

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: July 17, 2008

TO: Office of Commission Clerk (Cole)

FROM: Office of Strategic Analysis & Governmental Affairs (Sickel, Lewis, Webb)
Division of Economic Regulation (Kummer)
Office of the General Counsel (Hartman)

RE: Docket No. 080193-EQ – Petition for approval of renewable energy tariff and standard offer contract, by Florida Power & Light Company.

AGENDA: 07/29/08 – Regular Agenda –Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Argenziano

CRITICAL DATES: 12/01/08 (8-Month-Effective-Date)

SPECIAL INSTRUCTIONS: Place next to items on the Agenda for Docket Nos. 080184-EQ, 080187-EQ, 080194-EQ, 080283-EQ

FILE NAME AND LOCATION: S:\PSC\SGA \WP\080193.RCM.DOC

Case 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), 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.

In accord with applicable statutes and rules, on April 1, 2008, Florida Power & Light Company (FPL or Company) filed its petition requesting approval of a standard offer contract and associated tariffs based on its Ten-Year Site Plan for 2008-2017. While the Ten-Year Site Plan indicates that the West County Combined Cycle generating unit is planned, the utility expected to file a need determination for that unit in early April and thereby remove it from consideration as an avoidable unit. The petition for the West county Unit was filed on April 8, 2008. The remaining next avoided unit using fossil fuel is a combined cycle unit with an expected in-service date of June 1, 2014.

FPL notes that the 2008 standard offer is revised from earlier standard offers, to include a period of ten days minimum notice for validation of committed capacity by a qualified seller and to make contract assignment language more mutual. The revisions are made to reflect concerns raised by interested parties during the approval process for previous standard offer filings.

On May 21, 2008, FPL filed revised tariff sheets with updated economic and financial assumptions. The utility explained that cost projections were updated in working on the costs associated with other projects. These revisions reflect the updated projections and bring the Standard Offer Contract in line with other current filings.

This recommendation will address the standard offer contract filed by FPL on April 1, 2008 with associated tariffs, and revisions to those tariffs filed May 21, 2008. The Commission has jurisdiction over this matter pursuant to Sections 366.04 through 366.06, and 366.91 and 366.92, F. S.

Discussion of Issues

Issue 1: Is the standard offer contract filed by Florida Power & Light Company in compliance with Rules 25-17.200 through 25-17.310, F.A.C.?

Recommendation: Yes. The Standard Offer Contract proposed by FPL is in compliance with Rules 25-17.200 through 25-17.310, F.A.C., and therefore should be approved. (Kummer, Lewis, Sickel, Webb)

Staff Analysis: Because the Company is an IOU, Rule 25-17.250(1), F.A.C., requires FPL 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 or less. By April 1 each year, FPL must file a standard offer contract based on the next avoidable fossil fueled generating unit, for each technology type associated with planned units listed in the FPL's Ten-Year Site Plan. For FPL, the Ten-Year Site Plan for 2008-2017 shows a combined cycle unit with an in-service date of June 1, 2014. Currently, all fossil-based units having an in-service date prior to 2014 are in construction or under consideration in a need determination proceeding. The remaining units in the generation expansion plan are combined cycle units, so a single standard offer is needed to satisfy the requirement for an offer based on each technology associated with planned units.

Subsequent to the filing of the 2008 standard offer for renewable generation, FPL requested approval for the Cape Canaveral and Riviera Conversion projects. Based on having sufficient available generation to meet load requirements during construction, FPL's conversion projects would make it possible to delay the 2014 in-service date for the designated avoided unit. That alteration notwithstanding, the standard offer continues with an avoided capacity date of 2014. If the avoided capacity were moved to a later date, the capacity payments for the renewable generator would be reduced. In addition, the utility has updated the fuel price projections and calculations based upon the most recent analysis, with the result that capacity and energy payments have increased. These modifications to the contract make for an increased revenue stream for the renewable generator.

The standard offer provides for payments by the utility to the renewable generator consisting of capacity and energy components. Rule 25-17.0832(4), F.A.C., requires that the capacity component will be based upon the capital costs and fixed operation and maintenance expense associated with the avoided unit. This value of deferral (VOD) methodology allows for flexibility, so that a renewable generator may select early capacity payments to begin any time after the in-service date of the facility. Rule 25-17.250(4), F.A.C., allows the renewable generator to select a capacity payment stream based on the financing needs of the facility, with the caveat that the cumulative present value of payments may not exceed the cumulative present value for capacity costs that would be associated with the avoided unit over the contract period. The contract period must be at least ten years and may extend through the life of the avoided unit, pursuant to Rule 25-17.250(3), F.A.C. Rule 25-17.0832(3), F.A.C., requires that the standard offer contract must include provisions to ensure repayment of amounts paid in any year to the renewable generator that exceed that year's annual value of deferring the avoided unit. The FPL Contract Sheet Nos. 9.030 through 9.048 and Schedule QS-2 have been updated to reflect current cost projections and meet all requirements just described.

Rule 25-17.250(6), F.A.C., allows fixed energy payments by the utility, in order to facilitate financing and promote fuel price stability. The renewable generator may select either of two options provided. The required options are included in the FPL Standard Offer Contract on Sheet Nos. 10.303 and 10.304.

Rule 25-17.250(6)(a), F.A.C., provides the first option: prior to the in-service date of the avoided unit, as-available energy prices may be fixed on an annual basis based on the utility's projection of system incremental fuel costs based on normal conditions. A risk premium would be added to account for anticipated fuel price volatility above normal conditions. Section B(1) of Schedule QS-2 in the contract describes this option. The risk premium would be mutually agreed to by the utility and the generator, and for cost recovery it would be treated as a "hedging cost."

Rule 25-17.250(6)(b), F.A.C., allows a renewable generator to fix a portion of base energy costs associated with the avoided unit, mutually agreed upon by the utility and the generator, and amortize those costs on a present value basis over the term of the contract, beginning as early as the in-service date of the renewable generating facility. Section B(2) of Schedule QS-2 in the contract describes this option.

Rule 25-17.250(3), F.A.C., allows the developer of a renewable generation facility the option to select the term of the contract, from a minimum of ten years up to the life of the avoided unit. As shown on FPL Contract Sheet No. 10.300, the renewable generator must commit to commence delivery of firm capacity and energy no later than June 1, 2014, and continue delivery for at least ten years. The contract and delivery may extend to the maximum life of the avoided unit.

As required by Rule 25-17.270, F.A.C., FPL's Contract Section No. 17.6.3 provides that either party can elect to reopen the contract if, during the contract term, environmental or other regulatory requirements change FPL's full avoided cost of the unit on which the contract is based.

In accord with the requirements of Rule 25-17.280, F.A.C., FPL acknowledges in Contract Section 17.6.2 that the renewable energy provider retains all rights to own and sell tradable renewable energy credits (TRECs) associated with electric generation of the renewable facility. FPL's standard offer contract includes a provision to receive the right of first refusal with a specific time limitation for response. Such a condition insures that FPL's ratepayers enjoy all of the attributes associated with renewable generation without imposing a financial penalty upon the owner of the renewable facility.

In conclusion, staff believes that FPL's proposed standard offer contract, with revised tariff sheets, is in compliance with Rules 25-17.200 through 25-17.310, F.A.C., and should therefore be approved.

Issue 2: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation to approve the proposed Standard Offer Contract and tariffs filed by FPL, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 080193-EQ should be closed, and the Standard Offer Contracts and tariffs filed by FPL should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that FPL's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised. (Hartman)

Staff Analysis: If the Commission approves staff's recommendation to approve the proposed Standard Offer Contract and tariffs filed by FPL, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 080193-EQ should be closed, and the Standard Offer Contracts and tariffs filed by FPL should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that FPL's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.