

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:** January 20, 2022

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

**FROM:** Division of Economics (Hampson, Coston) *JGH*  
Office of the General Counsel (Lherisson) *JSC*

**RE:** Docket No. 20210180-EI – Petition for authority to reinstate the non-firm energy program and tariff, Florida Public Utilities Company.

**AGENDA:** 02/01/22 – Regular Agenda – Tariff Filing – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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## Case Background

On November 12, 2021, Florida Public Utilities Company (FPUC) filed a petition for approval to reinstate its Non-Firm Energy Program tariff. The Non-Firm Energy Program tariff was initially approved by the Commission as an experimental 15-month pilot program limited to a maximum of three participants.<sup>1</sup> Under the pilot program, FPUC purchased non-firm energy from Florida Power & Light Company (FPL), pursuant to its wholesale purchased power contract with FPL, and resold the non-firm energy to qualifying industrial customers with self-generation capabilities. The pilot program expired on December 31, 2020. After evaluating the pilot program's results, FPUC now proposes to reinstate the Non-Firm Energy Program tariff permanently and to expand the tariff to all eligible General Service – Large Demand 1 (GSLD1) and Standby customers.

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<sup>1</sup> Order No. PSC-2019-0432-TRF-EI, issued October 22, 2019, in Docket No. 20190132-EI, *In re: Petition for authority for approval of non-firm energy pilot program and tariff by Florida Public Utilities Company.*

On November 30, 2021, FPUC filed corrected tariff sheets to address errors identified in the tariff sheets filed in the original petition.<sup>2</sup> At the January 11, 2022 Agenda Conference, the proposed tariff was suspended to allow staff a sufficient opportunity to gather and evaluate all pertinent information in order to present the Commission with an informed recommendation. During the evaluation of the petition, staff issued one data request to FPUC and received responses on December 14, 2021. In addition, staff held an informal conference call with FPUC representatives on January 5, 2022.

The corrected tariff sheets, as filed on November 30, 2021, are shown in Attachment A to this recommendation. The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes.

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<sup>2</sup> Document No. 12897-2021, filed November 30, 2021.

## Discussion of Issues

**Issue 1:** Should the Commission approve FPUC's petition to reinstate its Non-Firm Energy Program tariff?

**Recommendation:** Yes, the Commission should approve FPUC's request to reinstate its Non-Firm Energy Program tariff. After evaluating the results of its pilot program, FPUC has demonstrated the program's benefits to the general body of ratepayers and program participants. The proposed tariff sheets are shown in Attachment A to this recommendation. (Hampson)

**Staff Analysis:** The proposed Non-Firm Energy tariff is designed for FPUC to purchase non-firm energy from FPL and sell the non-firm energy to qualifying industrial customers. Non-firm energy is purchased typically for short periods of time and may be interrupted when necessary. To qualify for the proposed tariff, customers must own dispatchable self-generation and qualify for FPUC's General Service Large-Demand 1 tariffs, Standby tariffs, or have executed a Special Contract approved by the Commission.

FPUC does not generate electricity to serve its customers; rather, FPUC currently purchases power, predominately from FPL, to serve its customers pursuant to wholesale purchased power agreements. FPUC recovers its payments for wholesale power from its customers through the fuel and purchased power cost recovery clause factors (fuel factors) the Commission approves in the annual fuel clause hearing.<sup>3</sup>

On April 10, 2017, FPUC and FPL executed a Native Load Firm All Requirements Power and Energy Agreement that includes a provision allowing FPUC to purchase non-firm energy from FPL pursuant to FPL's wholesale TS-1 tariff. The TS-1 tariff is an economy energy tariff under which FPL sells non-firm energy at its forecasted incremental fuel cost to wholesale customers. The TS-1 tariff has been approved by the Federal Energy Regulatory Commission.

During the pilot program, service was limited to a maximum of three participants. Only two customers took service under the pilot program, both located in FPUC's Northeast Division on Amelia Island in Nassau County. There were no eligible customers in FPUC's Northwest Division, nor does FPUC expect there to be any potentially eligible customers in the foreseeable future. However, FPUC stated that the utility will be able to provide non-firm service under the tariff to its Northwest Division once FPL completes its transmission expansion to the former Gulf Power Company territory.<sup>4</sup>

FPUC has included minor modifications to the Non-Firm Energy Program tariff from the prior pilot program. Specifically, FPUC has proposed modifications to the tariff including: expanding participation to any eligible customers, removing references to the tariff being experimental, and clarifying that times shown are Eastern Standard Time (EST) or daylight saving time.

Customers who choose to take service under the proposed tariff agree to a minimum of 12 months of service; service will continue thereafter until the customer submits a written notice of

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<sup>3</sup> See Docket No. 20210001-EI.

<sup>4</sup> Effective, January 1, 2022, FPL and Gulf merged into one company under the FPL name.

termination to FPUC. Pursuant to the proposed tariff, FPL will notify FPUC each Friday morning of the hourly non-firm energy prices starting Sunday at midnight. FPUC will then notify the participating customers of the non-firm energy prices by Friday 10 am EST. The customers must submit to FPUC their non-firm energy purchases, or nominations, for the following week by 2 pm of the same day and FPUC will forward that information to FPL. While participating customers are not obligated to nominate non-firm energy for any specific period, they must nominate a minimum of 1,500 megawatt-hours per year.

The non-firm energy costs charged by FPL to FPUC will be directly passed by the utility to the non-firm customers. Subject to the proposed tariff sheets, the utility would not assess any administrative, energy, or demand surcharges under the proposed tariff. In response to staff's data request in Docket No. 20190132-EI, FPUC explained it expects the Non-firm Energy program's administrative costs to be minimal.<sup>5</sup> During the call with staff on January 5, 2022, FPUC confirmed that it had not incurred any additional administrative costs during the pilot program. However, if administrative charges are appropriate in the future, FPUC should petition the Commission to modify the proposed tariffs. In response to staff's first data request, FPUC stated that the cost to purchase non-firm energy from FPL and revenues received from customers participating in the Non-Firm Energy Program would not be included in the utility's annual fuel clause hearing.<sup>6</sup>

### **Pilot Program Results**

In response to staff's data request in Docket No. 20190132-EI, FPUC explained that it would determine the success or failure of the Non-Firm Energy pilot program based upon the total utilization of non-firm energy by customers participating in the pilot.<sup>7</sup> Additionally, FPUC stated in its response that the goal of the pilot program is to provide a benefit to all customers while improving the overall load factor for the electrical usage on Amelia Island.<sup>8</sup>

### ***Pilot Program Participation***

During the pilot program, FPUC provided service to two qualifying industrial customers: Rayonier Advanced Materials (Rayonier) and WestRock. Both customers produce paper and lumber products and operate on Amelia Island. Rayonier and WestRock have on-site generation that provides the majority of their energy and capacity requirements. FPUC serves as a back-up energy resource for these customers. The amount of energy Rayonier and WestRock purchase from the utility varies based on the operational status of the facilities. If approved, FPUC stated that both Rayonier and WestRock indicated they would participate in the program.

In this petition, FPUC states that the pilot program allowed the participants to purchase non-firm energy at a lower price than the cost to self-generate. In response to staff's first data request, FPUC demonstrated that electric utilization increased for non-firm energy customers during the pilot program. Specifically, in 2020 when the pilot program was effective, energy purchases

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<sup>5</sup> Responses to staff's first data request, Request No. 4, filed July 23, 2019, in Docket No. 20190132-EI (DN 05912-2019).

<sup>6</sup> Responses to staff's first data request, Request No. 5 (DN 13055-2021).

<sup>7</sup> Responses to staff's first data request, Request No. 11, filed July 23, 2019, in Docket No. 20190132-EI (DN 05912-2019).

<sup>8</sup> Load Factor is defined as the average load divided by the peak load in a specified time period.

increased by 156 percent and demand purchases increased by 3,923 percent compared to 2018.<sup>9</sup> Furthermore, allowing participants to purchase non-firm energy at a lower price than the cost to self-generate could provide a benefit to participants by reducing their production costs.

### ***Overall Load Factor on Amelia Island***

FPUC states that, prior to the pilot program, the overall load factor on Amelia Island was impacted by the demand and energy purchases of these customers.<sup>10</sup> When these customers made short term purchases of electricity from FPUC, it increased FPUC's monthly maximum demand. However, this increase in demand did not increase the total energy amount by the same percentage, which resulted in a negative impact on the utility's load factor. FPUC's load factor is considered by wholesale energy providers when negotiating the pricing contained in purchased power contracts. An improved load factor should benefit FPUC's general body of ratepayers through lower fuel factors when future agreements for wholesale power are negotiated.

In response to staff's first data request, the utility demonstrated that the Northeast Division's load factor improved as a result of the pilot program. Without the Non-Firm Energy Program the overall load factor on Amelia Island was 46 percent, while the overall load factor with the Non-Firm Program was 52 percent, using data from the 12-month period ending December 31, 2020.<sup>11</sup>

### **Conclusion**

The Commission should approve FPUC's petition to reinstate the Non-Firm Energy Program tariffs. After evaluating the results of its pilot program, FPUC has demonstrated the program's benefits to the general body of ratepayers and program participants. The proposed tariff sheets are shown in Attachment A to this recommendation.

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<sup>9</sup> Responses to staff's first data request, Request No. 2a (DN 13055-2021).

<sup>10</sup> Responses to staff's first data request, Request No. 10, filed July 23, 2019, in Docket No. 20190132-EI (DN 05912-2019).

<sup>11</sup> Responses to staff's first data request, Request No. 2b (DN 13055-2021).

**Issue 2:** Should this docket be closed?

**Recommendation:** If Issue 1 is approved and 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. (Lherisson)

**Staff Analysis:** If Issue 1 is approved and 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.

Florida Public Utilities Company  
F.P.S.C Electric Tariff  
Third Revised volume No. 1

~~First Original Revised~~ Sheet No. 66.1  
~~Cancels Original Sheet No. 66.1~~

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*NON-FIRM ENERGY PROGRAM NFEP-EXP (EXPERIMENTAL)*

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Availability

Available within the territory served by the Company in Jackson, Calhoun, and Liberty Counties and on Amelia Island in Nassau County. This service is limited to ~~a maximum of 3 Customers~~customers in the GSLD1 or Standby rate class. The Rate Schedule shall expire ~~on December 31, 2020~~with one year written notice by the Company to participating Customers.

Applicability

Applicable to Customers which are self-generators with dispatchable generation and are eligible for Rate Schedule ~~GSLD~~, GSLD1 or Standby, or who have executed a Special Contract approved by the Commission. Eligible Customers would nominate, in accordance with the procedures outlined below, an amount of electric load they commit to purchase that is above and in addition to the Customer's established baseline. Non-Firm (NF) Energy nominations must be made in 1,000 KW increments and is currently limited to a minimum of 1,000 kW and maximum of 15,000 kW. The Customer is not obligated to nominate NF Energy for any specific period but must nominate a minimum of 1,500 MWh per year. ~~There is no payment penalty associated with the experimental tariff.~~

The default period for NF Energy nominations will be 7 days. Nominations for longer periods, e.g. monthly, will be made available when market conditions warrant. The same procedure for nominations and acceptance will apply to all periods. Customer may nominate NF Energy for on-peak hours, off-peak hours, or all hours. On-peak hours are Hour Ending (H.E.) 08:00 to H.E 23:00 weekdays and off-peak hours are H.E. 24:00 to HE 07:00 and all hours on weekends and established holidays. Times shown are Eastern Standard or Daylight Savings time. On-peak and off-peak hours are subject to change.

Once the Company confirms the Customer's nomination, the Customer is obligated to pay for all NF Energy nominated at the offered rate regardless of whether the Customer takes all NF Energy nominated for the month, unless recalled in accordance with NF Recall provisions.

Monthly Rate

The rates and all other terms and conditions of the Customer's otherwise applicable rate schedule shall be applicable under this program.

All NF Energy shall be charged at the hourly price, in \$/MWh, as offered by the Company. Once nominated by the Customer and accepted by the Company, the Customer is responsible to pay the full NF Energy Charge for the nomination period regardless of whether the Customer takes all NF Energy nominated for the month. Any purchases that exceed the combined total of the Customer's baseline and NF Energy nominations will be billed based on the Customer's otherwise applicable rate. The NF Energy charges are in addition to the charges based on the Customers otherwise applicable rate.

Monthly NF Administrative Charge:  
\$0.00 per Customer per month

(Continued on Sheet No. 66.2)

Issued by: ~~Kevin Webber~~Jeff Householder, President

Effective: ~~OCT-03-2019~~

Florida Public Utilities Company  
F.P.S.C Electric Tariff  
Third Revised volume No. 1

First Original Revised Sheet No. 66.2  
Cancels Original Sheet No. 66.2

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*NON-FIRM ENERGY PROGRAM NFEP-EXP (EXPERIMENTAL)*

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(Continued From Sheet No. 66.1)

Monthly NF Demand Charge:  
\$0.00 per kW of NF demand

Monthly Rate

NF Energy Charge:  
Amount as offered and accepted for each nomination

Monthly NF Demand

The Monthly NF Demand shall equal the maximum hour of NF Energy nominated by the Customer for the calendar month.

Minimum Monthly Bill

The Minimum Monthly Bill shall consist of the Monthly NF Administrative Charge plus applicable taxes and fees.

Term of Service

The Customer agrees to a minimum of 12 months of service under the Program. Service will continue thereafter until the Customer submits to the Company a written notice of termination. Service will discontinue at the end of the calendar month that notice of termination is received.

Nomination and Acceptance Procedure

1. By 10:00 AM each Friday, or when NF Energy is available, the Company will provide the Customer with NF Energy price quotations for the following period beginning 0:00 (midnight) the following Sunday (time period is Monday 00:00 – Sunday 24:00).
2. The Customer will submit a NF Energy nomination schedule to the Company by 2:00 PM of the same day that the offer is submitted.
3. NF Energy nominations are accepted once the Company confirms receipt of the nomination. The Company will then schedule delivery of the NF Energy, if any, beginning 0:00 (midnight) the following Sunday.

Nomination Recall Provisions:

Once accepted, nominations by Customer may only be withdrawn if a Force Majeure is declared. A Force Majeure may be declared by the Customer if the Customer's equipment suffers major failure such that the Customer is prevented from taking the NF Energy. In such case, the Customer will notify the Company's designated contact by approved method as soon as condition is known and the Company will attempt to withdraw the scheduled delivery of NF Energy. If possible to do so, the Customer will no longer be responsible for purchasing the balance of NF Energy nominated during the event. Customer may declare Force Majeure a maximum of once per month.

Company may terminate NF Energy delivery at any time due to system emergencies or unusual pricing by notifying Customer of such termination, and Company has no obligation to deliver NF Energy.

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Effective: OCT-03-2019



Florida Public Utilities Company  
F.P.S.C Electric Tariff  
Third Revised volume No. 1

First ~~Original~~ Revised Sheet No. 66.2  
Cancels Original Sheet No. 66.2

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