**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-

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**DATE:** July 1, 2009

**TO:** Office of Commission Clerk (Cole)

**FROM:** Office of Strategic Analysis and Governmental Affairs (Sickel, Ellis)
Office of the General Counsel (Hartman)

**RE:** Docket No. 090163-EQ – Petition for approval of new standard offer for purchase of firm capacity and energy from renewable energy facilities or small qualifying facilities and approval of tariff schedule REF-1, by Gulf Power Company.

**AGENDA:** 07/14/09 – Regular Agenda – Tariff Filing – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** 12/01/09 (8-Month Effective Date)

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\SGA\WP\090163.RCM.DOC

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## 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),[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.

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

In accord with the applicable statute and rules, on April 1, 2009, Gulf Power Company (Gulf or Company) filed its petition for approval of a new standard offer for purchase of firm capacity and energy from renewable energy facilities or small qualifying facilities and approval of tariff schedule REF-1, based on the Ten Year Site Plan for 2009-2018. Gulf has identified a single fossil-fueled generating technology in its 2009 Ten Year Site Plan as the unit available to be avoided. The unit is an unsited 840 MW natural gas-fired combined cycle plant with a projected in-service date of June, 2014.

Due to recent Commission decisions relating to standard offer contracts, Gulf also filed revisions to its petition on May 29, 2009.

The Commission has jurisdiction over this matter pursuant to Sections 366.04 through 366.06, 366.91, and 366.92, Florida Statutes (F.S.).

## Discussion of Issues

**Issue 1**: Should the standard offer contract filed by Gulf Power Company be approved?

**Recommendation**: Yes. The standard offer contract and related tariff, as modified on May 29, 2009, complies with Rules 25-17.200 through 25-17.310, F.A.C., and should be approved. (Sickel, Ellis)

**Staff Analysis**: Because the company is an IOU, Rule 25-17.250(1), F.A.C., requires Gulf 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 kilowatts (kW) or less. Gulf has identified a single fossil-fueled generating technology in its 2009 Ten Year Site Plan as the unit available to be avoided. The unit is an unsited 840 MW natural gas-fired combined cycle plant with a projected in-service date of June, 2014.

During staff's review of Gulf's petition, the Company submitted a total of four revised sheets, two for the standard offer rate schedule, REF-1, and two for the standard offer contract. Updated avoided unit information is included on Sheets Nos. 9.85 and 9.103, and the right of first refusal for tradable renewable energy credits (TRECs) is eliminated on Sheets Nos. 9.96 and 9.113. Beyond these revisions, all other terms, such as provisions for performance, payment, and security are retained from the 2008 standard offer contract and related tariffs.

As required by Rule 25-17.0832(4), F.A.C., the standard offer contract contains the payment options available to the renewable energy provider, including all financial and economic assumptions necessary to calculate the payment options, as well as an example of the calculations. Sheet No. 9.85 provides numerical revisions to examples of the payment streams, reflecting updated avoided cost information. Sheet No. 9.103 provides updated financial and economic assumptions for the avoided unit, such as the installed cost per kW, and discount rate.

Rule 25-17.280, F.A.C., provides that all TRECs are the exclusive property of the renewable generator. Previously the Commission has approved the right of first refusal, and the provision is a component of Gulf's approved 2008 standard offer.[2] However, in a recent case, the Commission found that the interests of the renewable energy provider are negatively affected by the right of first refusal. The Commission issued an order to this effect, and denied Florida Power & Light Company's tariff with respect to the right of first refusal.[3] In order to consistently apply this standard to all IOUs, staff believes that the right of first refusal should no longer be included in any standard offer contract. On May 29, 2009, Gulf filed revised Sheets No. 9.96 and 9.113, both of which eliminate the right of first refusal for TRECs in the standard offer contract and the related tariff. Staff believes that this change complies with the requirements of the rule.

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[2] Order No. PSC-08-0546-TRF-EQ, issued August 19, 2008, in Docket No. 080194-EQ, In re: Petition for approval of new standard offer for purchase of firm capacity and energy from renewable energy facilities or small qualifying facilities and approval of tariff schedule REF-1, by Gulf Power Company.

[3] Order No. PSC-09-0394-FOF-EQ, issued June 2, 2009, in Docket No. 080193-EQ, In re: Petition for approval of renewable energy tariff and standard offer contract, by Florida Power & Light Company.

The provisions of the 2009 standard offer contract submitted by Gulf conform to all requirements of Rules 25-17.200 through 25-17.310, F.A.C. The contract provides flexibility in the arrangements for payment so that a developer of renewable generation may select the payment stream best suited to its financial needs. At the same time, removal of the right of first refusal reflects current market conditions and does not place a burden upon renewable energy providers. In conclusion, staff believes that Gulf's proposed standard offer contract 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**: Yes. If the Commission approves staff's recommendation to approve the proposed standard offer contract and tariffs filed by Gulf, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 090163-EQ should be closed, and the standard offer contracts and tariffs filed by Gulf 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 Gulf'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 Gulf, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 090163-EQ should be closed, and the standard offer contracts and tariffs filed by Gulf 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 Gulf's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.