

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of solar energy
power purchase agreement between Tampa
Electric Company and Energy 5.0, LLC.

DOCKET NO. 090109-EI
ORDER NO. PSC-10-0284-PCO-EI
ISSUED: May 7, 2010

THIRD ORDER REVISING ORDER ESTABLISHING PROCEDURE

By Order No. PSC-10-0133-PCO-EI, issued March 5, 2010, a procedural schedule was established setting forth the controlling dates for this docket. By Order Nos. PSC-10-0225-PCO-EI, issued April 7, 2010, and PSC-10-0272-PCO-EI, issued April 30, 2010, the parties were given additional time to file testimony and exhibits. On May 5, 2010, subsequent to the issuance of the most recent revised procedural order, Tampa Electric Company (TECO) and Energy 5.0, LLC (Energy 5.0) jointly filed an unopposed motion requesting an additional extension of time in which to file their testimony and exhibits, and the shortening of the discovery response time. The motion was granted and the testimony filing dates and discovery response times were modified by Order No. PSC-10-0283-PCO-EI, issued May 6, 2010.

Upon consideration of all the recent motions for changing controlling dates and after a review the remaining controlling dates and procedures for this proceeding, the discovery deadline date shall be extended to June 23, 2010.

Because of all the recent changes to the controlling dates and discovery procedures in the proceeding in the last few week, a synopsis of the revised dates, procedures, and tentative issues are noted below.

Controlling Dates

- | | |
|---------------------------------------------|---------------|
| (1) Utility's testimony and exhibits | May 7, 2010 |
| (2) Intervenors' testimony and exhibits | May 21, 2010 |
| (3) Staff's testimony and exhibits, if any | May 26, 2010 |
| (4) Rebuttal testimony and exhibits, if any | May 26, 2010 |
| (5) Discovery deadline | June 23, 2010 |

Discovery Procedures

The discovery response time has been shortened and all parties shall serve discovery responses within ten (10) calendar days of receipt of the discovery request. The requirement that all parties electronically submit all responses to interrogatory requests and requests for production has not been changed or modified.

DOCUMENT NUMBER-DATE

03821 MAY-7 2010

FPSC-COMMISSION CLERK

Tentative List of Issues

The list of tentative issues, last revised April 13, 2010, is attached hereto. The final list of issues will be determined at the Prehearing Conference which is scheduled for June 16, 2010.

Conclusion

This change in the discovery deadline date, along with all the changes to the controlling dates and discovery procedures, will allow adequate time for Commission staff and the parties to review testimony and exhibits being filed in this proceeding. All other procedures and dates established in Order No. PSC-10-0133-PCO-EI shall remain the same.

This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code (F.A.C.), which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

Based upon the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that the provisions of PSC-10-0133-PCO-EI, issued March 5, 2010, are amended as set forth in the body of this order. It is further

ORDERED that Order No. PSC-10-0133-PCO-EI is reaffirmed in all other respects.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 7th day of May, 2010.



NATHAN A. SKOP
Commissioner and Prehearing Officer

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

Docket No. 090109-EI – Draft List of Tentative Issues
(April 13, 2010)

Legal Issues

- Issue 1:** Is the Commission authorized to approve, for cost recovery, renewable energy payments made by TECO to Energy 5.0 that exceed TECO's full avoided cost?
- Issue 2:** In selecting a responder to its 2007 renewable energy RFP, was TECO legally obligated to select the most cost-effective proposal among all the technologies offered?
- Issue 3:** Did TECO have the discretion to opt for the most cost-effective proposal from among those responders submitting solar renewable energy proposals?
- Issue 4:** Is the Commission authorized to allow TECO to recover from its retail ratepayers, costs incurred by TECO associated with improvements to its transmission system to accommodate the interconnection with Energy 5.0?

Factual Issues

- Issue 5:** How should any costs of transmission upgrades, separate from interconnection costs, incurred by TECO in connection with its negotiated agreement with Energy 5.0 be treated, if at all, for ratemaking purposes?
- Issue 6:** Was TECO's RFP that resulted in the negotiated agreement between TECO and Energy 5.0 conducted in a fair and reasonable fashion?
- Issue 7:** Did TECO's RFP that culminated in the negotiated agreement between TECO and Energy 5.0 result in the most cost-effective renewable resource being selected?
- Issue 8:** Does the payment pursuant to the negotiated contract between TECO and Energy 5.0 exceed the levelized cost of electricity (LCOE) for this project?
- Issue 9:** If cost recovery for the negotiated contract between TECO and Energy 5.0 is approved, would TECO's ratepayers be required to pay more, over the life of the project, for renewable energy from the Energy 5.0 project than other comparable current solar PV projects?
- Issue 10:** If the Commission has authority to approve cost recovery for payments that are above a utility's full avoided cost for renewable energy projects, is Levelized Cost of Electricity (LCOE) an appropriate metric to evaluate this negotiated agreement?

Issue 11: Should the Commission approve the requested recovery for costs incurred under the negotiated agreement between TECO and Energy 5.0 that do not exceed TECO's avoided cost through the fuel and purchased power cost recovery clause?

Issue 12: Should the Commission approve cost recovery for any payments, above avoided cost, incurred under the negotiated agreement between TECO and Energy 5.0 for the purchase of environmental attributes and renewable energy credits through the fuel and purchased power cost recovery clause?

Issue 13: Should the Commission approve the requested recovery for costs incurred under the negotiated agreement between TECO and Energy 5.0 through the fuel and purchased power cost recovery clause?