

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: February 27, 2019
TO: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk
FROM: Samantha Cibula, Office of the General Counsel *S.M.C.*
RE: Docket No. 20001574-EQ

Please file the attached materials in the docket file listed above.

Thank you.

Attachment

CC: COMMISSION
CLERK

2019 FEB 27 PM 4:28

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET No. 001574-EQ,

IN RE: PROPOSED AMENDMENTS TO RULE 25-17.0832, F. A. C.,

FIRM CAPACITY AND ENERGY CONTRACTS

SUPPLEMENTAL COMMENTS OF GERARD J. KORDECKI

ON BEHALF OF

LEE COUNTY, FLORIDA,

MIAMI-DADE COUNTY, FLORIDA,

AND

MONTENAY-DADE, LTD.

MARCH 7, 2003

DOCKET NO. 001574-EQ, IN RE: AMENDMENT OF COGENERATION RULES

SUPPLEMENTAL COMMENTS OF GERARD J. KORDECKI

1 **Q. Please state your name, address and occupation.**

2 A. My name is Gerard J. Kordecki. My business address is 10301 Orange Grove
3 Drive, Tampa, Florida 33618. I am self-employed as an Energy and
4 Regulatory Consultant.

5 **Q. Mr. Kordecki, have you previously filed comments in this docket?**

6 A. Yes, I filed comments on March 1, 2002.

7 **Q. What is the purpose for your supplemental comments?**

8 A. My comments address the additional proposed amendments to the rule
9 submitted to the Commission on February 27, 2002 on behalf of Lee County,
10 Miami-Dade County, and Montenay-Dade, Ltd. (collectively, "the Petitioners").
11 These proposed amendments were consolidated into this rule docket on
12 March 14, 2002. I will also comment on some of the utility responses to the
13 staff's proposed amendments, the amendments proposed by Lee County,
14 Miami-Dade County, and Montenay-Dade, Ltd., and on issues which arose
15 during the February 25, 2003 Commission Staff workshop.

16 **Standard Offer Capacity Payments and Determination of Avoided Cost**

17 **Q. What was the first amendment in the February 27th, 2002 submission?**

1 A. The first amendment proposed by the Petitioners is intended to more closely
2 match standard offer contract payments to QFs with the costs that the utility
3 would otherwise incur, as the utility would incur them. This amendment is as
4 follows:

5 (4) Standard Offer Contracts.

6 * * *

7 (b) The rates, terms, and other conditions contained in each
8 utility's standard offer contract or contracts shall be based on the need
9 for and equal to the avoided cost of deferring or avoiding the
10 construction or purchase of additional generation capacity or parts
11 thereof by the purchasing utility. Each standard offer contract shall
12 provide the option for the qualifying facility to be paid rates equal to the
13 costs that would be borne by the utility's general body of ratepayers if
14 the utility were to build its avoided unit or purchase capacity and
15 energy from another source. Without limitation, this shall include
16 payments calculated on the same basis as the utility's revenue
17 requirements where the qualifying facility signs a standard offer
18 contract with a term equal to the projected life of the avoided unit,
19 payments calculated on the same basis as payments to be made
20 pursuant to a power purchase arrangement where such power
21 purchase is the generation resource avoided by the purchase from the
22 qualifying facility, and payments calculated on the same basis as the
23 utility's proposed revenue requirements for a proposed plant where the
24 utility plans to limit cost recovery for the proposed plant to a fixed
25 period of time. This requirement shall not preclude the use of the value
26 of deferral payment methodology to calculate capacity payments where
27 the qualifying facility proposes to sign a contract with a term less than
28 the projected life of the avoided unit. Rates for payment of capacity
29 sold by a qualifying facility shall be specified in the contract for the
30 duration of the contract. In reviewing a utility's standard offer contract
31 or contracts, the Commission shall consider the criteria specified in
32 paragraphs (3)(a) through (3)(d) of this rule, as well as any other
33 information relating to the determination of the utility's full avoided
34 costs.

35 The proposed amendment very simply does three things. It expands
36 the applicability of the standard offer contracts to purchase power contracts

1 and to utility plants where the utility proposes to limit the cost recovery to a
2 fixed period of time and lastly, requires the utility to pay the Qualifying
3 Facilities (QF's) the same revenues, in the same way as the utility would
4 receive them if the utility had built the plant. In this latter instance the QF must
5 be willing to sign a contract which covers the projected life of the avoided unit.

6 There may be occasions when a utility may sign -- or may have the
7 opportunity to sign -- a firm power purchase agreement in lieu of building a
8 plant. If this situation arises and the contractual performance requirements
9 are such that a qualifying facility could meet the criteria, then it would be
10 appropriate that the QF be eligible through a standard offer to meet the
11 purchase requirements if the purchase is considered as the avoided unit. A
12 unit power sale/purchase would be the most obvious example of this situation.

13 **Q. Are you familiar with any situations where a utility wanted to rate base a**
14 **unit for a specific period of time then remove it from the rate base?**

15 **A.** I've read about a couple of instances where such treatments were proposed
16 but I haven't heard what the final resolutions were. Situations where the
17 capacity in the rate base is fixed and is less than the life of the unit, fit a
18 standard offer contract situation and the same revenue recoveries proposed
19 by the utility should be applied in the same manner to a QF.

20 **Q. Mr. Kordecki, your amendment proposes that QFs should receive the**
21 **same revenue requirements and in the same manner as if the utility built**

1 **the unit. Isn't it true that the QF would receive the same present value of**
2 **revenues under the present rule through the Value of Deferral**
3 **methodology?**

4 A. Yes the present value of total revenues would be the same but the QF is not
5 receiving the avoided costs in the same manner as the utility receives its
6 revenues. Use of Value of Deferral for life of the unit contracts for QFs is not
7 consistent with the mandates of the Public Utility Regulatory Policy Act
8 (PURPA) and the wishes of the Florida Legislature. Promotion of QFs was
9 deemed to be in the public interest. It was stated that QFs should receive the
10 same level of revenues (i.e., avoided cost) that the utility would have received
11 if the utility had built the capacity. Use of the Value of Deferral capacity
12 payment methodology, which has increasing revenue streams, is not the
13 same as the declining streams in the application of revenue requirements.
14 Use of the Value of Deferral methodology also greatly increases the
15 possibility that, at some point in time, after the QF has been paid much less
16 than the utility's revenue requirements, the QF contract will come to be
17 viewed as undesirable, and even attacked, because it is then "above market."
18 This has already occurred in Florida.

19 Further, this is unfair because cities or counties which own or operate,
20 or both own and operate, waste-to-energy facilities are penalized through the
21 Value of Deferral methodology by losing the higher initial payments that the
22 utility would receive through a revenue requirements collection methodology.
23 The city or county has assumed the same commitment as the utility by signing

1 a contract which covers the expected life of the unit. In fact, the standard offer
2 contract will have certain minimum operating parameters which must be met
3 by the waste energy facility in order to receive the capacity payments. A utility
4 normally doesn't carry these operating requirements in order to "collect" the
5 associated revenue requirements.

6 A simple way to describe the problem is to think about your own
7 financial position. A company offers you a job paying X dollars a year for four
8 years. You have immediate needs to meet mortgage payments, car
9 payments, food and various household bills. The company says it will pay 60
10 percent of X dollars the first year, 90 percent the second and so forth. They
11 say that after four years you will receive on a cumulative basis the present
12 value of four years of X dollars and that you should be indifferent to how you
13 receive the money since you get the total amount after four years. The cities
14 and counties have bills to pay today just like you do.

15 **Term of Standard Offer Contracts**

16 **Q. Mr. Kordecki, what was the second suggested amendment?**

17 A. The second suggested amendment was to change Subsection 25-
18 17.0832(4)(e)7 to provide that, consistent with the utility's obligation to
19 purchase all of the electric power that a QF has available to sell to the utility,
20 the QF would have the option to specify the duration of the standard offer
21 contract. Specifically, the proposed amendment is as follows:

1 (E) Minimum Specifications. Each standard offer contract shall,
2 at minimum, specify:

3 * * *

4 7. The period of time over which firm capacity and energy shall
5 be delivered from the qualifying facility to the utility. Firm capacity and
6 energy shall be delivered, at a minimum, for a period of ten years,
7 commencing with the anticipated in-service date of the avoided unit
8 specified in the contract. At a maximum, firm capacity and energy shall
9 be delivered for a period of time equal to the anticipated plant life of
10 the avoided unit, commencing with the anticipated in-service date of
11 the avoided unit. Consistent with the utility's obligation to purchase the
12 firm capacity and energy that a qualifying facility has available to sell to
13 a utility, the qualifying facility shall have the option to specify the
14 duration of its obligation to deliver firm capacity and energy within the
15 above parameters.

16 **Q What does this amendment accomplish?**

17 A. This amendment addition clarifies the right of a qualifying facility to sell its
18 output to a utility for a period of time between 10 years and the life of the unit.
19 The selection of the period for the purchase is the right of the QF. At first this
20 might appear to be contrary to a utility's planning principles but there is no
21 conflict since the utility is required to only pay avoided costs. With payments
22 at avoided costs, the utility's ratepayers are neutral to the transaction. The
23 qualifying facility may have a number of reasons to pick a specific period for
24 the sale but, no matter what period is selected (minimum of 10 years,
25 maximum life of the unit), the utility's ratepayers are held harmless and may
26 even receive lower costs if the period selected has value of deferral payments
27 which are less than the revenue requirements that a utility would receive if the
28 utility had built the capacity. In the workshop held on February 25th of this

1 year, it was very apparent that there were misunderstandings about the effect
2 of adding the word Page 6 "specific" in the staff's proposed amendment found
3 in the description of "Minimum Specifications" Section (E). The result would
4 be to shift to the utilities the right to name the contract period. With this
5 change in contract responsibility, I do not see any reason that the utilities,
6 acting in their own self-interests, would offer QFs contract periods which go
7 beyond the minimum period (10 years presently, 5 years if the staff
8 recommendation is accepted) since the utilities have nothing to gain. Utilities,
9 being financially rational, would prefer to build capacity and earn a return
10 rather than buy the power from a QF. However, this is contrary to the policy
11 adopted by the U.S. Congress through PURPA and by the Florida Legislature
12 through Section 366.051, Florida Statutes, to encourage cogeneration by
13 requiring utilities to buy the power that a QF has available to sell at the
14 purchasing utility's full avoided cost.

15 **Fuel Cost Risk Management**

16 **Q. What are your suggestions regarding a fuel cost risk management**
17 **amendment?**

18 **A.** The Petitioners' suggestions regarding fuel risk management, with which I
19 agree, arose from comments made by the Commissioners at one or more
20 agenda conferences in which energy payment risk was discussed. The
21 Petitioners' specific proposed amendment is as follows:

1 (d) As a risk management and fuel-cost hedging measure, each
2 public utility subject to this rule shall provide for a minimum of twenty
3 (20) percent of the energy purchased pursuant to standard offer
4 contracts entered into following the effective date of this subsection to
5 be purchased at the projected energy costs reflected in the utility's
6 analyses and plans as of the date that the standard offer contract is
7 executed by the utility and the qualifying facility. Such projected
8 energy costs shall reflect not only the projected fuel costs associated
9 with the avoided unit, but also the avoided operation and maintenance
10 costs of the avoided unit, and shall also be based on the projected
11 operations of the avoided unit as of the time the standard offer contract
12 is executed. Further, all such costs shall be calculated on a directly
13 comparable basis to that upon which the utility would calculate the
14 costs associated with its avoided unit for the purpose of seeking
15 recovery of such costs from its customers if it were to build and operate
16 the avoided unit.

17 **Q. What is the rationale for this amendment?**

18 A. This amendment would provide for some limited fuel cost hedging by
19 providing for fixed energy payments based on projections at the time that the
20 standard offer contract is entered into. It does not require the utility to agree
21 to make all energy payments on the basis of projected energy payments, but
22 rather simply requires that a minimum of twenty (20) percent of the energy
23 purchased under future standard offer contracts be purchased at energy
24 prices that are fixed on the front end. This is no different than the utility
25 entering into a longer-term fuel purchase contract. It will protect the utility
26 against the risk of fuel costs escalating more rapidly than projected at the time
27 that the contracts are entered into. I believe that the 20 percent requirement
28 is a sound risk management measure for the utilities, reasonably balancing
29 the risks of fuel costs going either way, and reasonably giving the utility great

1 leeway, i.e., between 20 and 100 percent, in specifying the amount of energy
2 that they choose to contract for at energy prices that are fixed on the front end

3 **Planning Analyses to Determine Avoided Unit and Avoided Cost**

4 **Q. Have you any other amendments to offer?**

5 A. Yes. The following amendment addresses the planning assumptions in which
6 avoided units and avoided costs are determined:

7 (6) Calculation of standard offer contract firm capacity payment
8 options.

9 (a) Calculation of year-by-year value of deferral. The year-by-
10 year value of deferral of an avoided unit shall be the difference in
11 revenue requirements associated with deferring the avoided unit one
12 year. All analyses to identify the type and timing of a utility's avoided
13 unit, and all calculations of the value of deferral of an avoided unit,
14 shall be conducted on a basis that treats supply-side and demand-side
15 options equally and comparably. Specifically, all such analyses and
16 calculations shall include only the impacts of existing and contractually
17 committed demand-side management measures and shall not include
18 the effects of any projected demand-side management measures that
19 are not already in place or contractually committed to the utility. The
20 value of deferral shall be calculated as follows:

21 **Q. Please describe the effect of this proposed change.**

22 A. By removing the non-committed conservation and load management
23 programs from the forecast, all potential resources that could meet the utility
24 demand will be evaluated on a level playing field. From the responsive
25 comments of the utilities and some limited discussion at the recent workshop,
26 there are three arguments presented against this amendment.

1 First, there is a claim that the utilities can't just start, stop and adjust
2 their demand-side programs. From both experience and observation, utilities
3 have, in fact, made significant program adjustments with very little lead time in
4 many cases. They have also been forced to deal with significant customer-
5 initiated adjustments – i.e., attrition – in their programs on relatively short
6 notice. Due to the limited availability of the standard offer, both in megawatts
7 and fuel sources, only relatively small qualifying facilities are in the market to
8 sell to the utilities. On a practical basis, only small amounts of QF power
9 would be expected to be available at any one time. Adjusting demand-side
10 management programs to reduce not-yet-committed and/or not-yet contracted
11 installations to reflect an addition of a relatively small increment of waste-to-
12 energy supply-side resources would not, in my experience and opinion, be
13 difficult.

14 The next set of comments involved the fact that the Commission had
15 heard similar amendments some 20 years ago. They argue that it would be
16 redundant to hear it again. A lot of water has gone over the dam since then.
17 The applicability of the QF standard offer has been limited significantly and
18 the fear that standard offer customers may not be viable or might walk away
19 and so forth, is not applicable today; this argument is particularly inapplicable
20 to waste-to-energy facilities, which exist primarily for the purpose of disposing
21 of municipal waste using a preferred technology, i.e., combustion to generate
22 power as opposed to a disfavored technology, i.e., landfills. The utilities, since
23 those hearings, have been required to adopt an Integrated Planning Process

1 (IRP) to determine their resource plans. A true IRP would include QFs as
2 potential resources during the planning process. Under the planning practices
3 used by the utilities today, however, QFs appear to be an afterthought to be
4 dealt with after the resource plan is decided.

5 Lastly, the Commission has changed demand-side evaluations. If a
6 program (measure) or the demand reduction's life is not as long as the life of
7 the unit to be "avoided", then a value of deferral methodology will also be
8 included along with revenue requirements analysis in the evaluation. The
9 Value of Deferral methodology can greatly reduce program benefits. Of
10 course, some will say that since a demand-side program must have a
11 cost/benefit of 1.2 or greater contrasted to the avoided costs, how can a
12 standard offer QF be more cost effective?

13 There are several answers. First, QF generation will add to reliability,
14 which, of course, has value; and QF generation, and waste-to-energy
15 generation in particular, will add to reliability more reliably than DSM
16 measures, because it is more reliable on a megawatt-for-megawatt basis and
17 because contracted waste-to-energy generation cannot simply disappear from
18 the utility's system with 30 days notice without incurring substantial penalties,
19 unlike the case of DSM programs. Secondly, many of the "avoided" units have
20 been combined cycle units, which will run well below the incremental
21 generators in an economic dispatch. Ultimately this may mean that a demand-
22 side management measure may have a fuel penalty assigned to the program
23 due to the type of unit being avoided. But the QF will not. Purchased QF

1 power will lead to lower average fuel costs in this case More importantly the
2 QF can select a contract period, which can make the QF option more cost-
3 effective than a conservation program due to lower capacity payments.

4 Another utility argument against removing incremental DSM is that QF
5 capacity payments would be higher. This is true, but only if the QF is the more
6 cost-effective option when evaluated on a truly comparable, level-playing-field
7 basis. For all of these reasons, the commission should require that all
8 incremental demand-side management programs be removed from the
9 forecast that is used to determine the "avoided" unit.

10 **Other Anti-QF Arguments**

11 **Q. Mr. Kordecki, do you have any other concerns about this rulemaking.**

12 A. Yes I do. There seems to be some underlying belief by many of the parties
13 that standard offer power creates undue risks for ratepayers and that the
14 megawatts available from eligible QFs are so small that there is no real value
15 in their purchase. Let's first look at the idea of ratepayer risks associated with
16 purchasing this QF power. If the QF receives only avoided cost, then the
17 ratepayers have no financial risk. The risk of the utility paying more than
18 avoided costs for QF power is not due to the length of the period after the
19 forecast of the avoided unit but to errors (even with prudent estimates) made
20 in the planning analyses and forecasts. This risk is exactly the same, on a
21 present value basis, as the risk associated with the utility building its own unit:
22 if the QF payments are the same as the utility's revenue requirements on a

1 present value basis, and the QF contract comes to be above-market at some
2 future point in time, the utility's self-built unit would also be above-market on a
3 present value basis.

4 It is my understanding that the utility picks the avoided unit (which may
5 or may not be be the next unit) and specifies the operating characteristics of
6 this avoided unit. Along with selecting the unit type and timing, the utility picks
7 the subscription level (number of megawatts). I have no idea how this
8 subscription level is determined. The utility tells any potential QFs what the
9 required operating performance parameters will be in order for the QF to
10 receive full (or even any) capacity payments. With these performance
11 standards, the utilities' ratepayers are protected against poor operating
12 performance. I might add, in most cases, utilities do not have performance
13 standards assigned to assets which the utilities must reach in order to
14 receive the revenue requirements from those assets. The planning process
15 as far as lead time for generation unit construction is much shorter today with
16 the selection of simple combustion turbine technology without steam
17 generators driven by heat recovery from the CT exhaust gases. The lead time
18 now ranges from 18 months to 36 months.

19 What this all means is that if there are risks being created with
20 generation selection, the utilities are the ones creating the risks in their
21 planning processes. The highest risk is created when the utility builds the unit
22 and receives revenue requirements over the life of the unit, typically twenty or
23 thirty years, and sometimes longer in practice. If avoided costs are accurately

1 forecasted then the QF receives the costs and the ratepayers are unaffected.
2 Allowing the utilities to only offer short term contracts, which have low
3 capacity payments due to the value of deferral valuation methodology, only
4 discourages QF investment which in turn, encourages utility construction
5 which has the highest potential risks over its life.

6 **Q. What about the argument that small incremental megawatts of capacity**
7 **have little or no value?**

8 A. All generation resources have value. If every megawatt that a utility might
9 have that is over and above its reserve margin or other planning criteria were
10 deemed to have no value, then I would expect that the value of that plant
11 would not be allowed in the utility's rate base and no earnings for that plant
12 would be allowed. It is well understood that plant additions are lumpy in the
13 sense that from year-to-year there will not be an exact match of plant and
14 level of plant need.

15 The addition of standard offer QFs generally will have addition sizes
16 similar to some of the conservation programs of the utilities. Though these
17 programs and QF power are dissimilar in operation, they are somewhat
18 comparable in size and collectively support the utilities' overall resource
19 plans.

20 At this time, Florida has a total of 11 waste-to-energy plants with 357.2
21 megawatts of firm capacity committed under contract to Florida load-serving
22 utilities; two other plants have a combined 12.0 MW of power available to sell

1 on a non-firm basis. There can be no doubt that this 357 MW of firm capacity
2 has avoided some significant amount (probably between 350 and 400 MW) of
3 capacity that would otherwise have had to be built by Florida's load-serving
4 utilities or purchased from other sources. This is significant. And, while there
5 may be some differences due to different payments being made to different
6 QFs on the basis of different avoided units that were identified at different
7 points in time, this does not mean that the QFs don't provide significant,
8 meaningful capacity avoidance benefits to the State as a whole, nor does it
9 necessarily mean that the QFs are being paid more than the value that they
10 provide.

11 **Q. Mr. Kordecki, does this conclude your comments?**

12 **A. Yes, it does.**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by hand delivery (*), or by U.S. Mail, on this 7th day of March, 2003, to the following:

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 001574-EQ,

**IN RE: PROPOSED AMENDMENTS TO RULE 25-17.0832, F. A. C.,
FIRM CAPACITY AND ENERGY CONTRACTS**

SUPPLEMENTAL COMMENTS OF DANIEL STROBRIDGE

ON BEHALF OF

PASCO COUNTY, FLORIDA,

AND

HILLSBOROUGH COUNTY, FLORIDA

MARCH 7, 2003

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GENERAL COUNSEL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
PSC DOCKET NO. 001574-EQ, FIRM CAPACITY AND ENERGY
CONTRACTS

COMMENTS OF DANIEL STROBRIDGE

1 My name is Daniel Strobridge, and my business address is Camp Dresser McKee,
2 1715 North Westshore Boulevard, Tampa, Florida 33602. I am employed by Camp
3 Dresser McKee in the development and operation of municipal solid waste facilities, also
4 known as waste-to-energy facilities, in Florida. I am submitting these comments on
5 behalf of Pasco County, Florida, and Hillsborough County, Florida, in support of the
6 proposed rules offered by Lee County, Miami-Dade County, and Montenay-Dade, Ltd. in
7 these rulemaking proceedings. My comments address why long-term power sales
8 contracts are required to support the financing of waste-to-energy facilities.

9 **Why Long-Term Contracts Are Required to Finance Waste-to-Energy Facilities**

10 Introduction

11 Camp Dresser & McKee Inc. (CDM) is a nationally recognized engineering firm that
12 has been responsible for the development and implementation of a number of waste-to-
13 energy (WTE) facilities including those in Hillsborough, Pasco and Lee Counties Florida.
14 We have been requested by our Pasco and Hillsborough County clients to submit these
15 comments on their behalf.

1 The Necessity of Long-Term Contracts

2 It is important to note that WTE projects are not developed as electrical generating
3 facilities similar to investor owned utility or independent power production generating
4 facilities. WTE projects are developed as long-term solid waste disposal facilities, which
5 minimize communities' reliance on landfills for solid waste disposal. Electricity generation
6 is a latent or ancillary benefit of solid waste combustion and assists in improving the overall
7 economics of this environmentally sound, and legislatively preferred, method of waste
8 disposal. WTE facilities do not make money for the local governments that they serve. They
9 cost money and the energy and capacity sales revenues merely assist in offsetting some of
10 these costs as described below.

11 Publicly owned WTE facilities are financed with municipal revenue bonds. The
12 interest and principal of revenue bonds are paid for with the revenue that is generated by the
13 enterprise that the bonds are used to finance. Consequently, to obtain revenue bond
14 financing, the financial feasibility of the enterprise, in this case a WTE facility, must be
15 demonstrated to the investment banking community and to the underwriters of the bonds
16 in order to finance the project. This is accomplished by demonstrating that the owner/local
17 government has several key features in place and will keep those features in place during the
18 term of the bonds, which for WTE facilities is typically from 20 to 23 years. The key features
19 previously alluded to include long-term contracts for the sale of energy and capacity, long-
20 term contracts with a qualified operating entity, assurances for long-term supply of solid
21 waste, assurances that user fees (which may include direct user fees charged to the entities
22 that create waste and also "tipping fees" charged to entities that dispose of waste at solid

1 waste facilities) or some other funding mechanism will be in place, and that the local
2 government will have sufficient revenues available from user fees and power sales revenues
3 to meet the debt service on the bonds and to maintain specified minimum cash reserves.

4 WTE facilities and the associated solid waste disposal systems rely upon two revenue
5 streams to meet debt service, O&M, and reserve fund cost obligations. These are revenues
6 from (1) the sale of electric energy and capacity and (2) user fees. User fees are reviewed
7 annually and adjusted if necessary to pay the balance of budget cost requirements that are not
8 met by energy and capacity sales revenues. For the three WTE facilities CDM was
9 instrumental in implementing in Florida, energy and capacity revenues were projected in year
10 2003 to comprise between about 20 and 47 percent of the total system revenue depending
11 upon the specific project. As can be seen from these examples, energy and capacity sales
12 revenues are a significant component of the overall project revenue stream. Without them,
13 the solid waste user charges would be significantly higher. So high, in fact, that certain
14 projects may never have been implemented. (When waste-to-energy projects are not
15 developed, the alternative is disposal of solid waste in landfills.)

16 The demonstrations of financial feasibility and other legal issues are presented in the
17 Official Statement or prospectus for the Revenue Bond Issue. The Official Statement
18 contains an Engineer's Feasibility Statement, which among other things describes the
19 technical aspects of the WTE facility, the contractual arrangements for its construction and
20 operation and energy sales, waste supply availability, financial feasibility analysis, and the
21 sensitivity of financial feasibility to changes in underlying assumptions relative to waste
22 availability, energy revenues, and other economic factors over the term of the bonds. A key

1 conclusion that the investment banking community expects to see with respect to financial
2 feasibility is that the user fees/charges required to support the enterprise are reasonable
3 charges for solid waste disposal in the general geographic area of the facility. Without a
4 long-term energy and capacity contract to provide for a portion of the revenue necessary to
5 finance the system, the user fees would NOT be reasonable and revenue bond financing
6 could not be secured.

7 Other forms of indebtedness such as general obligation (GO) bonds are not a
8 practical option for solid waste disposal facilities because municipal units of government are
9 legally limited to the amount of GO bond indebtedness that they can incur and typically
10 reserve this funding source for non-revenue generating public services such as schools,
11 libraries, police and fire protection.

12 Conclusion

13 Without long-term contracts for energy and capacity sales, WTE projects in Florida
14 would not be economically feasible and could not be financed. The revenue from energy and
15 capacity sales assists in supporting this method of environmentally sound solid waste
16 disposal. The continued availability of long-term contracts for WTE projects is necessary to
17 maintain the viability of this solid waste disposal option to local units of government
18 throughout Florida.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by hand delivery (*), or by U.S. Mail, on this 7th day of March, 2003, to the following:

Richard Bellak, Esq.*
Senior Attorney
Florida Public Service Comm.
2540 Shumard Oak Boulevard
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Tallahassee, FL 32399-0850

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LEAF
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FPC
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GULF

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Vice President
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Lindsey J. Sampson, P.E.
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MAILING ADDRESS:
POST OFFICE BOX 271
TALLAHASSEE, FL 32302-0271

February 24, 2003

TELEPHONE (850) 681-0311
TELECOPY (850) 224-5595
www.landersondparsons.com

VIA HAND DELIVERY

Richard Bellak, Esq.
Senior Attorney
Florida Public Service Commission
2540 Shumard Oak Boulevard
Division of Appeals
Gunter Building, Room 301F
Tallahassee, FL 32399

Re: PSC Docket No. 001574-QF, Cogeneration Rule Amendments

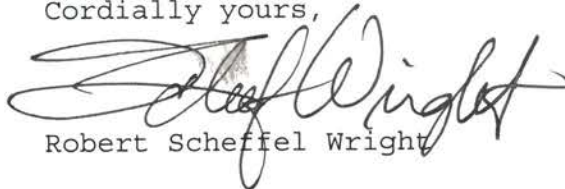
Dear Richard,

On behalf of the Florida city and county governments that own and operate waste-to-energy facilities and that are participating in the above-styled docket, I enclose the attached incentive rate proposal. This proposal is offered as a potential settlement or stipulation of the issues raised in the Public Service Commission's Cogeneration Rules Docket No. 001574-QF. As you will see, the proposal offers discounts in standard offer contract capacity payments from the costs associated with the utility's avoided unit for contracts longer than 5 years, and gives the QF the choice of a longer contract at a greater discount.

I must emphasize that this proposal is offered only as a possible settlement or stipulation to resolve this docket without an adversarial hearing and a rule challenge. Both state and federal law require that QFs, including waste-to-energy facilities as qualifying small power production facilities, are entitled to be paid a utility's full avoided cost for all capacity and energy that a QF is willing to sell to a utility. Accordingly, we ask you to recognize that we are offering this proposal in the spirit of compromise, and that we are offering to give up something to which we are entitled in order to resolve this proceeding in an amicable, rather than an adversarial, way.

Please review this proposal and let us know your thoughts and reactions. We are prepared to discuss this proposal and other issues at the Commission Staff workshop next Tuesday, February 25, 2003. Thanks for your consideration.

Cordially yours,


Robert Scheffel Wright

Enclosure

RECEIVED
GENERAL COUNCIL
FEB 24 PM 1:00

THE FULL TEXT OF THE PROPOSED RULE IS:

25-17.0832 Firm Capacity and Energy Contracts.

(1) Firm capacity and energy are capacity and energy produced and sold by a qualifying facility and purchased by a utility pursuant to a negotiated contract or a standard offer contract subject to certain contractual provisions as to the quantity, time, and reliability of delivery.

(a) Within one working day of the execution of a negotiated contract or the receipt of a signed standard offer contract, the utility shall notify the Director of the Division of Safety Electric and Electric Reliability Gas and provide the amount of committed capacity and the type of generating unit, if any, which the contracted capacity is intended to avoid or defer.

(b) Within 10 working days of the execution of a negotiated contract or receipt of a signed standard offer contract for the purchase of firm capacity and energy, the purchasing utility shall file with the Commission a copy of the signed contract and a summary of its terms and conditions. At a minimum, the summary shall include report:

1. The name of the utility and the owner and operator of the qualifying facility, who are signatories of the contract;
2. The amount of committed capacity specified in the contract, the size of the facility, the type of facility, its location, and its interconnection and transmission requirements;
3. The amount of annual and on-peak and off-peak energy expected to be delivered to the utility;

4. The type of unit being avoided, its size, and its in-service year;
5. The in-service date of the qualifying facility; and
6. The date by which the delivery of firm capacity and energy is expected to commence.

(2) No change.

(3) No change.

(4) Standard Offer Contracts.

(a) Upon petition by a utility or pursuant to a Commission action, each public utility shall submit for Commission approval a tariff or tariffs and a standard offer contract or contracts for the purchase of firm capacity and energy from small qualifying facilities. In lieu of a separately ~~separately~~ negotiated contract, standard offer contracts are available to the following types of qualifying facilities:

1. A small power producer or other qualifying facility using renewable or non-fossil fuel where the primary energy source in British Thermal Units (BTUs) is at least 75 percent biomass, waste, solar or other renewable resource;
2. A qualifying facility, as defined by Rule 25-17.080(3), with a design capacity of 100 kW or less;
or
3. A municipal solid waste facility as defined by Rule 25-17.091.

(b) through (d) No change.

(e) Minimum Specifications. Each standard offer contract shall, at minimum, specify:

1. through 2. No change.
3. The payment options available to the qualifying facility including all financial and economic assumptions necessary to calculate the firm capacity payments available under each payment option and an illustrative calculation of firm capacity payments for a minimum five ~~ten~~ year term contract commencing with the in-service date of the avoided unit for each payment option;
4. through 6. No change.
7. The specific period of time over which firm capacity and energy shall be delivered from the qualifying facility to the utility. Firm capacity and energy shall be delivered, at a minimum, for a period of five ~~ten~~ years, commencing with the anticipated in-service date of the avoided unit specified in the contract. At a maximum, firm capacity and energy shall be delivered for a period of time equal to the anticipated plant life of the avoided unit, commencing with the anticipated in-service date of the avoided unit;
8. through 10. No change.

(f) through (g) No change.

New subsection (4)(h). Incentive Rates for Solid Waste Facilities. In order to give full force and effect to the Legislature's support and encouragement for solid waste facilities in Section 377.709, Florida Statutes, to provide for additional cost-effective power supply to the customers of Florida public utilities, and to improve electric system reliability and security by use of smaller, dispersed renewable energy resources, each public

utility subject to this rule shall offer standard offer contracts to solid waste facilities with the following term and pricing structures:

1. Standard offer contracts with capacity payments equal to the net present value of the capacity-related revenue requirements (including gross costs of capital, depreciation, and fixed operating and maintenance costs) associated with the avoided unit, calculated on a per-megawatt basis, shall be offered for a period of not less than 5 years; provided, however, that if the utility constructs the unit upon which the standard offer contract is based, the solid waste facility shall have the right to extend the term of such standard offer contract for a period up to the estimated useful life of the avoided unit in accordance with this subsection; and further provided, that if the solid waste facility is willing to execute a standard offer contract with a duration equal to the estimated useful life of the avoided unit, then the solid waste facility shall be entitled to capacity payments equal to the utility's estimated capital and other fixed revenue requirements associated with the avoided unit for such estimated useful life.

2. Standard offer contracts with capacity payments that are at least 0.5 percent less than the net present value of the capacity-related revenue requirements associated with the avoided unit, calculated on a per-megawatt basis, shall be offered, at the QF's option, for a period of up to 10 years.

3. Standard offer contracts with capacity payments that are at least 1.0 percent less than the net present value of the

capacity-related revenue requirements associated with the avoided unit, calculated on a per-megawatt basis, shall be offered, at the QF's option, for a period of not less than 15 years.

4. Standard offer contracts with capacity payments that are at least 1.5 percent less than the net present value of the capacity-related revenue requirements associated with the avoided unit, calculated on a per-megawatt basis, shall be offered, at the QF's option, for a period of not less than 20 years.

5. Standard offer contracts with capacity payments that are at least 2.0 percent less than the net present value of the capacity-related revenue requirements associated with the avoided unit, calculated on a per-megawatt basis, shall be offered, at the QF's option, for a period of not less than 25 years.

6. Standard offer contracts with capacity payments that are at least 2.5 percent less than the net present value of the capacity-related revenue requirements associated with the avoided unit, calculated on a per-megawatt basis, shall be offered, at the QF's option, for a period of not less than 30 years.

In view of the fact that such standard offer contracts will have costs less than or equal to the revenue requirements associated with the utility's avoided unit, the Commission will approve such standard offer contracts for cost recovery purposes if they comply with the other applicable provisions of this rule.

(5) through (8) No change.

Specific Authority: 350.127, ~~366.04(1)~~, ~~366.051~~, 366.05(1) ~~& (8)~~, F.S.

Law Implemented: 366.051, 366.81 ~~403-503~~, F.S.

History: New 10/25/90, amended 01/07/97, amended.

MONTENAY POWER CORP.



August 31, 2001

Via Facsimile

The Honorable E. Leon Jacobs, Jr.
Chairman
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0872

Re: Comments of Montenay Power Corp. Regarding Proposed Cogeneration Rule Amendments

Dear Chairman Jacobs:

I write to you to express Montenay Power Corp.'s opposition to the amendments to the Commission's Cogeneration Rules that have been proposed by your Staff and which you will consider at your agenda conference next week. In summary, Montenay opposes the proposed amendments because they will almost certainly result in qualifying Cogeneration and small power production facilities ("QFs") being paid less than the avoided costs associated with the utility's self-build supply option and because they will discourage the development of new Cogeneration and small power production facilities in Florida, to the detriment of Florida electric consumers and Florida's citizens who rely on waste-to-energy facilities to dispose of their municipal solid waste.

While the Staff's goal of protecting ratepayers is certainly laudable, Montenay believes that the proposed amendments will more likely frustrate that goal than serve it. In particular, where the proposed amendments result in payments to QFs below the utility's full avoided cost, which will be a virtually certain result where capacity payments are limited to five years, or even ten years, and where the capacity payments are calculated using the value of deferral methodology, they will discourage the construction of new QFs and will provide incentives to existing QFs not to enter into standard offer contracts with the utility. This will likely lead to the utility building its own "avoided unit," which, by the Staff's own hypothesis -- i.e., that generation costs are decreasing -- will result in the utility's customers bearing costs associated with the utility's self-built unit that are greater than future generation costs. Please note that Montenay is not attempting to argue for payments any greater than the costs that the utility's ratepayers would incur if the utility were to build its own self-build option; Montenay simply believes that Montenay and other eligible QFs should be entitled to the same costs that the utility would otherwise incur, i.e., its full avoided cost as authorized by Section 366.051, Florida Statutes, and by PURPA.

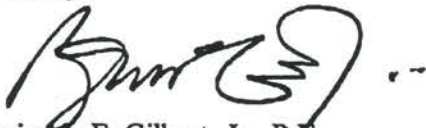


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waste-to-energy facilities, which is set forth in Section 377.709(1), Florida Statutes.

Thank you very much for considering these comments. A representative of Montenay will be present at your agenda conference next week to more fully explain Montenay's position and concerns regarding the proposed amendments. If I can answer any questions, please give me a call at (305) 593-7000.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Gilbert, Jr.", with a stylized flourish at the end.

Benjamin F. Gilbert, Jr., P.E.
Vice President

**MIAMI
DADE**
SOLID WASTE
MANAGEMENT

August 29, 2001

E. Leon Jacobs, Chairman
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0842

RE: FPSC Docket No. 001574-EQ. (Proposed Amendments to 25-17.0832, F.A.C.)

Dear Chairman Jacobs:

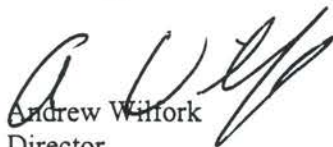
The Miami-Dade County Department of Solid Waste Management administers the contracted operations of the County-owned Resources Recovery Facility. This small qualifying facility (SQF) provides this community with waste disposal services based on a Waste-to-Energy (WTE) technology utilizing municipal solid waste as a fuel source.

For the reasons detailed in the enclosed May 14 letter to Mr. Hewitt of the Commission staff, I am writing to you at this time to urge you to reject proceeding with rule-making pertaining to the proposed amendments (referenced above) being presented at your upcoming meeting on September 4, 2001. As explained in the May 14 letter, under the existing formulas utilized, shorter contract terms tend to unfairly undervalue this critical citizen-owned resource. This is being proposed at a time when local, renewable, reliable fuel sources and energy production technologies and fair pricing should be encouraged in Florida.

In addition, while the Commission staff analysis argues that it is best that IOU ratepayers not be tied to long-term contracts in the event that prices decline, longer term contracts would actually be best for IOU ratepayers should prices increase. Longer contracts introduce greater financial stability into this critical market. Maintaining minimum contract lengths that are in closer alignment with facility life and financing terms reduce risk which, in turn, may have a more significant role in encouraging new capacity than any specific price level.

Thank you for this opportunity to provide you with input. Your time and attention is appreciated. If you should have any questions or require any further information regarding this issue, please contact Ms. Deborah Silver, Executive Assistant to the Deputy Director at 305-594-1530.

Sincerely,


Andrew Wilfork
Director

RECEIVED

AUG 31 2001

FLORIDA PUBLIC SERVICE COMMISSION
Chairman Jacobs

8675 Northwest 53 Street, Suite 201, Miami, Florida 33166 • 305-592-1776

"Love Your Neighbor"



**MIAMI
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SOLID WASTE
MANAGEMENT

May 14, 2001

Craig B. Hewitt
Division of Economic Regulation, Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0842

RE: FPSC Docket No. 001574-EQ. (Proposed Amendments to 25-17.0832, F.A.C.)

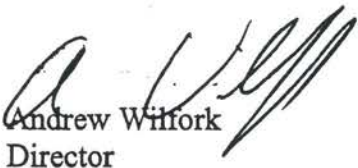
Dear Mr. Hewitt:

Miami-Dade County owns the Miami-Dade County Resources Recovery Facility, a Refuse-Derived-Fuel Waste-to-Energy plant, which serves a major proportion of the disposal needs of the County's 2 million residents. This facility is a small qualifying facility (SQF) pursuant to Commission rules. Accordingly, as an affected party, the County is providing you with this notice of its opposition to rule changes, including the above-referenced, that ultimately reduce the duration of energy sales contracts, particularly as they may apply to "standard offers".

Current rules require that standard contracts offer the SQF prices based on the utility's actual avoided cost, using a "value of deferral" formula. Given its design, the full and fair value of the deferral can only be realized over the entire "life" of the asset deferred. Accordingly, a single long-term deferral would, all other factors being equal, have a higher total value than a series of shorter-term deferrals. Therefore, the proposal to further limit contract duration fails to fairly and equitably take into account the value of the capacity provided.

Given the public ownership status of this and like facilities, any shortfall arising from a reduction in electrical revenues would ultimately be funded by the citizen-owners and all disposal system rate-payers, in this case the residents of Miami-Dade County. In addition to shortchanging these residents, reduced contract durations undervalue many of the benefits of this renewable energy source, such as reduced greenhouse gas emissions and displacement of imported fossil fuels. Accordingly, we oppose such rule changes and strongly encourage a reevaluation of this issue. Please add this agency to any notification lists that you maintain in relation to this subject matter and see the enclosed response for further details concerning your data request.

Sincerely,


Andrew Wilfork
Director

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Miami-Dade County
Response to Data/Information Proposed Rule Amendments to F.A.C. Firm Capacity and Energy
Contracts; Docket No. 001574-Eq.

1. **Please identify and estimate incremental costs to comply with each of the proposed rule requirements, including all potential transactional costs. For purposes of this question, "transactional costs" should include direct costs that are readily ascertainable based upon standard business practices. These costs may include filing fees, costs of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, and the costs of monitoring and reporting.**

The proposed rule change, by potentially shortening the term of SQF electrical sales contracts, would raise costs and/or reduce revenues for this citizen-owned facility in the following manner:

1. Reduced contract durations would result in energy revenues that are severely discounted due to the failure to compensate for the full value of the avoided cost of capacity provision. In accord with the existing "value of deferral" methodology, payments begin low and increase over time, the shorter the term, the proportionately lower the compensation will be for capacity overall.
2. Shorter contract lengths would force local governments to go out into the energy sales market on a more frequent basis resulting in higher administrative costs and added risk due to the increased instability. This in turn will affect the financial markets' evaluation of county/municipal WTE projects, contributing to lower bond ratings and an increased the cost of borrowing for local governments.
3. The proposed changes would discourage SQFs in general, and those utilizing renewable or other innovative technologies in particular at a time when such projects should be encouraged. This will deprive the citizens of Florida of added capacity in general and, more specifically, those with the environmental and long-term economic benefits of utilization of domestic renewable energy sources.

2. **Please identify and estimate additional benefits from the proposed rule.**

From the perspective of the citizen-owners of the Miami-Dade County Resource Recovery Facility, no net benefits have been identified.

3. **Please advise whether your company meets the definition of a small business per Section 288.703(1), Florida Statutes.**

Not applicable.

4. **Please provide any reasonable lower cost alternative method of accomplishing the requirements of the proposed rule. Include the estimated costs of each alternative. If only a modification of the proposed rule is suggested, please also include any related expenses/savings on the modification compared to the expense/savings on the proposed rule identified in questions 1. and 2.**

In that the proposed rule used in conjunction with the existing payment formula results in a severe under-valuation of generating capacity, we are also opposed to any alternatives. In that the proposed rule reduces the potential for long-term stability in the market, a desired feature, particularly for local governments and financial markets, we are similarly opposed to any alternatives. We welcome proposals that address these concerns.

5. **Please provide additional comments or cost estimates that may be useful to the Commission or its staff in assessing the economic impacts of the proposed rule. Please include any company-recommended modifications and related expenses/savings if not covered above.**

Publicly-sponsored biomass facilities, such as the Miami-Dade County Resource Recovery Facility, currently supply slightly less than two percent of Florida's energy needs while simultaneously providing numerous environmental benefits and meeting the disposal demands of our growing economy. These facilities are largely owned by the citizens and provide a critical public service; the sponsoring local communities are committed for the long term. Compensation for the public's investment in this capacity is returned to the community. The full value of that capacity ought to be recognized and the term over which it is paid ought to be determined by the local community. Importantly, the integrity of the "standard offer" contract and the ability of the SQF to simply take those terms must be maintained.
