

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: January 16, 2008

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Garl)
Office of the General Counsel (Brown)

RE: Docket No. 070723-EQ – Petition for certification as a qualifying facility pursuant to Rule 25-17.080, F.A.C., by Innovative Energy Group of Florida, LLC.

AGENDA: 01/29/08 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\070723.RCM.DOC

Case Background

On October 10, 2007, Progress Energy Florida, Inc. (PEF) and Innovative Energy Group of Florida, LLC, (IEG) filed a joint petition requesting Commission approval of amendments to a previously approved negotiated contract for purchase of firm capacity and energy from a qualifying facility (QF). IEG is an assignee of Florida Biomass Energy Group, LLC, the original QF party to the contract.¹ IEG proposes to construct, own and operate an electric generating

¹ The original contract was approved by Commission Order No. PSC-06-0743-PAA-EQ, issued September 1, 2006, in Docket No. 060387-EQ, In re: Request for approval of a contract with a qualifying facility for purchase of firm capacity and energy between Florida Power Corporation d/b/a Progress Energy Florida, Inc. and Florida Biomass Energy Group, LLC. Florida Biomass Energy Group also had previously been certified as a QF by Commission

plant that would use a biomass fuel crop called "e-grass." The crop would be grown and harvested in a continuous cycle for conversion into a liquid fuel to be used in a traditional combined cycle generator. PEF and IEG sought Commission approval for specific modifications to the previously approved contract to include a counterparty with associated contact information, revised dates pertinent to the supply of electric capacity and energy, and clarification of conditions regarding termination rights. The Commission approved the proposed amendments to the contract at its January 8, 2008, Agenda Conference.

The amended contract, now between PEF and IEG, is conditioned upon the Commission's certification of IEG as a QF. Accordingly, on December 13, 2007, to ensure compliance with the contract's terms and Commission rules, IEG filed a petition requesting certification as a qualifying facility pursuant to Rule 25-17.080, Florida Administrative Code (F.A.C.). This recommendation addresses IEG's petition. The Commission has jurisdiction over this matter pursuant to Sections 366.051, 366.80 through 366.85, and 366.91, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission grant the request of IEG for certification as a qualifying facility (QF)?

Recommendation: Yes. Pursuant to Rule 25-17.220, Florida Administrative Code, a renewable generating facility shall be deemed a qualifying facility. The IEG facility will continue to use biomass as the primary energy source. Since a potential change in location of the biomass farm may impact the feasibility of the project, PEF, the contracted buyer of IEG's generated power, should closely monitor the development of the project to ensure the facility remains a reliable generation source. (Garl)

Staff Analysis: IEG's petition requested qualifying facility status under Rule 25-17.080(1), Florida Administrative Code (F.A.C.). The rule adopts the Federal Energy Regulatory Commission (FERC) Rules regarding criteria for designation as a qualifying facility in Florida. However, the rule also offers an exception for power producers who do not meet all the FERC criteria, "but otherwise meet the objectives of economically reducing Florida's dependence on oil and the economic deferral of utility power plant expenditures." The FERC rules state that a small power producer is a qualifying facility if 1) power production does not exceed 80 MW, 2) at least 50 percent of the energy source is biomass, waste, or another renewable, and 3) less than 50 percent of the facility ownership is related to a retail power provider. The petitioner has provided a description of the ownership of IEG, and no electric utility, utility holding company or utility subsidiary has an ownership interest in IEG.

On March 12, 2007, the Commission adopted an entire section of rules dedicated to renewable generation facilities (Rules 25-17.200 to 25-17.310). The overall intent of the Commission's rules regarding renewable generation is contained in Rule 25-17.200, F.A.C., which states,

The purpose of these rules is to promote the development of renewable energy; protect the economic viability of Florida's existing renewable energy facilities; diversify the types of fuel used to generate electricity in Florida; lessen Florida's dependence on natural gas and fuel oil for the production of electricity; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and, at the same time, minimize the costs of power supply to electric utilities and their customers. Unless otherwise stated, these rules apply to all investor-owned utilities.

Rule 25-17.210, F.A.C. defines renewable generating facility as,

. . . an electrical generating unit or group of units at a single site, interconnected for synchronous operation and delivery of electricity to an electric utility, where the primary energy in British Thermal Units (BTUs) used for the production of electricity is from one or more of the following sources: hydrogen produced from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, hydroelectric power, or waste heat from a commercial or industrial manufacturing process.

Further, Rule 25-17.220, F.A.C., states, “For purposes of these rules, a renewable generating facility shall be deemed a qualifying facility pursuant to subsection 25-17.080(1), F.A.C., and shall have all the rights, privileges, and responsibilities specified in Rules 25-17.082 through 25-17.091, F.A.C.”

The IEG facility will use a liquid fuel obtained by pyrolysis conversion of an agricultural (biomass) crop. The biomass crop was initially to have been grown in Florida; however, IEG encountered significant challenges in obtaining suitable Florida land for the farm at an economically feasible cost. It is now possible that the farm will be located in Texas. Nonetheless, the electrical generation plant will still be located in Florida with no change to the power generation technology. The fuel produced from the biomass will be transported from the farm, wherever it may be located, to the generating plant in Florida. Estimates for this project are that renewable energy will provide at least 95 percent of the energy production. Since the IEG facility will continue to use biomass as the primary fuel source, the facility is a qualifying facility pursuant to Rule 25-17.080(1), F.A.C.

The potential relocation of the farm outside Florida raises two questions relative to the original project. First, does farming of the biomass crop outside Florida encourage investment within the state? Second, does the additional transportation requirement improve the environmental conditions in Florida? The simple answers to these questions is probably “no.” Since the IEG facility will continue to use biomass as the primary fuel source, the facility will continue to meet many of the objectives outlined in Rule 25-17.200, F.A.C. While these factors do not reflect an ideal situation, neither the FERC rule nor Florida’s rules establish origin of the renewable fuel source as a criteria for certification as a QF in Florida.

The proposed project by the IEG organization would replace fossil-fueled generation with generation from a renewable energy source and contribute to the deferral of utility power plant expenditures for additional generation. A potential change in location of the biomass farm may impact the feasibility of the project. Therefore, PEF, the contracted buyer of IEG’s generated power, should closely monitor the development of the project to ensure the facility remains a reliable generation source.

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Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Brown)