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: January 23, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (King)
Office of the General Counsel (Young)

RE: Docket No. 130286-EI – Petition for approval of new commercial/industrial service rider by Florida Power & Light Company.

AGENDA: 02/04/14 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 02/05/14 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

Case Background

On December 6, 2013, Florida Power & Light Company (FPL) filed a petition for approval of a new Commercial/Industrial Service Rider (CISR). The proposed CISR allows FPL the flexibility to negotiate pricing arrangements, within the parameters specified in the tariff, with customers who are at risk of leaving FPL's territory for more competitive options outside of Florida, or who may require competitive incentives to bring new load into Florida.

The Commission has approved essentially the same CISR tariff as proposed by FPL for Gulf Power Company (Gulf), Tampa Electric Company (TECO), and Duke Energy Florida.[1]

[1] Gulf's CISR tariff was approved as a pilot in 1996 and made permanent in 2001. Order No. PSC-96-1219-FOF-EI, issued September 24, 1996, in Docket No. 960789-EI, In re: Petition for authority to implement proposed commercial/industrial service rider on pilot/experimental basis by Gulf Power Company and Order No. PSC-01-0390-TRF-EI, issued February 15, 2001, in Docket No. 001217-EI, In Re: Petition for authority to modify Commercial/Industrial Service Rider Pilot Study by Gulf Power Company. TECO's CISR tariff was approved as a

The Commission has jurisdiction over this matter pursuant to Sections 366.04 and 366.06, Florida Statutes (F.S.).

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pilot in 1998. TECO did not seek to make its tariff permanent after the 48-month pilot expired; however, the Stipulation and Settlement filed by TECO and other parties in Docket No. 130040-EI includes a new CISR. Order No. PSC-13-0443-FOF-EI, issued September 30, 2013, in Docket No. 130040-EI, In re: Petition for rate increase by Tampa Electric Company. Florida Power Corporation's (now Duke Energy Florida, Inc.) tariff was approved as a pilot in 2001 and made permanent in 2005. Order No. PSC-01-1789-TRF-EI, issued September 4, 2001, in Docket No. 010879-EI, In re: Petition for approval of a new pilot Commercial/Industrial Service Rider to replace existing Economic Development Rider by Florida Power Corporation and Order No. PSC-05-0945-S-EI, issued September 28, 2005, in Docket No. 050078-EI, In re: Petition for rate increase by Progress Energy Florida, Inc.

Discussion of Issues

Issue 1: Should the Commission approve FPL's proposed Commercial/Industrial Service Rider tariff?

Recommendation: Yes. The proposed tariff should be approved with an effective date of February 4, 2014. (King)

Staff Analysis: FPL currently has in place Economic Development Riders which provide specific discounts to the base demand and energy charges. The proposed CISR tariff would give FPL the flexibility to negotiate potentially greater discounts on the base energy and/or base demand charges with large commercial/industrial customers who can affirmatively demonstrate that they have viable lower cost alternatives to receiving their electric service from FPL. The CISR is available to both new and existing customers with loads of 2 megawatts (MW) or greater. An example of such customers could include a large data center. The CISR will be limited to 50 Contract Service Arrangements (CSAs) or a total of 300 MW of load (whichever limit is reached first). FPL believes these limitations will ensure that the CISR is targeted to the size of customer that has the ability and motivation to base its location decisions in substantial measure on electricity costs, and also avoid the potential for the CISR to become oversubscribed. FPL will not use the CISR to attract existing load currently served by another Florida electric utility to its service territory.

Customers must make a written request for service under the CISR and provide certain documentation. First, the customer must provide a legal attestation or affidavit stating that, but for the application of the CISR rate, the new or retained load would not be served by FPL. Second, the customer must provide documentation to show that there is a viable lower cost alternative to taking service from FPL. Third, existing customers must provide FPL with the results of a recent energy audit of the customer's physical facility identifying cost-saving energy improvements which could be made to reduce the customer's cost of energy. The requirements are intended to provide sufficient information for FPL to determine whether there is a basis and need for pricing negotiation under the CISR.

For customers meeting the eligibility criteria, FPL seeks approval to negotiate the rate, the term of the contract, and other conditions. The negotiated discount only applies to base energy and/or base demand charges. The rate must cover the incremental cost to serve the CISR load plus a contribution to fixed costs. In addition, all clause-related costs, including fuel, will be recovered from the CISR customer. The CISR customer will also pay the otherwise applicable customer charge plus an additional $250 monthly customer charge to cover incremental CISR customer-related administrative costs. To avoid undue discrimination, FPL will maintain documentation to demonstrate that, in the event two similarly situated customers in the same industry request service under the CISR, there is no undue discrimination between the rates, terms, and conditions offered to the two customers.

If the rate, terms, and other conditions are agreed upon, the customer will be required to execute a CSA. The proposed tariff does not require that the Commission approve each CSA;

however, FPL will include, in its monthly Earnings Surveillance Reports, the difference between the revenues which would have been received under the otherwise applicable tariff rate and the CISR rate.[2] FPL may request a Commission prudence review subsequent to entering into a CSA. Should the Commission find that CSA to have been prudent, then that CSA would no longer be reported on the monthly Earnings Surveillance Reports. Staff notes that nothing precludes the Commission, pursuant to Section 366.06(2), F.S., from initiating a prudence review at any time on its own motion. Examples of circumstances that may trigger a review of the CSAs by the Commission are a request by FPL for a base rate increase, and, information in the monthly Earnings Surveillance Reports indicating that the difference between the revenues that would have been produced by FPL's standard tariff rates and the revenues resulting from the CSAs would, when added to FPL's actual revenues, result in a theoretical calculation of FPL's jurisdictional return on equity that exceeds the top of the Company's authorized range. For this review by the Commission, FPL will have the burden of proof that FPL's decision to enter into a particular CSA was in the best interest of its general body of customers.

As noted above, FPL's proposed CISR tariff does not affect the adjustment clauses and does not affect base rates between rate cases; therefore, the general body of ratepayers are held harmless. The proposal may affect FPL's reported earnings and return on equity on the monthly surveillance report. However, if a customer is truly at risk, and if the CSA revenues exceed the incremental cost to serve, then the general body of ratepayers will benefit from the proposed CISR tariff by providing an incentive to keep a large-volume customer on FPL's system. In addition, the filing is similar to the Gulf, TECO, and Duke CISR tariffs previously approved by the Commission. Therefore, staff recommends approval of FPL's CISR tariff.

[2] FPL also offered to file quarterly reports that would provide information regarding executed CSAs. Staff does not believe these quarterly filings are necessary since that information would be available upon request, if/when needed. Staff believes the information to be provided in the monthly earning surveillance reports regarding executed CSAs is adequate.

Issue 2: Should this docket be closed?

Recommendation: If Issue 1 is approved, the tariff should become effective on February 4, 2014. If a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Young)

Staff Analysis: Yes. If Issue 1 is approved, the tariff should become effective on February 4, 2014. If a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.