



Writer's E-Mail Address: bkeating@gunster.com

November 7, 2014

HAND DELIVERY

Ms. Carlotta Stauffer, Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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COMMISSION
CLERK

Re: Docket No. 140185-EQ - Petition for approval of negotiated power purchase contract with Eight Flags Energy, LLC, by Florida Public Utilities Company.

Dear Ms. Stauffer:

Enclosed for filing, please find the original and seven (7) copies of FPUC's Responses to Commission Staff's First Data Requests (redacted). Under separate cover, the Company is also submitting a Request for Confidential Classification for portion of its Responses.

As always, please do not hesitate to contact me if you have any questions whatsoever.

Sincerely,

Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301
(850) 521-1706

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Docket No. 140185-EQ, Petition of Florida Public Utilities Company for Approval of Negotiated Power Purchase Contract with Eight Flags Energy, LLC.

**FLORIDA PUBLIC UTILITIES COMPANY'S RESPONSES
TO STAFF'S FIRST DATA REQUEST**

1. Please state the date on which the Eight Flags Energy, LLC (Eight Flags) facility received QF certification from FERC. Also, please identify the portion(s) of Rule 25-17.080, F.A.C., which apply to the Eight Flags facility allowing it to be certified as a Qualifying Facility.

Company Response:

Part 1 – QF Certification

Eight Flags was certified under FERC's Self-Certification process as of the day the Company filed its Form 556 with FERC, which was September 12, 2014. Under the FERC Self-Certification process, certification is effective upon the date of filing.¹ The docket number assigned the Company's filing is QF14-768-000, and reflects a filing acceptance date by FERC of September 16, 2014.

Part 2 – Application of Rule 25-17.080, F.A.C.

With regard to Rule 25-17.080, F.A.C., ("Rule") the key portion of the Rule with which Eight Flags complies is set forth in paragraph (1), in that the Eight Flags facility meets the FERC's definitions and criteria necessary for a cogenerator to achieve "qualifying facility" ("QF") status and has, in fact, achieved QF status per FERC regulations.

Eight Flags is a "cogenerator," as opposed to a "small power producer;" thus, the provisions of paragraph (2) of the Rule are not applicable.

The Eight Flags facility specifically complies with paragraph (3)(a), in that the useful thermal energy output of the Eight Flags facility, which will be a topping cycle facility, will not be less than 5% of the facility's total energy output per year. It is projected to be 58.0% of the facility's total energy output per year.

The Eight Flags facility also complies with paragraph (3)(b), in that the useful power output, plus half the useful thermal energy output of the facility, with an energy input of natural gas, is greater than 42.5% or 45% if the useful thermal energy output is less than 15% of the total energy output of the facility. The Eight Flags facility will have a useful power output of 34.4% and a useful thermal energy output of 47.5%. Thus, the useful power output plus half the useful thermal output of the facility is 58.2%.

¹ See *Chugach Elec. Assoc., Inc.*, 121 FERC ¶ 61,287 at P. 53 (2007)(recognizing that self-certification is "effective upon filing.").

The Eight Flags facility is not a “bottoming-cycle cogeneration facility;” thus, paragraph (3)(c) does not apply.

Eight Flags does not meet the criteria set forth in paragraph (3)(d). A diversified utility and energy services company, Chesapeake Utilities Corporation holds more than a 50% equity interest in the facility. This does not, however, negate or otherwise impair Eight Flags’ status as a QF in Florida, as further discussed below.

Part 3 – QF Status and Ownership Requirement

First and foremost, paragraph (1) of the Rule clearly contemplates that a cogenerator or small power producer will only petition the Florida PSC for designation as a QF in those instances in which the petitioning entity is otherwise unable to receive designation from FERC, because it is unable to meet the FERC criteria. The Florida PSC’s rule does not contemplate that every QF, regardless of status with FERC, will file a separate application for certification by the state utility commission.² In this case, Eight Flags meets the FERC criteria and is self-certified as a QF under FERC’s rules.³ Thus, Eight Flags is a QF for purposes of the power purchase requirements arising under both federal and state law; therefore, review of Eight Flag’s qualifications as a QF under Florida rules is neither necessary nor appropriate.

The Rule also states that the Commission adopts the criteria of the FERC, which are set forth in FERC Rules 292.101 through 292.207, effective March 20, 1980. On this point, it is important to note that the Florida PSC’s Rule was last modified September 4, 1983. The FERC’s rules referenced in the Florida Rule have, however, changed since 1983, including significant changes in 2006 as a result of passage of the federal Energy Policy Act of 2005 (“EPAAct 2005”).⁴ The most notable change to the FERC’s rules, as it relates to consideration of Eight Flags’ status as a QF, is that, consistent with EPAAct 2005, the restrictions on utility ownership of QFs was eliminated.⁵ In light of these changes, paragraph (3)(d) of the Florida Rule is no longer consistent with federal law and cannot serve to bar or impair Eight Flags from operating as a QF in Florida.

In Florida, the Supreme Court has recognized that the genesis of Florida law on cogeneration and small power production is found in federal law.⁶ The Court also

² Consistent with this reading of the Rule, the Florida Legislature has not provided a definition of a “cogenerator” in Florida statutes, nor has the Legislature referenced the term “qualifying facility” in Chapter 366. Instead, the Legislature has charged the Commission with setting guidelines for ensuring that sales from cogenerators and small power producers do not exceed “avoided cost.” Section 366.051, Florida Statutes.

³ Of note here, Eight Flags met with FERC staff prior to making its Form 556 filing and was advised by FERC staff that there did not appear to be any unusual issues associated with the proposed facility that would otherwise require Eight Flags to pursue an affirmative application for certification for QF certification.

⁴ Pub. L. No. 109-58, 119 Stat. 594 (2005) - 42 USC §15801.

⁵ See EPAAct 2005, § 1253(b); and FERC Order 671, issued in Docket No. RM05-36-000, at ¶¶ 104 – 107 (eliminating ownership limitations for QFs, both existing and new).

⁶ C.F. Industries, Inc. v. Nichols, 536 So. 2d 234, at 235 (Fla. 1988).

recognized that subsection 210(f) of the Public Utility Regulatory Policies Act of 1978 (“PURPA”), titled “Cogeneration and Small Power Production,” specifically directed FERC to prescribe rules addressing the purchase and sale of power between utilities and these alternative generation entities, and thereafter, for state regulators to implement the FERC rules.⁷ In Nichols, the Court further stated that, “Florida law is consistent with, and supports, the provisions of PURPA and FERC regulations concerning QFs.”⁸ The Court went on to note that Florida law authorizes the Florida Commission to prescribe fair rates and charges and to “establish guidelines and set rates for the purchase of power by public utilities from cogenerators or small power producers.”⁹ Thus, Florida Statutes, as well as the Court, recognize the Commission’s jurisdiction with regard to the determination of appropriate rates to be included in a contract between a utility and a cogenerator or small power producer. However, neither the plain wording of the Florida statute, nor the state Court’s interpretation thereof, contemplate that the Florida Commission is vested with independent state law authority to determine an entities’ status as a QF in a manner that conflicts with federal law.¹⁰ It does not, in fact, have that authority. Rather, Congress has demonstrated a desire for the federal government to have the primary role in terms of defining and regulating QFs and has specified that the states should act to implement federal regulations.¹¹ Consistent with Congress’s clearly stated intent, FERC rules provide that QFs, particularly those generating less than 30 MW, are - among other things - exempt from state laws and regulations regarding the financial and organizational regulation of electric utilities.¹² [*Emphasis added*]. Thus, federal law preempts the conflicting state regulation and acts to bar the operation and enforcement of Rule 25-17.080 (3)(d), F.A.C.¹³

⁷ Id.

⁸ Id. at 236.

⁹ Id., citing Section 366.051, F.S., which provides, in pertinent part:

... The commission shall establish guidelines relating to the purchase of power or energy by public utilities from cogenerators or small power producers and may set rates at which a public utility must purchase power or energy from a cogenerator or small power producer. In fixing rates for power purchased by public utilities from cogenerators or small power producers, the commission shall authorize a rate equal to the purchasing utility’s full avoided costs.

¹⁰ Instead, the applicable Florida statute, Section 366.051, F.S., states that the utility shall purchase power from a cogenerator or small power producer “. . . in accordance with applicable law . . .,” which in this case is post-EPAAct federal law.

¹¹ PURPA, Pub. L. No. 95-617, 92 Stat. 3117, Section 210.

¹² 18 C.F.R. 292.602(c)(1)(ii).

¹³ See FERC v. Mississippi, 456 U.S. 742, 759 (1982)(stating, “Insofar as § 210 authorizes FERC to exempt qualified power facilities from “State laws and regulations,” it does nothing more than pre-empt conflicting state enactments in the traditional way.”); and Hillsborough County v. Automated Med. Lab., Inc., 471 U.S. 707, 713 (1985)(recognizing that federal law preempts state law when there is conflict such that the state law would serve as an obstacle to Congress’s objectives, and acknowledging that federal regulations, as well as statutes, can preempt state law).

2. Please discuss the requirements of Rule 25-17.080(2)(c) and (3)(d), F.A.C., and describe how the Eight Flags facility meets these requirements.

Company Response: Eight Flags does not meet the requirements of Rule 25-17.080(2)(c) or (3)(d), F.A.C. Eight Flags is not a “small power producer” under subparagraph (2)(c). Moreover, a diversified utility and energy services company, Chesapeake Utilities Corporation, holds more than a 50% equity interest in the facility. Nonetheless, for all the reasons outlined in the Company’s response to Data Request No. 1 above, these provisions cannot operate to bar Eight Flags from operating as a QF in Florida and entering into a valid power purchase agreement with a Florida utility.

3. Please explain in detail, using diagrams if necessary, how the operations of the individual generating units described in this docket and Docket No. 140180 (Rayonier) affect one another. Also, please explain or describe how these two units will be connected electrically.

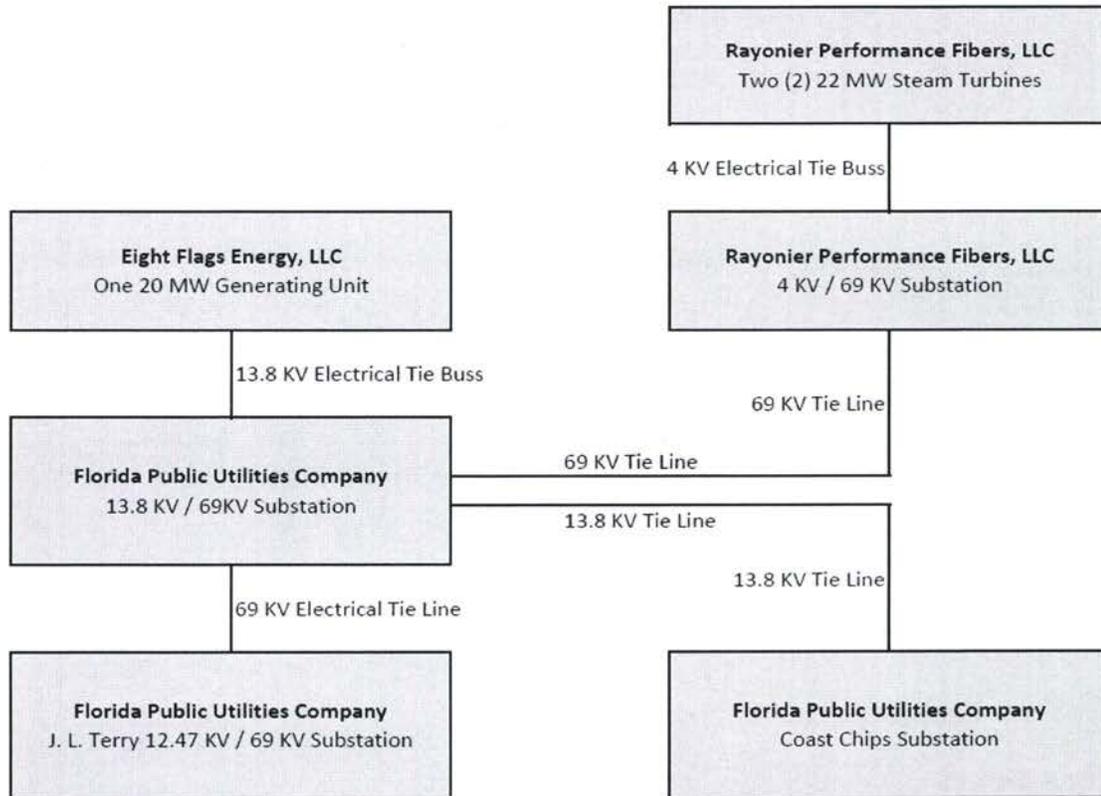
Company Response: Rayonier Performance Fibers, LLC (Rayonier) currently operates two separate 22 MW steam turbines at the mill with the primary intent to provide electricity to the mill processes. The Rayonier facility has been certified as a Qualifying Facility in accordance with FERC standards. Based on the energy requirements associated with the production processes within the mill, there are regular periods during which excess electricity is available. When such excess electricity is available, it is sold directly to Florida Public Utilities Company (FPU). The electricity is transmitted directly to FPU using the interconnection between Rayonier’s electric substation and the FPU’s 69 KV transmission line.

Eight Flags Energy, LLC (Eight Flags) will operate a 20 MW natural gas fired turbine generator that will provide electricity directly to FPU. The Eight Flags facility has also been certified as a Qualifying Facility in accordance with FERC standards; as such, FPUC is obligated under both federal and Florida law to make purchases from the facility.¹⁴ The electricity will be transmitted directly from Eight Flags to a non-Rayonier, FPU operated electric substation. All electricity produced from this Eight Flags generating unit will be sold directly to FPU. Eight Flags will also provide low pressure steam to Rayonier solely for use in Rayonier’s pulp making process. The additional Eight Flag’s steam will, however, displace a portion of the high pressure steam generated by Rayonier’s own boilers, allowing Rayonier to shift the use of that steam to electric production, which will enable Rayonier’s turbine generators to produce more electricity available for sale to FPU.

While the Eight Flags and Rayonier turbines are located in close physical proximity, the turbines are not electrically connected or otherwise physically linked in any way

¹⁴ 16 U.S.C. § 824a-3 (2012) and 366.051, F.S. (2014).

such that the operation of either entity’s turbine would impact the operation of the other. The only common point will be FPU’s 69 KV electric transmission system which will accept electricity from both facilities. Below is a basic diagram that describes the system that will be in place after the generating unit is completed.



4. Please explain how FPUC can ensure that no subsidies will exist between the two generating units in this docket and Docket No. 140180 (Rayonier).

Company Response:

Assuming this question pertains to economic subsidies, FPUC notes that, under both Florida and federal law, FPUC is required to make purchases from QFs.¹⁵ The Federal Energy Regulatory Commission has also emphasized that “[e]xemptions to the statutory purchase obligation are limited.”¹⁶ FPUC is not charged with monitoring the interactions between individual QFs providing electricity to the utility; instead, FPUC is charged with entering into an appropriate arrangement for the purchase of power from such entities, pursuant to which FPUC is to pay no more than its current “avoided cost.”

¹⁵ 16 U.S.C. § 824a-3 (2012) and 366.051, F.S. (2014).

¹⁶ *Swecker v. Midland Power Coop.*, 137 FERC ¶ 61,200 at P 32 (2011) (“*Swecker*”), *on reh’g*, 142 FERC ¶ 61,207 (2013).

Nonetheless, based on FPUC's knowledge there will be no subsidies between the Eight Flags generating unit and the two Rayonier generating units. As described in #3 above, the Eight Flags and Rayonier units will be owned and operated by separate, unaffiliated companies, which have as their primary focus two very different goals and objectives. Eight Flags' primary goal is to produce electricity for sale back to FPU with a secondary goal to provide process steam to Rayonier through the use of exhaust heat. Rayonier's primary goal is to produce energy to use in the cellulose pulp process and with a secondary goal to provide excess electricity back to FPU.

The FPU agreements with Eight Flags and Rayonier were negotiated separately, at different times and have two very different structures regarding the purchase of electricity. The amendment that is the subject of Docket No. 140180 is merely an extension of the term of the underlying purchased power agreement, which was originally approved by the Commission in Docket No. 120058-EQ. That amendment does not change the structure or pricing of the underlying agreement, only the length of the term.

Moreover, the amendment being addressed in Docket No. 140180-EQ (including the underlying agreement) is not functionally dependent or contractually linked in any way to the contract that is the subject of this docket.¹⁷

5. Please explain how the company is able to pay Eight Flags a price for energy and capacity that is above the standard offer avoided cost. As part of the response, please provide a table showing the amounts for the contract payments in this docket and those that would be made under the standard offer contract.

Company Response:

At the time the Eight Flags turbine goes into service, FPUC projects to have four sources of wholesale power supply to FPUC's NE Division: Rock Tenn QF; Rayonier QF; Eight Flags QF and JEA full requirements, firm service PPA. Each power supplier exhibits a different level of capacity commitment and delivery obligation. The rates paid by FPUC to the respective suppliers reflect these capacity obligations. FPUC has two approved applicable tariffs. The FPSC Renewable Energy Tariff includes rate schedules (REN-1) for as available power purchases and rate schedules (REN-2) for firm power purchases in each of FPUC's respective Divisions. The FPUC Electric Cogeneration Tariff has similar rate schedules for as available purchases (COG-1) and firm purchases (COG-2) from QF facilities using non-renewable fuel sources. Both approved cogeneration tariffs include Special

¹⁷ While the discussions for an extension to the original purchased power agreement between FPU and Rayonier were, obviously, had within the context of discussions between the three entities (FPU, Rayonier, and Eight Flags) regarding the new, larger, cogeneration project, the extension to the Rayonier PPA itself was not functionally necessary for the overall project, nor was it a contractual necessity. Rather, in view of Rayonier's increased ability to produce excess electricity, FPU has viewed it as a prudent and practical longer term approach to obtaining renewable energy at reasonably projected cost savings for the benefit of FPU's customers.

Contract provisions for negotiated contracts for terms other than those identified in the tariffs, subject to Commission approval. FPUC currently purchases no power under the non-renewable cogeneration tariff. FPUC does purchase power from two renewable energy cogeneration facilities.

As noted above, the FPUC REN 1 tariff rate applies to a QF certified supplier with no capacity commitment to FPUC. Typically, fluctuations in power supplied under these types of agreements can be unpredictable with large changes in the amount of power supplied. This type of arrangement introduces additional operational and administrative issues for FPUC, requiring FPUC to adjust for dramatic swings in power supply, while never really being able to rely on a guaranteed amount being delivered by the QF. As such, charges under these types of agreements are typically lower, reflecting the “non-firm” nature of the agreement. The current supplier, Rock Tenn, delivers excess power from its generators to FPUC without regard to FPUC’s load conditions or the system peak/off-peak needs. There is no guarantee that power from Rock Tenn will be available at all. There is no requirement or pricing incentive for Rock Tenn to deliver power during on-peak periods. Rock Tenn’s decisions on when or how much power to deliver to FPUC is completely independent of FPUC power requirements or the cost of other supply sources. To ensure that FPUC reliably meets the needs of customers it must maintain full back-up capability for any power quantity that may be delivered by Rock Tenn. The REN 1 tariff rate for as-available energy purchases is set at the avoided fuel cost rate of FPUC’s primary firm service wholesale supplier, at approximately \$42 per mwh.

The FPUC REN 2 tariff, approved by the Commission, provides for the purchase of firm capacity and energy from a QF supplier. As the level of guaranteed power to be supplied increases, or guarantees a level of “firm” energy supply, the value of that contract and the energy supplied there under increases. If FPUC is able to rely on a certain level of power to be supplied by a QF, FPUC is able to more affirmatively reduce amounts to be received from other, more expensive wholesale providers, thereby reducing administrative costs for the company. The more firm the commitment is, the more FPUC is also able to avoid operational issues associated with fluctuations in energy sent to the Company. Consequently, the reduction in these types of costs, as well as the very nature of the commitment to provide power, increases the Company’s ability and need to make a higher payment to providers that are able to provide some level of firm commitment. At present, the REN 2 tariff is applicable to the PPA executed between FPUC and Rayonier. The Rayonier PPA provides for a higher level capacity obligation than the REN 1 tariff. In addition, the pricing model in the Rayonier PPA provides for a significant rate difference between on-peak and off-peak hourly power deliveries. There is a substantial economic disincentive inherent in the pricing model that penalizes Rayonier for failure to deliver the contract capacity target. There is also an economic rate incentive for Rayonier to deliver power during FPUC’s on-peak periods. The rate incentive for on-peak capacity and energy deliveries is above the REN 1 rate for as available deliveries. Over the past twelve months the average payment to Rayonier has equaled approximately [REDACTED]



The Eight Flags QF agreement contemplates a higher level of capacity and energy commitment to FPUC than achieved in either the REN 1 Rock Tenn PPA or the REN 2 Rayonier PPA. FPUC anticipates purchasing all of the power produced by Eight Flags and for planning purposes considers Eight Flags a baseload power supply source. The Eight Flags PPA includes a Committed Capacity of 20 MW, essentially the entire average output capability of the plant. Additionally, the PPA (Section 9.2 Service Guarantee/Invoice Credit) includes a minimum Net Energy Supply of 124,500 mwh per year and a penalty provision that makes FPUC whole for amounts paid to another wholesale supplier as a result of shortfalls from Eight Flags. The proposed rate for this higher level baseload service is approximately [REDACTED].

FPUC has an existing long-term (10 year) wholesale power supply agreement with the Jacksonville Electric Authority (JEA). The agreement provides for full requirements, load following wholesale service. JEA has a contractual obligation to meet the FPUC's full system full demand. The PPA provides that FPUC may accept power generated by a certified QF with no penalty. There are no fixed demand quantities or payments included in the JEA PPA. FPUC's payments to JEA over the past twelve months have averaged [REDACTED].

Finally, the Eight Flags contract is unique for several additional reasons. Foremost is the fact that it is located on Amelia Island and will be capable of overall thermal efficiency that is near the highest when compared to similar installations. As such, factors such as reliability, avoided transmission losses, local economic impact and environmental benefits can be factored into the calculation of the overall negotiated price. As discussed in item #10 below, this generating unit will provide significant reliability benefits to Amelia Island should a disaster impact the transmission line providing electricity to the customers residing there. Likewise, with a consistent 20 MW of electricity being produced on Amelia Island, the transmission losses currently experienced along existing transmission line will be avoided close to 100% of the time which helps to further reduce costs to customers.

The following table outlines the current Standard Offer Contract REN 1 and REN 2 rates; the proposed Eight Flags Energy PPA rates and the LTM average JEA rates.

1. Current (2014) Standard Offer REN-1 (Rock Tenn QF – PPA):

Energy Payment - \$0.04226/kWh

2. Current (2014) Standard Offer REN-2 (Rayonier QF - PPA) :

Summer

<u>On Peak Energy</u> \$0.04563/kWh	<u>On Peak Capacity</u> \$0.05915/kWh	<u>On Peak All-In</u> \$0.10478/kWh
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<u>Off Peak Energy</u> \$0.04563/kWh	<u>Off Peak Capacity</u> \$0.00897/kWh	<u>Off Peak All-In</u> \$0.05460/kWh
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Winter

<u>On Peak Energy</u> \$0.04563/kWh	<u>On Peak Capacity</u> \$0.04815/kWh	<u>On Peak All-In</u> \$0.09378/kWh
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<u>Off Peak Energy</u> \$0.04563/kWh	<u>Off Peak Capacity</u> \$0.00897/kWh	<u>Off Peak All-In</u> \$0.05460/kWh
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November

<u>On Peak Energy</u> \$0.04563/kWh	<u>On Peak Capacity</u> \$0.04534/kWh	<u>On Peak All-In</u> \$0.09097/kWh
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<u>Off Peak Energy</u> \$0.04563/kWh	<u>Off Peak Capacity</u> \$0.00897/kWh	<u>Off Peak All-In</u> \$0.05460/kWh
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3. Projected (2016) Eight Flags Energy Cogeneration Facility Rate (Special Contract):

Non-Fuel - \$0.04034/kWh

Fuel - \$0.04396/kWh

Total Capacity and Energy - \$0.08430/kWh

4. JEA Average LTM rate

\$95.40 mwh

6. Please refer to footnote 5 on pages 6-7 of FPUC's Petition. Please state whether an RFP or other competitive process for selecting the O&M service provider has been initiated. If so, state the date FPUC expects such contract to be in place. If not, please state the dates that FPUC expects such a process to be initiated and concluded.

Company Response:

First, to clarify the purpose of the O&M Agreement, it is not to operate the CHP plant. Eight Flags will operate the facility and provide general maintenance using internal personnel. The O&M Agreement is a specialized agreement with the turbine manufacturer (Solar Turbines). It primarily includes the replacement of the turbine at 30,000 run hours (approximately every 3.5 years). In addition, the agreement essentially provides an extended warranty that includes certain major annual maintenance items plus a guaranteed rapid response and repair of the

turbine and related facilities in the event of an unplanned outage. Eight Flags did engage an outside engineering firm (Sterling Energy) to undertake solicitations of price quotes for turbines of the approximate size and steam production capability as the Solar Titan 250 unit ultimately selected. Those solicitations considered the manufacturer's standard turbine replacement recommendations, the system warranty, and the manufacturer's on-going service and maintenance programs. Given that this is the first CHP project undertaken by the Chesapeake Utilities organization, a decision was made prior to the selection of the turbine manufacturer, that the manufacturer would also provide major service and maintenance items, including the periodic replacement of the turbine. The O&M agreement with Solar Turbines is for a five (5) year term. At the end of the term Eight Flags could renegotiate the agreement or seek related services from another provider. Eight Flags anticipates finalizing the O&M Agreement before the end of 2014.

7. Please state whether FPUC has included the costs for the O&M service provider in the overall comparison of costs between the Eight Flags contract and the current purchase agreement with JEA? If not, please provide the cost comparison that includes these costs, and state how these costs will be recovered.

Company Response: **Yes. The cost for the O&M service provider has been included in the overall comparison.**

8. Please refer to paragraph 12 on pages 6-7 of FPUC's Petition. Please explain the components of the non-fuel charge other than O&M expenses. As part of the response, provide a breakdown of the non-fuel charge by percentages for each component, and explain the basis for the percentages.

Company Response:

As an entirely separate corporate entity, Eight Flags will have sole responsibility, contractual or otherwise, for the physical operation or financial management of Eight Flags. Eight Flags will be operated as a for-profit, limited liability corporation, subject to the minimal federal regulations applicable to a small cogenerating QF and the generally applicable business laws in Florida. FPU has no such responsibility or ownership of Eight Flags.

As a for-profit LLC, the non-fuel component is comprised of:

- O&M expense from the service provider
- Eight Flags labor/expenses
- Expenses allocated from the corporate parent for services rendered
- Water, Telephone and other utility type services required for the facility
- Necessary equipment parts and related overheads
- Taxes
- Insurance, returns, and depreciation

Based on current projections, the total non-fuel amount is approximately [REDACTED] of the total charges under the contract.

As a point of information and emphasis, FPUC is required to make purchases of electricity from any proximate QF, as long as the charges for the electricity provided do not exceed avoided cost. In this case, the pricing does not exceed current avoided cost for FPUC and in fact, reflects a savings for FPUC – savings that will ultimately inure to the benefit of FPUC's customers through lower fuel and purchased power costs. The relevant question is not, therefore, how has Eight Flags, an entity not subject to rate regulation, developed its pricing structure, but rather, is FPUC paying Eight Flags an amount that does not exceed FPUC's avoided costs.

Finally, please note that the information provided above by Eight Flags is extremely proprietary business information for Eight Flags, and has been treated as confidential and not otherwise disclosed. Disclosure of this information, particularly in detail, would risk harm to Eight Flags' operations and competitive posture.

9. Please refer to paragraph 13 on page 7 of FPUC's Petition, which states that in the event Eight Flags fails to provide its contracted minimum quantity of electric energy to FPUC, FPUC will reduce the amount paid for the energy it did receive by the difference it paid another provider. Please identify from which provider FPUC will purchase this shortfall amount, and how FPUC can be certain this differential amount will be available if and when it is needed.

Company Response: If Eight Flags fails to provide energy to FPU as included in this contract, FPU will have to make up the difference necessary to satisfy its native load obligation by acquiring additional firm capacity from its then-current wholesale energy provider. Currently, that provider is JEA. The existing JEA PPA provides for full requirements electric service with all ancillary services included. The agreement also contemplates that FPUC has an obligation to purchase power from certified QF's. JEA is responsible for meeting any demand requirements not satisfied by a QF(s). Should the wholesale energy provider change at some point in the future, that provider will be responsible for meeting the shortfall, and the difference between what FPUC is charged by that wholesale provider and what it would have paid under the contract with Eight Flags will be the amount by which payments to Eight Flags are reduced.

10. Please refer to paragraph 20 on page 9 of FPUC's Petition, which states the generating and auxiliary equipment will be elevated 10 feet above grade. Please explain the basis for this determination.

Company Response: **During the initial design on the project there was a considerable amount of time spent to address the reliability of the project. Due to the fact that the project is being constructed on Amelia Island which is served by two 138 KV transmission line constructed on the same pole line it was critical to FPU that the Eight Flags generating unit be available at all times and provide black start capabilities to Amelia Island in the event the transmission pole line is impacted by some type of disaster and unavailable to provide service. The worst case scenario considered was a major hurricane with significant storm surge striking Amelia Island resulting in damage to transmission.**

Based on consultation with structural engineers and the Chesapeake Utilities Corporation insurance provider, it was determined that raising the structure to 10' above grade would provide reasonable protection against storm surge impacts. The Eight Flags design includes the unit being elevated 10 feet above grade (16 feet above sea level) and placed on driven pilings which will allow stability that can survive a projected storm surge. Additionally, insurance costs associated with this facility will be reduced since the primary equipment and controls will be elevated to minimize the potential impacts of a storm.

11. Please explain whether FPUC is required to pay its current contract suppliers (JEA and/or Gulf Power) a minimum charge for committed capacity. If so, explain how FPUC can ensure that its customers will never be in a position of paying for unused capacity from JEA and/or Gulf Power, as well as paying for capacity from Eight Flags.

Company Response: **The existing generation contract with JEA does not include a minimum charge for committed capacity. FPUC only pays JEA for what FPUC uses. The existing contract with Gulf Power Company does contain a minimum charge for committed capacity. The Gulf Power capacity has no bearing on what is done in this area. FPUC does not wheel power between the divisions, so the Gulf Power contract has no impact by what is done on Amelia Island.**

The existing JEA and Gulf Power contracts are in place and will not likely be modified prior to the expiration in 2017 and 2019 respectively. After the expiration of the contracts, new firm capacity wholesale provider contracts will be negotiated with full recognition of all the existing contracts available to all parties involved. FPU will carefully evaluate all options to ensure the most appropriate contracts are selected in order to provide the best value possible to FPU customers.