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State of Florida

Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 17, 2010

TO: Office of Commission Clerk (Cole)

FROM: Division of Regulatory Analysis (Garl, Gilbert)
Office of the General Counsel (Williams)

RE: Docket No. 090499-EQ – Petition for approval of letter agreement to negotiated purchase power contract with Pinellas County Resource Recovery by Progress Energy Florida, Inc.

AGENDA: 06/29/10 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Argenziano

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\RAD\WP\090499.RCM.DOC

Case Background

Progress Energy Florida, Inc. (PEF) currently purchases firm capacity and energy from the Pinellas County Resource Recovery (PCRR) facility under a Purchased Power Agreement (PPA) approved by the Commission in 1989.[1] The contract requires a committed capacity of

[1] See Order No. 21952, issued September 27, 1989, in Docket No. 890637-EQ, In re: Petition for approval of contracts between Florida Power Corporation and Pinellas County.

54.75 megawatts (MW) for a term that expires at the end of 2024. Since original approval, the parties have negotiated agreement modifications in 1993, 1994, 1997, 2000, and 2005.[2]

PEF and Pinellas County signed a letter agreement, dated August 18, 2009, to reduce PCRR's committed capacity from 54.75 MW to 36.5 MW during the period September 15, 2009, through April 30, 2010. The modification was to allow PCRR to make significant capital improvements to the generating facility. Beginning September 15, 2009, PEF began making monthly capacity payments to PCRR under the modified agreement.

On November 2, 2009, PEF filed a petition with the Commission requesting approval of the letter agreement between PEF and Pinellas County. On December 3, 2009, PEF advised staff that PCRR would terminate the curtailment on December 16, 2009. Therefore, the committed capacity of 54.75 MW and all other provisions of the PPA were restored prior to the filing of this recommendation. PEF continued making capacity payments according to the modified agreement for the months of October through mid-December. As in September, the December capacity payment was split between provisions of the modified agreement and the original agreement.

Staff filed its original recommendation on March 4, 2010, to deny PEF's request. Shortly thereafter, PEF requested that the item be deferred from the scheduled Agenda Conference, followed by another deferral request from Pinellas County. On April 26, 2010, PEF filed a letter from Pinellas County with additional information suggesting that the County had planned to install portable generators to maintain the performance provisions of the original agreement. Staff sent two additional data requests and held a noticed meeting with the parties to obtain an accurate picture of what transpired prior to the signing of the letter agreement. The additional information obtained prompted this revised recommendation.

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

[2] See Order No. PSC-05-0423-PAA-EQ, issued April 20, 2005, in Docket No. 041405-EQ, In re: Petition of Progress Energy Florida, Inc. for approval of amendment to existing cogeneration contract with Pinellas County.

Discussion of Issues

Issue 1: Should the Commission approve PEF's petition to modify its current purchased power agreement with the Pinellas County Resource Recovery (PCRR) facility?

Recommendation: Yes. The proposed change to the purchased power agreement did not impact PEF's system reliability and saved PEF customers over $2.6 million. (Garl, Gilbert)

Staff Analysis: PEF filed a petition on November 2, 2009, requesting Commission approval of a letter of agreement with Pinellas County to modify the existing purchased power agreement (PPA) between the two parties. The letter specified that PCRR's committed capacity would be reduced from 54.75 MW to 36.5 MW for the period September 15, 2009, through April 30, 2010. The curtailment was for PCRR to replace three boiler unit trains and other components that will improve reliability and efficiency of the facility. The letter of agreement also specified that it "shall be contingent upon the parties receiving a final order from the Florida Public Service Commission approving this agreement."

PEF reported in a December 3, 2009, response to a staff data request that PEF did not intend to replace the curtailed capacity from another source, because PEF could maintain its reserve margin above the required 20 percent without the PCRR output. In the same data request response, PEF advised that the PCRR facility would terminate the curtailment on December 16, 2009, rather than in April 2010. Therefore, the Committed Capacity of 54.75 MW and all other provisions of the PPA were restored prior to the filing of this recommendation. Since the curtailment occurred during the months of September through mid-December, the reduced capacity did not impact PEF's peak capacity requirement.

A common thread among Purchased Power Agreements is the inclusion of performance measures designed to protect ratepayers and to provide the cogenerator an incentive to produce power at an agreed level. It is also very common among PPAs that two or more tiers of performance are specified, as in the PEF-PCRR agreement, with payments stepped lower for lower threshold levels of power produced, until reduced to a zero payment threshold.

Staff's review of the original PPA revealed that capacity payments are calculated by multiplying the facility's committed capacity by a rate that varies with the achieved capacity factor. The capacity factor is determined using a 12-month rolling average for both the total and on-peak capacity factors. The agreement specifies a first tier reduction in the capacity payment rate when the average total capacity factor falls below 70 percent but the average on-peak capacity factor remains above 70 percent. The second payment reduction tier occurs when the average on-peak capacity factor falls below 70 but remains at 60 percent or greater. No capacity payment is due if the average on-peak capacity factor falls below 60 percent. The following table illustrates the payment tiers:

Capacity Factor Rate Criteria	Monthly Rates for 2009 ($/kW of Committed Capacity)
Total and Peak > 70%	$47.40
Total < 70%, On-Peak > 70%	$19.96
Total < 70%, On-Peak > 60%	$15.99
Total < 70%, On-Peak < 60%	$0.00

Through five data requests and one noticed meeting with PEF and PCRR personnel, staff came to understand that in September 2008, Pinellas had forecasted a period of reduced output during the fall of 2009 through the spring of 2010 to accomplish required maintenance of the PCRR generation facility. Between September 2008 and the summer of 2009, PCRR realized its capacity factor would fall below 70 percent due to reduced output during the planned improvements to its generation system. This would result in a large revenue reduction for PCRR during the maintenance period. PCRR, therefore, explored the rental of four portable generators that would be connected to the system to produce enough power to maintain the capacity factor above 70 percent. Such an arrangement had been accomplished successfully for five days in March 2009, but on a smaller scale. PCRR's research showed that the generators could have been rented, connected, and operated for approximately $834,200 per month, plus $284,570 in one-time costs, while work was performed on the PCRR generation system.

PCRR first discussed its plan to rent portable generators with PEF on July 29, 2009. In that discussion, the PEF representative suggested considering a reduced capacity commitment over a short period of time. PCRR suggested a reduction of 18.25 MW for 8 months, which was formalized in a letter to PEF on August 11, 2009. PEF sent a letter dated August 18, 2009, to the Director of the Pinellas County Utilities Solid Waste Operation containing the modifications to the existing Purchased Power Agreement. The Pinellas Board of County Commissioners approved the letter of understanding on September 8, 2009, reducing the PCRR capacity commitment from 54.75 MW to 36.5 MW.

Information provided in response to the final data request showed that the portable generators could have been ready to operate on August 16, 2009. However, as the proposal to reduce the capacity commitment began to solidify, PCRR abandoned the portable generator option. The reduction in the capacity commitment and resulting payment of about $865,050 per month was very close to the monthly cost of the portable generator plan. In addition, choosing the option to reduce the capacity commitment involved a good deal less risk than locating, setting up, and operating four portable generators.

As staff began evaluating PEF's petition to modify the PPA by reducing the PCRR's capacity commitment, the original question was why PEF would not hold PCRR to the terms of the original PPA. The lower capacity factors the PCRR would have achieved would significantly reduce monthly capacity payments and offer significant savings for PEF customers via the cost recovery process. It was not until the fourth and fifth staff data requests and the meeting between staff and PEF that the portable generator plan surfaced and was clarified. Staff became convinced that had the PEF proposal to reduce committed capacity not been an option, Pinellas County was prepared to maintain its 70 percent capacity factor using the portable generators, and PEF customers would have paid the full contract price.

Since the output curtailment period was shortened to mid-December 2009, actual rather than estimated data is available for staff to evaluate three scenarios represented in the charts below. The first two charts below demonstrate the revenue reduction the county was facing if it did nothing. The reduced output during the maintenance period would have cost PCRR $6.9 million ($10,380,600 - $3,501,810). The estimated cost of the generator rental over this same time period would be approximately $2.8 million ($834,200 x 3 + $284,570). Therefore, it is reasonable to assume that the portable generators were a viable option for the county.

Original Agreement without Supplemental Generation

(1) 2009 Month	(2) Total Capacity Factor (%)	(3) On-Peak Capacity Factor (%)	(4) Rate $/kW/Mo.	(5) Committed Capacity (MW)	(6) Capacity Payment (4)x(5)x1000	(7) Cumulative Total
Sep	69.31%	68.67%	$15.99	54.75	$875,453	$875,453
Oct	68.35%	67.74%	$15.99	54.75	$875,453	$1,750,905
Nov	69.02%	68.47%	$15.99	54.75	$875,453	$2,626,358
Dec	69.53%	68.97%	$15.99	54.75	$875,453	**$3,501,810**

Original Agreement with Supplemental Generation

Sep	70.68%	70.15%	$47.40	54.75	$2,595,150	$2,595,150
Oct	70.75%	70.26%	$47.40	54.75	$2,595,150	$5,190,300
Nov	73.60%	73.06%	$47.40	54.75	$2,595,150	$7,785,450
Dec	71.68%	71.16%	$47.40	54.75	$2,595,150	**$10,380,600**

Once PEF proposed the modified agreement, PCRR was quick to accept. As shown below, PCRR's monthly revenue would decrease approximately $2.6 million ($10,380,600 - $7,770,567) with much less risk and effort than operating portable generators at a cost of $2.8 million for the same period of time.

Original Agreement with Supplemental Generation

(1) 2009 Month	(2) Total Capacity Factor (%)	(3) On-Peak Capacity Factor (%)	(4) Rate $/kW/Mo.	(5) Committed Capacity (MW)	(6) Capacity Payment (4)x(5)x1000	(7) Cumulative Total
Sep	70.68%	70.15%	$47.40	54.75	$2,595,150	$2,595,150
Oct	70.75%	70.26%	$47.40	54.75	$2,595,150	$5,190,300
Nov	73.60%	73.06%	$47.40	54.75	$2,595,150	$7,785,450
Dec	71.68%	71.16%	$47.40	54.75	$2,595,150	**$10,380,600**

Modified Agreement

Sep	70.68%	70.15%	$47.40	45.02*	$2,133,790	$2,133,790
Oct	70.75%	70.26%	$47.40	36.50	$1,730,100	$3,863,890
Nov	73.60%	73.06%	$47.40	36.50	$1,730,100	$5,593,990
Dec	75.20%	74.56%	$47.40	45.92*	$2,176,577	**$7,770,567**

*Approximately ½ month at 54.75 MW and ½ month at 36.50 MW

Conclusion

The modified agreement reduced committed capacity from 54.75 MW to 36.5 MW. Since the curtailment occurred during the shoulder months of September through mid-December, the reduced capacity did not impact PEF's peak capacity requirement. The resulting capacity payments during the curtailment period were reduced by $2.6 million over what would have been paid under the original agreement with PCRR using supplemental generation. Staff, therefore, recommends approval of the modified agreement.

Issue 2: Should this docket be closed?

Recommendation: Yes. 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. (Williams)

Staff Analysis: 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.