

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of revisions to renewable energy tariff by Florida Public Utilities Company. | DOCKET NO. 090155-EQ
ORDER NO. PSC-09-0519-TRF-EQ
ISSUED: July 24, 2009

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

ORDER APPROVING STANDARD OFFER CONTRACT AND
ASSOCIATED TARIFFS FILED BY FLORIDA PUBLIC UTILITIES COMPANY

BY THE COMMISSION:

Background

Since January 1, 2006, each investor-owned electric utility (IOU), as well as each electric municipal utility subject to the Florida Energy Efficiency and Conservation Act (FEECA),¹ 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 March 31, 2009, Florida Public Utilities Company (FPUC or Company) filed its petition for 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 units 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.

We have jurisdiction over this matter pursuant to Sections 366.04 through 366.06, 366.91, and 366.92, F.S.

Decision

Because the utility 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

¹ Sections 366.80-366.85 and 403.519, F.S.

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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 contract provided by FPUC meets this requirement.

As FPUC has two geographic regions, rate schedules for two different divisions have been submitted, with different characteristics. The first is the Northwest Florida division, which consists of FPUC territories in Jackson, Calhoun, and Liberty Counties. The second is the Northeast Florida division, which consists of FPUC territory in Nassau County. Each division has different pricing for As-Available Energy, identified as rate schedule REN-1, and Firm Power, identified as rate schedule REN-2, which were attached to its petition.

The Northwest division's proposed rate schedule pricing features a significant change in pricing, as the REN-2 rate schedule is estimated at \$0.00/kw. This results in renewable energy providers being able to receive energy payments, but no capacity payments. This is the result of the contract methodology used in FPUC's contract with Gulf Power Company for delivery of power to the Northwest division. FPUC's contract contains a ratchet provision, establishing a minimum charge to FPUC based upon the level of peak demand observed when the contract was first initiated. FPUC is projected to be at or below this minimum demand level for 2009, so any further reduction in demand would not reduce contracted payments to Gulf Power Company. In the event of future increases in demand above the minimum set by the contract, a renewable energy provider could contribute to avoiding additional capacity. In this event, FPUC would revise these estimates and reward a capacity payment based upon the avoided cost.

The Northeast division's proposed rate schedule pricing retains a capacity payment, as it receives power through JEA, formerly Jacksonville Electric Authority, under a separate contractual agreement which does not have a similar ratchet provision. Energy payments for both divisions were adjusted to reflect the current avoided contracted cost. Excluding modifications to capacity and energy payments discussed above, no other modifications were made to the Renewable Energy Tariff approved by us last year.

We find that the payments for capacity and energy provided for in the tariff revisions are representative of the Company's avoided cost. The provisions of the standard offer contract, 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 and are, therefore, approved.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Standard Offer Contract and associated tariffs proposed by Florida Public Utilities Company are hereby approved, effective June 30, 2009. It is further

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ORDERED that if no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 090155-EQ shall be closed upon the issuance of a Consummating Order. If a protest is filed within 21 days of the issuance of this Order, the tariffs shall 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.

By ORDER of the Florida Public Service Commission this 24th day of July, 2009.



ANN COLE
Commission Clerk

(SEAL)

JEH

NOTICE OF FURTHER PROCEEDINGS

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the proposed action files a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 14, 2009.

In the absence of such a petition, this Order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.