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Subject: Tampa's Intervention in Docket Nos. 070232-EQ; 070234-EQ; 070235-EQ; 070236EQ
Attachments: 080907TampaPetitionForLeaveToInterveneFINAL.doc

ORIGINAL**1. Attorney responsible for this electronic filing:**

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2. Docket numbers and titles in which filing is submitted:

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

DOCKET NO. 070234-EQ -- In re: Petition for approval of renewable energy tariff standard offer contract, by Florida Power & Light Company

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

DOCKET NO. 070236-EQ -- In re: Petition for approval of standard offer contract for small qualifying facilities and producers of renewable energy, by Tampa Electric Company

3. Party on whose behalf this filing is submitted:

The City of Tampa, Florida

4. Total number of pages in filing:

7 pages

5. Document attached:

Petition for Leave to Intervene of The City of Tampa, Florida

Rich Zambo

Richard A. Zambo, P.A.
 Attorneys and Counsellors

8/9/2007

DOCUMENT NUMBER-DATE
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 FPSC-COMMISSION CLERK

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ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of new standard offer for purchase of firm capacity and energy from renewable energy facilities or small qualifying facilities and approval of tariff schedule REF-1, by Gulf Power Company.

DOCKET NO. 070232-EQ

In re: Petition for approval of renewable energy tariff standard offer contract, by Florida Power & Light Company.

DOCKET NO. 070234-EQ

In re: Petition for approval of standard offer contract for purchase of firm capacity and energy from renewable energy producer or qualifying facility less than 100 kW tariff, by Progress Energy Florida, Inc.

DOCKET NO. 070235-EQ

In re: Petition for approval of standard offer contract for small qualifying facilities and producers of renewable energy, by Tampa Electric Company.

DOCKET NO. 070236-EQ

Filed August 9, 2007

**Petition for Leave to Intervene
of
The City of Tampa, Florida**

Pursuant to Rule 25-22.039, F.A.C., the City of Tampa, Florida ("City" or "Petitioner"), by and through its undersigned attorney, hereby files this Petition for leave to Intervene as a full party in interest in the captioned proceedings. In support of thereof, Petitioner states as follows:

1. The name, address, and telephone number of the Petitioner are as follows:

City of Tampa, Florida
Department of Solid Waste
4010 West Spruce Street
Tampa, FL 33607
Attn: David W. McCary, Director
Phone (813) 348-1111
Fax (813) 348-1156
Email David.McCary@tampagov.net

DOCUMENT NUMBER DATE

07000 AUG-9 5

FPSC-COMMISSION CLERK

2. Copies of all correspondence, pleadings, and other documents should be provided to:

Richard A. Zambo
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3. The City owns a municipal solid waste facility known as the McKay Bay Facility which generates electricity and is a Renewable Energy Facility pursuant to Commission rules and Florida Statutes. It is also a Qualifying Facility pursuant to Federal Law. The City purchases its substantial electric energy needs from its native utility - Tampa Electric Company.

4. McKay Bay processes and disposes of approximately 320,000 tons of municipal solid waste annually via combustion/incineration. McKay Bay is of the "mass burn" type, where, after separating out large non-combustibles, and certain recyclables, the bulk of the municipal solid waste is combusted "as-is" in an incinerator, and the heat recovered as steam to generate electricity in a steam turbine-generator.

Statement of Substantial Interests

5. For the reasons listed above and below, but not limited to those reasons, the substantial interests of the City will be directly affected by the Commission's decision in this proceeding and are the type of interests that this proceeding is designed to protect. *See, e.g., Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981).

- (i) Heat produced in the incineration process at McKay Bay is recovered to produce steam for use in a 22 mW steam turbine-generator. The City's sells renewable energy/electricity pursuant to two contracts for firm energy and capacity totaling 19.5 mW of committed capacity. Those contracts expire in 2011, thereby

allowing the City to sell capacity and/or energy beginning in 2011 pursuant to the Standard Offer Contracts that are the subject of these proceedings.

- (ii) In addition to the existing facility, there is the possibility that the City's electric generating capacity may be expanded, or that the City would construct one or more additional facilities.
- (iii) Moreover, in addition to generating and selling electricity produced by McKay Bay, the City consumes substantial quantities of electricity purchased from Tampa Electric Company.

Disputed Issues Of Fact

6. Without waiving or relinquishing the right to allege additional disputed issues of fact at a later date, the City's allegations of disputed issues of fact include the following:
- (i) Whether the renewable energy contracts (and/or tariffs) which are the subject of these proceedings will appropriately promote the development of renewable energy resources in the State as required by Florida law.
 - (ii) Whether the payments, contract terms and conditions established by, and the policies reflected in, said renewable energy contracts (and/or tariffs) are specifically designed to promote renewable energy resources in the State as required by Florida law.
 - (iii) Whether the calculation of avoided capacity payments, avoided energy payments, and as-available energy payments and costs that are reflected in the renewable energy contracts (and/or tariffs) are accurate and appropriate and based on correct and permissible assumptions.

- (iv) The payments, calculations, terms and conditions established by said renewable energy contracts (and/or tariffs) raise additional disputed issues of material fact that can only be resolved by a formal hearing.

Disputed Issues of Law

- 7. Without waiving or relinquishing the right to allege additional disputed issues of law at a later date, the City's allegations of disputed issues of law include the following:
 - (i) Whether the renewable energy contracts (and/or tariffs) which are the subject of these proceedings are in compliance with the requirements and intent of the Legislature.
 - (ii) Whether the calculations of avoided capacity payments, avoided energy payments, and as-available energy payments and costs that are reflected in the renewable energy contracts (and/or tariffs) are accurate and appropriate and based on correct and permissible assumptions.
 - (iii) The payments, calculation, terms and conditions established by said renewable energy contracts (and/or tariffs) raise additional disputed issues of law.

Statement Of Ultimate Facts

- 8. Without waiving or relinquishing the right to allege additional ultimate facts at a later date, the City's allegations of ultimate facts include the following:
 - (i) that matters within the scope of this proceeding will affect the cost, availability, reliability and security of electricity supplies;
 - (ii) that matters within the scope of this proceeding will determine to what extent renewable energy resources will be promoted;

- (iii) that the renewable energy contracts (and/or tariffs) which are the subject of these proceedings are not specifically designed to promote renewable energy resources and fail to appropriately promote such resources;
- (iv) that avoided capacity payments, avoided energy payments, and as-available energy payments and costs that are reflected in the renewable energy contracts (and/or tariffs) are based on inaccurate calculations and incorrect assumptions that understate avoided costs and resulting payments to renewable energy facilities;
- (v) that the renewable energy contracts (and/or tariffs) which are the subject of these proceedings do not comply with the requirements, intent and policies articulated by the Florida Legislature.

Applicable Statutes and Rules:

9. Applicable statutes and rules in this proceeding include, but are not limited to: Chapter 366.91, Florida Statutes; Chapter 25-17, F.A.C.; Rule 25-22.039, F.A.C.; Rule 28-106.201(2), F.A.C.; Rule 28-106.205, F.A.C and Rules 25-17.200 through 25-17.310, Florida Administrative Code, by which the Commission has implemented the requirements of Section 366.91.

Agency Affected:

10. The affected agency is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

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WHEREFORE, the City respectfully requests that the Commission enter an Order granting this Petition for Leave to Intervene as a full party in interest to each of the captioned proceedings.

RESPECTFULLY submitted on August 9, 2007.

/s/ **Richard A. Zambo**

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically or by U.S. mail this 9th day of August, 2007, to the following:

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/s/ Richard A. Zambo

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