

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. 090163-EQ
ORDER NO. PSC-09-0543-TRF-EQ
ISSUED: August 5, 2009

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

ORDER APPROVING STANDARD OFFER CONTRACT
AND RELATED TARIFF FILED BY GULF POWER COMPANY

BY THE COMMISSION:

Background

Since January 1, 2006, each investor-owned electric utility (IOU), as well as each electric municipal utility subject to the Florida Energy Efficiency and Conservation Act (FEECA),¹ has been required to continuously offer to purchase capacity and energy from specific types of renewable sources. Section 366.91(3), Florida Statutes (F.S.), specifies that the contracts for purchase must be based on the utility's full avoided cost as defined in Section 366.051, F.S., and provide a term of at least ten years. Rules 25-17.200 through 25-17.310, Florida Administrative Code (F.A.C.), implement the statutes.

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

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

We have jurisdiction over this matter pursuant to Sections 366.04 through 366.06, 366.91, and 366.92, F.S.

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

DOCUMENT NUMBER-DATE

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Decision

Because the Company is an IOU, Rule 25-17.250(1), F.A.C., requires Gulf to continuously make available a standard offer contract for purchase of firm capacity and energy from renewable generating facilities and small qualifying facilities with a design capacity of 100 kilowatts (kW) or less. Gulf has identified a single fossil-fueled generating technology in its 2009 Ten Year Site Plan as the unit available to be avoided. The unit is an unsited 840 MW natural gas-fired combined cycle plant with a projected in-service date of June 2014.

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

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

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

The provisions of the 2009 standard offer contract submitted by Gulf conform to all requirements of Rules 25-17.200 through 25-17.310, F.A.C. The contract provides flexibility in the arrangements for payment so that a developer of renewable generation may select the payment stream best suited to its financial needs. At the same time, removal of the right of first refusal reflects current market conditions and does not place a burden upon renewable energy providers. In conclusion, we find that Gulf's proposed standard offer contract is in compliance with Rules 25-17.200 through 25-17.310, F.A.C., and shall therefore be approved.

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

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

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Gulf Power Company's proposed standard offer contract and related tariffs are approved effective July 14, 2009. It is further

ORDERED that if no person whose substantial interests are affected requests a hearing to address this matter, then this docket shall be closed. If a protest is filed within 21 days of the issuance of this order, the tariffs shall remain in effect pending resolution of the protest. Potential signatories to the standard offer contract are advised to be aware that Gulf Power Company's tariffs and standard offer contracts may be subject to a request for hearing, and if a hearing is held, may subsequently be revised.

By ORDER of the Florida Public Service Commission this 5th day of August, 2009.



ANN COLE
Commission Clerk

(S E A L)

JEH

NOTICE OF FURTHER PROCEEDINGS

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the proposed action files a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 26, 2009.

In the absence of such a petition, this Order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.