State of Florida

Public Service Commission

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COMMISSION CLERK

DATE: May 10, 2007

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Ballinger, Baxter, Brown, Maurey)
Office of the General Counsel (Holley)

ALM

RE: Docket No. 070232-EQ – Petition for approval of new standard offer for purchase of firm capacity and energy from renewable energy facilities or small qualifying facilities and approval of tariff schedule REF-1, by Gulf Power Company.

Docket No. 070234-EQ – Petition for approval of renewable energy tariff standard offer contract, by Florida Power & Light Company.

Docket No. 070235-EQ – Petition for approval of standard offer contract for purchase of firm capacity and energy from renewable energy producer or qualifying facility less than 100 kW tariff, by Progress Energy Florida, Inc.

Docket No. 070236-EQ – Petition for approval of standard offer contract for small qualifying facilities and producers of renewable energy, by Tampa Electric Company.

AGENDA: 05/22/07 – Regular Agenda –Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 06/26/07 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\070232.RCM.DOC

Case Background

In its 2005 session, the Florida Legislature enacted Section 366.91, Florida Statutes (F.S.), regarding renewable energy which became effective on October 1, 2005. Section 366.91(1), F.S., states:

> The Legislature finds that it is in the public interest to promote the development of renewable energy resources in this State. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the State, improve environmental conditions, and make Florida a leader in new and innovative technologies.

Section 366.91(3), F.S., enumerates requirements to promote the development of renewable energy resources. In summary:

a) By January 1, 2006, each investor-owned electric utility (IOU) and municipal utility subject to the Florida Energy Efficiency and Conservation Act (FEECA) of 1980 must continuously offer to purchase capacity and energy from specific types of renewable resources;
b) The contract shall be based on the utility's full avoided costs, as defined in Section 366.051, Florida Statutes; and,
c) Each contract must provide a term of at least ten years.

Staff held a workshop on September 12, 2005, to discuss the implementation of the statute. At the workshop, staff suggested that the statute's requirements could be implemented initially under the Commission's existing rule pertaining to standard offer contracts, Rule 25-17.0832(4) and (5), Florida Administrative Code (F.A.C.). Staff suggested this approach in an effort to meet the January 1, 2006, implementation date required by the statute.

Gulf Power Company (Gulf), Florida Power & Light Company (FPL), Progress Energy Florida, Inc. (PEF), Florida Public Utilities Company (FPUC) and Tampa Electric Company (TECO) filed petitions seeking approval of their proposed standard offer contracts on October 14, 2005. Section 366.91(4), F.S., does not require the Commission's approval of renewable standard offer tariffs for covered municipal and cooperative utilities. However, Jacksonville Electric Authority (JEA) and the Orlando Utilities Commission (OUC) filed tariffs for informational purposes on January 1, 2006.

The Commission approved FPUC's proposed contract on December 27, 2005, by Order No. PSC-05-1260-TRF-EQ.[1] The Commission also approved the remaining four contracts with modifications through June 1, 2006, to allow time for additional discussion on policy issues

[1] Order No PSC-05-1260-TRF-EQ was issued in Docket Nos. 050805-EQ, 050806-EQ, 050807-EQ, 050809-EQ and 050810-EQ, In Re: Petition for approval of new standard offer for purchase of firm capacity and energy from renewable energy facilities and approval of tariff schedule REF-1 by Gulf Power Company; Petition for approval of renewable standard offer contract by Florida Power & Light Company; Petition for approval of amended standard offer contract tariff and renewable energy tariff by Progress Energy Florida; Petition for approval of renewable energy tariff by Florida Public Utilities Company; and Petition for approval of standard offer contract for small qualifying facilities and producers of renewable energy by Tampa Electric Company, respectively.

associated with implementing Section 366.91, F.S. On January 17, 2006, the Florida Industrial Cogeneration Association (FICA) and Bay County each filed a protest of Order No. PSC-05-1260-TRF-EQ and requested a formal hearing.[2]

On March 6, 2006, staff held an additional workshop to obtain further information on implementing the statute. Remaining unresolved was the methodology to be used to set avoided cost for standard offer contracts. At the workshop, the IOUs proposed to continue the single unit approach based on reliability needs and the value of deferral (VOD) methodology for calculating avoided costs. Representatives from the City of Tampa, the Solid Waste Authority of Palm Beach, and FICA proposed a hypothetical statewide coal unit, with an in-service date the same as the renewable generator, and capacity payments based on full revenue requirements of the avoided unit. Staff proposed a portfolio approach, coupled with the VOD methodology, as a refinement to calculating avoided costs, which was supported by Lee County, Montenay Dade Limited, Covanta Energy Corporation, and the Integrated Waste Services Association. The portfolio approach would provide multiple contracts based on generating units identified in a utility's annual Ten-Year Site Plan (TYSP) filing. No other proposals were presented.

FPL, PEF, Gulf and TECO filed petitions seeking approval for their revised standard offer contracts on April 3, 2006. All four proposed standard offer contracts continued to limit avoided cost offerings based on the utility's next single generating unit. On June 6, 2006, the Commission issued Order No. PSC-06-0486-TRF-EQ approving each of the IOUs' proposed revised standard offer contracts with an effective date of June 2, 2006, and requiring FPL, PEF and TECO to file additional contracts within 90 days based on additional planned generating units, to fulfill the requirements of a Fossil Fuel Unit Type Portfolio approach. As stated in the Order:

> We find that a different approach – a "Fossil Fuel Unit Type Portfolio" approach – will best meet the intent of Section 366.91, Florida Statutes, to encourage the development of renewable energy resources while balancing ratepayer interests. Under this approach, each investor-owned electric utility shall file a portfolio of standard offer contracts comprised of individual contracts based on the next avoidable fossil-fueled generating unit of each technology type in the utility's 2006 Ten-Year Site Plans. Renewable generators may then select a standard offer contract based on the IOU's avoided unit type that best meets the renewable generator's pricing and timing needs and most closely matches the operating characteristics of the renewable technology.

Since Gulf had only one planned generating unit in its TYSP, Gulf was not required to file additional contracts. The Commission also directed staff to initiate rulemaking to implement Section 366.91, F.S. On June 26, 2006, FICA filed a protest of Order No. PSC-06-0486-TRF-EQ and requested a formal hearing. FICA, however, agreed to a reasonable delay of the hearing

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[2] The protests of the initial standard offer contracts approved in Order No. PSC-05-1260-TRF-EQ became moot because the initial standard offer contracts of FPL, PEF, Gulf, and TECO expired as of June 1, 2006. Further, although FPUC's initial standard offer contract has not expired, on August 4, 2006, Bay County withdrew its protest.

until after the Commission's rulemaking proceeding was completed. Docket No. 060555-EI was opened to address rulemaking as mandated by the Commission.

After FICA's second protest, FPL, PEF, and TECO each submitted additional tariffs containing standard offer contracts based on additional planned generating units to fulfill the requirements of the Fossil Fuel Unit Type Portfolio approach as required by Order No. PSC-06-0486-TRF-EQ. On September 21, 2006, FPL filed its Notice of Withdrawal of its additional tariffs and standard offer contracts, citing FICA's protest of Order No. PSC-06-0486-TRF-EQ, but also stating that FPL remained committed to promptly re-submitting renewable energy tariffs and standard offer contracts when appropriate. Both PEF and TECO initially submitted letters to the Commission waiving the 60-day statutory timeframe by which the Commission must suspend tariffs as required by Section 366.06, F.S., pending disposition of FICA's protest. Both TECO and PEF subsequently withdrew their additional tariffs and standard offer contracts on January 29, 2007, and January 31, 2007. Thus, the additional tariffs and standard offer contracts submitted by FPL, PEF, and TECO on July 27, 2006, and September 5, 2006, which were based on the Fossil Fuel Unit Type Portfolio approach, were not available to renewable generators.

During its 2006 Session, the Florida Legislature once again addressed the issue of renewable generation in Florida and adopted Section 366.92, F.S. Specifically, Section 366.92(1), F.S. states:

> It is the intent of the Legislature to promote the development of renewable energy; protect the economic viability of Florida's existing renewable energy facilities; diversify the types of fuel used to generate electricity in Florida; lessen Florida's dependence on natural gas and fuel oil for the production of electricity; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and, at the same time, minimize the costs of power supply to electric utilities and their customers.

On August 23, 2006, staff held a rule development workshop in Docket No. 060555-EI to discuss changes to the Commission's existing cogeneration rule, Rule 25-17.0832, F.A.C. Staff based its draft rule language on the Fossil Fuel Unit Type Portfolio approach approved in Order No. PSC-06-0486-TRF-EQ. At the October 3, 2006, Agenda Conference, the Commission voted to propose amendments to Rule 25-17.0832, F.A.C. The Commission also set a hearing date of November 9, 2006, to allow interested persons to provide additional comments and alternative rule language.

On December 27, 2006, staff filed its recommendation in Docket No. 060555-EI requesting that the Commission adopt new rules regarding renewable generation.[3] The rules recommended for adoption required the IOUs to continuously make available standard offer contracts based on a portfolio approach of utility fossil-fueled units; established a methodology to calculate capacity payments using value of deferral methodology based on the utility's full avoided costs and need for power; required IOUs to expand the capacity and energy payment options to facilitate the financing of renewable generation facilities; allowed for reopening of the contract in the event of future carbon taxes; clarified ownership of transferable renewable energy

[3] Staff proposed amendments to Part III, Rule 25-17.0832, F.A.C. and Part IV to the Commission's rules in Chapter 25-17, F.A.C. (Rules 25-17.200 through 25-17.310, F.A.C.).

credits; provided for an expedited dispute resolution process; and required annual reporting from all utilities. The proposed rules were approved by the Commission at the January 9, 2007 Agenda Conference and became effective on March 8, 2007.

At the February 15, 2007 Agenda Conference, the PSC voted to require Gulf, FPL, PEF, and TECO to file standard offer contracts by April 1, 2007, with terms that are consistent with Rules 25-17.200 through 25-17.310, F.A.C.[4] Because FPUC does not own any generation, the payment provisions of FPUC's Standard Offer Contract are based on its next identifiable purchased power agreement. As such, FPUC was not required to submit another Standard Offer Contract for review. On April 1, 2007, Gulf, FPL, PEF, and TECO each filed a Petition for approval of new standard offer contracts with accompanying tariff sheets. On May 3, 2007, a Petition for Leave to Intervene in Docket No. 070232-EQ (Gulf Docket) was filed by Bay County, Florida. On May 8, 2007, FPL filed an amended petition which made several ministerial corrections and clarifications to its original filing.

This recommendation will address the standard offer contracts and tariffs filed on April 1, 2007. The Commission has jurisdiction over this matter pursuant to Sections 366.04 through 366.06, 366.91 and 366.92, F.S.

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[4] Order No. PSC-07-0196-PAA, issued March 5, 2007, issued in Docket Nos. 050805-EQ, 050806-EQ, 050807-EQ, and 050810-EQ, In re: Petition for approval of new standard offer for purchase of firm capacity and energy from renewable energy facilities and approval of tariff schedule REF-1, by Gulf Power Company, Petition for approval of renewable energy tariff and standard offer contract, by Florida Power & Light Company, Petition for approval of amended standard offer contract tariff and renewable energy tariff, by Progress Energy Florida, Inc., and Petition for approval of standard offer contract for small qualifying facilities and producers of renewable energy, by Tampa Electric Company, respectively.

Discussion of Issues

Issue 1: Are the standard offer contracts filed by Florida Power & Light (FPL), Progress Energy Florida (PEF), Gulf Power Company (Gulf), and Tampa Electric Company (TECO) in compliance with Rules 25-17.200 through 25-17.310, Florida Administrative Code?

Recommendation: Gulf's and TECO's proposed Standard Offer Contracts are in compliance with Rules 25-17.200 through 25-17.310, Florida Administrative Code, and therefore should be approved. Staff recommends the Commission deny FPL's and PEF's proposed Standard Offer Contracts because the utilities have not justified the inclusion of an equity adjustment in the calculation of capacity payments. (Ballinger, Maurey)

Staff Analysis: Rules 25-17.200 through 25-17.310, Florida Administrative Code (F.A.C.), require several new features for a utility's standard offer contract with renewable generation facilities. Each new rule requirement is summarized below along with an analysis of how the utility complied with each requirement.

Small QFs

Rule 25-15.250(1), F.A.C., requires investor-owned electric utilities to provide standard offer contracts to both renewable generating facilities and small qualifying facilities with a design capacity of 100 KW or less. Each utility's Standard Offer Contract is in compliance with this requirement. (See Sheet No. 10.350 of contract for FPL, Sheet No. 9.452 of contract for PEF, Sheet No. 9.81 of contract for Gulf, and Sheet No. 8.284 of contract for TECO)

Fossil-fueled Portfolio Approach

Investor-owned utilities are required to continuously offer standard contracts based on a portfolio approach of utility fossil-fueled units which are identified in the utility's annual Ten-Year Site Plan. Pursuant to Rule 25-17.250(2)(a) F.A.C., a utility must offer a standard offer on each type of fossil-fueled generating unit until either an RFP has been issued, a need determination has been filed, or the unit is under construction.

On April 1, 2007, each investor-owned utility filed its Ten-Year Site Plan. While several units were identified, only one unit in each utility's Ten-Year Site Plan is eligible for inclusion in a Standard Offer Contract. For FPL, the avoided unit is a 2015 combined cycle unit because either an RFP or need determination has been filed for all other units identified. For Gulf, only a single combined cycle unit is identified in the utility's Ten-Year Site Plan. For PEF, the coal units that were in the 2006 Ten-Year Site Plan have been replaced with natural gas combined cycle units and nuclear is not a fossil fuel subject to the new rules. TECO has issued an RFP for its Integrated Coal Gasification Combined Cycle (IGCC) unit and the remaining units identified in TECO's Ten-Year Site Plan are combustion turbines. While each utility has filed a single Standard Offer Contract for approval, each utility's filing is in compliance with regard to the portfolio approach.

The tables on the following page summarize each utility's generation expansion plans and resulting units eligible to be included in the utility's Standard Offer Contract.

FPL's 2007 Ten-Year Site Plan					
Number of Units	Unit Type	Size (MW)	In-service Date	RFP Issued (Y or N)	Need filed or Under Const. (Y or N)
1	CC	1,144	2007	Y	Y
1	CC	1,219	2009	Y	Y
1	CC	1,219	2010	Y	Y
1	USCPC	980	2013	N	Y
1	USCPC	980	2014	N	Y
1	CC	1,219	2015	N	N
Unit available for Std. Offer			Combined cycle in 2015		

Gulf's 2007 Ten-Year Site Plan					
Number of Units	Unit Type	Size (MW)	In-service Date	RFP Issued (Y or N)	Need filed or Under Const. (Y or N)
1	CC	600	2014	N	N
Unit available for Std. Offer			Combined cycle in 2014		

PEF's 2007 Ten-Year Site Plan					
Number of Units	Unit Type	Size (MW)	In-service Date	RFP Issued (Y or N)	Need filed or Under Const. (Y or N)
1	CC	461	2007	Y	Y
1	CC	1,159	2009	N	Y
1	CC	537	2013	N	N
1	CC	537	2014	N	N
1	Nuclear	1,125	2016	N	N
Unit available for Std. Offer			Combined cycle in 2013		

TECO's 2007 Ten-Year Site Plan					
Number of Units	Unit Type	Size (MW)	In-service Date	RFP Issued (Y or N)	Need filed or Under Const. (Y or N)
3	CT	43	2010	N	N
1	IGCC	605	2013	Y	N
2	CT	88	2014	N	N
3	CT	88	2015	N	N
2	CT	88	2016	N	N
Unit available for Std. Offer			Combustion turbine in 2010		

Note: CC stands for combined cycle, CT stands for combustion turbine, IGCC stands for integrated gasified combined cycle, and USCPC stands for ultra super critical pulverized coal

Value of Deferral

The new rules adopted in January preserve the current value of deferral (VOD) methodology which provides flexibility to renewable generators by allowing a renewable generator to select a contract term which is less than the life of the avoided unit. Rule 25-17.250(4), F.A.C., clarifies that a renewable generating facility may select any payment stream for the capital component of the utility's avoided unit, including front-end loaded capacity payments, that best meets the financing requirements of the renewable generating facility. The cumulative present value of payments made may not exceed the cumulative present value of the sum of the year-by-year values of deferral. Where any annual payment is greater than the value of deferral for that year, additional security or other performance requirements may be required. Each utility's Standard Offer Contract is in compliance with this requirement. (See Sheet Nos. 10.350 through 10.352 of contract for FPL, Sheet Nos. 9.453 through 9.456 of contract for PEF, Sheet Nos. 9.83 through 9.86 of contract for Gulf, Sheet Nos. 8.288 through 8.296 of contract for TECO) The table below summarizes the normal value of deferral payment stream for each utility's Standard Offer Contract.

Monthly Capacity Payment Rate ($/kW/month)				
Year	FPL	Gulf	PEF	TECO
2010				8.06
2011				8.21
2012				8.37
2013			7.58	8.53
2014		6.71	7.76	8.70
2015	7.17	6.84	7.95	8.87
2016	7.37	6.97	8.14	9.04
2017	7.58	7.10	8.33	9.22
2018	7.79	7.23	8.53	9.39
2019	8.01	7.37	8.74	9.58

Fixed Energy Payments

Rule 25-17.250(6)(a), F.A.C., allows a renewable generator to fix as-available energy prices made prior to the in-service date of the avoided unit on an annual basis. Fixed as-available energy prices would be based on the utility's projection of system incremental fuel costs based on normal conditions. A risk premium, mutually agreed to by the utility and renewable generator, would be added to account for anticipated fuel price volatility above normal conditions and would be treated for cost recovery as a "hedging cost."

Rule 25-17.205(6)(b), F.A.C., allows a renewable generator to fix a portion of avoided unit fuel costs, which start with the in-service date of the avoided unit, and amortize this portion of fuel costs, on a present value basis, starting as early as the in-service date of the renewable generating facility. The portion of avoided unit fuel costs amortized would be mutually agreed upon by the utility and the renewable generator.

Each utility's Standard Offer Contract is in compliance with the above provisions. (See Sheet Nos. 10.352 through 10.353 of contract for FPL, Sheet Nos. 9.456 through 9.457 of contract for PEF, Sheet Nos. 9.86 through 9.87 of contract for Gulf, Sheet Nos. 8.296 through 8.298 of contract for TECO)

Contract Term

Rule 25-17.250(3), F.A.C., allows the developer of a renewable generation facility the option to select the term of the contract, from a minimum of ten years up to the life of the avoided unit. Each utility's Standard Offer Contract is in compliance with this requirement. (See Sheet Nos. 10.350 and 10.370 of contract for FPL, Sheet No. 9.455 of contract for PEF, Sheet No. 9.82 of contract for Gulf, Sheet No. 8.212 of contract for TECO)

Future Carbon Regulations

Rule 25-17.270, F.A.C., specifically requires standard offer contracts to allow either party to reopen a contract if avoided unit costs change as a result of new environmental and other regulatory requirements, such as carbon emission standards, enacted during the term of the contract. Each utility's Standard Offer Contract is in compliance with this requirement. (See Section No. 17.6.3 of contract for FPL, Section 20.17 of contract for PEF, Sheet No. 9.96 of contract for Gulf, Sheet No. 8.238 of contract for TECO)

Tradable Renewable Energy Credits (TRECs)

Rule 25-17.280, F.A.C., requires that TRECs shall remain the exclusive property of the renewable generator. A utility shall not place any conditions upon such incentives in a standard offer contract, unless agreed to by the renewable generating facility.

All of the utilities acknowledged that TRECs are the property of the renewable generator. However, three utilities (Gulf, TECO and PEF) have included a right of first refusal with specific timelines for responding. Such a condition would insure that Florida's ratepayers enjoy all of the attributes associated with renewable generation without imposing a financial penalty to the owner of the renewable generation facility. (See Section 17.6.2 of contract for FPL, Sheet No. 9.417 of contract for PEF, Sheet No. 9.96 of contract for Gulf, Sheet 8.238 of contract for TECO)

Imputed Debt Equivalent Adjustments (Equity Adjustments)

Pursuant to Rule 25–17.290, F.A.C., "an investor-owned utility shall not impose any imputed debt equivalent adjustments (equity adjustments) to reduce the avoided costs paid to a renewable generating facility unless the utility has demonstrated the need for the adjustment and obtained the prior approval of the Commission." Two utilities, FPL and PEF, have requested approval to include an equity adjustment in the calculation of capacity payments to be made under each utility's Standard Offer Contract.

In its petition, FPL states that the execution of a Standard Offer Contract creates a long-term payment obligation for the Company. This payment obligation draws upon the debt capacity of the Company and, other things being equal, must be offset by increasing the ratio of equity in the Company's financing mix. It is FPL's position that an equity adjustment recognizes the cost of additional equity which is necessary to rebalance the Company's capital structure including the imputed debt. FPL provided a copy of a Standard & Poor's (S&P) publication entitled "Request for Comments: Imputing Debt to Purchased Power Obligations" dated November 1, 2006 to support its position. Based on S&P's imputed debt computation approach described in this publication, FPL requests the Commission's approval to reduce the computation of avoided costs to be paid to a Qualified Seller. FPL's proposed equity adjustment would reduce payments to renewable generators by approximately 8%.

Similarly, in its petition, PEF requests Commission approval to include an equity adjustment in the computation of avoided costs to be paid to a Qualified Seller. PEF states that the inclusion of an equity adjustment is consistent with the Company's approach to its analysis and pricing of other purchased power agreements (PPAs). PEF also states that its proposed method for making this equity adjustment is consistent with S&P's approach to quantifying the financial impacts of such agreements. PEF's proposed equity adjustment would reduce payments to renewable generators by approximately 9%.

The Commission has considered the equity adjustment issue with respect to purchased power contracts on several occasions. With respect to need determination petitions, the Commission has consistently taken the position that it will evaluate the issue on a case-by-case basis. In 2002, the Commission found:

> While we find that consideration of the impact of purchased power agreements (PPA) on a company's cost of capital is proper, we decline to apply it in these dockets. We further find that any application of an equity adjustment should be evaluated on a case by case basis, with full consideration of the appropriate risk factor to be applied and mitigating factors considered by rating agencies.[5]

The equity adjustment issue has also been raised in connection with standard offer contracts. With respect to FPL's petition for approval of a standard offer contract in Docket No. 990249-EG, the Commission found:

> We recognize the effect that purchased power contracts have on the utility's financial ratios as calculated by S&P. To be consistent with the terms of the Stipulation approved in Order No. PSC-99-0519-AS-EI which allows for the recovery of the "equity adjustment" through base rates, we approve FPL's adjustment to its standard offer contract to recognize the effect of purchased power contracts and to avoid possible double recovery. However, while we are approving FPL's request in the instant case due to the unique circumstances surrounding FPL's Stipulation, the broader policy issue of who should bear the

[5] Order PSC-02-1743-FOF-EI, issued December 10, 2002, in Docket No. 020262-EI, In Re: Petition to Determine Need for an Electrical Power Plant in Martin County by Florida Power & Light Company and in Docket No. 020263-EI, In Re: Petition to Determine Need for an Electrical Power Plant in Manatee County by Florida Power & Light Company.

> incremental cost of additional equity to compensate for purchased power contracts has not been addressed.[6]

Since this 1999 Order was issued, the equity adjustment has been applied in the calculation of capacity payments (reduced the capacity payments) in each subsequent petition for approval of a Standard Offer Contract filed by FPL. The "unique circumstances" present in the 1999 Stipulation approved in Order No. PSC-99-0519-AS-EI[7] referred to above are still in place in the instant case. Namely, the "unique circumstances" refer to a finding that FPL's cost of capital approved in the Stipulation already included recognition of the additional cost associated with PPAs. The 2005 stipulation continued similar terms as the 2002 and 1999 stipulations.[8]

Although not directly related to the recognition of an equity adjustment, neither FPL nor PEF have entered into any new Standard Offer Contracts since this adjustment was initiated. For the reasons set forth below, staff believes the Commission should deny the inclusion of an equity adjustment in Standard Offer Contracts as proposed by FPL and PEF.

FPL currently buys 158 megawatts (MWs) of renewable energy on a firm basis and an additional 146 MWs on a non-firm basis. For purposes of comparison, FPL has approximately 21,000 MWs of utility-owned generation and approximately 3,000 MWs of purchased power. According to its Ten Year Site Plan, FPL anticipates adding approximately 6,800 MWs of new generation over the next 10 years. Over this same period, FPL forecasts a net reduction of approximately 1,5 00 MWs of purchased power. It is not anticipated that FPL will sign anywhere near this level of new renewable energy Standard Offer Contracts over this period.

Although on a smaller scale, PEF is in a similar situation with respect to the forecasted shift in the relative balance between utility-owned and purchased generation capacity. PEF currently has approximately 8,700 MWs of utility-owned generation and approximately 2,500 MWs of purchased power. According to its Ten Year Site Plan, PEF forecasts the addition of approximately 3,800 MWs of new utility-owned generation capacity and a net reduction of approximately 525 MWs of purchased power.

According to its December 2006 Earnings Surveillance Report, FPL had an equity ratio of 60.5% on a 13-month average basis and 61.7% on a year-end basis. Either way it is expressed, FPL's ratepayers are supporting one of the highest equity ratios in the industry. PEF had an equity ratio of 66.7% on both a 13-month average and year-end basis according to its December 31, 2006 Earnings Surveillance Report. The combination of relatively high equity

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[6] Order PSC-99-1713-TRF-EG, issued September 2, 1999, in Docket No. 990249-EG, In Re: Petition by Florida Power & Light Company for Approval of a Standard Offer Contract and Revised COG-2 Tariff.

[7] Order PSC-99-0519-AS-EI, issued March 17, 1999, in Docket No. 990067-EI, In Re: Petition by Citizens of the State of Florida for a Full Revenue Requirement Rate Case for Florida Power & Light Company.

[8] Order PSC-05-0902-S-EI, issued September 14, 2005, in Docket No. 050045-EI, In Re: Petition for Rate Increase by Florida Power & Light Company. Order PSC-02-0501-AS-EI, issued April 11, 2002, in Docket No. 001148-EI, In Re: Review of the Retail Rates of Florida Power & Light Company and Docket No. 020001-EI, In Re: Fuel and Purchased Power Cost Recovery Clause with Generating Performance Incentive Factor.

ratios, the addition of new utility-owned generation capacity, and the expiration of existing purchased power agreements puts both FPL and PEF in a strong position to balance the incremental addition of renewable contracts without the specific recognition of an equity adjustment.

Staff believes FPL and PEF have exaggerated the relative risk each faces with respect to power purchases made through Standard Offer Contracts for renewable energy. S&P's debt equivalent analysis is one aspect of the rating agency's much broader consolidated rating methodology. S&P evaluates the impact off-balance sheet obligations have on a utility's financial position on a consolidated basis, not on the incremental basis that FPL and PEF are proposing the Commission recognize in this proceeding.

Finally, the Legislature has encouraged this Commission and the companies under its jurisdiction to promote the use of renewable energy generation.[9] The inclusion of an equity adjustment in the calculation of capacity payments to Qualified Sellers as proposed by FPL and PEF will discourage, not encourage the development of additional renewable energy generation.

As both FPL and PEF continue to add new generation capacity and existing PPAs end, the relative balance of this latter type of obligation as a percentage of the companies' respective capacity portfolios will decrease. Considering this trend and the fact that FPL's and PEF's ratepayers support two of the highest equity ratios in the industry, staff believes FPL and PEF have failed to demonstrate that an equity adjustment is warranted at this time. Combined with the expressed desire of the Legislature to promote renewable energy generation, staff recommends the Commission deny FPL's and PEF's request to include an equity adjustment in the calculation of capacity payments in their respective Standard Offer Contracts.

Conclusion

In conclusion, staff believes that Gulf's and TECO's proposed Standard Offer Contracts are in compliance with Rules 25-17.200 through 25-17.310, F.A.C., and therefore should be approved. Staff recommends the Commission deny FPL's and PEF's proposed Standard Offer Contracts because the utilities have not justified the inclusion of an equity adjustment in the calculation of capacity payments.

[9] Sections 366.91 and 366.92, F.S.

Issue 2: Should these dockets be closed?

Recommendation: If the Commission approves staff's recommendation to approve the proposed Standard Offer Contracts and tariffs filed by Gulf and TECO, and no person whose substantial interests are affected requests a hearing to address these matters, then Docket Nos. 070232-EQ and 070236-EQ should be closed, and the Standard Offer Contracts and tariffs filed by Gulf and TECO should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that Gulf's and TECO's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.

If the Commission approves staff's recommendation to deny the proposed Standard Offer Contracts and tariffs filed by FPL and PEF, Docket Nos. 070234-EQ and 070235-EQ should be closed. If a person whose substantial interests are affected requests a hearing to address the denial of the tariffs within 21 days of the issuance of the Commission's order, Docket Nos. 070234-EQ and 070235-EQ should remain open pending resolution of the protest. (Holley)

Staff Analysis: If the Commission approves staff's recommendation to approve the proposed Standard Offer Contracts and tariffs filed by Gulf and TECO, and no person whose substantial interests are affected requests a hearing to address these matters, then Docket Nos. 070232-EQ and 070236-EQ should be closed, and the Standard Offer Contracts and tariffs filed by Gulf and TECO should be effective as of the date of the Commission's vote. If a protest is filed within 21 days of the issuance of the Commission's order, the tariffs should remain in effect pending resolution of the protest. Potential signatories to the standard offer contract should be aware that Gulf's and TECO's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.

If the Commission approves staff's recommendation to deny the proposed Standard Offer Contracts and tariffs filed by FPL and PEF, Docket Nos. 070234-EQ and 070235-EQ should be closed. If a person whose substantial interests are affected requests a hearing to address the denial of the tariffs within 21 days of the issuance of the Commission's order, Docket Nos. 070234-EQ and 070235-EQ should remain open pending resolution of the protest. Staff notes that pursuant to Section 366.91(3), F.S., each public utility must continuously offer a purchase contract to producers of renewable energy.