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Commission Conference Agenda
June 11, 2019

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Item 1

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: May 30, 2019

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Williams) *CH* *AF* *CH*
Office of the General Counsel (Murphy) *Con* *JS*

RE: Docket No. 20190057-TP – Commission approval of Florida Telecommunications Relay, Inc.'s fiscal year 2019/2020 proposed budget.

AGENDA: 06/11/19 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Anticipate the need for sign language interpreters and assisted listening devices. Please place near the beginning of the agenda to reduce interpreter costs.

Case Background

The Telecommunications Access System Act of 1991 (TASA) established a statewide telecommunications relay system. Section 427.704(1), Florida Statutes (F.S.), provides that the Florida Public Service Commission (Commission or FPSC) shall establish, implement, promote, and oversee the administration of the statewide telecommunications access system to provide access to telecommunications relay services by persons who are deaf, hard of hearing or speech impaired, and those who communicate with them. It is estimated that approximately three million persons living in Florida have been diagnosed with having a hearing loss.¹ This system

¹ Florida Department of Health, "Florida Coordinating Council for the Deaf and Hard of Hearing," <http://www.floridahealth.gov/provider-and-partner-resources/fccdhh/index.html>, accessed on April 1, 2019.

Date: May 30, 2019

provides telecommunications service for deaf or hard of hearing persons functionally equivalent to the service provided to hearing persons.

The Florida Relay System provides deaf or hard of hearing persons access to basic telecommunications services by using a specialized Communications Assistant that relays information between the deaf or hard of hearing person and the other party to the call. The primary function of the Florida Relay System is accomplished by the deaf or hard of hearing person using a Telecommunications Device for the Deaf (TDD). The person using the TDD types a message to the Communications Assistant who in turn voices the message to the other party, or types the message to a Captioned Telephone which displays real-time captions of the conversation.

TASA provides funding for the distribution of specialized telecommunications devices and provision of intrastate relay service through the imposition of a surcharge of up to \$0.25 per landline access line per month. Accounts with over 25 access lines are billed for only 25 lines. Pursuant to Section 427.704(4)(a)1, F.S., a surcharge is collected only from landline access lines.²

Florida Telecommunications Relay, Inc. (FTRI), a non-profit corporation formed by the local exchange telephone companies, was selected by the Commission to serve as the TASA Administrator. The local exchange telecommunications companies began collecting an initial \$0.05 per access line surcharge pursuant to Order No. 24581³. Since then the Commission has changed the surcharge to meet FTRI's budgetary needs. The monthly surcharge is currently \$0.10 per access line.

As part of its oversight responsibilities for the Florida Relay System, the Commission reviews and approves a budget submitted by FTRI on an annual basis. Attachment A is FTRI's letter to the Commission presenting its proposed budget for Fiscal Year 2019/2020 that was approved by its Board of Directors. FTRI also compared its proposed budget to last year's Commission approved budget and estimated revenue and expenses for the current fiscal year. FTRI's estimated revenue and expenses were based on actual data from the first two quarters and estimated data for the third and fourth quarter of Fiscal Year 2018/2019.

Staff sent data requests to FTRI on a number of issues included in its Fiscal Year 2018/2019 budget estimate and its proposed Fiscal Year 2019/2020 budget. FTRI's responses to staff's data request are included in the docket file.

On May 15, 2019, FTRI filed actual third quarter financial information. With this updated information, staff formulated our own estimated budget results for Fiscal Year 2018/2019. Staff's estimate is reflected in Attachment B.

² Florida Telecommunications Relay, Inc. projects a four percent decrease in landline access lines subject to the relay surcharge for Fiscal Year 2019/2020.

³ Issued May 24, 1991, in Docket No. 910496-TP, In re: Telecommunications Access System Act of 1991.

Docket No. 20190057-TP

Date: May 30, 2019

This recommendation addresses FTRI's proposed Fiscal Year 2019/2020 budget and what staff recommends the relay surcharge should be for the upcoming fiscal year. The relay service surcharge is the only rate the Commission establishes for telecommunications companies. The Commission is vested with jurisdiction pursuant to Chapter 427, F.S.

Discussion of Issues

Issue 1: Should the Commission approve Florida Telecommunications Relay, Inc.'s (FTRI) proposed budget as presented in Attachment A for Fiscal Year 2019/2020, effective August 1, 2019, and should the Commission maintain the current Telecommunications Relay Service (TRS) surcharge at \$0.10 per month?

Recommendation: Staff recommends that the Commission reduce FTRI's proposed budget expenses for Fiscal Year 2019/2020 by \$2,300 for Voice Carry-Over/Hearing Carry-Over-Telecommunications Device for the Deaf (VCO/HCO-TDD) Equipment, \$2,592 for Audio Ringer (ARS) Equipment, and \$4,767 for Video Relay Service (VRS) Equipment. Staff also recommends that the Commission allow FTRI to transfer \$285,714 from the Reserve Account to offset a projected revenue shortfall. Staff recommends that the Commission order all local exchange companies to continue billing the \$0.10 surcharge for Fiscal Year 2019/2020. (Williams)

Staff Analysis:

Traditional Telecommunications Relay Service

The traditional TRS cost to FTRI as approved in Sprint Communications Company, L.P.'s (Sprint) contract is currently \$1.35 per session minute. Sprint's projections indicate that traditional minutes will increase by 1.6 percent during Fiscal Year 2019/2020 from the prior fiscal year. Traditional relay users are transitioning to the following services:

- Internet Protocol (IP) Relay⁴
- Video Relay Service (VRS)⁵
- Captioned Telephone (CapTel) Service⁶
- Internet Protocol Captioned Telephone Service⁷
- Internet Protocol Speech-to-Speech (STS) Service⁸
- Wireless Service⁹

⁴ IP Relay allows people who have difficulty hearing or speaking to communicate through an Internet connection using a computer and the Internet, rather than a Text Telephone (TTY) and a telephone.

⁵ VRS enables persons with hearing disabilities who use American Sign Language to communicate with voice telephone users through video equipment, rather than through typed text. Video equipment links the VRS user with a TRS operator so that the VRS user and the operator can see and communicate with each other in signed conversation.

⁶ A CapTel telephone is a telephone that displays real-time captions of a conversation.

⁷ IP captioned telephone service allows the user to simultaneously listen to and read the text of what the other party in a telephone conversation has said, where the connection carrying the captions between the service and the user is via an IP addressed and routed link.

⁸ STS relay service utilizes a specially trained CA who understands the speech patterns of persons with speech disabilities and can repeat the words spoken by such an individual to the other party to the call. IP STS uses the Internet, rather than the public switched telephone network, to connect the consumer to the relay provider.

⁹ Wireless services offer applications such as text, instant messaging, and Facetime.

CapTel Service

The CapTel cost to FTRI as approved in the Sprint contract is currently \$1.69 per session minute. CapTel service uses a specialized telephone that provides captioning of the incoming call for a deaf or hard of hearing person. Sprint's projections show that CapTel minutes of use will decline by 23 percent during Fiscal Year 2019/2020 from the prior fiscal year. CapTel users are transitioning to Internet Protocol Captioned Telephone Service.

Florida Telecommunications Relay, Inc. Budget

The FTRI Fiscal Year 2019/2020 proposed budget projects total operating revenues of \$5,409,709 and total expenses of \$5,705,082. Based on the projected revenue and expenses, FTRI requests that the Commission grant FTRI authority to transfer \$295,373 from the Reserve Account to offset the shortfall. FTRI also requests that the Telecommunications Relay surcharge be maintained at \$0.10 per access line for Fiscal Year 2019/2020.

Attachment A reflects FTRI's Fiscal Year 2019/2020 proposed budget, which was reviewed and adopted by FTRI's Board of Directors prior to filing with the Commission. FTRI's proposed budget represents a projected decrease in revenue of \$383,942 from the Fiscal Year 2018/2019 Commission approved budget. FTRI's proposed budget also includes a decrease in expenses of \$350,038 from the Fiscal Year 2018/2019 Commission approved budget.

The projected revenue loss is due to a projected four percent decrease in access lines that are assessed the current \$0.10 surcharge. Total operating revenue for FTRI's Fiscal Year 2018/2019 Commission approved budget was \$5,793,651. FTRI's proposed budget projects \$5,409,709 in revenue, based on the projected decline in access lines, resulting in a seven percent revenue loss from Fiscal Year 2018/2019.

Sprint's estimated Fiscal Year 2019/2020 traditional TRS minutes of use are 1,147,727, at a rate of \$1.35 per minute for a total of \$1,549,431. Sprint's estimated CapTel minutes of use for Fiscal Year 2019/2020 are 595,703, at a rate of \$1.69 per minute for a total of \$1,006,738.

The estimated expense decrease is primarily attributable to Category I-Relay Services and Category II-Equipment and Repairs, with both categories recognizing overall lower cost. The largest estimated decrease in FTRI's budget is attributable to lower minutes of use for CapTel service. Similarly, cost savings are also recognized for equipment and repair expenses. In total, FTRI's proposed expenses represent a \$350,038 decline from the Fiscal Year 2018/2019 Commission approved budget, representing a six percent decline.

A comparison of FTRI's Fiscal Year 2018/2019 Commission approved budget, FTRI's Fiscal Year 2018/2019 estimated actual revenues and expenses, and FTRI's Fiscal Year 2019/2020 proposed budget as filed is shown in Table 1 below.

Table 1
FTRI Budget Comparison

	Commission Approved 2018/2019	FTRI Estimated Actual 2018/2019	FTRI Proposed 2019/2020
Operating Revenue:			
Surcharges	\$5,695,749	\$5,537,279	\$5,315,788
Interest Income	97,902	88,652	93,921
Total Operating Revenue	\$5,793,651	\$5,625,931	\$5,409,709
Operating Expenses:			
Relay Provider Services	\$2,826,281	\$2,726,660	\$2,556,170
Equipment & Repairs	1,040,360	1,068,223	948,053
Equipment Distribution & Training	705,986	727,119	707,389
Outreach	546,250	546,250	535,650
General & Administrative	936,243	902,028	957,820
Total Expenses	\$6,055,120	\$5,970,280	\$5,705,082
Annual Surplus	(\$261,469)	(\$344,349)	(\$295,373)
Reserve Account	17,398,350	17,301,477	16,957,128
Total Reserve ¹⁰	\$17,136,881	\$16,957,128	\$16,661,755

Source: FTRI's Fiscal Year 2019/2020 proposed budget.

Analysis

In its budget filing, FTRI states that access lines have decreased at the rate of 5.7 percent during the past four years (2015-2018) and believes that trend will continue as more consumers transition from landline phones to other technologies. As a result, FTRI's revenues will be reduced as the number of access lines decline, holding the surcharge constant. Continued efforts by FTRI to reduce expenses are important.

Staff developed its own estimate of FTRI's expenses for Fiscal Year 2018/2019. This data is presented in Attachment B. Staff used actual data from July 2018 through March 2019 and estimated the fourth quarter by averaging the first three quarters of the fiscal year. Staff's

¹⁰ The Federal Communications Commission may mandate state funding of Video Relay Service, Internet Protocol Relay Service, and Internet Protocol Captioned Telephone Service. It is estimated that at a minimum \$32 million would be needed to adequately fund the state program. On June 8, 2018, in CG Docket No. 13-24 and CG Docket No. 03-123, the FCC released a Report and Order, Declaratory Ruling, Further Notice of Proposed Rulemaking, and Notice of Inquiry addressing, in part, whether state relay programs should be allowed or required to administer Internet Protocol Relay Service. <https://docs.fcc.gov/public/attachments/FCC-18-79A1.pdf>

estimates were then used as one element in evaluating FTRI's proposed budget. Attachment B also includes FTRI's budgeted information for comparison purposes.

Staff also analyzed past Commission approved FTRI budgets to identify and evaluate ongoing cost reduction measures. Below is staff's review of selected items from FTRI's proposed budget expense by category.

Category I – Relay Services

Category I captures expenses for traditional TRS and CapTel service currently provided by Sprint. The proposed budget recognizes a \$270,111 expense reduction from the Fiscal Year 2018/2019 Commission Approved budget, primarily due to declining minutes and service cost associated with CapTel service.

The relay service expenses are based on the minutes of use as projected by Sprint and relay service contract rates. Sprint's historical projections have proven to be reasonable and it has multi-state experience with such projections. Staff believes that the estimates for Fiscal Year 2019/2020 are reasonable and should be used for budgetary purposes.

Category II – Equipment & Repairs

Category II expenses reflect the purchase of equipment to be distributed to clients and the repairs that FTRI must make to keep the equipment in working order. FTRI's proposed budget represents a \$92,307 decrease in expense when compared to the Fiscal Year 2018/2019 Commission approved budget.

FTRI's proposed CapTel Phone Equipment expense increased by \$16,875 as a result of expiration of an agreement FTRI had with Sprint to provide the CapTel 840 PLUS at no cost during Fiscal Year 2018/2019. FTRI explained that upon expiration of the agreement, it had sufficient inventory for Fiscal Year 2018/2019. The proposed expense increase would be to purchase new equipment for projected demand during Fiscal Year 2019/2020. As stated earlier, FTRI's proposed budget for Category II expenses represents a decrease of \$92,307 from last year's approved budget. The expense increase for the purchase of the CapTel 840 PLUS devices is offset by purchase reductions for other equipment.

FTRI's equipment budget reflects declines in equipment distribution, but includes equipment orders to maintain a sufficient inventory to serve its clients. FTRI used contract pricing for equipment multiplied by the number of units it plans to order over the course of the year. These contracts for equipment between FTRI and equipment vendors are separate from the contracts for relay service approved by the Commission.

After comparing FTRI's budget with our estimates for Fiscal Year 2018/2019, staff identified several line items which we believe should be adjusted. Staff's recommended adjustments are presented in the Staff Adjustments to FTRI's Proposed Budget section of the recommendation.

Category III – Equipment Distribution & Training

Category III reflects the cost of distribution of equipment throughout the state and the training of consumers in the use of the equipment. FTRI's proposed budget reflects a slight increase in expense of \$1,403 from the Fiscal Year 2018/2019 Commission approved budget. This increase

is the result of increased freight cost. However, expenses related to the largest component of Category III, Regional Distribution Centers (RDCs), decreased by \$3,356 from the Fiscal Year 2018/2019 Commission approved budget. By comparison, the Commission voted to decrease the RDC budget by \$81,954 for Fiscal Year 2017/2018, finding that FTRI's actual expenditures in that year had declined at a rate exceeding FTRI's projection.

FTRI contracts with the non-profit RDCs to perform equipment distribution and training throughout Florida. Currently there are 27 RDCs. The amount of funds for FTRI's contracts with RDCs varies based on the number of clients they assist. More funds are provided for connecting a new client, while fewer funds are provided to assist existing clients in the system. Staff believes FTRI's proposed budget for Category III expense is reasonable.

Category IV – Outreach

Outreach efforts are designed to promote FTRI phone distribution services, and to raise awareness about Florida relay service. FTRI's proposed Fiscal Year 2019/2020 outreach expense represents a \$10,600 decline from the Commission approved outreach expense budget for Fiscal Year 2018/2019. FTRI's outreach budget declined \$15,650 in its Fiscal Year 2017/2018 Commissioned approved budget and by \$12,726 in its 2018/2019 Commission approved budget.

FTRI employs various forms of communication in its outreach strategy. FTRI plans to continue advertising in newspapers using free-standing insert ads (flyers), in markets where such ads continue to be effective. However, FTRI acknowledges that it has witnessed rapid changes in the newspaper industry. In response, FTRI will utilize other print tools such as direct mail post cards and coupon book advertisements.

FTRI also plans to expand its digital marketing campaign, including increased use of banner ads on websites, targeted email campaigns, and social media campaigns. FTRI acknowledges that in Fiscal Year 2018/2019, it saw the cost per contact of newspaper insert advertising increase, while the cost of Digital advertising remained stable.

The Commission has previously encouraged FTRI to research and consider more technologically advanced and cost-effective forms of outreach in addition to traditional newspaper print. In FTRI's Fiscal Year 2016/2017 proposed budget filing, FTRI proposed increasing its outreach budget by \$153,674 to initiate a pilot program to expand insert advertisements in traditional print newspapers. The Commission denied FTRI's request and directed FTRI to focus its efforts more on digital advertisements. Staff is encouraged with FTRI's efforts to make its outreach strategy more cost-effective. Staff believes FTRI's proposed budget for Category IV expense is reasonable.

Category V – General & Administrative

Category V reflects the expenses associated with FTRI's operations, such as office and furnishings, employee compensation, contracted services (auditors, attorney, and computer consultants), computers and other operating expenses. Consistent with Fiscal Year 2018/2019, FTRI has proposed a budget for nine employees for the Fiscal Year 2019/2020. FTRI is proposing a \$21,577 increase in Category V expense for Fiscal Year 2019/2020. In previous years, the Commission has paid particular attention to this category in an effort to decrease FTRI's operating expense.

In 2017, based on a review of supporting documents, staff communicated concerns regarding FTRI's legal expense and the structure of FTRI's contract for legal services. FTRI had the same law firm on retainer for many years at a cost of \$72,000 per year. Staff's analysis showed that paying the attorney an hourly rate may be more cost-effective than paying a retainer. Staff recommended that FTRI be required to provide itemized legal invoices with date of services, charges for the services, and a detailed description of the services provided by legal counsel. In FTRI's proposed 2017/2018 Fiscal Year budget line item for legal expense, the Commission reduced legal expense by \$36,000.

Subsequent to the Commission's 2017 order, FTRI signed a legal services agreement with the attorney guaranteeing a monthly flat fee of \$3,000 per month (12 hours at \$250 per hour), with additional hours billed for specified services as needed at \$225 per hour. The negotiated agreement was for a minimum of \$36,000, which was the upper limit of the approved Fiscal Year 2017/2018 budget for legal expense. FTRI's proposed budget for legal expenses was \$55,823. The Commission reduced FTRI's 2018/2019 Fiscal Year budget line item for legal expenses by \$19,823, to \$36,000.

For Fiscal Year 2019/2020, FTRI has proposed a budget of \$33,500. While this represents a 6.9 percent decrease from last year's Commission approved budget, staff's estimate of Fiscal Year 2018/2019 was lower than this amount using the methodology explained previously. In order to account for quarterly variations, staff calculated a second estimate of FTRI's legal expense using the first three quarters of expenses from this fiscal year with the fourth quarter from the prior fiscal year. The result of that estimate was \$33,623. Based on this estimate for Fiscal Year 2018/2019, staff believes that FTRI's proposed budget of \$33,500 for Fiscal Year 2019/2020 is reasonable.

In recent years, the Commission has also ordered FTRI to conduct in-house analyses for retirement and to include quotes from other retirement plans offered by comparably-sized nonprofit and for profit entities. In response to the Order, FTRI filed reports with the Commission. The reports were performed by Regions Institutional Services (Regions) on the plan design, investment returns, and administrative structure of FTRI's pension plan. The analysis pointed out that the plan through NTCA boasts roughly \$2 billion in assets with over 17,000 participants. It further stated that the cooperative nature of the plan allows the assets to be pooled for investment purposes and the large asset base attracts outside managers not generally available to smaller defined benefit plans.

Regions concluded that there are no glaring issues with FTRI's plan design or operation. However, Regions did recommend that FTRI continue to review investment returns, fees, and plan design to ensure that NTCA's plan remains cost effective. The Commission ordered FTRI to continue to conduct in-house analyses for retirement expenses and submit its findings every three years to present any factors that may have changed.

Retirement expense is based on salary and related pension costs. For Fiscal Year 2019/2020, FTRI has proposed retirement expense of \$80,909. This represents a 2.7 percent increase from the Fiscal Year 2018/2019 Commission approved budget and 5.4 percent increase from FTRI's Fiscal Year 2018/2019 estimated expense. FTRI's Fiscal Year 2018/2019 estimated expense is

lower due to employee turnover and staffing less than nine full-time positions. FTRI's proposed budget is based on staffing nine full-time positions. Based on the increased number of full-time employees, staff believes that FTRI's proposed retirement budget is reasonable.

The Commission has also previously addressed concerns relating to insurance expense. In FTRI's proposed Fiscal Year 2018/2019 budget, it requested \$192,496 for insurance expense, which represented an increase of 5.12 percent from FTRI's Fiscal Year 2017/2018 estimated expenditures. However, FTRI's insurance budget was based on an estimate from its previous insurance provider. In response to staff's inquiry, FTRI provided a revised insurance estimate of \$153,027, a decrease of 16.4 percent from its Fiscal Year 2017/2018 estimated expenditures. FTRI's proposed Fiscal Year 2018/2019 budget line item for insurance was reduced by \$39,469 to reflect the updated estimate provided by FTRI. FTRI was also required to continue to conduct in-house analyses for insurance expense and submit its findings to the Commission every three years. FTRI's proposed budget of insurance expense is \$165,266. FTRI indicated that this amount includes a seven percent premium increase based on quotes from their insurance provider. Employees contribute five percent of the premium for single coverage plus twenty-five percent for additional dependent costs. Based on the increased number of full-time employees as noted above and the premium increase, staff believes that FTRI's proposed insurance budget is reasonable.

The largest increase in Category V is for employee compensation. FTRI's Fiscal Year 2018/2019 budget for employee compensation included nine positions. However, the Data Entry position was vacant for part of the fiscal year. The position was also filled on a part-time basis for part of the year. FTRI has communicated that the position needs to be filled on a full-time permanent basis. In addition, based on a request from the Commission, FTRI contracted with Evergreen Solutions, LLC (Evergreen) to perform a comprehensive compensation analysis and provide a recommendation on updating salary ranges for each position.

One of Evergreen's findings was that four of FTRI's positions were below the minimum recommended salary range. Evergreen recommended that FTRI adjust the salaries of the four positions to the new salary range minimum. The salary range adjustment would represent an increase of \$20,635. In addition, FTRI's budget includes \$13,293, for discretionary merit-based salary adjustments of up to three percent of the employee's salary. The line items for insurance, retirement, and payroll taxes would be directly impacted by the increase in employee compensation.

FTRI's proposed budget also contains increases for Computer Consultation and Office Equipment/Computer Software. In response to staff's data request, FTRI explained that the expenditures would include two new workstation computers, new server installation and operating system upgrade, Office 365 software, and system security upgrades.

There is a direct correlation between the minutes of use and related service delivery and equipment distribution expense. As minutes of use decline and consumers substitute older equipment with newer technologies such as mobile devices with texting capabilities, the associated expense should decrease. Although reduced minutes of use and technology substitution do not impact General and Administrative expense to the same degree, efforts to

control General and Administrative expenses are of equal importance. While staff recommends that FTRI's proposed budget for Category V expense is reasonable, FTRI should continue to pursue cost cutting measures.

Staff Adjustments to FTRI's Proposed Budget

In staff's analysis, staff used actual expenses for the first three quarters and estimated the fourth quarter (using an average of the first three quarters) for Fiscal Year 2018/2019 to compare with FTRI's proposed budget. Based on this review, staff recommends the adjustments to the following expense items:

- Voice Carry-Over/Hearing Carry-Over-Telecommunications Device for the Deaf (VCO/HCO-TDD) Equipment
- Audio Ringer Service (ARS) Equipment
- Video Relay Service (VRS) Equipment

VCO/HCO-TDD Equipment

FTRI has proposed \$2,300 for VCO/HCO-TDD equipment for Fiscal Year 2019/2020. After reviewing FTRI's quarterly reports, VCO/HCO-TDD equipment has not been purchased since January 2018. Staff has inquired regarding current demand for this equipment from FTRI, but has not received sufficient information to recommend FTRI's proposed budget for this equipment. For Fiscal Year 2018/2019, FTRI had a Commission approved budget for \$4,600. However, in response to staff's data request, FTRI has indicated that it does not anticipate buying this equipment in the final quarter of Fiscal Year 2018/2019. As a result, staff recommends that FTRI's budget be reduced by \$2,300 for VCO/HCO-TDD equipment.

ARS Equipment

ARS equipment is budgeted at \$2,592 by FTRI for Fiscal Year 2019/2020. FTRI has not purchased ARS-Signaling equipment since April 2018 based on its quarterly reports. FTRI had estimated that at the time of the budget development, a demand of eight units per month for distribution for the second half of the year at a cost of \$27 each, for a total of \$1,296. Since that time, no units have been purchased through May 15, 2019. Based on FTRI's response to Staff's data request, FTRI has now indicated that it no longer anticipates purchasing these units. Therefore, staff recommends that FTRI's budget for ARS be reduced by \$2,592.

VRS Equipment

FTRI's proposed budget is \$12,500, which is an increase of \$4,767 over the Fiscal Year 2018/2019 Commission approved budget. In response to staff's data request, FTRI explained that it is requesting the increase to conduct a pilot program with the more advanced Bellman-Symfon device to measure consumer interest prior to deciding whether to include it in the program on a permanent basis. The device is multifunctional and uses newer technology. One function allows a user to control the unit plugged directly into the phone or by transmitter alerting the user of a ring if the unit is in another room. FTRI's proposed budget is for 100 units based on its estimated demand for VRS equipment.

Staff's estimated expenses for Fiscal Year 2018/2019 was only \$2,880, significantly less than last year's approved budget for such equipment. Staff recommends that the amount budgeted for

the pilot program be reduced until FTRI obtains greater insight into consumer demand and product quality. Staff recommends that the Commission maintain the budget at the current Fiscal Year 2018/2019 Commission approved budgeted amount of \$7,733. Staff believes that the difference between this amount and last year's approved budget will be sufficient for FTRI to evaluate the demand for the Bellman-Symfon device. Staff recommends that FTRI's proposed budget for VRS equipment be reduced by \$4,767.

Surcharge

FTRI recommends that the Commission order all local exchange companies to continue billing the \$0.10 monthly surcharge for Fiscal Year 2019/2020. Staff's recommended total budget includes a shortfall of \$285,714. FTRI proposed drawing from the Reserve Account to cover the shortfall in their proposed budget. Staff notes that a \$0.01 increase in the surcharge would produce almost twice the amount of the shortfall of \$285,714.¹¹ Therefore, staff recommends that rather than increasing the surcharge, it is appropriate to transfer the funds from the Reserve Account to cover the budgeted shortfall for Fiscal Year 2019/2020.

Conclusion

Staff believes FTRI's expense reductions continue to be steps in the right direction to better position FTRI in a changing industry. However, a sustained effort is necessary for FTRI to strategically position itself in a rapidly changing environment. Staff has identified three expense line items in FTRI's proposed Fiscal Year 2019/2020 budget that should be reduced associated with equipment distribution.

Staff recommends that the Commission reduce FTRI's proposed budget expenses for Fiscal Year 2019/2020 by \$2,300 for Voice Carry-Over/Hearing Carry-Over-Telecommunications Device for the Deaf (VCO/HCO-TDD) Equipment, \$2,592 for Audio Ringer (ARS) Equipment, and \$4,767 for Video Relay Service (VRS) Equipment. Staff also recommends that the Commission allow FTRI to transfer \$285,714 from the Reserve Account to offset the projected revenue shortfall due to a projected four percent decrease in access lines. Staff recommends that the Commission order all local exchange companies to continue billing the \$0.10 surcharge for Fiscal Year 2019/2020.

Staff also notes that FTRI has the flexibility to move budgeted funds within the same category as a management tool, if needed, for expense categories II through V, except for employee related expenses in Category V. (Williams)

¹¹ Staff projects that a \$0.01 increase in the surcharge from \$0.10 to \$0.11 would increase projected Fiscal Year 2019/2020 revenue by \$531,579.

Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency 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. (Murphy)

Staff Analysis: At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.



March 1, 2019

Mr. Curtis Williams, Regulatory Analyst IV
Office of Telecommunications
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0866

RE: **FTRI FY 2019/2020 Budget**

Dear Mr. Williams:

I am pleased to forward a copy of the FY 2019/2020 budget for the Florida Telecommunications Relay, Inc. (FTRI).

The budget maintains the surcharge at 10 cents per access line and at this level is projected to produce revenues of \$5,409,709. As reflected on the attached copy of the approved budget total expenses are projected to be \$5,705,082. A shortfall of \$295,373 will be realized.

Access lines have decreased at the rate of 5.7% during the past four years (2015, 2016, 2017 & 2018) and that trend is expected to continue as more consumers move from landline to other technologies. For the current budget period, it is projected that access lines will decrease by 4.0%.

FTRI and its regional partners continue to reach out to meet the telecommunications access needs of residents who are deaf, hard of hearing, deaf/blind, or speech disabled. Outreach continues to be an integral part of our efforts to attract new clients and educate the general population about the Florida Relay System and the benefits this brings to our citizens as required by TASA.

Should you have questions or desire additional information, please do not hesitate to email me at jforstall@ftri.org.

Sincerely,

A handwritten signature in black ink, appearing to read "James Forstall", is written over the typed name and title.

James Forstall
Executive Director

Enclosure

cc: FTRI Board of Directors

Florida Telecommunications Relay, Inc. Fiscal Year 2019/2020 Budget @ .10 cents surcharge					
	2018/2019 APPROVED BUDGET	2018/2019 ESTIMATED REV & EXPEND	2019/2020 PROPOSED BUDGET	Estimated to Budget VARIANCE 2018/2019 2019/2020	Budget to Budget VARIANCE 2018/2019 2019/2020
OPERATING REVENUE					
1 Surcharges	5,695,749	5,537,279	5,315,788	(221,491)	(379,961)
2 Interest Income	97,902	88,652	93,921	5,269	(3,981)
TOTAL OPERATING REV	5,793,651	5,625,931	5,409,709	(216,222)	(383,942)
OTHER REVENUE/FUNDS					
3 Surplus Account	17,398,350	17,301,477	16,957,128	(344,349)	(441,222)
TOTAL REVENUE	23,192,001	22,927,408	22,366,837	(560,571)	(825,164)
OPERATING EXPENSES					
CATEGORY I - RELAY SERVICES					
4 DPR Provider	2,826,281	2,726,660	2,556,170	(170,490)	(270,111)
SUBTOTAL-CATEGORY I	2,826,281	2,726,660	2,556,170	(170,490)	(270,111)
CATEGORY II - EQUIPMENT & REPAIRS					
5 TDD Equipment	0	0	0	0	0
6 Large Print TDD's	0	0	0	0	0
7 VCO/HCO - TDD	4,600	2,300	2,300	0	(2,300)
8 VCO Telephone	0	0	0	0	0
9 Dual Sensory Equipment	0	620	0	(620)	0
10 CapTel Phone Equipment	0	0	16,875	16,875	16,875
11 VCP Hearing Impaired	936,572	936,748	813,659	(123,089)	(122,913)
12 VCP Speech Impaired	0	0	0	0	0
13 TelITalk Speech Aid	13,200	37,095	15,480	(21,615)	2,280
14 Jupiter Speaker phone	0	0	0	0	0
15 In-Line Amplifier	0	0	0	0	0
16 ARS Signaling Equip	250	1,296	2,592	1,296	2,342
17 VRS Signaling Equip	7,733	4,775	12,500	7,725	4,767
18 Accessories & Supplies	1,230	981	1,499	518	269
19 Telecomm Equip Repair	76,775	84,408	83,148	(1,260)	6,373
SUBTOTAL-CATEGORY II	1,040,360	1,068,223	948,053	(120,170)	(92,307)
CATEGORY III - EQUIPMENT DISTRIBUTION & TRAINING					
20 Freight-Telecomm Equip	38,034	40,021	42,793	2,772	4,759
21 Regional Distr Centers	667,484	686,630	664,128	(22,502)	(3,356)
22 Workshop Expense	0	0	0	0	0
23 Training Expense	468	468	468	0	0
SUBTOTAL-CATEGORY III	705,986	727,119	707,389	(19,730)	1,403

Florida Telecommunications Relay, Inc. Fiscal Year 2019/2020 Budget @ .10 cents surcharge					
	2018/2019 APPROVED BUDGET	2018/2019 ESTIMATED REV & EXPEND	2019/2020 PROPOSED BUDGET	Estimated to Budget VARIANCE 2018/2019 2019/2020	Budget to Budget VARIANCE 2018/2019 2019/2020
CATEGORY IV - OUTREACH					
24 Outreach Expense	546,250	546,250	535,650	(10,600)	(10,600)
SUBTOTAL-CATEGORY IV	546,250	546,250	535,650	(10,600)	(10,600)
CATEGORY V - GENERAL & ADMINISTRATIVE					
25 Advertising	15	1,247	1,247	(0)	1,232
26 Accounting/Auditing	26,582	27,027	21,221	(5,806)	(5,361)
27 Legal	36,000	33,360	33,500	140	(2,500)
28 Computer Consultation	5,580	4,577	6,710	2,133	1,130
29 Dues & Subscriptions	2,287	2,307	2,307	0	20
30 Office Furniture Purchase	0	0	0	0	0
31 Office Equipment Purchase	6,263	4,047	9,131	5,084	2,868
32 Office Equipment Lease	1,552	1,751	1,751	0	199
33 Insurance-Health/Life/Disability	153,027	151,873	165,266	13,393	12,239
34 Insurance-Other	10,729	9,609	9,609	0	(1,120)
35 Office Expense	13,029	11,913	11,914	1	(1,115)
36 Postage	7,490	4,527	4,527	0	(2,963)
37 Printing	1,114	1,216	1,216	0	102
38 Rent	91,205	91,130	91,317	187	112
39 Utilities	5,294	5,250	5,250	0	(44)
40 Retirement	78,773	76,756	80,909	4,153	2,136
41 Employee Compensation	441,149	422,200	456,961	34,761	15,812
42 Temporary Employment	0	0	0	0	0
43 Taxes - Payroll	31,604	30,909	33,478	2,569	1,874
44 Taxes - Unemployment Comp	63	67	63	(4)	0
45 Taxes - Licenses	61	61	61	0	0
46 Telephone	18,089	15,134	15,615	481	(474)
47 Travel & Business	5,198	4,105	4,055	(50)	(1,143)
48 Equipment Maint.	1,306	762	762	0	(544)
49 Employee Training/Dev	950	2,200	950	(1,250)	0
50 Meeting Expense	883	0	0	0	(883)
51 Miscellaneous Expense	0	0	0	0	0
SUBTOTAL-CATEGORY V	936,243	902,028	957,820	55,792	21,577
TOTAL EXPENSES	6,055,120	5,970,280	5,705,082	(265,198)	(350,038)
REVENUE LESS EXPENSES	17,136,881	16,957,128	16,661,755	(295,373)	(475,126)
			-295,373		

STAFF'S BUDGET COMPARISON

2018/2019 APPROVED BUDGET	2018/2019 FTRI ESTIMATED	2018/2019 FPSC STAFF ESTIMATED	2019/2020 FPSC STAFF PROPOSED BUDGET	2019/2020 FTRI PROPOSED BUDGET
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REVENUE

Surcharge	5,695,749	5,537,279	5,537,279	5,315,788	5,315,788
Interest	97,902	88,652	88,652	93,921	93,921
TOTAL OPERATING REVENUE	5,793,651	5,625,931	5,625,931	5,409,709	5,409,709
Surplus Account	17,398,350	17,301,477	17,301,477	16,957,128	16,957,128
TOTAL REVENUE	23,192,001	22,927,408	22,927,408	22,366,837	22,366,837

OPERATING EXPENSES

CATEGORY I - RELAY SERVICES					
DPR Provider	2,826,281	2,726,660	2,726,660	2,556,170	2,556,170
SUBTOTAL CATEGORY I	2,826,281	2,726,660	2,726,660	2,556,170	2,556,170

CATEGORY II - EQUIPMENT & REPAIRS					
TDD Equipment	-	-	-	-	-
Large Print TDD	-	-	-	-	-
VCO/HCO-TDD	4,600	2,300	-	-	2,300
VCO-Telephone	-	-	-	-	-
Dual Sensory Equipment	-	620	827	-	-
CapTel Phone Equipment	-	-	-	16,875	16,875
VCP Hearing Impaired	936,572	936,748	905,640	813,659	813,659
VCP Speech Impaired	-	-	-	-	-
TeliTalk Speech Aid	13,200	37,095	47,680	15,480	15,480
Jupiter Speaker Phone (InferoRed/Har	-	-	-	-	-
In Line Amplifier	-	-	-	-	-
ARS-Signaling Equipment	250	1,296	-	-	2,592
VRS-Signaling Equipment	7,733	4,775	2,880	7,733	12,500
Equipment Accessories/Supplies	1,230	981	388	1,499	1,499
Telecom Equipment Repair	76,775	84,408	122,692	83,148	83,148
SUBTOTAL CAT II	1,040,360	1,068,223	1,080,107	938,394	948,053

CATEGORY III - EQUIPMENT DISTRIBUTION & TRAINING					
Freight - Telecomm Equipment	38,034	40,021	37,601	42,793	42,793
Regional Distribution Centers	667,484	686,630	684,837	664,128	664,128
Workshop Expense	-	-	-	-	-
Training Expense for RDCs	468	468	624	468	468
SUBTOTAL CAT III	705,986	727,119	723,063	707,389	707,389

STAFF'S BUDGET COMPARISON

	2018/2019 APPROVED BUDGET	2018/2019 FTRI ESTIMATED	2018/2019 FPSC STAFF ESTIMATED	2019/2020 FPSC STAFF PROPOSED BUDGET	2019/2020 FTRI PROPOSED BUDGET
Outreach Expense	546,250	546,250	504,960	535,650	535,650
SUBTOTAL CAT IV	546,250	546,250	504,960	535,650	535,650

CATEGORY V - GENERAL AND ADMINISTRATIVE

Advertising	15	1,247	3,305	1,247	1,247
Accounting/Audit	26,582	27,027	34,395	21,221	21,221
Legal	36,000	33,360	25,817	33,500	33,500
Consultation-Computer	5,580	4,577	4,849	6,710	6,710
Dues/Subscriptions	2,287	2,307	3,012	2,307	2,307
Office Furniture	-	-	-	-	-
Office Equipment Purchase	6,263	4,047	4,399	9,131	9,131
Office Equipment Lease	1,552	1,751	1,955	1,751	1,751
Insurance -Health/Life/Disability	153,027	151,873	150,757	165,266	165,266
Insurance-Other	10,729	9,609	9,140	9,609	9,609
Office Expense	13,029	11,913	10,661	11,914	11,914
Postage	7,490	4,527	3,316	4,527	4,527
Printing	1,114	1,216	2,093	1,216	1,216
Rent	91,205	91,130	91,141	91,317	91,317
Utilities	5,294	5,250	5,119	5,250	5,250
Retirement	78,773	76,756	73,175	80,909	80,909
Employee Compensation	441,149	422,200	414,143	456,961	456,961
Temporary Employment	-	-	-	-	-
Taxes - Payroll	31,604	30,909	30,607	33,478	33,478
Taxes - Unemployment Comp	63	67	79	63	63
Taxes - Licenses	61	61	81	61	61
Telephone	16,089	15,134	14,879	15,615	15,615
Travel & Business Expense	5,198	4,105	6,301	4,055	4,055
Equipment Maintenance	1,306	762	573	762	762
Employee Training	950	2,200	2,633	950	950
Meeting Expense	883	-	1,840	-	-
Miscellaneous	-	-	-	-	-
SUBTOTAL CAT V	936,243	902,028	894,271	957,820	957,820

TOTAL EXPENSES	6,055,120	5,970,280	5,929,060	5,695,423	5,705,082
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REVENUES LESS EXPENSES	17,136,881	16,957,128	16,998,348	16,671,414	16,661,755
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Item 2

Revised
05/30/19

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: May 30, 2019

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Davis, Cibula) *CD SML*
Division of Economics (Draper, Merryday, Guffey) *HM E.K.G. - JDN*
E.D.

RE: Docket No. 20180143-EI – Petition to initiate rulemaking to revise and amend portions of Rule 25-6.0426, F.A.C., Recovery of Economic Development Expenses, by Florida Power & Light Company, Gulf Power Company, and Tampa Electric Company.

AGENDA: 06/11/19 – Regular Agenda – Rule Proposal – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

RULE STATUS: Proposal May Be Deferred

SPECIAL INSTRUCTIONS: None

Case Background

Rule 25-6.0426, Florida Administrative Code, (F.A.C.), addresses the recovery of economic development expenses for public electric utilities. The rule implements Section 288.035, Florida Statutes (F.S.), which requires the Commission to adopt rules for the recovery of economic development expenses by public utilities, including the sharing of expenses by shareholders.

On July 30, 2018, Florida Power & Light Company (FPL), Gulf Power Company (Gulf), and Tampa Electric Company (TECO) (collectively, petitioners) filed a joint petition to initiate rulemaking to amend Rule 25-6.0426, F.A.C. In their petition, the petitioners requested that the Commission amend the rule to increase the cap on recoverable economic development expenses on a phased-in basis through 2023.

On August 2, 2018, the Office of Public Counsel (OPC) filed a notice of intervention which was acknowledged by Order No. PSC-2018-0420-PCO-EI. Staff and OPC issued interrogatories and production of documents to the petitioners, Duke Energy Florida (DEF), and Florida Public Utilities Company (FPUC). The Commission granted the petition to initiate rulemaking and noticed the development of the rule in the September 7, 2018 edition of the Florida Administrative Register, Vol. 44, No. 175.

A rule development workshop was held on January 16, 2019, to obtain stakeholder comment on potential amendments to the rule. FPL, Gulf, TECO, and OPC participated in the workshop and filed post-workshop written comments. On March 14, 2019, the petitioners, Duke, and FPUC responded to staff's data request regarding the Statement of Estimated Regulatory Cost (SERC).

This recommendation addresses whether the Commission should propose the amendment of Rule 25-6.0426, F.A.C., as set forth in Attachment A to the recommendation. The Commission deferred consideration of the recommendation to the June 11, 2019 Agenda Conference. The rule amendments as shown in Attachment A provide for an increase in the cap of recoverable economic development expenses; however, they differ from the petitioners' proposed amendments. Attachment B to the recommendation illustrates recoverable economic development expenses for electric utilities for 2019 under the current rule, petitioners' proposed rule, OPC's proposal (based on OPC's post-workshop comments), and staff's recommended amendments. Revised Attachment C further reflects the phased-in approach of percentage increases in the cap from 2019-2023 as proposed in the petitioners' proposed rule amendments.¹ Attachment D includes the Statement of Estimated Regulatory (SERC) costs. At the May 14, 2019 Agenda Conference, the Commission directed staff to provide additional options for its consideration, which staff has provided in Attachment E.

Staff's recommended rule amendments are based on the petition, the petitioners' responses to staff's and OPC's interrogatories, the presentations and comments made during the workshop, and the post-workshop written comments. The Commission has jurisdiction pursuant to Sections 120.54, 350.127, and 288.035, F.S.

¹After the May 14, 2019 Agenda Conference, staff discovered that Attachment C did not accurately reflect the petitioners' proposed rule amendments. Attachment C has been revised to correct this error.

Discussion of Issues

Issue 1: Should the Commission propose the amendment of Rule 25-6.0426, F.A.C., Recovery of Economic Development Expenses?

Recommendation: Yes, the Commission should propose the amendment of Rule 25-6.0426, F.A.C., as set forth in Attachment A. The Commission should certify Rule 25-6.0426, F.A.C., as a minor violation rule. (Davis, Draper, Merryday)

Staff Analysis: Staff recommends that the Commission propose the amendment of Rule 25-6.0426, F.A.C., as set forth in Attachment A. Subsection (3) of Rule 25-6.0426, F.A.C., is the only section of the rule for which amendments were offered. Subsection (3) of Rule 25-6.0426, F.A.C., places a cap on the amount of economic development expenses utilities may report for surveillance reports and earnings review calculations in between rate cases. Staff's explanation as to its recommendation for the rule amendments is set forth in more detail below.

Current Rule 25-6.0426, F.A.C.

Subsection (3) of the rule currently states:

Prior to each utility's next rate change enumerated in subsection (6), the amounts reported for surveillance reports and earnings review calculations shall be limited to the greater of:

- (a) The amount approved in each utility's last rate case escalated for customer growth since that time, or
- (b) 95 percent of the expenses incurred for the reporting period so long as such does not exceed the lesser of 0.15 percent of gross annual revenues or \$3 million.

When the rule was initially adopted in 1995, the Commission established the cap on economic development expenses in paragraph (3)(b) as the lesser of 0.15 percent of gross annual revenues or \$3 million.² The rule provided that ratepayers would be responsible for 90 percent of economic development expenses and shareholders for the remaining ten percent of economic development expenses. The Commission established the 95 percent sharing requirement when the rule was amended in 1998.

Petition to Initiate Rulemaking

The petitioners requested that subsection (3) of the rule be amended as follows:

Prior to each utility's next rate change enumerated in subsection (6), the amounts reported for surveillance reports and earnings review calculations shall be limited to the greater of:

² The Commission first adopted Rule 25-6.0426, F.A.C., on July 17, 1995, in Docket No. 930165-PU, *In re: Proposed Rules 25-6.0426 and 25-7.042, F.A.C., Recovery of Economic Development Expenses*. The rule has been amended twice since it was first adopted, on June 2, 1998, in Docket No. 971334-PU, *In re: Proposed Amendments to Rules 25-6.0426, F.A.C., Recovery of Economic Development Expenses, and 25-7.042, F.A.C., Recovery of Economic Development Expenses*; and on September 25, 2000, in Docket No. 000418-PU, *In re: Proposed Amendments to Rules 25-6.0426 and 25-7.042, F.A.C., Recovery of Economic Development Expenses*.

Date: May 30, 2019

- (a) The amount approved in each utility's last rate case escalated for customer growth since that time, or
- (b) 95 percent of the expenses incurred for the reporting period so long as such does not exceed the greater ~~lesser~~ of 0.15 percent of gross annual revenues or \$3 million. Beginning on January 1, 2020, the amounts reported for surveillance reports and earnings review calculations shall not exceed the greater of \$3 million or 95 percent of the following percentages of gross annual revenues: January 1, 2020 – 0.175 percent; January 1, 2021 – 0.2 percent; January 1, 2022 – 0.225 percent; and, January 1, 2023 and beyond – 0.25 percent.

Attachment C illustrates the phased-in approach of percentage increases in the cap from 2019-2023 as proposed in the petitioners' proposed rule amendments. The petitioners stated that although Rule 25-60.426, F.A.C., is intended to promote economic development in Florida, the rule in its current form has become unduly restrictive. The \$3 million expense cap set forth in the rule has not changed since 1995. For a large utility like FPL, according to the petitioners, the current rule has limited FPL's recoverable economic development expenses to a flat \$3 million per year in each and every year since the rule's inception over 20 years ago.

The petitioners asserted that the impact of the utilities' recoverable economic development expenses has steadily eroded since the rule was first established in 1995, with the expense cap decreasing by approximately 65 percent since 1995 due to inflation. The petitioners further explained that both the restrictive impact of the cap on large utilities and the steady erosion of the real value of the cap could be substantially avoided by the above-requested amendments. The petitioners stated in their post-workshop comments that these rule amendments are needed to encourage utilities to broaden economic development in Florida by allowing recovery of economic development expenses at levels commensurate with the economic size and reach of each utility.

According to the petitioners, the suggested rule amendments are not projected to have any adverse impacts to their general body of ratepayers. The petitioners contend that customers will see no rate increases as a result of the proposed rule amendments between rate cases and that the revenue increases from new and expanding business will allow for long-term fixed costs to be spread over a larger customer base, thereby benefiting existing customers.

During the staff workshop, FPL explained that the current \$3 million cap creates tension between funding for economic development staffing and other economic development activities, such as rate discounts. FPL stated in its post-workshop comments that the proposed amendments to the rule "will gradually increase the level of funding for promotion of economic development for FPL from the current \$3 million to approximately \$27 million by 2023." It asserted that this will "permit FPL to continue expanding its promotion of economic development in Florida" and "increase the funding available for economic development activities of all Florida investor-owned utilities." This increase includes funding for staff in FPL's Office of Economic Development which "will provide an enhanced staff focus in the following areas: (1) business development; (2) competitiveness; and (3) capacity building."

Date: May 30, 2019

Both Gulf and TECO stated in their post-workshop comments that they are not currently spending up to the existing cap limits. Both utilities also stated that they have no immediate plans to increase their involvement in economic development activities should the cap be increased. However, both utilities asserted that given the amount of time since the rule has been amended and due to the increasing importance of fostering economic development in Florida, it is appropriate to amend the rule to put the utilities in a posture to respond to and address changing conditions in the economic development marketplace.

OPC's Comments

OPC stated in its post-workshop comments that it does not “categorically object to some level of increase in the amount allowed in the Rule as long as shareholders bear some of the increased costs that assumedly will contribute to their return.” OPC pointed out that all the utilities stated at the workshop that the utilities contribute no more than the five percent required under paragraph (3)(b) of the rule. OPC stated that it is concerned with “maintaining the appropriate balance between customer and shareholder responsibility regarding the amount spent on economic development and the amount paid by customers.”

In regard to the utilities' request to change the word “lesser” to “greater” in paragraph (3)(b) of the rule, OPC asserted that the rule should remain the same. Instead, OPC suggested that the rule be amended to increase the \$3 million cap to \$10 million.

OPC stated it is concerned that use of the word “greater” instead of the limiting language “lesser” would “allow for increases in the amount that can be spent on economic development with no dollar amount ‘cap’ in the future.” It is concerned that there is a lack of evidence warranting the level of increase requested by the utilities. It further stated that the utilities did not “show that they were either foregoing economic development opportunities due to lack of funding or that they were spending more than five percent of shareholder monies on the costs for economic development opportunities that would otherwise be foregone.”

OPC asserted that the limitations in the rule are necessary because 95 percent of the costs are flowed through to the customers and the majority of the utilities have not been spending the allowable amounts under the current rule. It further asserted that “[a]llowing the cap to increase from \$3 million to \$10 million is a 333 percent increase which would allow all utilities to significantly increase spending for economic development above what they are currently spending.”

Staff's Recommended Amendments to the Rule

Based on the petition, the petitioners' responses to staff's and OPC's interrogatories, the presentations and comments made during the workshop, and the post-workshop written comments, staff believes that Rule 25-6.0426, F.A.C., should be revised to further encourage utilities to promote continued economic development. Therefore, as reflected in Attachment A, staff recommends that Section (3) of Rule 25-6.0426, F.A.C., be amended as follows:

Prior to each utility's next rate change enumerated in subsection (6), the amounts reported for surveillance reports and earnings review calculations shall be limited to the greater of:

- (a) The amount and level of sharing approved in each utility's last rate case escalated for customer growth since that time, or
- (b) 95 percent of the total economic development expenses incurred for the reporting period so long as the total economic development expenses do such ~~does~~ not exceed the greater ~~lesser~~ of 0.15 percent of jurisdictional gross annual revenues or \$~~5~~3 million.

Attachment B to the recommendation illustrates recoverable economic development expenses for electric utilities for 2019 under the current rule, the petitioners' proposed rule, OPC's proposal (based on OPC's post-workshop comments), and staff's recommended amendment as shown in Attachment A to the recommendation. Attachment C essentially illustrates the phased-in approach of the petitioners' proposed annual cap increases from 2019-2023. Staff does not favor a phased-in approach of cap increases for the reasons discussed below. Instead, staff recommends a more moderate approach described as follows.

First, staff recommends that the Commission amend paragraph (3)(b) of the rule to change the word "lesser" to "greater" and to retain the current 0.15 percent ceiling. This amendment allows economic development expenses to increase commensurate with a utility's size, addressing the petitioners' concerns that the current rule is unduly restrictive for large utilities such as FPL (when measured in operating revenues). This will result in the ability of larger utilities to increase economic development expenses over time as operating revenues grow.

Additionally, staff's proposed language would allow smaller utilities to increase their economic development expenses. Under the current "lesser" language, 0.15 percent of revenues is the economic development expense cap for Gulf and FPUC because 0.15 percent of jurisdictional operating revenues falls below the current \$3 million cap, as shown in Column 2 of Attachment B. Under staff's proposed amendment, changing "lesser" to "greater" will increase the allowed expenditures for Gulf and FPUC to the dollar cap in the rule, which would be \$5 million as reflected in Column 6 of Attachment B.

Second, staff recommends that the Commission amend paragraph (3)(b) to increase the \$3 million cap to \$5 million to address the effects of inflation since 1995. Staff used the Consumer Price Index for all Urban Consumers (CPI-U) to bring \$3 million in 1995 dollars to a present value of \$4.95 million. This figure was rounded to \$5 million for simplification. Adjusting the cap from \$3 million to \$5 million, in conjunction with changing "lesser" to "greater," would allow all electric utilities to expand their economic development spending as shown in Column 6 of Attachment B. Staff notes that OPC's proposal, as shown in Column 5 of Attachment B, does not provide for an increase in economic development expenses for TECO, Gulf, and FPUC.

Finally, staff is recommending three minor modifications to the rule to provide clarity to the rule. Staff recommends that the phrase "and the level of sharing" be added to paragraph (3)(a) of the rule. The current language may create uncertainty as to the percentage of economic development expenses approved in a utility's last rate case subject to sharing between shareholders and ratepayers, if the Commission does not specifically address it. Section 288.035, F.S., states the "Commission shall adopt rules for the recovery of economic development expenses by public utilities, including the sharing of expenses by shareholders." Therefore, this clarifies that the level of sharing by the Commission in a rate case shall be utilized for surveillance purposes.

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Staff also recommends that paragraph (3)(b) be amended to add the phrase “total economic development expenses” to clarify that the cap prescribed by paragraph (3)(b) includes a 5 percent shareholder contribution.³ The amount reported for surveillance reports and earnings review calculations reflects only the 95 percent ratepayer contribution.

Staff further recommends that subsection (3)(b) be amended to add the word “jurisdictional” to clarify that the cap is derived from jurisdictional gross annual revenues, as opposed to system gross annual revenues. Jurisdictional revenues are derived from retail customers, which are under the Commission’s jurisdiction. System revenues include retail as well as wholesale customers, which are under federal jurisdiction. Staff believes this clarification is needed after communications with the utilities revealed different understandings of the term “gross annual revenues.”

The petitioners proposed phased-in increases to the percentage cap, from 0.175 percent in 2020 to 0.25 percent in 2023, as shown in Columns 2 and 5 of Attachment C of the recommendation. In the staff workshop, the petitioners communicated that, if the rule is amended as the petition proposes, the utilities are unlikely to immediately increase spending up to the caps. This reflects the petitioners’ stated belief that spending should gradually increase to a higher percentage over time. Staff believes having 0.15 percent revenue cap (as in the current rule), rather than 0.25 percent, better mitigates potential rate increases resulting from a larger increase in spending allowed under the phased-in approach. Further, the utilities did not adequately demonstrate the need to increase the existing percentage of revenues cap. Therefore, staff does not believe the petitioners’ phased-in increases to the percentage cap are warranted. If, with experience, the petitioners determine that the proposed amendments limit economic development activities, then this can be addressed in a rate case or further rule amendments may be proposed.

Minor Violation Rule Certification

Pursuant to Section 120.695, F.S., beginning July 1, 2017, for each rule filed for adoption the agency head shall certify whether any part of the rule is designated as a rule the violation of which would be a minor violation. Rule 25-6.0426, F.A.C., is currently listed on the Commission’s website as a rule for which a violation would be minor because violation of the rule would not result in economic or physical harm to a person or have an adverse effect on the public health, safety, or welfare or create a significant threat of such harm. The amendments to the rule would not change its status as a minor violation rule. Thus, staff recommends that the Commission certify Rule 25-6.0426, F.A.C., as a minor violation rule.

Statement of Estimated Regulatory Costs

Pursuant to Section 120.54, F.S., agencies are encouraged to prepare a statement of estimated regulatory costs (SERC) before the adoption, amendment, or repeal of any rule. The SERC is appended as Attachment D to this recommendation. The SERC analysis also includes whether the rule is likely to have an adverse impact on growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years of implementation.

³ The 5 percent shareholder contribution was approved in Docket No. 971334-PU.

Date: May 30, 2019

The SERC concludes that the rule will not likely directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within one year after implementation. Further, the SERC concludes that the rule will not likely have an adverse impact on economic growth, private sector job creation or employment, private sector investment, business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. Thus, the rule does not require legislative ratification pursuant to Section 120.541(3), F.S. In addition, the SERC states that the rule will not have an adverse impact on small business and will have no impact on small cities or counties. No regulatory alternatives were submitted pursuant to paragraph 120.541(1)(a), F.S. None of the impact/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended revision.

Customer Bill Impacts

The SERC includes an analysis of customer bill impacts of the rule amendment as shown in Attachment D, page 24. As explained in the SERC, estimated customer bill impacts for residential and small commercial customers are projected by the petitioners, Duke, and FPUC to be minimal. In addition, the customers will see no rate increases as a result of an increase in economic development spending between rate cases. Finally, the petitioners assert in their responses to staff's SERC data requests, that any new load resulting from economic development activities allows the petitioners to spread fixed costs over a greater customer base, putting downward pressure on rates for all customers.

Conclusion

Staff agrees with the petitioners that the current cap is unduly restrictive, especially for a large utility like FPL, and that inflation since 1995 has eroded the value of the \$3 million cap. However, staff also believes that while the Commission should continue to encourage economic development, the Commission should consider moderation in the increase of recoverable economic development expenses. Based on the foregoing, staff recommends that the Commission propose the amendment of Rule 25-6.0426, F.A.C., as set forth in Attachment A. This more moderate approach when compared to the petitioners' request will provide the petitioners with the opportunity for increased economic development spending to the benefit of the State of Florida. In addition, the Commission should certify Rule 25-6.0426, F.A.C., as a minor violation rule.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no requests for hearing or comments are filed, the rule may be filed with the Department of State, and this docket should be closed.

Staff Analysis: If no requests for hearing or comments are filed, the rule may be filed with the Department of State, and the docket should be closed.

1 **25-6.0426 Recovery of Economic Development Expenses.**

2 (1) Pursuant to Section 288.035, F.S., the Commission shall allow a public utility to
3 recover reasonable economic development expenses subject to the limitations contained in
4 subsections (3) and (4), provided that such expenses are prudently incurred and are consistent
5 with the criteria established in subsection (7).

6 (2) Definitions.

7 (a) “Economic Development” means those activities designed to improve the quality of
8 life for all Floridians by building an economy characterized by higher personal income, better
9 employment opportunities, and improved business access to domestic and international
10 markets.

11 (b) “Economic development organization” means a state, local, or regional public or
12 private entity within Florida that engages in economic development activities, such as city and
13 county economic development organizations, chambers of commerce, Enterprise Florida, the
14 Florida Economic Development Council, and World Trade Councils.

15 (c) “Trade show” means an exhibition at which companies, organizations, communities, or
16 states advertise or display their products or services, in which economic development
17 organizations attend or participate to identify potential industrial prospects, to provide
18 information about the locational advantages of Florida and its communities, or to promote the
19 goods and services of Florida companies.

20 (d) “Prospecting mission” means a series of meetings with potential industrial prospects at
21 their business locations with the objectives of convincing the prospect that Florida is a good
22 place to do business and offers unique opportunities for that particular business, and
23 encouraging the prospect to commit to a visit to Florida if a locational search is pending or in
24 progress.

25 (e) “Strategic plan” means a long-range guide for the economic development of a community
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from
existing law.

1 or state that focuses on broad priority issues, is growth-oriented, is concerned with
2 fundamental change, and is designed to develop and capitalize on new opportunities.

3 (f) "Recruitment" means active efforts to encourage specific companies to expand or begin
4 operations within Florida.

5 (3) Prior to each utility's next rate change enumerated in subsection (6), the amounts
6 reported for surveillance reports and earnings review calculations shall be limited to the
7 greater of:

8 (a) The amount and level of sharing approved in each utility's last rate case escalated for
9 customer growth since that time, or

10 (b) 95 percent of the total economic development expenses incurred for the reporting
11 period so long as the total economic development expenses do ~~such does~~ not exceed the
12 greater ~~lesser~~ of 0.15 percent of jurisdictional gross annual revenues or \$53 million.

13 (4) At the time of each utility's next rate case and for subsequent rate proceedings
14 enumerated in subsection (6) the Commission will determine the level of sharing of prudent
15 economic development costs and the future treatment of these expenses for surveillance
16 purposes.

17 (5) Each utility shall report its total economic development expenses as a separate line
18 item on its income statement schedules filed with the earnings surveillance report required by
19 Rule 25-6.1352, F.A.C. Each utility shall make a line item adjustment on its income statement
20 schedule to remove the appropriate percentage of economic development expenses incurred
21 for the reported period consistent with subsections (3) and (4).

22 (6) Requests for changes relating to recovery of economic development expenses shall be
23 considered only in the context of a full revenue requirements rate case or in a limited scope
24 proceeding for the individual utility.

25 (7) All financial support for economic development activities given by public utilities to
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from
existing law.

1 state and local governments and organizations shall be pursuant to a prior written agreement.

2 Recoverable economic development expenses shall be limited to the following:

3 (a) Expenditures for operational assistance, including:

4 1. Planning, attending, and participating in trade shows;

5 2. Planning, conducting, and participating in prospecting missions designed to encourage

6 the location in Florida of domestic and foreign companies;

7 3. Providing financial support to economic development organizations to assist with their

8 economic development operations;

9 4. Providing financial support to economic development programs or initiatives identified

10 or developed by Enterprise Florida, Inc.;

11 5. Participating in joint economic development efforts, including public-private

12 partnerships, consortia, and multi-county regional initiatives;

13 6. Participating in downtown revitalization and rural community developmental programs.

14 7. Supporting state and local efforts to promote small and minority-owned business

15 development efforts; and

16 8. Supporting state and local efforts to promote business retention and expansion activities.

17 (b) Expenditures for assisting state and local governments in the design of strategic plans

18 for economic development activities, including:

19 1. Making financial contributions to state and local governments to assist strategic

20 planning efforts; and

21 2. Providing technical assistance, data, computer programming, and financial support to

22 state and local governments in the design and maintenance of information systems used in

23 strategic planning activities.

24 (c) Expenditures of marketing and research services, including;

25 1. Assisting state and local governments and economic development organizations in

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

- 1 marketing specific sites for business and industry development or recruitment;
- 2 2. Assisting state and local governments and economic development organizations in
- 3 responding to inquiries from business and industry concerning the development of specific
- 4 sites within the utility's service area;
- 5 3. Providing technical assistance, data, computer programming, and financial support to
- 6 state and local governments in the design and maintenance of geographic information systems,
- 7 computer networks, and other systems used in marketing and research activities;
- 8 4. Providing financial support to economic development organizations to assist with their
- 9 research and marketing activities;
- 10 5. Sponsoring publications, conducting direct mail campaigns, and providing advertising
- 11 support for state and local economic development efforts;
- 12 6. Participating in cooperative marketing efforts with economic development
- 13 organizations;
- 14 7. Helping state and local businesses identify suppliers, markets, and sources of financial
- 15 assistance;
- 16 8. Helping economic development organizations identify specific industries and
- 17 companies for targeting and recruitment;
- 18 9. Working with economic development organizations to identify businesses in need of
- 19 help for expansion, going out of business, or at risk of leaving the area;
- 20 10. Providing site and facility selection assistance, including lists of commercial or
- 21 industrial sites, computer databases, toll-free telephone numbers, maps, photographs, videos,
- 22 and other activities in cooperation with economic development organizations; and
- 23 11. Supporting state and local efforts to promote exports of goods and services, and other
- 24 international business activities.

25 *Rulemaking Authority 288.035(3), 350.127(2) FS. Law Implemented 288.035 FS. History–*
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from
existing law.

1 *New 7-17-95, Amended 6-2-98, 9-25-00, _____*
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Attachment B

Docket No. 20180143-EI - Economic Development Rule - Staff Proposal¹

(1)	(2)	(3)	(4)	(5)	(6)	
Utility	0.15% of revenues ²	Current Rule: Lesser of 0.15% of revenues or \$3M cap	2018 economic development expenses	Petition: Greater of 0.15% or \$3M (for 2019) ³	OPC's Proposal: Lesser of 0.15% of revenues or \$10M cap ⁴	Staff Recommendation: Greater of 0.15% of revenues or \$5M ⁵
FPL	\$16.89M	\$3.00M	\$2.96M	\$16.89M	\$10.00M	\$16.89M
Duke	\$7.18M	\$3.00M	\$1.22M	\$7.18M	\$7.18M	\$7.18M
TECO	\$2.89M	\$2.89M	\$0.25M	\$3.00M	\$2.89M	\$5.00M
Gulf	\$1.96M	\$1.96M	\$2.12M ⁶	\$3.00M	\$1.96M	\$5.00M
FPUC	\$0.16M	\$0.16M	\$0.02M	\$3.00M	\$0.16M	\$5.00M

¹ Amounts shown are total expenses. 95% of the amounts shown would be reported pursuant to Rule 25-6.0426(3)(b), F.A.C.

² Based on 2019 jurisdictional operating revenues as shown in 2019 Forecasted Earnings Surveillance Report.

³ The petition also includes a phased-in increase to the gross annual revenue percentage cap from 0.175% in 2020 to 0.25% in 2023. See Attachment C of the recommendation.

⁴ Based on OPC's Post Workshop Comments filed on February 18, 2019.

⁵ To recognize inflation, allow utilities to recover expenses commensurate with size, and consider moderation in the increase of recoverable economic development expenses.

⁶ This number reported by Gulf exceeds the cap under the current rule because Gulf is using 0.15% of system operating revenues to calculate their cap. Staff is proposing to clarify that the cap should be based on jurisdictional operating revenues.

Attachment C

Docket No. 20180143-EI - Economic Development Rule - Depicting Petition's Phased-In

Increases Through 2023¹

	(1)	(2)	(3)	(4)	(5)
	<u>Greater of 0.15%</u> <u>of revenues or</u> <u>\$3M</u>	<u>Greater of 0.175%</u> <u>of revenues or</u> <u>\$3M</u>	<u>Greater of 0.20%</u> <u>of revenues or</u> <u>\$3M</u>	<u>Greater of 0.225%</u> <u>of revenues or</u> <u>\$3M</u>	<u>Greater of 0.25%</u> <u>of revenues or</u> <u>\$3M</u>
Utility	2019	2020	2021	2022	2023
FPL	\$16.89M	\$19.71M	\$22.52M	\$25.34M	\$28.16M
Duke	\$7.18M	\$8.37M	\$9.57M	\$10.77M	\$11.96M
TECO	\$2.89 3.00M	\$3.37M	\$3.85M	\$4.33M	\$4.82M
Gulf	\$1.96 3.00M	\$2.28 3.00M	\$2.61 3.00M	\$2.93 3.00M	\$3.26M
FPUC	\$0.16 3.00M	\$0.18 3.00M	\$0.21 3.00M	\$0.23 3.00M	\$0.26 3.00M

¹ All amounts are based on 2019 jurisdictional operating revenues (listed below) as shown in 2019 Forecasted Earnings Surveillance Reports filed with the Commission in March 2019. The amounts do not take into account any changes in operating revenues during the years 2020 through 2023.

FPL - \$11,262,471,000
Duke - \$4,784,713,156
TECO - \$1,926,402,252
Gulf - \$1,303,847,310
FPUC - \$103,852,574

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: April 16, 2019

TO: Lauren Davis, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst II, Division of Economics *S.K.G.*

RE: Docket No. 20180143-EI: Petition to initiate rulemaking to revise and amend portions of Rule 25-6.0426, F.A.C., Recovery of Economic Development Expenses, by Florida Power & Light Company, Gulf Power Company, and Tampa Electric Company.
Statement of Estimated Regulatory Costs (SERC) for Proposed Amendments to Rule 25-6.0426, F.A.C.

Current Rule 25-6.0426, F.A.C., Recovery of Economic Development Expenses, applicable to investor-owned electric utilities, limits each utility's recoverable economic development expenses between rate cases to the greater of: (a) the amount approved in each utility's last rate case escalated for customer growth, or (b) 95 percent of the expenses incurred for the reporting period not to exceed the lesser of 0.15 percent of gross annual revenues or \$3 million.

On July 30, 2018, Florida Power & Light Company, Gulf Power Company, and Tampa Electric Company (collectively, petitioners) filed a joint petition to initiate rulemaking to amend Rule 25-6.0426, F.A.C. The petitioners requested that Rule 25-6.0426(3)(b), F.A.C., be revised to change the annual cap to the greater of 0.15 percent of gross annual revenues, rather than the lesser of 0.15 percent of gross annual revenues, or \$3 million. The petitioners also requested that the current limitation to 0.15 percent of gross annual revenues should increase to 0.175 percent in 2020, 0.2 percent in 2021, 0.225 percent in 2022, and 0.25 percent in 2023 and beyond.

A noticed workshop to solicit input on the requested rule revisions and alternatives presented by staff was conducted by Commission staff on January 16, 2019. Prior to the workshop, staff provided the utilities questions to be addressed at the workshop. Additionally, the utilities and the Office of Public Counsel submitted post-workshop written comments on February 15 and on February 18, 2019. Information provided in the petition, responses to data requests, comments that either were received during the workshop or were filed subsequently were incorporated into staff's recommended rule revisions. Specifically, Commission staff recommends that the Commission propose the following revisions to subsection (3) of Rule 25-6.0426, F.A.C.:

(a) The amount and level of sharing approved in each utility's last rate case escalated for customer growth since that time, or

(b) 95 percent of the total economic development expenses incurred for the reporting period so long as ~~such does~~ the total economic development expenses do not exceed the ~~lesser-greater~~ of 0.15 percent of jurisdictional gross annual revenues or ~~\$3 million~~ \$5 million.

Staff's amendments to subsection (3) of Rule 25-6.0426, F.A.C., are being recommended to allow for an increase in economic development spending. On March 7, 2019, staff issued a SERC data request to the petitioners and other investor-owned electric utilities for which responses were received on March 14, 2019.

The attached SERC addresses the considerations required pursuant to Section 120.541, Florida Statutes (F.S.). None of the impact/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended revision. Specifically, the SERC concludes that the rule will not likely directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within one year after implementation. Further, the SERC concludes that the rule will not likely have an adverse impact on economic growth, private sector job creation or employment, private sector investment, business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. Thus, the rule does not require legislative ratification pursuant to Section 120.541(3), F.S. In addition, the SERC states that the rule will not have an adverse impact on small business and will have no impact on small cities or counties. No regulatory alternatives were submitted to staff's proposed rule revisions pursuant to paragraph 120.541(1)(a), F.S.

cc: SERC File

**FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Rule 25-6.0426, F.A.C.**

1. Will the proposed rule have an adverse impact on small business? [120.541(1)(b), F.S.] (See Section E., below, for definition of small business.)

Yes ☐

No ☒

If the answer to Question 1 is "yes", see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes ☐

No ☒

If the answer to either question above is "yes", a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

- (1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)1, F.S.]

Economic growth

Yes ☐ No ☒

Private-sector job creation or employment

Yes ☐ No ☒

Private-sector investment

Yes ☐ No ☒

- (2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets)

Yes ☐ No ☒

Productivity

Yes ☐ No ☒

Innovation

Yes ☐ No ☒

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes ☐

No ☒

The recommended rule revisions are not likely to increase regulatory cost; they only provide the utilities with an opportunity to increase their allowable economic development expenses reported for surveillance reports pursuant to subsection (3)(b) of Rule 25-6.0426, F.A.C.

Staff submitted a SERC data request to the utilities the rule revisions apply to. Based upon the information provided in the response to the data request, staff believes that none of the impact/cost criteria established in Section 120.541(2)(a), F.S., will be exceeded as a result of the recommended revisions.

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

This rule is applicable to the five investor-owned electric utilities. The recommended rule revisions do not impose any new requirements on the electric utilities; they only provide the utilities with an opportunity to increase their allowable economic development expenses reported for surveillance reports pursuant to subsection (3)(b) of Rule 25-6.0426, F.A.C.

(2) A general description of the types of individuals likely to be affected by the rule.

The potentially affected entities include five investor-owned utilities in Florida and their retail customers, which includes residential, commercial, and industrial customers. The responses to staff's SERC data request indicate that Florida's economy as a whole could benefit from the proposed rule revisions.

Specifically, FPL stated that its Office of Economic Development has worked with 160 companies pledging to create over 28,000 jobs. From 2012-2017, FPL contends that its economic development efforts have resulted in more than \$84 billion in positive economic impact in Florida with capital investment in the 35 counties served by FPL. This has resulted in \$44 billion impact on Florida's Gross Regional Production; (1) employment impact of 220,000 full-time jobs (direct, indirect and induced), and an additional 281,724 construction jobs, (2) over \$25 billion labor income, and (3) approximately \$2.8 billion in additional state and local taxes.

Gulf Power, in its responses to staff's SERC data request, stated that the company anticipates the draft rule amendments will enable the company to develop programs to enhance workforce readiness, increase national and international awareness and branding, and certify new commercial and industrial sites. These programs would

enhance Florida's ability to attract and retain new and existing businesses with the goal of increasing economic growth, private sector job creation, and investment, while placing downward pressure on rates for all customers.

TECO also stated that the draft rule would benefit Florida's economic growth, private sector job creation and investment.

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the Commission to implement and enforce the rule.

- ☒ None. To be done with the current workload and existing staff.
- ☐ Minimal. Provide a brief explanation.
- ☐ Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

- ☒ None. The rule will only affect the Commission.
- ☐ Minimal. Provide a brief explanation.
- ☐ Other. Provide an explanation for estimate and methodology used.

(3) Any anticipated effect on state or local revenues.

- ☐ None.
- ☐ Minimal. Provide a brief explanation.
- ☒ Other. Provide an explanation for estimate and methodology used.

In response to staff's SERC data request, FPL stated that its economic activities have resulted in approximately \$2.8 billion in additional state and local taxes. FPL further stated that the utility anticipates an increased level of funding for the promotion of economic development would allow FPL to continue to contribute to the development of a greater tax base in the future.

Gulf Power, in its responses to staff's SERC data request, stated the company believes as the economy grows through economic development activities, state and local tax revenues should also increase. As new and expanding customer

base grows, franchise fee revenues remitted to local governments would also increase. TECO stated that the draft rule would benefit Florida's economic growth, private sector job creation, and investment.

D. A good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule. [120.541(2)(d), F.S.]

- ☐ None. The rule will only affect the Commission.
- ☐ Minimal.
- ☒ Other. Provide an explanation for estimate and methodology used.

The recommended rule revisions are not likely to increase transactional costs; they only provide the utilities with an opportunity to increase their allowable economic development expenses reported for surveillance reports pursuant to subsection (3)(b) of Rule 25-6.0426, F.A.C.

E. An analysis of the impact on small businesses, and small counties and small cities: [120.541(2)(e), F.S.]

(1) "Small business" is defined by Section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

- ☐ No adverse impact on small business.
- ☐ Minimal. Provide a brief explanation.
- ☒ Other. Provide an explanation for estimate and methodology used.

In response to staff's SERC data request, FPL stated that supporting small businesses is a focus of FPL's economic development program. FPL, via its website offers Small Business Tool which is designed specifically for small businesses providing market intelligence for every business in Florida. Additionally, the tool provides assistance in (1) writing a business plan, (2)

identifying new customers, (3) identifying new locations for expansion, and (4) targeted advertising efforts to maximize market penetration. FPL also partners with Florida's Small business Development Network known as SCORE, University of Central Florida's GrowFL, and Prospera, an economic development non-profit organization for minority entrepreneurs.

In response to staff's SERC data request, Gulf Power stated that it is of the opinion that small businesses and other customers will benefit by the rule amendments. Although the proposed rule amendments would result in modest utility bill increases, over time, Gulf believes that benefits associated with such expenditures, both for new and existing businesses will far outweigh the costs.

(2) A "Small City" is defined by Section 120.52, F.S., as any municipality that has an unincorporated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by Section 120.52, F.S., as any county that has an unincorporated population of 75,000 or less according to the most recent decennial census.

☐ No impact on small cities or small counties.

☐ Minimal. Provide a brief explanation.

☒ Other. Provide an explanation for estimate and methodology used.

The impact on "small cities" and "small counties" as defined by Section 120.52, F.S., is difficult to estimate. However, any additional economic development activities may benefit small cities and small counties.

F. Any additional information that the Commission determines may be useful.
[120.541(2)(f), F.S.]

☐ None.

In response to staff's SERC data request, FPL stated that the modifications to Rule 25-6.0426, F.A.C., will encourage utilities to promote new economic development investment, will expand Florida's economic base, allow utilities to conduct additional outreach, and continue to build a sustainable pipeline for potential new projects. FPL also contends that modifications to the rule are anticipated to yield increased economic development benefits to the state.

Staff submitted a data request to the utilities regarding potential bill impacts of the proposed rule revisions. While the utilities provided calculations of estimated bill impacts, it is important to note that the utilities stated that adding new load will mitigate future bill increases by spreading fixed costs over a larger customer

base and, therefore, will be beneficial to all customers by placing downward pressure on utility rates determined in a rate case. Furthermore, the five investor-owned utilities are currently under rate case settlements and any increased economic development spending would not impact base rates for the duration of the settlements.

The estimated monthly bill impacts calculated by the utilities, as shown in Table 1 below, assume the utilities' economic development expenses are at the cap and do not consider any offsetting larger customer base. Finally, staff notes that the proposed rule revisions address economic development expenses reported for surveillance reports pursuant to subsection (3)(b) of Rule 25-6.0426, F.A.C. Subsections (4) and (6) of Rule 25-6.0426, F.A.C., provide for the Commission to determine the level of sharing, future treatment of economic development expenses, and potential changes related to the recovery of economic development expenses in the context of a rate case.

Table 1
Estimated Monthly Bill Impacts

Electric IOU	Residential 1,000 kWh	Small Commercial 1,500 kWh
FPL	\$0.12	\$0.18
DEF	\$0.20	\$0.28
Gulf	\$0.24	\$0.36
TECO	\$0.13	\$0.19
FPUC	No impact	No impact

Source: Responses to Staff's First SERC Data Request

G. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(g), F.S.]

☒ No regulatory alternatives were submitted.

☐ A regulatory alternative was received from FPSC staff and is attached to the SERC memorandum.

☐ Adopted in its entirety.

☐ Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.

Note: No regulatory alternatives were submitted to staff's proposed rule revisions pursuant to paragraph 120.541(1)(a), F.S.

Attachment E

Docket No. 20180143-EI - Economic Development Rule - Additional Options

Utility	Current Rule	Staff's Proposal	OPC's Proposal	Petition (2023)	Alternative #1	Alternative #2	Alternative #3	Alternative #4
	Lesser of 0.15% or \$3M cap	Greater of 0.15% or \$5M	Not to exceed 0.15% and capped at \$10M ¹	Greater of 0.25% or \$3M	Greater of 0.15% or \$10M	Greater of 0.15% or \$5M, \$10M cap	Greater of 0.10% or \$3M	Greater of 0.15% or \$3M
FPL	\$3.00M	\$16.89M	\$10.00M	\$28.16M	\$16.89M	\$10.00M	\$11.26M	\$16.89M
Duke	\$3.00M	\$7.18M	\$7.18M	\$11.96M	\$10.00M	\$7.18M	\$4.78M	\$7.18M
TECO	\$2.89M	\$5.00M	\$2.89M	\$4.82M	\$10.00M	\$5.00M	\$3.00M	\$3.00M
Gulf	\$1.96M	\$5.00M	\$1.96M	\$3.26M	\$10.00M	\$5.00M	\$3.00M	\$3.00M
FPUC	\$0.16M	\$5.00M	\$0.16M	\$3.00M	\$10.00M	\$5.00M	\$3.00M	\$3.00M

¹ Language proposed by OPC at May 14, 2019 Agenda Conference.

Alternative #1 - Staff's proposal with \$10M instead of \$5M.

Alternative #2 - Staff's proposal with \$10M absolute cap. Gives all utilities an increase, but limits FPL.

Alternative #3 - Moderately increases all utilities' caps, lets the cap grow commensurate with utilities.

Alternative #4 - Petitioners' proposal without a phased-in increase.

Item 3

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: May 30, 2019

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Harper) *Def*
Division of Economics (Guffey) *et. g. w. ESD JMH SML.*
Office of Industry Development and Market Analysis (Wooten) *EW CH*

RE: Docket No. 20190074-PU – Proposed repeal of Rule 25-4.0051, F.A.C., Current Certificate Holder Information and Rule 25-4.520, F.A.C., Reporting Requirements, and proposed adoption of Rule 25-22.108, F.A.C., Change of Regulated Utility Contact Information.

AGENDA: 06/11/19 – Regular Agenda – Rule Proposal – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

RULE STATUS: Proposal May Be Deferred

SPECIAL INSTRUCTIONS: None

Case Background

Rule 25-4.0051, Florida Administrative Code (F.A.C.), Current Certificate Holder Information, requires each certificated telecommunications company to file updated contact information with the Office of Commission Clerk within 10 days of any changes to its contact information. Similarly, Rule 25-4.520, F.A.C., Reporting Requirements, requires each pay telephone service company to file any updated contact information with the Office of Commission Clerk within 10 days after a change occurs.

Pursuant to Sections 350.127(2), 364.01, 364.183, 366.05, 367.121, 368.05, 427.704(8), Florida Statutes (F.S.), the Commission can require any public utility subject to the Commission's regulation to provide the Commission with the utility's updated contact information. The

adoption of new Rule 25-22.108, F.A.C., Change of Regulated Utility Information, would codify current practice requiring each utility, not just telecommunications and pay telephone service companies, to submit its contact information. The utility must submit the contact information to the Office of the Commission Clerk, using the form entitled Form PSC 1024 (6/19) “Change of Regulated Utility Contact Information,” which is provided on the Commission’s website, within 30 days of being regulated by the Commission. Likewise, the rule requires that any utility that updates its contact information must submit the updated contact information to the Office of the Commission Clerk within 30 days of the changes.

The Commission’s Notice of Development of Rulemaking for Rules 25-4.0051, 25-4.520, and 25-22.108, F.A.C., were published in Volume 44, No. 160, of the Florida Administrative Register on August 16, 2018. There were no requests for workshop, and no workshop was held.

This recommendation addresses whether the Commission should repeal Rules 25-4.0051 and 25-4.520, F.A.C. and adopt Rule 25-22.108, F.A.C. The Commission has jurisdiction pursuant to Sections 120.54, 350.01, 350.127(2), and 427.704 (8), F.S.

Discussion of Issues

Issue 1: Should the Commission repeal Rules 25-4.005, F.A.C., Current Certificate Holder Information and Rule 25-4.520, F.A.C., Reporting Requirements, and adopt new Rule 25-22.108, F.A.C., Change of Regulated Utility Contact Information?

Recommendation: Yes, the Commission should repeal Rules 25-4.0051 and 25-4.520, F.A.C., and adopt new Rule 25-22.108, F.A.C., as set forth in Attachment A. The Commission should certify Rule 25-22.108, F.A.C., as a minor violation rule. (Harper, Guffey, Wooten)

Staff Analysis: Rules 25-4.0051 and 25-4.520, F.A.C., require certificate holding telecommunications and pay telephone service companies to update their contact information with the Commission. All utilities subject to the Commission's regulation, not just telecommunications and pay telephone service companies, must provide updated contact information to the Commission. Because Rules 25-4.0051 and 25-4.520, F.A.C., are limited to telecommunications and pay telephone service companies only, staff believes that these rules are unnecessary and should be repealed and replaced by Rule 25-22.108, F.A.C., as set forth in Attachment A.

Rule 25-22.108, F.A.C., codifies current Commission practice that requires utilities to update their contact information with the Commission. Rule 25-22.108, F.A.C., requires all utilities, not just telecommunications and pay telephone service companies, to update their contact information in a timely manner by using Form PSC 1024 (6/19) "Change of Regulated Utility Contact Information." A link to Form PSC 1024 is contained in Subsection (1) of Rule 25-22.108, F.A.C. The link directs utilities to Form PSC 1024 on the Commission's website so that utilities can submit updated contact information electronically to the Office of the Commission Clerk. A copy of Form PSC 1024 is set forth in Attachment B.

Subsection (1) of Rule 25-22.108, F.A.C., provides that within 30 days of being regulated by the Commission as a utility defined by Section 350.111, F.S., a utility must submit its contact information to the Office of the Commission Clerk using Form PSC 1024, except when all current information was already previously submitted to the Commission in the utility's application for certification. Subsection (2) of Rule 25-22.108, F.A.C., provides that once a utility makes any changes to the information listed in Form PSC 1024, the utility must submit an updated form to the Office of the Commission Clerk within 30 days of the changes.

Minor Violation Rules Certification

Currently, Rules 25-4.0051 and 25-4.520, F.A.C., are on the Commission's list of minor violation rules. Staff is recommending repealing these rules and replacing the rules with Rule 25-22.108, F.A.C. Pursuant to Section 120.695, F.S., beginning July 1, 2017, the agency head shall certify whether any part of each rule filed for adoption is designated as a minor violation rule. A minor violation rule is a rule that would not result in economic or physical harm to a person or an adverse effect on the public health, safety, or welfare or create a significant threat of such harm when violated. Rule 25-22.108, F.A.C., meets the standards for a minor violation rule. Therefore, for the purposes of repealing rules and filing the new rule for adoption with the Department of State, staff recommends the Commission remove Rules 25-4.0051 and 25-4.520, F.A.C., from

Date: May 30, 2019

the Commission's minor violation list and certify new Rule 25-22.108, F.A.C., as a minor violation rule.

Statement of Estimated Regulatory Costs

Pursuant to Section 120.54(3)(b)1., F.S., agencies are encouraged to prepare a statement of estimated regulatory costs (SERC) before the adoption, amendment, or repeal of any rule. A SERC was prepared for this rulemaking and is appended as Attachment C. As required by Section 120.541(2)(a)1., F.S., the SERC analysis includes whether the rule amendments are likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after implementation. None of the impact/cost criteria will be exceeded as a result of the recommended revisions.

The SERC concludes that the repeal of Rules 25-4.0051 and 25-4.520, F.A.C., and adoption of new Rule 25-22.108, F.A.C., will likely not directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within 1 year after implementation. Further, the SERC concludes that the repeal of the rules and rule adoption will not likely increase regulatory costs, including any transactional costs or have an adverse impact on business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within 5 years of implementation. Thus, the repeal of the rules and rule adoption do not require legislative ratification, pursuant to Section 120.541(3), F.S.

In addition, the SERC states that the repeal of Rules 25-4.0051 and 25-4.520, F.A.C., and adoption of new Rule 25-22.108, F.A.C., would have no impact on small businesses, would have no implementation or enforcement cost on the Commission or any other state and local government entity, and would have no impact on small cities or small counties. The SERC states that no transactional costs are likely to be incurred by individuals and entities required to comply with the requirements.

Conclusion

The Commission should repeal Rules 25-4.0051 and 25-4.520, F.A.C. and adopt new Rule 25-22.108, F.A.C., as set forth in Attachment A. The Commission should certify Rule 25-22.108, F.A.C., as a minor violation rule.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no requests for hearing or comments are filed, the rules may be filed with the Department of State, and this docket should be closed. (Harper)

Staff Analysis: If no requests for hearing or comments are filed, the rules may be filed with the Department of State, and this docket should be closed.

1 25-4.0051 Current Certificate Holder Information.

2 ~~Each company shall file updated information for the following items with the Office of the~~

3 ~~Commission Clerk within 10 days after any changes to the following:~~

4 ~~(1) The address of the certificate holder's main corporate and Florida offices (if any)~~

5 ~~including street name and address and post office box, city, state and zip code; or~~

6 ~~(2) Telephone number, name, and address of the individual who is to serve as primary~~

7 ~~liaison with the Commission in regard to the ongoing Florida operations of the certificated~~

8 ~~company.~~

9 *Rulemaking Authority 350.127(2), 427.704(8) FS. Law Implemented 364.016, 364.183,*

10 ~~*364.336, 364.3375 FS. History—New 2-4-13, Repealed*~~.

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 25-4.520 Reporting Requirements.

2 ~~Each pay telephone service company shall file with the Commission's Office of the~~

3 ~~Commission Clerk updated information for the following items within ten days after a change~~

4 ~~occurs:~~

5 ~~(1) The street address of the certificate holder including number, street name, city, state~~

6 ~~and zip code, and the mailing address if it differs from the street address.~~

7 ~~(2) Name, title, and phone number of the individual responsible for contact with the~~

8 ~~Commission.~~

9 *Rulemaking Authority 350.127(2) FS. Law Implemented 350.115, 350.117, 364.17, 364.18,*

10 *364.185, 364.3375 FS. History--New 1-5-87, Amended 1-2-91, 12-29-91, 2-1-99, Formerly 25-*

11 *24.520. Repealed_____.*

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 25-22.108 Change of Regulated Utility Contact Information
2 (1) Within 30 days of being regulated by the Florida Public Service Commission as
3 defined by Section 350.111, Florida Statutes, a utility shall submit its contact information to
4 the Office of the Commission Clerk using Form PSC 1024 (6/19) "Change of Regulated
5 Utility Contact Information" except when all current information was submitted in the utility's
6 application form. Form PSC 1024 (6/19) "Change of Regulated Utility Contact Information,"
7 is available at the Department of State website at <http://www.XXXX> and at the Commission's
8 website at <http://www.floridapsc.com/ClerkOffice/ChangeOfCompanyInfo>.
9 (2) If a utility makes any changes to the information listed in the form, the utility must
10 submit an updated Form PSC 1024 (6/19) to the Office of the Commission Clerk that shows
11 all changes within 30 days of the changes.
12 Rulemaking Authority 350.127(2), 364.01, 364.183, 366.05, 367.121, 368.05, 427.704(8).
13 FS. Law Implemented 364.183, 366.05, 367.156, 368.05, 368.108, 427.704, FS. History–New
14 _____.

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

Change of Regulated Utility Contact Information

To edit, please search by industry or company name and then click on Edit.

Note: This form functions best with Internet Explorer.

Search By <input type="radio"/> Industry <input type="radio"/> Company Name		Select by Industry <div><input type="text"/></div> <div><input type="text"/></div> <div>Search</div>	
Official Company Name	<input type="text"/>	Mailing Name	<input type="text"/> <small>Please Enter Mailing Name</small>
Company / Utility Code	<input type="text"/>	Certificate No.	<input type="text"/>
Federal Identification No.	<input type="text"/>	Physical Location	Address 1 <input type="text"/> Address 2 <input type="text"/> City <input type="text"/> State <input type="text"/> Zip <input type="text"/> Country <input type="text"/>
Attention Line	First Name <input type="text"/> Middle <input type="text"/> Last Name <input type="text"/> Title <input type="text"/> Telephone <input type="text"/> Ext <input type="text"/> Fax <input type="text"/> E-mail <input type="text"/>	Mailing Address	Address 1 <input type="text"/> Address 2 <input type="text"/> City <input type="text"/> State <input type="text"/> Zip <input type="text"/> Country <input type="text"/>
Liaison Officer No. 1	First Name <input type="text"/> Middle <input type="text"/> Last Name <input type="text"/> Title <input type="text"/> Telephone <input type="text"/> Ext <input type="text"/> Fax <input type="text"/> E-mail <input type="text"/>	Liaison Officer No. 2	First Name <input type="text"/> Middle <input type="text"/> Last Name <input type="text"/> Title <input type="text"/> Telephone <input type="text"/> Ext <input type="text"/> Fax <input type="text"/> E-mail <input type="text"/>
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Title	<input type="text"/> <small>Please Enter Title</small>	Telephone	<input type="text"/> <small>Please Enter Phone</small>
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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: May 28, 2019

TO: Adria E. Harper, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst II, Division of Economics *SKG.*

RE: Statement of Estimated Regulatory Costs for Proposed Repeal of Rule 25-4.0051, Florida Administrative Code (F.A.C.), Current Certificate Holder Information, and Rule 25-4.520, F.A.C., Reporting Requirements, and Proposed New Rule 25-22.108, F.A.C., Change of Regulated Utility Contact Information.

Current Rules 25-4.0051 and 25-4.520, F.A.C., which apply to pay service telephone and telecommunication companies, require them to file updated contact information with the Commission within 10 days if there are any changes to their contact person, address, or the primary liaison for the Florida operations. These rules are being repealed because all regulated utilities will be required to file updated contact information with the Commission pursuant to new proposed Rule 25-22.108, F.A.C.

Proposed Rule 25-22.108, F.A.C., Change of Regulated Utility Contact Information, will require all utilities regulated by the Commission to submit their contact information within 30 days of being regulated by the Commission and update their contact information when the information changes. The rule will require a utility to submit Form PSC 1024 (6/19) titled "Change of Regulated Utility Contact Information" to the Commission when the utility's contact information changes. The referenced form is available at the Florida Department of State and at the Florida Public Service Commission websites.

The number of regulated utilities required to comply with this rule are 57 electric, 58 gas, 319 telecommunications, 124 water, and 93 wastewater companies. The proposed rule revisions are not imposing any new regulatory requirements. No workshop was requested by affected parties in conjunction with the recommended repeal of Rules 25-4.0051 and 25-4.520, F.A.C. and proposed new Rule 25-22.108, F.A.C. No regulatory alternatives were submitted pursuant to Section 120.541(1)(a), Florida Statutes (F.S.). None of the impact/cost criteria established in Section 120.541(2)(a), F.S., will be exceeded as a result of the recommended revisions.

cc: SERC file

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Rules 25-4.0051, 25-4.520, and 25-22.108, F.A.C.

1. Will the proposed rule have an adverse impact on small business? [120.541(1)(b), F.S.] (See Section E., below, for definition of small business.)

Yes ☐

No ☒

If the answer to Question 1 is "yes", see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes ☐

No ☒

If the answer to either question above is "yes", a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

- (1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)1, F.S.]

Economic growth Yes ☐ No ☒

Private-sector job creation or employment Yes ☐ No ☒

Private-sector investment Yes ☐ No ☒

- (2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets) Yes ☐ No ☒

Productivity Yes ☐ No ☒

Innovation Yes ☐ No ☒

- (3) Is likely to increase regulatory costs, including any transactional costs, in

excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes ☐

No ☒

Economic Analysis: The proposed rule changes will benefit all telephone, water and wastewater, electric, and gas utilities that are regulated by the Commission. By having one standardized form for all utilities which enable them to maintain updated contact information will aid the Commission to contact the utility companies efficiently. As a result, the companies will be able to avoid penalties for late payment of regulatory fees, avoid late response to data inquiries, and avoid cancellation of their certificates for non-compliance.

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

The number of entities to which the new rule applies and is required to comply with include 57 electric, 58 gas, 319 telecommunications, 124 water, and 93 wastewater companies that are currently regulated by the Commission.

(2) A general description of the types of individuals likely to be affected by the rule.

57 electric, 58 gas, 319 telecommunications, 124 water, and 93 wastewater companies that are currently regulated by the Commission will be affected by this rule.

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the Commission to implement and enforce the rule.

☒ None. To be done with the current workload and existing staff.

☐ Minimal. Provide a brief explanation.

☐ Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

☒ None. The rule will only affect the Commission.

☐ Minimal. Provide a brief explanation.

☐ Other. Provide an explanation for estimate and methodology used.

(3) Any anticipated effect on state or local revenues.

☒ None.

☐ Minimal. Provide a brief explanation.

☐ Other. Provide an explanation for estimate and methodology used.

D. A good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule. [120.541(2)(d), F.S.]

☒ None. The rule will only affect the Commission.

☐ Minimal. Provide a brief explanation.

☐ Other. Provide an explanation for estimate and methodology used.

E. An analysis of the impact on small businesses, and small counties and small cities: [120.541(2)(e), F.S.]

(1) "Small business" is defined by Section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

☒ No adverse impact on small business.

☐ Minimal. Provide a brief explanation.

☐ Other. Provide an explanation for estimate and methodology used.

(2) A "Small City" is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

- ☒ No impact on small cities or small counties.
- ☐ Minimal. Provide a brief explanation.
- ☐ Other. Provide an explanation for estimate and methodology used.

F. Any additional information that the Commission determines may be useful. [120.541(2)(f), F.S.]

- ☒ None.

Additional Information:

G. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(g), F.S.]

- ☒ No regulatory alternatives were submitted.
- ☐ A regulatory alternative was received from
 - ☐ Adopted in its entirety.
 - ☐ Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.

Item 4

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: May 30, 2019

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (D. Smith, Mouring, Snyder, L. Smith, D. Buys)

Division of Economics (Draper, Galloway, Guffey)

Division of Engineering (Buys, Thompson)

Office of the General Counsel (Dziechciarz, Weisenfeld)

RE: Docket No. 20190110-EI – Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Michael and approval of second implementation stipulation, by Duke Energy Florida, LLC.

AGENDA: 06/11/19 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

CRITICAL DATES: 06/28/19 (Requested Implementation Date)

SPECIAL INSTRUCTIONS: None

Case Background

On April 30, 2019, Duke Energy Florida, LLC (DEF or Company) filed a petition for a limited proceeding seeking authority to implement an interim storm restoration recovery charge to recover a total of \$223.5 million for the incremental restoration costs related to Hurricane Michael and to replenish its storm reserve. This amount includes \$2.5 million for: interest, bond issuance expense, and the regulatory assessment fee gross-up. DEF's storm reserve was depleted as a result of Hurricanes Irma and Nate and DEF is seeking to replenish the storm reserve to the

level authorized in the Second Revised and Restated 2017 Settlement Agreement (2017 Settlement) approved by the Commission in Order No. PSC-2017-0451-AS-EU.¹

DEF filed its petition pursuant to the provisions of the 2017 Settlement. Pursuant to the 2017 Settlement, DEF can recover storm costs, without a cap on the level of charges on customer bills, on an interim basis beginning 60 days following the filing of a petition for recovery. DEF proposes to implement an interim charge for a 12-month period effective July 2019. The interim charge results in an increase of \$6.95 per 1,000 kilowatt hour (kWh) on a residential bill.

Included in the petition (and attached to this recommendation as Attachment A) is a proposed Second Implementation Stipulation (Stipulation). The Stipulation, if approved, would allow DEF to apply the tax savings approved by the Commission in Order No. PSC-2019-0053-FOF-EI to offset the storm recovery surcharge that was requested in this docket, and would replenish the storm reserve to a level authorized in the 2017 Settlement.² The authorized level in the 2017 Settlement was \$132 million.³ DEF, the Office of Public Counsel, Southern Alliance for Clean Energy, and White Springs Agricultural Chemical, Inc. agreed to the Stipulation. Florida Retail Federation, and Florida Industrial Power Users group took no position on the Stipulation.

The appropriate time for the Commission to discuss and vote on the Stipulation is after the Commission renders a decision on Issue 1. If approved, then pursuant to Paragraph 4 of the Stipulation DEF will withdraw the proposed Eighty-Fifth Revised Tariff Sheet No. 6.105, and Issue 2 will be rendered moot.

The Commission has jurisdiction over this matter pursuant to Sections 366.04, 366.05, 366.06, and 366.076, Florida Statutes.

¹ Order No. PSC-2017-0451-AS-EU, issued November 20, 2017, in Docket No. 20170183-EI, *In re: Application for limited proceeding to approve 2017 second revised and restated settlement agreement, including certain rate adjustments, by Duke Energy Florida, LLC.*

² The Stipulation seeks to avoid volatility in customer rates by recognizing and then utilizing annual tax reform benefits resulting from the 2017 Tax Act as a direct offset to avoid implementing separate cost recovery of storm damage costs that customers would have otherwise have been obligated to pay. If approved, DEF will be entitled to record a monthly storm reserve accrual equal to one-twelfth of the approved annual revenue requirement impact of the Tax Act (approximately \$12.9 million), and credit the retail storm reserve from May 2020 through full recovery of the final approved actual storm recovery amount. Once the final approved actual storm recovery amount has been recovered, or offset, DEF will reduce base rates in the manner prescribed in the 2017 Settlement.

³ Order No PSC-2019-0053-FOF-EI, issued February 1, 2019, in Docket No. 20180047-EI, *In re: Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Duke Energy Florida, LLC.*

Discussion of Issues

Issue 1: Should the Commission authorize DEF to implement an interim storm restoration recovery charge?

Recommendation: Yes, the Commission should authorize DEF to implement an interim storm restoration recovery charge. Once the total actual storm costs are known, DEF should be required to file documentation of the total storm costs for Commission review and true-up of any excess or shortfall. (Snyder, Mouring)

Staff Analysis: As stated in the Case Background, DEF filed a petition for a limited proceeding seeking authority to implement an interim storm restoration recovery charge to recover a total of \$223.5 million for the incremental restoration costs related to Hurricane Michael. The \$223.5 million includes \$2.5 million for interest, bond issuance expense, and a regulatory assessment fee gross-up. The petition was filed pursuant to the provisions of the 2017 Settlement approved by the Commission in Order No. PSC-2017-0451-AS-EU. Pursuant to Paragraph 38 of the 2017 Settlement, DEF can begin recovery of storm costs, without a cap, 60 days following the filing of a petition for recovery. DEF has requested an interim storm restoration recovery charge to implement for a 12-month period, effective July 2019 through June 2020.

In its petition, DEF asserts that it incurred total retail recoverable costs of approximately \$223.5 million as a result of Hurricane Michael. DEF further asserts that this amount was calculated in accordance with the Incremental Cost and Capitalization Approach (ICCA) methodology prescribed in Rule 25-6.0143, Florida Administrative Code (F.A.C.).

The approval of an interim storm restoration recovery charge is preliminary in nature and is subject to refund pending further review once the total actual storm restoration costs are known. After the actual costs are reviewed for prudence and reasonableness, and are compared to the actual amount recovered through the interim storm restoration recovery charge, a determination will be made whether any over/under recovery has occurred. The disposition of any over/under recovery, and associated interest, would be considered by the Commission at a later date.

Based on a review of the information provided by DEF in its petition, staff recommends that the Commission authorize DEF to implement an interim storm restoration recovery charge subject to refund. Once the total actual storm costs are known, DEF should be required to file documentation of the storm costs for Commission review and true-up of any excess or shortfall. Staff emphasizes that this recommendation is only for interim recovery charges and is not a confirmation or endorsement of the prudence of DEF's forecasted costs and plans. This recommendation only allows DEF to begin recovery on an interim basis in accordance with the 2017 Settlement. This interim recovery is subject to refund following a hearing or formal proceeding where the veracity and prudence of DEF's actual restoration costs can be fully vetted.

Issue 2: Should the Commission approve DEF's proposed Hurricane Michael interim storm cost recovery surcharges?

Recommendation: Yes. The Commission should approve DEF's Hurricane Michael interim storm cost recovery surcharges as proposed in the petition effective with the first billing cycle of July 2019, subject to a final true-up. (Guffey)

Staff Analysis: DEF is seeking approval of interim storm cost recovery surcharges associated with Hurricane Michael as shown in revised Tariff Sheet Nos. 6.105 and 6.106 (Attachment B to this recommendation). The surcharges will be applicable to all rate classes. Tariff Sheet Nos. 6.105 and 6.106 describe the proposed interim storm cost recovery surcharges and define the storm cost recovery surcharge, respectively. Page 4 of Appendix A of DEF's petition shows the storm cost recovery allocation factors for all rate classes. For residential customers, the surcharge is 0.695 cents per kilowatt hour (kWh), which equates to \$6.95 on a 1,000 kWh residential bill.

Conclusion: Staff recommends that the Commission approve DEF's proposed Hurricane Michael interim storm cost recovery surcharges to be effective with the first billing cycle of July 2019 and ending with the last billing cycle of June 2020, subject to a final true-up.

Date: May 30, 2019

Issue 3: What is the appropriate security to guarantee the amount collected subject to refund through the interim storm restoration recovery charge?

Recommendation: The appropriate security to guarantee the funds collected subject to refund is a corporate undertaking. (L. Smith, D. Buys)

Staff Analysis: Staff recommends that all funds collected subject to refund be secured by a corporate undertaking. The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Staff reviewed DEF's financial statements to determine if the Company can support a corporate undertaking to guarantee the funds collected for recovery of incremental storm restoration costs related to Hurricane Michael. DEF's 2016, 2017, and 2018 financial statements were used to determine the financial condition of the Company. DEF's financial performance demonstrates adequate levels of ownership equity, profitability, and interest coverage, but marginal liquidity due to negative working capital. However, the Company participates in Duke Energy Corporation's money pool and has access to additional funds if needed.

Staff believes DEF has adequate resources to support a corporate undertaking in the amount requested. Based on this analysis, staff recommends that a corporate undertaking of \$223.5 million is acceptable. This brief financial analysis is only appropriate for deciding if the Company can support a corporate undertaking in the amount proposed and should not be considered a finding regarding staff's position on other issues in this proceeding.

Issue 4: Should this docket be closed?

Recommendation: No, this docket should remain open pending final reconciliation of actual recoverable Hurricane Michael storm costs with the amount collected pursuant to the interim storm restoration recovery charge, and the calculation of a refund or additional charge if warranted. (Dziechciarz, Weisenfeld)

Staff Analysis: This docket should remain open pending final reconciliation of actual recoverable Hurricane Michael storm costs with the amount collected pursuant to the interim storm restoration recovery charge, and the calculation of a refund or additional charge if warranted.

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Second Implementation Stipulation

1. The 2017 Second Revised and Restated Settlement Agreement (“Agreement”) was approved by the Commission in Order No. PSC-2017-0451-AS-EU. As explained more fully below, the signatories to the Agreement enter into this Second Implementation Stipulation (“Stipulation”) to implement specific provisions related to the timing of rate treatment of certain events contemplated in the Agreement that have become manifest (i.e., storm restoration costs and federal tax reform).
2. Paragraph 38(c) of the Agreement grants Duke Energy Florida, LLC (“DEF”) the right to recover, on an interim basis, storm damage costs sixty days after filing a petition with the Commission. Pursuant to this paragraph, simultaneous with the filing of this Stipulation, DEF filed for the recovery of \$221 million (retail) estimated for storm damage costs associated with Hurricane Michael.
3. Paragraph 16 of the Agreement provides a mechanism for calculating and implementing the impact of tax reform on DEF’s rates, which will inure to the benefit of customers on the effective date of tax reform changes. On December 22, 2017, the President signed the Tax Cuts and Jobs Act (“Tax Act”) into law. Part of the Tax Act includes a reduction in the corporate tax rate from 35 percent to 21 percent. In Docket No. 20180047-EI, the FPSC approved a stipulation that established the impact of the Tax Act results in a reduction in revenue requirements of approximately \$154.7 million per year (after taking into account the \$50 million accelerated depreciation of Crystal River (“CR”) Units 4 and 5 as expressly provided in the Agreement). As specified in the Agreement, DEF was obligated to reduce customer base rates within 120 days of the December 22, 2017 enactment date, or by April 21, 2018, to account for the impacts of the Tax Act. However, in Docket No. 20170272-EI, the Commission approved an Implementation Stipulation that permitted DEF to apply the tax savings to offset the storm costs and replenish DEF’s storm reserve DEF petitioned to recover in that docket.
4. Per the Agreement, DEF’s storm damage costs are allocated to customer rate classes in the same manner as base rates. Absent this Stipulation, DEF would be authorized to increase rates by \$221 million for the period July 2019 through the last billing cycle of June 2020, which equates to a \$6.95/1,000 kWh impact on a standard residential bill. This increase would have a significant impact on our customers. The Signatory Parties seek to avoid this impact and agree that after full recovery of the costs authorized for recovery by the Commission in Docket No. 20170272-EI but before starting the replenishment of the reserve, DEF will utilize the annual Tax Act benefits to avoid implementing the charge to customers for storm damage costs that they would have otherwise been obligated to pay. To accomplish this goal, DEF shall, after Commission approval of the Stipulation in this

Duke Energy Florida
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- Docket, withdraw the tariff sheets it filed simultaneously with the filing of this Stipulation (i.e., the tariff surcharge shall never become effective).
5. DEF anticipates the storm costs that are the subject of Docket No. 20170272-EI, before replenishment of the reserve, will be fully recovered by the end of April, 2020. At that time, the signatories agree that DEF shall be entitled to continue to record a monthly storm reserve accrual equal to one-twelfth of the annual Commission-approved revenue requirement impact of the Tax Act (i.e., 1/12 of \$154.7 million or approximately \$12.9 million) and credit the retail storm reserve from May 2020 until DEF's estimated Hurricane Michael –related costs have been fully recovered and the storm reserve has been replenished (any unrecovered portion of the storm reserve balance would subsequently be recovered in 2022). Attached to this implementation stipulation as Appendix C is an example of the estimated application of this treatment to the storm costs. These amounts are subject to final true-up based on the results of Docket 20170272-EI as well as the current Docket upon final determination of the appropriate recoverable storm costs by the Commission. A specific condition of the signatories agreeing to this Stipulation is that the Commission will issue an order explicitly authorizing such action. The signatories agree that once the final Commission-approved actual storm recovery and storm reserve replenishment amount has been recovered, DEF shall reduce base rates in the manner prescribed in the Agreement and commensurate with the Commission-approved Tax Act savings beginning in the month following the final month of storm recovery (including reserve replenishment). DEF agrees to file tariff sheets at least 60 days before to reflect the reduced rates. The intent of this recovery schedule is to allow for DEF to recover all costs authorized for recovery in Docket No. 20170272-EI and the docket in which the Commission will consider this Stipulation.
 6. All signatories maintain and do not waive their rights to raise any argument that is allowed under the Agreement with respect to the reasonable and prudent level of storm damage costs that are the subject of the docket that will be opened to consider DEF's Hurricane Michael costs. It is the intent of the signatories, and a condition of this Stipulation, that the proceeding contemplated in Paragraph 38(c) shall be conducted as if this Stipulation did not exist.
 7. The parties intend that the storm damage costs be transparent and ascertainable on a stand-alone basis. DEF shall file quarterly a storm cost overview which accounts and reports on the storm damage costs, the costs remaining to be satisfied, the projected date such costs will be satisfied, and the amount of Tax Act savings applied to storm damage costs.

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Duke Energy Florida, LLC

By  for

Catherine Stempien
299 1st Ave N
St. Petersburg, Florida 33701

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Office of Public Counsel

By

A handwritten signature in blue ink, appearing to be "J.R. Kelly", is written over a horizontal line.

J.R. Kelly, Esquire
Charles Rehwinkel, Esquire
111 W. Madison St., Room 812
Tallahassee, Florida 32399

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Florida Industrial Power Users Group

By _____

Jon C. Moyle, Jr., Esquire
Moyle Law Firm, PA
118 North Gadsden Street Tallahassee,
FL 32301

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White Springs Agricultural Chemicals, Inc.

By  5/11/2019

James W. Brew, Esquire
Stone Matheis Xenopoulos & Brew
1025 Thomas Jefferson Street, NW
Eighth Floor, West Tower Washington,
DC 20007

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Florida Retail Federation

By _____

Robert Scheffel Wright, Esq.
Gardner Law Firm
1300 Thomaswood Drive
Tallahassee, FL 32308

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Southern Alliance for Clean Energy

By 

George Cavros, Esquire
Attorney for SACE
120 E. Oakland Park Blvd.,
Suite 105
Fort Lauderdale, FL 33334



SECTION NO. VI
EIGHTY-FOURTH ~~FIFTH~~ REVISED SHEET NO. 6.105
CANCELS EIGHTY-THIRD ~~FOURTH~~ REVISED SHEET NO. 6.105

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RATE SCHEDULE BA-1
BILLING ADJUSTMENTS

Applicable

To the Rate Per Month provision in each of the Company's filed rate schedules which reference the billing adjustments set forth below.

Rate Schedule/Metering Level	COST RECOVERY FACTORS									
	Fuel Cost Recovery ⁽¹⁾			ECCR ⁽²⁾		CCR ⁽³⁾		ECRC ⁽⁴⁾		SCRS ⁽⁵⁾
	Levelized ¢/kWh	On- Peak ¢/kWh	Off- Peak ¢/kWh	¢/kWh	\$/kW	¢/kWh	\$/kW	¢/kWh	¢/kWh	¢/kWh
RS-1, RST-1, RSL-1, RSL-2, RSS-1 (Sec.) < 1000	3.698	4.956	3.541	0.297	-	1.248	-	0.143	0.239	0.695
> 1000	4.698									
GS-1, GST-1										
Secondary	3.974	4.956	3.541	0.286	-	1.192	-	0.143	0.236	0.598
Primary	3.934	4.906	3.505	0.283	-	1.180	-	0.142	0.234	0.592
Transmission	3.895	4.857	3.470	0.280	-	1.168	-	0.140	0.231	0.586
GS-2 (Sec.)	3.974	-	-	0.194	-	0.718	-	0.141	0.140	0.297
GSD-1, GSDT-1, SS-1*										
Secondary	3.974	4.956	3.541	-	0.94	-	3.72	0.141	0.182	0.439
Primary	3.934	4.906	3.505	-	0.93	-	3.68	0.140	0.180	0.435
Transmission	3.895	4.857	3.470	-	0.92	-	3.65	0.138	0.178	0.430
CS-1, CST-1, CS-2, CST-2, CS-3, CST-3, SS-3*										
Secondary	3.974	4.956	3.541	-	0.41	-	1.47	0.137	0.127	0.582
Primary	3.934	4.906	3.505	-	0.41	-	1.46	0.136	0.126	0.576
Transmission	3.895	4.857	3.470	-	0.40	-	1.44	0.134	0.124	0.570
IS-1, IST-1, IS-2, IST-2, SS-2*										
Secondary	3.974	4.956	3.541	-	0.79	-	3.00	0.138	0.153	0.299
Primary	3.934	4.906	3.505	-	0.78	-	2.97	0.137	0.151	0.296
Transmission	3.895	4.857	3.470	-	0.77	-	2.94	0.135	0.150	0.293
LS-1 (Sec.)	3.805	-	-	0.081	-	0.154	-	0.138	0.027	0.382
SS-1, SS-2, SS-3										
Monthly										
Secondary	-	-	-	-	0.091	-	0.360	-	-	-
Primary	-	-	-	-	0.090	-	0.356	-	-	-
Transmission	-	-	-	-	0.089	-	0.353	-	-	-
Daily										
Secondary	-	-	-	-	0.043	-	0.171	-	-	-
Primary	-	-	-	-	0.043	-	0.169	-	-	-
Transmission	-	-	-	-	0.042	-	0.168	-	-	-
GSLM-1, GSLM-2	See appropriate General Service rate schedule									

(1) Fuel Cost Recovery Factor

The Fuel Cost Recovery Factors applicable to the Fuel Charge under the Company's various rate schedules are normally determined annually by the Florida Public Service Commission for the billing months of January through December. These factors are designed to recover the costs of fuel and purchased power (other than capacity payments) incurred by the Company to provide electric service to its customers and are adjusted to reflect changes in these costs from one period to the next. Revisions to the Fuel Cost Recovery Factors within the described period may be determined in the event of a significant change in costs.

(2) Energy Conservation Cost Recovery Factor

The Energy Conservation Cost Recovery (ECCR) Factor applicable to the Energy Charge under the Company's various rate schedules is normally determined annually by the Florida Public Service Commission for twelve-month periods beginning with the billing month of January. This factor is designed to recover the costs incurred by the Company under its approved Energy Conservation Programs and is adjusted to reflect changes in these costs from one period to the next. For time of use demand rates the ECCR charge will be included in the base demand only.

(Continued on Page No. 2)

ISSUED BY: Javier J. Portuondo, Managing Director Rates & Regulatory Strategy – FL

EFFECTIVE: March 1, 2019



SECTION NO. VI
~~TWENTY-SEVENTH EIGHTH~~ REVISED SHEET NO. 6.106
CANCELS TWENTY-SIXTH SEVENTH REVISED SHEET NO. 6.106

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**RATE SCHEDULE BA-1
BILLING ADJUSTMENTS**
(Continued from Page 1)

(3) Capacity Cost Recovery Factor

The Capacity Cost Recovery (CCR) Factors applicable to the Energy Charge under the Company's various rate schedules are normally determined annually by the Florida Public Service Commission for the billing months of January through December. This factor is designed to recover the cost of capacity payments made by the Company for off-system capacity and is adjusted to reflect changes in these costs from one period to the next. For time of use demand rates the CCR charge will be included in the base demand only.

(4) Environmental Cost Recovery Clause Factor

The Environmental Cost Recovery Clause (ECRC) Factors applicable to the Energy Charge under the Company's various rate schedules are normally determined annually by the Florida Public Service Commission for the billing months of January through December. This factor is designed to recover environmental compliance costs incurred by the Company and is adjusted to reflect changes in these costs from one period to the next.

(5) Asset Securitization Charge Factor

The Asset Securitization Charge (ASC) Factors applicable to the Energy Charge under the Company's various rate schedules represent a Nuclear Asset-Recovery Charge approved in a financing order issued to the Company by the Florida Public Service Commission and are adjusted at least semi-annually to ensure timely payment of principal, interest and financing costs of nuclear asset-recovery bonds from the effective date of the ASC until the nuclear asset-recovery bonds have been paid in full or legally discharged and the financing costs have been fully recovered. As approved by the Commission, a Special Purpose Entity (SPE) has been created and is the owner of all rights to the Nuclear Asset-Recovery Charge. The Company shall act as the SPE's collection agent or servicer for the Nuclear Asset-Recovery Charge. The Nuclear Asset-Recovery Charge shall be paid by all existing or future customers receiving transmission or distribution service from the Company or its successors or assignees under Commission-approved rate schedules or under special contracts, even if the customer elects to purchase electricity from alternative electric suppliers following a fundamental change in regulation of public utilities in this state.

(6) Storm Cost Recovery Surcharge

In accordance with a Florida Public Service Commission ruling, a Storm Cost Recovery Surcharge (SCRS) factor is applicable to the Energy Charge under the Company's various rate schedules for the billing months of July 1, 2019 through June 30, 2020. This surcharge is designed to recover incremental storm-related costs incurred by the Company related to Hurricane Michael in 2018, as well as funds to replenish the Company's storm reserve.

Gross Receipts Tax Factor

In accordance with Section 203.01(1)(a)1 of the Florida Statutes, a factor of 2.5641% is applicable to electric sales charges for collection of the state Gross Receipts Tax.

Right-of-Way Utilization Fee

A Right-of-Way Utilization Fee is applied to the charges for electric service (exclusive of any Municipal, County, or State Sales Tax) provided to customers within the jurisdictional limits of each municipal or county governmental body or any unit of special-purpose government or other entity with authority requiring the payment of a franchise fee, tax, charge, or other imposition whether in money, service, or other things of value for utilization of rights-of-way for location of Company distribution or transmission facilities. The Right-of-Way Utilization Fee shall be determined in a negotiated agreement (i.e., franchise and other agreements) in a manner which reflects the Company's payments to a governmental body or other entity with authority plus the appropriate Gross Receipts Taxes and Regulatory Assessment Fees resulting from such additional revenue. The Right-of-Way Utilization Fee is added to the charges for electric service prior to the application of any appropriate taxes.

Municipal Tax

A Municipal Tax is applied to the charge for electric service provided to customers within the jurisdictional limits of each municipal or other governmental body imposing a utility tax on such service. The Municipal Tax shall be determined in accordance with the governmental body's utility tax ordinance, and the amount collected by the Company from the Municipal Tax shall be remitted to the governmental body in the manner required by law. No Municipal Tax shall apply to fuel charges in excess of 0.699¢/kWh.

Sales Tax

A State Sales Tax is applied to the charge for electric service provided to all non-residential customers and equipment rental provided to all customers (unless a qualified sales tax exemption status is on record with the Company). The State Sales Tax shall be determined in accordance with the State's sales tax laws. The amount collected by the Company shall be remitted to the State in the manner required by law. In those counties that have enacted a County Discretionary Sales Surtax, such tax shall be applied and paid in a like manner. An additional tax factor is applied to the charge for electric service consistent with the applicability of State Sales Tax as described in this paragraph, in accordance with Section 203.01(1)(a)3 and (b)4 of the Florida Statutes.

(Continued on Page No. 3)

ISSUED BY: Javier J. Portuondo, Managing Director Rates & Regulatory Strategy – FL

EFFECTIVE: July 1, 2019



SECTION NO. VI
ORIGINAL SHEET NO. 6.107

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RATE SCHEDULE BA-1
BILLING ADJUSTMENTS
(Continued from Page 2)

Governmental Undergrounding Fee

Applicable to customers located in a designated Underground Assessment Area within a local government (a municipality or a county) that requires the Company to collect a Governmental Undergrounding Fee from such customers to recover the local government's costs of converting overhead electric distribution facilities to underground facilities. The Governmental Undergrounding Fee billed to a customer's account shall not exceed the lesser of (i) 15 percent of a customer's total net electric service charges, or (ii) a maximum monthly amount of \$30 for residential customers and \$50 for each 5,000 kilowatt-hour increment of consumption for commercial/industrial customers, unless the Commission approves a higher percentage or maximum monthly amount. The maximum monthly amount shall apply to each line of billing in the case of a customer receiving a single bill for multiple service points, and to each occupancy unit in the case of a master metered customer. The Governmental Undergrounding Fee shall be calculated on the customer's charges for electric service before the addition of any applicable taxes.

ISSUED BY: Javier J. Portuondo, Managing Director Rates & Regulatory Strategy – FL

EFFECTIVE: ~~July 1, 2016~~

Item 5

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: May 30, 2019

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (D. Buys, Cicchetti, Hightower)
Office of the General Counsel (Trierweiler) *DB* *ALM* *SC*

RE: Docket No. 20190006-WS – Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.

AGENDA: 06/11/19 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Clark

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Section 367.081(4)(f), Florida Statutes (F.S.), authorizes the Commission to establish, not less than once each year, a leverage formula to calculate a reasonable range of returns on equity (ROE) for water and wastewater (WAW) utilities. The original version of the current leverage formula methodology was established in Order No. PSC-2001-2514-FOF-WS.¹ On October 23, 2008, the Commission held a formal hearing in Docket No. 20080006-WS to allow interested parties to provide testimony regarding the validity of the leverage formula.² Based on the record

¹Order No. PSC-2001-2514-FOF-WS, issued December 24, 2001, in Docket No. 20010006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity of water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

²At the May 20, 2008, Commission Conference, upon request of the Office of Public Counsel, the Commission voted to set the establishment of the appropriate leverage formula directly for hearing.

in that proceeding, the Commission approved the 2008 leverage formula in Order No. PSC-2008-0846-FOF-WS.³ In that order, the Commission reaffirmed the methodology that was previously approved in Order No. PSC-2001-2514-FOF-WS.⁴

From 2012 through 2017, the Commission found that the range of returns on equity derived from the annual leverage formulas were not optimal for determining the appropriate authorized ROE for WAW utilities due to Federal Reserve monetary policies that resulted in historically low interest rates. Consequently, the Commission decided it was reasonable to continue using the range of returns on equity of 8.74 percent to 11.16 percent from the 2011 leverage formula approved by Order No. PSC-2011-0287-PAA-WS until 2018.⁵

On November 8, 2017, Commission staff held a workshop to solicit input from interested persons regarding potential changes to the current leverage formula methodology. The only stakeholders that filed comments in the docket were the Office of Public Counsel (OPC) and Utilities, Inc. of Florida (UIF). OPC also filed post-workshop comments on January 31, 2018. On June 26, 2018, the Commission approved the current leverage formula by Order No. PSC-2018-0327-PAA-WS.⁶ The June 2018 Order approving the current leverage formula provided necessary and timely updates to the leverage formula methodology.

Section 367.081(4)(f), F.S., authorizes the Commission to establish a range of returns for setting the authorized ROE for WAW utilities. However, use of the leverage formula by the utilities is discretionary and a utility can file cost of equity testimony in lieu of using the leverage formula. The Commission may set an ROE for WAW utilities based on record evidence in any proceeding. If a utility files cost of equity testimony, the Commission will determine the appropriate ROE based on the evidentiary record in that proceeding.

The Commission has jurisdiction pursuant to Section 367.081, F.S.

³Order No. PSC-2008-0846-FOF-WS, issued December 31, 2008, in Docket No. 20080006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

⁴Order No. PSC-2001-2514-FOF-WS, issued December 24, 2001, in Docket No. 20010006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

⁵Order No. PSC-11-0287-PAA-WS, issued July 5, 2011, in Docket No. 20110006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

⁶Order No. PSC-2018-0327-PAA-WS, issued June 26, 2018, in Docket No. 20180006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

Discussion of Issues

Issue 1: What is the appropriate range of returns on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), Florida Statutes?

Recommendation: The leverage formula methodology approved in Order No. PSC-2018-0327-PAA-WS using a proxy group comprised of natural gas and WAW utilities and updated financial data should be used. Accordingly, the following leverage formula should be used until the leverage formula is addressed again in 2020:

$$\text{ROE} = 6.05 + (1.80 \div \text{Equity Ratio})$$

Where the Equity Ratio = Common Equity \div (Common Equity + Preferred Equity + Long-Term and Short-Term Debt)

Range: 7.85% at 100% equity to 10.55% at 40% equity

The Commission should cap returns on common equity at 10.55 percent for all WAW utilities with equity ratios less than 40 percent. Imposing a cap serves to discourage imprudent financial risk. This cap is consistent with the methodology in Order No. PSC-2018-0327-PAA-WS. (Hightower)

Staff Analysis: Section 367.081(4)(f), F.S., authorizes the Commission to establish a leverage formula to calculate a reasonable range of returns on common equity for WAW utilities. The Commission must establish this leverage formula not less than once a year. For administrative efficiency, the leverage formula is used to determine the appropriate return for an average Florida WAW utility. However, use of the leverage formula by utilities is discretionary and a utility can file cost of equity testimony in lieu of using the leverage formula. As is the case with other regulated companies under the Commission's jurisdiction, the Commission has discretion in the determination of the appropriate ROE based on the evidentiary record in a proceeding. If one or more parties in a rate case or limited proceeding file testimony in lieu of using of the leverage formula, the Commission will determine the appropriate ROE based on the evidentiary record in that proceeding.

Methodology

In the instant docket, staff updated the current leverage formula using the most recent financial data applied to the methodology approved in Order No. PSC-2001-2514-FOF-WS, reaffirmed in Order No. PSC-2008-0846-FOF-WS and modified in Order No. PSC-2018-0327-PAA-WS. The methodology uses ROEs derived from widely accepted financial models applied to an index of natural gas and water and wastewater companies that have actively traded stock and forecasted financial data. To establish the proxy group, staff selected 4 natural gas companies and 7 WAW companies that derive at least 50 percent of their total revenue from regulated operations and have a Standard and Poor's credit rating. These selected companies have market power and are influenced significantly by economic regulation and have a median Standard and Poor's bond rating of "A".

Consistent with the approved methodology, staff used a market capitalization weighted average for: (1) the Discounted Cash Flow (DCF) model results, (2) the Beta values in the Capital Asset Pricing Model (CAPM), and (3) the equity ratio of the proxy group.

Assumed Cost Of Debt

Staff used a projected yield on Baa2 rated public utility bonds to estimate the bond yield of an average Florida WAW utility in the calculation of the weighted average cost of capital of the proxy group. A projected yield is used because required returns are forward looking and based on projections.

Consistent with the methodology approved in Order No. PSC-2018-0327-PAA-WS, staff used the projected Baa2 rated utility bond yield for the upcoming four quarters as published in the most recent Blue Chip Financial Forecast (Blue Chip). Staff then added the 120-month historical average spread between the Baa and A Corporate Utility Bond to the projected Baa2 rated utility bond yield to estimate a projected Baa3 rated utility bond yield of 6.05 percent.

The projected assumed Baa3 bond rate of 6.05 percent used in the updated leverage formula calculation includes a 50 basis point adjustment for small-company risk and a 50 basis point adjustment for a private placement premium and remains low relative to historic levels. In comparison, the assumed Baa3 bond rate used in the 2018 leverage formula is 6.24 percent. The lower Baa3 bond rate of 6.05 percent is the primary driver of the overall decrease in the results of the 2019 leverage formula compared to the 2018 leverage formula.

Estimated Cost Of Equity

The current leverage formula relies on two ROE models described below. Staff adjusted the results of these models to reflect differences in risk and debt cost between the proxy group and the average Florida WAW utility. The ROE models include a four percent adjustment for flotation costs. The ROE models are as follows:

A multistage Discounted Cash Flow (DCF) model applied to an index of natural gas and WAW utilities that have publicly traded stock and are followed by Value Line. This DCF model is an annually compounded model and uses prospective dividend growth rates as published by Value Line.

A Capital Asset Pricing Model (CAPM) that relies on a market return for companies followed by Value Line, the average projected yield on the U.S. Treasury's 30-year bonds as of May 1, 2019, published by Blue Chip Financial Forecasts, and the weighted average beta for the index of natural gas and WAW utilities. The market return for the CAPM was calculated using a quarterly DCF model with stock prices as of April 15, 2019.

Consistent with Order No. PSC-2018-0327-PAA-WS, staff averaged the results of the DCF and CAPM models and adjusted the result of 8.18 percent as follows:

A bond yield differential of 60 basis points was added to reflect the difference in yields between an A/A2 rated bond, which is the median bond rating for the combined utility index, and a BBB-/Baa3 rated bond. Florida WAW utilities are assumed to be comparable to companies with the lowest investment grade bond rating which is Baa3. This adjustment compensates for the

difference between the credit quality of 'A' rated debt and the assumed credit quality of a typical Florida WAW utility.

A private placement premium of 50 basis points is added to reflect the difference in yields on publicly traded debt and privately placed debt, which is illiquid. Investors require a premium for the lack of liquidity of privately placed debt.

A small-utility risk premium of 50 basis points is added because the average Florida WAW utility is too small to qualify for privately placed debt and smaller companies are considered by investors to be more risky than larger companies.

After the above adjustments, the resulting cost of equity estimate of 9.78 percent is included in the weighted average capital structure of the proxy group to derive the leverage formula. The derivation resulted in an adjustment of 77 basis points to reflect an estimated required return of 10.55 percent at an equity ratio of 40 percent. Table 1 shows the components that comprise the upper range of the leverage formula.

Table 1
Adjusted ROE

DCF Model	7.39%
CAPM	8.97%
Average	8.18%
Bond Yield Differential	0.60%
Private Placement Premium	0.50%
Small Utility Risk Premium	0.50%
Adjusted ROE Average	9.78%
Adj. To Reflect Required Equity Return at a 40% Equity Ratio	0.77%
Upper Range of ROE	10.55%

Source: Staff worksheets

Leverage Formula

The updated leverage formula is: $ROE = 6.05 \% + (1.80 \div \text{Equity Ratio})$

The resulting range of returns is 7.85 percent at 100 percent equity to 10.55 percent at 40 percent equity.

Using the most recent financial data in the leverage formula decreases the lower end of the current allowed ROE range by 26 basis points and decreases the upper end of the range by 37 basis points. Overall, the spread between the range of returns on equity based on the updated leverage formula is 270 basis points (7.85 percent to 10.55 percent). In comparison, the range of returns on equity for the existing leverage formula from 2018 is 281 basis points (8.11 percent to 10.92 percent).

In developing the updated leverage formula, staff acknowledges that the leverage formula depends on four basic assumptions:

- 1) Business risk is similar for all WAW utilities;
- 2) The cost of equity is an exponential function of the equity ratio but a linear function of the debt to equity ratio over the relevant range;
- 3) The marginal weighted average cost of investor capital is constant over the equity ratio range of 40 percent to 100 percent; and
- 4) The debt cost rate at an assumed Moody's Baa3 bond rating, plus a 50 basis point private placement premium and a 50 basis point small-utility risk premium, represents the average marginal cost of debt to an average Florida WAW utility over an equity ratio range of 40 percent to 100 percent.

For these reasons, the leverage formula is assumed to be appropriate for the average Florida WAW utility.

Based on the aforementioned, staff believes the revised leverage formula methodology applied to a proxy group of natural gas and WAW utilities with updated financial data based on market-capitalization weighted averages produces a reasonable range of ROEs for WAW utilities and reflects current financial markets. As such, staff recommends the following leverage formula be used until a new leverage formula is determined in 2020:

$$\text{ROE} = 6.05\% + (1.80 \div \text{Equity Ratio})$$

Where the Equity Ratio = Common Equity \div (Common Equity + Preferred Equity + Long-Term and Short-Term Debt).

The appropriate range of returns on equity is 7.85% at 100% equity to 10.55% at 40% equity.

Additionally, staff recommends that the Commission cap returns on common equity at 10.55 percent for all WAW utilities with equity ratios less than 40 percent. Staff recommends a cap to discourage imprudent financial risk. This cap is consistent with the methodology in Order No. PSC-2018-0327-PAA-WS.

Issue 2: Should this docket be closed?

Recommendation: No. Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, the decision should become final and effective upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to monitor changes in capital market conditions and to readdress the reasonableness of the leverage formula as conditions warrant. (Trierweiler)

Staff Analysis: Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, the decision should become final and effective upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to monitor changes in capital market conditions and to readdress the reasonableness of the leverage formula as conditions warrant.

SUMMARY OF RESULTS
2019 Water and Wastewater Leverage Formula

	<u>Updated Results</u>	<u>Currently In Effect</u>
(A) DCF ROE for Combined Index	7.39%	7.69%
(B) CAPM ROE for Combined Index	8.97%	9.49%
AVERAGE	8.18%	8.59%
Bond Yield Differential	0.60%	0.64%
Private Placement Premium	0.50%	0.50%
Small-Utility Risk Premium	0.50%	0.50%
Adjustment to Reflect Required Equity		
Return at a 40% Equity Ratio	<u>0.77%</u>	<u>0.85%</u>
Cost of Equity for Average Florida	<u>10.55%</u>	<u>11.08%</u>
WAW Utility at 40% Equity Ratio		

2018 Leverage Formula (Currently in Effect)

Return on Common Equity = $6.24\% + (1.61 \div \text{Equity Ratio})$

Range of Returns on Equity = 8.18% to 11.08%

2019 Leverage Formula

Return on Common Equity = $6.05\% + (1.80 \div \text{Equity Ratio})$

Range of Returns on Equity = 7.85% to 10.55%

Marginal Cost of Investor Capital
Average Water and Wastewater Utility

<u>Capital Component</u>	<u>Ratio</u>	<u>Marginal Cost Rate</u>	<u>Weighted Marginal Cost Rate</u>
Common Equity	48.22%	9.78%	4.72%
Total Debt	<u>51.78%</u>	6.05%*	<u>3.13%</u>
	100.00%		7.85%

A 40% equity ratio is the floor for calculating the required return on common equity.
The return on equity at a 40% equity ratio: $6.05\% + (1.80 \div 0.40) = 10.55\%$

Marginal Cost of Investor Capital
Average Water and Wastewater Utility at 40% Equity Ratio

<u>Capital Component</u>	<u>Ratio</u>	<u>Marginal Cost Rate</u>	<u>Weighted Marginal Cost Rate</u>
Common Equity	40.00%	10.55%	4.22%
Total Debt	<u>60.00%</u>	6.05%*	<u>3.63%</u>
	100.00%		7.85%

Where: $ER = \text{Equity Ratio} = CE / (CE + \text{Pref. Equity} + LTD + STD)$

*Assumed Baa3 rate for April 2019 plus a 50 basis point private placement premium and a 50 basis point small utility risk premium.

Sources:

Value Line Selection and Opinion

Company 10-K Filings

Discounted Cash Flow Model Results
April 1, 2019 - April 30, 2019

COMPANY	HI-PR	LO-PR	AVG-PR ^[1]	DCF Results	WEIGHT ^[3]	Weighted DCF RESULTS ^[4]
Atmos Energy Corporation	102.97	98.66	96.78	7.49%	20.76%	1.56%
Northwest Natural Gas Company	67.56	63.48	62.90	7.44%	3.46%	0.26%
ONE Gas, Inc	88.97	85.45	83.72	7.11%	8.01%	0.57%
Spire Inc.	84.54	80.53	79.23	7.74%	7.10%	0.55%
American States Water	71.50	67.52	66.73	7.43%	4.73%	0.35%
American Water Works	108.23	101.92	100.87	7.05%	34.05%	2.40%
Aqua America	39.08	34.79	35.46	7.79%	11.83%	0.92%
California Water Service Group	54.56	48.00	49.23	7.43%	4.55%	0.34%
Middlesex Water	58.14	52.51	53.11	8.72%	1.64%	0.14%
SJW Group	62.65	59.10	58.44	7.49%	3.10%	0.23%
York Water	34.55	32.29	32.08	8.54%	0.77%	0.07%
Average Weighted DCF Result:						<u>7.39%</u>

The ROE of 7.39 percent represents the expected cost of equity required to match the average stock price with the present value of expected cash flows.

Sources:

Stock prices obtained from Yahoo Finance for the 30-day period April 1, 2019 through April 30, 2019

Natural Gas (NG) company dividends, earnings, and ROE obtained from Value Line Ratings & Reports issued March 1, 2019
Water and Wastewater (WAW) company dividends, earnings and ROE obtained from Value Line Ratings & Reports issued April 12, 2019

Notes:

[1] Average Stock Prices include four percent flotation cost

[3] Company's weight based off of Market Cap

[4] Company's DCF results are weighted against their Market Cap Weight

**Capital Asset Pricing Model Cost of Equity for
Water and Wastewater Industry**

CAPM analysis formula

$$K = RF + \text{Beta} (MR - RF)$$

$$K = \text{Investor's required rate of return}$$

$$RF = \text{Risk-free rate (Blue Chip forecast for Long-term Treasury bond)}$$

$$\text{Beta} = \begin{array}{l} \text{Measure of industry-specific risk market cap weighted (Average for natural gas and} \\ \text{water utilities followed by Value Line)} \end{array}$$

$$MR = \text{Market return (Value Line Investment Analyzer Web Browser)}$$

$$8.97 \% = 3.10 \% + 0.64 (12.02 \% - 3.10 \%) + 0.20\%$$

Note:

Staff calculated the market return using a quarterly DCF model for a large number of dividend paying stocks followed by Value Line. As of April 15, 2019, the result was 12.02%.

Staff added 20 basis points to the CAPM result to account for a flotation cost of four percent.

Bond Yield for Water and Wastewater Industry

Credit Rating	<u>Equity Bond Yield Differential</u>			
	(A)	Spread	(A-)	Spread
		0.15		0.15
120 - Month Average Spread		0.150654		
Total Equity Bond Yield Differential		0.151 x 4 = 0.604%		

Blue Chip Financial Forecasts - Corporate Baa Bond Rate

	2Q 2019	3Q 2019	4Q 2019	1Q 2020
Forecast Corporate Baa Bond	4.80	4.90	4.90	5.00
Average Forecasted Corporate Baa Bond Rate:	4.90			

Assumed Bond Yield for Baa3 Utilities: 4.90 + 0.151 = 5.051

	<u>Updated Results</u>	<u>Currently In Effect</u>
Private Placement Premium	0.50%	0.50%
Small-Utility Risk Premium	0.50%	0.50%
Assumed Bond Yield for Baa3 Utilities	<u>5.05%</u>	<u>5.24%</u>
Assumed Bond Yield for Florida WAW Utilities	<u>6.05%</u>	<u>6.24%</u>

Sources:

Value Line Selection and Opinion

Blue Chip Financial Forecast May 2019

2019 Leverage Formula Proxy Group

<u>Company</u>	<u>S & P Bond Rating</u>	<u>Regulated Revenue</u>	<u>V/L Market Capital (Millions)</u>	<u>Equity Ratio</u>	<u>Weighted Equity Ratio</u>	<u>Weighted Value Line Beta</u>
Atmos Energy Corporation	A	96.39%	\$ 11,400	56.69%	11.77%	0.12
Northwest Natural Gas Company	A-	96.39%	\$ 1,900	44.43%	1.54%	0.02
ONE Gas, Inc	A	100.00%	\$ 4,400	50.58%	4.05%	0.05
Spire Inc.	BBB+	96.10%	\$ 3,900	47.59%	3.38%	0.05
American States Water	BBB-	75.46%	\$ 2,600	63.46%	3.00%	0.03
American Water Works	A	86.74%	\$ 8,700	40.51%	13.79%	0.20
Aqua America	A	99.59%	\$ 6,500	45.22%	5.35%	0.08
California Water Service Group	A+	94.09%	\$ 2,500	45.35%	2.06%	0.03
Middlesex Water	A	88.28%	\$ 900	54.38%	0.89%	0.01
SJW Group	A	96.72%	\$ 1,700	62.60%	1.94%	0.02
York Water	A-	100.00%	\$ 425	57.22%	0.44%	0.01
Average	A	93.61%	\$ 4,993.18	51.64%	48.22%	0.64

Sources:

Value Line Ratings and Reports
S.E.C. Form 10K for
Companies
Standard & Poor's

Item 6

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: May 30, 2019

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Thompson, Doebling, Ellis) *TD POE WLR TB 24*
Office of the General Counsel (DuVal) *MS C- for CC by*

RE: Docket No. 20190082-EQ – Petition for approval of renewable energy tariff and standard offer contract, by Florida Power & Light Company.

AGENDA: 06/11/19 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Section 366.91(3), Florida Statutes (F.S.), requires each investor-owned utility (IOU) to continuously offer to purchase capacity and energy from renewable generating facilities and small qualifying facilities. Florida Public Service Commission (Commission) Rules 25-17.200 through 25-17.310, Florida Administrative Code (F.A.C.), implement the statute and require each IOU to file with the Commission, by April 1 of each year, a revised standard offer contract based on the next avoidable fossil fueled generating unit of each technology type identified in the utility's current Ten-Year Site Plan. On April 1, 2019, Florida Power & Light Company (FPL) filed a petition for approval of its revised standard offer contract and rate schedule based on its 2019 Ten-Year Site Plan. The Commission has jurisdiction over this standard offer contract pursuant to Sections 366.04 through 366.055, and 366.91, F.S.

Date: May 30, 2019

Discussion of Issues

Issue 1: Should the Commission approve the revised renewable energy tariff and standard offer contract filed by Florida Power & Light Company?

Recommendation: Yes. The provisions of FPL's revised renewable energy tariff and standard offer contract conform to all requirements of Rules 25-17.200 through 25-17.310, F.A.C. FPL's revised standard offer contract provides flexibility in the arrangements for payments so that a developer of renewable generation may select the payment stream best suited to its financial needs. Staff recommends that FPL's revised renewable energy tariff and standard offer contract be approved as filed. (Thompson)

Staff Analysis: Section 366.91(3), F.S., and Rule 25-17.250, F.A.C., require that FPL, an IOU, continuously make available a standard offer contract for the purchase of firm capacity and energy from renewable generating facilities (RF) and small qualifying facilities (QF) with design capacities of 100 kilowatts (kW) or less. Pursuant to Rules 25-17.250(1) and (3), F.A.C., the standard offer contract must provide a term of at least 10 years, and the payment terms must be based on the utility's next avoidable fossil-fueled generating unit identified in its most recent Ten-Year Site Plan, or if no avoided unit is identified, its next avoidable planned purchase. FPL has identified a 1,886 megawatt (MW) natural gas-fired combined cycle (CC) as its next fossil-fueled generating unit in its 2019 Ten-Year Site Plan. The projected in-service date of this unit is June 1, 2026. Staff believes this unit is sufficient as the avoided unit for standard offer purposes; however, FPL's projected reliability need in 2026 is only 106 MW. Staff would note that approval of a standard offer contract is not an approval to construct future generating units.

Under FPL's standard offer contract, the RF/QF operator commits to certain minimum performance requirements based on the identified avoided unit, such as being operational and delivering an agreed upon amount of capacity by the in-service date of the avoided unit, and thereby becomes eligible for capacity payments in addition to payments received for energy. The standard offer contract may also serve as a starting point for negotiation of contract terms by providing payment information to an RF/QF operator, in a situation where one or both parties desire particular contract terms other than those established in the standard offer.

In order to promote renewable generation, the Commission requires the IOU to offer multiple options for capacity payments, including the options to receive early or levelized payments. If the RF/QF operator elects to receive capacity payments under the normal or levelized contract options, it will receive as-available energy payments only until the in-service date of the avoided unit (in this case June 1, 2026), and thereafter, begin receiving capacity payments in addition to the energy payments. If either the early or early levelized option is selected, then the operator will begin receiving capacity payments earlier than the in-service date of the avoided unit. However, payments made under the early capacity payment options tend to be lower in the later years of the contract term because the net present value (NPV) of the total payments must remain equal for all contract payment options.

Table 1 contains FPL's estimates of the annual payments for each payment option available under the revised standard offer contract to an operator with a 50 MW facility, operating at a capacity factor of 94 percent, which is the minimum capacity factor required under the contract

to qualify for full capacity payments. Normal and levelized capacity payments begin with the projected in-service date of the avoided CC unit (June 1, 2026).

**Table 1 - Estimated Annual Payments to a 50 MW Renewable Facility
(94% Capacity Factor)**

Year	Energy Payment \$(000)	Capacity Payment (By Type)			
		Normal	Levelized	Early	Early Levelized
		\$(000)	\$(000)	\$(000)	\$(000)
2020	8,328	-	-	-	-
2021	7,973	-	-	-	-
2022	7,790	-	-	2,059	2,439
2023	8,020	-	-	2,110	2,439
2024	8,920	-	-	2,163	2,439
2025	10,151	-	-	2,217	2,439
2026	10,696	3,270	3,746	2,272	2,439
2027	11,045	3,352	3,746	2,329	2,439
2028	11,213	3,435	3,746	2,387	2,439
2029	11,663	3,521	3,746	2,447	2,439
2030	12,237	3,609	3,746	2,508	2,439
2031	12,943	3,700	3,746	2,571	2,439
2032	13,837	3,792	3,746	2,635	2,439
2033	13,592	3,887	3,746	2,701	2,439
2034	13,972	3,984	3,746	2,769	2,439
2035	13,261	4,084	3,746	2,838	2,439
2036	13,353	4,186	3,746	2,909	2,439
2037	14,435	4,290	3,746	2,981	2,439
2038	13,925	4,398	3,746	3,056	2,439
2039	15,361	4,508	3,746	3,132	2,439
Total	232,717	54,015	52,442	46,084	43,897
NPV (2020\$)¹	106,878	20,069	20,069	20,068	20,067

Source: FPL's Response to Staff's First Data Request²

¹Differences due to rounding.

²Document No. 03715-2019, filed April 15, 2019, in Docket No. 20190082-EQ.

FPL's revised renewable energy tariff and standard offer contract, in type-and-strike format, are included as Attachment A to this recommendation. Revisions include updates to the avoided unit, dates, and payment information which reflect the current economic and financial assumptions for the avoided unit costs.

Conclusion

The provisions of FPL's revised renewable energy tariff and standard offer contract conform to all requirements of Rules 25-17.200 through 25-17.310, F.A.C. FPL's revised standard offer contract provides flexibility in the arrangements for payments so that a developer of renewable generation may select the payment stream best suited to its financial needs. Staff recommends that FPL's revised renewable energy tariff and standard offer contract be approved as filed.

Issue 2: Should this docket be closed?

Recommendation: Yes. This docket should be closed upon issuance of a consummating order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Commission's Proposed Agency Action Order. Potential signatories should be aware that, if a timely protest is filed, FPL's standard offer contract may subsequently be revised. (Duval)

Staff Analysis: This docket should be closed upon the issuance of a consummating order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Commission's Proposed Agency Action Order. Potential signatories should be aware that, if a timely protest is filed, FPL's standard offer contract may subsequently be revised.

FLORIDA POWER & LIGHT COMPANY

~~Eleventh~~^{Twelfth} Revised Sheet No. 9.030
Cancels ~~Tenth~~^{Eleventh} Revised Sheet No. 9.030

STANDARD OFFER CONTRACT FOR THE PURCHASE OF
CAPACITY AND ENERGY FROM A RENEWABLE ENERGY FACILITY OR A QUALIFYING
FACILITY WITH A DESIGN CAPACITY OF 100 KW OR LESS (~~2019 PLANNED POWER PURCHASE~~
~~OR 20282026~~ AVOIDED UNIT)

THIS STANDARD OFFER CONTRACT (the "Contract") is made and entered this ____ day of _____, _____, by and between _____ (herein after "Qualified Seller" or "QS") a corporation/limited liability company organized and existing under the laws of the State of _____ and owner of a Renewable Energy Facility as defined in section 25-17.210 (1) F.A.C. or a Qualifying Facility with a design capacity of 100 KW or less as defined in section 25-17.250, and Florida Power & Light Company (hereinafter "FPL") a corporation organized and existing under the laws of the State of Florida. The QS and FPL shall be jointly identified herein as the "Parties". This Contract contains five Appendices; Appendix A, QS-2 Standard Rate for Purchase of Capacity and Energy; Appendix B, Pay for Performance Provisions; Appendix C, Termination Fee; Appendix D, Detailed Project Information and Appendix E, contract options to be selected by QS.

WITNESSETH:

WHEREAS, the QS desires to sell and deliver, and FPL desires to purchase and receive, firm capacity and energy to be generated by the QS consistent with the terms of this Contract, Section 366.91, Florida Statutes, and/or Florida Public Service Commission ("FPSC") Rules 25-17.082 through 25-17.091, F.A.C. and FPSC Rules 25-17.200 through 25.17.310.F.A.C.

WHEREAS, the QS has signed an interconnection agreement with FPL (the "Interconnection Agreement"), or it has entered into valid and enforceable interconnection/transmission service agreement(s) with the utility (or those utilities) whose transmission facilities are necessary for delivering the firm capacity and energy to FPL (the "Wheeling Agreement(s)");

WHEREAS, the FPSC has approved the form of this Standard Offer Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Facility or a Qualifying Facility with a design capacity of 100 KW or less; and

WHEREAS, the Facility is capable of delivering firm capacity and energy to FPL for the term of this Contract in a manner consistent with the provisions of this Contract; and

WHEREAS, Section 366.91(3), Florida Statutes, provides that the "prudent and reasonable costs associated with a QS energy contract shall be recovered from the ratepayers of the contracting utility, without differentiating among customer classes, through the appropriate cost-recovery clause mechanism" administered by the FPSC.

NOW, THEREFORE, for mutual consideration the Parties agree as follows:

(Continued on Sheet No. 9.031)

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective: ~~June 5, 2018~~

FLORIDA POWER & LIGHT COMPANY

Second Revised Sheet No. 9.031
Cancels First Sheet No. 9.031

(Continued from Sheet No. 9.030)

1. QS Facility

The QS contemplates, installing operating and maintaining a _____ KVA _____ generating facility located at _____ (hereinafter called the "Facility"). The Facility is designed to produce a maximum of _____ kilowatts ("KW") of electric power at an 85% lagging to 85% leading power factor. The Facility's location and generation capabilities are as described in the table below.

TECHNOLOGY AND GENERATOR CAPABILITIES	
Location: Specific legal description (e.g., metes and bounds or other legal description with street address required)	City: County:
Generator Type (Induction or Synchronous)	
Type of Facility (Hydrogen produced from sources other than fossil fuels, biomass as defined in Section 25-17.210 (2) F.A.C. , solar energy, geothermal energy, wind energy, ocean energy, hydroelectric power, waste heat from sulfuric acid manufacturing operations: or <100KW cogenerator)	
Technology	
Fuel Type and Source	
Generator Rating (KVA)	
Maximum Capability (KW)	
Minimum Load	
Peaking Capability	
Net Output (KW)	
Power Factor (%)	
Operating Voltage (kV)	
Peak Internal Load KW	

The following sections (a) through (e) are applicable to Renewable Energy Facilities ("REFs") and section (e) is only applicable to Qualifying Facilities with a design capacity of 100 KW or less:

- (a) If the QS is a REF, the QS represents and warrants that (i) the sole source(s) of fuel or power used by the Facility to produce energy for sale to FPL during the term of this Contract shall be such sources as are defined in and provided for pursuant to Sections 366.91(2) (a) and (b), Florida Statutes, and FPSC Rules 25-17.210(1) and (2), F.A.C.; (ii) Fossil fuels shall be limited to the minimum quantities necessary for start-up, shut-down and for operating stability at minimum load; and (iii) the REF is capable of generating the amount of capacity pursuant to Section 5 of this Agreement without the use of fossil fuels.
- (b) The Parties agree and acknowledge that if the QS is a REF, the QS will not charge for, and FPL shall have no obligation to pay for, any electrical energy produced by the Facility from a source of fuel or power except as specifically provided for in paragraph 1(a) above.

(Continued on Sheet No. 9.032)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: July 13, 2017

FLORIDA POWER & LIGHT COMPANY

~~Thirteenth~~^{Fourteenth} Revised Sheet No. 9.032
Cancels ~~Twelfth~~^{Thirteenth} Revised Sheet No. 9.032

(Continued from Sheet No. 9.031)

- (c) If the QS is a REF, the QS shall, on an annual basis and within thirty (30) days after the anniversary date of this Contract and on an annual basis thereafter for the term of this Contract, deliver to FPL a report certified by an officer of the QS: (i) stating the type and amount of each source of fuel or power used by the QS to produce energy during the twelve month period prior to the anniversary date (the "Contract Year"); and (ii) verifying that one hundred percent (100%) of all energy sold by the QS to FPL during the Contract Year complies with Sections 1(a) and (b) of this Contract.
- (d) If the QS is a REF, the QS represents and warrants that the Facility meets the renewable energy requirements of Section 366.91(2)(a) and (b), Florida Statutes, and FPSC Rules 25-17.210(1) and (2)-, F.A.C., and that the QS shall continue to meet such requirements throughout the term of this Contract. FPL shall have the right at all times to inspect the Facility and to examine any books, records, or other documents of the QS that FPL deems necessary to verify that the Facility meets such requirements.
- (e) The Facility (i) has been certified or has self-certified as a "qualifying facility" pursuant to the Regulations of the Federal Energy Regulatory Commission ("FERC"), or (ii) has been certified by the FPSC as a "qualifying facility" pursuant to Rule 25-17.080(1). A QS that is a qualifying facility with a design capacity of less than 100 KW shall maintain the "qualifying status" of the Facility throughout the term of this Contract. FPL shall have the right at all times to inspect the Facility and to examine any books and records or other documents of the Facility that FPL deems necessary to verify the Facility's qualifying status. On or before March 31 of each year during the term of this Contract, the QS shall provide to FPL a certificate signed by an officer of the QS certifying that the Facility has continuously maintained qualifying status.

2. Term of Contract

Except as otherwise provided herein, this Contract shall become effective immediately upon its execution by the Parties (the "Effective Date") and shall have the termination date stated in Appendix E, unless terminated earlier in accordance with the provisions hereof. Notwithstanding the foregoing, if the Capacity Delivery Date (as defined in Section 5.5) of the Facility is not accomplished by the in-service date of the avoided unit, or such later date as may be permitted by FPL pursuant to Section 5 of this Contract, FPL will be permitted to terminate this Contract consistent with the terms herein without further obligations, duties or liability to the QS.

3. Minimum Specifications

Following are the minimum specifications pertaining to this Contract:

- 1. The avoided unit ("Avoided Unit") options on which this Contract is based are detailed in Appendix A, ~~Tariff Sheet Nos. 10.311 through 10.311.3.~~
- 2. This offer shall expire on April 1, ~~2019~~²⁰²⁰.
- 3. The date by which firm capacity and energy deliveries from the QS to FPL shall commence is the in-service date of the Avoided Unit (or such later date as may be permitted by FPL pursuant to Section 5 of this contract) unless the QS chooses a capacity payment option that provides for early capacity payments pursuant to the terms of this Contract.
- 4. The period of time over which firm capacity and energy shall be delivered from the QS to FPL is as specified in Appendix E; provided, such period shall be no less than a minimum of ten (10) years after the in-service date of the Avoided Unit.
- 5. The following are the minimum performance standards for the delivery of firm capacity and energy by the QS to qualify for full capacity payments under this Contract:

	On Peak *	All Hours
Availability	94.0%	94.0%

* QS Performance and On Peak hours shall be as measured and/or described in FPL's Rate Schedule QS-2 attached hereto as Appendix A

(Continued on Sheet No. 9.032.1)

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective: ~~June 5, 2018~~

FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No. 9.032.1
Cancels Original Sheet No. 9.032.1

(Continued from Sheet No. 9.032)

3.2 QS, at no cost to FPL, shall be responsible to:

3.2.1 Design, construct, and maintain the Facility in accordance with this Contract, applicable law, regulatory, and governmental approvals, any requirements of warranty agreements or similar agreements, prudent industry practice, insurance policies, and the Interconnection Agreement or Wheeling Agreement.

3.2.2 Perform all studies, pay all fees, obtain all necessary approvals and execute all necessary agreements (including the Interconnection Agreement or the Wheeling Agreement(s)) in order to schedule and deliver the firm capacity and energy to FPL.

3.2.3 Obtain and maintain all permits, certifications, licenses, consents or approvals of any governmental or regulatory authority necessary for the construction, operation, and maintenance of the Facility (the "Permits"). QS shall keep FPL reasonably informed as to the status of its permitting efforts and shall promptly inform FPL of any Permits it is unable to obtain, that are delayed, limited, suspended, terminated, or otherwise constrained in a way that could limit, reduce, interfere with, or preclude QS's ability to perform its obligations under this Contract (including a statement of whether and to what extent this circumstance may limit or preclude QS's ability to perform under this Contract.)

3.2.4 Demonstrate to FPL's reasonable satisfaction that QS has established Site Control, an agreement for the ownership or lease of the Facility's site, for the Term of the Contract.

3.2.5 Complete all environmental impact studies and comply with applicable environmental laws necessary for the construction, operation, and maintenance of the Facility.

3.2.6 At FPL's request, provide to FPL electrical specifications and design drawings pertaining to the Facility for FPL's review prior to finalizing design of the Facility and before beginning construction work based on such specifications and drawings, provided FPL's review of such specifications and design shall not be construed as endorsing the specification, and design thereof, or as any express or implied warranties including performance, safety, durability or reliability of the Facility. QS shall provide to FPL reasonable advance notice of any changes in the Facility and provide to FPL specifications and design drawings of any such changes.

3.2.7 Within fifteen (15) days after the close of each month from the first month following the Effective Date until the Capacity Delivery Date, provide to FPL a monthly progress report (in a form reasonably satisfactory to FPL) and agree to regularly scheduled meetings between representatives of QS and FPL to review such monthly reports and discuss QS's construction progress. The Monthly Progress Report shall indicate whether QS is on target to meet the Capacity Delivery Date. If, for any reason, FPL has reason to believe that QS may fail to achieve the Capacity Delivery Date, then, upon FPL's request, QS shall submit to FPL, within ten (10) business days of such request, a remedial action plan ("Remedial Action Plan") that sets forth a detailed description of QS's proposed course of action to promptly achieve the Capacity Delivery Date. Delivery of a Remedial Action Plan does not relieve QS of its obligation to meet the Capacity Delivery Date.

3.3 FPL shall have the right, but not the obligation, to:

3.3.1 Inspect during business hours upon reasonable notice, or obtain copies of all Permits held by QS.

3.3.2 Consistent with Section 3.2.6, notify QS in writing of the results of the review within thirty (30) days of FPL's receipt of all specifications for the Facility, including a description of any flaws perceived by FPL in the design.

3.3.3 Inspect the Facility's construction site or on-site QS data and information pertaining to the Facility during business hours upon reasonable notice.

(Continued on Sheet No. 9.033)

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FLORIDA POWER & LIGHT COMPANY

Ninth Revised Sheet No. 9.033
Cancels Eighth Sheet No. 9.033

(Continued from Sheet No. 9.032.1)

4. Sale of Energy and Capacity by the QS

4.1 Consistent with the terms hereof, the QS shall sell and deliver to FPL and FPL shall purchase and receive from the QS at the Delivery Point (defined below) all of the energy and firm capacity generated by the Facility. FPL shall have the sole and exclusive right to purchase all energy and capacity produced by the Facility. The purchase and sale of energy and firm capacity pursuant to this Contract shall be a () net billing arrangement or () simultaneous purchase and sale arrangement; provided, however, that no such arrangement shall cause the QS to sell more energy and firm capacity than the Facility's net output. The billing methodology may be changed at the option of the QS, subject to the provisions of FPL Rate Schedule QS-2. For purposes of this Contract, Delivery Point shall be defined as either: (a) the point of interconnection between FPL's system and the transmission system of the final utility transmitting energy and firm capacity from the Facility to the FPL system, as specifically described in the applicable Wheeling Agreement, or (b) the point of interconnection between the Facility and FPL's transmission system, as specifically described in the Interconnection Agreement.

4.2 The QS shall not rely on interruptible standby service for the start up requirements (initial or otherwise) of the Facility.

4.3 The QS shall be responsible for all costs, charges and penalties associated with development and operation of the Facility.

4.4 The QS shall be responsible for all interconnection, electric losses, transmission and ancillary service arrangements and costs required to deliver, on a firm basis, the firm capacity and energy from the Facility to the Delivery Point.

5. Committed Capacity/Capacity Delivery Date

5.1 The QS commits to sell and deliver firm capacity to FPL at the Delivery Point, the amount of which shall be determined in accordance with this Section 5 (the "Committed Capacity"). Subject to Section 5.3 the Committed Capacity shall be _____ KW, delivery date no later than the in-service date of the Avoided Unit or as otherwise specified in Appendix E (the "Guaranteed Capacity Delivery Date").

5.2 Testing of the capacity of the Facility (each such test, a "Committed Capacity Test") shall be performed in accordance with the procedures set forth in Section 6. The Demonstration Period (defined herein) for the first Committed Capacity Test shall commence no earlier than six (6) months prior to the Capacity Delivery Date and testing must be completed by 11:59 p.m. on the date prior to the Guaranteed Delivery Date. The first Committed Capacity Test shall be deemed successfully completed when the QS demonstrates to FPL's satisfaction that the Facility can make available capacity of at least one hundred percent (100%) of the Committed Capacity set forth in Section 5.1. Subject to Section 6.1, the QS may schedule and perform up to three (3) Committed Capacity Tests to satisfy the capacity requirements of the Contract.

5.3 FPL shall have the right to require the QS, by notice no less than ten (10) business days prior to such proposed test, to validate the Committed Capacity of the Facility by means of subsequent Committed Capacity Tests as follows: (a) once per each Summer period and once per each Winter period at FPL's sole discretion, (b) at any time the QS is unable to comply with any material obligation under this Contract for a period of thirty (30) days or more in the aggregate as a consequence of an event of Force Majeure, and (c) at any time the QS fails in three consecutive months to achieve an Annual Capacity Billing Factor, as defined in Appendix B (the "ACBF"), equal to or greater than 70%. The results of any such test shall be provided to FPL within seven (7) days of the conclusion of such test. On and after the date of such requested Committed Capacity Test, and until the completion of a subsequent Committed Capacity Test, the Committed Capacity shall be deemed as the lower of the tested capacity or the Committed Capacity as set forth in Section 5.1.

5.4 Notwithstanding anything to the contrary herein, the Committed Capacity shall not exceed the amount set forth in Section 5.1 without the prior written consent of FPL, such consent not unreasonably withheld.

5.5 The "Capacity Delivery Date" shall be defined as the first calendar day immediately after the date following the last to occur of (a) the Facility's successful completion of the first Committed Capacity Test but no earlier than the commencement date for deliveries of firm capacity and energy (as such is specified in Appendix E) and (b) the satisfaction by QS of the following Delivery Date Conditions (defined below).

(Continued on Sheet No. 9.033.1)

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FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 9.033.1

(Continue from Sheet No. 9.033)

5.5.1 A certificate addressed to FPL from a Licensed Professional Engineer (reasonably acceptable to FPL in all respects) stating: (a) the nameplate capacity rating of the Facility at the anticipated time of commercial operation, which must be at least 94% of the Expected Nameplate Capacity Rating; (b) that the Facility is able to generate electric energy reliably in amounts expected by this Agreement and in accordance with all other terms and conditions hereof; (c) that Start-Up Testing of the Facility has been completed; and (d) that, pursuant to Section 8.4, all system protection and control and Automatic Generation Control devices are installed and operational.

5.5.2 A certificate addressed to FPL from a Licensed Professional Engineer (reasonably acceptable to FPL in all respects) stating, in conformance with the requirements of the Interconnection Agreement, that: (a) all required interconnection facilities have been constructed; (b) all required interconnection tests have been completed; and (c) the Facility is physically interconnected with the System in conformance with the Interconnection Agreement and able to deliver energy consistent with the terms of this Agreement.

5.5.3 A certificate addressed from a Licensed Professional Engineer (reasonably acceptable to FPL in all respects) stating that QS has obtained or entered into all permits and agreements with respect to the Facility necessary for construction, ownership, operation, and maintenance of the Facility (the "Required Agreements"). QS must provide copies of any or all Required Agreements requested by FPL.

5.5.4 An opinion from a law firm or attorney, registered or licensed in the State of Florida (reasonably acceptable to FPL in all respects), stating, after all appropriate and reasonable inquiry, that: (a) QS has obtained or entered into all Required Agreements; (b) neither QS nor the Facility is in violation of or subject to any liability under any applicable law; and (c) QS has duly filed and had recorded all of the agreements, documents, instruments, mortgages, deeds of trust, and other writings described in Section 9.7.

5.5.5 FPL has received the Completion/Performance Security ((a) through (e), the "Commercial Operation Conditions").

FPL shall have ten (10) Business Days after receipt either to confirm to QS that all of the Delivery Date Conditions have been satisfied or have occurred, or to state with specificity what FPL reasonably believes has not been satisfied.

5.6 The QS shall be entitled to receive capacity payments beginning on the Capacity Delivery Date, provided, the Capacity Delivery Date occurs on or before the in-service date of the Avoided Unit (or such later date permitted by FPL pursuant to the following sentence). If the Capacity Delivery Date does not occur on or before the Guaranteed Capacity Delivery Date, FPL shall be entitled to the Completion/Performance Security (as set forth in Section 9) in full, and in addition, has the right but not the obligation to allow the QS up to an additional five (5) months to achieve the Capacity Delivery Date. If the QS fails to achieve the Capacity Delivery Date either by (a) the Guaranteed Delivery Date or b) such later date as permitted by FPL, FPL shall have no obligation to make any capacity payments under this Contract and FPL will be permitted to terminate this Contract, consistent with the terms herein, without further obligations, duties or liability to the QS.

(Continue on Sheet No. 9.034)

Issued by: Tiffany Cohen, Director, Rates and Tariffs
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FLORIDA POWER & LIGHT COMPANY

**Second Revised Sheet No. 9.034
Cancels First Sheet No. 9.034**

(Continued from Sheet No. 9.033)

6. Testing Procedures

6.1 The Committed Capacity Test must be completed successfully within a sixty-hour period (the "Demonstration Period"), which period, including the approximate start time of the Committed Capacity Test, shall be selected and scheduled by the QS by means of a written notice to FPL delivered at least thirty (30) days prior to the start of such period. The provisions of the foregoing sentence shall not apply to any Committed Capacity Test required by FPL under any of the provisions of this Contract. FPL shall have the right to be present onsite to monitor any Committed Capacity Test required or permitted under this Contract.

6.2 Committed Capacity Test results shall be based on a test period of twenty-four (24) consecutive hours (the "Committed Capacity Test Period") at the highest sustained net KW rating at which the Facility can operate without exceeding the design operating conditions, temperature, pressures, and other parameters defined by the applicable manufacturer(s) for steady state operations at the Facility. If the QS is a REF the Committed Capacity Test shall be conducted utilizing as the sole fuel source fuels or energy sources included in the definition in Section 366.91, Florida Statutes. The Committed Capacity Test Period shall commence at the time designated by the QS pursuant to Section 6.1 or at such other time requested by FPL pursuant to Section 5.3; provided, however, that the Committed Capacity Test Period may commence earlier than such time in the event that FPL is notified of, and consents to, such earlier time.

6.3 For the avoidance of doubt, normal station service use of unit auxiliaries, including, without limitation, cooling towers, heat exchangers, and other equipment required by law, shall be in service during the Committed Capacity Test Period. Further, the QS shall affect deliveries of any quantity and quality of contracted cogenerated steam to the steam host during the Committed Capacity Test Period.

6.4 The capacity of the Facility shall be the average net capacity (generator output minus auxiliary) measured over the Committed Capacity Test Period.

6.5 The Committed Capacity Test shall be performed according to prudent industry testing procedures satisfactory to FPL for the appropriate technology of the QS.

6.6 Except as otherwise provided herein, results of any Committed Capacity Test shall be submitted to FPL by the QS within seven (7) days of the conclusion of the Committed Capacity Test.

7. Payment for Electricity Produced by the Facility

7.1 Energy

FPL agrees to pay the QS for energy produced by the Facility and delivered to the Delivery Point in accordance with the rates and procedures contained in FPL's approved Rate Schedule QS-2, attached hereto as Appendix A, as it may be amended from time to time and pursuant to the election of energy payment options as specified in Appendix E. The Parties agree that this Contract shall be subject to all of the provisions contained in Rate Schedule QS-2 as approved and on file with the FPSC.

7.2 Firm Capacity

FPL agrees to pay the QS for the firm capacity described in Section 5 in accordance with the rates and procedures contained in Rate Schedule QS-2, attached hereto as Appendix A, as it may be amended and approved from time to time by the FPSC, and pursuant to the election of a capacity payment option as specified in Appendix E. The QS understands and agrees that capacity payments will be made under the early capacity payment options only if the QS has achieved the Capacity Delivery Date and is delivering firm capacity and energy to FPL. Once elected by the QS, the capacity payment option cannot be changed during the term of this Contract.

7.3 Payments

Payments due the QS will be made monthly and normally by the twentieth business day following the end of the billing period. A statement of the kilowatt-hours sold by the QS and the applicable avoided energy rate at which payments are being made shall accompany the payment to the QS.

(Continued on Sheet No. 9.035)

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FLORIDA POWER & LIGHT COMPANY

Second Revised Sheet No. 9.035
Cancels First Sheet No. 9.035

(Continued from Sheet No. 9.034)

8. Electricity Production and Plant Maintenance Schedule

8.1 During the term of this Contract, no later than sixty (60) days prior to the Capacity Delivery Date and prior to April 1 of each calendar year thereafter, the QS shall submit to FPL in writing a detailed plan of: (a) the amount of firm capacity and energy to be generated by the Facility and delivered to the Delivery Point for each month of the following calendar year, and (b) the time, duration and magnitude of any scheduled maintenance period(s) and any anticipated reductions in capacity.

8.2 By October 31 of each calendar year, FPL shall notify the QS in writing whether the requested scheduled maintenance periods in the detailed plan are acceptable. If FPL objects to any of the requested scheduled maintenance periods, FPL shall advise the QS of the time period closest to the requested period(s) when the outage(s) can be scheduled. The QS shall schedule maintenance outages only during periods approved by FPL, such approval not unreasonably withheld. Once the schedule for maintenance has been established and approved by FPL, either Party may request a subsequent change in such schedule and, except when such event is due to Force Majeure, request approval for such change from the other Party, such approval not to be unreasonably withheld or delayed. Scheduled maintenance outage days shall be limited to seven (7) days per calendar year unless the manufacturer's recommendation of maintenance outage days for the technology and equipment used by the Facility exceeds such 7 day period, provided, such number of days is considered reasonable by prudent industry standards and does not exceed two (2) fourteen (14) day intervals, one in the Spring and one in the Fall, in any calendar year. The scheduled maintenance outage days applicable for the QS are _____ days in the Spring and _____ days in the Fall of each calendar year, provided the conditions specified in the previous sentence are satisfied. In no event shall maintenance periods be scheduled during the following periods: June 1 through and including October 31st and December 1 through and including February 28 (or 29th as the case may be).

8.3 The QS shall comply with reasonable requests by FPL regarding day-to-day and hour-by-hour communication between the Parties relative to electricity production and maintenance scheduling.

8.4 Dispatch and Control

8.4.1 The power supplied by the QS hereunder shall be in the form of three-phase 60 Hertz alternating current, at a nominal operating voltage of _____,000 volts (_____ kV) and power factor dispatchable and controllable in the range of 85% lagging to 85% leading as measured at the Delivery Point to maintain system operating parameters, as specified by FPL.

8.4.2 At all times during the term of this Contract, the QS shall operate and maintain the Facility: (a) in such a manner as to ensure compliance with its obligations hereunder, in accordance with prudent engineering and operating practices and applicable law, and (b) with all system protective equipment in service whenever the Facility is connected to, or is operated in parallel with, FPL's system. The QS shall install at the Facility those system protection and control devices necessary to ensure safe and protected operation of all energized equipment during normal testing and repair. The QS shall have qualified personnel test and calibrate all protective equipment at regular intervals in accordance with good engineering and operating practices. A unit functional trip test shall be performed after each overhaul of the Facility's turbine, generator or boilers and the results shall be provided to FPL prior to returning the Facility to service. The specifics of the unit functional trip test will be consistent with good engineering and operating practices.

8.4.3 If the Facility is separated from the FPL system for any reason, under no circumstances shall the QS reconnect the Facility into FPL's system without first obtaining FPL's prior written approval.

8.4.4 During the term of this Contract, the QS shall employ qualified personnel for managing, operating and maintaining the Facility and for coordinating such with FPL. If the Facility has a Committed Capacity greater than 10 MW then, the QS shall ensure that operating personnel are on duty at all times, twenty-four (24) hours a calendar day and seven (7) calendar days a week. If the Facility has a Committed Capacity equal to or less than 10 MW then the QS shall ensure that operating personnel are on duty at least eight (8) hours per day from 8 AM EST to 5 PM EST from Monday to Friday, with an operator on call at all other hours.

8.4.5 FPL shall at all times be excused from its obligation to purchase and receive energy and capacity hereunder, and FPL shall have the ability to require the QS to curtail or reduce deliveries of energy, to the extent necessary (a) to maintain the reliability and integrity of any part of FPL's system, (b) in the event that FPL determines that a failure to do so is likely to endanger life or property, or (c) is likely to result in significant disruption of electric service to FPL's customers. FPL shall give the QS prior notice, if practicable, of its intent to refuse, curtail or reduce FPL's acceptance of energy and firm capacity pursuant to this Section and will act to minimize the frequency and duration of such occurrences.

(Continued on Sheet No. 9.036)

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FLORIDA POWER & LIGHT COMPANY

Third Revised Sheet No. 9.036
Cancels Second Sheet No. 9.036

(Continued from Sheet No. 9.035)

8.4.6 After providing notice to the QS, FPL shall not be required to purchase or receive energy from the QS during any period in which, due to operational circumstances, the purchase or receipt of such energy would result in FPL's incurring costs greater than those which it would incur if it did not make such purchases. An example of such an occurrence would be a period during which the load being served is such that the generating units on line are base load units operating at their minimum continuous ratings and the purchase of additional energy would require taking a base load unit off the line and replacing the remaining load served by that unit with peaking-type generation. FPL shall give the QS as much prior notice as practicable of its intent not to purchase or receive energy and firm capacity pursuant to this Section.

8.4.7 If the Facility has a Committed Capacity less than 75 MW, control, scheduling and dispatch of firm capacity and energy shall be the responsibility of the QS. If the Facility has a Committed Capacity greater than or equal to 75 MW, then control, scheduling and dispatch of firm capacity and energy shall be the responsibility of the QS, except during a "Dispatch Hour", i.e., any clock hour for which FPL requests the delivery of such capacity and energy. During any Dispatch Hour: (a) control of the Facility will either be by Seller's manual control under the direction of FPL (whether orally or in writing) or by Automatic Generation Control by FPL's system control center as determined by FPL, and (b) FPL may request that the real power output be at any level up to the Committed Capacity of the Facility, provided, in no event shall FPL require the real power output of the Facility to be below the Facility's Minimum Load without decommitting the Facility. The Facility shall deliver the capacity and energy requested by FPL within _____ minutes, taking into account the operating limitations of the generating equipment as specified by the manufacturer, provided such time period specified herein is considered reasonable by prudent industry standards for the technology and equipment being utilized and assuming the Facility is operating at or above its Minimum Load. Start-up time from Cold Shutdown and Facility Turnaround time from Hot to Hot will be taken into consideration provided such are reasonable and consistent with prudent industry practices for the technology and equipment being utilized. The Facility's Operating Characteristics have been provided by the QS and are set forth in Appendix D, Section IV of Rate Schedule QS-2.

8.4.8 If the Facility has a Committed Capacity of less than 75 MW, FPL may require during certain periods, by oral, written, or electronic notification that the QS cause the Facility to reduce output to a level below the Committed Capacity but not lower than the Facility's Minimum Load. FPL shall provide as much notice as practicable, normally such notice will be of at least four (4) hours. The frequency of such request shall not exceed eighteen (18) times per calendar year and the duration of each request shall not exceed four (4) hours.

8.4.9 FPL's exercise of its rights under this Section 8 shall not give rise to any liability or payment obligation on the part of FPL, including any claim for breach of contract or for breach of any covenant of good faith and fair dealing.

9. Completion/Performance Security

The security contemplated by this Section 9 constitutes security for, but is not a limitation of, QS's obligations hereunder and shall not be FPL's exclusive remedy for QS's failure to perform in accordance with this Agreement.

9.1 As security for the achievement of the Guaranteed Capacity Delivery Date and satisfactory performance of its obligations hereunder, the QS shall provide FPL either: (a) an unconditional, irrevocable, standby letter of credit(s) with an expiration date no earlier than the end of the first (1st) anniversary of the Capacity Delivery Date (or the next business day thereafter), issued by a U.S. commercial bank or the U.S. branch of a foreign bank having a Credit Rating of A- or higher by S&P or A3 or higher by Moody's (a "Qualified Issuer"), in form and substance acceptable to FPL (including provisions (i) permitting partial and full draws and (ii) permitting FPL to draw in full if such letter of credit is not renewed or replaced as required by the terms hereof at least thirty (30) business days prior to its expiration date) ("Letter of Credit"); (b) a bond, issued by a financially sound Company acceptable to FPL and in a form and substance acceptable to FPL, ("Bond"); or (c) a cash collateral deposited with FPL ("Cash Collateral") (any of (a), (b), or (c), the "Completion/Performance Security"). Completion/Performance Security shall be provided in the amount and by the date listed below:

(a) \$50.00 per kW (for the number of kW of Committed Capacity set forth in Section 5.1) to be delivered to FPL within five (5) business days of the Effective Date; and

(b) \$100.00 per kW (for the number of kW of Committed Capacity set forth in Section 5.1) to be delivered to FPL two years before the Guaranteed Capacity Delivery Date.

"Credit Rating" means with respect to any entity, on any date of determination, the respective ratings then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancement) by S&P, Moody's or other specified rating agency or agencies or if such entity does not have a rating for its unsecured, senior long-term debt or deposit obligations, then the rating assigned to such entity as its "corporate credit rating" by S&P.

(Continued on Sheet No. 9.037)

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FLORIDA POWER & LIGHT COMPANY

Ninth Revised Sheet No. 9.037
Cancels Eighth Revised Sheet No. 9.037

(Continued from Sheet No. 9.036)

"Moody's" means Moody's Investors Service, Inc. or its successor.

"S&P" means Standard & Poor's Ratings Group (a division of The McGraw-Hill Companies, Inc.) or its successor.

9.2 The specific security instrument provided for purposes of this Contract is:

- () Letter of Credit.
- () Bond.
- () Cash Collateral.

9.3 FPL shall have the right to monitor (a) the financial condition of the issuer of a Letter of Credit in the event any Letter of Credit is provided by the QS, and (b) the insurer, in the case of any Bond. In the event the issuer of a Letter of Credit no longer qualifies as Qualified Issuer or the issuer of a Bond is no longer financially sound, FPL may require the QS to replace the Letter of Credit or the Bond, as applicable. Such replacement Letter of Credit or bond must be issued by a Qualified Issuer or a financially sound issuer, as applicable, within ten (10) business days following written notification to the QS of the requirement to replace. Failure by the QS to comply with the requirements of this Section 9.3 shall be grounds for FPL to draw in full on the existing Letter of Credit or bond and to exercise any other remedies it may have hereunder.

9.4 Notwithstanding the foregoing provisions of this Section 9, pursuant to FPSC Rule 25-17.091(4), F.A.C., a QS qualifying as a "Solid Waste Facility" pursuant to Section 377.709(3) or (5), F.S., respectively, may use an unsecured written commitment or promise to pay in a form reasonably acceptable to FPL, by the local government which owns the Facility or on whose behalf the QS operates the Facility, to secure its obligation to achieve on a timely basis the Capacity Delivery Date and the satisfactory performance of its obligations hereunder.

9.5 FPL shall be entitled to draw the Completion/Performance Security to satisfy any obligation or liability of QS arising pursuant to this Contract.

9.5.1 If the QS fails to achieve the Capacity Delivery Date on or before the in-service date of the Avoided Unit or such later date as permitted by FPL pursuant to Section 5.6, FPL shall be entitled immediately to receive, draw upon, or retain, as the case may be, one-hundred (100%) of the Completion/Performance Security as liquidated damages free from any claim or right of any nature whatsoever of the QS, including any equity or right of redemption by the QS. The Parties acknowledge that the injury that FPL will suffer as a result of delayed availability of Committed Capacity and energy is difficult to ascertain and that FPL may accept such sums as liquidated damages and resort to any other remedies which may be available to it under law or in equity.

9.5.2 In the event that FPL requires the QS to perform one or more Committed Capacity Test(s) at any time on or before the first anniversary of the Capacity Delivery Date pursuant to Section 5.3 and, in connection with any such Committed Capacity Test(s), the QS fails to demonstrate a Capacity of at least one-hundred percent (100%) of the Committed Capacity set forth in Section 5.1, FPL shall be entitled immediately to receive, draw upon, or retain, as the case may be, one-hundred percent (100%) of the Completion/Performance Security as liquidated damages free from any claim or right of any nature whatsoever of the QS, including any equity or right of redemption by the QS.

9.5.3 QS shall promptly, but in no event more than five (5) business days following any draws on the Completion/Performance Security, replenish the Completion/Performance Security to the amounts required herein.

9.6 The QS, as the Pledgor of the Completion/Performance Security, hereby pledges to FPL, as the secured Party, as security for the achievement of the Capacity Delivery Date and satisfactory performance of its obligations hereunder, and grants to FPL a first priority continuing security interest in, lien on and right of set-off against all Completion/Performance Security transferred to or received by FPL hereunder. Upon the transfer or return by FPL to the QS of Completion/Performance Security, the security interest and lien granted hereunder on that Completion/Performance Security will be released immediately and, to the extent possible, without any further action by either party.

(Continued on Sheet No. 9.038)

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FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No. 9.038
Cancels Original Sheet No. 9.038

(Continued from Sheet No. 9.037)

9.7 In lieu of any interest, dividends or other amounts paid or deemed to have been paid with respect to Cash Collateral held by FPL (all of which may be retained by FPL), FPL will transfer to the QS on a monthly basis the Interest Amount, as calculated by FPL.

"Interest Amount" means, with respect to each monthly period, the aggregate sum of the amounts of interest calculated for each day in that monthly period on the principal amount of Cash Collateral held by FPL on that day, determined by FPL for each such day as follows:

- (x) the amount of that Cash Collateral on that day; multiplied by
- (y) the Interest Rate in effect for that day; divided by
- (z) 360.

"Interest Rate" means: the Federal Funds Overnight rate as from time to time in effect.

"Federal Funds Overnight Rate" means, for the relevant determination date, the rate opposite the caption "Federal Funds (Effective)" as set forth for that day in the weekly statistical release designated as H.15 (519), or any successor publication, published by the Board of Governors of the Federal Reserve System. If on the determination date such rate is not yet published in H.15 (519), the rate for that date will be the rate set in Composite 3:30 P.M. Quotations for U.S. Government Securities for that day under the caption "Federal Funds/Effective Rate." If on the determination date such rate is not yet published in either H.15 (519) or Composite 3:30 P.M. Quotations for U.S. Government Securities, the rate for that date will be determined as if the Parties had specified "USD-Federal Funds-Reference Dealers" as the applicable rate.

10. Termination Fee

10.1 In the event that the QS receives capacity payments pursuant to Option B, Option C, Option D or Option E (as such options are defined in Appendix A and elected by the QS in Appendix E) or receives energy payments pursuant to the Fixed Firm Energy Payment Option (as such option is defined in Appendix A and elected by the QS in Appendix E) then, upon the termination of this Contract, the QS shall owe and be liable to FPL for a termination fee calculated in accordance with Appendix C (the "Termination Fee"). The QS's obligation to pay the Termination Fee shall survive the termination of this Contract. FPL shall provide the QS, on a monthly basis, a calculation of the Termination Fee.

10.1.1 The Termination Fee shall be secured (with the exception of governmental solid waste facilities covered by FPSC Rule 25-17.091 in which case the QS may use an unsecured written commitment or promise to pay, in a form reasonably acceptable to FPL, by the local government which owns the Facility or on whose behalf the QS operates the Facility, to secure its obligation to pay the Termination Fee) by the QS by: (a) an unconditional, irrevocable, standby letter(s) of credit issued by Qualified Issuer in form and substance acceptable to FPL (including provisions (a) permitting partial and full draws and (b) permitting FPL to draw upon such letter of credit, in full, if such letter of credit is not renewed or replaced at least thirty (30) business days prior to its expiration date, ("Termination Fee Letter of Credit"); (b) a bond, issued by a financially sound Company and in a form and substance acceptable to FPL, ("Termination Fee Bond"); or (c) a cash collateral deposit with FPL ("Termination Fee Cash Collateral") (any of (a), (b), or (c), the "Termination Security").

10.1.2 The specific security instrument selected by the QS for purposes of this Contract is:

- () Termination Fee Letter of Credit
- () Termination Fee Bond
- () Termination Fee Cash Collateral

10.1.3 FPL shall have the right to monitor the financial condition of (i) the issuer of a Termination Fee Letter of Credit in the case of any Termination Fee Letter of Credit and (ii) the insurer(s), in the case of any Termination Fee Bond. In the event the issuer of a Termination Fee Letter of Credit is no longer a Qualified Issuer or the issuer of a Termination Fee Bond is no longer financially sound, FPL may require the QS to replace the Termination Fee Letter of Credit or the Termination Fee Bond, as applicable. In the event that FPL notifies the QS that it requires such a replacement, the replacement Termination Fee Letter of Credit or Termination Fee Bond, as applicable, must be issued by a Qualified Issuer or financially sound company within ten (10) business days following such notification. Failure by the QS to comply with the requirements of this Section 10.1.2 shall be grounds for FPL to draw in full on any existing Termination Fee Letter of Credit or Termination Fee Bond and to exercise any other remedies it may have hereunder.

(Continued on Sheet No. 9.039)

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FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No. 9.039
Cancels Original Sheet No. 9.039

(Continued from Sheet No. 9.038)

10.1.4 After the close of each calendar quarter (March 31, June 30, September 30, and December 31) occurring subsequent to the Capacity Delivery Date, the QS shall provide to FPL within ten (10) business days of the close of such calendar quarter with written assurance and documentation (the "Security Documentation"), in form and substance acceptable to FPL, that the amount of the most recently provided Termination Security is sufficient to cover the balance of the Termination Fee. In addition to the foregoing, at any time during the term of this Contract, FPL shall have the right to request, and the QS shall be obligated to deliver within five (5) business days of such request, such Security Documentation. Failure by the QS to comply with the requirements of this Section 10.1.3 shall be grounds for FPL to draw in full on any existing Termination Fee Letter of Credit or Termination Fee Bond or to retain any Termination Fee Cash Collateral, and to exercise any other remedies it may have hereunder to be applied against any Termination Fee that may be due and owing to FPL or that may in the future be due and owing to FPL.

10.1.5 Upon any termination of this Contract following the Capacity Delivery Date, FPL shall be entitled to receive (and in the case of the Termination Fee Letter of Credit or Termination Fee Bond, draw upon such Termination Fee Letter of Credit or Termination Fee Bond) and retain one-hundred percent (100%) of the Termination Security to be applied against any Termination Fee that may be due and owing to FPL or that may in the future be due and owing to FPL. FPL will transfer to the QS any proceeds and Termination Security remaining after liquidation, set-off and/or application under this Article after satisfaction in full of all amounts payable by the QS with respect to any Termination Fee or other obligations due to FPL; the QS in all events will remain liable for any amounts remaining unpaid after any liquidation, set-off and/or application under this Article.

10.2 The QS, as the Pledgor of the Termination Security, hereby pledges to FPL, as the secured Party, as security for the Termination Fee, and grants to FPL a first priority continuing security interest in, lien on and right of set-off against all Termination Security transferred to or received by FPL hereunder. Upon the transfer or return by FPL to the QS of Termination Security, the security interest and lien granted hereunder on that Termination Security will be released immediately and, to the extent possible, without any further action by either party.

10.3 In lieu of any interest, dividends or other amounts paid or deemed to have been paid with respect to Termination Fee Cash Collateral held by FPL (all of which may be retained by FPL), FPL will transfer to the QS on a monthly basis the Interest Amount, Pursuant to Section 9.7.

11. Performance Factor

FPL desires to provide an incentive to the QS to operate the Facility during on-peak and off-peak periods in a manner which approximates the projected performance of FPL's Avoided Unit. A formula to achieve this objective is attached as Appendix B.

(Continued on Sheet No. 9.040)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: September 13, 2016

FLORIDA POWER & LIGHT COMPANY

Fourth Revised Sheet No. 9.040
Cancels Third Revised Sheet No. 9.040

(Continued from Sheet No. 9.039)

12. Default

Notwithstanding the occurrence of any Force Majeure as described in Section 16, each of the following shall constitute an Event of Default:

- 12.1 The QS fails to meet the applicable requirements specified in Section 1 of this Contract.;
- 12.2 The QS changes or modifies the Facility from that provided in Section 1 with respect to its type, location, technology or fuel source, without prior written approval from FPL.;
- 12.3 After the Capacity Delivery Date, the Facility fails, for twelve (12) consecutive months, to maintain an Annual Capacity Billing Factor, as described in Appendix B, of at least 70%.;
- 12.4 The QS fails to comply with any of the provisions of Section 9.0 hereof (Completion/Performance Security).
- 12.5 The QS fails to comply with any of the provisions of Section 10.0 hereof (Termination Security).;
- 12.6 The QS ceases the conduct of active business; or if proceedings under the federal bankruptcy law or insolvency laws shall be instituted by or for or against the QS or if a receiver shall be appointed for the QS or any of its assets or properties; or if any part of the QS's assets shall be attached, levied upon, encumbered, pledged, seized or taken under any judicial process, and such proceedings shall not be vacated or fully stayed within 30 days thereof, or if the QS shall make an assignment for the benefit of creditors, or admit in writing its inability to pay its debts as they become due.
- 12.7 The QS fails to give proper assurance acceptable to FPL of adequate performance as specified under this Contract within 30 days after FPL, with reasonable grounds for insecurity, has requested in writing such assurance-.
- 12.8 The QS materially fails to perform as specified under this Contract, including, but not limited to, the QS's obligations under any part of Sections 8, and 18.
- 12.9 The QS fails to achieve the permitting, licensing, certification, and all federal, state and local governmental environmental and licensing approvals required to initiate construction of the Facility by no later than one year prior to Guaranteed Capacity Date.
- 12.10 The QS fails to comply with any of the provisions of Section 18.3 hereof (Project Management).
- 12.11 Any of the representations or warranties made by the QS in this Contract is false or misleading in any material respect.
- 12.12 The occurrence of an event of default by the QS under the Interconnection Agreement or any applicable Wheeling Agreement,
- 12.13 The QS fails to satisfy its obligations under Section 18.14 hereof (Assignment).
- 12.14 The QS fails to deliver to FPL in accordance with this Contract any energy or firm capacity required to be delivered hereunder or the delivery or sale of any such energy and firm capacity to an entity other than FPL.
- 12.15 The QS fails to perform any material covenant or obligation under this Contract not specifically mentioned in this Section 12.
- 12.16 If at any time after the Capacity Delivery Date, the QS reduces the Committed Capacity due to an event of Force Majeure and fails to repair the Facility and reset the Committed Capacity to the level set forth in Section 5.1 (as such level may be reduced by Section 5.3) within twelve (12) months following the occurrence of such event of Force Majeure.

(Continued on Sheet No. 9.041)

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Effective: September 13, 2016

FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No. 9.041
Cancels Original Sheet No. 9.041

(Continued from Sheet No. 9.040)

13. FPL's Rights in the Event of Default

13.1 Upon the occurrence of any of the Events of Default in Section 12, FPL may:

- (a) terminate this Contract, without penalty or further obligation, except as set forth in Section 13.2, by written notice to the QS, and offset against any payment(s) due from FPL to the QS, any monies otherwise due from the QS to FPL;
- (b) draw on the Completion/Performance Security pursuant to Section 9 or collect the Termination Fee pursuant to Section 10 as applicable; and
- (c) exercise any other remedy(ies) which may be available to FPL at law or in equity.

13.2 In the case of an Event of Default, the QS recognizes that any remedy at law may be inadequate because this Contract is unique and/or because the actual damages of FPL may be difficult to reasonably ascertain. Therefore, the QS agrees that FPL shall be entitled to pursue an action for specific performance, and the QS waives all of its rights to assert as a defense to such action that FPL's remedy at law is adequate.

13.3 Termination shall not affect the liability of either party for obligations arising prior to such termination or for damages, if any, resulting from any breach of this Contract.

14. Indemnification/Limits

14.1 FPL and the QS shall each be responsible for its own facilities. FPL and the QS shall each be responsible for ensuring adequate safeguards for other FPL customers, FPL's and the QS's personnel and equipment, and for the protection of its own generating system. Subject to section 2.7 Indemnity to Company, or section 2.71 Indemnity to Company – Governmental, FPL's General Rules and Regulations of Tariff Sheet No. 6.020 each party (the "Indemnifying Party") agrees, to the extent permitted by applicable law, to indemnify, pay, defend, and hold harmless the other party (the "Indemnified Party") and its officers, directors, employees, agents and contractors (hereinafter called respectively, "FPL Entities" and "QS Entities") from and against any and all claims, demands, costs, or expenses for loss, damage, or injury to persons or property of the Indemnified Party (or to third parties) caused by, arising out of, or resulting from: (a) a breach by the Indemnifying Party of its covenants, representations, and warranties or obligations hereunder; (b) any act or omission by the Indemnifying Party or its contractors, agents, servants or employees in connection with the installation or operation of its generation system or the operation thereof in connection with the other Party's system; (c) any defect in, failure of, or fault related to, the Indemnifying Party's generation system; (d) the negligence or willful misconduct of the Indemnifying Party or its contractors, agents, servants or employees; or (e) any other event, act or incident, including the transmission and use of electricity, that is the result of, or proximately caused by, the Indemnifying Party or its contractors, agents, servants or employees.

14.2 Payment by an Indemnified Party will not be a condition precedent to the obligations of the Indemnifying Party under Section 14. No Indemnified Party under Section 14 shall settle any claim for which it claims indemnification hereunder without first allowing the Indemnifying Party the right to defend such a claim. The Indemnifying Party shall have no obligations under Section 14 in the event of a breach of the foregoing sentence by the Indemnified Party. Section 14 shall survive termination of this Agreement.

14.3 Limitation on Consequential, Incidental and Indirect Damages. TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER THE QS NOR FPL, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, MEMBERS, PARENTS, SUBSIDIARIES OR AFFILIATES, SUCCESSORS OR ASSIGNS, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, MEMBERS, PARENTS, SUBSIDIARIES OR AFFILIATES, SUCCESSORS OR ASSIGNS, SHALL BE LIABLE TO THE OTHER PARTY OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, MEMBERS, PARENTS, SUBSIDIARIES OR AFFILIATES, SUCCESSORS OR ASSIGNS, FOR CLAIMS, SUITS, ACTIONS OR CAUSES OF ACTION FOR INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, MULTIPLE OR CONSEQUENTIAL DAMAGES CONNECTED WITH OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE OF THIS CONTRACT, OR ANY ACTIONS UNDERTAKEN IN CONNECTION WITH OR RELATED TO THIS CONTRACT, INCLUDING WITHOUT LIMITATION, ANY SUCH DAMAGES WHICH ARE BASED UPON CAUSES OF ACTION FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND MISREPRESENTATION), BREACH OF WARRANTY, STRICT LIABILITY, STATUTE, OPERATION OF LAW, UNDER ANY INDEMNITY PROVISION OR ANY OTHER THEORY OF RECOVERY. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY, AND SUCH DIRECT DAMAGES SHALL BE THE SOLE AND EXCLUSIVE MEASURE OF DAMAGES AND

(Continued on Sheet No. 9.042)

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FLORIDA POWER & LIGHT COMPANY

Second Revised Sheet No. 9.042
Cancels First Sheet No. 9.042

(Continued from Sheet No. 9.041)

ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED; PROVIDED, HOWEVER, THE PARTIES AGREE THAT THE FOREGOING LIMITATIONS WILL NOT IN ANY WAY LIMIT LIABILITY OR DAMAGES UNDER ANY THIRD PARTY CLAIMS OR THE LIABILITY OF A PARTY WHOSE ACTIONS GIVING RISE TO SUCH LIABILITY CONSTITUTE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THE PROVISIONS OF THIS SECTION SHALL APPLY REGARDLESS OF FAULT AND SHALL SURVIVE TERMINATION, CANCELLATION, SUSPENSION, COMPLETION OR EXPIRATION OF THIS CONTRACT. NOTHING CONTAINED IN THIS AGREEMENT SHALL BE DEEMED TO BE A WAIVER OF A PARTY'S RIGHT TO SEEK INJUNCTIVE RELIEF.

15. Insurance

15.1 The QS shall procure or cause to be procured, and shall maintain throughout the entire term of this Contract, a policy or policies of liability insurance issued by an insurer acceptable to FPL on a standard "Insurance Services Office" commercial general liability form (such policy or policies, collectively, the "QS Insurance"). A certificate of insurance shall be delivered to FPL at least fifteen (15) calendar days prior to the start of any interconnection work. At a minimum, the QS Insurance shall contain (a) an endorsement providing coverage, including products liability/completed operations coverage for the term of this Contract, and (b) a broad form contractual liability endorsement covering liabilities (i) which might arise under, or in the performance or nonperformance of, this Contract and the Interconnection Agreement, or (ii) caused by operation of the Facility or any of the QS's equipment or by the QS's failure to maintain the Facility or the QS's equipment in satisfactory and safe operating condition. Effective at least fifteen (15) calendar days prior to the synchronization of the Facility with FPL's system, the QS Insurance shall be amended to include coverage for interruption or curtailment of power supply in accordance with industry standards. Without limiting the foregoing, the QS Insurance must be reasonably acceptable to FPL. Any premium assessment or deductible shall be for the account of the QS and not FPL.

15.2 The QS Insurance shall have a minimum limit of one million dollars (\$1,000,000) per occurrence, combined single limit, for bodily injury (including death) or property damage.

15.3 In the event that such insurance becomes totally unavailable or procurement thereof becomes commercially impracticable, such unavailability shall not constitute an Event of Default under this Contract, but FPL and the QS shall enter into negotiations to develop substitute protection which the Parties in their reasonable judgment deem adequate.

15.4 To the extent that the QS Insurance is on a "claims made" basis, the retroactive date of the policy(ies) shall be the effective date of this Contract or such other date as may be agreed upon to protect the interests of the FPL Entities and the QS Entities. Furthermore, to the extent the QS Insurance is on a "claims made" basis, the QS's duty to provide insurance coverage shall survive the termination of this Contract until the expiration of the maximum statutory period of limitations in the State of Florida for actions based in contract or in tort. To the extent the QS Insurance is on an "occurrence" basis, such insurance shall be maintained in effect at all times by the QS during the term of this Contract.

15.5 The QS Insurance shall provide that it may not be cancelled or materially altered without at least thirty (30) calendar days' written notice to FPL. The QS shall provide FPL with a copy of any material communication or notice related to the QS Insurance within ten (10) business days of the QS's receipt or issuance thereof.

15.6 The QS shall be designated as the named insured and FPL shall be designated as an additional named insured under the QS Insurance. The QS Insurance shall be endorsed to be primary to any coverage maintained by FPL.

16. Force Majeure

Force Majeure is defined as an event or circumstance that is not within the reasonable control of, or the result of the negligence of, the affected party, and which, by the exercise of due diligence, the affected party is unable to overcome, avoid, or cause to be avoided in a commercially reasonable manner. Such events or circumstances may include, but are not limited to, acts of God, war, riot or insurrection, blockades, embargoes, sabotage, epidemics, explosions and fires not originating in the Facility or caused by its operation, hurricanes, floods, strikes, lockouts or other labor disputes, difficulties (not caused by the failure of the affected party to comply with the terms of a collective bargaining agreement), or actions or restraints by court order or governmental authority or arbitration award. Force Majeure shall not include (a) the QS's ability to sell capacity and energy to another market at a more advantageous price; (b) equipment breakdown or inability to use equipment caused by its design, construction, operation, maintenance or inability to meet regulatory standards, or otherwise caused by an event originating in the Facility; (c) a failure of performance of any other entity, including any entity providing electric transmission service to the QS, except to the extent that such failure was caused by an event that would otherwise qualify as a Force Majeure event; (d) failure of the QS to timely apply for or obtain permits.

(Continued on Sheet No. 9.043)

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Effective: September 13, 2016

FLORIDA POWER & LIGHT COMPANY

**First Revised Sheet No. 9.043
Cancels Original Sheet No. 9.043**

(Continued from Sheet No. 9.042)

16.1 Except as otherwise provided in this Contract, each party shall be excused from performance when its nonperformance was caused, directly or indirectly by an event of Force Majeure.

16.2 In the event of any delay or nonperformance resulting from an event of Force Majeure, the party claiming Force Majeure shall notify the other party in writing within two (2) business days of the occurrence of the event of Force Majeure, of the nature, cause, date of commencement thereof and the anticipated extent of such delay, and shall indicate whether any deadlines or date(s), imposed hereunder may be affected thereby. The suspension of performance shall be of no greater scope and of no greater duration than the cure for the Force Majeure requires. A party claiming Force Majeure shall not be entitled to any relief therefore unless and until conforming notice is provided. The party claiming Force Majeure shall notify the other party of the cessation of the event of Force Majeure or of the conclusion of the affected party's cure for the event of Force Majeure, in either case within two (2) business days thereof.

16.3 The party claiming Force Majeure shall use its best efforts to cure the cause(s) preventing its performance of this Contract; provided, however, the settlement of strikes, lockouts and other labor disputes shall be entirely within the discretion of the affected party, and such party shall not be required to settle such strikes, lockouts or other labor disputes by acceding to demands which such party deems to be unfavorable.

16.4 If the QS suffers an occurrence of an event of Force Majeure that reduces the generating capability of the Facility below the Committed Capacity, the QS may, upon notice to FPL, temporarily adjust the Committed Capacity as provided in Sections 16.5 and 16.6. Such adjustment shall be effective the first calendar day immediately following FPL's receipt of the notice or such later date as may be specified by the QS. Furthermore, such adjustment shall be the minimum amount necessitated by the event of Force Majeure.

16.5 If the Facility is rendered completely inoperative as a result of Force Majeure, the QS shall temporarily set the Committed Capacity equal to 0 KW until such time as the Facility can partially or fully operate at the Committed Capacity that existed prior to the Force Majeure. If the Committed Capacity is 0 KW, FPL shall have no obligation to make capacity payments hereunder.

16.6 If, at any time during the occurrence of an event of Force Majeure or during its cure, the Facility can partially or fully operate, then the QS shall temporarily set the Committed Capacity at the maximum capability that the Facility can reasonably be expected to operate.

16.7 Upon the cessation of the event of Force Majeure or the conclusion of the cure for the event of Force Majeure, the Committed Capacity shall be restored to the Committed Capacity that existed immediately prior to the Force Majeure. Notwithstanding any other provision of this Contract, upon such cessation or cure, FPL shall have the right to require a Committed Capacity Test to demonstrate the Facility's compliance with the requirements of this section 16.7. Any Committed Capacity Test required by FPL under this Section shall be additional to any Committed Capacity Test under Section 5.3.

16.8 During the occurrence of an event of Force Majeure and a reduction in Committed Capacity under Section 16.4, all Monthly Capacity Payments shall reflect, pro rata, the reduction in Committed Capacity, and the Monthly Capacity Payments will continue to be calculated in accordance with the pay-for-performance provisions in Appendix B.

16.9 The QS agrees to be responsible for and pay the costs necessary to reactivate the Facility and/or the interconnection with FPL's system if the same is (are) rendered inoperable due to actions of the QS, its agents, or Force Majeure events affecting the QS, the Facility or the interconnection with FPL. FPL agrees to reactivate, at its own cost, the interconnection with the Facility in circumstances where any interruptions to such interconnections are caused by FPL or its agents.

17. Representations, Warranties, and Covenants of QS

The QS represents and warrants that as of the Effective Date and for the term of this Contract:

17.1 Organization, Standing and Qualification

The QS is a _____ (corporation, partnership, or other, as applicable) duly organized and validly existing in good standing under the laws of _____ and has all necessary power and authority to carry on its business as presently conducted, to own or hold under lease its properties and to enter into and perform its obligations under this Contract and all other related documents and agreements to which it is or shall be a Party. The QS is duly qualified or licensed to do business in the State of Florida and in all other jurisdictions wherein the nature of its business and operations or the character of the properties owned or leased by it makes such qualification or licensing necessary and where the failure to be so qualified or licensed would impair its ability to perform its obligations under this Contract or would result in a material liability to or would have a material adverse effect on FPL.

(Continued on Sheet No. 9.044)

**Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: August 18, 2009**

FLORIDA POWER & LIGHT COMPANY

Second Revised Sheet No. 9.044
Cancels First Sheet No. 9.044

(Continued from Sheet No. 9.043)

17.2 Due Authorization, No Approvals, No Defaults, etc.

Each of the execution, delivery and performance by the QS of this Contract has been duly authorized by all necessary action on the part of the QS, does not require any approval, except as has been heretofore obtained, of the _____ (shareholders, partners, or others, as applicable) of the QS or any consent of or approval from any trustee, lessor or holder of any indebtedness or other obligation of the QS, except for such as have been duly obtained, and does not contravene or constitute a default under any law, the _____ (articles of incorporation, bylaws, or other as applicable) of the QS, or any agreement, judgment, injunction, order, decree or other instrument binding upon the QS, or subject the Facility or any component part thereof to any lien other than as contemplated or permitted by this Contract. This Contract constitutes QS's legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, except as such enforceability may be limited by applicable bankruptcy laws from time to time in effect that affect creditors' rights generally or by general principles of equity (regardless of whether such enforcement is considered in equity or at law).

17.3 Compliance with Laws

The QS has knowledge of all laws and business practices that must be followed in performing its obligations under this Contract. The QS is in compliance with all laws, except to the extent that failure to comply therewith would not, in the aggregate, have a material adverse effect on the QS or FPL.

17.4 Governmental Approvals

Except as expressly contemplated herein, neither the execution and delivery by the QS of this Contract, nor the consummation by the QS of any of the transactions contemplated thereby, requires the consent or approval of, the giving of notice to, the registration with, the recording or filing of any document with, or the taking of any other action in respect of governmental authority, except in respect of permits (a) which have already been obtained and are in full force and effect or (b) are not yet required (and with respect to which the QS has no reason to believe that the same will not be readily obtainable in the ordinary course of business upon due application therefore).

17.5 No Suits, Proceedings

There are no actions, suits, proceedings or investigations pending or, to the knowledge of the QS, threatened against it at law or in equity before any court or tribunal of the United States or any other jurisdiction which individually or in the aggregate could result in any materially adverse effect on the QS's business, properties, or assets or its condition, financial or otherwise, or in any impairment of its ability to perform its obligations under this Contract. The QS has no knowledge of a violation or default with respect to any law which could result in any such materially adverse effect or impairment. The QS is not in breach of, in default under, or in violation of, any applicable Law, or the provisions of any authorization, or in breach of, in default under, or in violation of, or in conflict with any provision of any promissory note, indenture or any evidence of indebtedness or security therefore, lease, contract, or other agreement by which it is bound, except for any such breaches, defaults, violations or conflicts which, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on the business or financial condition of Buyer or its ability to perform its obligations hereunder.

17.6 Environmental Matters

17.6.1 QS Representations

To the best of its knowledge after diligent inquiry, the QS knows of no (a) existing violations of any environmental laws at the Facility, including those governing hazardous materials or (b) pending, ongoing, or unresolved administrative or enforcement investigations, compliance orders, claims, demands, actions, or other litigation brought by governmental authorities or other third parties alleging violations of any environmental law or permit which would materially and adversely affect the operation of the Facility as contemplated by this Contract.

17.6.2 Ownership and Offering For Sale Of Renewable Energy Attributes

The QS retains any and all rights to own and to sell any and all environmental attributes associated with the electric generation of the Facility, including but not limited to, any and all renewable energy certificates, "green tags" or other tradable environmental interests (collectively "RECs"), of any description.

(Continued on Sheet No. 9.045)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: August 18, 2009

FLORIDA POWER & LIGHT COMPANY

Third Revised Sheet No. 9.045
Cancels Second Revised Sheet No. 9.045

(Continued from Sheet No. 9.044)

17.6.3 Changes in Environmental and Governmental Regulations

If new environmental and other regulatory requirements enacted during the term of the Contract change FPL's full avoided cost of the unit on which the Contract is based, either party can elect to have the contract reopened.

17.7 Interconnection/Wheeling Agreement

The QS has executed an interconnection agreement with FPL, or represents or warrants that it has entered into a valid and enforceable Interconnection Agreement with the utility in whose service territory the Facility is located, pursuant to which the QS assumes contractual responsibility to make any and all transmission-related arrangements (including control area services) between the QS and the transmitting utility for delivery of the Facility's capacity and energy to FPL.

17.8 Technology and Generator Capabilities

That for the term of this Contract the Technology and Generator Capabilities table set forth in Section 1 is accurate and complete.

18. General Provisions

18.1 Project Viability

To assist FPL in assessing the QS's financial and technical viability, the QS shall provide the information and documents requested in Appendix D or substantially similar documents, to the extent the documents apply to the type of Facility covered by this Contract, and to the extent the documents are available. All documents to be considered by FPL must be submitted at the time this Contract is presented to FPL. Failure to provide the following such documents may result in a determination of non-viability by FPL.

18.2 Permits, Site Control

The QS hereby agrees to obtain and maintain Permits which the QS is required to obtain as a prerequisite to engaging in the activities specified in this Contract. QS shall also obtain and maintain Site Control for the Term of the Contract.

18.3 Project Management

18.3.1 If requested by FPL, the QS shall submit to FPL its integrated project schedule for FPL's review within sixty calendar days from the execution of this Contract, and a start-up and test schedule for the Facility at least sixty calendar days prior to start-up and testing of the Facility. These schedules shall identify key licensing, permitting, construction and operating milestone dates and activities. If requested by FPL, the QS shall submit progress reports in a form satisfactory to FPL every calendar month until the Capacity Delivery Date and shall notify FPL of any changes in such schedules within ten calendar days after such changes are determined. FPL shall have the right to monitor the construction, start-up and testing of the Facility, either on-site or off-site. FPL's technical review and inspections of the Facility and resulting requests, if any, shall not be construed as endorsing the design thereof or as any warranty as to the safety, durability or reliability of the Facility.

18.3.2 The QS shall provide FPL with the final designer's/major manufacturer's generator capability curves, protective relay types, proposed protective relay settings, main one-line diagrams, protective relay functional diagrams, and alternating current and direct current elementary diagrams for review and inspection at FPL no later than one hundred eighty calendar days prior to the initial synchronization date.

18.4 Assignment

This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns. This Agreement shall not be assigned or transferred by either Party without the prior written consent of the other Party, such consent to be granted or withheld in such other Party's sole discretion. Any direct or indirect change of control of QS (whether voluntary or by operation of law) shall be deemed an assignment and shall require the prior written consent of FPL. Notwithstanding the foregoing, either Party may, without the consent of the other Party, assign or transfer this Agreement: (a) to any lender as collateral security for obligations under any financing documents entered into with such lender provided, QS shall be responsible for FPL's reasonable costs and expenses associated with the review, negotiation, execution and delivery of any documents or information pursuant to such collateral assignment, including reasonable attorneys' fees (b) to an affiliate of such Party, *provided*, that such affiliate's creditworthiness is equal to or better than that of such Party (and in no event less than Investment Grade) as determined reasonably by the non-assigning or non-transferring Party and, *provided, further*, that any such affiliate shall agree in writing to be bound by and to assume the terms and conditions hereof and any and all obligations to the non-assigning or non-transferring Party arising or accruing hereunder from and after the date of such assumption. "Investment Grade" means BBB- or above from Standard & Poor's Corporation or Baa2 or above from Moody's Investor Services.

18.5 Disclaimer

In executing this Contract, FPL does not, nor should it be construed, to extend its credit or financial support for the benefit of any third parties lending money to or having other transactions with the QS or any assignee of this Contract.

(Continued on Sheet No. 9.046)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: September 13, 2016

FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No. 9.046
Cancels Original Sheet No. 9.046

(Continued from Sheet No. 9.045)

18.6 Notification

All formal notices relating to this Contract shall be deemed duly given when delivered in person, or sent by registered or certified mail, or sent by fax if followed immediately with a copy sent by registered or certified mail, to the individuals designated below. The Parties designate the following individuals to be notified or to whom payment shall be sent until such time as either Party furnishes the other Party written instructions to contact another individual:

For the QS:

For FPL:

Florida Power & Light Company

700 Universe Boulevard
Juno Beach, FL 33408
Attn: EMT Contracts Department

This signed Contract and all related documents may be presented no earlier than 8:00 a.m. on the effective date of the Standard Offer Contract, as determined by the FPSC. Contracts and related documents may be mailed to the address below or delivered during normal business hours (8:00 a.m. to 4:45 p.m.) to the visitors' entrance at the address below:

Florida Power & Light Company
700 Universe Boulevard, Juno Beach, FL 33408
Attention: Contracts Manager/Coordinator
EMT Contracts Department

18.7 Applicable Law

This Contract shall be construed in accordance with and governed by, and the rights of the Parties shall be construed in accordance with, the laws of the State of Florida as to all matters, including but not limited to matters of validity, construction, effect, performance and remedies, without regard to conflict of law rules thereof.

18.8 Venue

The Parties hereby irrevocably submit to the exclusive jurisdiction of the United States District Court for the Southern District of Florida or, in the event that jurisdiction for any matter cannot be established in the United States District Court for the Southern District of Florida, in the state court for Palm Beach County, Florida, solely in respect of the interpretation and enforcement of the provisions of this Contract and of the documents referred to in this Contract, and in respect of the transactions contemplated hereby, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof or of any such document, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Contract or any such document may not be enforced in or by such courts, and the Parties hereto irrevocably agree that all claims with respect to such action or proceeding shall be heard and determined in such a court. The Parties hereby consent to and grant any such court jurisdiction over the persons of such Parties solely for such purpose and over the subject matter of such dispute and agree that mailing of process or other papers in connection with any such action or proceeding in the manner provided in Section 18.8 hereof or in such other manner as may be permitted by Law shall be valid and sufficient service thereof.

(Continued on Sheet No. 9.047)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: October 4, 2011

FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No. 9.047
Cancels Original Sheet No. 9.047

(Continued from Sheet No. 9.046)

18.9. Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS CONTRACT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT A PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION RESULTING FROM, ARISING OUT OF OR RELATING TO THIS CONTRACT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (a) NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (b) EACH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (c) EACH PARTY MAKES THIS WAIVER VOLUNTARILY AND (d) EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS CONTRACT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 18.9

18.10 Taxation

In the event that FPL becomes liable for additional taxes, including interest and/or penalties arising from an Internal Revenue Service's determination, through audit, ruling or other authority, that FPL's payments to the QS for capacity under Options B, C, D, E or for energy pursuant to the Fixed Firm Energy Payment Option D are not fully deductible when paid (additional tax liability), FPL may bill the QS monthly for the costs, including carrying charges, interest and/or penalties, associated with the fact that all or a portion of these capacity payments are not currently deductible for federal and/or state income tax purposes. FPL, at its option, may offset these costs against amounts due the QS hereunder. These costs would be calculated so as to place FPL in the same economic position in which it would have been if the entire capacity payments had been deductible in the period in which the payments were made. If FPL decides to appeal the Internal Revenue Service's determination, the decision as to whether the appeal should be made through the administrative or judicial process or both, and all subsequent decisions pertaining to the appeal (both substantive and procedural), shall rest exclusively with FPL.

18.11 Severability

If any part of this Contract, for any reason, is declared invalid, or unenforceable by a public authority of appropriate jurisdiction, then such decision shall not affect the validity of the remainder of the Contract, which remainder shall remain in force and effect as if this Contract had been executed without the invalid or unenforceable portion.

18.12 Complete Agreement and Amendments

All previous communications or agreements between the Parties, whether verbal or written, with reference to the subject matter of this Contract are hereby abrogated. No amendment or modification to this Contract shall be binding unless it shall be set forth in writing and duly executed by both Parties. This Contract constitutes the entire agreement between the Parties.

18.13 Survival of Contract

This Contract, as it may be amended from time to time, shall be binding upon, and inure to the benefit of, the Parties' respective successors-in-interest and legal representatives.

18.14 Record Retention

The QS agrees to retain for a period of five (5) years from the date of termination hereof all records relating to the performance of its obligations hereunder, and to cause all QS Entities to retain for the same period all such records.

18.15 No Waiver

No waiver of any of the terms and conditions of this Contract shall be effective unless in writing and signed by the Party against whom such waiver is sought to be enforced. Any waiver of the terms hereof shall be effective only in the specific instance and for the specific purpose given. The failure of a Party to insist, in any instance, on the strict performance of any of the terms and conditions hereof shall not be construed as a waiver of such Party's right in the future to insist on such strict performance.

(Continued on Sheet No. 9.048)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: September 13, 2016

FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No. 9.048
Cancels Original Sheet No. 9.048

(Continued from Sheet No. 9.047)

18.16 Set-Off

FPL may at any time, but shall be under no obligation to, set off any and all sums due from the QS against sums due to the QS hereunder.

18.17 Assistance With FPL's evaluation of FIN 46R

Accounting rules set forth in Financial Accounting Standards Board Interpretation No. 46 (Revised December 2003) ("FIN 46R"), as well as future amendments and interpretations of those rules, may require FPL to evaluate whether the QS must be consolidated, as a variable interest entity (as defined in FIN 46R), in the consolidated financial statements of FPL. The QS agrees to fully cooperate with FPL and make available to FPL all financial data and other information, as deemed necessary by FPL, to perform that evaluation on a timely basis at inception of the PPA and periodically as required by FIN 46R. If the result of an evaluation under FIN 46R indicates that the QS must be consolidated in the financial statements of FPL, the QS agrees to provide financial statements, together with other required information, as determined by FPL, for inclusion in disclosures contained in the footnotes to the financial statements and in FPL's required filings with the Securities and Exchange Commission ("SEC"). The QS shall provide this information to FPL in a timeframe consistent with FPL's earnings release and SEC filing schedules, to be determined at FPL's discretion. The QS also agrees to fully cooperate with FPL and FPL's independent auditors in completing an assessment of the QS's internal controls as required by the Sarbanes-Oxley Act of 2002 and in performing any audit procedures necessary for the independent auditors to issue their opinion on the consolidated financial statements of FPL. FPL will treat any information provided by the QS in satisfying Section 18.17 as confidential information and shall only disclose such information to the extent required by accounting and SEC rules and any applicable laws.

IN WITNESS WHEREOF, the QS and FPL executed this Contract this _____ day of _____.

WITNESS:

FLORIDA POWER & LIGHT COMPANY

Date _____

WITNESS:

(QS)

Date _____

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: July 29, 2008

FLORIDA POWER & LIGHT COMPANY

Sixth Revised Sheet No. 10.300
Cancels Fifth Revised Sheet No. 10.300

RATE SCHEDULE QS-2
APPENDIX A
TO THE STANDARD OFFER CONTRACT
STANDARD RATE FOR PURCHASE OF FIRM CAPACITY AND ENERGY
FROM A RENEWABLE ENERGY FACILITY
OR A QUALIFYING FACILITY WITH A DESIGN CAPACITY OF 100 KW OR LESS

SCHEDULE

QS-2, Firm Capacity and Energy

AVAILABLE

The Company will, under the provisions of this Schedule and the Company's "Standard Offer Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Facility or a Qualifying Facility with a design capacity of 100 KW or less" ("Standard Offer Contract"), purchase firm capacity and energy offered by a Renewable Energy Facility specified in Section 366.91, Florida Statutes or by a Qualifying Facility with a design capacity of 100 KW or less as specified in FPSC Rule 25-17.0832(4) and which is either directly or indirectly interconnected with the Company. Both of these types of facilities shall also be referred to herein as Qualified Seller or "QS".

The Company will petition the FPSC for closure upon any of the following as related to the generating unit upon which this standard offer contract is based i.e. the Avoided Unit : (a) a request for proposals (RFP) pursuant to Rule 25-22.082, F.A.C., is issued, (b) the Company files a petition for a need determination or commences construction of the Avoided Unit when the generating unit is not subject to Rule 25-22.082, F.A.C., or (c) the generating unit upon which the standard offer contract is based is no longer part of the utility's generation plan, as evidenced by a petition to that effect filed with the Commission or by the utility's most recent Ten Year Site Plan.

APPLICABLE

To Renewable Energy Facilities as specified in Section 366.91, Florida Statutes producing capacity and energy from qualified renewable resources for sale to the Company on a firm basis pursuant to the terms and conditions of this schedule and the Company's "Standard Offer Contract". Firm Renewable Capacity and Renewable Energy are capacity and energy produced and sold by a QS pursuant to the Standard Offer Contract provisions addressing (among other things) quantity, time and reliability of delivery.

To Qualifying Facilities ("QF"), with a design capacity of 100 KW or less, as specified in FPSC Rule 25-17.0832(4)(a) producing capacity and energy for sale to the Company on a firm basis pursuant to the terms and conditions of this schedule and the Company's "Standard Offer Contract", Firm Capacity and Energy are described by FPSC Rule 25-17.0832, F.A.C., and are capacity and energy produced and sold by a QF pursuant to the Standard Offer Contract provisions addressing (among other things) quantity, time and reliability of delivery.

CHARACTER OF SERVICE

Purchases within the territory served by the Company shall be, at the option of the Company, single or three phase, 60 hertz alternating current at any available standard Company voltage. Purchases from outside the territory served by the Company shall be three phase, 60 hertz alternating current at the voltage level available at the interchange point between the Company and the entity delivering the Firm Energy and Capacity from the QS.

LIMITATION

Purchases under this schedule are subject to Section 366.91, Florida Statutes and/or FPSC Rules 25-17.0832 through 25-17.091, F.A.C., and 25-17.200 through 25-17.310 F.A.C and are limited to those Facilities which:

- A. Commit to commence deliveries of firm capacity and energy no later than the in-service date of the Avoided Unit, as detailed in Appendix II, and to continue such deliveries for a period of at least 10 years up to a maximum of the life of the avoided unit;
- B. Are not currently under contract with the Company or with any other entity for the Facility's output for the period specified above

(Continued on Sheet No. 10.301)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: June 25, 2013

FLORIDA POWER & LIGHT COMPANY

**Eighth Revised Sheet No. 10.301
Cancels Seventh Revised Sheet No. 10.301**

(Continued from Sheet No. 10.300)

RATES FOR PURCHASES BY THE COMPANY

Firm Capacity and Energy are purchased at a unit cost, in dollars per kilowatt per month and cents per kilowatt-hour, respectively, based on the capacity required by the Company. For the purpose of this Schedule, an Avoided Unit and an alternative have been designated by the Company, and are detailed in Appendix II to this Schedule. Appendix I to this Schedule describes the methodology used to calculate payment schedules, applicable to the Company's Standard Offer Contract filed and approved pursuant to Section 366.91, Florida Statutes and to FPSC Rules 25-17.082 through 25-17.091, F.A.C and 25-17.200 through 25-17.310, F.A.C.

A. Firm Capacity Rates

Options A through E are available for payment of firm capacity which is produced by a QS and delivered to the Company. Once selected, an option shall remain in effect for the term of the Standard Offer Contract with the Company. A payment schedule, for the normal payment option as shown below, contains the monthly rate per kilowatt of Firm Capacity which the QS has contractually committed to deliver to the Company and is based on a contract term which extends ten (10) years beyond the in-service date of the Avoided Unit. Payment schedules for other contract terms, as specified in Appendix E, will be made available to any QS upon request and may be calculated based upon the methodologies described in Appendix I. The currently approved parameters used to calculate the schedule of payments are found in Appendix II to this Schedule.

Adjustment to Capacity Payment

The firm capacity rates will be adjusted to reflect the impact that the location of the QS will have on FPL system reliability due to constraints imposed on the operation of FPL transmission tie lines.

Appendix III shows, for illustration purposes, the factors that would be used to adjust the firm capacity rate for different geographical areas. The actual adjustment would be determined on a case-by-case basis. The amount of such adjustment, as well as a binding contract rate for firm capacity, shall be provided to the QS within sixty days of FPL execution of the signed Standard Offer Contract.

Option A - Fixed Value of Deferral Payments - Normal Capacity

Payment schedules under this option are based on the value of a single year purchase with an in-service date of the Avoided Unit, as described in Appendix I. Once this option is selected, the current schedule of payments shall remain fixed and in effect throughout the term of the Standard Offer Contract.

(Continued on Sheet No. 10.302)

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective: June 5, 2018

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.302

(Continued from Sheet No. 10.301)

Option B - Fixed Value of Deferral Payments - Early Capacity

Payment schedules under this option are based upon the early capital cost component of the value of a year-by-year deferral of the Company's Avoided Unit provided; however, that under no circumstances may payments begin before the QS is delivering firm capacity and energy to the Company pursuant to the terms of the Standard Offer Contract. When this option is selected, the capacity payments shall be made monthly commencing no earlier than the Capacity Delivery Date of the QS and calculated using the methodology shown on Appendix I.

The QS shall select the month and year in which the deliveries of firm capacity and energy to the Company are to commence and capacity payments are to start. The Company will provide the QS with a schedule of capacity payment rates based on the month and year in which the deliveries of firm capacity and energy are to commence and the term of the Standard Offer Contract as specified in Appendix E.

Option C - Fixed Value of Deferral Payment - Levelized Capacity

Payment schedules under this option are based upon the levelized capital cost component of the value of a year-by-year deferral of the Company's Avoided Unit. The capital portion of capacity payments under this option shall consist of equal monthly payments over the term of the Standard Offer Contract, calculated as shown on Appendix I. The fixed operation and maintenance portion of the capacity payments shall be equal to the value of the year-by-year deferral of fixed operation and maintenance expense associated with the Company's Avoided Unit. The methodology used to calculate this option is shown in Appendix I. The Company will provide the QS with a schedule of capacity payment rates based on the month and year in which the deliveries of firm capacity and energy are to commence and the term of the Standard Offer Contract as specified in Appendix E.

Option D - Fixed Value of Deferral Payment - Early Levelized Capacity

Payment schedules under this option are based upon the early levelized capital cost component of the value of a year-by-year deferral of the Company's Avoided Unit. The capital portion of the capacity payments under this option shall consist of equal monthly payments over the term of the Standard Offer Contract, calculated as shown on Appendix I. The fixed operation and maintenance expense shall be calculated as shown in Appendix I. At the option of the QS, payments for early levelized capacity shall commence at any time before the anticipated in-service date of the Company's Avoided Unit as specified in Appendix E, provided that the QS is delivering firm capacity and energy to the Company pursuant to the terms of the Standard Offer Contract. The Company will provide the QS with a schedule of capacity payment rates based on the month and year in which the deliveries of firm capacity and energy are to commence and the term of the Standard Offer Contract as specified in Appendix E.

Option E - Flexible Payment Option

Payment schedules under this option are based upon a payment stream elected by the QS consisting of the capital component of the Company's avoided unit. Payments can commence at any time after the actual in-service date of the QS and before the anticipated in-service date of the utility's avoided unit, as specified in Appendix E, provided that the QS is delivering firm capacity and energy to the Company pursuant to the terms of the Standard Offer Contract. Regardless of the payment stream elected by the QS, the cumulative present value of capital cost payments made to the QS over the term of the contract shall not exceed the cumulative present value of the capital cost payments which would have been made to the QS had such payments been made pursuant to FPSC Rule 25-17.0832(4)(g)1, F.A.C. Fixed operation and maintenance expense shall be calculated in conformance with Rule 25-17.0832(6), F.A.C. The Company will provide the QS with a schedule of capacity payment rates based on the information specified in Appendix E.

(Continued on Sheet No. 10.303)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: May 22, 2007

FLORIDA POWER & LIGHT COMPANY

Sixth Revised Sheet No. 10.303
Cancels Fifth Revised Sheet No. 10.303

(Continued from Sheet No. 10.302)

B. Energy Rates

(1) Payments Associated with As-Available Energy Costs prior to the In-Service Date of the Avoided Unit.

Options A or B are available for payment of energy which is produced by the QS and delivered to the Company prior to the in-service date of the Avoided Unit. The QS shall indicate its selection in Appendix E. Once selected, an option shall remain in effect for the term of the Standard Offer Contract with the Company.

Option A – Energy Payments based on Actual Energy Costs

The energy rate, in cents per kilowatt-hour ($\text{\$/KWh}$), shall be based on the Company's actual hourly avoided energy costs which are calculated by the Company in accordance with FPSC Rule 25-17.0825, F.A.C. Avoided energy costs include incremental fuel, identifiable operation and maintenance expenses, and an adjustment for line losses reflecting delivery voltage. The calculation of the Company's avoided energy costs reflects the delivery of energy from the region of the Company in which the Delivery Point of the QS is located. When economy transactions take place, the incremental costs are calculated as described in FPL's Rate Schedule COG-1.

The calculation of payments to the QS shall be based on the sum, over all hours of the billing period, of the product of each hour's avoided energy cost times the purchases of energy from the QS by the Company for that hour. All purchases of energy shall be adjusted for losses from the point of metering to the Delivery Point.

Option B – Energy Payments based on the year by year projection of As-Available energy costs

The energy rate, in cents per kilowatt-hour ($\text{\$/KWh}$), shall be based on the Company's year by year projection of system incremental fuel costs, prior to hourly economy sales to other utilities, based on normal weather and fuel market conditions (annual As-Available Energy Cost Projection which are calculated by the Company in accordance with FPSC Rule 25-17.0825, F.A.C. and with FPSC Rule 25-17.250(6) (a) F.A.C.) plus a fuel market volatility risk premium mutually agreed upon by the utility and the QS. Prior to the start of each applicable calendar year, the Company and the QS shall mutually agree on the fuel market volatility risk premium for the following calendar year, normally no later than November 15. The Company will provide its projection of the applicable annual As-Available Energy Cost prior to the start of the calendar year, normally no later than November 15 of each applicable calendar year. In addition to the applicable As-Available Energy Cost projection the energy payment will include identifiable operation and maintenance expenses, an adjustment for line losses reflecting delivery voltage and a factor that reflects in the calculation of the Company's Avoided Energy Costs the delivery of energy from the region of the Company in which the Delivery Point of the QS is located.

The calculation of payments to the QS shall be based on the sum, over all hours of the billing period, of the product of each hour's applicable Projected Avoided Energy Cost times the purchases of energy from the QS by the Company for that hour. All purchases of energy shall be adjusted for losses from the point of metering to the Delivery Point.

(2) Payments Associated with Applicable Avoided Energy Costs after the In-Service Date of the Avoided Unit.

Option C is available for payment of energy which is produced by the QS and delivered to the Company after the in-service date of the avoided unit. In addition, Option D is available to the QS which elects to fix a portion of the firm energy payment. The QS shall indicate its selection of Option D in Appendix E, once selected, Option D shall remain in effect for the term of the Standard Offer Contract.

Option C- Energy Payments based on Actual Energy Costs starting on the in-service date of the Avoided Unit, as detailed in Appendix II.

The calculation of payments to the QS for energy delivered to FPL on and after the in-service date of the Avoided Unit shall be the sum, over all hours of the Monthly Billing Period, of the product of (a) each hour's firm energy rate ($\text{\$/KWh}$); and (b) the amount of energy (KWH) delivered to FPL from the Facility during that hour.

(Continued on Sheet No. 10.304)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: June 25, 2013

FLORIDA POWER & LIGHT COMPANY

Eighth Revised Sheet No. 10.304
Cancels Seventh Revised Sheet No. 10.304

(Continued from Sheet No. 10.303)

For any Dispatch Hour the firm energy rate shall be, on an hour-by-hour basis, the Company's Avoided Unit Energy Cost. For any other period during which energy is delivered by the QS to FPL, the firm energy rate in cents per kilowatt hour (¢/KWh) shall be the following on an hour-by-hour basis: the lesser of (a) the as-available energy rate calculated by FPL in accordance with FPSC Rule 25-17.0825, FAC, and FPL's Rate Schedule COG-1, as they may each be amended from time to time and (b) the Company's Avoided Unit Energy Cost. The Company's Avoided Unit Energy Cost, in cents per kilowatt-hour (¢/KWh) shall be defined as the product of: (a) the fuel price in \$/mmBTU as determined from gas prices published in Platts Inside FERC Gas Market Report, first of the month posting for Florida Gas Transmission Zone 3, plus all charges, surcharges and percentages that are in effect from time to time for service under Gulfstream Natural Gas System's Rate Schedule FTS; and (b) the average annual heat rate of the Avoided Unit, plus (c) an additional payment for variable operation and maintenance expenses which will be escalated based on the actual Producer Price Index. All energy purchases shall be adjusted for losses from the point of metering to the Delivery Point. The calculation of the Company's avoided energy cost reflects the delivery of energy from the geographical area of the Company in which the Delivery Point of the QS is located.

Option D- Fixed Firm Energy Payments Starting as early as the In-Service Date of the QS Facility

The calculation of payments to the QS for energy delivered to FPL may include an adjustment at the election of the QS in order to implement the provisions of Rule 25-17.250 (6) (b), F.A.C. Subsequent to the determination of full avoided cost and subject to the provisions of Rule 25-17.0832(3) (a) through (d), F.A.C., a portion of the base energy costs associated with the avoided unit, mutually agreed upon by the utility and renewable energy generator, shall be fixed and amortized on a present value basis over the term of the contract starting, at the election of the QS, as early as the in-service date of the QS. "Base energy costs associated with the avoided unit" means the energy costs of the avoided unit to the extent the unit would have operated. The portion of the base energy costs mutually agreed to by the Company and the QS shall be specified in Appendix E. The Company will provide the QS with a schedule of "Fixed Energy Payments" over the term of the Standard Offer Contract based on the applicable information specified in Appendix E.

ESTIMATED AS-AVAILABLE ENERGY COST

As required in Section 25-17.0832, F.A.C. as-available energy cost projections until the in-service date of the avoided unit will be provided within 30 days of receipt by FPL of a written request for such projections by any interested person.

ESTIMATED UNIT FUEL COST

As required in Section 25-17.0832, F.A.C. the estimated unit fuel costs associated with the Company's Avoided Unit and based on current estimates of the price of natural gas will be provided within 30 days of a written request for such an estimate.

(Continued on Sheet No. 10.305)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: September 13, 2016

FLORIDA POWER & LIGHT COMPANY

Sixth Revised Sheet No. 10.305
Cancels Fifth Revised Sheet No. 10.305

(Continued from Sheet No. 10.304)

DELIVERY VOLTAGE ADJUSTMENT

Energy payments to a QS within the Company's service territory shall be adjusted according to the delivery voltage by the multipliers provided in Appendix II.

PERFORMANCE CRITERIA

Payments for Firm Capacity are conditioned on the QS's ability to maintain the following performance criteria:

A. Capacity Delivery Date

The Capacity Delivery Date shall be no later than the projected in-service date of the Company's Avoided Unit, as detailed in Appendix II.

B. Availability and Capacity Factor

The Facility's availability and capacity factor are used in the determination of firm capacity payments through a performance based calculation as detailed in Appendix B to the Company's Standard Offer Contract.

METERING REQUIREMENTS

A QS within the territory served by the Company shall be required to purchase from the Company hourly recording meters to measure their energy deliveries to the Company. Energy purchases from a QS outside the territory of the Company shall be measured as the quantities scheduled for interchange to the Company by the entity delivering Firm Capacity and Renewable Energy to the Company.

For the purpose of this Schedule, the on-peak hours shall be those hours occurring April 1 through October 31 Mondays through Fridays, from 12 noon to 9:00 pm. excluding Memorial Day, Independence Day and Labor Day; and November 1 through March 31 Mondays through Fridays from 6:00 a.m. to 10:00 a.m. and 6:00 p.m. to 10:00 p.m. prevailing Eastern time excluding Thanksgiving Day, Christmas Day, and New Years Day. FPL shall have the right to change such On-Peak Hours by providing the QS a minimum of thirty calendar days' advance written notice.

BILLING OPTIONS

A QS, upon entering into a Standard Offer Contract for the sale of firm capacity and energy or prior to delivery of as-available energy, may elect to make either simultaneous purchases from and sales to the Company, or net sales to the Company; provided, however, that no such arrangement shall cause the QS to sell more than the Facility's net output. A decision on billing methods may only be changed: 1) when a QS selling as-available energy enters into a Standard Offer Contract for the sale of firm capacity and energy; 2) when a Standard Offer Contract expires or is lawfully terminated by either the QS or the Company; 3) when the QS is selling as-available energy and has not changed billing methods within the last twelve months; 4) when the election to change billing methods will not contravene this Tariff or the contract between the QS and the Company.

If a QS elects to change billing methods, such changes shall be subject to the following: 1) upon at least thirty days advance written notice to the Company; 2) the installation by the Company of any additional metering equipment reasonably required to effect the change in billing and upon payment by the QS for such metering equipment and its installation; and 3) upon completion and approval by the Company of any alteration(s) to the interconnection reasonably required to effect the change in billing and upon payment by the QS for such alteration(s).

Payments due a QS will be made monthly and normally by the twentieth business day following the end of the billing period. The kilowatt-hours sold by the QS and the applicable avoided energy rates at which payments are being made shall accompany the payment to the QS.

A statement covering the charges and payments due the QS is rendered monthly, and payment normally is made by the twentieth business day following the end of the billing period.

(Continued on Sheet No. 10.306)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: June 25, 2013

FLORIDA POWER & LIGHT COMPANY

Seventh Revised Sheet No. 10.306
Cancels Sixth Revised Sheet No. 10.306

(Continued from Sheet No. 10.305)

CHARGES TO ENERGY FACILITY

The QS shall be responsible for all applicable charges as currently approved or as they may be approved by the Florida Public Service Commission, including, but not limited to:

A. Customer Charges:

Monthly customer charges for meter reading, billing and other applicable administrative costs as per applicable Customer Rate Schedule.

B. Interconnection Charge for Non-Variable Utility Expenses

The QS shall bear the cost required for interconnection, including the metering. The QS shall have the option of (i) payment in full for the interconnection costs including the time value of money during the construction of the interconnection facilities and providing a Bond, Letter of Credit or comparable assurance of payment acceptable to the Company adequate to cover the interconnection cost estimates, (ii) payment of monthly invoices from the Company for actual costs progressively incurred by the Company in installing the interconnection facilities, or (iii) upon a showing of credit worthiness, making equal monthly installment payments over a period no longer than thirty-six (36) months toward the full cost of interconnection. In the latter case, the Company shall assess interest at the rate then prevailing for thirty (30) day highest grade commercial paper, such rate to be specified by the Company thirty (30) days prior to the date of each installment payment by the QS.

C. Interconnection Charge for Variable Utility Expenses

The QS shall be billed monthly for the variable utility expenses associated with the operation and maintenance of the interconnection facilities. These include (a) the Company's inspections of the interconnection facilities and (b) maintenance of any equipment beyond that which would be required to provide normal electric service to the QS if no sales to the Company were involved.

In lieu of payment for actual charges, the QS may pay a monthly charge equal to a percentage of the installed cost of the interconnection facilities as provided in Appendix II.

D. Taxes and Assessments

In the event that FPL becomes liable for additional taxes, including interest and/or penalties arising from an Internal Revenue Service's determination, through audit, ruling or other authority, that FPL's payments to the QS for capacity under options B, C, D, E or for energy pursuant to the Fixed Firm Energy Payment Option D are not fully deductible when paid (additional tax liability), FPL may bill the QS monthly for the costs, including carrying charges, interest and/or penalties, associated with the fact that all or a portion of these capacity payments are not currently deductible for federal and/or state income tax purposes. FPL, at its option, may offset these costs against amounts due the QS hereunder. These costs would be calculated so as to place FPL in the same economic position in which it would have been if the entire early, levelized or early levelized capacity payments or the Fixed Firm Energy Payment had been deductible in the period in which the payments were made. If FPL decides to appeal the Internal Revenue Service's determination, the decision as to whether the appeal should be made through the administrative or judicial process or both, and all subsequent decisions pertaining to the appeal (both substantive and procedural), shall rest exclusively with FPL.

(Continued on Sheet No. 10.307)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: June 25, 2013

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.307

(Continued from Sheet No. 10.306)

TERMS OF SERVICE

- (1) It shall be the QS's responsibility to inform the Company of any change in its electric generation capability.
- (2) Any electric service delivered by the Company to a QS located in the Company's service area shall be subject to the following terms and conditions:
 - (a) A QS shall be metered separately and billed under the applicable retail rate schedule(s), whose terms and conditions shall pertain.
 - (b) A security deposit will be required in accordance with FPSC Rules 25-17.082(5) and 25-6.097, F.A.C., and the following:
 - (i) In the first year of operation, the security deposit should be based upon the singular month in which the QS's projected purchases from the Company exceed, by the greatest amount, the Company's estimated purchases from the QS. The security deposit should be equal to twice the amount of the difference estimated for that month. The deposit is required upon interconnection.
 - (ii) For each year thereafter, a review of the actual sales and purchases between the QS and the Company will be conducted to determine the actual month of maximum difference. The security deposit should be adjusted to equal twice the greatest amount by which the actual monthly purchases by the QS exceed the actual sales to the Company in that month.
 - (c) The Company shall specify the point of interconnection and voltage level.
 - (d) The QS must enter into an interconnection agreement with the Company which will, among other things, specify safety and reliability standards for the interconnection to the Company's system. In most instances, the Company's filed Interconnection Agreement for Qualifying Facilities will be used; however, special features of the QS or its interconnection to the Company's facilities may require modifications to this Interconnection Agreement or the safety and reliability standards contained therein.
- (3) Service under this rate schedule is subject to the rules and regulations of the Company and the Florida Public Service Commission.

SPECIAL PROVISIONS

- (1) Special contracts deviating from the above standard rate schedule are allowable provided the Company agrees to them and they are approved by the Florida Public Service Commission.

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FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.308

APPENDIX I
TO RATE SCHEDULE QS-2
CALCULATION OF VALUE OF DEFERRAL PAYMENTS

APPLICABILITY

Appendix I provides a detailed description of the methodology used by the Company to calculate the monthly values of deferring or avoiding the Company's Avoided Unit identified in Schedule QS-2. When used in conjunction with the current FPSC-approved cost parameters associated with the Company's Avoided Unit contained in Appendix II, a QS may determine the applicable value of deferral capacity payment rate associated with the timing and operation of its particular facility should the QS enter into a Standard Offer Contract with the Company.

CALCULATION OF VALUE OF DEFERRAL OPTION A

FPSC Rule 25-17.0832(5) specifies that avoided capacity costs, in dollars per kilowatt per month, associated with capacity sold to a utility by a QS pursuant to the Company's Standard Offer Contract shall be defined as the year-by-year value of deferral of the Company's Avoided Unit. The year-by-year value of deferral shall be the difference in revenue requirements associated with deferring the Company's Avoided Unit one year, and shall be calculated as follows:

Where, for a one year deferral:

VAC_m	=	utility's monthly value of avoided capacity and O & M, in dollars per kilowatt per month, for each month of year n;
K	=	present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present valued to the middle of the first year;
R	=	$(1 + ip) / (1 + r)$;
I_n	=	total direct and indirect cost, in mid-year dollars per kilowatt including AFUDC but excluding CWIP, of the Company's Avoided Unit with an in-service date of year n, including all identifiable and quantifiable costs relating to the construction of the Company's Avoided Unit which would have been paid had the Unit been constructed;
O_n	=	total fixed operation and maintenance expense for the year n, in mid-year dollars per kilowatt per year, of the Company's Avoided Unit;
i_p	=	annual escalation rate associated with the plant cost of the Company's Avoided Unit(s);
i_o	=	annual escalation rate associated with the operation and maintenance expense of the Company's Avoided Unit(s);
r	=	annual discount rate, defined as the utility's incremental after-tax cost of capital;
L	=	expected life of the Company's Avoided Unit(s); and
n	=	year for which the Company's Avoided Unit(s) is (are) deferred starting with its (their) original anticipated in-service date(s) and ending with the termination of the Company's Standard Offer Contract.

(Continued on Sheet No. 10.309)

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FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.309

(Continued from Sheet No. 10.308)

CALCULATION OF FIXED VALUE OF DEFERRAL PAYMENTS – EARLY CAPACITY–OPTION B

Normally, payments for firm capacity shall not commence until the in-service date of the Company's Avoided Unit(s). At the option of the QS, however, the Company may begin making payments for early capacity consisting of the capital cost component of the value of a year-by-year deferral of the Company's Avoided Unit starting as early as the in-service date of the QS facility. When such payments for early capacity are elected, the avoided capital cost component of capacity payments shall be paid monthly commencing no earlier than the Capacity Delivery Date of the QS, and shall be calculated as

$$A_m = A_c \frac{(1 + i_p)^{(m-1)}}{12} + A_o \frac{(1 + i_o)^{(m-1)}}{12} \text{ for } m = 1 \text{ to } t$$

follows:

Where:

- A_m = monthly payments to be made to the QS for each month of the contract year n , in dollars per kilowatt per month in which QS delivers capacity pursuant to the early capacity option;
- i_p = annual escalation rate associated with the plant cost of the Company's Avoided Unit(s);
- i_o = annual escalation rate associated with the operation and maintenance expense of the Company's Avoided Unit(s);
- m = year for which the fixed value of deferral payments under the early capacity option are made to a QS, starting in year one and ending in the year t ;
- t = the term, in years, of the Standard Offer Contract;

$$A_c = F \left[(1 - R) / (1 - R^t) \right]$$

Where:

- F = the cumulative present value, in the year that the contractual payments will begin, of the avoided capital cost component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the Company's Avoided Unit(s);
- R = $(1 + i_p) / (1 + r)$
- r = annual discount rate, defined as the Company's incremental after-tax cost of capital; and

$$A_o = G \left[(1 - R) / (1 - R^t) \right]$$

Where:

- G = The cumulative present value, in the year that the contractual payments will begin, of the avoided fixed operation and maintenance expense component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the Company's Avoided Unit(s).
- R = $(1 + i_o) / (1 + r)$

The currently approved parameters applicable to the formulas above are found in Appendix II.

(Continued on Sheet No. 10.310)

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FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.310

(Continued from Sheet No. 10.309)

**CALCULATION OF FIXED VALUE OF DEFERRAL PAYMENTS – LEVELIZED AND EARLY LEVELIZED CAPACITY –
OPTION C & OPTION D, RESPECTIVELY**

Monthly fixed value of deferral payments for levelized and early levelized capacity shall be calculated as follows:

$$P_L = \frac{F}{12} \times \frac{r}{1 - (1 + r)^{-t}} + O$$

Where:

- P_L = the monthly levelized capacity payment, starting on or prior to the in-service date of the Company's Avoided Unit(s);
- F = the cumulative present value, in the year that the contractual payments will begin, of the avoided capital cost component of the capacity payments which would have been made had the capacity payments not been levelized;
- r = the annual discount rate, defined as the Company's incremental after-tax cost of capital;
- t = the term, in years, of the Standard Offer Contract;
- O = the monthly fixed operation and maintenance component of the capacity payments, calculated in accordance with calculation of the fixed value of deferral payments for the levelized capacity or the early levelized capacity options.

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FLORIDA POWER & LIGHT COMPANY

~~Thirteenth~~^{Fourteenth} Revised Sheet No. 10.311
Cancels ~~Twelfth~~^{Thirteenth} Revised Sheet No. 10.311

APPENDIX II

TO RATE SCHEDULE QS-2

2026 AVOIDED PLANNED POWER PURCHASE UNIT INFORMATION

The Company's Avoided Unit has been determined to be a ~~325 MW Summer Power Purchase Agreement~~ 1,886 MW Combined Cycle Unit with an in-service date of June 1, ~~2019~~2026 and a contract heat rate of ~~13,000,300~~ Btu/kWh.

EXAMPLE STANDARD OFFER CONTRACT AVOIDED CAPACITY PAYMENTS
FOR A CONTRACT TERM OF TEN YEARS FROM THE IN-SERVICE DATE OF THE AVOIDED UNIT

	(\$/KW/MONTH)			
	Option A	Option B	Option C	Option D
Contract Year	Normal Capacity Payment	Early Capacity Payment	Levelized Capacity Payment	Early Levelized Capacity Payment
2018 <u>2022</u>	\$ 0	\$ -0.95 <u>3.16</u>	\$ 0	\$ 0.24 <u>3.62</u>
2019 <u>2023</u>	\$ 2.00 <u>0</u>	\$ -0.97 <u>3.24</u>	\$ -0.23 <u>0</u>	\$ 0.24 <u>3.62</u>
2020 <u>2024</u>	\$ 0	\$ -0.3 <u>3.32</u>	\$ -0.23 <u>0</u>	\$ 0.24 <u>3.62</u>
2021 <u>2025</u>	\$ 0	\$ -0.3 <u>4.0</u>	\$ -0.23 <u>0</u>	\$ 0.24 <u>3.62</u>
2022	\$ 0	\$ 0	\$ -0.23	\$ -0.24
2023	\$ 0	\$ 0	\$ -0.23	\$ -0.24
2024	\$ 0	\$ 0	\$ -0.23	\$ -0.24
2025	\$ 0	\$ 0	\$ -0.23	\$ -0.24
2026	\$ 0 <u>5.46</u>	\$ -0.3 <u>4.9</u>	\$ 0.23 <u>6.01</u>	\$ 0.24 <u>3.62</u>
2027	\$ 0 <u>5.59</u>	\$ -0.3 <u>5.8</u>	\$ 0.23 <u>6.01</u>	\$ 0.24 <u>3.62</u>
2028	\$ 0 <u>5.73</u>	\$ -0.3 <u>6.7</u>	\$ 0.23 <u>6.01</u>	\$ 0.24 <u>3.62</u>
2029	\$ 0 <u>5.87</u>	\$ -0.3 <u>7.6</u>	\$ 0.23 <u>6.01</u>	\$ 0.24 <u>3.62</u>
2030	\$ 0 <u>6.02</u>	\$ -0.3 <u>8.5</u>	\$ 0.23 <u>6.01</u>	\$ 0.24 <u>3.62</u>
2031	\$ 0 <u>6.17</u>	\$ -0.3 <u>9.5</u>	\$ 0.23 <u>6.01</u>	\$ 0.24 <u>3.62</u>
2032	\$ 0 <u>6.32</u>	\$ -0.4 <u>0.5</u>	\$ 0.23 <u>6.01</u>	\$ 0.24 <u>3.62</u>
2033	\$ 6.48	\$ 4.15	\$ 6.01	\$ 3.62
2034	\$ 6.64	\$ 4.25	\$ 6.01	\$ 3.62
2035	\$ 6.81	\$ 4.36	\$ 6.01	\$ 3.62
2036	\$ 6.98	\$ 4.47	\$ 6.01	\$ 3.62

ESTIMATED AS-AVAILABLE ENERGY COST

For informational purposes, the most recent estimated incremental avoided energy costs for the next ten years will be provided within thirty (30) days of written request.

ESTIMATED UNIT FUEL COSTS (\$/MMBtu):

The most recent estimated unit fuel costs for the Company's avoided unit will be provided within thirty (30) days of written request.

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Effective: ~~June 5, 2018~~

FLORIDA POWER & LIGHT COMPANY

~~Sixth~~^{Seventh} Revised Sheet No. 10.311.1
Cancels ~~Fifth~~^{Sixth} Revised Sheet No. 10.311.1

~~PLANNED POWER PURCHASED AGREEMENT~~^{2026 AVOIDED UNIT} FIXED VALUE OF DEFERRAL PAYMENTS - NORMAL CAPACITY
OPTION PARAMETERS

Where, for a one year deferral:		Value
VAC_m	= Company's value of avoided capacity and O&M, in dollars per kilowatt per month, during month m;	\$2,000 ^{5,449.8}
K	= present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present valued to the middle of the first year;	+1 ³⁰²⁶
I_n	= total direct and indirect cost, in mid-year dollars per kilowatt including AFUDC but excluding CWIP, of the Company's Avoided Unit with an in-service date of year n;	\$NA ^{695.84}
O_n	= total fixed operation and maintenance expense, for the year n, in mid-year dollars per kilowatt per year, of the Company's Avoided Unit;	\$NA ^{14.42}
i_p	= annual escalation rate associated with the plant cost of the Company's Avoided Unit;	2.50%
i_o	= annual escalation rate associated with the operation and maintenance expense of the Company's Avoided Unit;	2.50%
r	= annual discount rate, defined as the Company's incremental after-tax cost of capital;	7.76 ^{7.73} %
L	= expected life of the Company's Avoided Unit;	+40
n	= year for which the Company's Avoided Unit is deferred starting with its original anticipated in-service date and ending with the termination of the Standard Offer Contract.	2019 ²⁰²⁶

FIXED VALUE OF DEFERRAL PAYMENTS - EARLY CAPACITY OPTION PARAMETERS

A_m	= monthly capacity payments to be made to the QS starting on the year the QS elects to start receiving early capacity payments, in dollars per kilowatt per month;	*
i_p	= annual escalation rate associated with the plant cost of the Company's Avoided Unit;	2.50%
i_o	= annual escalation rate associated with the operation and maintenance expense of the Company's Avoided Unit;	2.50%
n	= year for which early capacity payments to a QS are to begin; (at the election of the QS early capacity payments may commence anytime after the actual in-service date of the QS facility and before the anticipated in-service date of the Company's avoided unit)	*
F	= the cumulative present value of the avoided capital cost component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the Company's Avoided Unit and continued for a period of 10 years;	\$NA ^{490.16}
r	= annual discount rate, defined as the Company's incremental after-tax cost of capital;	7.76 ^{7.73} %
t	= the term, in years, of the Standard Offer Contract for the purchase of firm capacity commencing in the year the QS elects to start receiving early capacity payments prior to the in-service date of the Company's Avoided Unit;	*
G	= the cumulative present value of the avoided fixed operation and maintenance expense component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the Company's Avoided Unit and continued for a period of 10 years.	\$0 ^{108.99}

*From Appendix E

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First Revised Sheet No. 10.311.2

FLORIDA POWER & LIGHT COMPANY Cancels Original Sheet No. 10.311.2

APPENDIX II

TO RATE SCHEDULE QS-2
2028 AVOIDED UNIT INFORMATION

The Company's Avoided Unit has been determined to be a 1,778 MW Combined Cycle Unit with an in-service date of June 1, 2028 and a heat rate of 6,293 Btu/kWh.

EXAMPLE STANDARD OFFER CONTRACT AVOIDED CAPACITY PAYMENTS FOR A CONTRACT TERM OF TEN YEARS FROM THE IN-SERVICE DATE OF THE AVOIDED UNIT (\$/KW/MONTH)				
	Option A	Option B	Option C	Option D
Contract Year	Normal Capacity Payment	Early Capacity Payment	Levelized Capacity Payment	Early Levelized Capacity Payment
2024	\$ 0	\$ 3.97	\$ 0	\$ 4.55
2025	\$ 0	\$ 4.07	\$ 0	\$ 4.55
2026	\$ 0	\$ 4.17	\$ 0	\$ 4.55
2027	\$ 0	\$ 4.28	\$ 0	\$ 4.55
2028	\$ 6.85	\$ 4.38	\$ 7.56	\$ 4.55
2029	\$ 7.02	\$ 4.49	\$ 7.56	\$ 4.55
2030	\$ 7.20	\$ 4.61	\$ 7.56	\$ 4.55
2031	\$ 7.38	\$ 4.72	\$ 7.56	\$ 4.55
2032	\$ 7.56	\$ 4.84	\$ 7.56	\$ 4.55
2033	\$ 7.75	\$ 4.96	\$ 7.56	\$ 4.55
2034	\$ 7.95	\$ 5.08	\$ 7.56	\$ 4.55
2035	\$ 8.15	\$ 5.21	\$ 7.56	\$ 4.55
2036	\$ 8.35	\$ 5.34	\$ 7.56	\$ 4.55
2037	\$ 8.56	\$ 5.48	\$ 7.56	\$ 4.55
2038	\$ 8.77	\$ 5.61	\$ 7.56	\$ 4.55

ESTIMATED AS AVAILABLE ENERGY COST

For informational purposes, the most recent estimated incremental avoided energy costs for the next ten years will be provided within thirty (30) days of written request.

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First Revised Sheet No. 10.311.2

FLORIDA POWER & LIGHT COMPANY Cancels Original Sheet No. 10.311.2

~~ESTIMATED UNIT FUEL COSTS (\$/MMBtu):~~

~~The most recent estimated unit fuel costs for the Company's avoided unit will be provided within thirty (30) days of written request.~~

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FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No. 10.311.3
Cancels Original Sheet No. 10.311.3

2028 AVOIDED UNIT FIXED VALUE OF DEFERRAL PAYMENTS - NORMAL CAPACITY OPTION PARAMETERS

Where, for a one year deferral:	Value
VAC_m = Company's value of avoided capacity and O&M, in dollars per kilowatt per month, during month m;	\$6.852
K = present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present valued to the middle of the first year;	1.4413
I_n = total direct and indirect cost, in mid-year dollars per kilowatt including AFUDC but excluding CWIP, of the Company's Avoided Unit with an in-service date of year n;	\$822.98
O_n = total fixed operation and maintenance expense, for the year n, in mid-year dollars per kilowatt per year, of the Company's Avoided Unit;	\$15.28
i_p = annual escalation rate associated with the plant cost of the Company's Avoided Unit;	2.50%
i_o = annual escalation rate associated with the operation and maintenance expense of the Company's Avoided Unit;	2.50%
r = annual discount rate, defined as the Company's incremental after tax cost of capital;	7.76%
L = expected life of the Company's Avoided Unit;	40
n = year for which the Company's Avoided Unit is deferred starting with its original anticipated in-service date and ending with the termination of the Standard Offer Contract	2028

FIXED VALUE OF DEFERRAL PAYMENTS - EARLY CAPACITY OPTION PARAMETERS

A_m = monthly capacity payments to be made to the QS starting on the year the QS elects to start receiving early capacity payments, in dollars per kilowatt per month;	*
i_p = annual escalation rate associated with the plant cost of the Company's Avoided Unit;	2.50%
i_o = annual escalation rate associated with the operation and maintenance expense of the Company's Avoided Unit;	2.50%
n = year for which early capacity payments to a QS are to begin; (at the election of the QS early capacity payments may commence anytime after the actual in-service date of the QS facility and before the anticipated in-service date of the Company's avoided unit)	*
P = the cumulative present value of the avoided capital cost component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the Company's Avoided Unit and continued for a period of 10 years;	\$615.50
r = annual discount rate, defined as the Company's incremental after tax cost of capital;	7.76%
t = the term, in years, of the Standard Offer Contract for the purchase of firm capacity commencing in the year the QS elects to start receiving early capacity payments prior to the in-service date of the Company's Avoided Unit;	*
G = the cumulative present value of the avoided fixed operation and maintenance expense component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the Company's Avoided Unit and continued for a period of 10 years;	\$114.38

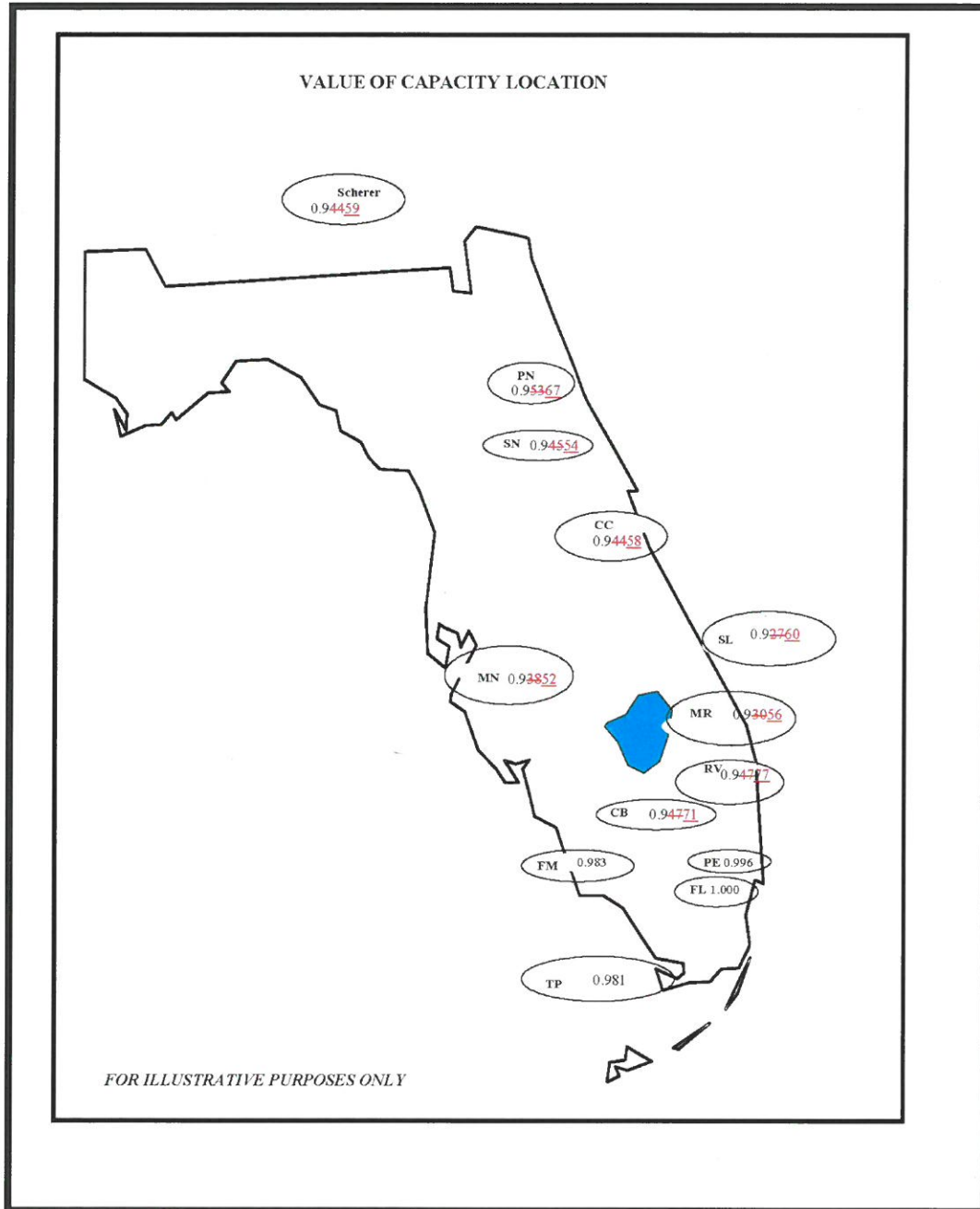
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*From Appendix E

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FLORIDA POWER & LIGHT COMPANY

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FLORIDA POWER & LIGHT COMPANY

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APPENDIX B
TO THE STANDARD OFFER CONTRACT
FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY
FROM RENEWABLE ENERGY FACILITIES
OR QUALIFYING FACILITIES WITH A DESIGN CAPACITY OF 100 KW OR LESS
PAY FOR PERFORMANCE PROVISIONS MONTHLY CAPACITY PAYMENT CALCULATION

1. Monthly Capacity Payments (MCP) for each Monthly Billing Period shall be computed according to the following:
- A. In the event that the Annual Capacity Billing Factor ("ACBF"), as defined below, is less than 80%, then no Monthly Capacity Payment shall be due. That is:
- $$MCP = 0$$
- B. In the event that the ACBF is equal to or greater than 80% but less than 97%, then the Monthly Capacity Payment shall be calculated by using the following formula:
- $$MCP = BCP \times [.04 \times (ACBF - 72)] \times CC$$
- C. In the event that the ACBF is equal to or greater than 97%, then the Monthly Capacity Payment shall be calculated by using the following formula:
- $$MCP = BCP \times CC$$

Where:

MCP	=	Monthly Capacity Payment in dollars.
BCP	=	Base Capacity Payment in \$/KW/Month as specified in FPL's Rate Schedule QS-2.
CC	=	Committed Capacity in KW.
ACBF	=	Annual Capacity Billing Factor. This factor is calculated using the 12 months rolling average of the Monthly Capacity Factor. This 12 month rolling average shall be defined as the sum of the 12 consecutive Monthly Capacity Factors preceding the date of calculation, divided by 12. During the first 12 consecutive Monthly Billing Periods, commencing with the first Monthly Billing Period in which Capacity payments are to be made, the calculation of the Annual Capacity Billing Factor shall be performed as follows: (a) during the first Monthly Billing Period, the Annual Capacity Billing Factor shall be equal to the Monthly Capacity Factor; (b) thereafter, the calculation of the Annual Capacity Billing Factor shall be computed by dividing the sum of the Monthly Capacity Factors during the first year's Monthly Billing Periods in which Capacity payments are to be made by the number of Monthly Billing Periods which have elapsed. This calculation shall be performed at the end of each Monthly Billing Period until enough Monthly Billing Periods have elapsed to calculate a true 12-month rolling average Annual Capacity Billing Factor. Periods during which the Facility has temporarily set its Committed Capacity equal to 0 KW due to a Force Majeure event pursuant to Section 16 shall be excluded from the applicable capacity factor calculation.
MCF	=	Monthly Capacity Factor. The sum of (i) the Hourly Factors of the Non-Dispatch Hours plus (ii) the Hourly Factors of the Dispatch Hours or the hourly factors of the hours when FPL requested reduced deliveries pursuant to Section 8.4.8 (Reduced Delivery Hour), divided by the number of hours in the Monthly Billing Period.
HFNDH	=	Hourly Factor of a Non-Dispatch Hour. The energy received during the hour divided by the Committed Capacity. For purposes of calculating the Hourly Factor of a Non-Dispatch Hour the energy received shall not exceed the Committed Capacity.
HFDH	=	Hourly Factor of a Dispatch Hour or a Reduced Delivery Hour. The scheduled energy received divided by the scheduled energy requested. For purposes of calculating the Hourly Factor of a Dispatch Hour or the Hourly Factor of a Reduced Delivery Hour the scheduled energy received shall not exceed the scheduled energy requested.
On-Peak Hours	=	Those hours occurring April 1 through October 31 Mondays through Fridays, from 12 noon to 9:00 p.m. excluding Memorial Day, Independence Day and Labor Day; and November 1 through March 31 Mondays through Fridays from 6:00 a.m. to 10:00 a.m. and 6:00 p.m. to 10:00 p.m. prevailing Eastern time excluding Thanksgiving Day, Christmas Day and New Year's Day. FPL shall have the right to change such On-Peak Hours by providing the QS a minimum of thirty calendar days' advance notice.
Monthly Billing Period	=	The period beginning on the first calendar day of each calendar month, except that the initial Monthly Billing Period shall consist of the period beginning 12:01 a.m. on the Capacity Delivery Period Date and ending with the last calendar day of such month.

Scheduled Energy and Dispatch Hours are as defined in Section 8.4.7 of the Standard Offer Contract.

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APPENDIX C
TO THE STANDARD OFFER CONTRACT
TERMINATION FEE

The Termination Fee shall be the sum of the values for each month beginning with the month in which the Capacity Delivery Date occurs through the month of termination (or month of calculation, as the case may be), computed according to the following formula:

Termination Fee = Termination Fee applicable to Capacity Payment Option plus Termination Fee applicable to Fixed Firm Energy Option

Termination Fee applicable to Capacity Payment Options B, C, D and E

$$\sum_{i=1}^n (MCP_i - MCPC_i) \times t^{(n-i)}$$

with: $MCPC_i = 0$ for all periods prior to the in-service date of the Company's Avoided Unit;

where:

- i = number of the Monthly Billing Period commencing with the Capacity Delivery Date (i.e., the month in which Capacity Delivery Date occurs = 1; the month following the month in which Capacity Delivery Date occurs = 2, etc.)
- n = the number of Monthly Billing Periods which have elapsed from the month in which the Capacity Delivery Date occurs through the month of termination (or month of calculation, as the case may be)
- t = the future value of an amount factor necessary to compound a sum monthly so the annual percentage rate derived will equal FPL's incremental after-tax avoided cost of capital (defined as r in QS-2). For any Monthly Billing Period in which $MCPC_i$ is greater than MCP_i , t shall equal 1.
- MCP_i = Monthly Capacity Payment paid to QS corresponding to the Monthly Billing Period i, calculated in accordance with Appendix B.
- $MCPC_i$ = Monthly Capacity Payment for Option A corresponding to the Monthly Billing Period i, calculated in accordance with QS-2

In the event that for any Monthly Billing Period, the computation of the value of the Capacity Payment Termination Fee for such Monthly Billing Period (as set forth above) yields a value equal to or greater than zero, the amount of the Capacity Payment Termination Fee shall be increased by the amount of such value.

In the event that for any Monthly Billing Period, the computation of the value of the Capacity Payment Termination Fee for such Monthly Billing Period (as set forth above) yields a value less than zero, the amount of the Capacity Payment Termination Fee shall be decreased by the amount of such value expressed as a positive number (the "Initial Reduction Value"); provided, however, that such Initial Reduction Value shall be subject to the following adjustments (the Initial Reduction Value, as adjusted, the "Reduction Value"):

- a. In the event that in the applicable Monthly Billing Period the Annual Capacity Billing Factor (ACBF), as defined in Appendix B is less than 80%, then the Initial Reduction Value shall be adjusted to equal zero (Reduction Value = 0), and the Capacity Payment Termination Fee shall not be reduced for the applicable Monthly Billing Period.
- b. In the event that in the applicable Monthly Billing Period the Annual Capacity Billing Factor (ACBF), as defined in Appendix B, is equal to or greater than 80% but less than 97%, then the Reduction Value shall be determined as follows:

$$\text{Reduction Value} = \text{Initial Reduction Value} \times [0.04 \times (\text{ACBF} - 72)]$$

For the applicable Monthly Billing Period, the Termination Fee shall be reduced by the amount of such Reduction Value.

In no event shall FPL be liable to the QS at any time for any amount by which the Capacity Payment Termination Fee, adjusted in accordance with the foregoing, is less than zero (0).

Termination Fee applicable to the Fixed Firm Energy Payment Option D

Prior to in-service date of avoided unit:

The Termination Fee for the Fixed Firm Energy Option shall be equal to the cumulative sum of the Fixed Firm Energy Payments made to the QS pursuant to Option D, starting with the in-service date of the QS facility, for each billing cycle. Such number shall reach the maximum amount on the billing cycle immediately preceding the billing cycle associated with the in-service date of the Avoided Unit.

After in-service date of avoided unit:

The Termination Fee shall be decreased each billing cycle following the in-service date of the avoided unit by an amount equal to the difference between the projected Fixed Energy Cost that was used in the calculation to determine the base energy cost to be fixed and amortized pursuant to Option D for such billing cycle and the amortized Fixed Firm Energy Payment in cents/KWH times the energy delivered by the QS not to exceed the MWH block specified in Appendix E.

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: May 22, 2007

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.315

**APPENDIX D
TO THE STANDARD OFFER CONTRACT
DETAILED PROJECT INFORMATION**

Each eligible Contract received by FPL will be evaluated to determine if the underlying QS project is financially and technically viable. The QS shall, to the extent available, provide FPL with a detailed project proposal which addresses the information requested below.

I. FACILITY DESCRIPTION

- Project Name
- Project Location
 - ◆ Street Address
 - ◆ Site Plot Plan
 - ◆ Legal Description of Site
- Generating Technology
- Facility Classification (include types from statute)
- Primary Fuel
- Alternate Fuel (if applicable)
- Committed Capacity
- Expected In-Service Date
- Steam Host (for cogeneration facilities)
 - ◆ Street Address
 - ◆ Legal Description of Steam Host
 - ◆ Host's annual steam requirements (lbs/yr)
- Contact Person
 - ◆ Individual's Name and Title
 - ◆ Company Name
 - ◆ Address
 - ◆ Telephone Number
 - ◆ Telecopy Number

II. PROJECT PARTICIPANTS

- Indicate the entities responsible for the following project management activities and provide a detailed description of the experience and capabilities of the entities:
 - ◆ Project Development
 - ◆ Siting and Licensing the Facility
 - ◆ Designing the Facility
 - ◆ Constructing the Facility
 - ◆ Securing the Fuel Supply
 - ◆ Operating the Facility
- Provide details on all electrical generation facilities which are currently under construction or operational which were developed by the QS.
- Describe the financing structure for the projects identified above, including the type of financing used, the permanent financing term, the major lenders, and the percentage of equity invested at financial closing.

(Continued on Sheet No. 10.316)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: May 22, 2007

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.316

(Continued from Sheet No. 10.315)

III. FUEL SUPPLY

- Describe all fuels to be used to generate electricity at the Facility. Indicate the specific physical and chemical characteristics of each fuel type (e.g., Btu content, sulfur content, ash content, etc.). Identify special considerations regarding fuel supply origin, source and handling, storage and processing requirements.
- Provide annual fuel requirements (AFR) necessary to support the requirements pursuant to Section 366.91, Florida Statutes, and the planned levels of generation and list the assumptions used to determine these quantities.
- Provide a summary of the status of the fuel supply arrangements in place to meet the ARFR in each year of the proposed operating life of the Facility. Use the categories below to describe the current arrangement for securing the AFR.

Category	Description of Fuel Supply Arrangement
owned =	fuel is from a fully developed source owned by one or more of the project participants
contract =	fully executed firm fuel contract exists between the developer(s) and fuel supplier(s)
LOI =	a letter of intent for the fuel supply exists between developer(s) and fuel supplier(s)
REF =	renewable energy facility will burn biomass, waste, or another renewable resource
spot =	fuel supply will be purchased on the spot market
none =	no firm fuel supply arrangement currently in place
other =	fuel supply arrangement which does not fit any of the above categories (please describe)

- Indicate the percentage of the Facility's AFR which is covered by the above fuel supply arrangement(s) for each proposed operating year. The percent of AFR covered for each operating year must total 100%. For fuel supply arrangements identified as owned, contract, or LOI, provide documentation to support this category and explain the fuel price mechanism of the arrangement. In addition, indicate whether or not the fuel price includes delivery and, if so, to what location.
- Describe fuel transportation networks available for delivering all primary and secondary fuel to the Facility site. Indicate the mode, route and distance of each segment of the journey, from fuel source to the Energy Facility site. Discuss the current status and pertinent factors impacting future availability of the transportation network.
- Provide annual fuel transportation requirements (AFTR) necessary to support planned levels of generation and list the assumptions used to determine these quantities.
- Provide a summary of the status of the fuel transportation arrangements in place to meet the AFTR in each year of the proposed operating life of the Energy Facility. Use the categories below to describe the current arrangement for securing the AFTR.

owned =	fuel transport via a fully developed system owned by one or more of the project participants
contract =	fully executed firm transportation contract exists between the developer(s) and fuel transporter(s)
LOI =	a letter of intent for fuel transport exists between developer(s) and fuel transporter(s)
Spot =	fuel transportation will be purchased on the spot market
none =	no firm fuel transportation arrangement currently in place
other =	fuel transportation arrangement which does not fit any of the above categories (please describe)

- Indicate the percentage of the Facility's AFR which is covered by the above fuel supply arrangement(s) for each proposed operating year. The percent of AFR covered for each operating year must total 100%. For fuel supply arrangements identified as owned, contract, or LOI, provide documentation to support this category and explain the transportation price mechanism of the arrangement.
- Provide the maximum, minimum, and average fuel inventory levels to be maintained for primary and secondary fuels at the Facility site. List the assumptions used in determining the inventory levels.

(Continued on Sheet No. 10.317)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: May 22, 2007

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.317

(Continued from Sheet No. 10.316)

IV. PLANT DISPATCHABILITY/CONTROLLABILITY

- Provide the following operating characteristics and a detailed explanation supporting the performance capabilities indicated.
 - ◆ Ramp Rate (MW/minute)
 - ◆ Peak Capability (% above Committed Capacity)
 - ◆ Minimum power level (% of Committed Capacity)
 - ◆ Facility Turnaround Time, Hot to Hot (hours)
 - ◆ Start-up Time from Cold Shutdown (hours)
 - ◆ Unit Cycling (# cycles/yr)
 - ◆ MW and MVAR Control (AGC, Manual, Other (please explain))

V. SITING AND LICENSING

- Provide a licensing/permitting milestone schedule which lists all permits, licenses and variances required to site the Facility. The milestone schedule shall also identify key milestone dates for baseline monitoring, application preparation, agency review, certification and licensing/siting board approval, and agency permit issuance.
- Provide a licensing/permitting plan that addresses the issues of air emissions, water use, wastewater discharge, wetlands, endangered species, protected properties, solid waste, surrounding land use, zoning for the Facility, associated linear facilities, and support of and opposition to the Facility.
- List the emission/effluent discharge limits the Facility will meet, and describe in detail the pollution control equipment to be used to meet these limits.

VI. FACILITY DEVELOPMENT AND PERFORMANCE

- Submit a detailed engineering, procurement, construction, startup and commercial operation schedule. The schedule shall include milestones for site acquisition, engineering phases, selection of the major equipment vendors, architect engineer, EPC contractor, and Facility operator, steam host integration, and delivery of major equipment. A discussion of the current status of each milestone should also be included where applicable.
- Attach a diagram of the power block arrangement. Provide a list of the major equipment vendors and the name and model number of the major equipment to be installed.
- Provide a detailed description of the proposed environmental control technology for the Facility and describe the capabilities of the proposed technology.
- Attach preliminary flow diagrams for the steam system, water system, and fuel system, and a main electrical one line diagram for the Facility.
- State the expected heat rate (HHV) at 75 degrees Fahrenheit for loads of 100%, 75%, and 50%. In addition, attach a preliminary heat balance for the Facility.
- [NOTE: add any requirements related to demonstrating that the facility meets the requirements under the statute or applicable rules]

(Continued on Sheet No. 10.318)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: May 22, 2007

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.318

(Continued from Sheet No. 10.317)

VII. FINANCIAL

- Provide FPL with assurances that the proposed QS project is financially viable consistent with FPSC Rule 25-17.0832(4) (c) by attaching a detailed pro-forma cash flow analysis. The pro-forma must include, at a minimum, the following assumptions for each year of the project.
 - ♦ Annual Project Revenues
 - Capacity Payments (\$ and \$/KW/Mo)
 - Variable O&M (\$ and \$/MWh)
 - Energy (\$ and \$/MWh)
 - Steam Revenues (\$ and %/lb.)
 - Tipping Fees (\$ and \$/ton)
 - Interest Income
 - Other Revenues
 - Variable O&M Escalation (%/yr)
 - Energy Escalation (%/yr)
 - Steam Escalation (%/yr)
 - Tipping Fee Escalation (%/yr)
 - ♦ Annual Project Expenses
 - Fixed O&M (\$ and \$/KW/Mo)
 - Variable O&M (\$ and \$/MWh)
 - Energy (\$ and \$/MWh)
 - Property Taxes (\$)
 - Insurance (\$)
 - Emission Compliance (\$ and \$/MWh)
 - Depreciation (\$ and %/yr)
 - Other Expenses (\$)
 - Fixed O&M Escalation (%/yr)
 - Variable O&M Escalation (%/yr)
 - Energy Escalation (%/yr)
 - ♦ Other Project Information
 - Installed Cost of the Energy Facility (\$ and \$/KW)
 - Committed Capacity (KW)
 - Average Heat Rate - HHV (MBTU/KWh)
 - Federal Income Tax Rate (%)
 - Facility Capacity Factor (%)
 - Energy Sold to FPL (MWH)
 - ♦ Permanent Financing
 - Permanent Financing Term (yrs)
 - Project Capital Structure (percentage of long-term debt, subordinated debt, tax exempt debt, and equity)
 - Financing Costs (cost of long-term debt, subordinated debt, tax exempt debt, and equity)
 - Annual Interest Expense
 - Annual Debt Service (\$)
 - Amortization Schedule (beginning balance, interest expense, principal reduction, ending balance)
- Provide details of the financing plan for the project and indicate whether the project will be non-recourse project financed. If it will not be project financed please explain the alternative financing arrangement.
- Submit financial statements for the last two years on the principals of the project, and provide an illustration of the project ownership structure.

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: May 22, 2007

FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No.10.319
Cancels Original Sheet No.10.319

APPENDIX E
TO THE STANDARD OFFER CONTRACT
CONTRACT OPTIONS TO BE SELECTED BY QS

Avoided Unit Selected _____

Term of Contract

Execution date _____
Termination date _____

Firm Capacity Rates

Commencement date for deliveries of Firm Energy and Capacity _____

Capacity Payment Option Selected (from available Options A through E) _____
If Option E is selected proposed payment stream:

Schedule of Capacity Payments to be provided by the Company based on applicable parameters follows:

<u>Year</u>	<u>\$/KW/Month</u>
-------------	--------------------

Energy Rates

Energy payment Options selected applicable to energy produced by the QS and delivered to the Company (from available Option A or B **and D**)

Select from Option A or B _____

And

Select D _____

If Option D is selected by the QS, the Company and the QS mutually agree on fixing and amortizing the following portion of the Base Energy Costs associated with the Avoided Unit

_____ % which yields _____ MWH

Projected Energy Cost of Energy Produced by Avoided Unit (provided by the Company):

<u>Year</u>	<u>Projected Fixed Energy Cost (in Cents/KWH or in Dollars)</u>
-------------	---

Based on the projections of Energy Costs Produced by the Avoided Unit and the mutually agreed upon Portion of the Base Energy Costs associated with the Avoided Unit the Fixed Energy Payment shall be _____ \$/MWH or \$ _____ (as applicable).

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective: June 5, 2018

Item 7

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: May 30, 2019

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (McNulty, Redda) *WBM AS*
Division of Accounting and Finance (Mouring) *M ALM*
Office of the General Counsel (DuVal) *MD Lm R. Leary* *98H*

RE: Docket No. 20170183-EI – Application for limited proceeding to approve 2017 second revised and restated settlement agreement, including certain rate adjustments, by Duke Energy Florida, LLC.

AGENDA: 06/11/19 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Duke Energy Florida, LLC (DEF, or the Company) filed its Motion to Approve Re-allocation of Electric Vehicle Charging Station Pilot Segments (Motion) on April 17, 2019. In its Motion, DEF requests a change in the required allocation of Electric Vehicle Service Equipment (EVSE, “ports,” “charging stations”) to the four customer locations, or segments, identified in its 2017 Second Revised and Restated Settlement Agreement (2017 Settlement).¹ The 2017 Settlement specified an EVSE allocation to four different customer segments: Multi-unit dwellings (Multi-unit), Workplaces, “Long dwell time” public locations (Public L2), and DC Fast Charging

¹ Order No. PSC-2017-0451-AS-EU, issued November 20, 2017, in Docket No. 20170183-EI, *In re: Application for limited proceeding to approve 2017 second revised and restated settlement agreement, including certain rate adjustments, by Duke Energy Florida, LLC.*

Depots (DCFC).² The 2017 Settlement, among other things, established a five-year EVSE pilot program wherein DEF is authorized to purchase, install, own, and support 530 charging stations in its service territory during the term of the 2017 Settlement (through 2021). The maximum capital outlay for this program was set at \$8.0 million, along with reasonable operation and maintenance expense, to be deferred to a regulatory asset and collected during a period initiating after the term of the 2017 Settlement. In addition, the 2017 Settlement required ten percent of the charging stations must be installed in low income communities. The 2017 Settlement also contemplated a shift in program expenditures from a segment for which the Company is unable to find willing host sites to other segments or even new segments, as approved in advance by the Commission.

In its Motion, DEF maintains that it has become necessary to reallocate a portion of proposed EVSE away from Multi-unit to the other segments due to the significant challenge it has experienced in meeting the minimum number of EVSE for that segment to date. Towards that end, the Company proposes revised allocations at this time, as well as further reallocations at the end of 2019 to other segments, as necessary, of any revised Multi-unit EVSE assignments not subscribed.

DEF states in its Motion that it has conferred with the signatories to the 2017 Settlement and represents that the Office of Public Counsel, Florida Retail Federation, and Southern Alliance for Clean Energy have no objection to the Motion, while White Springs Agricultural Chemicals Inc. d/b/a PCS Phosphate - White Springs and the Florida Industrial Power Users Group take no position on the Motion.

The Commission has jurisdiction over this matter pursuant to Sections 366.05 and 366.06, Florida Statutes.

² Docket No. 20170183-EI, Document No. 09507-2017, Exhibit 2, BS 182.

Discussion of Issues

Issue 1: Should the Commission approve DEF's Motion to Approve Reallocation of Electric Vehicle Charging Station Pilot Segments?

Recommendation: Yes, staff recommends the Commission approve DEF's proposed reallocation of EVSE pilot segments. In the event DEF has fewer than 210 Multi-unit EVSE subscriptions by December 31, 2019, DEF should be required to supplement its 2019 annual data report to the Commission regarding its Electric Vehicle Charging Station Pilot Program to include any further reallocation of unsubscribed Multi-unit EVSE to other segments. Staff recommends DEF's filing of its 2019 annual data report may be delayed, as necessary, until January 31, 2020 for this purpose. (McNulty, Redda)

Staff Analysis:

DEF's Motion

In its Motion, DEF explains that its goal is to have as many installations of the targeted 530 EVSE as possible completed by the end of 2019 in order to maximize the information it gathers during the pilot program. However, DEF has been unable to meet its subscription goals set forth in the 2017 Settlement for Multi-unit. DEF offers two reasons for this deficit of Multi-unit EVSE subscriptions, including limited available parking spaces at apartment complexes and condominiums and lengthy lead times to conclude site host agreements. Table 1-1 shows the pertinent data regarding the original and requested allocations, ports subscribed, ports installed, and further reallocation of Multi-unit EVSE by percentage range at the end of 2019, if needed.

Table 1-1
EVSE by Segments

<u>Segment</u>	<u>Multi-unit</u>	<u>Workplace</u>	<u>Public L2</u>	<u>DCFC</u>	<u>Total</u>
Original Allocation (11/2017)	325	100	75	30	530
Ports Subscribed (4/2019)	62	73	76	14	225
Percent Subscribed (4/2019)	19%	73%	101%	47%	42%
Ports Installed (4/2019)	23	31	32	4	90
Revised Allocation (4/2019)	210	140	130	50	530
Segment Percentage Range Target for Reallocation of MULTI-UNIT Ports (if needed - 12/2019)		20-50%	20-50%	10-30%	

Sources: Motion, DEF's response to Staff's First Data Request, No. 11 (ports installed).

DEF maintains that it is significantly behind in its Multi-unit EVSE subscriptions and the Company makes its request for reallocation on that basis. If, by December 31, 2019, DEF's number of subscribed Multi-unit EVSE is less than its revised goal (210 EVSE), DEF also requests that it be allowed to reallocate any remaining unsubscribed Multi-unit EVSE to other segments in the percentages shown in Table 1-1. In response to a staff data request, DEF stated that meeting even the revised numeric goal appears unlikely given current trends year-to-date.

Staff Review

Staff believes the current Multi-unit EVSE subscription data, at just 19 percent of the goal, and the other segments' subscription data, ranging from 47 percent to 101 percent of the goal, provides strong support for a significant reallocation of Multi-unit EVSE to the other segments. Given DEF's assessment that it is unlikely to meet its revised Multi-unit goal by year end 2019, it is thus likely that a further redeployment of the unsubscribed ports to other market segments, per the percentage reallocation method quantified in Table 1-1, will be required at the end of 2019. In this regard, staff believes the revised allocations may be considered a stretch goal for the Company, augmented by a safety mechanism that can be activated at year's end.

Staff reviewed the other EVSE-related requirements of the 2017 Settlement to ensure that the Company's reallocation strategy, if approved, would be consistent with the 2017 Settlement. First, the Company states in its Motion that the reallocation process may be needed to meet the low income requirement. With 23 of 221 ports subscribed located in low income communities, DEF is currently on track to meet the 10 percent low-income requirement, but all such subscribed low income community ports are located in the Public L2 segment. This is a clear indication that the reallocation strategy by DEF is necessary to support the low income EVSE target contained in the 2017 Settlement.

Staff also considered whether the revised allocation or year-end redeployment scenario would potentially result in DEF incurring higher capital costs than the 2017 Settlement's investment cap of \$8.0 million. DEF reports that the projected total capital costs for the program under the proposed pilot program reallocation is approximately \$4.6 million, plus or minus a 10 percent variance due to potential upgrades (i.e. transformer upgrade, panel upgrade, etc.).³ This is somewhat higher than DEF's projected total capital costs under the current allocation, which is about \$3.8 million, due primarily to the higher per unit capital costs associated with the DCFC segment. The EVSE per unit costs for Public L2 and Workplace segments is in line with the per unit costs of Multi-unit. It appears to staff that a reallocation of EVSE as contemplated, even under the year-end redeployment scenario, is not likely to cause the Company to exceed the Settlement's \$8.0 million EVSE investment cap.

Conclusion

Staff believes that DEF's proposed reallocation strategy is necessary in order for it to maintain the 2017 Settlement's minimum 530 EVSE subscription target. The strategy works in conjunction with other requirements of the 2017 Settlement, such as the low income EVSE percentage requirement and the EVSE \$8.0 million maximum investment cap. Furthermore, the reallocation increases the likelihood that the Company will be able to collect sufficient EVSE deployment data by the end of the pilot program to allow consideration of the merits of a permanent program. Per the 2017 Settlement, a permanent program may be requested by the Company at the conclusion of the pilot program. Staff thus recommends the Commission approve DEF's Motion as filed.

Finally, staff believes DEF should take certain actions to ensure that the Commission and the parties to the 2017 Settlement remain apprised of developments in the Company's EVSE reallocations, actual subscriptions, and installations. DEF's annual data report regarding its Electric Vehicle Charging Station Pilot Program provides an excellent vehicle in which DEF could report the results of the EVSE reallocations and, if needed, identify further reallocations. In the event DEF has fewer than 210 Multi-unit EVSE subscriptions by December 31, 2019, staff recommends DEF be required to augment its 2019 annual data report to the Commission to include any further reallocation of unsubscribed Multi-unit EVSE to other segments. In the event of further reallocations, staff believes it would be appropriate for the Commission to allow DEF to delay its filing of its 2019 annual data report until January 31, 2020 in order to supplement its filing accordingly. Staff will apprise the Commission should any further reallocations not

³ DEF's response to Staff's Second Data Request, Nos. 1 and 2.

Date: May 30, 2019

comport with the segment percentage range targets proposed by the Company as shown in Table 1-1.

Issue 2: Should this docket be closed?

Recommendation: Yes. This docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action. (DuVal)

Staff Analysis: This docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action.