

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: August 21, 2008

TO: Office of Commission Clerk (Cole)

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

T/B
JSB
Tyler
[Signature]

RE: Docket No. 080501-EI – Petition for waiver of Rule 25-17.250(1) and (2)(a), F.A.C., which requires Progress Energy Florida to have a standard offer contract open until a request for proposal is issued for same avoided unit in standard offer contract, and for approval of standard offer contract.

AGENDA: 09/04/08 – Regular Agenda – Tariff Filing– Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 9/12/08 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\SGA\WP\080501.RCM.DOC

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Case Background

On February 22, 2007, the Commission adopted amendments to Rule 25-17.0832, Florida Administrative Code, and new Rules 25-17.200-25-17.310, Florida Administrative Code (F.A.C.), relating to renewable generating facilities. The new rules require each investor-owned utility (IOU) to file with the Commission by April 1 of each year a standard offer contract for the purchase of firm capacity and energy from renewable generating facilities and small qualifying facilities with a design capacity of 100 kW or less. The revised standard offer contracts reflect each utility's next avoided unit shown in its most recent Ten Year Site Plan.

DOCUMENT NUMBER-DATE

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Progress Energy Florida, Inc., (PEF or Company) filed the required standard offer contract and associated tariffs on April 1, 2008 in Docket No. 080187-EQ. Its petition requested approval of a standard offer contract and associated tariffs based on its Ten-Year Site Plan for 2008-2017. The Company's 2008 Ten-Year Site Plan included only one fossil based unit that could serve as the avoided unit, the Suwannee River Unit 4, planned to begin commercial operation in June 2013.

Subsequently, on July 15, 2008, PEF filed a petition for waiver of Rule 25-17.250(1) and (2)(a), F.A.C., along with a revised standard offer contract and associated tariffs. PEF requested that no action be taken on the original contract and tariffs filed in Docket No. 080187-EQ, and instead asked that the Commission only take action on the revised contract and associated tariffs filed with its petition for rule waiver in Docket 080501-EI. At the Company's request, its earlier request for approval of the original contract and tariffs was deferred from the July 29, 2008, Agenda.

In its petition for rule waiver, PEF indicates that it does not have an avoided unit for purposes of a standard offer contract because it has issued a RFP for the 2013 Suwannee combined cycle unit, and it does not have any other units in its Ten Year Site Plan that qualify for use as an avoided unit. PEF has proposed to continue the 2013 Suwannee combined cycle unit with updated pricing, to serve as its proxy avoided unit for use in connection with its renewable standard offer contract.

Pursuant to Section 120.542, Florida Statutes (F.S.), notice of the petition for waiver of rule was published in the Florida Administrative Weekly on August 8, 2008. Interested parties have until August 22, 2008, to submit written comments.

The Commission has jurisdiction over these contracts under Section 366.04, 366.06, and 366.91, F.S.

Discussion of Issues

Issue 1: Should the Commission suspend the renewable standard offer contract and associated tariffs filed by Florida Progress Energy Florida, Inc. as part of its request for rule waiver?

Recommendation: Yes.

Staff Analysis: Pursuant to Section 366.06(3), F.S., the Commission may withhold consent to the operation of all or any portion of a new rate schedule, delivering to the utility making the request a reason or written statement of good cause for doing so within 60 days. Staff recommends that the contract and associated tariffs be suspended. The time for comment on PEF's requested rule waiver has not expired as of the time this recommendation was filed. Interested parties still have until August 22, 2008, to submit written comments regarding the rule waiver. Suspending the tariffs also will allow staff adequate time to receive comments, review the petition for rule waiver and the contract, and bring a recommendation back to the Commission on the merits of the proposal.

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Issue 2: Should this docket be closed?

Recommendation: No.

Staff Analysis: If the Commission approves Issue 1, the docket should remain open to allow staff adequate time to review the filings and bring a recommendation back to the Commission on the merits of the filings.