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-

DATE: October 12, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (McRoy, Baxter, Harlow, Slemkewicz)
Office of the General Counsel (Fleming)

RE: Docket No. 060577-EI – Petition to convert green power pricing research project to permanent program and to extend program to commercial customers, by Florida Power & Light Company.

AGENDA: 10/24/06 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\060577.RCM.DOC

Case Background

Green power pricing was first proposed as an area of study in Docket No. 941170-EG, In Re: Approval of demand-side management plan of Florida Power and Light Company. See, Order No. PSC-95-0691-FOF-EG, issued June 9, 1995. In Order No. PSC-95-0691-FOF-EG, the Commission encouraged Florida Power and Light Company (FPL) to consider green power pricing options "to promote the installation of solar water heating and other renewable measures during the program development and submittal stage of the conservation goals process." In subsequent Docket Nos. 960624-EG and 971004-EG, FPL researched green power programs and filed a request for proposal (RFP) for renewable energy.

Many proposals were received from Qualifying Facilities (QF) which offered energy to FPL at prices in excess of FPL's avoided energy costs. As a result, FPL sought and received a declaratory statement from the Commission in Docket No. 020397-EQ which allowed FPL to pay a QF an amount equal to FPL's full avoided cost plus a premium borne by the customers who voluntarily participated in a green pricing program. See Order No. PSC-02-1059-DS-EQ, issued August 6, 2002, In Re: Petition for declaratory statement by Florida Power & Light Company that FPL may pay a Qualified Facility (QF) for purchase of renewable energy an amount representing FPL's full avoided cost plus a premium borne by customers voluntarily participating in FPL's Green Energy Project.

During the course of the declaratory statement proceeding, FPL continued to study the feasibility of offering a green power program and discovered an alternative means of encouraging renewable resources that offered several advantages over the proposals FPL had received from its Request for Proposal (RFP). FPL decided to reject all bids received for the RFP and preceded with a Green Power Pricing Research Project (GPPRP) that employed Tradable Renewable Energy Credit (TRECs). TRECs are a relatively new marketing concept used to promote renewable energy resources. TRECs are essentially formed by separating the environmental attributes from the actual energy produced by qualifying renewable generating resources. The energy produced is purchased and flows over the grid in the same manner as any other energy, while the environmental attributes are sold separately in the form of tradeable financial instruments. TRECs may be marketed directly by renewable energy generators or by utilities which have purchased renewable energy with TRECs as a bundled product. The GPPRP was approved by the Commission in Order No. PSC-04-0047-CO-E1, dated January 16, 2004. The GPPRP went to market in November of 2004, as the Sunshine Energy program.

The customer costs and guidelines for the GPPRP were established by a special tariff, the Green Power Pricing - ECCR Rider, Original Tariff Sheet No. 8.841. Each participating customer was charged $9.75 per month in addition to the customer's charges under the Residential Service rate schedule. In return for each $9.75 customer contribution, FPL purchased TRECs associated with 1,000 kilowatt hours (kWh) of renewable energy. On August 29, 2006, FPL filed a Petition to convert the GPPRP to a permanent program and extend the offering to commercial customers, which are discussed below. The GPPRP is currently set to expire on December 31, 2006.

The Commission has jurisdiction under Sections 366.04, 366.05, and 366.06, 366.80, 366.81, and 366.82, Florida Statutes.

Discussion of Issues

Issue 1: Should Florida Power and Light Company's (FPL) petition to convert its Green Power Pricing Research program to a permanent program and to extend the program to commercial customers be approved?

Recommendation: Yes, except for the request to establish a regulatory liability for recording the deferral of program revenues in excess of program expenses. Instead, the deferred revenues should be recorded as a deferred credit in Account 253, Other Deferred Credits, pending their ultimate disposition. FPL's proposed Green Power Program (GPP) is designed to provide benefits for both FPL and its consumers by encouraging the development of renewable resources. The use of Tradeable Renewable Energy Credits (TRECs) in FPL's GPP provides a mechanism for interested customers to encourage renewable development. Each participating customer will be charged $9.75 per month in addition to the customer's charges under the Residential Service rate schedule. In return for each $9.75 customer contribution, FPL will purchase TRECs, associated with 1,000 kWh of renewable energy. In addition starting in April of 2007, residential customers will have the option of purchasing extra 1,000 kWh blocks and paying an extra $9.75 per block. FPL has committed to the development or purchase of 150 kW of photovoltaic capacity within Florida for every 10,000 participating residential customers. The TRECs purchased under the GPP should not be counted towards FPL's conservation goals. (McRoy, Harlow, Baxter, Slemkewicz)

Staff Analysis: Under the GPP, the customer costs and guidelines will be established by a special tariff, the Green Power Pricing - ECCR Rider, First Revised Tariff Sheet No. 8.841. This tariff sheet is included as Attachment A. The program cost and requirements are the same as in the GPPRP.

As part of FPL's current approved DSM Plan, a Business Green Energy Research Project (BGERP) was proposed and approved by the Commission in Order No. PSC-05-0323-CO-EG, dated March 21, 2005. The objective of the BGERP was to determine business customers' requirements and acceptance of the concept and investigate the availability of new renewable resources, which meet the customers' needs. FPL found that business customers desire a program that can balance their personal environmental beliefs with their business image, costs and profitability needs. Therefore, FPL proposes to expand the GPP to business customers.

Pursuant to the contract between FPL and Green Mountain Energy Company (GMEC), GMEC will continue to be the vendor for residential TRECs. GMEC is currently responsible for developing and constructing photovoltaic facilities in Florida for the GPPRP. This arrangement will continue under the permanent program until August 2013. FPL currently is in the process of securing a vendor to handle its commercial customers. These vendors contract with green energy producers to obtain contracts for the TRECs produced. Interested utilities, or, in some cases, interested individuals, may then purchase the TRECs. However, once a TREC is sold to a participant in the proposed GPP, the TREC is retired. This prevents the same environmental attributes from being sold more than once.

FPL Energy, a subsidiary of FPL Group, Inc., is the largest United States generator of wind power. FPL stated that GMEC did not purchase any TRECs from FPL's affiliates during the GPPRP. Staff cautions that any TRECs purchased from FPL's affiliates in the GPP must be purchased at market rates.

The GPPRP has approximately 25,286 residential participants as of the end of June 2006. In 2004, the first year of the GPPRP, expenses were $476,590, with revenues of $514,624, yielding a surplus of $38,034. In 2005, the GPPRP experienced expenses of $2,101,449 along with $2,259,751 in revenues, yielding a surplus of $157,302. The surplus in each year was used to lower overall ECCR clause costs. Year-to-date August revenues exceed expenses by $171,426. Some of the surplus dollars in 2006 are being used to construct a photovoltaic array at the Miami Museum of Science. In addition, GMEC is in the process of developing three new projects such as a 250 kW solar array in Sarasota's Rothenbach Park, which is scheduled for completion in the first quarter of 2007, funding for four schools in Broward County for their SunSmart School program, and connecting approximately 90 new homes for photovoltaic production.

Customers have responded favorably to the construction of solar projects, so FPL plans to continue this aspect of the program in the permanent GPP. Furthermore, requests have come to FPL in regards to solar thermal systems. FPL believes as the program continues to grow, promotion and construction of solar thermal systems will also be considered to further develop solar capacity.

FPL proposes to record revenues and expenses for the project as a separate project in its ECCR clause filings and will prepare a status report of the project for each of its ECCR true-up proceedings. Assuming FPL's customer participation forecasts are correct, FPL expects revenues to exceed expenses every year. If FPL's participation forecasts are incorrect, and revenues fall short of expenses, FPL proposes that its administrative cost be recovered through the ECCR. Once revenues begin to exceed costs, FPL will first credit back the prior excess expenses with interest, through the ECCR clause. These procedures were utilized and approved by the Commission in the GPPRP and staff agrees with FPL that they are appropriate procedures to be used for the permanent GPP. After these funds are returned, FPL plans to defer excess revenues as a regulatory liability and reinvest these revenues to increase participation, reduce the monthly fee to participants, or invest in renewable resources.

FPL has requested that it be authorized to establish a regulatory liability for recording the deferral of program revenues in excess of program expenses. Items recorded in Account 254, Other Regulatory Liabilities, represent amounts that would have been normally included in net income during the current period but for it being probable that either the amounts will be included in future periods or will be refunded to customers. FPL's request to defer the excess revenues and to use them for other program purposes does not meet either of these tests. However, Account 253, Other Deferred Credits, includes amounts which cannot be entirely cleared or disposed of until additional information has been received. Staff believes that Account 253 is the appropriate account to be utilized for recording the deferral of program revenues in excess of program expenses.

In conclusion, staff recommends that FPL's proposed GPP be approved as part of FPL's DSM program. FPL's proposed GPP is designed to provide benefits for both FPL and its consumers by encouraging the development of renewable resources. TRECs from out-of-state projects should be allowed to be purchased, but FPL must continue to be committed to a preference for Florida TRECs that encourages the development of renewable resources in the State. FPL has also committed to continue the development of 150 kW of photovoltaic capacity within Florida for every 10,000 participating customers. In addition, staff recommends that Account 253 is the appropriate account to be utilized for recording the deferral of program revenues in excess of program expenses.

Staff believes the GPP advances the policy objectives of the Florida Energy Efficiency and Conservation Act, Section 366.80 through 366.82, Florida Statutes, by encouraging renewable development which might not otherwise be cost effective.

The GPP uses TRECs which help encourage increased renewable generation by adding an additional revenue stream to the renewable generator. However, since TRECs do not represent actual energy purchased, staff believes the TRECs purchased under the GPP should not be counted towards FPL's conservation goals.

Issue 2: Should this docket be closed?

Recommendation: Yes, if Issue 1 is approved, this tariff should become effective on October 24, 2006. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect with any increase 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. (Fleming)

Staff Analysis: If Issue 1 is approved, this tariff should become effective on October 24, 2006. If a protest is filed within 21 days of the issuance of the order, this tariff should remain in effect with any increase 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.