

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:** September 24, 2009

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

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

**RE:** Docket No. 090162-EQ – Petition for approval of amended standard offer contract and retirement of COG-2 rate schedule, by Progress Energy Florida.

**AGENDA:** 10/06/09 – 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\090162.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),<sup>1</sup> 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.

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<sup>1</sup> Sections 366.80-366.85 and 403.519, F.S.

On April 1, 2009, Progress Energy Florida (PEF or Company) filed its petition for approval of an amended standard offer contract and accompanying tariff COG-2 rate schedule, based on the Ten Year Site Plan for 2009-2018. PEF has identified a single fossil-fueled generating technology in its 2009 Ten-Year Site Plan as a unit available to be avoided. The unit is Suwannee Peaker Unit 4, a 178 megawatt (MW) natural gas-fired combustion turbine with a projected in-service date of June 1, 2014.

Based upon the Commission decision of August 18, 2009, relating to PEF's 2007 and 2008 standard offer contracts, PEF filed a revision to its petition on August 21, 2009.<sup>2</sup>

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

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<sup>2</sup> Order No. PSC-09-0643-FOF-EI, issued September 22, 2009, in Docket No. 070235-EQ, In re: Petition for approval of standard offer contract for purchase of firm capacity and energy from renewable energy producer or qualifying facility less than 100 k W tariff, by Progress Energy Florida, Inc.; and Docket No. 080501-EQ, In re: Petition for waiver of Rule 25-17.250(1) and (2)(a), F.A.C., which requires Progress Energy Florida to have a standard offer contract open until a request for proposal is issued for same avoided unit in standard offer contract, and for approval of standard offer contract.

### **Discussion of Issues**

**Issue 1:** Should the amended standard offer contract filed by Progress Energy Florida as revised on August 21, 2009, be approved?

**Recommendation:** Yes. The standard offer contract and related tariff, as revised on August 21, 2009, complies with Rules 25-17.200 through 25-17.310, F.A.C., and Order No. PSC-09-0643-FOF-EI. (Ellis)

**Staff Analysis:** Because the utility is an IOU, Rule 25-17.250(1) F.A.C., requires PEF to continuously make available a standard offer contract for purchase of firm capacity and energy from renewable generating facilities and small qualifying facilities. In its 2009 Ten-Year Site Plan, PEF has identified a single type of generating unit capable of being avoided. The first unit able to be avoided is Suwannee Peaker Unit 4, a 178 MW summer capacity combustion turbine with an in-service date of June 1, 2014. All other units in PEF's Ten-Year Site Plan are either already under construction, have received a determination of need, or are of the same technology type with an in-service date later than 2014.

### **Original Standard Offer Filing**

The original petition filed on April 1, 2009, contains a standard offer contract and related renewable energy tariff that reflects the avoided unit, Suwannee Peaker Unit 4. Several tariff sheets were modified to reflect changes in contract language, correction of scrivener's errors, or rearrangement of sections within the standard offer contract.

As required by Rule 25-17.0832(4)(e), F.A.C., PEF included in its original standard offer contract the minimum specifications for the new avoided unit, which included the name of the avoided unit, Suwannee Peaker Unit 4, and various information, such as unit capacity, performance standards, in-service date, and the date on which the standard offer contract expires. In addition, the accompanying rate schedule COG-2 includes the required examples of capacity payments, estimated as-available energy and fuel costs, and sufficient information on the value of deferral to allow renewable providers to calculate various payment options.

Rule 25-17.0832(4)(b), F.A.C., provides that the rates, terms, and other conditions of each utility's standard offer contracts must be based on and equal to the avoided unit's. This is required for the economic assumptions, as well as technical assumptions, such as the unit's availability. The contract lists an availability of 94 percent as the threshold for full capacity payments, based upon the avoided unit's availability, with a sliding scale providing for some reduced capacity payments beginning at a minimum of 74 percent availability.

Staff believes that these provisions are in compliance with Rules 25-17.200 through 25.17-310, F.A.C.

### **Modified Standard Offer Provisions**

As previously mentioned, PEF filed a revision to its original petition on August 21, 2009, in compliance with the Commission's Order No. PSC-09-0643-FOF-EI. The revised tariff sheet is detailed below.

Rule 25-17.280, F.A.C., provides that all tradable renewable energy credits (TRECs) are the exclusive property of the renewable generator. In light of the Commission's decision, PEF has removed its language on Sheet No. 9.417 providing it with the right of first refusal of TRECs, which now reads;

#### 6.2 Ownership and Offering For Sale Of Renewable Energy Attributes

The RF/QF shall retain any and all rights to own and to sell any and all Environmental Attributes associated with the electric generation of the Facility.

All other components of the standard offer contract were unchanged from the original April 1, 2009, petition filing. Staff believes that this provision is in compliance with the Commission's Decision on August 18, 2009.

### **Conclusion**

The standard offer contract and accompanying tariff submitted by PEF conform to all requirements of Rules 25-17.200 through 25-17.310, F.A.C. PEF has filed tariff sheets that reflect the economic and technical considerations of the new avoided unit, as well as revising contract language as appropriate. PEF has also complied with prior Commission decisions regarding the right of first refusal of TRECs. Staff, therefore, recommends that the standard offer contract, as revised on August 21, 2009, should 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 filed by PEF, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 090162-EQ should be closed, and the standard offer contract filed by PEF 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 PEF's tariffs and standard offer contract 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 filed by PEF, and no person whose substantial interests are affected requests a hearing to address this matter, then Docket No. 090162-EQ should be closed, and the standard offer contract filed by PEF 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 PEF's tariffs and standard offer contract may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.