

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

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

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**DATE:** September 22, 2014

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Economics (Ollila, Draper) *AMO EAD*  
Division of Engineering (Matthews, Mtenga) *J.W.D. M.M. F.W.*  
Office of the General Counsel (Brownless) *T.V.S.*

**RE:** Docket No. 140137-EI – Petition for approval of modifications to tariff sheet Nos. 9.100 through 9.330 and tariff sheet Nos. 9.700 through 9.709 as-available purchase tariff and interconnection agreement, by Duke Energy Florida, Inc.

**AGENDA:** 10/02/14 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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## Case Background

On June 25, 2014, Duke Energy Florida, Inc. (DEF) filed a petition for Commission approval of modifications to its as-available purchase tariff and interconnection agreement. During its evaluation of the petition, staff issued one data request to DEF. The Commission has jurisdiction in this matter pursuant to Sections 366.04 and 366.051, Florida Statutes.

### Discussion of Issues

**Issue 1:** Should the Commission approve DEF's proposed modifications to its as-available purchase tariff and interconnection agreement?

**Recommendation:** Yes. The Commission should approve DEF's proposed modifications to its as-available purchase tariff and interconnection agreement. (Ollila, Draper)

**Staff Analysis:** Rule 25-17.0825, Florida Administrative Code (F.A.C.), defines as-available energy and utilities' responsibilities with regard to purchasing as-available energy from qualifying facilities (QF). Rule 25-17.080, F.A.C., defines the criteria a small power producer or cogenerator must meet to achieve the status of a QF. As-available energy is energy produced by a QF on an hour-by-hour basis and utilities are required to purchase as-available energy from any QF. Rule 25-17.0825, F.A.C., also prescribes that as-available energy sales are pursuant to the terms and conditions of a tariff or a separately negotiated contract.

DEF's current as-available purchase tariff (tariff sheets Nos. 9.100 through 9.330) consists of the agreement for the purchase of as-available energy and/or parallel operation with a QF and three appendices to the agreement: interconnection scheduling and cost responsibility of the QF for the payment of interconnection costs (Appendix A), parallel operating procedures (Appendix B), and a rates section that describes the methodology for calculating as-available energy payments (Appendix C).

DEF's proposed modifications to its as-available purchase tariff fall into two categories. First, DEF proposed that the agreement on interconnection and parallel operating procedures (Appendices A and B as described above) be separated from the current as-available purchase agreement. DEF's new stand-alone Interconnection Agreement (new tariff sheets Nos. 9.700 through 9.709) also includes the parallel operating procedures. While the language in the new Interconnection Agreement is essentially the same as in the current tariff, DEF made technical and formatting changes to allow the Interconnection Agreement to operate as a stand-alone agreement as opposed to a portion of the as-available purchase tariff. The Interconnection Agreement is not a necessary component of the as-available purchase agreement, as QFs can either execute the Interconnection Agreement or use DEF's Open Access Tariff as approved by the Federal Energy Regulatory Commission. For example, a QF would use the Open Access Tariff if it wants to sell power to more than one utility.

Second, DEF proposed revisions to the as-available purchase tariff to add clarity to the tariff and to ensure the tariff complies with certain Commission rules contained in Chapter 25-17, F.A.C., regarding purchases from QFs. Those additional provisions in the tariff are listed below:

- The QF will need to enter into a separate Interconnection Agreement.
- In the event the QF does not maintain its status as a QF as required by Rule 25-17.080(1), F.A.C., the agreement shall be deemed null and void.

- Unless the QF is already interconnected, the QF must apply for transmission service within 60 days of the execution date of the agreement.
- A QF must provide an intended delivery date.
- A QF must comply with Minimum Load Emergency Curtailment Procedures as approved by the Commission.
- A QF retains the rights to any renewable energy credits as required by Rules 25-17.086 and 25-17.280, F.A.C.
- DEF can terminate the agreement if the QF has not begun deliveries on the intended delivery date or if the QF has not made any deliveries in two years or more.
- Payments under the agreement are subject to adjustment for no longer than two years due to errors or omissions by either party.
- Language that allows DEF and the QF to negotiate in a separate agreement an alternate rate for the purchase of as-available energy as reflected in Rule 25-17.0825(1)(b), F.A.C.

DEF asserts that these changes are consistent with Commission rules and will allow DEF to manage its contractual relationships with QFs more efficiently. Staff has reviewed DEF's proposed modifications to its as-available purchase tariff and interconnection agreement and DEF's response to staff's data request. Staff believes the proposed modifications to DEF's as-available purchase tariff and interconnection agreement are reasonable and recommends approval.

**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. (Brownless)

**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.