



Dianne M. Triplett
Deputy General Counsel

October 1, 2018

VIA ELECTRONIC FILING

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

Re: *Duke Energy Florida, LLC's Petition for Declaratory Statement regarding PURPA solar qualifying facility power purchase agreements*; Docket No. 20180169-EQ

Dear Ms. Stauffer:

Enclosed for filing in the above-referenced Docket on behalf of Duke Energy Florida, LLC ("DEF") is DEF's Response to Ecoplexus, Inc.'s Motion to Intervene.

Thank you for your assistance in this matter. Please feel free to call me at (727) 820-4692 should you have any questions concerning this filing.

Sincerely,

/s/ Dianne M. Triplett

Dianne M. Triplett

DMT/cmkn
Enclosure

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Declaratory Statement
by Duke Energy Florida, LLC, Regarding
PURPA Solar Qualifying Facility Power
Purchase Agreements

Docket No. 20180169-EQ

Filed: October 1, 2018

**DUKE ENERGY FLORIDA, LLC'S RESPONSE TO
ECOPLEXUS, INC.'S MOTION TO INTERVENE**

Duke Energy Florida, LLC (“DEF” or “the Company”), pursuant to Rule 28-105.003, F.A.C., hereby responds to Ecoplexus, Inc.’s Motion to Intervene (“Motion”) filed on September 24, 2018 with the Florida Public Service Commission (“Commission”) in the above referenced docket regarding DEF’s Petition for Declaratory Statement (“Petition”). DEF does not dispute that Ecoplexus, Inc. (“Ecoplexus”) appears to have stated sufficient facts which, if proven, would meet the Commission standard for intervention in this docket. However, given that Ecoplexus included several other statements of fact and law in its Motion with which DEF does not agree and which were unnecessary to assert standing to intervene, DEF is compelled to provide a response to those statements.

1. In several places in the Motion, Ecoplexus states that it has offered to sell DEF capacity and energy from its solar facilities at prices less than DEF’s avoided costs. *See, e.g.*, Motion at p. 2, para. 6, para. 7, etc. Ecoplexus asserts that DEF’s avoided costs should be calculated based on DEF’s next planned solar generating unit rather than its next planned fossil-fueled unit. *See, e.g., id.* However, Commission rules, orders, and prior history all require that DEF base its QF avoided cost calculation for firm capacity and energy PURPA purchases on the in-service date and operation of its next *fossil fueled* generating unit, not the next planned solar unit. *See* Rule 25-17.250(1), F.A.C. (providing “[a] separate standard offer contract shall be based on the next avoidable fossil fueled generating unit of each technology type identified in the

utility's Ten-Year Site Plan. . ." (emphasis added); *see also* Order No. PSC-2018-0314-PAA-EQ, at 2 ("The standard offer contract may also serve as a starting point for negotiation of contract terms by providing payment information to an RF/QF operator, when one or both parties desire particular contract terms other than those established in the standard offer.")

2. Additionally, as Ecoplexus itself recognized in Paragraph (10), declaratory statements are limited to the facts presented by the Petitioner. However, in the very next Paragraph, Ecoplexus alleges that "DEF has omitted significant facts from its Petition facts, and these omissions would render the requested statement meaningless relative to the real issue at hand..." And then Ecoplexus attempts to introduce new arguments and facts that were not presented in the Petition; namely, whether DEF is obligated to provide pricing based on avoided solar units. DEF disagrees that this issue is necessary for the Commission to decide DEF's question presented in the Petition because DEF does not have "doubts concerning the applicability of statutory provisions, rules, or orders" related to the Commission's long-standing rules and methodology of how to calculate DEF's full avoided costs for purposes of negotiating QF PPAs; accordingly, DEF on behalf of its customers did not file a declaratory statement to address that question. DEF filed the Petition and sought Commission guidance on the only issue about which DEF is in doubt: whether fixing the price for a solar QF PPA two years at a time has the appropriate amount of risk being transferred from a QF to customers in light of previous Commission Orders and how that risk is currently mitigated under Rule 25-17.250(6), F.A.C., which has been historically sufficient to protect customers. It is inappropriate for Ecoplexus to raise their additional issue in response to DEF's Petition and ask the Commission to consider it in the DEF proceeding.

3. DEF also disputes the characterization in Paragraph (12.I) that “DEF continued to refuse, and still refuses, to negotiate with Ecoplexus for any PPA based on Ecoplexus providing the same amount of solar power that DEF plans to obtain through DEF self-build units, as shown in its 2018 Ten Year Site Plan.” First, DEF, on behalf of its customers, has negotiated in good faith with Ecoplexus at every turn, discussing non-QF related opportunities and offering specific PPA pricing consistent with the Commission rules and orders; i.e. based on DEF’s full avoided cost. DEF has also provided detailed explanations to Ecoplexus to support the basis of its rates for purchases from QFs, which are based on the forecasted incremental cost of the DEF system and how the next avoidable fossil fuel-fired unit is forecasted to operate. DEF, on behalf of its customers, has met with Ecoplexus every time a meeting was requested, and has continued discussions regarding a potential solar QF PPA. It is misplaced for Ecoplexus to address disagreements arising in the course of good faith QF contract negotiations in a response to DEF’s Petition.

4. DEF did not fail to tell the Commission about the prices that other solar QFs have discussed with DEF in an effort to avoid or refuse to negotiate with those solar QFs, contrary to the assertions made in Paragraphs (12.K) and (12.L). Rather, the pricing proposed by other solar QFs is not relevant to the determination of the issue presented in DEF’s declaratory statement request – a period of two (2) years is an appropriate length of time for a 100 percent levelized or fixed price in a PURPA negotiated solar QF PPA. As stated in DEF’s Petition, the overwhelming number of solar QFs in DEF’s interconnection queue has resulted in DEF, on behalf of its customers, needing to seek guidance from the Commission as to how best protect DEF customers while still fairly balancing PURPA mandates. The relevant question is not how the Commission’s long-standing methodology on full avoided cost is determined. Subject matter

experts in Florida understand the rates for QF purchases are first set when the avoided unit is established in the standard offer contract. The relevant question is how long should the period of a fixed price solar QF payment rate be set within a PURPA Solar QF PPA with a priority renewal, to best protect customers from paying no more than full avoided cost and balance the potential 30-year risk between the solar QF and the electric consumer.

5. Although it is not relevant to this proceeding, DEF also disagrees with the statement in Paragraph (12.L) that “Ecoplexus has expressly offered to provide the same amounts of power at prices below DEF’s costs.” As previously stated, in Florida the rates for forward purchases from PURPA QFs are based on the utility’s forecast of its full avoided cost, and this full avoided cost is the forecasted incremental cost to the utility. The utility’s avoided cost is not simply one planned generating unit, but rather the utility’s forward-looking system cost including the next avoidable fossil fueled unit (in DEF’s case) and how it is forecasted to operate. Ecoplexus ignores Florida’s statutory provisions, rules and orders when it claims to have offered to provide power at or below DEF’s avoided costs. However, as discussed in DEF’s Petition, in addition to 2-year fixed price periods in solar QF PPAs with priority renewal, there are other non-QF options that may be available for solar companies including Ecoplexus. Robust customer rights and protections can be negotiated without the constraints of PURPA and DEF customers will be ensured to receive the fuel diversity, fuel price stability and energy security value streams from fair and transparent negotiated wholesale PPAs. This is why, as laid out in DEF’s Petition, DEF, on behalf of its customers, is anticipating the issuance of a market survey to determine whether there are such third party wholesale PPAs that could be equivalent to DEF-owned solar units and will provide that same value to DEF customers.

6. DEF further disputes the entirety of Paragraph (12.M). Customers will be protected, and the public interest will be served, by granting DEF's Petition and setting the period of time of a one hundred percent fixed price solar QF payment rate to two years. Finally, DEF disagrees that its requested declaratory statement would violate any of the rules or statutes cited in Paragraph (13), and also disagrees that any of the assertions included in its Petition are "legally incorrect" as claimed in Paragraph (15).

7. DEF understands that Ecoplexus intends to file a substantive response in opposition to DEF's Petition no later than October 1, 2018. DEF reserves its right to respond to that filing, and does not waive its right to respond by making this filing. DEF will more fully respond to the merits of Ecoplexus' arguments at that time.

Respectfully submitted,

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Attorneys for Duke Energy Florida, LLC

CERTIFICATE OF SERVICE
(Dkt. No. 20180169-EQ)

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the following by electronic mail this 1st day of October, 2018, to all parties of record as indicated below.

/s/ Dianne M. Triplett
Attorney

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