. So what we'd like to see is for you to set it straight
21 for hearing, let's get on to the substance of the issue, let's
22 have the parties that do have concerns raise them and get a
23 determination and maybe get a contract out there that at least
24 in Wheelabrator's view would be one that renewable generators
25 could live with and provide more renewable capacity in the

1 state. Thank you.

2 CHAIRMAN CARTER: Commissioners, let's, let's hear
3 from staff and then we'll take whatever questions and comments
4 you have.

5 Staff.

6 MS. BRUBAKER: Commissioners, it's really at the
7 Commission's pleasure whether, whether to set the standard
8 directly for hearing or go ahead and pursue this item as it's
9 originally noticed as a PAA. We are on notice that a party, if
10 the item as a PAA is approved, that there will be a protest.

11 In terms of whether there will be any additional
12 delay associated with approving the item as a PAA, I don't
13 think there will be. The Commission calendar is very full, but
14 staff will commit to as of today looking for available hearing
15 dates for the matter. Certainly if you wish to pursue the
16 matter as a PAA, staff will commit also to getting the order
17 out very quickly to help abbreviate any associated delay with
18 that. So it's really a matter of the Commission's pleasure.
19 Staff is happy to continue to support the item as a PAA. If
20 you wish to set it directly for hearing, it perhaps might be
21 appropriate to hear from FPL whether they have any objection or
22 concerns about that as the other affected party.

23 CHAIRMAN CARTER: Let's do that. Mr. Litchfield,
24 good morning.

25 MR. LITCHFIELD: Good morning. Thank you, Mr.

1 Chairman.

2 From FPL's perspective, we would support staff's
3 recommendation and the PAA process for this reason: We would
4 suggest that Wheelabrator, if they choose to protest, go ahead
5 and do so. What that would do, of course, it would identify
6 for staff, for the Commission and for FPL where they think the
7 issues are, where the concerns are in the form of the protest,
8 and I think would better facilitate the process moving forward.

9 CHAIRMAN CARTER: Commissioners?

10 MS. BRUBAKER: Mr. Chairman, may I? I'm sorry.

11 CHAIRMAN CARTER: Oh, Ms. Brubaker.

12 MS. BRUBAKER: Just one thing to add. Our General
13 Counsel has reminded me that since this item is a tariff,
14 perhaps there might be some advantage to issuing that as a PAA.
15 The vote to approve would put that tariff into effect. And
16 with even a protest in place, the tariff would remain in
17 effect, and that would be, I think, procedurally a cleaner way
18 to proceed. Again, staff will do what it can to minimize any
19 lag associated with the order and protest period.

20 CHAIRMAN CARTER: Commissioner Edgar.

21 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

22 So just to clarify I think on the same point, if we
23 were to approve this and then it were to subsequently be
24 protested, during, during that protest time and as we move to
25 hearing and went through that process, the standard offer

1 contract would be in effect and would be available should there
2 be entities that would like to utilize it.

3 MS. BRUBAKER: That's correct, Commissioner. In
4 fact, the last issue of this recommendation contemplates that
5 scenario and mentions that parties who wish to go ahead and
6 engage into that contract may do so with knowledge that it is
7 under protest and there may be some changes resulting.

8 COMMISSIONER EDGAR: Thank you.

9 CHAIRMAN CARTER: Thank you.

10 Commissioner McMurrin.

11 COMMISSIONER McMURRIAN: Thank you. And one
12 question, given what we've heard today, and I didn't know -- I
13 should clarify this first. You said that you had heard that it
14 would be protested if we voted this PAA out today. Was that
15 from Wheelabrator or another party as well?

16 MS. BRUBAKER: Just this morning from Wheelabrator.

17 COMMISSIONER McMURRIAN: Okay. And there's nothing
18 precluding us, if we voted out this PAA, from going ahead and
19 looking on the calendar and trying to find dates, given the
20 expectation that there would be a protest.

21 MS. BRUBAKER: Absolutely. And staff certainly would
22 do so.

23 COMMISSIONER McMURRIAN: Okay. I guess,
24 Commissioners, I'm in favor in the staff recommendation, given
25 the concerns raised by Ms. Brubaker.

1 CHAIRMAN CARTER: Thank you.

2 Commissioners, anything further?

3 COMMISSIONER EDGAR: Mr. Chairman, I would make a
4 motion for the staff recommendation, recognizing and concurring
5 with the discussion about if a protest is filed, setting it for
6 hearing. I think it's important that there be a standard offer
7 contract in place. I recognize that this Commission has worked
8 with all parties to, to try to come up with a standard offer
9 contract that is workable and does eliminate some of the
10 barriers that we had heard about previously in discussions.
11 But I also am glad to take another look at it and see if there
12 are improvements that can be made through that hearing process.
13 So, again, I'd make a motion in favor of the staff
14 recommendation.

15 COMMISSIONER ARGENZIANO: Second.

16 COMMISSIONER McMURRIAN: Second.

17 CHAIRMAN CARTER: It's been moved and properly
18 seconded. Any further questions or discussion or debate?
19 Hearing none, all those in favor, let it be known by the sign
20 of aye.

21 (Unanimous affirmative vote.)

22 CHAIRMAN CARTER: All those opposed, like sign.
23 Show it done. Thank you, staff.

24 (Agenda Item 8 concluded.)

25 * * * * *

1 STATE OF FLORIDA)
 :
 2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 13th day of August, 2008.

Linda Boles
 LINDA BOLES, RPR, CRR
 FPSC Official Commission Reporter
 (850) 413-6734