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June 9, 2020

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Item 1

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Wendel, Deas) ^{CH}
Office of the General Counsel (Dziechciarz, Weisenfeld) ^{TWT}

RE: Applications for Certificate of Authority to Provide Telecommunications Service

AGENDA: 6/9/2020 - Consent Agenda - Proposed Agency Action - Interested Persons May Participate

SPECIAL INSTRUCTIONS: None

Please place the following Applications for Certificate of Authority to Provide Telecommunications Service on the consent agenda for approval.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>CERT. NO.</u>
20200090-TX	NextCity Networks, LLC	8949
20200108-TX	Data Stream Telecom of Florida Inc.	8950

The Commission is vested with jurisdiction in this matter pursuant to Section 364.335, Florida Statutes. Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee if the certificate is active during any portion of the calendar year. A Regulatory Assessment Fee Return Notice will be mailed each December to the entities listed above for payment by January 30.

Item 2

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Williams, Fogleman) *CH*
Office of the General Counsel (Murphy) *ThT*

RE: Docket No. 20200073-TP – Commission Approval of Florida
Telecommunications Relay, Inc.'s Fiscal Year 2020/2021 Proposed Budget.

AGENDA: 06/09/20 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Anticipate the need for sign language interpreters and
assisted listening devices. Please place near the
beginning of the agenda to reduce interpreter costs.

Case Background

The Telecommunications Access System Act of 1991 (TASA) established a statewide telecommunications relay system. Section 427.704(1), Florida Statutes (F.S.), provides that the Florida Public Service Commission (Commission or FPSC) shall establish, implement, promote, and oversee the administration of the statewide telecommunications access system to provide access to telecommunications relay services by persons who are deaf, hard of hearing or speech impaired. The telecommunications access system is tasked with the purchase and distribution of specialized telecommunications devices as defined in Section 427.703(11), F.S. As defined by Section 427.703(16), F.S., this system provides telecommunications service for deaf or hard of hearing persons functionally equivalent to the service provided to hearing persons.

The telecommunications access system provides deaf or hard of hearing persons access to basic telecommunications services by using a specialized Communications Assistant that relays information between the deaf or hard of hearing person and the other party to the call. The primary function of the telecommunications access system is accomplished by the deaf or hard of hearing person using a Telecommunications Device for the Deaf (TDD). The person using the TDD types a message to the Communications Assistant who in turn voices the message to the other party or types the message to a Captioned Telephone which displays real-time captions of the conversation.

Florida Telecommunications Relay, Inc. (FTRI), a non-profit corporation formed by the local exchange telephone companies, was selected by the Commission to serve as the TASA Administrator. FTRI is primarily responsible for the purchase and distributions of specialized telecommunications equipment. As part of this process, FTRI contracts with other organizations to distribute equipment and provide customer training on the proper use of the equipment and the relay service. FTRI also conducts marketing to raise awareness of available specialized equipment and related relay service. Relay services are paid for by FTRI as part of its responsibilities.

FTRI, as the TASA Administrator, is funded through the Telecommunications Relay Service (TRS) surcharge. This surcharge was capped by the Florida Legislature at a maximum of \$0.25 per landline access line per month. The Florida Legislature also limited collection of the surcharge on only the first 25 lines of each account. Only local exchange telecommunications companies are required to collect and remit this surcharge to FTRI. The initial TRS surcharge was set at \$0.05 per access line per month.¹ Since then, the FPSC has changed the surcharge to meet FTRI's budgetary needs. The monthly surcharge is currently \$0.10 per access line.

As part of its oversight responsibilities for the telecommunications access system, the Commission reviews and approves a budget submitted by FTRI on an annual basis. Attachment A is FTRI's proposed budget for Fiscal Year 2020/2021, which was approved by its Board of Directors. FTRI also compared its proposed budget to the Commission-approved budget, as well as the estimated revenue and expenses, for Fiscal Year 2019/2020. FTRI's estimated revenue and expenses were based on actual data from the first two quarters and estimated data for the third and fourth quarter.

Staff sent data requests to FTRI on a number of issues included in its Fiscal Year 2019/2020 estimate of expenses and its proposed Fiscal Year 2020/2021 budget. FTRI's responses to staff's data requests are included in the docket file. On April 28, 2020, FTRI filed third quarter financial information. With this updated information, staff formulated its own estimated expenses for Fiscal Year 2019/2020. Staff's estimate is reflected in Attachment B.

This recommendation addresses FTRI's proposed budget and staff's recommended TRS surcharge for Fiscal Year 2020/2021. The TRS surcharge is the only rate the Commission establishes for telecommunications companies. The Commission is vested with jurisdiction pursuant to Chapter 427, F.S.

¹ Order No. 24581, issued May 24, 1991, Docket No. 910496-TP.

Discussion of Issues

Issue 1: Should the Commission approve Florida Telecommunications Relay, Inc.'s (FTRI) proposed budget as presented in Attachment A for Fiscal Year 2020/2021, effective August 1, 2020, and should the Commission maintain the current Telecommunications Relay Service (TRS) surcharge at \$0.10 per month?

Recommendation: Staff recommends the Commission reduce FTRI's proposed budget expenses for Fiscal Year 2020/2021 by \$96,000 for TTY/TDD Equipment, \$58,597 for VCP Hearing Impaired Equipment, \$24,000 for VCP Speech Impaired Equipment, \$128,481 for Regional Distribution Centers, \$6,000 for Leasehold Improvements, and \$2,000 for Employee Training. Staff recommends the Commission allow FTRI to transfer \$165,211 from the Reserve Account to offset a projected revenue shortfall. Staff recommends the Commission order all local exchange companies to continue billing the \$0.10 TRS surcharge for Fiscal Year 2020/2021. Staff further recommends the Commission require FTRI to conduct a financial break-even analysis of the RDC fee structure and present the results to the Commission with its Fiscal Year 2021/2022 budget filing. (Williams, Fogleman, Murphy)

Staff Analysis:

Traditional Telecommunications Relay Service

The traditional TRS cost to FTRI as approved in Sprint Communications Company, L.P.'s (Sprint) contract is currently \$1.35 per session minute. Sprint's projections indicate that traditional minutes will decrease by 3.6 percent during Fiscal Year 2020/2021 from the current fiscal year. Traditional relay users are transitioning to the following services:

- Internet Protocol (IP) Relay²
- Video Relay Service (VRS)³
- Captioned Telephone (CapTel) Service⁴
- IP Captioned Telephone Service⁵
- Internet Protocol Speech-to-Speech (STS) Service⁶
- Wireless Service⁷

² IP Relay allows people who have difficulty hearing or speaking to communicate using a computer and the Internet, rather than a Text Telephone (TTY) and a telephone line.

³ VRS enables persons with hearing disabilities who use American Sign Language to communicate with voice telephone users through video equipment, rather than through typed text. Video equipment links the VRS user with a TRS operator so that the VRS user and the operator can see and communicate with each other in signed conversation.

⁴ A CapTel telephone is a telephone that displays real-time captions of a conversation.

⁵ IP captioned telephone service allows the user to simultaneously listen to and read the text of what the other party in a telephone conversation has said, where the connection carrying the captions between the service and the user is via an IP addressed and routed link.

⁶ STS relay service utilizes a specially trained Communications Assistant who understands the speech patterns of persons with speech disabilities and can repeat the words spoken by such an individual to the other party to the call. IP STS uses the Internet, rather than the public switched telephone network, to connect the consumer to the relay provider.

⁷ Wireless services offer applications such as text, instant messaging, and Facetime.

CapTel Service

The CapTel cost to FTRI as approved in the Sprint contract is currently \$1.69 per session minute. CapTel service uses a specialized telephone that provides captioning of the incoming call for a deaf or hard of hearing person. Sprint's projections show that CapTel minutes of use will decline by 24 percent during Fiscal Year 2020/2021 from the current fiscal year. CapTel users are transitioning to Internet Protocol Captioned Telephone Service and wireless services.

Florida Telecommunications Relay, Inc. Budget

Attachment A reflects FTRI's Fiscal Year 2020/2021 proposed budget, which was reviewed and adopted by FTRI's Board of Directors prior to filing with the Commission. The FTRI proposed budget projects total operating revenue of \$4,906,838 and total expenses of \$5,387,127. Based on the projected revenue and expenses, FTRI requests that the Commission grant FTRI authority to transfer \$480,289 from the Reserve Account to offset the shortfall. FTRI also requests that the TRS surcharge be maintained at \$0.10 per access line for Fiscal Year 2020/2021.

FTRI's proposed budget represents a projected decrease in revenue of \$502,871 (9 percent) from that included in the Fiscal Year 2019/2020 Commission-approved budget. This projected revenue decrease is attributed to an expected six percent decrease in access lines from the current fiscal year that are assessed the TRS surcharge.

FTRI's proposed budget also includes a decrease in expenses of \$308,296 (5.4 percent) from the Fiscal Year 2019/2020 Commission-approved budget. The most significant decline in FTRI's proposed budget expense (\$301,210) relates to an expected decline in minutes of use.

Sprint's estimated Fiscal Year 2020/2021 traditional TRS minutes of use are 1,105,917, at a rate of \$1.35 per minute, for the TRS related expense of \$1,492,988. Sprint's estimated CapTel minutes of use are 450,871, at a rate of \$1.69 per minute for the CapTel related expense of \$761,972. The Fiscal Year 2019/2020 Commission-approved budget reflected traditional TRS minutes of 1,147,727 and CapTel minutes of 595,703. The total expense for TRS and CapTel for Fiscal Year 2019/2020 was \$2,556,170.

A comparison of FTRI's Fiscal Year 2019/2020 Commission-approved budget, FTRI's Fiscal Year 2019/2020 estimated revenues and expenses, and FTRI's Fiscal Year 2020/2021 proposed budget as filed is shown in Table 1 below.

Table 1
FTRI Budget Comparison

	Commission Approved 2019/2020	FTRI Estimated 2019/2020	FTRI Proposed 2020/2021
Operating Revenue:			
Surcharges	\$5,315,788	\$5,098,137	\$4,792,249
Interest Income	93,921	111,674	114,589
Total Operating Revenue	\$5,409,709	\$5,209,811	\$4,906,838
Operating Expenses:			
Relay Provider Services	\$2,556,170	\$2,556,170	\$2,254,960
Equipment & Repairs	938,394	806,530	951,832
Equipment Distribution & Training	707,389	564,344	695,458
Outreach	535,650	535,650	535,650
General & Administrative	957,820	877,841	949,227
Total Expenses	\$5,695,423	\$5,340,535	\$5,387,127
Annual Surplus	(\$285,714)	(\$130,724)	(\$480,289)
Reserve Account	16,957,128	17,353,184	17,222,460
Total Reserve⁸	\$16,671,414	\$17,222,460	\$16,742,171

Source: FTRI's Fiscal Year 2020/2021 proposed budget.

Analysis

Based upon current industry trends, FTRI estimates that access lines will decrease at the rate of approximately six percent from the current fiscal year as more consumers transition from landline phones. Holding the TRS surcharge constant, a decrease in access lines results in a decrease in revenues to support FTRI's activities. Continued effort by FTRI to reduce expenses is important.

Staff developed an estimate of FTRI's expenses for Fiscal Year 2019/2020. This data is presented in Attachment B. Staff used actual data from the first three quarters of the fiscal year, and took an average of those three quarters to estimate the fourth. Staff's estimates were then used as one element in evaluating FTRI's proposed budget. Attachment B also includes FTRI's budgeted information for comparison purposes. Staff also analyzed past Commission-approved

⁸ The Federal Communication Commission (FCC) could mandate state funding of Video Relay Service, Internet Protocol Relay Service, and Internet Protocol Captioned Telephone Service. It is estimated that at a minimum \$32 million would be needed to adequately fund the state program. On June 8, 2018, in CG Docket No. 13-24 and CG Docket No. 03-123, the FCC released a Report and Order, Declaratory Ruling, Further Notice of Proposed Rulemaking, and Notice of Inquiry addressing, in part, whether state relay programs should be allowed or required to administer Internet Protocol Relay Service. Staff notes if this FCC action occurs, a change in state law may be required for the FPSC to implement. <https://docs.fcc.gov/public/attachments/FCC-18-79A1.pdf>

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FTRI budgets to identify and evaluate ongoing cost reduction measures. Below is staff's review of selected items from FTRI's proposed budget expense by category.

Category I – Relay Services

Category I captures expenses for traditional TRS and CapTel service currently provided by Sprint. The proposed budget recognizes a \$301,210 expense reduction from the Fiscal Year 2019/2020 Commission-approved budget, primarily due to declining minutes and service cost associated with CapTel service.

The relay service expenses are based on the minutes of use as projected by Sprint and relay service contract rates. Sprint's historical projections have proven to be reasonable and it has multi-state experience with such projections. Staff believes that the estimates for Fiscal Year 2020/2021 are reasonable and should be used for budgetary purposes.

Category II – Equipment & Repairs

Category II expenses reflect the purchase of equipment to be distributed to clients and the repairs that FTRI must make to keep the equipment in working order. FTRI used contract pricing for equipment multiplied by the number of units it plans to order over the course of the year. These contracts for equipment between FTRI and equipment vendors are separate from the contract for relay service approved by the Commission. FTRI's proposed budget represents a \$13,438 increase in expense when compared to the Fiscal Year 2019/2020 Commission-approved budget.

CapTel Phone Equipment

FTRI's Fiscal Year 2019/2020 CapTel Phone Equipment expense increased from the previous year by \$16,875 as a result of projected demand and expiration of a 2015 agreement FTRI had with Sprint to provide the CapTel 840 PLUS at no cost through Fiscal Year 2018/2019. FTRI's Fiscal Year 2020/2021 proposed budget reduces CapTel Equipment expense by \$16,875. FTRI has determined that it has enough inventory on hand and is refurbishing returned units.

Text Telephone / Texting Device for the Deaf Equipment

Text Telephone (TTY) and Texting Device for the Deaf (TDD) are interchangeable terms used to refer to text-based telecommunications equipment used by deaf or hard of hearing consumers. FTRI's proposed Fiscal Year 2020/2021 budget includes \$96,000 for advanced technologies under the TTY/ TDD equipment budget line item. In support of its budget filing, FTRI states:

Telecommunications Devices for the Deaf have traditionally been TTY (text telephones for the Deaf). Over the past decade or more, these units have become less preferred by Deaf consumers and replaced by newer technology. Smart Phones, Tablets, Captioning services are some of the new technology that may be piloted.

TASA currently provides funding for the distribution of specialized telecommunications devices for the deaf, hard of hearing or speech impaired and the provision of intrastate relay service. In response to staff's Fiscal Year 2020/2021 data request, FTRI explained that it had budgeted \$96,000 based on plans to "distribute 80 iPads priced at \$1,200 per unit configured with

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applications that enable Florida residents who are deaf or severely hard of hearing to access the telecommunications system.”

Staff agrees that traditional TTY/TDD equipment has become less preferred by consumers. This is evident by declines in equipment distributed by FTRI, and TRS and CapTel minutes of use. However, the Florida Legislature narrowly defined TDD as “a mechanism which is connected to a standard telephone line, operated by means of a keyboard, and used to transmit or receive signals through telephone lines.” Section 427.703(14), F.S. Because iPads are not connected to a standard telephone line (i.e., landline) and do not transmit or receive signals through telephone lines, staff believes that they are not TDDs.

Moreover, by Section 427.703(11), F.S., the Florida Legislature defined “specialized telecommunications devices” as “TDD, a volume control handset, a ring signaling device, or any other customer premises telecommunications equipment specifically designed or used to provide basic access to telecommunications service for a hearing impaired, speech impaired, or dual sensory impaired person.” In contrast, iPads are, in basic terms, tablet computers. Consumers can use an iPad for browsing the web, reading and sending email, enjoying photos, watching videos, listening to music, playing games, and reading e-books. Software can be purchased for other productivity functions, such as drafting documents, creating spreadsheets, developing presentations, and editing photographs. While additional applications may be available that provide assistance to the deaf and hard of hearing community, staff believes that the iPad is not a specialized telecommunications device specifically designed or used to provide basic access to telecommunications service for a hearing impaired, speech impaired, or dual sensory impaired person.

Because an iPad is neither a TDD nor a specialized telecommunications device, staff recommends that distribution of iPads by FTRI is not authorized by applicable law and that FTRI’s budget should be reduced by \$96,000 for TTY/TDD equipment.

VCP Hearing Impaired Equipment

FTRI’s Fiscal Year 2019/2020 estimated expense for VCP Hearing Impaired Equipment is \$646,535. FTRI’s proposed budget is \$635,800 for Fiscal Year 2020/2021. However, staff’s estimate for Fiscal Year 2019/2020 is \$577,203. As stated earlier, staff’s estimated expense for 2019/2020 includes three quarters of actual data, while FTRI’s includes only two quarters of historical data. Over the past several years, there has been a steady decline in expense related to this category of equipment. FTRI has not presented any information that would suggest a change in this trend. For these reasons and staff’s estimate for the current year, staff recommends that the Commission reduce FTRI’s budget by \$58,597.

VCP Speech Impaired Equipment

FTRI has also proposed \$24,000 for VCP Speech Impaired equipment for Fiscal Year 2020/2021. FTRI states that the request is to pilot newer technology equipment using documented pilot program parameters for the program. FTRI explains that over the past decade or more, new technology such as smartphones and tablets have become available to assist speech impaired persons connect with the communications systems. FTRI indicated in its response to staff’s data request that its budget for this category of equipment was based on plans to distribute

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20 iPads. It intends for these iPads to be configured with applications that enable speech impaired Florida residents to access the telecommunications system.

As discussed earlier, staff understands that a growing number of consumers prefer to use newer devices that offer varied services and applications. Staff appreciates FTRI's challenge to provide attractive technology under Chapter 427. However, as noted earlier, staff does not believe that iPads meet the statutory definition of a "specialized telecommunications device." Furthermore, considering FTRI's budgetary constraints based on declining access line revenue, staff does not support FTRI's proposed funding. Staff recommends that FTRI's request of \$24,000 be denied.

VRS Signaling Equipment

FTRI's proposed Fiscal Year 2020/2021 budget is \$16,400 for VRS Signaling Equipment. FTRI's Fiscal Year 2019/2020 Commission-approved budget is \$7,733. This year's budget request includes increasing the number of Bellman-Symdon devices distributed, which were piloted last year. These more advanced devices allow users to control the unit plugged directly into the phone or by transmitter alerting the user of a ring if the unit is in another room. The Commission denied FTRI's Fiscal Year 2019/2020 proposed funding level for the Bellman-Symdon device, voting to maintain the budget of \$7,733. FTRI was directed to provide information regarding consumer demand and product quality of the Bellman-Symdon device for the following year. In response to staff's Fiscal Year 2020/2021 data request, FTRI explained that based on results from its pilot, ninety-five percent of its clients benefited from the device. FTRI further explained that all twenty units piloted during Fiscal Year 2019/2020 remain in use by the original recipients. Based on FTRI's reported pilot results, staff recommends that FTRI's Fiscal Year 2020/2021 proposed \$16,400 expense be approved.

Category III – Equipment Distribution & Training

Category III reflects the cost of distributing equipment throughout the state and the training of consumers in the use of that equipment. FTRI's proposed budget reflects a slight decrease in expense of \$11,931 from the Fiscal Year 2019/2020 Commission-approved budget. This decrease is the result of decreased freight cost.

Regional Distribution Centers

Expenses related to Regional Distribution Centers (RDCs) are the largest component of Category III expenses. FTRI's proposed budget for RDCs is unchanged from the Fiscal Year 2019/2020 Commission-approved budget of \$664,128. Staff notes that FTRI's proposed budget exceeds its Fiscal Year 2019/2020 estimated expenditures by \$128,481. In response to staff's data request, FTRI indicated that it intends to "expand the quantity of Regional Distribution Centers (RDCs) while working with the existing RDCs to evaluate and implement a business model that enables them to provide FTRI services at break-even."

By comparison, staff estimates that RDC expense for Fiscal Year 2019/2020 is \$483,984. This amount is 27 percent less than this year's Commission-approved budget. While staff does not recommend approval of FTRI's proposed Fiscal Year 2020/2021 expense of \$664,128, we are hesitant to recommend staff's current estimate as it is based primarily on historical data. Given that FTRI has indicated its intent to increase the number of RDCs, and recognizing the

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importance of adequately funding equipment distribution channels, staff recommends continued funding at FTRI's estimated 2019/2020 expense level of \$535,647.

In support of its budget request, FTRI indicated in its response to staff's inquiry that the current fee per service structure is not financially performing at a break-even point for the RDCs. FTRI contracts with the non-profit RDCs to perform equipment distribution and training throughout Florida. Currently there are 27 RDCs. The amount of funds for FTRI's contracts with RDCs varies based on the number of clients they assist. More funds are provided for connecting a new client, while fewer funds are provided to assist existing clients in the system. FTRI did not present sufficient cost detail regarding the compensation to RDCs and their associated costs. Staff recommends that FTRI conduct a financial break-even analysis of the RDC fee structure and present the results to the Commission with its Fiscal Year 2021/2022 budget filing. Additional information is needed to confirm the appropriate reimbursement rate FTRI pays RDCs.

Category IV – Outreach

Outreach efforts are designed to promote FTRI's equipment distribution services and to raise awareness about Florida relay service. FTRI's proposed Fiscal Year 2020/2021 outreach budget remains unchanged from the Commission-approved outreach budget for Fiscal Year 2019/2020. Recent budgets have seen a slight decline in the outreach expense from year to year.

FTRI employs various forms of communication in its outreach strategy. FTRI plans to continue advertising in newspapers using free-standing insert ads (flyers) in markets where such ads continue to be effective. However, FTRI acknowledges that it has witnessed rapid changes in the newspaper industry. In response, FTRI will utilize other print tools such as direct mail post cards and coupon book advertisements. FTRI also plans to continue expanding its digital marketing campaign, including increased use of banner ads on websites, targeted email campaigns, and social media campaigns.

The Commission has previously encouraged FTRI to research and consider more technologically advanced and cost-effective forms of outreach in addition to traditional newspapers. Staff takes note of FTRI's efforts to make its outreach strategy more cost-effective and to put more focus on digital marketing strategies. Staff believes FTRI's proposed budget for Category IV expense is reasonable.

Category V – General & Administrative

Category V reflects the expenses associated with FTRI's operations, such as office and furnishings, employee compensation, contracted services (auditors, attorney, and computer consultants), computers and other operating expenses. FTRI is proposing an overall \$8,593 decrease in Category V expense for Fiscal Year 2020/2021.

Legal Services

When it evaluated FTRI's budget for the 2017/2018 fiscal year, the Commission reduced legal expense from \$72,000 to \$36,000 based on an analysis that paying an attorney an hourly rate may be more cost-effective than paying a retainer. Subsequent to the Commission's 2017 order, FTRI signed a legal services agreement with an attorney guaranteeing a monthly flat fee of

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\$3,000 per month (12 hours at \$250 per hour), with additional hours billed for specified services as needed at \$225 per hour. This agreement was for a minimum of \$36,000, and resulted in a subsequent proposed Fiscal Year 2018/2019 budget of \$55,823. The Commission rejected that amount and once again approved a budget of \$36,000. For the current 2019/2020 fiscal year the Commission approved a budget of \$33,500, as requested by FTRI.

For Fiscal Year 2020/2021, FTRI has proposed a budget of \$28,776 for legal expenses. Based on Commission's prior decisions staff believes that FTRI's proposed budget of \$28,776 for Fiscal Year 2020/2021 is reasonable.

Leasehold Improvements

FTRI included a new line item in its proposed Fiscal Year 2020/2021 budget for Leasehold Improvements. FTRI is requesting approval of the first year of amortized expense of \$6,000 for replacing the flooring in their office, which was originally installed in 2001. FTRI's total cost for replacement would be \$30,000 amortized over 5 years. Leasehold improvements are negotiable between landlords and tenants. Landlords may offer payment or a discount on rent for tenants that make necessary or desired improvements themselves.

FTRI renewed its lease in 2017 at the same rate as the previous lease. FTRI's rate has remained steady for the past five years and FTRI states that it is not expected to change. The Fiscal Year 2020/2021 proposed rent expense is \$91,715.

In general, building maintenance is the responsibility of the landlord. Staff does not support this expense at this time. It is not clear to staff why FTRI would seek to pay for replacing the carpet as opposed to asking the landlord to do so, or at least negotiating the need for improvements with the landlord. To the extent that FTRI's landlord is unwilling to make necessary improvements to the facility, FTRI should begin reviewing other lease options and related relocation expenses.

Retirement

In recent years, the Commission has ordered FTRI to conduct in-house analyses for retirement and to include quotes from other retirement plans offered by comparably sized nonprofit and for-profit entities. In response, FTRI filed reports performed by Regions Institutional Services (Regions) on the plan design, investment returns, and administrative structure of FTRI's pension plan. The analysis pointed out that FTRI's current plan through NTCA boasts roughly \$2 billion in assets with over 17,000 participants. It further stated that the cooperative nature of the plan allows the assets to be pooled for investment purposes and the large asset base attracts outside managers not generally available to smaller defined benefit plans.

Regions concluded that there are no glaring issues with FTRI's plan design or operation. However, Regions did recommend that FTRI continue to review investment returns, fees, and plan design to ensure that NTCA's plan remains cost-effective. The Commission ordered FTRI to continue to conduct in-house analyses for retirement expenses and submit its findings every three years, with the next due on January 31, 2022. Retirement expense is based on salary and related pension costs. For Fiscal Year 2020/2021, FTRI has proposed retirement expense of \$77,030. This represents a 4.7 percent decrease from the Fiscal Year 2019/2020 Commission-

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approved budget. FTRI's proposed budget is based on staffing eight full-time positions. Staff believes FTRI's proposed retirement budget is reasonable.

Insurance

In FTRI's proposed Fiscal Year 2018/2019 budget, it initially requested \$192,496 for insurance expense, which represented an increase of 5.12 percent from 2017/2018 estimated expenditures. However, FTRI's insurance budget was based on an estimate from its previous insurance provider. In response to staff's inquiry, FTRI provided a revised insurance estimate of \$153,027 from another insurance provider. FTRI's Fiscal Year 2018/2019 budget line item for insurance was reduced to reflect the updated estimate provided by FTRI. FTRI was also required to continue to conduct in-house analyses for insurance expense and submit its findings to the Commission every three years. Last year's Commission-approved budget for insurance increased to \$165,266. FTRI's proposed Fiscal Year 2020/2021 budget for insurance expense is \$181,893. FTRI indicated that this amount includes a ten percent premium increase based on quotes from its insurance provider reflecting increasing healthcare costs. Staff recommends approval of FTRI's proposed budget for insurance. Staff notes that FTRI is required to present the Commission an in-house analysis for insurance expense on January 31, 2021.

Employee Compensation

FTRI's proposed Fiscal Year 2020/2021 employee compensation budget represents a \$25,451 decrease compared to the Fiscal Year 2019/2020 Commission-approved budget. A data entry position experienced turnover in February 2019, reducing the number of employees from nine to eight. Eight positions are budgeted for Fiscal Year 2020/2021 with a three percent merit increase pool based on current employee salaries. Staff believes that it is important for an organization like FTRI to attract and retain skilled employees in order to maintain organizational effectiveness from year to year. As such, staff believes FTRI's proposed budget for employee compensation, including the three percent merit-based salary increase pool, is reasonable.

Travel and Business Expense

FTRI proposes a budget of \$8,111 for Fiscal Year 2020/2021. This represents an increase of \$4,056 from last year's Commission-approved budget. For the current year, staff estimated that FTRI travel expense will be closer to \$3,431. The requested travel is based on six trips for FTRI staff to meet with RDCs and/or vendors and one trip to the Telecommunications Equipment Distribution Program Association annual conference. By comparison, last year's budget included a total of five trips. Staff believes the increased number of trips and related expense is reasonable given FTRI's expressed interest in developing additional RDC locations. Additional RDC locations may improve equipment distribution and relay service promotion. FTRI should, however, consider having more virtual meetings and conference calls as cost-cutting measures.

Employee Training

FTRI requests a budget of \$4,145 for Fiscal Year 2020/2021. This represents an increase of \$3,195 from last year's Commission-approved budget. FTRI budgeted for two staff retreats that may be held off-site. FTRI also included other training and professional development through the LinkedIn program. In light of budget constraints, staff recommends reducing the proposed increase by \$2,000. FTRI should consider having more in-house training as a cost-cutting measure.

Surcharge

FTRI recommends that the Commission order all local exchange companies to continue billing the \$0.10 monthly surcharge for Fiscal Year 2020/2021. Staff's recommended total budget includes a shortfall of \$165,211. FTRI proposed drawing from the Reserve Account to cover the shortfall in its proposed budget. Staff notes that a \$0.01 increase in the surcharge would produce approximately \$479,225 in additional revenue. Staff recommends that rather than increasing the surcharge, it is appropriate to transfer the funds from the Reserve Account to cover the budgeted shortfall for Fiscal Year 2020/2021. Staff notes that in a future year it may be necessary to evaluate whether a temporary increase in the surcharge may be a reasonable approach to cover budgetary needs and to replenish the Reserve Account.

Staff Adjustments to FTRI's Proposed Budget

Based on the analysis above, staff recommends adjustments to the following expenses in Table 2.

Table 2
Proposed Expense Category Reductions

Expense Category	FTRI Proposed 2020/2021	FPSC Staff's Proposed 2020/2021	Staff's Proposed Reduction
TTY/TDD Equipment	\$96,000	\$0	\$96,000
VCP Hearing Impaired Equipment	635,800	577,203	58,597
VCP Speech Impaired Equipment	24,000	0	24,000
Regional Distribution Centers	664,128	535,647	128,481
Leasehold Improvements	6,000	0	6,000
Employee Training/Development	4,145	2,145	2,000

Conclusion

Staff believes FTRI's expense reductions continue to better position FTRI to meet its obligations under Chapter 427, F.S., in a changing industry with declining revenues. However, a sustained effort is necessary for FTRI to strategically position itself in a rapidly changing environment. Staff has identified six expense line items in FTRI's proposed Fiscal Year 2020/2021 budget that should be reduced. Staff also recommends that additional cost analysis related to RDC expense be conducted.

Staff recommends that the Commission reduce FTRI's proposed budget expenses for Fiscal Year 2020/2021 by \$96,000 for TTY/TDD Equipment, \$58,597 for VCP Hearing Impaired Equipment, \$24,000 for VCP Speech Impaired Equipment, \$128,481 for Regional Distribution Centers, \$6,000 for Leasehold Improvements, and \$2,000 for Employee Training. Staff also recommends that the Commission allow FTRI to transfer \$165,211 from the Reserve Account to offset a projected revenue shortfall. Staff recommends that the Commission order all local exchange companies to continue billing the \$0.10 TRS surcharge for Fiscal Year 2020/2021. Staff further recommends that the Commission require FTRI to conduct a financial break-even analysis of the RDC fee structure and present the results to the Commission with its Fiscal Year 2021/2022 budget filing.

Issue 2: Should this docket be closed?

Recommendation: 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. (Murphy)

Staff Analysis: At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.



March 2, 2020

Mr. Curtis Williams, Regulatory Analyst IV
Office of Industry Development & Market Analysis
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Approved FTRI FY 2021 Budget

Mr. Williams:

Pursuant to FS 427.704(4)(e), the FTRI FY 2021 budget as approved by the Board of Directors on February 24, 2020 is hereby provided in support of the Commission's annual review of the TASA surcharge. The approved budget:

- Maintains the \$0.10 /line/month TASA surcharge
- Reflects a 5.4% reduction in year-over-year budgeted operating expenses
- Utilizes \$480,289 of the \$17.2M reserve fund to offset surcharge revenue shortfall

As the administrator of the telecommunications access system which consists of the Florida Relay Service and the specialized equipment distribution program, FTRI continues to effectively manage reasonable administrative costs in the fulfillment of the duties defined in FS 427.705.

FTRI looks forward to working with the Commission, the TASA Advisory Committee, and interested community groups to modernize FS 427 for the purposes of:

- Aligning with the ADA, CVAA of 2010, and Federal Title 47, CFR 64.604
- Providing services and equipment to >2.5M unserved qualifying Florida residents
- Developing a sustainable funding model that evolves with technology advancements

Thanks to the Commission, TASA Advisory Committee members, Regional Distribution Centers, and certifiers across the state for supporting this critical Title XXX Social Welfare service.

Regards,

A handwritten signature in blue ink, appearing to read 'Sean Bankston', is positioned above the printed name.

Sean Bankston
FTRI Executive Director

Enclosures

Florida Telecommunications Relay, Inc. Fiscal Year 2020/2021 Budget @ .10 cents surcharge					
	2019/2020 APPROVED BUDGET	2019/2020 ESTIMATED REV & EXPEND	2020/2021 APPROVED BUDGET	Estimated to Budget VARIANCE 2019/2020 2020/2021	Budget to Budget VARIANCE 2019/2020 2020/2021
OPERATING REVENUE					
1 Surcharges	5,315,788	5,098,137	4,792,249	(305,888)	(523,539)
2 Interest Income	93,921	111,674	114,589	2,915	20,668
TOTAL OPERATING REV	5,409,709	5,209,811	4,906,838	(302,973)	(502,871)
OTHER REVENUE/FUNDS					
3 Surplus Account	16,957,128	17,353,184	17,222,460	(130,724)	265,332
TOTAL REVENUE	22,366,837	22,562,995	22,129,298	(433,697)	(237,539)
OPERATING EXPENSES					
CATEGORY I - RELAY SERVICES					
4 DPR Provider	2,556,170	2,556,170	2,254,960	(301,210)	(301,210)
SUBTOTAL-CATEGORY I	2,556,170	2,556,170	2,254,960	(301,210)	(301,210)
CATEGORY II - EQUIPMENT & REPAIRS					
5 TTY/TDD	0	0	96,000	96,000	96,000
6 CapTel Phone Equipment	16,875	0	0	0	(16,875)
7 VCP Hearing Impaired	813,659	646,535	635,800	(10,735)	(177,859)
8 VCP Speech Impaired	0	0	24,000	24,000	24,000
9 TeliTalk Speech Aid	15,480	31,215	32,760	1,545	17,280
10 In-Line Amplifier	0	28,625	34,950	6,325	34,950
11 ARS Signaling Equip	0	1,520	2,592	1,072	2,592
12 VRS Signaling Equip	7,733	7,246	16,400	9,154	8,667
13 Accessories & Supplies	1,499	150	518	368	(981)
14 Telecomm Equip Repair	83,148	91,239	108,812	17,573	25,664
SUBTOTAL-CATEGORY II	938,394	806,530	951,832	145,302	13,438
CATEGORY III - EQUIPMENT DISTRIBUTION & TRAINING					
15 Freight-Telecomm Equip	42,793	28,229	30,862	2,633	(11,931)
16 Regional Distr Centers	664,128	535,647	664,128	128,481	0
17 Training Expense	468	468	468	0	0
SUBTOTAL-CATEGORY III	707,389	564,344	695,458	131,114	(11,931)

Florida Telecommunications Relay, Inc. Fiscal Year 2020/2021 Budget @ .10 cents surcharge					
	2019/2020	2019/2020	2020/2021	Estimated to Budget	Budget to Budget
	APPROVED BUDGET	ESTIMATED REV & EXPEND	APPROVED BUDGET	VARIANCE 2019/2020 2020/2021	VARIANCE 2019/2020 2020/2021
CATEGORY IV - OUTREACH					
18 Outreach Expense	535,650	535,650	535,650	0	0
SUBTOTAL-CATEGORY IV	535,650	535,650	535,650	0	0
CATEGORY V - GENERAL & ADMINISTRATIVE					
19 Advertising	1,247	0	0	0	(1,247)
20 Accounting/Auditing	21,221	20,768	20,823	55	(398)
21 Legal	33,500	28,776	28,776	0	(4,724)
22 Computer Consultation	6,710	5,037	5,020	(17)	(1,690)
23 Dues & Subscriptions	2,307	2,482	2,482	0	175
24 Office Equipment Purchase	9,131	8,551	7,131	(1,420)	(2,000)
25 Office Equipment Lease	1,751	1,751	1,751	0	0
26 Leasehold Improvements			6,000	6,000	6,000
27 Insurance-Hlth/Life/Dsblty	165,266	153,475	181,893	28,418	16,627
28 Insurance-Other	9,609	9,717	9,741	24	132
29 Office Expense	11,914	12,235	12,248	13	334
30 Postage	4,527	4,139	4,139	0	(388)
31 Printing	1,216	1,323	1,323	0	107
32 Rent	91,317	91,611	91,715	104	398
33 Utilities	5,250	5,408	5,408	0	158
34 Retirement	80,909	75,436	77,030	1,594	(3,879)
35 Employee Compensation	456,961	404,000	431,510	27,510	(25,451)
36 Taxes - Payroll	33,478	31,741	31,979	238	(1,499)
37 Taxes - Unemplmt Comp	63	63	56	(7)	(7)
38 Taxes - Licenses	61	61	61	0	0
39 Telephone	15,615	15,329	17,030	1,701	1,415
40 Travel & Business	4,055	4,859	8,111	3,252	4,056
41 Equipment Maint.	762	854	855	1	93
42 Employee Training/Dev	950	225	4,145	3,920	3,195
SUBTOTAL-CATEGORY V	957,820	877,841	949,227	71,386	(8,593)
TOTAL EXPENSES	5,695,423	5,340,535	5,387,127	46,592	(308,296)
REVENUE LESS EXPENSES	16,671,414	17,222,460	16,742,171	(480,289)	70,757

STAFF'S BUDGET COMPARISON					
	2019/2020 APPROVED BUDGET	2019/2020 FTRI ESTIMATED	2019/2020 FPSC STAFF ESTIMATED	2020/2021 FPSC STAFF PROPOSED BUDGET	2020/2021 FTRI PROPOSED BUDGET
REVENUE					
Surcharge	5,315,788	5,098,137	5,098,137	4,792,249	4,792,249
Interest	93,921	111,674	111,674	114,589	114,589
TOTAL OPERATING REVENUE	5,409,709	5,209,811	5,209,811	4,906,838	4,906,838
Surplus Account	16,957,128	17,353,184	17,353,184	17,222,460	17,222,460
TOTAL REVENUE	22,366,837	22,562,995	22,562,995	22,129,298	22,129,298
OPERATING EXPENSES					
CATEGORY I - RELAY SERVICES					
DPR Provider	2,556,170	2,556,170	2,556,170	2,254,960	2,254,960
SUBTOTAL CATEGORY I	2,556,170	2,556,170	2,556,170	2,254,960	2,254,960
CATEGORY II - EQUIPMENT & REPAIRS					
TDD Equipment	-	-	-	-	96,000
Large Print TDD	-	-	-	-	-
VCO/HCO-TDD	-	-	-	-	-
VCO-Telephone	-	-	-	-	-
Dual Sensory Equipment	-	-	-	-	-
CapTel Phone Equipment	16,875	-	-	-	-
VCP Hearing Impaired	813,659	646,535	577,203	577,203	635,800
VCP Speech Impaired	-	-	-	-	24,000
TelTalk Speech Aid	15,480	31,215	36,980	32,760	32,760
Jupiter Speaker Phone (InferaRed/Ha	-	-	-	-	-
In Line Amplifier	-	28,625	20,847	34,950	34,950
ARS-Signaling Equipment	-	1,520	1,631	2,592	2,592
VRS-Signaling Equipment	7,733	7,246	5,288	16,400	16,400
Equipment Accessories/Supplies	1,499	150	393	518	518
Telecom Equipment Repair	83,148	91,239	60,861	108,812	108,812
SUBTOTAL CAT II	938,394	806,530	703,203	773,235	951,832
CATEGORY III - EQUIPMENT DISTRIBUTION & TRAINING					
Freight - Telecomm Equipment	42,793	28,229	23,968	30,862	30,862
Regional Distribution Centers	664,128	535,647	483,984	535,647	664,128
Workshop Expense	-	-	-	-	-
Training Expense for RDCs	468	468	624	468	468
SUBTOTAL CAT III	707,389	564,344	508,576	566,977	695,458

STAFF'S BUDGET COMPARISON					
	2019/2020 APPROVED BUDGET	2019/2020 FTRI ESTIMATED	2019/2020 FPSC STAFF ESTIMATED	2020/2021 FPSC STAFF PROPOSED BUDGET	2020/2021 FTRI PROPOSED BUDGET
Outreach Expense	535,650	535,650	470,008	535,650	535,650
SUBTOTAL CAT IV	535,650	535,650	470,008	535,650	535,650
CATEGORY V - GENERAL AND ADMINISTRATIVE					
Advertising	1,247	-	-	-	-
Accounting/Audit	21,221	20,768	26,428	20,823	20,823
Legal	33,500	28,776	25,069	28,776	28,776
Consultation-Computer	6,710	5,037	5,571	5,020	5,020
Dues/Subscriptions	2,307	2,482	3,181	2,482	2,482
Office Furniture	-	-	-	-	-
Office Equipment Purchase	9,131	8,551	4,024	7,131	7,131
Office Equipment Lease	1,751	1,751	1,781	1,751	1,751
Leasehold Improvements	-	-	-	-	6,000
Insurance -Health/Life/Disability	165,266	153,475	150,849	181,893	181,893
Insurance-Other	9,609	9,717	9,165	9,741	9,741
Office Expense	11,914	12,235	11,961	12,248	12,248
Postage	4,527	4,139	2,161	4,139	4,139
Printing	1,216	1,323	1,296	1,323	1,323
Rent	91,317	91,611	91,451	91,715	91,715
Utilities	5,250	5,408	5,360	5,408	5,408
Retirement	80,909	75,436	72,043	77,030	77,030
Employee Compensation	456,961	404,000	398,935	431,510	431,510
Temporary Employment	-	-	-	-	-
Taxes - Payroll	33,478	31,741	32,004	31,979	31,979
Taxes - Unemployment Comp	63	63	84	56	56
Taxes - Licenses	61	61	81	61	61
Telephone	15,615	15,329	17,664	17,030	17,030
Travel & Business Expense	4,055	4,859	3,431	8,111	8,111
Equipment Maintenance	762	854	880	855	855
Employee Training	950	225	1,247	2,145	4,145
Meeting Expense	-	-	-	-	-
Miscellaneous	-	-	-	-	-
SUBTOTAL CAT V	957,820	877,841	864,667	941,227	949,227
TOTAL EXPENSES	5,695,423	5,340,535	5,102,623	5,072,049	5,387,127
REVENUES LESS EXPENSES	(285,714)	(130,724)	107,188	(165,211)	(480,289)

Item 3

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Cowdery) *SMC*
Division of Economics (Guffey) *JGH*

RE: Docket No. 20200094-EU – Proposed amendments to Rules 25-6.0440, F.A.C., Territorial Agreements for Electric Utilities, and 25-6.0441, F.A.C., Territorial Disputes for Electric Utilities.

AGENDA: 06/09/20 – Regular Agenda – Rule Proposal – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

RULE STATUS: Proposal May Be Deferred

SPECIAL INSTRUCTIONS: None

Case Background

The Rules

On August 17, 2018, the Joint Administrative Procedures Committee (JAPC) sent the Commission a letter providing comments resulting from JAPC's review of Chapter 25-6, Florida Administrative Code (F.A.C.).¹ The letter included comments on Rule 25-6.0440, Territorial Agreements for Electric Utilities, and Rule 25-6.0441, Territorial Disputes for Electric Utilities, F.A.C.²

¹ JAPC is required to maintain a continuous review of administrative rules and advise the agencies concerned of its findings under Section 120.545, F.S., and Joint Rule 4.6 of the Florida Legislature.

² The Commission previously addressed JAPC's comments from this letter regarding several other rules. *See* Order No. PSC-2019-0518-FOF-EI, issued on December 11, 2019, in Docket No. 20190164, *In re: Proposed amendment of Rule 25-6.0141, F.A.C., Allowance for Funds Used During Construction; Rule 25-6.033, F.A.C., Tariffs; Rule 25-*

Rule 25-6.0440, F.A.C., requires all territorial agreements between electric utilities to be submitted to the Commission for approval. The rule lists the information that must be provided and sets forth the factors that the Commission may consider in approving territorial agreements. Rule 25-6.0441, F.A.C., states that a territorial dispute proceeding may be initiated by a petition from an electric utility requesting the Commission to resolve the dispute. The rule lists the information required in the petition and identifies the factors the Commission may consider in resolving territorial disputes. Both rules state that the Commission's consideration is not limited to the factors that are listed.

The territorial agreement and territorial dispute rules implement Section 366.04(2), F.S., which gives the Commission the power to approve territorial agreements and to resolve territorial disputes involving rural electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction. For territorial disputes, Section 366.04(2)(e), F.S., states that:

the Commission may consider, but not be limited to consideration of, the ability of the utilities to expand services within their own capabilities and the nature of the area involved, including population, the degree of urbanization of the area, its proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services.

The factors listed in Section 366.04(2)(e), F.S., are included in the list of factors in Rule 25-6.0441, F.A.C., although the language is not identical. JAPC's interpretation of Section 366.04(2)(e), F.S., is that the Legislature gave the Commission authority to consider factors other than those listed in the statute in resolving territorial disputes, but those additional factors need to be identified in the rule.

JAPC's Comments

JAPC's letter noted that Rules 25-6.0440 and 25-6.0441, F.A.C., both state that the Commission "may consider, but not be limited to" certain enumerated factors in making its determination. JAPC commented that the use of the quoted phrase in the rules implies that there are additional expectations or standards that could be enforced that are not enumerated. JAPC asked the Commission to review Section 120.52(8)(d), F.S., which provides that it is an invalid exercise of delegated legislative authority if a rule is vague, fails to establish adequate standards for agency decisions, or vests unbridled discretion in the agency.

Procedural Matters

This rulemaking was initiated to address JAPC's comments on Rules 25-6.0440 and 25-6.0441, F.A.C. The Notice of Development of Rulemaking appeared in the November 18, 2019 edition of the Florida Administrative Register (F.A.R.). Tampa Electric Company (TECO) and the Florida Electric Cooperatives Association (FECA) filed comments on December 3, 2019, and Florida Power & Light Company, Duke Energy Florida, and the Florida Municipal Electric Association joined FECA's comments. TECO requested a workshop in its December 3, 2019 comments, and FECA requested a workshop on December 4, 2019. However, TECO and FECA

6.036, F.A.C., Inspection of Plant; and Rule 25-6.037, F.A.C., Extent of System Which Utility Shall Operate and Maintain.

withdrew their requests for a workshop on February 3, 2020, after staff revised its draft rule based on comments contained in the requests for workshop. The Office of Public Counsel was provided the opportunity to comment on the draft rule amendments.

This recommendation addresses whether the Commission should amend Rules 25-6.0440 and 25-6.0441, F.A.C. The Commission has jurisdiction under Sections 350.127(2), 366.04(2), (4), (5), and 366.05(7), F.S.

Discussion of Issues

Issue 1: Should the Commission propose the amendment of Rule 25-6.0440, Territorial Agreements for Electric Utilities, and Rule 25-6.0441, Territorial Disputes for Electric Utilities, F.A.C.?

Recommendation: Yes, the Commission should propose the amendment of Rules 25-6.0440 and 25-6.0441, F.A.C., as set forth in Attachment A. The Commission should also certify Rules 25-6.0440 and 25-6.0441, F.A.C., as minor violation rules. (Cowdery, Guffey)

Staff Analysis: The Commission adopted Rules 25-6.0440 and 25-6.0441, F.A.C., to implement its authority under Section 366.04(2), F.S., to approve territorial agreements and resolve territorial disputes. Both rules list factors the Commission may consider in making its determinations. The language in both rules states that the Commission's consideration is "not limited to" the listed factors. In its rule review letter, JAPC conveyed its concern that the phrase "may consider, but not be limited to the consideration of," implied that there are additional expectations or standards that could be enforced, which could be considered an invalid exercise of delegated legislative authority under Section 120.52(8)(c), F.S.

In order to address JAPC's concern, staff is recommending that the phrase "but not be limited to consideration of" be deleted from both rules. In lieu of this phrase, staff is recommending that a criterion be added to each rule that allows the Commission to consider "[a]ny other factor the Commission finds relevant in reaching a determination" that the territorial agreement or resolution of the territorial dispute "is in the public interest." In addition, staff recommends that the territorial dispute rule be amended for clarity to state that the Commission's consideration of the listed factors is in addition to the factors listed in Section 366.04(2)(e), F.S.

Florida courts have held that both the resolution of territorial disputes and the approval of territorial agreements should ultimately be guided by the public interest standard. *Gulf Coast Elec. Co-op., Inc. v. Johnson*, 727 So. 2d 259, 264 (Fla. 1999). As a part of this public interest test, the Commission should ensure its decision prevents the uneconomic duplication of generation, transmission, and distribution assets. *Id.*; see Section 366.05, F.S. Staff believes that the recommended amendments of these rules will adhere to the public interest standard.

This draft language ensures that the Commission has wide latitude to consider factors that may be unique to each dispute or agreement. At the same time, the draft language limits the Commission's discretion, using the judicially approved public interest test, and satisfies JAPC's concerns.

In addition, staff is also recommending some non-substantive amendments to both rules. These recommended amendments are to update and clarify the rules.

Minor Violation Rules Certification

Pursuant to Section 120.695, F.S., the agency head must certify for each rule filed for adoption whether any part of the rule is designated as a rule the violation of which would be a minor violation. Rules 25-6.0440 and 25-6.0441, F.A.C., are currently listed on the Commission's

Date: May 28, 2020

website as rules for which a violation would be minor because violation of the rules would not result in economic or physical harm to a person or have an adverse effect on the public health, safety, or welfare or create a significant threat of such harm. The amendments to the rules would not change their status as minor violation rules. Thus, staff recommends that the Commission certify Rules 25-6.0440 and 25-6.0441, F.A.C., as minor violation rules.

Statement of Estimated Regulatory Costs

Pursuant to Section 120.54(3)(b), F.S., agencies are encouraged to prepare a statement of estimated regulatory costs (SERC) before the adoption, amendment, or repeal of any rule. The SERC is appended as Attachment B to this recommendation.

The SERC concludes that the rules will not likely directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within one year after implementation. Further, the SERC economic analysis concludes that the rules will not likely have an adverse impact on economic growth, private sector job creation or employment, private sector investment, business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. Thus, the rules do not require legislative ratification pursuant to Section 120.541(3), F.S. In addition, the SERC states that the rules will not have an adverse impact on small business and will have no impact on small cities or counties. No regulatory alternatives were submitted pursuant to paragraph 120.541(1)(a), F.S. None of the impact/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended amendments to Rules 25-6.0440 and 25-6.0441, F.A.C.

Conclusion

Staff recommends that the Commission should propose the amendment of Rules 25-6.0440 and 25-6.0441, F.A.C., as set forth in Attachment A. The Commission should also certify Rules 25-6.0440 and 25-6.0441, F.A.C., as minor violation rules.

Date: May 28, 2020

Issue 2: Should this docket be closed?

Recommendation: Yes. If no requests for hearing, information regarding the SERC, proposals for a lower cost regulatory alternative, or JAPC comments are filed, the rule should be filed with the Department of State, and the docket should be closed. (Cowdery)

Staff Analysis: If no requests for hearing, information regarding the SERC, proposals for a lower cost regulatory alternative, or JAPC comments are filed, the rule may be filed with the Department of State and the docket should be closed.

1 **25-6.0440 Territorial Agreements for Electric Utilities.**

2 (1) All territorial agreements between electric utilities must ~~shall~~ be submitted to the
3 Commission for approval. Each territorial agreement must ~~shall~~ clearly identify the
4 geographical area to be served by each utility. The submission must ~~shall~~ include:

- 5 (a) A map and a written description of the area,
6 (b) The terms and conditions pertaining to implementation of the agreement, and any other
7 terms and conditions pertaining to the agreement,
8 (c) The number and class of customers to be transferred,
9 (d) Assurance that the affected customers have been contacted and the difference in rates
10 explained,
11 (e) Information with respect to the degree of acceptance by affected customers, i.e., the
12 number in favor of and those opposed to the transfer, and
13 (f) An official Florida Department of Transportation (DOT) General Highway County map
14 for each affected county depicting boundary lines established by the territorial agreement.

15 Upon approval of the agreement, any modification, changes, or corrections to this agreement
16 must be approved by this Commission.

17 (2) Standards for Approval. In approving territorial agreements, the Commission may
18 consider, ~~but not be limited to consideration of:~~

- 19 (a) The reasonableness of the purchase price of any facilities being transferred;
20 (b) The reasonable likelihood that the agreement, in and of itself, will not cause a decrease
21 in the reliability of electrical service to the existing or future ratepayers of any utility party to
22 the agreement; ~~and~~
23 (c) The reasonable likelihood that the agreement will eliminate existing or potential
24 uneconomic duplication of facilities; and:-

25 (d) Any other factor the Commission finds relevant in reaching a determination that the
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from
existing law.

1 territorial agreement is in the public interest.

2 (3) The Commission may require additional relevant information from the parties of the
3 agreement, if so warranted.

4 *Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.04(2), (4), (5),*
5 *366.05(7) FS. History—New 3-4-90, Amended 2-13-96,_____.*

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CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

25-6.0441 Territorial Disputes for Electric Utilities.

(1) A territorial dispute proceeding may be initiated by a petition from an electric utility requesting the Commission to resolve the dispute. Additionally the Commission may, on its own motion, identify the existence of a dispute and order the affected parties to participate in a proceeding to resolve it. Each utility that ~~which~~ is a party to a territorial dispute must ~~shall~~ provide a map and a written description of the disputed area along with the conditions that caused the dispute. Each utility party must ~~shall~~ also provide a description of the existing and planned load to be served in the area of dispute and a description of the type, additional cost, and reliability of electrical facilities and other utility services to be provided within the disputed area.

(2) In resolving territorial disputes, the Commission may consider, in addition to the factors listed in s. 366.04(2)(c): ~~but not be limited to consideration of:~~

(a) The capability of each utility to provide reliable electric service within the disputed area with its existing facilities and the extent to which additional facilities are needed;

(b) The nature of the disputed area, including population and the type of utilities seeking to serve it, the ~~and~~ degree of urbanization of the area and its proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services;

(c) The cost of each utility to provide distribution and subtransmission facilities to the disputed area presently and in the future; ~~and~~

(d) Any other factor the Commission finds relevant in reaching a determination that the resolution of the territorial dispute is in the public interest; and

(e) ~~(d)~~ If all other factors are substantially equal, customer ~~Customer~~ preference ~~if all other factors are substantially equal.~~

(3) The Commission may require additional relevant information from the parties of the
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 | dispute, if so warranted.

2 | (4) Upon resolution of each territorial dispute, the parties to the dispute must ~~shall~~ submit
3 | to the Commission an official Florida Department of Transportation (DOT) General Highway
4 | County map for each affected county depicting boundary lines established by the resolution of
5 | the territorial dispute.

6 | *Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.04(2), (4), (5),*
7 | *366.05(7) FS. History—New 3-4-90, Amended 2-13-96,_____.*

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CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

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: February 27, 2020

TO: Andrew King, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst II, Division of Economics *S.K.G.*

RE: **Statement of Estimated Regulatory Costs** for Recommended Rule 25-6.0440, Florida Administrative Code (F.A.C.), Territorial Agreements for Electric Utilities and Rule 25-6.0441, F.A.C., Territorial Disputes for Electric Utilities.

Commission staff is recommending revisions to Rule 25-6.0440, F.A.C., Territorial Agreements for Electric Utilities and Rule 25-6.0441, F.A.C., Territorial Disputes for Electric Utilities. The purpose of the recommended rule revisions is to address concerns presented by the Joint Administrative Procedures Committee (JAPC) which stated that subsection (2) of Rule 25-6.0440, F.A.C., and subsection (2) of Rule 25-6.0441, F.A.C., as currently written, sets forth that the Commission "may consider, but not be limited to" certain enumerated factors. The use of the quoted phrase implies that there are additional expectations or standards that could be enforced.

The recommended modifications to Rule 25-6.0440, F.A.C., and Rule 25-6.0441, F.A.C., addresses JAPC's concerns regarding subsection (2) of each rule. The modification replaces this language and incorporates a new subsection (2)(d) to each rule that clarifies that the Commission may consider other relevant factors in determining if the territorial agreement is in the public interest or if the resolution to the territorial dispute is in the public interest. This clarifying language will not require any additional incremental costs to individuals or entities.

The attached Statement of Estimated Regulatory Costs (SERC) addresses the economic impacts and considerations required pursuant to Section 120.541, Florida Statutes (F.S.). The SERC analysis indicates that the recommended rule revisions will not likely increase regulatory costs, including any transactional costs or have an adverse impact on business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. The recommended rule revisions would not potentially have adverse impacts on small businesses, would have no implementation cost to the Commission or other state and local government entities, and would have no impact on small cities or counties.

No regulatory alternatives were submitted pursuant to Section 120.541(1)(g), F.S. The SERC concludes that none of the impacts/cost criteria established in Sections 120.541(2)(a), (c), (d), and (e), F.S., will be exceeded as a result of the recommended rule revisions.

cc: SERC File

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Rules 25-6.0440 and 25-6.0441, F.A.C.

1. Will the proposed rule have an adverse impact on small business? [120.541(1)(b), F.S.] (See Section E., below, for definition of small business.)

Yes ☐

No ☒

If the answer to Question 1 is "yes", see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes ☐

No ☒

If the answer to either question above is "yes", a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

- (1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)1, F.S.]

Economic growth

Yes ☐ No ☒

Private-sector job creation or employment

Yes ☐ No ☒

Private-sector investment

Yes ☐ No ☒

- (2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets)

Yes ☐ No ☒

Productivity

Yes ☐ No ☒

Innovation

Yes ☐ No ☒

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes ☐

No ☒

Economic Analysis: Chapter 366.04(2)(d) and (e) gives the Commission authority to approve and to resolve territorial agreements and territorial disputes between rural electric cooperatives, municipal electric utilities and other electric utilities under its jurisdiction. The recommended modifications to Rule 25-6.0440, F.A.C., and Rule 25-6.0441, F.A.C., addresses JAPC's concerns in subsection (2) of each rule that currently state the Commission may consider, "but not be limited to consideration of:". The modification replaces this language and incorporates a new subsection (2)(d) to each rule that clarifies that the Commission may consider other relevant factors in determining if the territorial agreement is in the public interest or if the resolution to the territorial dispute is in the public interest. This clarifying language will not require any additional incremental costs to individuals or entities.

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

The number of entities required to comply with this rule would be the five investor-owned electric utilities, 34 municipal electric providers, and 17 cooperative providers.

(2) A general description of the types of individuals likely to be affected by the rule.

Types of individuals to be affected by the rule would be the customers of the five investor-owned electric utilities, 34 municipal electric providers, and 17 cooperative providers. Customers may be affected when service territories are amended and customers get transferred from one utility to another.

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the Commission to implement and enforce the rule.

☒ None. To be done with the current workload and existing staff.

☐ Minimal. Provide a brief explanation.

☐ Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

- ☒ None. The rule will only affect the Commission.
- ☐ Minimal. Provide a brief explanation.
- ☐ Other. Provide an explanation for estimate and methodology used.

(3) Any anticipated effect on state or local revenues.

- ☒ None.
- ☐ Minimal. Provide a brief explanation.
- ☐ Other. Provide an explanation for estimate and methodology used.

D. A good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule. [120.541(2)(d), F.S.]

- ☐ None. The rule will only affect the Commission.
- ☒ Minimal. Provide a brief explanation. The recommended rule revision clarifies the standards for approval which states that the Commission may consider any other relevant factor provided to the Commission by the utility when reaching a determination about the territorial agreement or dispute.
- ☐ Other. Provide an explanation for estimate and methodology used.

E. An analysis of the impact on small businesses, and small counties and small cities: [120.541(2)(e), F.S.]

(1) "Small business" is defined by Section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5

million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

- ☒ No adverse impact on small business.
- ☐ Minimal. Provide a brief explanation.
- ☐ Other. Provide an explanation for estimate and methodology used.

(2) A "Small City" is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

- ☒ No impact on small cities or small counties.
- ☐ Minimal. Provide a brief explanation.
- ☐ Other. Provide an explanation for estimate and methodology used.

F. Any additional information that the Commission determines may be useful.
[120.541(2)(f), F.S.]

- ☒ None.

Additional Information:

G. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(g), F.S.]

- ☒ No regulatory alternatives were submitted.
- ☐ A regulatory alternative was received from
 - ☐ Adopted in its entirety.
 - ☐ Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.

Item 4

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Lherisson) *BYL, JSC*
Office of Consumer Assistance and Outreach (Hicks, Plescow) *CLM*
Division of Economics (Coston) *JGH*

RE: Docket No. 20200030-EI – Complaint by Juana L. Del Rosario against Florida Power & Light Company regarding backbilling for alleged meter tampering.

AGENDA: 06/09/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On June 13, 2019, Ms. Juana Del Rosario filed an informal complaint with the Florida Public Service Commission (Commission) against Florida Power & Light Company (FPL or Utility).¹ In her informal complaint, Ms. Del Rosario alleged that she was improperly backbilled for up to 48 months of usage, for a total of \$2,351.23. Although FPL had found that her meter had been tampered with, Ms. Del Rosario alleged that she did not tamper with the meter.

By letter dated December 17, 2019, staff advised Ms. Del Rosario that her informal complaint had been reviewed by the Commission's Process Review Team, in accordance with Rule 25-22.032, Florida Administrative Code (F.A.C.), and it appeared that FPL had not violated any applicable statutes, rules, company tariffs, or Commission orders. Staff advised Ms. Del Rosario

¹ Complaint Number 1310438E.

that if she disagreed with staff's complaint conclusion, she could file a petition for initiation of formal proceedings for relief against FPL.

Ms. Del Rosario filed a formal complaint against FPL on January 17, 2020, pursuant to Rule 25-22.036, F.A.C. In her complaint Ms. Del Rosario stated that she did not tamper with her meter. However, on May 16, 2019, FPL found that Ms. Del Rosario's smart meter was missing the outer and inner seals, which were an indication that someone other than utility staff accessed the meter enclosure and internal meter workings. On June 12, 2019, FPL provided notice to Ms. Del Rosario that her service would be disconnected due to meter tampering. FPL restored Ms. Del Rosario's service pending the resolution of her complaint.

On March 20, 2020, staff sent a letter to Ms. Del Rosario requesting any additional information or documentation that might assist the Commission in addressing her complaint. Staff did not receive a response from Ms. Del Rosario.

Ms. Del Rosario requests for the Commission to find that FPL incorrectly backbilled her account and to require FPL to give Ms. Del Rosario a credit adjustment of \$2,351.23. This recommendation addresses the appropriate disposition of Ms. Del Rosario's complaint against FPL. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: What is the appropriate disposition of Ms. Del Rosario's formal complaint?

Recommendation: Staff recommends that Ms. Del Rosario's formal complaint be denied. Ms. Del Rosario's account was properly backbilled in accordance with Florida statutes and rules and FPL's tariffs. FPL did not violate any applicable statute, rule, company tariff, or order of the Commission in the processing of Ms. Del Rosario's account. (Lherisson)

Staff Analysis: Pursuant to Rule 25-22.036(2), F.A.C., a complaint is appropriate when a person complains of an act or omission by a person subject to Commission jurisdiction that affects the complainant's substantial interests and that is in violation of a statute enforced by the Commission, or of any Commission rule or order. Ms. Del Rosario's petition fails to show that FPL's backbilling of her account violates a statute, rule, or order as required by Rule 25-22.036(2), F.A.C. Therefore, the Commission should deny Ms. Del Rosario's petition for relief.

On April 18, 2003, Ms. Del Rosario established an account for electric service with FPL at her residence. In 2004, FPL identified a switched meter condition at Ms. Del Rosario's apartment building due to a meter can labeling mistake in part by the builders, the builders' electricians, and FPL when the meter was initially installed. The meters of the apartment building were mislabeled by the builders, the builders' electricians, and FPL at the time the meters were installed causing every residence in the apartment building to be improperly billed. In 2004, FPL corrected the mixed meter condition associated with Ms. Del Rosario's residence.

On September 14, 2010, FPL installed smart meter ACD0735 at Ms. Del Rosario's residence. On February 25, 2019, FPL reviewed the communication from smart meter ACD0735 and found a drop in consumption occurred on May 22, 2014.² On May 5, 2019, FPL visited Ms. Del Rosario's residence and found that the outer enclosure seal of smart meter ACD0735 was missing. FPL removed smart meter ACD0735 and installed new smart meter ACD1338 with a locking device and an outer seal on the meter enclosure. FPL sent smart meter ACD0735 to its meter testing center. An inspection of meter ACD0735, on May 16, 2019, revealed that the meter's inner seal was missing; the meter had been internally tampered with by manipulating the current transformer (CT) wires (one of the two CT wires had been cut); and the meter test results showed Full Load (FL) at 49.91%, Light Load (LL) at 49.97%, and Weighted Average (WA) at 49.95%. FPL reported that the meter's missing outer and inner seals were an indication that someone other than utility staff accessed the meter enclosure and internal meter workings for the purpose of meter tampering.

² In a supplemental response provided to staff on May 21, 2020, FPL clarified that smart meters do not have a specific event notification that identifies theft. Instead, FPL's revenue protection department correlates data from the meter and several other FPL systems to target leads that will have an acceptable effectiveness rate. Furthermore, analytic tests are not 100% accurate and sometimes theft goes undetected for an extended period of time. FPL stated that it actively creates new analytic tests and improves existing analytic tests using new techniques and smart meter data to identify previously undetected theft conditions. These new analytic tests are applied to the entire population of FPL meters in circulation to help identify any previously undetected theft conditions. FPL states that the case involving Ms. Del Rosarios's service address was identified by a recently developed new analytic test.

On June 3, 2019, FPL assessed Ms. Del Rosario's account a total bill of \$209.96. The bill included a \$13 reconnection charge; the unpaid balance of the March billing statement of \$36.13; the unpaid balance of the April billing statement of \$57.59 and a \$5 late payment charge; and the unpaid balance of the May billing statement of \$93.24 and a \$5 late payment charge. On June 4, 2019, FPL received a payment of \$99, yielding a total bill of \$110.96.

On June 7, 2019, FPL reviewed Ms. Del Rosario's account and determined that a drop in consumption occurred on May 22, 2014, and an increase in consumption occurred after the new meter was installed on May 5, 2019. FPL backbilled Ms. Del Rosario for 48 months of under-recorded usage based on the results of the meter test.³ FPL billed Ms. Del Rosario for the 50.05% kilowatt hour (kWh) difference that did not register on the meter due to the unauthorized condition.

Ms. Del Rosario's cumulative bill for the period May 21, 2015 through April 22, 2019 was \$2,066.99. FPL canceled that bill and rebilled the account \$3,658.43, a difference of \$1,591.44. Pursuant to Section 8.3 of its tariff, FPL also billed Ms. Del Rosario a tampering penalty of \$200.00 and investigative charges of \$540.66, bringing the total backbilled amount to \$2,332.10.

On June 12, 2019, FPL went to Ms. Del Rosario's residence to disconnect her service due to meter tampering. FPL provided a notice explaining the disconnection of service and the payment required to obtain restoration of service. That same day FPL spoke with Ms. Del Rosario and explained the meter condition, and the payment required to have her service restored. Ms. Del Rosario argued that her service was disconnected because FPL mixed up her meter with another unrelated customer's meter similar to the switch that occurred in 2004. According to FPL, if a mixed meter condition existed, another unrelated customer's service would have been interrupted that day. FPL asserted that Ms. Del Rosario's electric service would have remained operational if the mixed meter condition had continued to exist. Additionally, FPL reported that because the mixed meter condition was corrected in 2004, the meter backbilling Ms. Del Rosario received in 2019 was in no way related to the previous meter condition.

FPL advised Ms. Del Rosario that as the account holder, she is held responsible for the backbill for unmetered consumption since she benefitted from the unauthorized condition. Additionally, FPL offered to reconnect the service with a payment of 50% of the backbill and a payment arrangement for the remaining balance, which Ms. Del Rosario declined.

On June 26, 2019, due to no payment received, FPL closed Ms. Del Rosario's account, effective June 12, 2019. FPL sent Ms. Del Rosario a final bill for \$2,425.09, including the final bill charges of \$73.86 for service used from May 21, 2019 to June 12, 2019, a \$97.96 past due balance, a \$13.00 reconnection charge, the backbill charges of \$2,332.10, a \$90.00 deposit refund, and a \$1.83 deposit interest credit.

On July 2, 2019, FPL cancelled the bill charges of \$73.86 consumed from May 21, 2019 to June 12, 2019, bringing the remaining balance to \$2,351.23. That same day, FPL contacted Ms. Del Rosario and advised that, as a courtesy, her account would be reopened and the service would be

³ Rule 25-6.104, F.A.C., provides that in the event of unauthorized or fraudulent use, or meter tampering, the utility may bill the customer on a reasonable estimate of the energy used.

Date: May 28, 2020

reconnected, pending the resolution of her complaint with the Commission. Ms. Del Rosario accepted the offer to reconnect the service pending the Commission's review of her complaint. The account was reopened, and a request to reconnect service at the residence was issued. The service was reconnected and a \$13 reconnection charge was issued, which yielded a new balance of \$2,364.23. FPL told Ms. Del Rosario that the backbill charges of \$2,332.10 would be protected⁴ from collection action pending the resolution and closure of her complaint filed with the Commission; however, she would need to remain current on her bills because the unauthorized condition (tampered meter) was corrected.

On August 6, 2019, Commission staff discussed with FPL whether the Utility would be willing to modify the payment arrangements for the disputed balance. FPL stated that if Ms. Del Rosario could make an initial payment of \$300, then the remaining unpaid balance of \$2,032.10 could be paid in 48 payments, including the applicable late payment charges. Commission staff relayed FPL's offer of payment arrangement to Ms. Del Rosario, which she rejected.

Based on staff's review of the billing and payment documentation provided by FPL, it appears that Ms. Del Rosario has a poor payment history. She has made several late payments and partial payments. As a result of her late payments, her service has been interrupted previously. Upon review of information provided to staff and discussions with both the Utility and Ms. Del Rosario, there is no evidence that FPL backbilled Ms. Del Rosario incorrectly. Meter tests performed by FPL on smart meter ACD0735 revealed a registration below the allowable tolerances due to the tampered CT wires. Ms. Del Rosario was backbilled for 48 months based on the data collected by FPL, which indicated that consumption dropped on May 22, 2014, one of the two CT wires in smart meter ACD0735 had been cut, and consumption increased after the new meter was installed on May 5, 2019. Ms. Del Rosario was backbilled the 50.05% kWh difference that did not register on the meter due to the meter tampering. Thus, staff recommends that the Commission deny Ms. Del Rosario's complaint as it does not demonstrate that FPL's backbilling of her account violates any statutes, rules, or orders, or that FPL's backbilling of 48 months is unreasonable.

⁴ Pursuant to Rule 25-22.032(3), F.A.C., a customer is afforded protection from disconnection during the informal complaint process; therefore, "a company shall not discontinue service to a customer because of any unpaid disputed amount until the complaint is closed by Commission staff."

Issue 2: Should this docket be closed?

Recommendation: 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. (Lherisson)

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.

Item 5

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Brownless) *SBr, JSC*
Division of Accounting and Finance (Cicchetti) *ALM, MC*

RE: Docket No. 20180224-EI – Joint petition for rate reductions or alternative reverse make-whole rate case against Florida Power & Light Company, by Office of Public Counsel, Florida Industrial Power Users Group, and Florida Retail Federation.

AGENDA: 06/09/20 – Regular Agenda - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On January 9, 2018, the Office of Public Counsel (OPC) filed a petition to establish a generic docket, Docket No. 20180013-PU, to investigate and adjust rates for 2018 tax savings for all utilities regulated by the Commission. By Order No. PSC-2018-0104-PCO-PU, issued on February 26, 2018, in Docket No. 20180013-PU, the Commission established jurisdiction over Florida Power & Light Company's (FPL) tax savings associated with the Tax Cuts and Jobs Act of 2017 (TCJA) as of February 6, 2018.

On February 21, 2018, the Commission opened a separate docket, Docket No. 20180046-EI, to assess the tax impacts associated with the passage of the TCJA on FPL.¹ An administrative

¹ Docket No. 20180046-EI, *In re: Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Florida Power & Light Company.*

hearing was held on February 5, 2019, in which the testimonies of Scott R. Bores and Ralph C. Smith, witnesses for FPL and OPC, respectively, were inserted into the record as though read. Exhibit Nos. 1-22 were admitted into the record and Issues 1-17 and 20, addressing the quantification of tax savings, were stipulated to by the parties and approved by the Commission. At the February 5 hearing, Issues 18 and 19² were reserved and the parties given an opportunity to file Initial and Reply Briefs on these issues on February 22 and March 8, 2019, respectively.³ The hearing was continued until April 16, 2019, at which time OPC, FPL, Federal Executive Agencies (FEA), Florida Industrial Users Group (FIPUG) and Florida Retail Federation (FRF) presented oral arguments on Issues 18 and 19.

By Order No. PSC-2019-0225-FOF-EI, issued on June 10, 2019, the Commission approved FPL's request to use the \$772.3 million annual tax savings generated by TCJA to replenish the Reserve Amount established by FPL's 2016 Settlement Agreement that was completely depleted to partially pay for Hurricane Irma storm restoration costs. OPC filed a timely appeal of Order No. PSC-2019-0225-FOF-EI to the Florida Supreme Court but voluntarily dismissed its appeal on November 26, 2019.

On February 22, 2018, Docket No. 20180049-EI⁴ was opened to review and evaluate FPL's storm restoration costs associated with Hurricane Irma. On August 31, 2018, FPL filed testimony and exhibits in support of its request to recover approximately \$1.27 billion by charging the incremental storm damage to base Operation and Maintenance (O&M) expenses and offsetting this amount with projected tax savings as a result of the TCJA. On June 6, 2019, a Joint Motion to Approve a Stipulation and Settlement (Storm Settlement) between OPC and FPL was filed in the case.⁵ A hearing was held on July 9, 2019, which addressed the evaluation of storm restoration costs for FPL associated with Hurricane Irma. By Order No. PSC-2019-0319-S-EI, issued August 1, 2019, the Commission approved the Storm Settlement.⁶ The Storm Settlement established total storm restoration costs of \$1,253,545,000 and a reduction in the Reserve Amount to \$1.245 billion. The audit provisions of the Storm Settlement were slightly modified by a Settlement Implementation Agreement approved by Order No. PSC-2020-0104-PAA-EI, issued on April 14, 2020.

This docket was opened on December 5, 2018, when a Joint Petition for Rate Reductions or Alternative Reverse Make-Whole rate case against FPL (Joint Petition) was filed by OPC, FIPUG and FRF. In its Joint Petition, the parties requested that the Commission assert jurisdiction over the tax savings generated by the TCJA as of February 6, 2018, review FPL's

² Issue 18: Does the 2016 Settlement Agreement allow FPL to credit the Amortization Reserve with the tax savings resulting from the Tax Cuts and Jobs Act of 2017? Issue 19: How should the savings associated with the Tax Cuts and Jobs Act of 2017 be treated?

³ FPL, OPC, FRF, Florida Executive Agencies (FEA) and the Florida Industrial Power Users Group (FIPUG) filed Initial Briefs on February 22. FPL, OPC, FRF, and FIPUG filed Reply Briefs on March 8.

⁴ Docket No. 20180049-EI, *In re: Evaluation of storm restoration costs for Florida Power & Light Company related to Hurricane Irma*.

⁵ Although FIPUG was not initially a signatory to the proposed Storm Settlement, it subsequently endorsed the proposed Storm Settlement. See Document No. 04584-2019.

⁶ Order No. PSC-2019-0319-S-EI, issued August 1, 2019, in Docket No. 20180049-EI, *In re: Evaluation of storm restoration costs for Florida Power & Light Company related to Hurricane Irma*.

Docket No. 20180224-EI

Date: May 28, 2020

base rates, and establish new base rates reflecting the lower federal corporate income tax rate that became effective January 1, 2018.

The Commission has jurisdiction over this matter based on Sections 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should this docket be closed?

Recommendation: Yes. All issues raised in the Joint Motion opening this docket have either been resolved, with the Joint Motion parties' participation, in Docket Nos. 20180013-PU, 20180046-EI, and 20180049-EI, or are no longer relevant. (Brownless, Cicchetti)

Staff Analysis: In the Joint Motion filed in this docket the parties argued that FPL's base rates should be reduced because its estimated \$736.8 million in tax savings generated by TCJA in 2018 caused it to earn a return on equity (ROE) of approximately 13 percent which was in excess of the 9.6 to 11.6 percent ROE range allowed by its 2016 Settlement Agreement. [Petition at pp. 8, 24] FPL did not contest that it received \$736.8 million in tax savings in 2018 due to the enactment of TCJA, rather FPL contended that it should be allowed to replenish the Reserve Amount created by its 2016 Settlement Agreement that it had used to partially pay for Hurricane Irma storm restoration costs. If the TCJA savings were used to replenish the Reserve Amount, FPL argued that there were no overearnings in 2018 nor any projected overearnings in any year until the 2016 Settlement Agreement was scheduled to terminate in December of 2020.⁷

As discussed above, in Docket No. 20190046-EI, OPC fully litigated whether FPL could pay Hurricane Irma costs from the Reserve Amount and whether FPL could replenish the Reserve Amount with the TCJA tax savings. The Commission applied both a contract law analysis of the terms of the 2016 Settlement Agreement as well as a public interest standard and found that FPL could pay for Hurricane Irma costs from the Reserve Amount and could replenish the Reserve Amount with TCJA savings. Having determined that the tax savings generated by the passage of the TCJA were appropriately used to regenerate the Reserve Amount, FPL's earnings in 2018 and 2019 remained at 11.6 percent.⁸

FPL, given its ability to debit and credit the Reserve Amount, currently is earning 11.6 percent and is expected to earn 11.6 percent through 2020.⁹ The Reserve Amount balance was \$744,467,457 as of March 31, 2020.¹⁰

The Joint Petitioners made three requests of the Commission in this docket. First, that the tax savings generated in 2018 by the passage of the TCJA be placed under Commission jurisdiction. This was done by Order No. PSC-2018-0104-PCO-PU issued on February 26, 2018. Second, to determine if FPL's use of the Reserve Amount to pay Hurricane Irma costs and its decision to replenish the Reserve Amount with the tax savings violated the 2016 Settlement Agreement. Order No. PSC-2019-0225-FOF-EI issued on June 10, 2019, answered both questions and found that neither violated the 2016 Settlement Agreement. Finally, the Joint Petitioners asked for a reduction in base rates to account for the projected overearnings associated with the TCJA tax savings. However, the treatment of the TCJA tax savings approved in Order No. PSC-2019-

⁷ In accord with Section 12(c) of the 2016 Settlement Agreement, on March 5, 2020, FPL notified all parties that it will not seek a general rate base increase that becomes effective before January 1, 2022. This action extends the 2016 Settlement Agreement for one more year until December 31, 2021.

⁸ Annual Earnings Surveillance Reports for 2018 and 2019.

⁹ DN 02640-2020, March 2020 FPL Forecasted Earnings Surveillance Report filed May 15, 2020.

¹⁰ DN 02640-2020, FPL Reserve Amount Balance Report as of March 31, 2020.

Date: May 28, 2020

0225-FOF-EI has maintained FPL's earnings at 11.6 percent which is compliant with the 2016 Settlement Agreement. All issues raised in Docket No. 20180224-EI have been fully litigated with participation by all of the Joint Petitioners and resolved in other dockets. Additionally, FPL is not currently earning above its allowed rate of return, indicating that no adjustment to base rates is currently warranted. Given these undisputed facts, staff recommends that this docket be closed.

Item 6

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Dziechciarz, Weisenfeld, Lherisson) *TL7*
Division of Accounting and Finance (Mouring, Sowards) *ALM BF*

RE: Docket No. 20190155-EI – Petition for establishment of regulatory assets for expenses not recovered during restoration for Hurricane Michael, by Florida Public Utilities Company.

Docket No. 20190156-EI – Petition for a limited proceeding to recover incremental storm restoration costs, capital costs, revenue reduction for permanently lost customers, and regulatory assets related to Hurricane Michael, by Florida Public Utilities Company.

AGENDA: 06/09/20 – Regular Agenda – Oral Argument Not Requested – Participation at Commission’s Discretion

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On August 7, 2019, Florida Public Utilities Company (FPUC) filed a petition to establish regulatory assets for expenses incurred during restoration for Hurricane Michael in Docket No. 20190155-EI. On the same day, FPUC also filed a petition for a limited proceeding to recover incremental storm restoration costs, capital costs, revenue reduction for permanently lost customers, and regulatory assets related to Hurricane Michael. This petition was filed in Docket No. 20190156-EI. The Office of Public Counsel (OPC) filed notices of intervention in Docket

Docket Nos. 20190155-EI, 20190156-EI

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Nos. 20190155-EI and 20190156-EI on August 14, 2019, which were acknowledged by Order Nos. PSC-2019-0373-PCO-EI and PSC-2019-0374-PCO-EI, respectively.

By Order No. PSC-2019-0501-PCO-EI, issued in Docket No. 20190156-EI on November 22, 2019, the Commission approved FPUC and OPC's joint motion for approval of stipulation for implementation of an interim rate increase subject to refund. The Commission found that the interim rate increase would allow for FPUC to offset its projected reduction in fuel costs with the recovery of storm restoration costs, subject to refund, and would avoid rate shock for FPUC's customers. By Order No. PSC-2020-0060-PCO-EI, issued on February 24, 2020, Docket Nos. 20190155-EI and 20190156-EI were consolidated for purposes of administrative efficiency, including a hearing, should it be necessary. On March 11 and 12, 2020, FPUC filed revised petitions in Docket No. 20190156-EI to reflect several updates to the August 7, 2019 petitions, including the addition of Hurricane Dorian expenses to FPUC's recovery request.

On April 6, 2020, OPC filed a Motion for Partial Summary Final Order of the Request to Establish Regulatory Assets for Lost Revenue in Docket Nos. 20190155-EI and 20190156-EI (Motion). On April 13, 2020 FPUC filed its Response in Opposition to OPC's Motion for Partial Summary Final Order (Response).

The Commission has jurisdiction pursuant to Chapters 120 and 366, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission grant OPC's Motion for Partial Summary Final Order?

Recommendation: No. OPC's Motion for Partial Summary Final Order should be denied. (Dziechciarz, Weisenfeld, Lherisson)

Staff Analysis:

Standard of Review for Motion for Summary Final Order

Section 120.57(1)(h), F.S., requires that, in order to grant a motion for summary final order, it must be determined from “pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, that no genuine issue as to any material fact exists and that the moving party is entitled as a matter of law to the entry of a final order.” The Commission has previously stated that “the standard for granting a summary final order is very high.”¹

In general, “a summary judgment should not be granted unless the facts are so crystalized that nothing remains but questions of law,” and “must show conclusively the absence of any genuine issue of material fact and the court must draw every possible inference in favor of the party against whom a summary judgment is sought.” *Moore v. Morris (Moore)*, 475 So. 2d 666, 668 (Fla. 1985); see also *City of Clermont, Fla. v. Lake City Util. Servs., Inc.*, 760 So. 2d 1123, 1124 (Fla. 5th DCA 2000), and *Wills v. Sears, Roebuck & Co.*, 351 So. 2d 29 (Fla. 1977). If the record “raises even the slightest doubt” that an issue of material fact may exist, a summary final order would not be appropriate. *Albelo v. S. Bell (Albelo)*, 682 So. 2d 1126, 1129 (Fla. 4th DCA 1996). Even if the parties agree as to the facts, “the remedy of summary judgment is not available if different inferences can be reasonably drawn from the uncontroverted facts.” *Albelo*, 682 So. 2d at 1129. The Commission has also previously found that “it is premature to decide whether a genuine issue of material fact exists when [a party] has not had the opportunity to complete discovery and file testimony.”²

In addition, the Commission has acknowledged that the purpose of summary final order is to avoid the expense and delay of trial when no dispute exists concerning the material facts.³ The record is reviewed in the light most favorable toward FPUC, against whom the summary judgment is to be entered. OPC carries a heavy burden to present a showing that there is no genuine issue as to any material fact. Subsequently, the burden shifts to FPUC to demonstrate the falsity of the showing. If FPUC does not do so, summary judgment is proper and should be

¹ Order No. PSC-11-0244-FOF-GU, issued June 2, 2011, in Docket No. 090539-GU, *In re: Petition for approval of Special Gas Transportation Service agreement with Florida City Gas by Miami-Dade County through Miami-Dade Water and Sewer Department*, p. 4.

² Order No. PSC-01-1554-FOF-WU, issued July 27, 2001, in Docket No. 991437-WU, *In re: Application for increase in water rates in Orange County by Wedgefield Utilities, Inc.*, p. 2, citing *Brandauer v. Publix Super Markets, Inc.*, 657 So. 2d 932, 933-34 (Fla. 2d DCA 1995).

³ Order No. PSC-11-0291-PAA-TP, issued on July 6, 2011, in Docket No. 110071-TP, *In re: Emergency Complaint of Express Phone Service, Inc. against Bellsouth Telecommunications, Inc. d/b/a AT&T Florida regarding interpretation of the parties' interconnection agreement*, p. 5.

affirmed. Even if the facts are not disputed, a summary judgment is improper if different conclusions or inferences can be drawn from the facts.⁴

OPC's Motion

OPC argues that FPUC's request to recover normal operation and maintenance (O&M) expenses not recovered (in the amount of \$984,283, inclusive of interest), and its request to establish a regulatory asset for reduction in customer base for November and December 2018, and all of 2019 (in the amount of \$504,448, inclusive of interest), are both thinly veiled attempts at collecting for lost revenue, which OPC further argues is prohibited in this case by the doctrine of retroactive ratemaking and by Rule 25-6.0143(1)(f)(9), Florida Administrative Code (F.A.C.).⁵

OPC avers that even drawing every possible inference in favor of FPUC, the facts and circumstances in this case are so crystalized that nothing remains but questions of law. OPC argues that FPUC cannot produce counter-evidence sufficient to show that a genuine issue exists, and that FPUC cannot do so because the facts and law are indisputable. OPC argues that it is indisputable that FPUC is seeking to create two regulatory assets based on lost revenue for prior periods, and it is indisputable that the doctrine of retroactive ratemaking under Florida law, applicable case law, and Commission rules, prohibit the creation of these types of regulatory assets to charge future customers for lost revenue and profits. OPC argues that its Motion provides substantial and competent evidence to support its request for Partial Summary Final Order, and thus its Motion should be granted as a matter of law.

A. Retroactive Ratemaking

OPC argues that Section 366.03, F.S., provides that all rates and charges received by a public utility for any service rendered, or to be rendered, shall be fair and reasonable. OPC continues that it is manifestly unfair and unreasonable to charge customers for service that was not rendered in the past. OPC concludes that the Commission should deny FPUC's request for establishing a regulatory asset for lost revenue because it is prohibited by the doctrine of retroactive ratemaking, pursuant to Florida law and Rule 25-6.0143(1)(f)(9), F.A.C.

OPC argues that FPUC's request to recover unrecovered (or "lost") O&M expenses in the prior period is an example of "pure and simple" retroactive ratemaking. OPC argues that the unrecovered O&M expenses were already expensed in a prior period, and FPUC's request to allow it to collect the lost revenue in current and future periods is a classic example of retroactive ratemaking, which is prohibited by Chapter 366, F.S.

OPC notes that in Order No. PSC-98-1243-FOF-WS (UWF Order), issued on September 21, 1998, the Commission acknowledged that retroactive ratemaking occurs when an attempt is made to either recover past losses (under earnings) through prospective rates, or to recoup prior

⁴ See Trawick's Florida Practice and Procedure, Section 25-5, Summary Judgment Generally, Henry P. Trawick, Jr. (2020).

⁵ Rule 25-6.0143(1)(f)(9), F.A.C., states that "the types of storm related costs prohibited from being charged to the reserve under the ICCA methodology include ... [u]tility lost revenues from services not provided."

period overearnings through a refund.⁶ In the UWF Order, the Commission further stated that past losses are interpreted to be prior period costs that a utility did not recover through its rates, including those which cause the utility to earn less than a fair rate of return.

OPC further contends that FPUC's differentiation between "lost revenue" and "O&M costs not recovered," does not justify allowing the creation of the regulatory assets FPUC seeks. OPC asserts that the Commission acknowledged this distinction in Order No. PSC-2019-0114-FOF-EI (FPUC Storm Order), issued on March 26, 2019.⁷ OPC also contends that FPUC's claim that it should be held harmless because its earnings position was at the low end of its authorized earnings range for the prior period in question is contrary to the regulatory compact. OPC argues that the regulatory compact provides only the opportunity to earn a fair rate of return, and that it does not guarantee a certain level of profit. OPC concludes that if the Commission were to approve FPUC's request for lost earnings, it would turn the regulatory compact on its head.

In addition, OPC contends that according to the Financial Accounting Standards Board Accounting Standards Codification 606, a fundamental principle of Generally Accepted Accounting Principles (GAAP) is the principle of revenue recognition, which stipulates revenue is recognized when realized and earned, not necessarily when received. OPC states that "realizable" means that goods and/or services have been received, but payment for the product/service is expected later. OPC argues that the service FPUC's customers pay for is electricity, which in this case was never received. OPC continues that FPUC is making a specious argument that these regulatory assets are for unrecovered past O&M expenses, rather than lost revenue and profits, and is trying to cloud the clear prohibition against this type of retroactive ratemaking.

OPC further argues that in the UWF Order, the Commission already found that a request to establish a regulatory asset to capture past estimated revenue not billed is clearly prohibited. OPC argues that the utility in that proceeding sought to create a regulatory asset to defer and amortize unrecovered employee benefits costs that resulted from accounting changes. OPC notes that the utility argued that it was appropriate to deviate from the doctrine of retroactive ratemaking because of the extraordinary cost and fairness and equity exceptions to the doctrine. Ultimately, the Commission rejected application of these exceptions due to the clear prohibition against retroactive ratemaking, and noted that the exceptions raised by the utility were not based on Florida law. OPC contends that FPUC is seeking to create a regulatory asset for prior period costs that were not recovered in its base rates, and that its argument about the extraordinary circumstances resulting from Hurricane Michael is essentially the same as the utility's failed argument in the UWF Order.

OPC further contends that there is no basis in Florida law for such an exception to the doctrine of retroactive ratemaking, and that it would be unfair and unjust to create such an exception. OPC avers that FPUC's customers suffered equally, if not in some cases more than, FPUC through no

⁶ Order No. PSC-98-1243-FOF-WS, issued on September 21, 1998, in Docket No. 971596-WS, *In re: Petition for limited proceeding regarding other postretirement employee benefits and petition for variance from or waiver of Rule 25-14.012, F.A.C., by United Water Florida Inc.*

⁷ Order No. PSC-2019-0114-FOF-EI, issued on March 26, 2019, in Docket No. 20180061-EI, *In re: Petition for limited proceeding to recover incremental storm restoration costs, by Florida Public Utilities Company.*

fault of their own, and that it would be fundamentally unfair to allow FPUC to create a regulatory asset to collect money from customers for service that they did not receive, so that FPUC does not have to suffer any financial harm from Hurricane Michael.

B. Rule 25-6.0143, F.A.C.

OPC argues that FPUC has acknowledged that Rule 25-6.0143(1)(f)(9), F.A.C., prohibits it from charging unrecovered expenses to its storm reserve account, and that the Commission has determined that O&M expenses not recovered due to reduced revenue resulting from an outage are likewise not recoverable through a storm surcharge.⁸ OPC argues that while FPUC concedes that the O&M expenses are normal expenses, FPUC wants the Commission to ignore Rule 25-6.0143(1)(f)(9), F.A.C., which does not allow for recovery of normal base rate O&M expenses incurred during the storm period through a storm surcharge.

OPC argues that FPUC cannot legitimately charge rates to customers who received no service from the Company due to the effects of Hurricane Michael, whether because the customers could not receive service, or whether the customer did not re-establish service with FPUC. OPC further asserts that it would not be fair to charge FPUC's "other" customers for this lost revenue that relates to previous customers who did not receive service from the utility. OPC concludes that to allow FPUC to create a regulatory asset to make up for "lost revenue," based on no services being provided, leads to unjust compensation, and thus any potential inclusion in the establishment of new rates would also lead to unjust and unreasonable rates.

In addition, OPC contends that the customers of FPUC suffered great losses as a result of Hurricane Michael, and that these customers should not have to pay for electric service that they did not, and in some instances, could not, receive. OPC further argues that the permanent loss of 546 accounts in FPUC's Northwest Division attests to the suffering of FPUC's customers in that territory, and that the remaining customers should not have to pay for FPUC's loss of profits from the reduction in its customer base. OPC notes that electric utilities lose customers every day for a myriad of reasons, such as when customers move outside of the utility's service area, or install their own renewable systems.

OPC argues that Rule 25-6.0143, F.A.C., establishes that the Commission's policy for the types of storm costs that are recoverable from customers, and that the Incremental Cost and Capitalization Approach (ICCA) methodology propounded in the Rule must be followed, irrespective of how a utility chooses to recover storm-related costs from customers (surcharge or regulatory asset). OPC further states that the Commission disallowed a similar request from FPUC for lost revenue due to Hurricane Irma.⁹ In that case, the Commission found that lost revenue from service not provided due to a storm is prohibited from being charged to the reserve under the ICCA methodology.¹⁰ OPC argues that FPUC is merely renaming its previous request from a storm-reserve charge to a regulatory asset, and that in either case FPUC is prohibited from recovering lost revenue from its customers. OPC concludes that FPUC is prohibited from

⁸ See FPUC Storm Order, p. 25.

⁹ *Id.*

¹⁰ *Id.*

such recovery under the doctrine of retroactive ratemaking, which is the basis for the prohibition on charging lost revenue from service not provided found in Rule 25-6.0143(1)(f)(9), F.A.C.

FPUC's Response

FPUC argues that the Commission has consistently recognized that the standard for granting a request for Summary Final Order is very high, and that OPC has not met this standard with its Motion. FPUC argues that OPC has failed to conclusively demonstrate that no issues of material fact exist, nor has it demonstrated that it is entitled to judgment as a matter of law. FPUC also argues that granting OPC's Motion would be premature, and is unlikely to avoid a hearing in this matter. Accordingly, FPUC requests that the Commission deny the Motion.

A. Facts Remain in Dispute

1. Whether Unrecovered O&M Expenses Equate to Lost Revenue

FPUC argues that OPC's Motion reflects that there is at least one key issue of fact that remains in dispute; namely, whether the unrecovered O&M expenses for which FPUC seeks recovery are equivalent to "lost revenue." FPUC further argues that the Commission has acknowledged FPUC's differentiation between lost revenue and O&M costs not recovered in the FPUC Storm Order. FPUC acknowledges that in that case, the Commission found that it was not appropriate to charge these costs to its storm reserve account. FPUC argues that since FPUC is not seeking to recover these costs through the storm reserve in this proceeding, the appropriateness of FPUC's request remains a live issue in dispute.

FPUC also argues that OPC's Motion fails to indicate that FPUC did not recover the O&M expenses because it sought a waiver to rendering monthly bills in its Northwestern Division in light of the devastation caused by Hurricane Michael, which the Commission approved by Order No. PSC-2018-0529-PAA-EI, issued on November 8, 2018. FPUC states that it did not reinstate billing in the Northwest Division until early December 2018, but that service was restored to 97 percent of the Northwest Division's customers by November 1, 2018. FPUC argues that to allow OPC to recast the unrecovered O&M expenses as simply lost revenue, and its assertion that such expenses should remain unrecovered, would unfairly penalize FPUC for taking the humane action of not billing its customers for a period following a cataclysmic event.

FPUC also notes that because the Northeast Division continued to function and incur normal O&M expense throughout the period, only this half of FPUC's customer base was billed the rates designed to recover normal O&M expense across two divisions, despite normal O&M expenses continuing to be incurred in the Northeast Division for the entire period, and in the Northwest Division for a portion of the period.

2. Whether Electric Service Was Received

FPUC further contends that an additional fact remains in dispute – whether or not some customers received electricity for which they were not eventually billed. FPUC disagrees with OPC's assertion that FPUC's request for recovery amounts to seeking payment from customers

for electric service that was never received. FPUC argues that it has not been established that none of FPUC's customers received service during October through November 2018. FPUC notes that to the contrary, by November 1, 2018, FPUC restored its system to the extent that 97 percent of its customers could receive electric service on their premises. FPUC contends that it can be expected that a lower percentage of restored service was available prior to November 1, yet FPUC did not reinstate billing in the Northwest Division until December 2018.

FPUC argues that OPC narrowly construes service as the flow of electricity into a customer's house; however, much more is involved in providing service to customers. FPUC argues that rates are designed to cover not the electrons themselves, but the construction, wires, and maintenance necessary to get the "product" (ex. the ability to turn on a light) to the customer's premise. As of November 1, 2018, FPUC had provided this aspect of its service to 97 percent of its customers' premises, and after this period, the customers that could not receive the product was due to their premises being unable to receive electricity. FPUC notes that it is not arguing that it should be allowed to bill for electricity that the customer never received, but disputes OPC's contention that FPUC is seeking recovery for revenue that was not earned.

B. OPC Misinterprets the Law

1. Relief FPUC Requests is Not Prohibited

FPUC argues that its request for unrecovered O&M expenses, as well as the loss associated with its reduction in customers, does not equate to retroactive ratemaking as OPC contends, and that OPC disregards Commission precedent under which similar relief was provided to another Florida utility. FPUC notes that OPC is correct in stating that the Commission has determined that retroactive ratemaking occurs when an attempt is made to recover either past losses or over earnings in prospective rates, as iterated in the UWF Order. However, FPUC argues that in the UWF Order, the Commission stated that it does "not believe that the Court decisions literally mean that retroactive ratemaking would occur from reaching back to past consumption and back-billing for over or under collections during those periods."

In the UWF Order, the Commission also acknowledged the Florida Supreme Court's statements on retroactive ratemaking in its decision, *GTE Florida Inc. v. Clark (GTE)*, in which the Court stated that it views "ratemaking as a matter of fairness" and that "[e]quity requires that both ratepayers and utilities be treated in a similar manner."¹¹ The Court in *GTE* allowed the utility to implement a surcharge for prior expenses that had erroneously been disallowed, and distinguished the utility's request from being characterized as a new rate being applied retroactively, which is prohibited. FPUC argues that its request for unrecovered O&M expenses and lost customer revenue is precisely what the utility in *GTE* was granted.

FPUC incurred normal O&M expenses both prior to and after the storm that were never recovered because FPUC determined it would not be equitable to bill its customers in the Northwest Division immediately in the aftermath of Hurricane Michael. FPUC argues that considering the damage, billing its customers would be like pouring salt in a wound.

¹¹ See UWF Order, p. 16, citing *GTE Florida Inc. v. Clark*, 668 So. 2d 971, 972 (Fla. 1996).

FPUC further argues that the UWF Order is distinguishable from the case at hand. In the UWF Order, the Commission addressed a situation where a change in accounting treatment resulted in a loss to the utility. In rejecting the utility's request for recovery, the Commission noted the substantial amount of time that had passed between the effective date of the accounting change and the utility's filing for a rate case. The Commission further noted that the utility could have secured recovery of a substantial portion of the costs if it had filed for a rate case or limited proceeding sooner.

FPUC argues that it took action in a timely manner to address its losses, unlike the utility in the UWF Order. FPUC notes that in this case, no one could have predicted the level of devastation that resulted from Hurricane Michael, and that in the early days following Hurricane Michael search and rescue, followed by service restoration, took precedence over regulatory ratemaking and revenue issues. In addition, FPUC notified the Commission on October 24, 2019, that its losses would exceed \$10 million pursuant to Rule 25-6.0143, F.A.C. FPUC also undertook actions to mitigate the impact of the storm on its customers, including several discussions with OPC and Commission staff. FPUC submitted its petition in this proceeding just short of ten months following the storm, on August 7, 2019.

FPUC also argues that the Commission has allowed recovery of these types of expenses under very similar circumstances in a prior case, and thus if recovery was not prohibited as retroactive ratemaking then, it is not prohibited as retroactive ratemaking now. In Order No. PSC-05-0937-FOF-EI, issued on September 21, 2005, the Commission found that normal O&M expenses not recovered in base rates were eligible for recovery in Florida Power & Light Company's storm recovery mechanism.

With respect to FPUC's loss in customer base, FPUC does not deny that the amount associated with this regulatory asset does equate to lost revenue. However, FPUC argues that OPC fails to recognize that the revenue FPUC is receiving from its remaining customers no longer covers the cost of running the system with any opportunity to achieve a fair return. FPUC contends that its request to establish and recover the amortization on a regulatory asset to address this loss of revenue is not retroactive ratemaking. Rather, it is a reallocation of the Company's approved revenue requirement over a reduced customer base. FPUC argues that this adjustment is not uncommon in the context of a rate case; however, FPUC has requested it in the context of a limited proceeding.

FPUC argues that Commission-established rates and earnings ranges provide an opportunity for a utility to earn a fair return, but that the ratemaking process does not and could not address the significant issues at play following Hurricane Michael. FPUC argues that while the regulatory compact provides only an opportunity for a utility to earn a fair return, and does not guarantee a certain level of profit, as OPC suggests, Hurricane Michael demolished that opportunity for FPUC. FPUC concludes that if anything, Hurricane Michael has turned the regulatory compact on its head.

2. Arguments under Rule 25-6.0143(1)(f)(9), F.A.C. are Misplaced

FPUC argues that it does not deny that Rule 25-6.0143(1)(f)(9), F.A.C., prohibits FPUC from charging the expenses associated with FPUC's proposed regulatory assets to the storm reserve. However, FPUC does not agree with OPC's extrapolation that because the Commission's Rule prohibits charging these costs to the storm reserve, that the Commission clearly intended that these costs not be recoverable at all. FPUC notes that it cannot find one instance in which the Commission expressly stated that that costs represented by FPUC's proposed regulatory assets are not recoverable at all by any other mechanism.

FPUC further contends that it did not seek relief under Rule 25-6.0143, F.A.C., given the scope of the relief that FPUC required. Rather, FPUC argues that it chose to request to establish a series of regulatory assets because the storm surcharge recovery mechanism would not accommodate the recovery FPUC required without unjustly burdening FPUC's customers with an "outrageous" storm surcharge. FPUC argues that the Commission should be wary of OPC's rush to limit its consideration of the merits of FPUC's request based upon a Rule that does not apply to its request.

3. Granting Motion Will Not Avoid Delay and Cost of Hearing

FPUC notes that the Commission has recognized that one of the key reasons for issuing a summary final order is to avoid the expense and delay of trial.¹² FPUC argues that granting OPC's Motion will not do that, accordingly, its Motion should be denied.

Analysis

Staff recommends that this dispute clearly presents a number of mixed questions of fact and law, and that OPC has not met its high burden to present a showing that there is no genuine issue as to any material fact. In the case at hand, the testimony and admissions surrounding FPUC's expenses could permit different reasonable inferences. Here, FPUC submits that the evidence supports a characterization of "unrecovered O&M expenses," while OPC submits that the evidence supports characterizing those expenses as "lost revenue." These conflicting interpretations convey that a genuine issue of material fact exists. Like in *Moore*, there is nothing about these facts that leads conclusively and inescapably to only one conclusion.¹³ Therefore, since OPC's Motion must be viewed in the light most favorable to FPUC, staff recommends that OPC's Motion be denied.

In addition, staff recommends that FPUC has demonstrated that another issue of fact regarding its request to recover O&M expense remains in dispute, that is, whether or not electric service was actually received. OPC argues that FPUC is attempting to recover O&M expenses for electric service that was not earned in a prior period, which is contrary to the doctrine of retroactive ratemaking. FPUC argues that the extent to which electric service was received by the

¹² Order No. PSC-01-1554-FOF-WU, issued July 27, 2001, in Docket No. 991437-WU, *In re: Application for increase in water rates in Orange County by Wedgefield Utilities, Inc.*

¹³ *Moore*, 475 So. 2d at 668.

majority of its customers, and thus earned, in a prior period, has not been established, and thus remains in dispute. As indicated above, if the record raises even the slightest doubt that an issue of material fact may exist, then granting of summary judgment is not appropriate, and thus OPC's Motion should be denied.¹⁴

Moreover, staff concurs with FPUC that this Commission has recognized that policy considerations should be taken into account in ruling on a motion for summary final order.¹⁵ Because the Commission has a duty to regulate in the public interest, the rights of not only the parties must be considered but also the potential impact to others, and the decision cannot be made in a vacuum. Policy considerations must be taken into account in granting a summary judgment.¹⁶ Most notably, the Commission has recognized that:

[t]he granting of a summary judgment, in most instances, brings a sudden and drastic conclusion to a lawsuit, thus foreclosing the litigant from the benefit of and right to a trial on the merits of his or her claim. . . . It is for this very reason that caution must be exercised in the granting of summary judgment, and the procedural strictures inherent in the Florida Rules of Civil Procedure governing summary judgment must be observed. . . . The procedural strictures are designed to protect the constitutional right of the litigant to a trial on the merits of his or her claim. They are not merely procedural niceties nor technicalities.¹⁷

Staff recommends that the primary question of fact at issue here (whether unrecovered O&M expenses equate to lost revenue), is directly related to the questions of law and policy that OPC and FPUC lay out extensively in their filings; namely, whether prior Commission decisions (in 2004 and in the FPUC Storm Order), the doctrine of retroactive ratemaking, or Rule 25-6.0143, F.A.C., preclude FPUC from seeking recovery of these expenses. Staff also recommends that whether FPUC can recover the lost revenue from its reduction in customer base as a result of Hurricane Michael by establishing a regulatory asset in a limited proceeding, as opposed to addressing this issue in a rate case, is a policy consideration that is not appropriate to dismiss in a partial summary final order.

Furthermore, the extent to which, if at all, FPUC can recover the O&M expenses and lost revenue from reduction in its customer base, in the manner in which FPUC has requested (to establish regulatory assets), appears to be a question of first impression before the Commission, and staff believes it is therefore inappropriate to be dealt with by partial summary final order. Staff recommends that it is not appropriate at this time to make a determination on the legal or factual issues to be addressed at a future evidentiary hearing. Rather, staff recommends only that the high standard for granting a summary final order has not been met.

¹⁴ See Trawick's Florida Practice and Procedure, Section 25-5, Summary Judgment Generally, Henry P. Trawick, Jr. (2020).

¹⁵ Order No. PSC-98-1538-PCO-WS, issued November 20, 1998, in Docket Nos. 970657-WS and 980261-WS, *In Re: Application for Certificates to Operate a Water and Wastewater Utility in Charlotte and Desoto Counties by Lake Suzy Utilities, Inc. and In Re: Application for Amendment of Certificates Nos. 570-W and 496-S To Add Territory in Charlotte County by Florida Water Services Corporation*, p. 8.

¹⁶ *Id.*

¹⁷ *Id.*

In addition, staff does not believe that granting OPC's Motion would avoid the expense and delay of a trial, which the Commission has acknowledged as the purpose of a summary final order. Staff believes that even if OPC's Motion were granted, similar questions of fact, law, and policy are expected to be addressed at the hearing to determine the remainder of FPUC's requests to recover storm costs, which is currently set for September 8-10, 2020. Staff recommends that it is more appropriate to address such nuanced issues of fact, law, and policy before the Commission in the context of FPUC's full request related to Hurricane Michael, especially given the storm's level of impact on both FPUC and its customer base.

Staff also notes that OPC states that its Motion was filed pursuant to Rule 28-106.204, F.A.C. Subsection (3) of that Rule requires that "[m]otions, other than a motion to dismiss, shall include a statement that the movant has conferred with all other parties of record and shall state as to each party whether the party has any objection to the motion." OPC included no such statement in its Motion, and should have informed the Commission in its Motion whether any parties objected, after conferring with them, or it should have provided a statement that it attempted but was unable to confer with the parties.

Conclusion

For the reasons stated above, staff does not believe that the facts of this case are "so crystalized" that it is clear that no genuine issue as to any material fact exists. Whether normal unrecovered O&M expenses are equal to lost revenue, whether FPUC is seeking to charge its customers for service not rendered, whether FPUC can create a regulatory asset for its lost revenue as a result of its reduction in customers, and whether the expenses are permissible for FPUC to recover, are genuine issues of fact, law, and policy that are inextricably linked in this case. Furthermore, staff believes that granting OPC's Motion would not avoid the expense and delay of a hearing, and additional facts may be developed at hearing that would help the Commission decide these matters. Accordingly, staff recommends that it is not appropriate at this time to make a determination on the legal or factual issues to be addressed at a future evidentiary hearing.

Staff recommends that OPC has not conclusively demonstrated, at this point, that no issues of genuine fact remain with the issues presented, and that the high standard for granting a summary final order has not been met. Staff also recommends that OPC has not met its high burden of showing that partial summary judgment is appropriate given the policy considerations that would be implicated by such a decision. Therefore, staff recommends that the granting of a partial summary final order is premature at this time, and that OPC's Motion should be denied.

Issue 2: Should these dockets be closed?

Recommendation: No. These dockets should remain open for an evidentiary hearing on these matters. (Dziechciarz, Weisenfeld, Lherisson)

Staff Analysis:

These dockets should remain open for an evidentiary hearing on these matters.

Item 7

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Trierweiler, J. Crawford) *JSC*
Division of Accounting and Finance (Fletcher, Norris) *ALM BT*
Division of Economics (Hudson) *JCH*

RE: Docket No. 20200139-WS – Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties, by Utilities, Inc. of Florida.

AGENDA: 06/09/2020 – Regular Agenda –Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

CRITICAL DATES: July 20, 2020 – 90-day deadline to address petition for rule waiver pursuant to Section 120.542(8), F.S.

SPECIAL INSTRUCTIONS: None

Case Background

On April 20, 2020, Utilities, Inc. of Florida (UIF or Utility), a Class A utility providing water and wastewater service to systems located in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties, Florida, filed a notice of its intent to submit an application for general rate relief for these systems to the Florida Public Service Commission. The Utility intends to submit the minimum filing requirements (MFRs) on or before July 31, 2020. On May 7, 2020, the Chairman approved the Utility's historic test year ended December 31, 2019, and requested the filing of the complete petition, MFRs, and full filing fee no later than July 31, 2020.

The Utility's last rate proceeding occurred in Docket No. 20160101-WS utilizing a historic December 31, 2015, test year.¹ That proceeding culminated in Order No. PSC-2017-0361-FOF-WS, issued September 25, 2017, as amended by Order No. PSC-2017-0361A-FOF-WS, issued October 4, 2017. On remand from the First District Court of Appeal, Order No. PSC-2019-0363-PAA-WS was issued on August 27, 2019.

Upon its request, the Office of Public Counsel (OPC) was added as an interested person to this docket on April 20, 2020.

On April 21, 2020, UIF filed a Petition for Variance or Waiver of a specific provision from Rule 25-30.437(3), Florida Administrative Code (F.A.C.). The portion of the rule from which the Utility is requesting waiver addresses the requirement to provide additional detailed billing analyses for each rate change period in the test year. Pursuant to Section 120.542, Florida Statutes (F.S.), notice of the petition for waiver was published in the Florida Administrative Register on April 24, 2020. No written comments to the notice were received, and the time for filing written comments expired on May 8, 2020. The 90-day statutory deadline for the Commission to address the Utility's request pursuant to Section 120.542(8), F.S., is July 20, 2020.

This recommendation addresses UIF's petition for variance or wavier of a specific provision from Rule 25-30.437(3), F.A.C. The Commission has jurisdiction pursuant to Sections 367.081 and 120.542, F.S..

¹ *In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.*

Discussion of Issues

Issue 1: Should the Commission grant the Utility's Petition for Waiver or Variance of Schedule E-14, of Commission Form PSC/AFD 19-W (11/93), as incorporated by reference in Rule 25.30-437, F.A.C.?

Recommendation: Yes. The Commission should grant UIF's Petition for Waiver of the Rule. (Trierweiler, Hudson)

Staff Analysis: Section 120.542(2), F.S., authorizes the Commission to grant variances or waivers from the requirements of its rules where the person subject to the rules has demonstrated that the underlying purpose of the statute has been or will be achieved by other means, and strict application of the rules would cause the person substantial hardship or would violate principles of fairness. "Substantial hardship" as defined in this section may include a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver.

On April 21, 2020, UIF filed a Petition for Variance or Waiver of one specific requirement of Commission Form PSC/AFD 19-W (11/93), which is incorporated by reference in Rule 25-30.437, F.A.C. The rule requires the Utility to create billing analyses throughout the test year that capture the data for each class of service by meter size and reflect all rate changes throughout the test year. Each billing analysis must show the bills, gallons, and rates. One of the goals is to provide the Commission with the data necessary to annualize test year revenue if there was a rate change during the test year.

UIF asserts that the requested waiver or variance is needed because providing the detailed billing analyses with billing changes would result in a substantial hardship as defined in Section 120.542(2), F.S. The Utility had three rate changes during the test year, which by rule would require a billing analysis for each of the three rate periods. UIF would incur an inordinate amount of time to prepare these detailed billing analysis schedules which would result in an additional 700 to 900 individual billing schedules due to the size of its customer base. Commission staff agrees that these detailed rate change billing analyses do not provide any meaningful information which would facilitate the Commission's review of UIF's rate request. Commission staff needs the billing analysis, which reflects the total number billing determinants for purposes of annualizing revenues, if necessary, and designing rates. UIF intends to provide the billing analysis (which by nature are the total test year billing determinants); it does not intend to provide separate billing analyses which coincide with each period of rate change during the test year. UIF contends that the application of this specific MFR requirement in this docket would lead to an unreasonable, unfair and unintended result, and that the purpose of this specific MFR requirement will be achieved through the billing analysis schedules to be filed by UIF.

The Commission evaluated a similar motion by UIF in its prior rate case in Docket No. 20160101-WS and issued Order No. PSC-2016-0530-PAA-WS, granting the Petition. There has been no change in the rate case requirements since that time. Finally, UIF represents that OPC takes no position on UIF's Petition for Rule Waiver.

Date: May 28, 2020

Section 367.081, F.S., provides that the Commission shall fix rates which are just, reasonable, compensatory and not unfairly discriminatory. The underlying purpose for gathering the information required by Rule 25-30.437, F.A.C., is to provide sufficient information for the Commission to set appropriate rates for a utility. The Utility will provide the information in its MFRs that will permit the staff, parties, and Commission to examine revenues for the test year period. The information the Utility is seeking to waive is not necessary for that determination. Therefore, the underlying purpose of the statute can still be met if the waiver is granted. Staff also believes the Utility has sufficiently alleged that compliance with the rule would result in substantial hardship. Preparing an additional 700 to 900 billing schedules, which would not materially assist the parties, staff, or Commission in processing the case, would result in the expenditure of not only an inordinate amount of time and resources on the part of the Utility, but would also generate additional - and unnecessary - rate case expense.

Staff therefore recommends that the Commission grant the waiver of the rule. By granting this waiver, UIF will avoid incurring a substantial hardship without adversely impacting the Commission's ability to determine annualized test year revenues.

Issue 2: Should this docket be closed?

Recommendation: The docket should remain open pending the Commission's final action on the Utility's requested rate increase. If no timely protest is filed, this matter becomes final upon the issuance of a consummating order. (Trierweiler)

Staff Analysis: The docket should remain open pending the Commission's final action on the Utility's requested rate increase. With respect to Issue 1, a Consummating Order should be issued unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action portion of the order.

Item 8

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Richards, D. Buys, Cicchetti) *ALM* *MC*
Office of the General Counsel (Lherisson) *JC*

RE: Docket No. 20200006-WS – Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.

AGENDA: 06/09/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Section 367.081(4)(f), Florida Statutes (F.S.), authorizes the Commission to establish, not less than once each year, a leverage formula to calculate a reasonable range of returns on equity (ROE) for water and wastewater (WAW) utilities. The current leverage formula methodology was established in Order No. PSC-2001-2514-FOF-WS.¹ On October 23, 2008, the Commission held a formal hearing in Docket No. 20080006-WS to allow interested parties to provide testimony regarding the validity of the leverage formula.² Based on the record in that proceeding,

¹Order No. PSC-2001-2514-FOF-WS, issued December 24, 2001, in Docket No. 20010006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity of water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

²At the May 20, 2008, Commission Conference, upon request of the Office of Public Counsel, the Commission voted to set the establishment of the appropriate leverage formula directly for hearing.

the Commission approved the 2008 leverage formula in Order No. PSC-2008-0846-FOF-WS.³ In that order, the Commission reaffirmed the methodology that was previously approved in Order No. PSC-2001-2514-FOF-WS.⁴

From 2012 through 2017, the Commission found that the range of returns on equity derived from the annual leverage formulas were not optimal for determining the appropriate authorized ROE for WAW utilities due to Federal Reserve monetary policies that resulted in historically low interest rates. Consequently, the Commission decided it was reasonable to continue using the range of returns on equity of 8.74 percent to 11.16 percent from the 2011 leverage formula approved by Order No. PSC-2011-0287-PAA-WS until 2018.⁵

On November 8, 2017, Commission staff held a workshop to solicit input from interested parties regarding potential changes to the current leverage formula methodology. The only parties that filed pre-workshop comments in the docket were the Office of Public Counsel (OPC) and Utilities, Inc. of Florida (UIF). OPC also filed post-workshop comments on January 31, 2018. On June 26, 2018, the Commission approved the leverage formula by Order No. PSC-2018-0327-PAA-WS.⁶ The methodology approved in the 2018 Order was used to establish the 2019 leverage formula.⁷

Section 367.081(4)(f), F.S., authorizes the Commission to establish a range of returns for setting the authorized ROE for WAW utilities. However, use of the leverage formula by the utilities is discretionary and a utility can file cost of equity testimony in lieu of using the leverage formula. The Commission may set an ROE for WAW utilities based on record evidence in any proceeding. If a utility files cost of equity testimony, the Commission will determine the appropriate ROE based on the evidentiary record in that proceeding.

The Commission has jurisdiction pursuant to Section 367.081, F.S.

³Order No. PSC-2008-0846-FOF-WS, issued December 31, 2008, in Docket No. 20080006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

⁴Order No. PSC-2001-2514-FOF-WS, issued December 24, 2001, in Docket No. 20010006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

⁵Order No. PSC-2011-0287-PAA-WS, issued July 5, 2011, in Docket No. 20110006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

⁶Order No. PSC-2018-0327-PAA-WS, issued June 26, 2018, in Docket No. 20180006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

⁷Order No. PSC-2019-0267-PAA-WS, issued July 1, 2019, in Docket No. 20190006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

Discussion of Issues

Issue 1: What is the appropriate range of returns on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), Florida Statutes?

Recommendation: Staff recommends that the current leverage formula approved by the Commission in Order No. PSC-2019-0267-PAA-WS continue to be used until readdressed in 2021. Accordingly, staff recommends the following leverage formula:

$$\text{ROE} = 6.05\% + (1.80 \div \text{Equity Ratio})$$

Where the Equity Ratio = Common Equity ÷ (Common Equity + Preferred Equity + Long-Term and Short-Term Debt)

Range: 7.85 percent at 100 percent equity to 10.55 percent at 40 percent equity

The Commission should cap returns on common equity at 10.55 percent for all WAW utilities with equity ratios less than 40 percent. Imposing a cap serves to discourage imprudent financial risk. This cap is consistent with the methodology in Order No. PSC-2019-0267-PAA-WS. (Richards, D. Buys)

Staff Analysis: Section 367.081(4)(f), F.S., authorizes the Commission to establish a leverage formula to calculate a reasonable range of returns on common equity for WAW utilities. The Commission must establish this leverage formula not less than once a year. For administrative efficiency, the leverage formula is used to determine the appropriate return for an average Florida WAW utility. Staff continues to believe the leverage formula is a sound, workable methodology that reduces the costs and administrative burdens in WAW rate cases by eliminating the need for cost of equity testimony. However, use of the leverage formula by utilities is discretionary and a utility can file cost of equity testimony in lieu of using the leverage formula. As is the case with other regulated companies under the Commission's jurisdiction, the Commission has discretion in the determination of the appropriate ROE based on the evidentiary record in a proceeding. If one or more parties in a rate case or limited proceeding file testimony in lieu of using the leverage formula, the Commission will determine the appropriate ROE based on the evidentiary record in that proceeding.

COVID-19 Impact

In light of the recessionary impact on the economy caused by the ongoing COVID-19 pandemic, the Federal Open Market Committee (Committee) voted twice in March 2020 to reduce the target range for the federal funds rate. On March 3, 2020, the Committee decided to lower the federal funds target range from 1.50 - 1.75 percent to 1.00 - 1.25 percent.⁸ On March 15, 2020, the Committee decided to lower the federal funds target range from 1.00 - 1.25 percent to 0.00 - 0.25 percent, and reasoned, "The effects of the coronavirus will weigh on economic activity in the near term and pose risks to the economic outlook."⁹ On April 29, 2020, the Committee

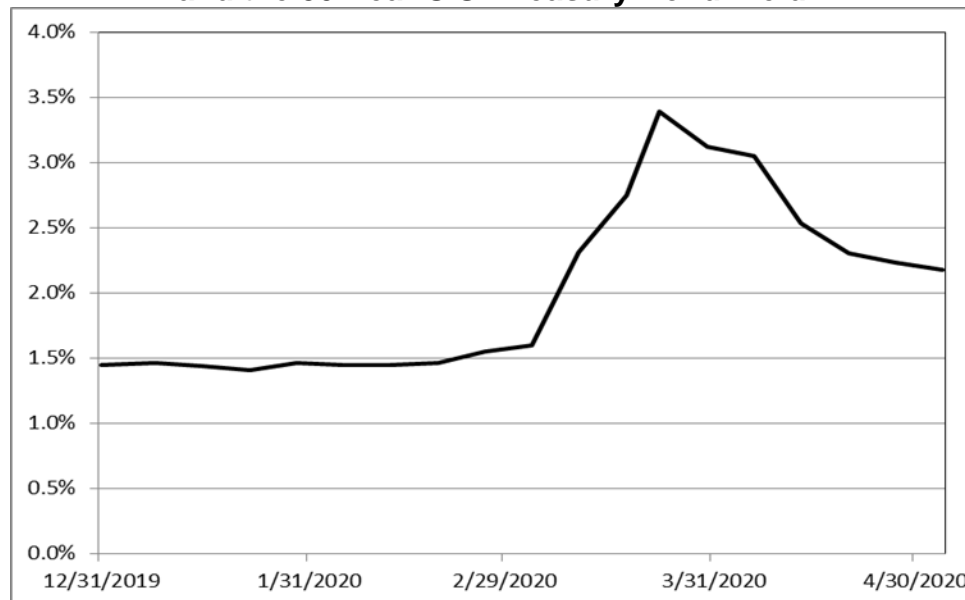
⁸See "Federal Reserve Issues FMOOC Statement" on March 03, 2020, available at <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200303a.htm>.

⁹See "Federal Reserve Issues FMOOC Statement" on March 15, 2020, available at <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200315a.htm>.

decided to maintain the target range for the federal funds rate of 0.00 - 0.25 percent. The Committee expects to maintain this target range until it is confident that the economy has weathered recent events and is on track to achieve its maximum employment and price stability goals.¹⁰

Further, due to the recent decrease in risk-free interest rates and the uncertainty in the bond market, the volatility of the spread between the Utility 25/30-year BBB Bond Yield and the U.S. 30-year Treasury Bond Yield has been much greater than usual as demonstrated in Figure 1-1. This extreme volatility causes weekly fluctuations in the spread. Staff believes it is not reasonable to set a range of returns on equity for setting rates going forward using data that is influenced by the current catastrophic economic event. Due to this unusual and unique economic situation, staff recommends the current 2019 leverage formula remain in place.

Figure 1-1
Spread between the 25/30-Year BBB Bond Yield
and the 30-Year U.S. Treasury Bond Yield



Source: Value Line Selection and Opinion

Updated Leverage Formula

Although staff recommends the 2019 leverage formula remain in place, staff has provided the updated leverage formula using the most recent financial information should the Commission decide not to continue to use the 2019 leverage formula and approve the updated leverage formula. The updated model produced the following leverage formula:

$$\text{Return on Common Equity} = 5.46\% + (1.81 \div \text{Equity Ratio})$$

¹⁰See “Federal Reserve Issues FMO Statement” on April 29, 2020, available at <https://federalreserve.gov/newsevents/pressreleases/monetary20200429a.htm>.

Date: May 28, 2020

Where the Equity Ratio = Common Equity ÷ (Common Equity + Preferred Equity + Long-Term and Short-Term Debt)

Range: 7.27 percent at 100 percent equity to 9.99 percent at 40 percent equity

In conjunction with the updated leverage formula, the returns on common equity should be capped at 9.99 percent for all WAW utilities with equity ratios less than 40 percent to discourage imprudent financial risk. This cap is consistent with the methodology in Order No. PSC-2018-0327-PAA-WS.

Methodology

Staff updated the current leverage formula using the most recent financial data applied to the methodology approved in Order No. PSC-2001-2514-FOF-WS, reaffirmed in Order No. PSC-2008-0846-FOF-WS and modified in Order No. PSC-2018-0327-PAA-WS. The methodology uses ROEs derived from widely accepted financial models applied to an index of natural gas and WAW companies that have actively traded stock and forecasted financial data. To establish the proxy group, staff selected five natural gas companies and seven WAW companies that derive at least 50 percent of their total revenue from regulated operations and have a Standard and Poor's credit rating. These selected companies have market power and are influenced significantly by economic regulation and have a median Standard and Poor's bond rating of "A."

Consistent with the approved methodology, staff used a market capitalization weighted average for: (1) the Discounted Cash Flow (DCF) model results, (2) the Beta values in the Capital Asset Pricing Model (CAPM), and (3) the equity ratio of the proxy group.

Assumed Cost of Debt

Staff used a projected yield on Baa2 rated public utility bonds to estimate the bond yield of an average Florida WAW utility in the calculation of the weighted average cost of capital of the proxy group. A projected yield is used because required returns are forward looking and based on projections.

Consistent with the methodology approved in Order No. PSC-2018-0327-PAA-WS, staff used the projected Baa2 rated utility bond yield for the upcoming four quarters as published in the most recent Blue Chip Financial Forecast (Blue Chip). Staff then added the 120-month historical average spread between the Baa and A Corporate Utility Bond to the projected Baa2 rated utility bond yield to estimate a projected Baa3 rated utility bond yield of 5.46 percent.

The projected assumed Baa3 bond rate of 5.46 percent used in the updated leverage formula calculation includes a 50 basis point adjustment for small-company risk and a 50 basis point adjustment for a private placement premium and remains low relative to historic levels. In comparison, the assumed Baa3 bond rate used in the 2019 leverage formula is 6.05 percent. The lower Baa3 bond rate of 5.46 percent is the primary driver of the overall decrease in the results of the 2020 leverage formula compared to the 2019 leverage formula.

Date: May 28, 2020

Estimated Cost of Equity

The current leverage formula relies on two ROE models described below. Staff adjusted the results of these models to reflect differences in risk and debt cost between the proxy group and the average Florida WAW utility. The ROE models include a four percent adjustment for flotation costs. The ROE models are as follows:

- 1) A multistage Discounted Cash Flow (DCF) model applied to an index of natural gas and WAW utilities that have publicly traded stock and are followed by Value Line. This DCF model is an annually compounded model and uses prospective dividend growth rates as published by Value Line.
- 2) A Capital Asset Pricing Model (CAPM) that relies on a market return for companies followed by Value Line, the average projected yield on the U.S. Treasury's 30-year bonds as of April 1, 2020, published by Blue Chip Financial Forecasts, and the weighted average beta for the index of natural gas and WAW utilities. The market return for the CAPM was calculated using a quarterly DCF model with stock prices as of April 15, 2020.

Consistent with Order No. PSC-2018-0327-PAA-WS, staff averaged the results of the DCF and CAPM models and adjusted the result of 7.62 percent as follows:

- 1) A bond yield differential of 55 basis points was added to reflect the difference in yields between an A/A2 rated bond, which is the median bond rating for the combined utility index, and a BBB-/Baa3 rated bond. Florida WAW utilities are assumed to be comparable to companies with the lowest investment grade bond rating which is Baa3. This adjustment compensates for the difference between the credit quality of 'A' rated debt and the assumed credit quality of a typical Florida WAW utility.
- 2) A private placement premium of 50 basis points is added to reflect the difference in yields on publicly traded debt and privately placed debt, which is illiquid. Investors require a premium for the lack of liquidity of privately placed debt.
- 3) A small-utility risk premium of 50 basis points is added because the average Florida WAW utility is too small to qualify for privately placed debt and smaller companies are considered by investors to be more risky than larger companies.

After the above adjustments, the resulting cost of equity estimate of 9.17 percent is included in the weighted average capital structure of the proxy group to derive the leverage formula. The derivation resulted in an adjustment of 82 basis points to reflect an estimated required return of 9.99 percent at an equity ratio of 40 percent. Table 1-1 shows the components that comprise the upper range of the leverage formula as compared between the 2019 leverage formula and the 2020 leverage formula.

Table 1-1
Adjusted ROE Comparison

Component	2019	2020
DCF Model	7.39%	7.09%
CAPM	8.97%	8.15%
Average	8.18%	7.62%
Bond Yield Differential	0.60%	0.55%
Private Placement Premium	0.50%	0.50%
Small Utility Risk Premium	0.50%	0.50%
Adjusted ROE Average	9.78%	9.17%
Adj. To Reflect Required Equity Return at a 40% Equity Ratio	0.77%	0.82%
Upper Range of ROE	10.55%	9.99%

Source: Staff worksheets

Using the most recent financial data in the leverage formula decreases the lower end of the current allowed ROE range by 58 basis points and decreases the upper end of the range by 56 basis points. Overall, the spread between the range of returns on equity based on the updated leverage formula is 272 basis points (7.27 percent to 9.99 percent). In comparison, the range of returns on equity for the existing leverage formula from 2019 is 270 basis points (7.85 percent to 10.55 percent).

In developing the updated leverage formula, staff acknowledges that the leverage formula depends on four basic assumptions:

- 1) Business risk is similar for all WAW utilities;
- 2) The cost of equity is an exponential function of the equity ratio but a linear function of the debt to equity ratio over the relevant range;
- 3) The marginal weighted average cost of investor capital is constant over the equity ratio range of 40 percent to 100 percent; and
- 4) The debt cost rate at an assumed Moody's Baa3 bond rating, plus a 50 point private placement premium and a 50 basis point small-utility risk premium, represents the average marginal cost of debt to an average Florida WAW utility over an equity ratio range of 40 percent to 100 percent.

For these reasons, the leverage formula is assumed to be appropriate for the average Florida WAW utility.

Date: May 28, 2020

Conclusion

In staff's opinion, the current leverage formula range of returns on equity of 7.85 percent to 10.55 percent initially approved in 2019 is still reasonable for WAW utilities. Due to the economic volatility caused by the unique situation of the COVID-19 pandemic, staff believes retaining the use of the current 2019 leverage formula until the leverage formula is addressed again in 2021 is a reasonable alternative to updating the formula using current 2020 financial information. Staff continues to believe the leverage formula is a sound, workable methodology that reduces the costs and administrative burdens in WAW rate cases by eliminating the need for cost of equity testimony. Based on the aforementioned, staff recommends that the current leverage formula approved by the Commission in Order No. PSC-2019-0267-PAA-WS continue to be used until the leverage formula is readdressed in 2021.

Issue 2: Should this docket be closed?

Recommendation: No. Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, the decision should become final and effective upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to monitor changes in capital market conditions and to readdress the reasonableness of the leverage formula as conditions warrant. (Lherisson)

Staff Analysis: Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, the decision should become final and effective upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to monitor changes in capital market conditions and to readdress the reasonableness of the leverage formula as conditions warrant.

SUMMARY OF RESULTS
2020 Water and Wastewater Leverage Formula

	Updated <u>Results</u>	Currently <u>In Effect</u>
(1) DCF ROE for Combined Index	7.09%	7.39%
(2) CAPM ROE for Combined Index	<u>8.15%</u>	<u>8.97%</u>
AVERAGE	7.62%	8.18%
Bond Yield Differential	0.55%	0.60%
Private Placement Premium	0.50%	0.50%
Small-Utility Risk Premium	0.50%	0.50%
Adjustment to Reflect Required Equity	<u>0.82%</u>	<u>0.77%</u>
Return at a 40% Equity Ratio		
Cost of Equity for Average Florida	<u>9.99%</u>	<u>10.55%</u>
WAW Utility at 40% Equity Ratio		

2019 Leverage Formula (Currently in Effect)

Return on Common Equity = 6.05% + (1.80 ÷ Equity Ratio)

Range of Returns on Equity = 7.85% to 10.55%

2020 Leverage Formula

Return on Common Equity = 5.46% + (1.81 ÷ Equity Ratio)

Range of Returns on Equity = 7.27% to 9.99%

Marginal Cost of Investor Capital
Average Water and Wastewater Utility

<u>Capital Component</u>	<u>Ratio</u>	<u>Marginal Cost Rate</u>	<u>Weighted Marginal Cost Rate</u>
Common Equity	48.88%	9.17%	4.48%
Total Debt	<u>51.12%</u>	5.46%*	<u>2.79%</u>
	<u>100.00%</u>		<u>7.27%</u>

A 40% equity ratio is the floor for calculating the required return on common equity.

The return on equity at a 40% equity ratio: $5.46\% + (1.81 \div 0.40) = 9.99\%$

Marginal Cost of Investor Capital
Average Water and Wastewater Utility at 40% Equity Ratio

<u>Capital Component</u>	<u>Ratio</u>	<u>Marginal Cost Rate</u>	<u>Weighted Marginal Cost Rate</u>
Common Equity	40.00	9.99%	4.00%
Total Debt	<u>60.00</u>	5.46%*	<u>3.27%</u>
	<u>100.00%</u>		<u>7.27%</u>

Where: $ER = \text{Equity Ratio} = CE \div (CE + \text{Pref. Equity} + LTD + STD)$

*Assumed Baa3 rate for April 2020 plus a 50 basis point private placement premium and a 50 basis point small utility risk premium.

Sources:

Value Line Selection and Opinion

Company 10-K Filings

Discounted Cash Flow Model Results
April 1, 2020 – April 30, 2020

<u>Company</u>	<u>HI-PR</u>	<u>LO-PR</u>	<u>AVG-PR</u>	<u>DCF Results</u>	<u>Weight</u>	<u>Weighted DCF Results</u>
Atmos Energy Corporation	111.34	92.33	101.84	7.10%	20.73%	1.47%
Northwest Natural Gas Company	67.24	54.71	60.98	7.87%	3.24%	0.26%
ONE Gas, Inc.	92.00	75.81	83.91	6.91%	7.19%	0.50%
South Jersey Industries	30.25	22.09	26.17	9.74%	3.95%	0.38%
Spire, Inc.	81.47	67.49	74.48	6.69%	6.35%	0.42%
American States Water	91.11	73.41	82.26	7.00%	4.37%	0.31%
American Water Works	133.72	110.56	122.14	6.77%	32.30%	2.19%
Essential Utilities, Inc. (f/k/a Aqua)	44.95	37.68	41.32	6.67%	13.54%	0.90%
California Water Services Group	54.66	44.14	49.40	7.73%	3.53%	0.27%
Middlesex Water	64.00	53.70	58.85	8.96%	1.55%	0.14%
SJW Group	65.00	51.13	58.07	7.73%	2.40%	0.19%
York Water	45.11	37.92	41.52	7.25%	0.85%	0.06%
Average Weighted DCF Result:						<u>7.09%</u>

The ROE of 7.09 percent represents the expected cost of equity required to match the average stock price with the present value of expected cash flows.

Sources:

Stock prices obtained from Yahoo Finance for the 30-day period April 1, 2020 through April 30, 2020.

Natural Gas company dividends, earnings, and ROE obtained from Value Line Ratings & Reports issued February 20, 2020.

Water and Wastewater company dividends, earnings, and ROE obtained from Value Line Ratings & Reports issued April 10, 2020.

**Capital Asset Pricing Model Cost of Equity for
Water and Wastewater Industry**

CAPM analysis formula

K = RF + Beta (MR-RF)

K = Investor's required rate of return

RF = Risk-free rate (Blue Chip forecast for Long-Term Treasury bond)

Beta = Measure of industry-specific risk market cap weighted (Average for natural gas and water utilities followed by Value Line)

MR = Market Return (Value Line Investment Analyzer Web Browser)

$$8.15\% = 1.80\% + 0.5656 (12.67\% - 1.80\%) + 0.20\%$$

Note:

Staff calculated the market return using a quarterly DCF model for a large number of dividend paying stocks followed by Value Line. For April 15, 2020, the result was 12.67%. Staff added 20 basis points to the CAPM result to account for a flotation cost of four percent.

Bond Yield for Water and Wastewater Industry

<u>Credit Rating</u>	<u>(A)</u>	<u>Equity Bond Yield Differential Adjustment</u>				<u>(BBB)</u>	<u>Spread</u>	<u>(BBB-)</u>
		<u>Spread</u>	<u>(A-)</u>	<u>Spread</u>	<u>(BBB+)</u>	<u>Spread</u>		
		0.137		0.137		0.137		0.137

120-Month Avg. Spread: 0.13741

Total Equity Bond

Yield Differential 0.137 x 4 = 0.548%

Blue Chip Financial Forecasts – Corporate Baa Bond Rate

	<u>2Q 2020</u>	<u>3Q 2020</u>	<u>4Q 2020</u>	<u>1Q 2021</u>
Forecast Corporate Baa Bond	4.4	4.3	4.3	4.3

Average Forecasted Corporate

Baa Bond Rate 4.325

Assumed Bond Yield for Baa3 Utilities: 0.137 + 4.325 = 4.462

	<u>Updated Results</u>	<u>Currently In Effect</u>
Private Placement Premium	0.50%	0.50%
Small-Utility Risk Premium	0.50%	0.50%
Assumed Bond Yield for Baa3 Utilities	<u>4.462%</u>	<u>5.051%</u>
Assumed Bond Yield for Florida WAW Utilities	<u>5.462%</u>	<u>6.051%</u>

Sources:

Value Line Selection and Opinion

Blue Chip Financial Forecast April 2020

2020 Leverage Formula Proxy Group

<u>Company</u>	S&P Bond <u>Rating</u>	Regulated <u>Revenue</u>	V/L Market Capital <u>(Millions)</u>	Equity <u>Ratio</u>	Weighted Equity <u>Ratio</u>	Weighted Value <u>Line Beta</u>
Atmos Energy Corporation	A	94.61%	\$14,700	59.01%	12.23%	0.1140
Northwest Natural Gas Co.	A+	97.38%	\$2,300	48.21%	1.56%	0.0178
One Gas, Inc.	A	91.54%	\$5,100	54.01%	3.88%	0.0432
South Jersey Industries	BBB	55.07%	\$2,800	29.60%	1.17%	0.0316
Spire Inc.	A-	95.23%	\$4,500	47.02%	2.98%	0.0381
American States Water	A+	75.84%	\$3,100	67.75%	2.96%	0.0262
American Water Works	A	85.71%	\$22,900	39.30%	12.69%	0.1615
Essential Utilities, Inc.	A	98.08%	\$9,600	55.80%	7.56%	0.0812
Cal. Water Serv. Group	A+	97.19%	\$2,500	44.22%	1.56%	0.0212
Middlesex Water	A	91.44%	\$1,100	55.66%	0.86%	0.0109
SJW Group	A-	100.00%	\$1,700	38.48%	0.92%	0.0144
York Water	A-	98.99%	\$600	57.05%	0.48%	0.0055
Average	A	90.09%	\$5,908	49.67%	48.88%	0.5656

Sources:

Value Line Ratings and Reports

SEC Form 10K for Companies

Standard & Poor's

Item 9

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Phillips, Ellis) *TB*
Office of the General Counsel (Passidomo, Murphy) *TL7*

RE: Docket No. 20200057-EG – Petition for approval of demand-side management plan, by JEA.

AGENDA: 06/09/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Enacted in 1980, Sections 366.80 through 366.83, and 403.519, Florida Statutes (F.S.), known collectively as the Florida Energy Efficiency and Conservation Act (FEECA), requires the Florida Public Service Commission (Commission or PSC) to adopt conservation goals to increase the efficiency of energy consumption. Additionally, FEECA emphasizes reducing the growth rates of weather-sensitive peak demand, reducing and controlling the growth rates of electricity consumption, reducing the consumption of expensive resources such as petroleum fuels, and encouraging demand-side renewable energy resources. The Commission most recently established conservation goals by Order No. PSC-2019-0509-FOF-EG, issued November 26,

2019 (2019 Goalsetting Order).¹ The Commission found that it was in the public interest to continue with the goals established in the prior FEECA goalsetting proceeding for the period 2015 through 2024, which were established by Order No. PSC-14-0696-FOF-EU (2014 Goalsetting Order).²

Pursuant to Section 366.82(7), F.S., after goals are established, the Commission must require each utility to develop Demand-Side Management (DSM) Plans to meet the conservation goals. Rule 25-17.0021(4), Florida Administrative Code (F.A.C.), requires that DSM Plans be filed within 90 days of the order establishing goals. Therefore, new DSM Plans were required to be filed by February 24, 2020.

On February 24, 2020, JEA filed a petition requesting approval of its DSM Plan. As part of this filing, JEA provided a cost-effectiveness analysis of the proposed programs pursuant to Rule 25-17.008, F.A.C. These include the Rate Impact Measure (RIM) Test, the Total Resource Cost (TRC) Test, and the Participants Test.

On April 30, 2020, JEA filed an amended petition for approval of its DSM Plan. The primary change was the removal of the net metering programs for each customer class and the addition of a commercial lightning program. This recommendation addresses the amended petition, rather than the original February 24, 2020, petition.

The Commission has jurisdiction over this matter pursuant to Sections 366.80 through 366.83 and 403.519, F.S.

¹ Order No. PSC-2019-0509-FOF-EG, issued November 26, 2019, Docket No. 20190015-EG, *In re: Commission review of numeric conservation goals (Florida Power & Light Company)*, Docket No. 20190016-EG, *In re: Commission review of numeric conservation goals (Gulf Power Company)*, Docket No. 20190017-EG, *In re: Commission review of numeric conservation goals (Florida Public Utilities Company)*, Docket No. 20190018-EG, *In re: Commission review of numeric conservation goals (Duke Energy Florida, LLC)*, Docket No. 20190019-EG, *In re: Commission review of numeric conservation goals (Orlando Utilities Commission)*, Docket No. 20190020-EG, *In re: Commission review of numeric conservation goals (JEA)*, and Docket No. 20190021-EG, *In re: Commission review of numeric conservation goals (Tampa Electric Company)*.

² Order No. PSC-14-0696-FOF-EU, issued December 16, 2014, Docket No. 20130199-EI, *In re: Commission review of numeric conservation goals (Florida Power & Light Company)*, Docket No. 20130200-EI, *In re: Commission review of numeric conservation goals (Duke Energy Florida, Inc.)*, Docket No. 20130201-EI, *In re: Commission review of numeric conservation goals (Tampa Electric Company)*, Docket No. 20130202-EI, *In re: Commission review of numeric conservation goals (Gulf Power Company)*, Docket No. 20130203-EM, *In re: Commission review of numeric conservation goals (JEA)*, Docket No. 20130204-EM, *In re: Commission review of numeric conservation goals (Orlando Utilities Commission)*, and Docket No. 20130205-EI, *In re: Commission review of numeric conservation goals (Florida Public Utilities Company)*.

Discussion of Issues

Issue 1: Is JEA's DSM Plan projected to meet the annual numeric conservation goals established by the Commission in the 2019 Goalsetting Order?

Recommendation: Yes. The DSM Plan proposed by JEA is projected to meet or exceed the annual numeric conservation goals approved by the Commission in the 2019 Goalsetting Order. JEA's 2020 DSM Plan is a continuation, with some modifications, of its DSM Plan approved by the Commission in 2015 or voluntary programs taken outside of its DSM Plan. JEA's DSM Plan is not projected to be cost-effective based upon the RIM Test. However, the Commission should allow JEA to continue programs considering JEA's status as a municipal utility, where the local governing body is given the latitude to make decisions regarding local community investment in energy efficiency. JEA's local governing body will make its own determination as to whether expenditures are reasonable and prudent and will decide if it is necessary to modify and or remove programs.

Staff also recommends that JEA file its administrative program standards for all programs within 30 days of the Consummating Order being issued in this docket. Staff further recommends that the Commission grant staff administrative authority to review and approve these standards. (Phillips)

Staff Analysis: The criteria used to review the appropriateness of the conservation programs were as follows: (1) whether the program advances the policy objectives of FEECA and its implementing rules; (2) whether the program is directly monitorable and yields measurable results; and (3) whether the program is cost-effective.³ Staff has reviewed JEA's DSM Plan, including its demand and energy savings, cost-effectiveness, and rate impact. JEA's DSM Plan meets or exceeds the goals set in the 2019 Goalsetting Order.

Description of DSM Plan

JEA's DSM Plan consists of five programs in total, three residential and two commercial. Each of the programs were previously offered through JEA's 2015 DSM Plan, except one, Commercial Prescriptive Lighting. The program was previously offered voluntarily as a conservation program by JEA and did not count towards achieving annual conservation goals. Several of these programs have been modified to update values for participation and savings. Two noteworthy modifications are: (1) the rebate for the residential solar water heating program is decreasing from \$800 to \$400, which is the only program rebate being modified; and, (2) the Neighborhood Energy Efficiency program is being expanded to include an additional service whereby JEA provides blown-in attic insulation to bring the home's insulation value up to an R38-value at no cost to the owner, which averages about 150 upgrades per year.

As required by Rule 25-17.003, F.A.C., JEA's DSM Plan continues to offer energy audits to residential customers, and JEA also continues to voluntarily offer audits to commercial/industrial

³ PSC Order No. 22176, issued November 14, 1989, Docket No. 19890737-PU, In re: *Implementation of Section 366.80-.85, F.S., Conservation Activities of Electric and Natural Gas Utilities.*

customers. Table 1-1 provides a complete list of the programs and a brief description of each can be found in Attachment A.

Table 1-1
JEA DSM Plan Program Listing

Program Name	Program Status		
	Existing	Modified	New
Residential Programs			
Residential Energy Audits	X		
Residential Solar Water Heating	X	X	
Neighborhood Efficiency	X	X	
Commercial/Industrial Programs			
Commercial Energy Audits	X		
Commercial Prescriptive Lightning	X		

Source: Document No. 02304-2020

Program Savings

Seasonal peak demand and annual energy savings for the programs were reviewed. JEA estimates and measures savings by a program using a combination of methodologies, including site-specific engineering estimates as the most cost-effective method of evaluating program impacts. As required by Rule 25-17.003(10), F.A.C., JEA will conduct inspections of at least 10 percent of program installations to verify that installations were performed and meet quality standards.

As part of the 2014 Goalsetting Order, JEA's goals were established by stipulation that included JEA's estimated savings from continuing its existing programs, including behavioral savings for audits. While Staff does not recommend behavioral savings be counted towards goals for the other FEECA Utilities, consistent with the stipulation agreed to by the 2014 Goalsetting Order, JEA's audit behavioral savings should count towards its FEECA conservation accomplishments.

Comparison of DSM Plan to Goals

Based on staff's review, JEA's DSM Plan will meet or exceed the Commission's established annual goals. The seasonal demand and energy savings associated with JEA's DSM Plan and the Commission's established goals are summarized in Table 1-2 and Table 1-3 for residential and commercial/industrial sectors, respectively.

Table 1-2
Commission's Residential Goals vs. JEA's DSM Plan

Year	Summer (MW)		Winter (MW)		Annual Energy (GWh)	
	Goal	DSM Plan	Goal	DSM Plan	Goal	DSM Plan
2020	0.94	1.31	0.96	1.06	2.50	2.55
2021	0.94	1.31	0.96	1.06	2.50	2.55
2022	0.94	1.31	0.96	1.06	2.50	2.55
2023	0.94	1.31	0.96	1.06	2.50	2.55
2024	0.94	1.31	0.96	1.06	2.50	2.55
Total⁴	4.70	6.56	4.80	5.30	12.5	12.75

Source: Document No. 02304-2020

Table 1-3
Commission's Commercial/Industrial Goals vs. JEA's DSM Plan

Year	Summer (MW)		Winter (MW)		Annual Energy (GWh)	
	Goal	DSM Plan	Goal	DSM Plan	Goal	DSM Plan
2020	0.140	0.180	0.007	0.093	0.08	0.093
2021	0.140	0.180	0.007	0.093	0.08	0.093
2022	0.140	0.180	0.007	0.093	0.08	0.093
2023	0.140	0.180	0.007	0.093	0.08	0.093
2024	0.140	0.180	0.007	0.093	0.08	0.093
Total⁵	0.700	0.900	0.035	0.465	0.04	0.465

Source: Document No. 02304-2020

The values presented above are projections based upon participation rates which may or may not occur. JEA will be responsible for monitoring actual participation rates. JEA is a municipal utility and its local governing body will decide if it is necessary to modify, add, or remove programs.

Section 366.82(10), F.S., requires the Commission to provide an annual report to the Governor and Legislature on the progress of each utility toward meeting the established goals. Rule 25-17.0021(5), F.A.C., requires JEA to submit an annual report no later than March 1 of each year summarizing the achieved results of its DSM Plan. Staff will continue to monitor and report the actual amount of DSM savings each year, on an annual and cumulative basis, as part of the FEECA Report. The Commission must also address JEA's goal achievements if the Utility files a determination of need for new generation pursuant to Section 403.519, F.S.

⁴ Totals may not equal due to rounding.

⁵ Totals may not equal due to rounding.

Based on Table 1-2 and Table 1-3, JEA's 2020 DSM Plan is projected to exceed the established FEECA policy goals set by the Commission. The programs are all monitorable and the results are measurable.

Cost-Effectiveness Review

As required by Rule 25-17.008, F.A.C., JEA provided a cost-effectiveness analysis of the proposed programs using the RIM Test, the TRC Test and the Participants Test. The Commission's last established goals were not based upon any particular cost-effectiveness test. Rather, the Commission found that it was in the public interest to continue with the goals established in the prior FEECA goalsetting proceeding for the period 2015 through 2024, which were based on an economic analysis conducted in 2015. Below, staff addresses the assumptions associated with JEA's avoided costs and the results of the cost-effectiveness analysis.

Avoided Costs

All avoided capacity additions were modeled as a series of natural gas-fired simple cycle combustion turbines, with projected in-service dates of 2036, 2038, 2040, and 2043. JEA's avoided units are consistent with the Utility's filings in the 2019 Goalsetting Proceeding in Docket No. 20190020-EG.

Cost-Effectiveness Test Results

The cost-effectiveness analysis of JEA's demand-side programs shows that none are cost-effective under the RIM and Participants Test combined, and only its commercial programs are cost-effective under the TRC and Participants Tests combined. For municipal utilities such as JEA, local decisions fall within the jurisdiction of JEA's governing body regarding the investment in energy efficiency that best suits local needs and values. Accordingly, as the Commission has recognized in prior proceedings, it is appropriate to defer to municipal utilities' governing bodies to determine the level of investment if measures are not cost-effective.⁶

Table 1-4
JEA Cost-Effectiveness Test Results by Program

Program Name	RIM Test	TRC Test	Participants Test*
Residential Programs			
Residential Energy Audits	0.28	0.49	∞
Residential Solar Water Heating	0.46	0.39	0.82
Neighborhood Efficiency	0.41	0.99	∞
Commercial Programs			
Commercial Energy Audits	0.64	1.32	∞
Commercial Prescriptive Lighting	0.69	1.69	2.91

* A Participants Test score may result in infinity (∞) if there are no costs to participants.

Source: Document No. 02304-2020

⁶ Order No. PSC-15-0324-PAA-EG, issued, August 11, 2015, Docket No. 20150087-EG, *In re: Petition for approval of modifications to demand-side management plan by JEA*.

Rate Impact

The costs to implement the programs within JEA's DSM Plan would be established by the municipal utility's governing body. Overall, the DSM programs are a small amount of the customer's bill. Table 1-5 below is an estimate of the monthly bill impact on the typical residential and commercial customer over a five-year period. The estimated costs are based upon participation rates and administrative costs used in the cost-effectiveness analysis. Much like investments in generation, transmission, and distribution, investments in energy efficiency have an immediate rate impact, but may produce savings over time.

Table 1-5
JEA Estimated Monthly Bill Impact of Proposed DSM Plan

Year	Residential Customer 1,200 kWh/mo
	Monthly Bill Impact (\$)
2020	\$0.05
2021	\$0.08
2022	\$0.10
2023	\$0.13
2024	\$0.15

Source: Document No. 02304-2020

Conclusion

The DSM Plan proposed by JEA is projected to meet or exceed the annual numeric conservation goals approved by the Commission in the 2019 Goalsetting Order. JEA's 2020 DSM Plan is a continuation, with some modifications, of its DSM Plan approved by the Commission in 2015 or voluntary programs taken outside of its DSM Plan. JEA's DSM Plan is not projected to be cost-effective based upon the RIM Test. However, the Commission should allow JEA to continue programs considering JEA's status as a municipal utility, where the local governing body is given the latitude to make decisions regarding local community investment in energy efficiency. JEA's local governing body will make its own determination as to whether expenditures are reasonable and prudent and will decide if it is necessary to modify and or remove programs.

Staff also recommends that JEA file its administrative program standards for all programs within 30 days of the Consummating Order being issued in this docket. Staff further recommends that the Commission grant staff administrative authority to review and approve these standards.

Issue 2: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the PAA Order, a Consummating Order should be issued. If the Commission approves any programs, the programs should become effective on the date of the Consummating Order. However, if a protest is filed within 21 days of the issuance of the PAA Order, the programs should not be implemented until after the resolution of the protest. In either event, the docket should remain open for staff's verification that the program standards have been filed by the utility and approved by staff. When the PAA issues become final and the program standards have been approved, this docket should be closed administratively. (Passidomo, Murphy)

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 PAA Order, a Consummating Order should be issued. If the Commission approves any programs, the programs should become effective on the date of the Consummating Order. However, if a protest is filed within 21 days of the issuance of the PAA Order, the programs should not be implemented until after the resolution of the protest. In either event, the docket should remain open for staff's verification that the program standards have been filed by the utility and approved by staff. When the PAA issues become final and the program standards have been approved, this docket should be closed administratively.

JEA 2020 DSM Plan

Residential Programs

Residential Energy Audits

The Utility's Auditors examine homes, educate customers and make recommendations on low-cost or no-cost energy-saving practices and measures.

Residential Solar Water Heating

The Utility pays a financial incentive to customers to encourage the use of solar water heating technology.

Maximum Incentive: Up to \$400

Neighborhood Efficiency

The Utility offers to educate consumers on the efficient use of energy and water as well as the direct installation of an array of energy and water efficient measures at no cost to income qualified customers.

Commercial Programs

Commercial Energy Audits

The Utility's Auditors examine businesses, educate customers, and make recommendations on low-cost or no-cost energy-saving practices and measures.

Commercial Prescriptive Lighting

The Utility promotes the use of energy efficient lighting by offering a rebate for qualifying lighting equipment.

Item 10

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Kistner, Ellis) *TB*
Office of the General Counsel (Murphy) *TLT*

RE: Docket No. 20200111-EQ – Petition for approval of amended standard offer contract (Schedule COG-2), by Duke Energy Florida, Inc.

AGENDA: 06/09/20 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Section 366.91(3), Florida Statutes (F.S.), requires each investor-owned utility (IOU) to continuously offer to purchase capacity and energy from renewable generating facilities and small qualifying facilities. Florida Public Service Commission (Commission) Rules 25-17.200 through 25-17.310, Florida Administrative Code (F.A.C.), implement the statute and require each IOU to file with the Commission, by April 1 of each year, a revised standard offer contract based on the next avoidable fossil fueled generating unit of each technology type identified in the utility's current Ten-Year Site Plan. On April 1, 2020, Duke Energy Florida, LLC (DEF) filed a petition for approval of its amended standard offer contract and rate schedule COG-2, based on its 2020 Ten-Year Site Plan. The Commission has jurisdiction over this standard offer contract pursuant to Sections 366.04 through 366.055, and 366.91, F.S.

Discussion of Issues

Issue 1: Should the Commission approve the amended standard offer contract and rate schedule COG-2 filed by Duke Energy Florida, LLC?

Recommendation: Yes. The provisions of DEF's amended standard offer contract and associated rate schedule COG-2 conform to all requirements of Rules 25-17.200 through 25-17.310, F.A.C. The amended standard offer contract provides flexibility in the arrangements for payments so that a developer of renewable generation may select the payment stream best suited to its financial needs. (Kistner)

Staff Analysis: Section 366.91(3), F.S., and Rule 25-17.250, F.A.C., require that DEF, an IOU, continuously make available a standard offer contract for the purchase of firm capacity and energy from renewable generating facilities (RF) and small qualifying facilities (QF) with design capacities of 100 kilowatts (kW) or less. Pursuant to Rules 25-17.250(1) and (3), F.A.C., the standard offer contract must provide a term of at least 10 years, and the payment terms must be based on the utility's next avoidable fossil-fueled generating unit identified in its most recent Ten-Year Site Plan, or if no avoided unit is identified, its next avoidable planned purchase. DEF has identified a 226 megawatt (MW) natural gas-fueled combustion turbine (CT) as the next planned generating unit in its 2020 Ten-Year Site Plan. The projected in-service date of the unit is June 1, 2027.

Under DEF's standard offer contract, the RF/QF operator commits to certain minimum performance requirements based on the identified avoided unit, such as being operational and delivering an agreed upon amount of capacity by the in-service date of the avoided unit, and thereby becomes eligible for capacity payments in addition to payments received for energy. 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, in a situation where one or both parties desire particular contract terms other than those established in the standard offer.

In order to promote renewable generation, the Commission requires the IOU to offer multiple options for capacity payments, including the options to receive early or levelized payments. If the RF/QF operator elects to receive capacity payments under the normal or levelized contract options, it will receive as-available energy payments only until the in-service date of the avoided unit (in this case June 1, 2027), and thereafter, begin receiving capacity payments in addition to the energy payments. If either the early or early levelized option is selected, then the operator will begin receiving capacity payments earlier than the in-service date of the avoided unit. However, payments made under the early capacity payment options tend to be lower in the later years of the contract term because the net present value (NPV) of the total payments must remain equal for all contract payment options.

Table 1 contains DEF's estimates of the annual payments for each payment option available under the revised standard offer contract to an operator with a 50 MW facility, operating at a capacity factor of 95 percent, which is the minimum capacity factor required under the contract to qualify for full capacity payments. Normal and levelized capacity payments begin with the projected in-service date of the avoided unit (June 1, 2027).

**Table 1 - Estimated Annual Payments to a 50 MW Renewable Facility
(95% Capacity Factor)**

Year	Energy Payment	Capacity Payment (By Type)			
		Normal	Levelized	Early	Early Levelized
	\$(000)	\$(000)	\$(000)	\$(000)	\$(000)
2021	8,128	-	-	1,378	1,521
2022	7,385	-	-	1,397	1,522
2023	7,242	-	-	1,417	1,523
2024	7,601	-	-	1,437	1,524
2025	8,419	-	-	1,457	1,526
2026	9,352	-	-	1,478	1,527
2027	10,771	1,575	1,699	1,499	1,528
2028	12,633	2,738	2,915	1,520	1,530
2029	13,544	2,777	2,918	1,541	1,531
2030	14,492	2,816	2,920	1,563	1,533
2031	15,257	2,856	2,923	1,585	1,534
2032	16,232	2,896	2,925	1,608	1,536
2033	16,164	2,937	2,928	1,631	1,537
2034	16,414	2,979	2,931	1,654	1,539
2035	16,905	3,021	2,934	1,677	1,541
2036	17,209	3,064	2,937	1,701	1,542
2037	18,791	3,107	2,940	1,725	1,544
2038	19,563	3,151	2,943	1,750	1,546
2039	20,224	3,196	2,946	1,774	1,548
2040	20,926	3,242	2,950	1,800	1,550
Total	277,254	40,357	39,809	31,592	30,683
Total (NPV)	132,483	16,702	16,702	16,702	16,702

Source: DEF's Amended Response to Staff's First Data Request¹

DEF's standard offer contract, in type-and-strike format, is included as Attachment A to this recommendation. The DEF's amended tariff sheets are consistent with the updated avoided unit. In addition to changes associated with the avoided unit, DEF made other revisions to its tariff sheets. These include clarifying potentially ambiguous terminology, modifying force majeure language, and dispute resolution terms.

In order to clarify potentially ambiguous terms, DEF made various language changes. These include a change from "Prudent Utility Practices" to "Prudent Regulated Utility Practices", found on Sheet Nos. 9.411, 9.419, and 9.424, which DEF states was done to ensure that RF/QF's are held to the same standards as DEF and other IOUs in Florida. Another addition is "and maintain" to the Conditions Precedent on Sheet No. 9.416, which DEF states was made to avoid any doubt that the RF/QF must maintain the various conditions past the Drop Dead Date, unless

¹Document No. 02335-2020, filed May 1, 2020, in Docket No. 20200111-EQ.

Date: May 28, 2020

stated in writing by DEF on or before the Drop Dead Date. This clarification was due to feedback DEF had received from an RF/QF which did not believe it had to maintain the conditions after the Drop Dead Date.

DEF made revisions to the Force Majeure and Dispute Resolution sections to provide uniform language to coincide with other IOU's in Florida. The changes to the Force Majeure section found on Sheet Nos. 9.431 and 9.432 include a more focused definition of epidemic, which must be recognized by a health agency authority and have a mandated quarantine that directly impacts the RF/QF, and additional circumstances which are not considered Force Majeure such as performance failure of another entity and interruption of fuel supply. Last, the Dispute Resolution section found on Sheet No. 9.438 was rewritten to use adjudication by the United States District Court located in Hillsborough County rather than arbitration. Overall, these modifications seem reasonable as they align with the IOU's requirements and do not place a disproportionate burden on the RF/QF.

Conclusion

Staff recommends that the amended standard offer contract and rate schedule COG-2 be approved as filed. The provisions of DEF's amended standard offer contract and associated rate schedule conform to all requirements of Rules 25-17.200 through 25-17.310, F.A.C. The amended standard offer contract provides flexibility in the arrangements for payments so that a developer of renewable generation may select the payment stream best suited to its financial needs.

Issue 2: Should this docket be closed?

Recommendation: Yes. This docket should be closed upon issuance of a consummating order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Commission's Proposed Agency Action Order. Potential signatories should be aware that, if a timely protest is filed, DEF's standard offer contract may subsequently be revised. (Murphy)

Staff Analysis: This docket should be closed upon the issuance of a consummating order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Commission's Proposed Agency Action Order. Potential signatories should be aware that, if a timely protest is filed, DEF's standard offer contract may subsequently be revised.



SECTION No. IX
SECOND REVISED SHEET NO. 9.400
CANCELS FIRST REVISED SHEET NO. 9.400

STANDARD OFFER CONTRACT FOR THE PURCHASE OF FIRM CAPACITY
AND ENERGY FROM A RENEWABLE ENERGY PRODUCER
OR QUALIFYING FACILITY LESS THAN 100 KW

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ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: April 29, 2013



SECTION NO. IX
SECOND REVISED SHEET NO. 9.401
CANCELS FIRST SHEET NO. 9.401

STANDARD OFFER CONTRACT FOR THE PURCHASE OF FIRM CAPACITY
AND ENERGY FROM A RENEWABLE ENERGY PRODUCER
OR QUALIFYING FACILITY LESS THAN 100 KW

between

and

DUKE ENERGY FLORIDA, LLC

ISSUED BY: Javier Portuondo, Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: June 5, 2018



SECTION NO. IX
THIRD REVISED SHEET NO. 9.402
CANCELS SECOND REVISED SHEET NO. 9.402

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ISSUED BY: Javier Portuondo, Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 9, 2019



SECTION NO. IX
FIFTH REVISED SHEET NO.9.403
CANCELS FOURTH REVISED SHEET NO. 9.403

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ISSUED BY: Javier Portuondo, Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 9, 2019



SECTION NO. IX
FIFTH REVISED SHEET NO. 9.404
CANCELS FOURTH REVISED SHEET NO. 9.404

**STANDARD OFFER CONTRACT FOR THE PURCHASE OF FIRM CAPACITY
AND ENERGY FROM A RENEWABLE ENERGY PRODUCER
OR QUALIFYING FACILITY LESS THAN 100 KW**

THIS STANDARD OFFER CONTRACT FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY (hereinafter referred to as the "Contract") is made and entered this ____ day of _____, ____ (hereinafter referred to as the "Execution Date"), by and between _____ (hereinafter the Renewable Energy Provider/Qualifying Facility ("RF/QF")), and Duke Energy Florida, LLC d/b/a Duke Energy (hereinafter "DEF"), a private utility corporation organized and existing under the laws of the State of Florida. The RF/QF and DEF shall be individually identified herein as the "Party" and collectively as the "Parties". This Contract contains six Appendices which are incorporated into and made part of this Contract: Appendix A: Monthly Capacity Payment Calculation; Appendix B: Termination Fee; Appendix C: Detailed Project Information; Appendix D: Rate Schedule COG-2; Appendix E: Agreed Upon Payment Schedules and Other Mutual Agreements; and Appendix F: Florida Public Service Commission ("FPSC") Rules 25-17.080 through 25-17.310, F.A.C.

WITNESSETH:

WHEREAS, the RF/QF desires to sell, and DEF desires to purchase electricity to be generated by the RF/QF consistent with Florida Statutes 366.91 (2006) and FPSC Rules 25-17.080 through 25-17.310 F.A.C.; and

WHEREAS, the RF/QF will acquire an interconnection/transmission service agreement with the utility in whose service territory the Facility is to be located, pursuant to which the RF/QF assumes contractual responsibility to make any and all transmission-related arrangements (including ancillary services) between the RF/QF and the Transmission Provider for delivery of the Facility's firm capacity and energy to DEF. The Parties recognize that the Transmission Provider may be DEF and that the transmission service will be provided under a separate agreement; and

WHEREAS, the FPSC has approved this Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Producer; and

WHEREAS, the RF/QF guarantees that the Facility is capable of delivering firm capacity and energy to DEF for the term of this Contract in a manner consistent with the provision of this Contract;

NOW, THEREFORE, for mutual consideration the Parties agree as follows:

ISSUED BY: Javier Portuondo, Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: June 5, 2018



SECTION NO. IX
THIRD REVISED SHEET NO. 9.405
CANCELS SECOND REVISED SHEET NO. 9.405

1. Definitions

“AFR” means the Facility’s annual fuel requirement.

“AFTR” means the Facility’s annual fuel transportation requirement

“Annual Capacity Billing Factor” or “ACBF” means 12 month rolling average of the Monthly Availability Factor as further defined and explained in Appendix A.

“Appendices” shall mean the schedules, exhibits, and attachments which are appended hereto and are hereby incorporated by reference and made a part of this Contract. Such Appendices include:

“Appendix A” sets forth the Monthly Capacity Payment Calculation.

“Appendix B” sets forth the Termination Fee.

“Appendix C” sets forth the Detailed Project Information.

“Appendix D” sets forth Rate Schedule COG-2.

“Appendix E” sets forth the Agreed Upon Payment Schedules and Other Mutual Agreements

“Appendix F” sets forth Florida Public Service Commission ("FPSC") Rules 25-17.080 through 25-17.310, F.A.C.

“As-Available Energy Rate” means the rate calculated by DEF in accordance with FPSC Rule 25-17.0825, F.A.C., and DEF's Rate Schedule COG-1, as they may each be amended from time to time

“Auditor’s Standard Report” means a written opinion of an auditor regarding an entity’s financial statements. The report is written in a standard format, as mandated by generally accepted auditing standards (GAAS).

“Authorization to Construct” means authorization issued by any appropriate Government Agency to construct or reconstruct the Facility granted to RF/QF in accordance with the laws of the State of Florida and any relevant federal law.

“Avoided Unit” means the electrical generating unit described in Section 4 upon which this Contract is based.

“Avoided Unit Energy Cost” has the meaning assigned to it in Appendix D.

“Avoided Unit Fuel Cost” has the meaning assigned to it in Appendix D.

“Avoided Unit Heat Rate” means the average annual heat rate of the Avoided Unit as defined in Section 4.

“Avoided Unit In-Service Date” means the date upon which the Avoided Unit would have started commercial operation as specified in Section 4.

“Avoided Unit Life” means the economic life of the Avoided Unit.

ISSUED BY: Javier Portuondo, Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 9, 2019



SECTION No. IX
~~SIXTH-SEVENTH~~ REVISED SHEET NO. 9.406
CANCELS ~~FIFTH-SIXTH~~ REVISED SHEET NO. 9.406

“Avoided Unit Variable O&M” means the Avoided Unit variable operation and maintenance expenses as defined in Section 4. The annual escalation will begin in the payment for January deliveries.

“Base Capacity Payment” or “BCP” means capacity payment rates defined in Appendix D and further defined by the selection of Option A,B,C or D in Section 9.2 or in Appendix E if applicable.

“Base Year” means the year that this Contract was approved by the FPSC.

“Business Day” means any day except a day upon which banks licensed to operate in the State of Florida are authorized, directed or permitted to close, Saturday, Sunday or a weekday that is observed as a public holiday in the State of Florida.

“CAMD” means the Clean Air Markets Division of the Environmental Protection Agency or successor administrator (collectively with any local, state, regional, or federal entity given jurisdiction over a program involving transferability of Environmental Attributes).

“Capacity” means the minimum average hourly net capacity (generator output minus auxiliary load) measured over the Committed Capacity Test Period.

“Capacity Delivery Date” means the first calendar day immediately following the date of the Facility's successful completion of the first Committed Capacity Test subject to the requirements of Section 5(d) and Section 7.6.

“Capacity Payment” means the payment defined in Section 9.2 and Appendix A.

“Certified Public Accountant” or “CPA” -means someone who has passed the American Institute of Certified Public Accountants (AICPA) Uniform CPA examination, met educational, and licensure requirements in the state of license and -have been- issued a license to practice public accounting by a state Accountancy board.

“Committed Capacity” or “CC” means the capacity in kW that the RF/QF commits to sell to DEF; the amount of which shall be determined in accordance with Section 7 and shall be greater than zero.

“Committed Capacity Test” means the testing of the capacity of the Facility performed in accordance with the procedures set forth in Section 8.

“Committed Capacity Test Period” means a test period of twenty-four (24) consecutive hours.

“Completed Permits Date” means the date by which the RF/QF must complete licensing and certification, and obtain all federal, state and local governmental, environmental, and licensing approvals required to initiate construction of the Facility including Qualifying Facility status. This date is specified in Section 4.

“Completion/Performance Security” means the security described in Section 11.

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



SECTION No. IX
FIFTH REVISED SHEET NO. 9.407
CANCELS FOURTH REVISED SHEET NO. 9.407

"Conditions Precedent" shall have the meaning assigned to it in Section 5.

"Contract" means this standard offer contract for the purchase of Firm Capacity and Energy from a Renewable Energy Producer or Qualifying Facility with a nameplate capacity of less than 100 kW.

"Credit Support Provider" means any Person that has provided an RF/QF Guarantee in connection with this Agreement.

"Creditworthy" with respect to a Party or its Credit Support Provider, as applicable, means a party is rated at least BBB by Standard & Poor's (S&P), or at least Baa3 by Moody's Investor Services (Moody's). Rating shall be the unsecured, senior long-term debt rating (not supported by third party credit enhancement) or the issuer rating will be used if not available. If a Party or its Credit Support Provider, as applicable, is rated by both S&P and Moody's, then the lower of the two ratings will apply.

"DEF" has the meaning assigned to it in the opening paragraph of this Contract.

"DEF Entities" has the meaning assigned to it in Section 16.

"Demonstration Period" means a sixty-hour period in which the Committed Capacity Test must be completed.

"Distribution System" means the distribution system consisting of electric lines, electric plant, transformers and switchgear used for conveying electricity to ultimate consumers, but not including any part of the Transmission System.

"Dispute" shall have the meaning assigned to it in Section 20.9.

"Drop Dead Date" means the date which is twelve (12) months following the Execution Date except for the condition defined in Section 5(a)(i). The Parties recognize that firm transmission service agreements can take up to 24 months to obtain so for Section 5(a)(i) only the Drop Dead Date means the date which is twenty four (24) months following the Execution Date.

"Eastern Prevailing Time" or "EPT" means the time in effect in the Eastern Time Zone of the United States of America, whether Eastern Standard Time or Eastern Daylight Savings Time.

"Effective Date" has the meaning assigned to it in Section 5.

"Electrical Interconnection Point" means the physical point at which the Facility is connected with the Transmission System or, if RF/QF interconnects with a Transmission System other than DEF's, DEF's interconnection with the Transmission Provider's Transmission System, or such other physical point on which RF/QF and DEF may agree.

ISSUED BY: Javier Portuondo, Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 9, 2019



SECTION No. IX
SIXTH REVISED SHEET NO. 9.408
CANCELS FIFTH REVISED SHEET NO. 9.408

"Eligible Collateral" means (i) a Letter of Credit from a Qualified Institution or (ii) cash deposit provided to DEF by RF/QF or a combination of (i), and/or (ii) as outlined in Section 11.

"Energy" means megawatt-hours generated by the Facility of the character commonly known as three-phase, sixty hertz electric energy that is delivered at a nominal voltage at the Electrical Interconnection Point.

"Environmental Attributes" or "EA" means all attributes of an environmental or other nature that are created or otherwise arise from the Facility's generation of electricity from a renewable energy source in contrast with the generation of electricity using nuclear or fossil fuels or other traditional resources. Forms of such attributes include, without limitation, any and all environmental air quality credits, green credits, renewable energy credits ("RECs"), carbon credits, emissions reduction credits, certificates, tags, offsets, allowances, or similar products or rights, howsoever entitled, (i) resulting from the avoidance of the emission of any gas, chemical, or other substance, including but not limited to, mercury, nitrogen oxide, sulfur dioxide, carbon dioxide, carbon monoxide, particulate matter or similar pollutants or contaminants of air, water or soil gas, chemical, or other substance, and (ii) attributable to the generation, purchase, sale or use of Energy from or by the Facility, or otherwise attributable to the Facility during the Term. Environmental Attributes include, without limitation, those currently existing or arising during the Term under local, state, regional, federal, or international legislation or regulation relevant to the avoidance of any emission described in this Contract under any governmental, regulatory or voluntary program, including, but not limited to, the United Nations Framework Convention on Climate Change and related Kyoto Protocol or other programs, laws or regulations involving or administered by the Clean Air Markets Division of the Environmental Protection Agency ("CAMD") or successor administrator (collectively with any local, state, regional, or federal entity given jurisdiction over a program involving transferability of Environmental Attributes,).

"Event of Default" has the meaning assigned to it in Section 14.

"Execution Date" has the meaning assigned to it in the opening paragraph of this Contract.

"Exemplary Early Capacity Payment Date" means the exemplary date used to calculate Capacity Payments for Option B and D. This date is specified in Section 4. The actual Capacity Payments for Option B and D will be calculated based upon the Required Capacity Delivery Date.

"Expected Nameplate Capacity Rating" means the total generating capacity of the Facility that is the sum of (a) the Committed Capacity, and (b) the capacity required for any station service use of generating unit equipment or auxiliaries, including, without limitation, cooling towers, heat exchanges, duct burners and other equipment that could be used for energy production or as required by law, and shall be in service during the Committed Capacity Test Period and (c) any other capacity reserved for on-site use or energy production.

"Expiration Date" means the final date upon which this Contract can be executed. This date is specified in Section 4.

ISSUED BY: Javier Portuondo, Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 9, 2019



SECTION No. IX
~~FOURTH THIRD~~-REVISED SHEET NO. 9.409
CANCELS ~~THIRD SECOND~~-REVISED SHEET NO.
9.409

"Facility" means all equipment, as described in this Contract, used to produce electric energy and, and all equipment that is owned or controlled by the RF/QF required for parallel operation with the Transmission System. In the case of a cogenerator the Facility includes all equipment that is owned or controlled by the RF/QF to produce useful thermal energy through the sequential use of energy.

"Financial Closing" means the fulfillment of each of the following conditions:

- (a) the execution and delivery of the Financing Documents; and
- (b) all Conditions Precedent to the initial availability for disbursement of funds under the Financing Documents (other than relating to the effectiveness of this Contract) are satisfied or waived.

"Financing Documents" shall mean documentation with respect to any private equity investment in RF/QF, any loan agreements (including agreements for any subordinated debt), notes, bonds, indentures, guarantees, security agreements and hedging agreements relating to the financing or refinancing of the design, development, construction, ~~Testing~~testing, ~~Commissioning~~commissioning, operation and maintenance of the entire Facility or any guarantee by any Financing Party of the repayment of all or any portion of such financing or refinancing.

"Financing Party" means the Persons (including any trustee or agent on behalf of such Persons) providing financing or refinancing to or on behalf of RF/QF for the design, development, construction, testing, commissioning, operation and maintenance of the Facility (whether limited recourse, or with or without recourse).

"Firm Capacity and Energy" has the meaning assigned to it in Appendix D.

"Firm Capacity Rate" has the meaning assigned to it in Appendix D.

"Firm Energy Rate" has the meaning assigned to it in Appendix D.

"Force Majeure" has the meaning given to it in Section 18.

"FPSC" means the Florida Public Service Commission or its successor.

"Government Agency" means the United States of America, or any state or any other political subdivision thereof, including without limitation, any municipality, township or county, and any domestic entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including, without limitation, any corporation or other entity owned or controlled by any of the foregoing.

ISSUED BY: Javier Portuondo, ~~Vice President~~Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



SECTION No. IX
FIFTH REVISED SHEET NO. 9.410
CANCELS FOURTH REVISED SHEET NO 9.410

“IEEE” means the Institute of Electrical and Electronics Engineers, Inc.

“Indemnified Party” has the meaning assigned to it in Section 16.

“Indemnifying Party” has the meaning assigned to it in Section 16.

“Initial Reduction Value” has the meaning assigned to it in Appendix B.

“Insurance Services Office” has the meaning assigned to it in Section 17.

“KVA” means one or more kilovolts-amperes of electricity, as the context requires.

“kW” means one or more kilowatts of electricity, as the context requires.

“kWh” means one or more kilowatt-hours of electricity, as the context requires.

“Letter of Credit” means a stand-by letter of credit from a Qualified Institution that is acceptable to DEF whose approval may not be unreasonably withheld. The Letter of Credit must provide that DEF has the right to draw on the Letter of Credit in the event that less than twenty (20) Business Days remain until its expiration and RF/QF has failed to renew the Letter of Credit or provide replacement Eligible Collateral as required under this Agreement.

“Licensed Professional Engineer” means a person who is licensed to engage in the practice of engineering under Chapter 471 of the Florida Statutes.

“LOI” means a letter of intent for fuel supply.

“MCPC” means the Monthly Capacity Payment for Option A.

“Monthly Billing Period” means the period beginning on the first calendar day of each calendar month, except that the initial Monthly Billing Period shall consist of the period beginning 12:01 a.m., on the Capacity Delivery Date and ending with the last calendar day of such month.

“Monthly Availability Factor” or “MAF” means the total energy received during the Monthly Billing Period for which the calculation is made, divided by the product of Committed Capacity and the total hours during the Monthly Billing Period.

“Monthly Capacity Payment” or “MCP” means the payment for Capacity calculated in accordance with Appendix A.

“MW” means one or more megawatts of electricity, as the context requires.

“MWh” means one or more megawatt-hours of electricity, as the context requires.

ISSUED BY: Javier Portuondo, Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 9, 2019



SECTION No. IX
~~SECOND-THIRD~~ REVISED SHEET NO. 9.411
CANCELS ~~FIRST-SECOND~~ REVISED SHEET NO.
9.411

“Option A” means normal Capacity Payments as described in Appendix D.

“Option B” means early Capacity Payments as described in Appendix D.

“Option C” means levelized Capacity Payments as described in Appendix D.

“Option D” means early levelized Capacity Payments as described in Appendix D.

“Party” or “Parties” has the meaning assigned to it in the opening paragraph of this Contract.

“Person” means any individual, partnership, corporation, association, joint stock company trust, joint venture, unincorporated organization, or Governmental Agency (or any department, agency, or political subdivision thereof).

“Project Consents” mean the following Consents, each of which is necessary to RF/QF for the fulfillment of RF/QF’s obligations hereunder:

- (a) the Authorization to Construct;
- (b) planning permission and consents in respect of the Facility, and any electricity substation located at the Facility site, including but not limited to, a prevention of significant deterioration permit, a noise, proximity and visual impact permit, and any required zoning permit; and
- (c) any integrated pollution control license.

“Project Contracts” means this Contract, and any other contract required to construct, operate and maintain the Facility. The Project Contracts may include, but are not limited to, the turnkey engineering, procurement and construction contract, the electrical interconnection and operating agreement, the fuel supply agreement, the facility site lease, and the operation and maintenance agreement.

“Prudent Regulated Utility Practices” means any of the practices, methods, standards and acts (including, but not limited to, the practices, methods and acts engaged in or approved by a significant portion of owners and operators of power plants regulated by the state authority or state’s jurisdiction over an electric utility as defined in Florida Statute, 366.02(2) of technology, complexity and size similar to the Facility in the United States) that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, could have been expected to accomplish the desired result and goals (including such goals as efficiency, reliability, economy and profitability) in a manner consistent with applicable facility design limits and equipment specifications and applicable laws and regulations. Prudent Regulated Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of acceptable practices, methods or acts in each case ~~taking into account the Facility as an independent power project.~~

ISSUED BY: Javier Portuondo, Director/Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: July 21, 2015



SECTION No. IX
FOURTH REVISED SHEET NO. 9.412
CANCELS THIRD REVISED SHEET NO. 9.412

“Qualifying Facility” or “QF” means a cogenerator, small power producer, or non-utility generator that has been certified or self-certified by the FERC as meeting certain ownership, operating and efficiency criteria established by the Federal Energy Regulatory Commission pursuant to the Public Utility Regulatory Policies Act of 1978 (“PURPA”), the criteria for which are currently set forth in 18 C.F.R. § 292, *et seq.* (2006), Section 210 of PURPA, 16 U.S.C. § 824a-3 (2005), 16 U.S.C. 796 *et seq.* (2006), and Section 1253 of EPAct 2005, Pub. L. No. 109-58, § 1253, 119 Stat. 594 (2005) or, alternatively, analogous provisions under the laws of the State of Florida.

“Qualified Institution” means the domestic office of a United States commercial bank or trust company or the United States branch of a foreign bank having total assets of at least ten billion dollars (\$10,000,000,000) (which is not an affiliate of either party) and a general long-term senior unsecured debt rating of A- or higher (as rated by Standard & Poor’s Ratings Group), or A3 or higher (as rated by Moody’s Investor Services).

“Rate Schedule COG-1” means DEF’s Agreement for Purchase of As-Available Energy and/or Parallel Operation with a Qualifying Facility as approved by the FPSC and as may be amended from time to time.

“REC” means renewable energy credits, green tags, green tickets, renewable certificates, tradable renewable energy credits (“T-REC”) or any tradable certificate that is produced by a renewable generator in addition to and in proportion to the production of electrical energy.

“Reduction Value” has the meaning assigned to it in Appendix B.

“Remedial Action Plan” has the meaning assigned to it in Section 20.3.

“Renewable Facility” or “RF/QF” means an electrical generating unit or group of units at a single site, interconnected for synchronous operation and delivery of electricity to an electric utility, where the primary energy in British Thermal Units used for the production of electricity is from one or more of the following sources: hydrogen produced from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, hydroelectric power or waste heat from a commercial or industrial manufacturing process.

“Required Capacity Deliver Date” means the date specified in Appendix E. In the event that no Required Capacity Delivery Date is specified in Appendix E then the RF/QF shall achieve the Capacity Delivery Date on or before the Avoided Unit In-Service Date

“RF/QF Entities” has the meaning assigned to it in Section 16.

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 13, 2017



SECTION No. IX
THIRD REVISED SHEET NO. 9.413
CANCELS SECOND REVISED SHEET NO. 9.413

"RF/QF Insurance" has the meaning assigned to it in Section 17.

"RF/QF Performance Security" has the meaning assigned in Section 11.

"Security Documentation" has the meaning assigned to it in Section 12.

"Term" has the meaning assigned to it in Section 3.

"Termination Date" means the date upon which this Contract terminates unless terminated earlier in accordance with the provisions hereof. This date is specified in Section 4.

"Termination Fee" means the fee described in Appendix B as it applies to any Capacity Payments made under Option B, C or D.

"Termination Security" has the meaning assigned to it in Section 12.

"Transmission Provider" means the operator(s) of the Transmission System(s) or any successor thereof or any other entity or entities authorized to transmit Energy on behalf of RF/QF from the Electrical Interconnection Point.

"Transmission System" means the system of electric lines comprised wholly or substantially of high voltage lines, associated system protection, system stabilization, voltage transformation, and capacitance, reactance and other electric plant used for conveying electricity from a generating station to a substation, from one generating station to another, from one substation to another, or to or from any Electrical Interconnection Point or to ultimate consumers and shall include any interconnection owned by the Transmission Provider or DEF, but shall in no event include any lines which the Transmission Provider has specified to be part of the Distribution System except for any distribution facilities required to accept capacity and energy from the Facility.

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 21, 2015



SECTION No. IX
SECOND REVISED SHEET NO. 9.414
CANCELS FIRST REVISED SHEET NO. 9.414

2. Facility; Renewable Facility or Qualifying Facility Status

The Facility's location and generation capabilities are as described in Table 1 below.

TABLE 1

TECHNOLOGY AND GENERATOR CAPABILITIES	
Location: Specific legal description (e.g., metes and bounds or other legal description with street address required)	City: County:
Generator Type (Induction or Synchronous)	
Technology	
Fuel Type and Source	
Generator Rating (KVA)	
Maximum Capability (kW)	
Net Output (kW)	
Power Factor (%)	
Operating Voltage (kV)	
Peak Internal Load kW	

The RF/QF's failure to complete Table 1 in its entirety shall render this Contract null and void and of no further effect.

The RF/QF shall use the same fuel or energy source and maintain the status as a Renewable Facility or a Qualifying Facility throughout the term of this Contract. RF/QF shall at all times keep DEF informed of any material changes in its business which affects its Renewable Facility or Qualifying Facility status. DEF and RF/QF shall have the right, upon reasonable notice of not less than seven (7) Business Days, to inspect the Facility and to examine any books, records, or other documents reasonably deemed necessary to verify compliance with this Contract. In the event of an emergency at or in proximity to the RF/QF site that impacts DEF's system, DEF shall make reasonable efforts to contact the Facility and make arrangements for an emergency inspection. On or before March 31 of each year during the term of this Contract, the RF/QF shall provide to DEF a certificate signed by an officer of the RF/QF certifying that the RF/QF continuously maintained its status as a Renewable Facility or a Qualifying Facility during the prior calendar year.

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: April 29, 2013



SECTION No. IX
~~THIRTEENTH-FOURTEENTH~~ REVISED SHEET NO.
9.415
CANCELS ~~TWELFTH-THIRTEENTH~~ REVISED SHEET
NO. 9.415

3. Term of Contract

Except as otherwise provided herein, this Contract shall become effective immediately upon its execution by the Parties and shall end at 12:01 a.m. on the Termination Date, (the "Term") unless terminated earlier in accordance with the provisions hereof. Notwithstanding the foregoing, if the Capacity Delivery Date of the Facility is not accomplished by the RF/QF before the Required Capacity Delivery Date (or such later date as may be permitted by DEF pursuant to Section 7), this Contract shall be rendered null and void and DEF shall have no obligations under this Contract.

4. Minimum Specifications and Milestones

As required by FPSC Rule 25-17.0832(4)(e), the minimum specifications pertaining to this Contract and milestone dates are as follows:

Avoided Unit	Undesignated Combustion Turbine
Avoided Unit Capacity	22618 MW
Avoided Unit In-Service Date	June 1, 2027
Avoided Unit Heat Rate	102,621,005 BTU/kWh
Avoided Unit Variable O&M	0.7246¢ per kWh in mid-20 2019 dollars escalating annually at 2.50%
Avoided Unit Life	35 years
Capacity Payments begin	Avoided Unit In-Service Date unless Option B, or D is selected or amended in Appendix E
Termination Date	May 31, 2037 (10 years) unless amended in Appendix E
Minimum Performance Standards – On Peak Availability Factor*	95%
Minimum Performance Standards – Off Peak Availability Factor	95%
Minimum Availability Factor Required to qualify for a Capacity payment	75%
Expiration Date	April 1, 202 10
Completed Permits Date	June 1, 2025
Exemplary Early Capacity Payment Date	January 1, 2025

* RF/QF performance shall be as measured and/or described in Appendix A.

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



SECTION No. IX
~~EIGHTH-NINTH~~ REVISED SHEET NO. 9.416
CANCELS ~~SEVENTH-EIGHTH~~ REVISED SHEET NO.
9.416

5. Conditions Precedent

- (a) Unless otherwise waived in writing by DEF, on or before the Drop Dead Date, RF/QF shall satisfy the following Conditions Precedent:
- (i) RF/QF shall have obtained and maintain firm transmission service necessary to deliver Capacity and energy from the Facility to the Electrical Interconnection Point. For the avoidance of doubt, firm transmission service includes the execution of an interconnection agreement including the written authorization by the RF/QF to begin construction of the interconnection facilities, and approved firm transmission service by the host utility either under a Transmission Service Request, or equivalent process, in a form and substance satisfactory to RF/QF in its sole discretion;
 - (ii) RF/QF shall have obtained and maintain the Project Consents and any other Consents for which it is responsible under the terms hereof in a form and substance satisfactory to RF/QF in its sole discretion;
 - (iii) RF/QF shall have entered into Financing Documents relative to the construction of the entire Facility and have achieved and maintain Financial Closing in a form and substance satisfactory to RF/QF in its sole discretion; RF/QF shall have obtained an Auditor's Standard Report for the most recent financial year from a Certified Public Accountant (reasonably acceptable to DEF in all respects). If the RF/QF has a nameplate capacity of 5 MW or less, or the RF/QF is owned by a Government Agency or the RF/QF is a publicly traded company that is Creditworthy then an Auditor's Standard Report is not required. The RF/QF shall provide the Duke Energy Florida Director of Qualified Facility Contracts a copy of the Auditor's Standard Report and a copy of the signing partner's Certified Public Accountant license;
 - (iv) RF/QF shall have entered into and maintain the Project Contracts in a form and substance satisfactory to RF/QF in its sole discretion;
 - (v) RF/QF shall have obtained and maintain insurance policies or coverage in compliance with Section 17;
 - (vi) Each Party shall have delivered to the other Party (i) a copy of its constitutional documents (certified by its corporate secretary as true, complete and up-to-date) and (ii) a copy of a corporate resolution approving the terms of this Contract and the transactions contemplated hereby and authorizing one or more individuals to execute this Contract on its behalf (such copy to have been certified by its corporate representative as true, complete and up-to-date);
 - (vii) RF/QF shall have obtained and maintain Qualifying Facility status from either the FPSC or FERC. The RF/QF shall provide the Duke Energy Florida Director of Qualified Facility Contracts a copy of the certification of QF status filing and any re-filings required to reflect subsequent changes to the previously certified Facility.

ISSUED BY: Javier Portuondo, Managing Director/Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: July 9, 2019



SECTION No. IX
~~EIGHTH-NINTH~~ REVISED SHEET NO. 9.416
CANCELS ~~SEVENTH-EIGHTH~~ REVISED SHEET NO.
9.416

(viii) ~~RF/QF shall obtain a certificate addressed to DEF from a Licensed Professional Engineer (reasonably acceptable to DEF in all respects) stating the project is technically viable. The RF/QF shall provide the Duke Energy Florida Director of Qualified Facility Contracts this certificate and a copy of the Professional Engineer's license.~~

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 0, 2019~~



SECTION No. IX
~~FIFTH-SIXTH~~ REVISED SHEET NO.9.417
CANCELS ~~FOURTH-FIFTH~~ REVISED SHEET NO.
9.417

(viii) RF/QF shall obtain a certificate addressed to DEF from a Licensed Professional Engineer (reasonably acceptable to DEF in all respects) stating the project is technically viable. The RF/QF shall provide the Duke Energy Florida Director of Qualified Facility Contracts this certificate and a copy of the Professional Engineer's license.

- (b) Promptly upon satisfaction of the Conditions Precedent to be satisfied, the Party having satisfied the same shall deliver to the other Party a certificate evidencing such satisfaction. DEF may waive the satisfaction of a Condition Precedent at its sole discretion. Such waiver must be made in writing. Subject to there being no Event of Default which has occurred and/or is continuing as of the date upon which the last of such certificates is delivered, the date of such last certificate shall constitute the effective date of this Contract (the "Effective Date").
- (c) Unless all Conditions Precedent are satisfied on or before the Drop Dead Date or such Conditions Precedent are waived in writing, this Contract shall terminate on such date and neither Party shall have any further liability to the other Party hereunder.
- ~~(d) RF/QF shall achieve the Capacity Delivery Date on or before the Required Capacity Delivery Date.~~
- ~~(ed)~~ RF/QF shall ensure that before the initial Committed Capacity Test:
 - (a) the Facility shall have been constructed so that the Committed Capacity Test may be duly and properly undertaken in accordance with Section 7; and
 - (b) an operable physical connection from the Facility to the Transmission System shall have been effected in accordance with the electrical interconnection and operating agreement required by the Transmission Provider, provided, however, that such physical connection shall be made consistent with the terms hereof.

6. Sale of Electricity by the RF/QF

6.1 Consistent with the terms hereof, the RF/QF shall sell to DEF and DEF shall purchase from the RF/QF electric power generated by the Facility. The purchase and sale of electricity pursuant to this Contract shall be a () net billing arrangement or () simultaneous purchase and sale arrangement; provided, however, that no such arrangement shall cause the RF/QF to sell more than the Facility's net output. The billing methodology may be changed at the option of the RF/QF, subject to the provisions of Appendix D.

6.2 Ownership and Offering For Sale Of Renewable Energy Attributes

Subject to Section 6.3, the RF/QF shall retain any and all rights to own and to sell any and all Environmental Attributes associated with the electric generation of the Facility.

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



SECTION No. IX
~~FIFTH-SIXTH~~ REVISED SHEET NO.9.417
CANCELS ~~FOURTH-FIFTH~~ REVISED SHEET NO.
9.417

~~6.3 In the event that the RE/QF decides to sell any or all EAs that result from the electric generation of the RE/QF during the term of this Contract, the RE/QF shall provide notice to the Company of its intent to sell such EAs and provide the Company a reasonable opportunity to offer to purchase such EAs.~~

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 0, 2010~~



SECTION No. IX
~~SEVENTH-EIGHTH~~ REVISED SHEET NO. 9.418
CANCELS ~~SIXTH-SEVENTH~~ REVISED SHEET NO.
9.418

6.3 In the event that the RF/QF decides to sell any or all EAs that result from the electric generation of the RF/QF during the term of this Contract, the RF/QF shall provide notice to the Company of its intent to sell such EAs and provide the Company a reasonable opportunity to offer to purchase such EAs.

6.4 The RF/QF shall not rely on interruptible or curtailable standby service for the start up requirements (initial or otherwise) of the Facility.

6.5 The RF/QF shall be responsible for the scheduling of required transmission and for all costs, expenses, taxes, fees and charges associated with the delivery of energy to DEF. The RF/QF shall enter into a transmission service agreement with the Transmission Provider in whose service territory the Facility is to be located and the RF/QF shall make any and all transmission-related arrangements (including interconnection and ancillary services) between the RF/QF and the Transmission Provider for delivery of the Facility's firm Capacity and energy to DEF. The Capacity and energy amounts paid to the RF/QF hereunder do not include transmission losses. The RF/QF shall be responsible for transmission losses that occur prior to the point at which the RF/QF's energy is delivered to DEF. The Parties recognize that the Transmission Provider may be DEF and that if DEF is the Transmission Provider, the transmission service will be provided under a separate agreement.

7. Committed Capacity/Capacity Delivery Date

7.1 If the RF/QF commits to sell capacity to DEF, the amount of which shall be determined in accordance with this Section 7. Subject to Section 7.3, the Committed Capacity is set at _____ kW, with an expected Capacity Delivery Date on or before the Required Capacity Delivery Date.

7.2 Capacity testing of the Facility (each such test a Committed Capacity Test) shall be performed in accordance with the procedures set forth in Section 8. The Demonstration Period for the first Committed Capacity Test shall commence no earlier than ninety (90) days before the Required Capacity Delivery Date and testing must be completed before the Avoided Unit In-Service Date or an earlier date in Appendix E. The first Committed Capacity Test shall not be successfully completed unless the Facility demonstrates a Capacity of at least one hundred percent (100%) of the Committed Capacity set forth in Section 7.1. Subject to Section 8.1, the RF/QF may schedule and perform up to three (3) Committed Capacity Tests to satisfy the requirements of the Contract with respect to the first Committed Capacity Test.

~~7.3 In addition to the first Committed Capacity Test, DEF shall have the right to require the RF/QF, after notice of no less than ten (10) Business Days prior to such proposed event, to validate the Committed Capacity by means of a Committed Capacity Test at any time, up to two (2) times per year, the results of which shall be provided to DEF within seven (7) calendar days of the conclusion~~

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



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~~of such test. On and after the date of such requested Committed Capacity Test, and until the completion of a subsequent Committed Capacity Test, the Committed Capacity shall be set at the lower of the Capacity tested or the Committed Capacity as set forth in Section 7.1. Provided however, any such second test requested within a twelve (12) month period must be for cause.~~

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



SECTION No. IX
~~EIGHTH-NINTH~~ REVISED SHEET NO. 9.419
CANCELS ~~SEVENTH-EIGHTH~~ REVISED SHEET NO.
9.419

7.3 In addition to the first Committed Capacity Test, DEF shall have the right to require the RF/QF, after notice of no less than ten (10) Business Days prior to such proposed event, to validate the Committed Capacity by means of a Committed Capacity Test at any time, up to two (2) times per year, the results of which shall be provided to DEF within seven (7) calendar days of the conclusion of such test. On and after the date of such requested Committed Capacity Test, and until the completion of a subsequent Committed Capacity Test, the Committed Capacity shall be set at the lower of the Capacity tested or the Committed Capacity as set forth in Section 7.1. Provided however, any such second test requested within a twelve (12) month period must be for cause.

7.4 Notwithstanding anything contrary to the terms hereof, the Committed Capacity may not exceed the amount set forth in Section 7.1 without the consent of DEF, which consent shall be granted in DEF's sole discretion.

7.5 Unless Option B or D as contained in Appendix D or Appendix E is chosen by RF/QF, DEF shall make no Capacity Payments to the RF/QF prior to the Avoided Unit In-Service Date.

7.6 The RF/QF shall be entitled to receive Capacity Payments beginning on the Capacity Delivery Date, provided the Capacity Delivery Date occurs before the Required Capacity Delivery Date (or such later date permitted by DEF) and the following Delivery Date Conditions (defined below) have been satisfied. If the Capacity Delivery Date does not occur before the Required Capacity Delivery Date, DEF shall immediately be entitled to draw down the Completion/Performance Security in full in its sole discretion.

7.6.1 A certificate addressed to DEF from a Licensed Professional Engineer (reasonably acceptable to DEF in all respects) stating: (a) the nameplate capacity rating or capability of the Facility at the anticipated time of commercial operation and through the term of this Contract assuming the use of ~~Prudent Utility Practices~~ Prudent Regulated Utility Practices, must be between 95% and 105% of the "Expected Nameplate Capacity Rating;" (b) that the Facility is able to generate electric ~~E~~energy reliably in amounts expected by this Contract and in accordance with all other terms and conditions hereof; (c) that ~~Startstart-Up-up Testing-testing~~ of the Facility has been completed; and (d) that, pursuant to Section 10.5, all system protection and control and Automatic Generation Control devices are installed and operational.

~~7.6.2 A certificate addressed to DEF from a Licensed Professional Engineer (reasonably acceptable to DEF in all respects) stating, in conformance with the requirements of the interconnection agreement, that: (a) all required interconnection facilities have been constructed; (b) all required interconnection tests have been completed; and (c) the Facility is physically interconnected with the Transmission System in conformance~~

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EFFECTIVE: ~~July 9, 2019~~



SECTION No. IX
~~EIGHTH~~^{NINTH} REVISED SHEET NO. 9.419
CANCELS ~~SEVENTH~~^{EIGHTH} REVISED SHEET NO.
9.419

~~with the interconnection agreement and able to deliver energy consistent with the terms of this Contract.~~

~~7.6.3 A certificate addressed from a Licensed Professional Engineer (reasonably acceptable to DEF in all respects) stating that the RF/QE has obtained or entered into all permits and agreements including, but not limited to Project Contracts with respect to the Facility necessary for land control, construction, ownership, operation, and maintenance of the Facility (the "Project Contracts"). RF/QE must provide copies of any or all Project Contracts requested by DEF.~~

ISSUED BY: Javier Portuondo, ~~Managing Director~~^{Vice President}, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



SECTION No. IX
~~SIXTH-SEVENTH~~ REVISED SHEET NO. 9.420
CANCELS ~~FIFTH-SIXTH~~ REVISED SHEET NO. 9.420

7.6.2 A certificate addressed to DEF from a Licensed Professional Engineer (reasonably acceptable to DEF in all respects) stating, in conformance with the requirements of the interconnection agreement, that: (a) all required interconnection facilities have been constructed; (b) all required interconnection tests have been completed; and (c) the Facility is physically interconnected with the Transmission System in conformance with the interconnection agreement and able to deliver energy consistent with the terms of this Contract.

7.6.3 A certificate addressed from a Licensed Professional Engineer (reasonably acceptable to DEF in all respects) stating that the RF/QF has obtained or entered into all permits and agreements including, but not limited to Project Contracts with respect to the Facility necessary for land control, construction, ownership, operation, and maintenance of the Facility (the "Project Contracts"). RF/QF must provide copies of any or all Project Contracts requested by DEF.

7.6.4 An opinion from a law firm or attorney, registered or licensed in the State of Florida (reasonably acceptable to DEF in all respects), stating, after all appropriate and reasonable inquiry, that: (a) the RF/QF has obtained or entered into all Project Contracts; (b) neither RF/QF nor the Facility is in violation of, or subject to any liability under any applicable law; and (c) RF/QF has duly filed and had recorded all of the agreements, documents, instruments, mortgages, deeds of trust, and other writings.

For each Licensed Professional Engineer utilized in 7.6.1 through 7.6.4, RF/QF should provide DEF with a copy of the Professional Engineer's license.

DEF shall have ten, (10) Business Days after receipt either to confirm to the RF/QF that all of the Delivery Date Conditions have been satisfied or have occurred, or to state with specificity what DEF reasonably believes has not been satisfied.

8. Testing Procedures

8.1 The Committed Capacity Test must be completed successfully within the Demonstration Period, which period, including the approximate start time of the Committed Capacity Test, shall be selected and scheduled by the RF/QF by means of a written notice to DEF delivered at least thirty (30) calendar days prior to the start of such period. The provisions of the foregoing sentence shall not apply to any Committed Capacity Test ordered by DEF under any of the provisions of this Contract. DEF shall have the right to be present onsite to monitor firsthand any Committed Capacity Test required or permitted under this Contract.

~~8.2 The Committed Capacity Test results shall be based on a test period of twenty-four (24) consecutive hours (the "Committed Capacity Test Period") at the~~

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



SECTION No. IX
~~SIXTH~~ SEVENTH REVISED SHEET NO. 9.420
CANCELS ~~FIFTH~~ ~~SIXTH~~ REVISED SHEET NO. 9.420

~~highest sustained net kW rating at which the Facility can operate without exceeding the design operating conditions, temperature, pressures, and other parameters defined by the applicable manufacturer(s) for steady state operations at the Facility. The Committed Capacity Test Period shall commence at the time designated by the RE/QF pursuant to Section 8.1 or at such time requested by DEF pursuant to Section 7.3; provided, however, that the Committed Capacity Test Period may commence earlier than such time in the event that DEF is notified of, and consents to, such earlier time.~~

~~8.3 Normal station service use of unit auxiliaries, including, without limitation, cooling towers, heat exchangers, and other equipment required by law, shall be in service during the Committed Capacity Test Period.~~

~~8.4 The Capacity of the Facility shall be the minimum hourly net output in kW (generator output minus auxiliary) measured over the Committed Capacity Test Period.~~

ISSUED BY: Javier Portuondo, ~~Managing Director~~ Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



SECTION No. IX
~~FIFTH-SIXTH~~ REVISED SHEET NO. 9.421
CANCELS ~~FOURTH-FIFTH~~ REVISED SHEET NO.
9.421

8.2 The Committed Capacity Test results shall be based on a test period of twenty-four (24) consecutive hours (the "Committed Capacity Test Period") at the highest sustained net kW rating at which the Facility can operate without exceeding the design operating conditions, temperature, pressures, and other parameters defined by the applicable manufacturer(s) for steady state operations at the Facility. The Committed Capacity Test Period shall commence at the time designated by the RF/QF pursuant to Section 8.1 or at such time requested by DEF pursuant to Section 7.3; provided, however, that the Committed Capacity Test Period may commence earlier than such time in the event that DEF is notified of, and consents to, such earlier time.

8.3 Normal station service use of unit auxiliaries, including, without limitation, cooling towers, heat exchangers, and other equipment required by law, shall be in service during the Committed Capacity Test Period.

8.4 The Capacity of the Facility shall be the minimum hourly net output in kW (generator output minus auxiliary) measured over the Committed Capacity Test Period.

8.5 The Committed Capacity Test shall be performed according to standard industry testing procedures for the appropriate technology of the RF/QF.

8.6 The results of any Committed Capacity Test, including all data related to Facility operation and performance during testing, shall be submitted to DEF by the RF/QF within seven (7) calendar days of the conclusion of the Committed Capacity Test. The RF/QF shall certify that all such data is accurate and complete.

9. Payment for Electricity Produced by the Facility

9.1 Energy

9.1.1 DEF agrees to pay the RF/QF for energy produced by the Facility and delivered to DEF in accordance with the rates and procedures contained in Appendix D, as it may be amended from time to time. The Parties agree that this Contract shall be subject to all of the provisions contained in Rate Schedule COG-1 or Appendix D whichever applies as approved and on file with the FPSC.

9.1.2 DEF may, at its option, limit deliveries under this Contract to 110% of the Committed Capacity as set forth in Section 7. In the event that DEF chooses to limit deliveries, any energy in excess of 110% of the Committed Capacity will be paid for at the rates defined in Rate Schedule COG-1 and shall not be included in the calculations in Appendix A hereto.

~~9.2 Capacity~~

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



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~~FIFTH-SIXTH~~ REVISED SHEET NO. 9.421
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9.421

~~DEF agrees to pay the RF/QF for the Capacity described in Section 7 in accordance with the rates and procedures contained in Appendix D, as it may be amended and approved from time to time by the FPSC, and pursuant to the election of Option _____ of Appendix D or an alternative rate schedule in Appendix E. The RF/QF understands and agrees that Capacity Payments will only be made if the Capacity Delivery Date occurs before the Required Capacity Delivery Date and the Facility is delivering firm Capacity and Energy to DEF. Once so selected, this Option, the Firm Capacity Rate and/or the Firm Energy Rate cannot be changed for the term of this Contract.~~

~~9.3 Payments for Energy and Capacity~~

~~9.3.1 Payments due the RF/QF will be made monthly, and normally by the twentieth Business Day following the end of the billing period. The kilowatt hours sold by the RF/QF and the applicable avoided energy rate at which payments are being made shall accompany the payment to the RF/QF.~~

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



SECTION No. IX
~~SEVENTH~~SIXTH REVISED SHEET No. 9.422
CANCELS ~~FIFTH~~SIXTH REVISED SHEET NO. 9.422

9.2 Capacity

DEF agrees to pay the RF/QF for the Capacity described in Section 7 in accordance with the rates and procedures contained in Appendix D, as it may be amended and approved from time to time by the FPSC, and pursuant to the election of Option _____ of Appendix D or an alternative rate schedule in Appendix E. The RF/QF understands and agrees that Capacity Payments will only be made if the Capacity Delivery Date occurs before the Required Capacity Delivery Date and the Facility is delivering firm Capacity and Energy to DEF. Once so selected, this Option, the Firm Capacity Rate and/or the Firm Energy Rate cannot be changed for the term of this Contract.

9.3 Payments for Energy and Capacity

9.3.1 Payments due the RF/QF will be made monthly, and normally by the twentieth Business Day following the end of the billing period. The kilowatt-hours sold by the RF/QF and the applicable avoided energy rate at which payments are being made shall accompany the payment to the RF/QF.

9.3.2 Payments to be made under this Contract shall, for a period of not longer than two (2) years, remain subject to adjustment based on billing adjustments due to error or omission by either Party, provided that such adjustments have been agreed to between the Parties.

10. Electricity Production and Plant Maintenance Schedule

10.1 No later than sixty (60) calendar days prior to the Required Capacity Delivery Date, and prior to October 1 of each calendar year thereafter during the term of this Contract, the RF/QF shall submit to DEF in writing a good-faith estimate of the amount of electricity to be generated by the Facility and delivered to DEF for each month of the following calendar year, including the time, duration and magnitude of any scheduled maintenance period(s) or reductions in Capacity. The RF/QF agrees to provide updates to its planned maintenance periods as they become known. The Parties agree to discuss coordinating scheduled maintenance schedules.

~~10.2 By October 31 of each calendar year, DEF shall notify the RF/QF in writing whether the requested scheduled maintenance periods in the detailed plan are acceptable. If DEF does not accept any of the requested scheduled maintenance periods, DEF shall advise the RF/QF of the time period closest to the requested period(s) when the outage(s) can be scheduled. The RF/QF shall only schedule outages during periods approved by DEF, and such approval shall not be unreasonably withheld. Once the schedule for the detailed plan has been established and approved, either Party requesting a subsequent change in such schedule, except when such change is due to Force Majeure, must obtain approval~~

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



SECTION No. IX
~~SEVENTH~~~~SIXTH~~ REVISED SHEET No. 9.422
CANCELS ~~FIFTH~~~~SIXTH~~ REVISED SHEET NO. 9.422

~~for such change from the other Party. Such approval shall not be unreasonably withheld or delayed. Scheduled maintenance outage days shall be limited to twenty four~~~~eleven~~ days per calendar year. In no event shall maintenance periods be scheduled during the following periods: June 1 through September 15 and December 1 through and including the last day of February.

~~10.3~~ The RF/QF shall comply with reasonable requests by DEF regarding day to day and hour by hour communication between the Parties relative to electricity production and maintenance scheduling.

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



SECTION No. IX
~~EIGHTH~~^{NINTH} REVISED SHEET NO. 9.423
CANCELS ~~SEVENTH~~^{EIGHTH} REVISED SHEET NO.
9.423

10.2 By October 31 of each calendar year, DEF shall notify the RF/QF in writing whether the requested scheduled maintenance periods in the detailed plan are acceptable. If DEF does not accept any of the requested scheduled maintenance periods, DEF shall advise the RF/QF of the time period closest to the requested period(s) when the outage(s) can be scheduled. The RF/QF shall only schedule outages during periods approved by DEF, and such approval shall not be unreasonably withheld. Once the schedule for the detailed plan has been established and approved, either Party requesting a subsequent change in such schedule, except when such change is due to Force Majeure, must obtain approval for such change from the other Party. Such approval shall not be unreasonably withheld or delayed. Scheduled maintenance outage days shall be limited to eleven days per calendar year. In no event shall maintenance periods be scheduled during the following periods: June 1 through September 15 and December 1 through and including the last day of February.

10.3 The RF/QF shall comply with reasonable requests by DEF regarding day-to-day and hour-by-hour communication between the Parties relative to electricity production and maintenance scheduling.

10.4 The Parties recognize that the intent of the availability factor in Section 4 of this Contract includes an allowance for scheduled outages, forced outages and forced reductions in the output of the Facility. Therefore, the RF/QF shall provide DEF with notification of any forced outage or reduction in output which shall include the time and date at which the forced outage or reduction occurred, a brief description of the cause of the outage or reduction and the time and date when the forced outage or reduction ceased and the Facility was able to return to normal operation. This notice shall be provided to DEF within seventy-two (72) hours of the end of the forced outage or reduction.

The RF/QF is required to provide the total electrical output to DEF except (i) during a period that was scheduled in Section 10.2, (ii) during a period in which notification of a forced outage or reduction was provided, (iii) during an event of Force Majeure or (iv) during a curtailment period as described in Section 10.5.5. In no event shall the RF/QF deliver any portion of their electrical output to a third party.

10.5 Dispatch and Control

10.5.1 Power supplied by the RF/QF hereunder shall be in the form of three-phase 60 hertz alternating current, at a nominal operating voltage of _____ volts (_____ kV) and power factor dispatchable and controllable in the range of 90% lagging to 90% leading as measured at the interconnection point to maintain system operating parameters, including power factor, as specified from time to time by DEF.

~~10.5.2 The RF/QF shall operate the Facility with all system protective equipment in service whenever the Facility is connected to, or is operated in parallel~~

ISSUED BY: Javier Portuondo, ~~Managing Director~~^{Vice President}, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



SECTION No. IX
~~EIGHTH~~^{NINTH} REVISED SHEET NO. 9.423
CANCELS ~~SEVENTH~~^{EIGHTH} REVISED SHEET NO.
9.423

~~with, DEF's system, except for normal testing and repair in accordance with good engineering and operating practices as agreed by the Parties. The RF/QF shall provide adequate system protection and control devices to ensure safe and protected operation of all energized equipment during normal testing and repair. All RF/QF facilities shall meet IEEE and utility standards. The RF/QF shall have independent, third party qualified personnel test, calibrate and certify in writing all protective equipment at least once every twelve (12) months in accordance with good engineering and operating practices. A unit functional trip test shall be performed after each overhaul of the Facility's turbine, generator or boilers and results provided to DEF in writing prior to returning the equipment to service. The specifics of the unit functional trip test will be consistent with Prudent Utility Practices.~~
Prudent Regulated Utility Practices.

~~10.5.3 If the Facility is separated from the DEF system for any reason, under no circumstances shall the RF/QF reconnect the Facility to DEF's system without first obtaining DEF's specific approval.~~

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10.5.2 The RF/QF shall operate the Facility with all system protective equipment in service whenever the Facility is connected to, or is operated in parallel with, DEF's system, except for normal testing and repair in accordance with good engineering and operating practices as agreed by the Parties. The RF/QF shall provide adequate system protection and control devices to ensure safe and protected operation of all energized equipment during normal testing and repair. All RF/QF facilities shall meet IEEE and utility standards. The RF/QF shall have independent, third party qualified personnel test, calibrate and certify in writing all protective equipment at least once every twelve (12) months in accordance with good engineering and operating practices. A unit functional trip test shall be performed after each overhaul of the Facility's turbine, generator or boilers and results provided to DEF in writing prior to returning the equipment to service. The specifics of the unit functional trip test will be consistent with Prudent Regulated Utility Practices.

10.5.3 If the Facility is separated from the DEF system for any reason, under no circumstances shall the RF/QF reconnect the Facility to DEF's system without first obtaining DEF'S specific approval.

10.5.4 During the term of this Contract, the RF/QF shall employ qualified personnel for managing, operating and maintaining the Facility and for coordinating such with DEF. The RF/QF shall ensure that operating personnel are on duty at all times, twenty-four (24) hours a calendar day and seven (7) calendar days a week. Additionally, during the term of this Contract, the RF/QF shall operate and maintain the Facility in such a manner as to ensure compliance with its obligations hereunder and in accordance with applicable law and ~~Prudent Utility Practices~~Prudent Regulated Utility Practices.

10.5.5 DEF shall not be obligated to purchase, and may require curtailed or reduced deliveries of energy to the extent allowed under FPSC Rule 25-17.086 and under any curtailment plan which DEF may have on file with the FPSC from time to time.

10.5.6 During the term of this Contract, the RF/QF shall maintain sufficient fuel on the site of the Facility to deliver the capacity and energy associated with the Committed Capacity for an uninterrupted seventy-two-(72) hour period. At DEF's request, the RF/QF shall demonstrate this capability to DEF's reasonable satisfaction. During the term of this Contract, the RF/QF's output shall remain within a band of plus or minus ten percent (10%) of the daily output level or levels specified by the plant operator, in ninety percent (90%) of all operating hours under normal operating conditions. This calculation will be adjusted to exclude forced outage periods and periods during which the RF/QF's output is affected by a Force Majeure event.

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SECTION No. IX
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CANCELS ~~EIGHTH-NINTH~~ REVISED SHEET NO.
9.424

~~11. Completion/Performance Security~~

~~11.1 Simultaneous with the execution of this Contract RF/QF shall deliver to DEF Eligible Collateral in an amount equal to \$20.00/lw of Committed Capacity as Completion/Performance Security.~~

~~11.2 The choice of the type of Eligible Collateral by the RF/QF may be selected from time to time by the RF/QF and upon receipt of substitute Eligible Collateral, DEF shall promptly release the Eligible Collateral that has been replaced by the substitute Eligible Collateral. Following any termination of this Contract, the Parties shall mutually agree to a final settlement of all obligations under this Contract which such period shall not exceed 90 days from such termination date unless extended by mutual agreement between the Parties. After such settlement, any remaining Eligible Collateral posted by the RF/QF that has not been drawn upon by DEF pursuant to its rights under this Contract shall be returned to the RF/QF. Any dispute between the Parties regarding such final settlement shall be resolved according to applicable procedures set forth in Section 20.9.~~

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~~SEVENTH-EIGHTH~~ REVISED SHEET NO. 9.425
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9.425

11. Completion/Performance Security

11.1 Simultaneous with the execution of this Contract RF/QF shall deliver to DEF Eligible Collateral in an amount equal to \$30.00/kw of Committed Capacity as Completion/Performance Security.

11.2 The choice of the type of Eligible Collateral by the RF/QF may be selected from time to time by the RF/QF and upon receipt of substitute Eligible Collateral, DEF shall promptly release the Eligible Collateral that has been replaced by the substitute Eligible Collateral. Following any termination of this Contract, the Parties shall mutually agree to a final settlement of all obligations under this Contract which such period shall not exceed 90 days from such termination date unless extended by mutual agreement between the Parties. After such settlement, any remaining Eligible Collateral posted by the RF/QF that has not been drawn upon by DEF pursuant to its rights under this Contract shall be returned to the RF/QF. Any dispute between the Parties regarding such final settlement shall be resolved according to applicable procedures set forth in Section 20.9.

11.3 Draws, Replenishment - DEF may draw upon Eligible Collateral provided by the RF/QF following the occurrence of an Event of Default or pursuant to the other provisions of this Contract ~~in order to recover any damages~~ to which DEF is entitled to under this Contract. In the event of such a draw then, except in the circumstance when this Contract otherwise terminates, the RF/QF shall within five (5) Business Days replenish the Eligible Collateral to the full amounts required.

11.4 In the event that the (a) Capacity Delivery Date occurs before the Required Capacity Delivery Date and (b) the ACBF is equal to or greater than 95% for the first twelve (12) months following the Capacity Delivery Date then DEF will return the Completion/Performance Security to the RF/QF within ninety (90) days of the first anniversary of the Capacity Delivery Date. In the event that the Capacity Delivery Date does not occur before the Required Capacity Delivery Date, consistent with Section 7.6 herein, DEF shall immediately be entitled to retain the Completion/Performance Security in full. In the event the Capacity Delivery Date occurs before the Required Capacity Delivery Date, and, the ACBF is less than 95% for any of the first twelve (12) months following the Capacity Delivery Date then DEF shall be entitled to retain the Completion/Performance Security until the ACBF is equal to or greater than 95% for 12 consecutive months. Upon the completion of twelve (12) consecutive months with the ACBF is greater than or equal to 95%, then DEF will return the Completion/Performance Security within ninety (90) days. In the event that DEF requires the RF/QF to perform one or more Committed Capacity Test(s) at any time on or before the first anniversary of the Capacity Delivery Date pursuant to Section 7.3 and, in connection with any such Committed Capacity Test(s), the RF/QF fails to demonstrate a Capacity of at least one-hundred percent (100%) of the Committed Capacity set forth in Section 7.1, DEF shall be entitled immediately to receive,

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~~draw upon, or retain, in its sole discretion as the case may be, one hundred percent (100%) of the Completion/Performance Security as its sole remedy from the RF/QF's failure to perform, free from any claim or right of any nature whatsoever of the RF/QF, including any equity or right of redemption by the RF/QF. Following any draws on the Completion/Performance Security, the RF/QF shall make payment to DEF to replenish the Completion/Performance Security to the amounts required pursuant to Section 11.1 within five (5) business days.~~

~~11.5 Reporting RF/QF shall promptly notify DEF of any circumstance that results in RF/QF's failure to be in compliance with the RF/QF Performance Security Requirements of this Section 11. From time to time, at DEF's written request, RF/QF shall provide DEF with such evidence as DEF may reasonably request, that RF/QF Letter of Credit or Security Account is in full compliance with this Contract.~~

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SECTION No. IX
~~FOURTH-FIFTH~~ REVISED SHEET NO. 9.426
CANCELS ~~THIRD-FOURTH~~ REVISED SHEET NO.
9.426

draw upon, or retain, in its sole discretion as the case may be, one-hundred percent (100%) of the Completion/Performance Security as its sole remedy from the RF/QF's failure to perform, free from any claim or right of any nature whatsoever of the RF/QF, including any equity or right of redemption by the RF/QF. Following any draws on the Completion/Performance Security, the RF/QF shall make payment to DEF to replenish the Completion/Performance Security to the amounts required pursuant to Section 11.1 within five (5) business days.

11.5 Reporting - RF/QF shall promptly notify DEF of any circumstance that results in RF/QF's failure to be in compliance with the RF/QF Performance Security Requirements of this Section 11. From time to time, at DEF's written request, RF/QF shall provide DEF with such evidence as DEF may reasonably request, that RF/QF Letter of Credit or Security Account is in full compliance with this Contract.

12. Termination Fee and Security

12.1 In the event that the RF/QF receives Capacity Payments pursuant to Option B, Option C, or Option D of Appendix D or any Capacity Payment schedule in Appendix E that differs from a Normal Capacity Payment Rate as calculated in FPSC Rule 25-17.0832(6)(a), then upon the termination of this Contract, the RF/QF shall owe and be liable to DEF for the Termination Fee. The RF/QF's obligation to pay the Termination Fee shall survive the termination of this Contract. DEF shall provide the RF/QF, on a monthly basis, a calculation of the Termination Fee.

12.1.1 The Termination Fee shall be secured by the RF/QF by: (i) an unconditional, irrevocable, standby letter(s) of credit issued by a Qualified Institution in form and substance acceptable to DEF (including provisions (a) permitting partial and full draws and (b) permitting DEF to draw upon such Letter of Credit, in full, if such Letter of Credit is not renewed or replaced at least twenty (20) Business Days prior to its expiration date); (ii) a bond issued to DEF by a financially sound company in form and substance acceptable to DEF in its sole discretion; or (iii) a cash deposit with DEF (any of (i), (ii), or (iii), the "Termination Security").

~~**12.1.2** DEF shall have the right and the RF/QF shall be required to monitor the financial condition of (i) the issuer(s) in the case of any Letter of Credit and (ii) the insurer(s), in the case of any bond. In the event the senior debt rating of any issuer(s) or insurer(s) has deteriorated to the extent that they fail to meet the requirements of a Qualified Institution, DEF may require the RF/QF to replace the letter(s) of credit or the bond, as applicable. In the event that DEF notifies the RF/QF that it requires such a replacement, the replacement letter(s) of credit or bond, as applicable, must be issued by a Qualified Institution, and meet the requirements of Section 12.1.1 within thirty (30) calendar days following such notification. Failure by the RF/QF to comply with the requirements of this Section 12.1.2 shall be~~

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~~grounds for DEF to draw in full on any existing Letter of Credit or bond
and to exercise any other remedies it may have hereunder.~~

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9.427

12.1.2 DEF shall have the right and the RF/QF shall be required to monitor the financial condition of (i) the issuer(s) in the case of any Letter of Credit and (ii) the insurer(s), in the case of any bond. In the event the senior debt rating of any issuer(s) or insurer(s) has deteriorated to the extent that they fail to meet the requirements of a Qualified Institution, DEF may require the RF/QF to replace the letter(s) of credit or the bond, as applicable. In the event that DEF notifies the RF/QF that it requires such a replacement, the replacement letter(s) of credit or bond, as applicable, must be issued by a Qualified Institution, and meet the requirements of Section 12.1.1 within thirty (30) calendar days following such notification. Failure by the RF/QF to comply with the requirements of this Section 12.1.2 shall be grounds for DEF to draw in full on any existing Letter of Credit or bond and to exercise any other remedies it may have hereunder.

12.1.3 After the close of each calendar quarter (March 31, June 30, September 30, and December 31) occurring subsequent to the Capacity Delivery Date, upon DEF's issuance of the Termination Fee calculation as described in Section 12.1, the RF/QF must provide DEF, within ten calendar (10) days, written assurance and documentation (the "Security Documentation"), in form and substance acceptable to DEF, that the amount of the Termination Security is sufficient to cover the balance of the Termination Fee through the end of the following quarter. In addition to the foregoing, at any time during the term of this Contract, DEF shall have the right to request and the RF/QF shall be obligated to deliver within five (5) calendar days of such request, such Security Documentation. Failure by the RF/QF to comply with the requirements of this Section 12.1.3 shall be grounds for DEF to draw in full on any existing Letter of Credit or bond or to retain any cash deposit, and to exercise any other remedies it may have hereunder.

12.1.4 Upon any termination of this Contract following the Required Capacity Delivery Date, DEF shall be entitled to receive (and in the case of the Letter(s) of Credit or bond, draw upon such Letter(s) of Credit or bond) and retain one hundred percent (100%) of the Termination Security.

13. Performance Factor

DEF desires to provide an incentive to the RF/QF to operate the Facility during on-peak and off-peak periods in a manner that approximates the projected performance of the Avoided Unit. A formula to achieve this objective is attached as Appendix A.

14. Default

Notwithstanding the occurrence of any Force Majeure as described in Section 18, each of the following shall constitute an Event of Default:

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- ~~(a) the RF/QF changes or modifies the Facility from that provided in Section 2 with respect to its type, location, technology or fuel source, without the prior written approval of DEF;~~
- ~~(b) after the Capacity Delivery Date, the Facility fails for twelve (12) consecutive months to maintain an Annual Capacity Billing Factor, as described in Appendix A, of at least seventy five percent (75%);~~
- ~~(c) the RF/QF fails to satisfy its obligations to maintain sufficient fuel on the site of the Facility to deliver the capacity and energy associated with the Committed Capacity for an uninterrupted seventy two (72) hour period under Section 10.5.6 hereof;~~
- ~~(d) the failure to make when due, any payment required pursuant to this Contract if such failure is not remedied within three (3) Business Days after written notice;~~

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CANCELS ~~FIFTH-SIXTH~~ REVISED SHEET NO. 9.428

- (a) the RF/QF changes or modifies the Facility from that provided in Section 2 with respect to its type, location, technology or fuel source, without the prior written approval of DEF;
- (b) after the Capacity Delivery Date, the Facility fails for twelve (12) consecutive months to maintain an Annual Capacity Billing Factor, as described in Appendix A, of at least seventy five percent (75%);
- (c) the RF/QF fails to satisfy its obligations to maintain sufficient fuel on the site of the Facility to deliver the capacity and energy associated with the Committed Capacity for an uninterrupted seventy-two-(72) hour period under Section 10.5.6 hereof;
- (d) the failure to make when due, any payment required pursuant to this Contract if such failure is not remedied within three (3) Business Days after written notice;
- (e) either Party, or the entity which owns or controls either Party, ceases the conduct of active business; or if proceedings under the federal bankruptcy law or insolvency laws shall be instituted by or for or against either Party or the entity which owns or controls either Party; or if a receiver shall be appointed for either Party or any of its assets or properties, or for the entity which owns or controls either Party; or if any part of either Party's assets shall be attached, levied upon, encumbered, pledged, seized or taken under any judicial process, and such proceedings shall not be vacated or fully stayed within thirty (30) calendar days thereof; or if either Party shall make an assignment for the benefit of creditors, or admit in writing its inability to pay its debts as they become due;
- (f) the RF/QF fails to give proper assurance of adequate performance as specified under this Contract within thirty (30) calendar days after DEF, with reasonable grounds for insecurity, has requested in writing such assurance;
- (g) the RF/QF fails to achieve licensing, certification, and all federal, state and local governmental, environmental, and licensing approvals required to initiate construction of the Facility by no later than the Completed Permits Date;
- (h) the RF/QF fails to comply with the provisions of Section 11 hereof;
- (i) any of the representations or warranties, including the certification of the completion and maintaining of the Conditions Precedent, made by either Party in this Contract is false or misleading in any material respect as of the time made;
- (j) if, at any time after the Capacity Delivery Date, the RF/QF reduces the Committed Capacity due to an event of Force Majeure and fails to repair the Facility and reset the Committed Capacity to the level set forth in Section 7.1 (as such level may be reduced by Section 7.3) within twelve (12) months following the occurrence of such event of Force Majeure; or

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~~(k) either Party breaches any material provision of this Contract not specifically mentioned in this Section 14;~~

~~(l) the RF/QF fails to maintain its status as a Qualifying Facility;~~

~~(m) the RF/QF sells any energy or firm capacity to an entity other than DEF;~~

~~(n) the RF/QF suspends its Interconnection Agreement or the construction of its interconnection facilities;~~

15. Rights in the Event of Default

15.1 Upon the occurrence of any of the Events of Default in Section 14, the DEF may, at its option:

15.1.1 ~~immediately terminate this Contract, without penalty or further obligation, except as set forth in Section 15.2, by written notice to the RF/QF, and offset against any payment(s) due from DEF to the RF/QF, any monies otherwise due from the RF/QF to DEF;~~

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- (k) either Party breaches any material provision of this Contract not specifically mentioned in this Section 14;
- (l) the RF/QF fails to maintain its status as a Qualifying Facility;
- (m) the RF/QF sells any energy or firm capacity to an entity other than DEF;
- (n) the RF/QF suspends its Interconnection Agreement or the construction of its interconnection facilities;

15. Rights in the Event of Default

15.1 Upon the occurrence of any of the Events of Default in Section 14, the DEF may, at its option:

15.1.1 immediately terminate this Contract, without penalty or further obligation, except as set forth in Section 15.2, by written notice to the RF/QF, and offset against any payment(s) due from DEF to the RF/QF, any monies otherwise due from the RF/QF to DEF;

15.1.2 enforce the provisions of the Completion/Performance Security pursuant to Section 11 and/or the Termination Security requirement pursuant to Section 12 hereof, as applicable; and

15.1.3 exercise any other remedy(ies) which may be available to DEF at law or in equity.

15.2 Termination shall not affect the liability of either Party for obligations arising prior to such termination or for damages, if any, resulting from any breach of this Contract.

16. Indemnification

16.1 DEF and the RF/QF shall each be responsible for its own facilities. DEF and the RF/QF shall each be responsible for ensuring adequate safeguards for other DEF customers, DEF's and the RF/QF's personnel and equipment, and for the protection of its own generating system. Each Party (the "Indemnifying Party") agrees, to the extent permitted by applicable law, to indemnify, pay, defend, and hold harmless the other Party (the "Indemnified Party") and its officers, directors, employees, agents and contractors (hereinafter called respectively, "DEF Entities" and "RF/QF Entities") from and against any and all claims, demands, costs or expenses for loss, damage, or injury to persons or property of the Indemnified Party (or to third parties) directly caused by, arising out of, or resulting from:

- (a) a breach by the Indemnifying Party of its covenants, representations, and warranties or obligations hereunder;

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- ~~(b) any act or omission by the Indemnifying Party or its contractors, agents, servants or employees in connection with the installation or operation of its generation system or the operation thereof in connection with the other Party's system;~~
- ~~(c) any defect in, failure of, or fault related to, the Indemnifying Party's generation system;~~
- ~~(d) the negligence or willful misconduct of the Indemnifying Party or its contractors, agents, servants or employees; or~~
- ~~(e) any other event or act that is the result of, or proximately caused by, the Indemnifying Party or its contractors, agents, servants or employees related to the Contract or the Parties' performance thereunder.~~

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- (b) any act or omission by the Indemnifying Party or its contractors, agents, servants or employees in connection with the installation or operation of its generation system or the operation thereof in connection with the other Party's system;
- (c) any defect in, failure of, or fault related to, the Indemnifying Party's generation system;
- (d) the negligence or willful misconduct of the Indemnifying Party or its contractors, agents, servants or employees; or
- (e) any other event or act that is the result of, or proximately caused by, the Indemnifying Party or its contractors, agents, servants or employees related to the Contract or the Parties' performance thereunder.

16.2 Payment by an Indemnified Party to a third party shall not be a condition precedent to the obligations of the Indemnifying Party under Section 16. No Indemnified Party under Section 16 shall settle any claim for which it claims indemnification hereunder without first allowing the Indemnifying Party the right to defend such a claim. The Indemnifying Party shall have no obligations under Section 16 in the event of a breach of the foregoing sentence by the Indemnified Party. Section 16 shall survive termination of this Contract.

17. Insurance

17.1 The RF/QF shall procure or cause to be procured and shall maintain throughout the entire Term of this Contract, a policy or policies of liability insurance issued by an insurer acceptable in the state of Florida on a standard "Insurance Services Office" commercial general liability and/or excess liability form or equivalent and Workers' Compensation in accordance with the statutory requirements of the state of Florida (such policy or policies, collectively, the "RF/QF Insurance"). A certificate of insurance shall be delivered to DEF at least fifteen (15) calendar days prior to the start of any interconnection work. At a minimum, the RF/QF Insurance shall contain (a) an endorsement providing coverage, including products liability/completed operations coverage for the term of this Contract, and (b) premises and operations liability, (c) a broad form contractual liability endorsement covering liabilities (i) which might arise under, or in the performance or nonperformance of, this Contract or (ii) caused by operation of the Facility or any of the RF/QF's equipment. Without limiting the foregoing, the RF/QF Insurance must be reasonably acceptable to DEF. Any premium assessment or deductible shall be for the account of the RF/QF and not DEF.

17.2 The RF/QF Insurance for liability shall have a minimum limit of five million dollars (\$5,000,000.00) per occurrence for bodily injury (including death) or property damage. This liability limit can be met by any combination of commercial general and excess liability insurance policies.

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~~17.3 To the extent that the RF/QF Insurance is on a "claims made" basis, the retroactive date of the policy(ies) shall be the Effective Date of this Contract or an earlier date. Furthermore, to the extent the RF/QF Insurance is on a "claims made" basis, the RF/QF's duty to provide insurance coverage shall survive the termination of this Contract until the expiration of the maximum statutory period of limitations in the State of Florida for actions based in contract or in tort. To the extent the RF/QF Insurance is on an "occurrence" basis, such insurance shall be maintained in effect at all times by the RF/QF during the term of this Contract.~~

~~17.4 The RF/QF shall provide DEF with a copy of any material communication or notice related to the RF/QF Insurance within ten (10) Business Days of the RF/QF's receipt or issuance thereof.~~

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9.431

17.3 To the extent that the RF/QF -Insurance is on a "claims made" basis, the retroactive date of the policy(ies) shall be the Effective Date of this Contract or an earlier date. Furthermore, to the extent the RF/QF Insurance is on a "claims made" basis, the RF/QF's duty to provide insurance coverage shall survive the termination of this Contract until the expiration of the maximum statutory period of limitations in the State of Florida for actions based in contract or in tort. To the extent the RF/QF Insurance is on an "occurrence" basis, such insurance shall be maintained in effect at all times by the RF/QF during the term of this Contract.

17.4 The RF/QF shall provide DEF with a copy of any material communication or notice related to the RF/QF Insurance within ten (10) Business Days of the RF/QF's receipt or issuance thereof.

17.5 DEF shall be designated as an additional named insured under the RF/QF Insurance (except Workers' Compensation). The RF/QF Insurance shall be primary to any coverage maintained by DEF and provide, where permitted by law, waiver of any rights of subrogation against DEF. Any deductibles or retentions shall be the sole responsibility of RF/QF. RF/QF's compliance with these provisions and the limits of insurance specified herein shall not constitute a limitation of RF/QF's liability or otherwise affect RF/QF's indemnification obligations pursuant to this Contract. Any failure to comply with all of these provisions shall not be deemed a waiver of any rights of DEF under this Contractor with respect to any insurance coverage required hereunder. DEF may request the RF/QF to provide a copy of any or all of its required insurance policies, including endorsements in which DEF is included as an additional insured for any claims filed relative to this Contract.

18. Force Majeure

18.1 "Force Majeure" is defined as an event or circumstance that is not reasonably foreseeable, is beyond the reasonable control of and is not caused by the negligence or lack of due diligence of the Party claiming Force Majeure or its contractors or suppliers and adversely affects the performance by that Party of its obligations under or pursuant to this Contract. Such events or circumstances may include, but are not limited to, ~~actions or inactions of civil or military authority (including courts and governmental or administrative agencies)~~, acts of God, war ~~(including actions or inactions of military authority)~~, riot or insurrection, blockades, embargoes, sabotage, epidemics (that are recognized by a health agency authority, and authorities have required a mandated quarantine impacting the Facility, and the RF/QF has shown a direct correlation and impact to the Facility), explosions and fires not originating in the Facility or caused by its operation, hurricanes, floods, strikes, lockouts or other labor disputes or difficulties (not caused by the failure of the affected Party to comply with the terms of a collective bargaining agreement). Force Majeure shall not ~~include or~~ be based on ~~(i) the loss of DEF's markets; (ii) DEF's economic inability to use or resell the Capacity and Energy purchased hereunder; or (iii) RF/QF's ability to sell the Capacity or Energy to another market at an economic advantage or at a price greater than the price~~

ISSUED BY: Javier Portuondo, Managing Director/Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 0, 2010~~



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herein: ~~-(ii) e~~Equipment breakdown or inability to use equipment caused by its design, construction, operation, maintenance or inability to meet regulatory standards, or otherwise caused by an event originating in the Facility; ~~control of a Party, or a Party's failure to obtain on a timely basis and maintain a necessary permit or other regulatory approval, shall not be considered an event of Force Majeure, unless such Party can reasonably demonstrate, to the reasonable satisfaction of the non-claiming Party, that the event was not reasonably foreseeable, was beyond the Party's reasonable control and was not caused by the negligence or lack of due diligence of the Party claiming Force Majeure or its agents, contractors or suppliers and adversely affects the performance by that Party of its obligations under or pursuant to this Contract.~~

~~18.2~~ Except as otherwise provided in this Contract, each Party shall be excused from performance when its nonperformance was caused, directly or indirectly by an event of Force Majeure.

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 0, 2010~~



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9.432

(iii) the RF/QF's failure to obtain on a timely basis and maintain a necessary permit or other regulatory approval; (iv) a failure of performance of any other entity, including any entity providing electric transmission service to the RF/QF, except to the extent that such failure was caused by an event that would otherwise qualify as a Force Majeure event; or (v) an interruption of fuel supply.

18.2 Except as otherwise provided in this Contract, each Party shall be excused from performance when its nonperformance was caused, directly or indirectly by an event of Force Majeure.

18.3 In the event of any delay or nonperformance resulting from an event of Force Majeure, the Party claiming Force Majeure shall notify the other Party in writing within five (5) Business Days of the occurrence of the event of Force Majeure, of the nature, cause, date of commencement thereof and the anticipated extent of such delay, and shall indicate whether any deadlines or date(s), imposed hereunder may be affected thereby. The suspension of performance shall be of no greater scope and of no greater duration than the cure for the Force Majeure requires. A Party claiming Force Majeure shall not be entitled to any relief therefore unless and until conforming notice is provided. The Party claiming Force Majeure shall notify the other Party of the cessation of the event of Force Majeure or of the conclusion of the affected Party's cure for the event of Force Majeure in either case within two (2) Business Days thereof.

18.4 The Party claiming Force Majeure shall use its best efforts to cure the cause(s) preventing its performance of this Contract; provided, however, the settlement of strikes, lockouts and other labor disputes shall be entirely within the discretion of the affected Party and such Party shall not be required to settle such strikes, lockouts or other labor disputes by acceding to demands which such Party deems to be unfavorable.

18.5 If the RF/QF suffers an occurrence of an event of Force Majeure that reduces the generating capability of the Facility below the Committed Capacity, the RF/QF may, upon notice to DEF temporarily adjust the Committed Capacity as provided in Sections 18.6 and 18.7. Such adjustment shall be effective the first calendar day immediately following DEF's receipt of the notice or such later date as may be specified by the RF/QF. Furthermore, such adjustment shall be the minimum amount necessitated by the event of Force Majeure.

18.6 If the Facility is rendered completely inoperative as a result of Force Majeure, the RF/QF shall temporarily set the Committed Capacity equal to 0 kW until such time as the Facility can partially or fully operate at the Committed Capacity that existed prior to the Force Majeure. If the Committed Capacity is 0 kW, DEF shall have no obligation to make Capacity Payments hereunder.

18.7 If, at any time during the occurrence of an event of Force Majeure or during its cure, the Facility can partially or fully operate, then the RF/QF shall temporarily

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



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9.432

set the Committed Capacity at the maximum capability that the Facility can reasonably be expected to operate.

~~18.8 Upon the cessation of the event of Force Majeure or the conclusion of the cure for the event of Force Majeure, the Committed Capacity shall be restored to the Committed Capacity that existed immediately prior to the Force Majeure. Notwithstanding any other provisions of this Contract, upon such cessation or cure, DEF shall have right to require a Committed Capacity Test to demonstrate the Facility's compliance with the requirements of this Section 18.8. Any such Committed Capacity Test required by DEF shall be additional to any Committed Capacity Test under Section 7.3.~~

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



SECTION No. IX
~~THIRD-FOURTH~~ REVISED SHEET NO. 9.433
CANCELS ~~SECOND-THIRD~~ REVISED SHEET NO.
9.433

18.8 Upon the cessation of the event of Force Majeure or the conclusion of the cure for the event of Force Majeure, the Committed Capacity shall be restored to the Committed Capacity that existed immediately prior to the Force Majeure. Notwithstanding any other provisions of this Contract, upon such cessation or cure, DEF shall have right to require a Committed Capacity Test to demonstrate the Facility's compliance with the requirements of this Section 18.8. Any such Committed Capacity Test required by DEF shall be additional to any Committed Capacity Test under Section 7.3.

18.9 During the occurrence of an event of Force Majeure and a reduction in Committed Capacity under Section 18.5 all Monthly Capacity Payments shall reflect, pro rata, the reduction in Committed Capacity, and the Monthly Capacity Payments will continue to be calculated in accordance with the pay-for-performance provisions in Appendix A.

18.10 The RF/QF agrees to be responsible for and pay the costs necessary to reactivate the Facility and/or the interconnection with DEF's system if the same is (are) rendered inoperable due to actions of the RF/QF, its agents, or Force Majeure events affecting the RF/QF, the Facility or the interconnection with DEF. DEF agrees to reactivate, at its own cost, the interconnection with the Facility in circumstances where any interruptions to such interconnections are caused by DEF or its agents.

19. Representations, Warranties, and Covenants of RF/QF

Each Party hereto represents and warrants that as of the Effective Date:

19.1 Organization, Standing and Qualification

DEF is a corporation duly organized and validly existing in good standing under the laws of Florida and has all necessary power and authority to carry on its business as presently conducted to own or hold under lease its properties and to enter into and perform its obligations under this Contract and all other related documents and agreements to which it is or shall be a Party. The RF/QF is a _____ (corporation, partnership, or other, as applicable) duly organized and validly existing in good standing under the laws of _____ and has all necessary power and authority to carry on its business as presently conducted to own or hold under lease its properties and to enter into and perform its obligations under this Contract and all other related documents and agreements to which it is or shall be a Party. Each Party is duly qualified or licensed to do business in the State of Florida and in all other jurisdictions wherein the nature of its business and operations or the character of the properties owned or leased by it makes such qualification or licensing necessary and where the failure to be so qualified or licensed would impair its ability to perform its obligations under this Contract or would result in a material liability to or would have a material adverse effect on the other Party.

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



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19.2 Due Authorization, No Approvals, No Defaults

Each of the execution, delivery and performance by each Party of this Contract has been duly authorized by all necessary action on the part of such Party, does not require any approval, except as has been heretofore obtained, of the shareholders DEF or of the _____ (shareholders, partners, or others, as applicable) of the RF/QF or any consent of or approval from any trustee, lessor or holder of any indebtedness or other obligation of such Party, except for such as have been duly obtained, and does not contravene or constitute a default under any law, the articles of incorporation of DEF or the _____ (articles of incorporation, bylaws, or other as applicable) of such Party, or any agreement, judgment, injunction, order, decree or other instrument binding upon such Party, or subject the Facility or any component part thereof to any lien other than as contemplated or permitted by this Contract.

19.3 Compliance with Laws

Each party has knowledge of all laws and business practices that must be followed in performing its obligations under this Contract. Each party also is in compliance with all laws, except to the extent that failure to comply therewith would not, in the aggregate, have a material adverse effect on the other Party.

19.4 Governmental Approvals

Except as expressly contemplated herein, neither the execution and delivery by each Party of this Contract, nor the consummation by each Party of any of the transaction contemplated thereby, requires the consent or approval of, the giving of notice to, the registration with, the recording or filing of any document with, or the taking of any other action with respect to governmental authority, except with respect to permits (a) which have already been obtained and are in full force and effect or (b) are not yet required (and with respect to which the RF/QF has no reason to believe that the same will not be readily obtainable in the ordinary course of business upon due application therefore).

19.5 No Suits, Proceedings

There are no actions, suits, proceedings or investigations pending or, to the knowledge of each Party, threatened against it at law or in equity before any court or tribunal of the United States or any other jurisdiction which individually or in the aggregate could result in any materially adverse effect on each Party's business, properties, or assets or its condition, financial or otherwise, or in any impairment of its ability to perform its obligations under this Contract. Each Party has no knowledge of a violation or default with respect to any law which could result in any such materially adverse effect or impairment.

ISSUED BY: Javier Portuondo, Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 9, 2019



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19.6 Environmental Matters

To the best of its knowledge after diligent inquiry, each Party knows of no (a) existing violations of any environmental laws at the Facility, including those governing hazardous materials or (b) pending, ongoing, or unresolved administrative or enforcement investigations, compliance orders, claims, demands, actions, or other litigation brought by governmental authorities or other third parties alleging violations of any environmental law or permit which would materially and adversely affect the operation of the Facility as contemplated by this Contract.

20. General Provisions

20.1 Project Viability

To assist DEF in assessing the RF/QF's financial and technical viability, the RF/QF shall provide the information and documents requested in Appendix C or substantially similar documents, to the extent the documents apply to the type of Facility covered by this Contract and to the extent the documents are available. All documents to be considered by DEF must be submitted at the time this Contract is presented to DEF. Failure to provide the following such documents may result in a determination of non-viability by DEF.

20.2 Permits

The RF/QF hereby agrees to obtain and maintain any and all permits, certifications, licenses, consents or approvals of any governmental authority which the RF/QF is required to obtain as a prerequisite to engaging in the activities specified in this Contract.

20.3 Project Management

If requested by DEF, the RF/QF shall submit to DEF its integrated project schedule for DEF's review within sixty (60) calendar days from the execution of this Contract, and a start-up and test schedule for the Facility at least sixty (60) calendar days prior to start-up and testing of the Facility. These schedules shall identify key licensing, permitting, construction and operating milestone dates and activities. The RF/QF shall submit monthly progress reports in a form satisfactory to DEF within fifteen (15) calendar days after the close of each month from the first month following the Effective Date until the Capacity Delivery Date. The RF/QF shall notify DEF of any changes in such schedules within ten (10) calendar days after such changes are determined. If for any reason, DEF has reason to believe that RF/QF may fail to achieve the Capacity Delivery Date, then, upon DEF's request, RF/QF shall submit to DEF, within ten (10) business days of such request, a remedial action plan ("Remedial Action Plan") that sets forth a detailed description of RF/QF's proposed course of action to promptly achieve the Capacity Delivery Date. Delivery of a Remedial Action Plan does not

ISSUED BY: Javier Portuondo, Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 9, 2019



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relieve RF/QF of its obligation to the Capacity Delivery Date. DEF shall have the right to monitor the construction, start-up and testing of the Facility, either on-site or off-site. DEF's technical review and inspections of the Facility and resulting requests, if any, shall not be construed as endorsing the design thereof or as any warranty as to the safety, durability or reliability of the Facility.

The RF/QF shall provide DEF with the final designer's/manufacture's generator capability curves, protective relay types, proposed protective relay settings, main one-line diagrams, protective relay functional diagrams, and alternating current and direct elementary diagrams for review and inspection at DEF no later than one hundred eighty (180) calendar days prior to the initial synchronization date.

20.4 Assignment

Either Party may not assign this Contract, without the other Party's prior written approval, which approval may not be unreasonably withheld or delayed.

The RF/QF shall be responsible for DEF's reasonable costs and expenses associated with the review, negotiation, execution and delivery of any such documents or information pursuant to such collateral assignment, including reasonable attorney's fees.

20.5 Disclaimer

In executing this Contract, DEF does not, nor should it be construed, to extend its credit or financial support for benefit of any third parties lending money to or having other transactions with the RF/QF or any assigns of this Contract.

20.6 Notification

All formal notices relating to this Contract shall be deemed duly given when delivered in person, or sent by registered or certified mail, trackable private delivery service, or sent by fax if followed immediately with a copy sent by registered or certified mail or trackable private delivery service, to the individuals designated below. The Parties designate the following individuals to be notified or to whom payment shall be sent until such time as either Party furnishes the other Party written instructions to contact another individual:

For the RF/QF:

For DEF:

Duke Energy Florida, LLC
Director of QF Contracts DEF 155
299 First Avenue North
St. Petersburg, FL 33701

ISSUED BY: Javier Portuondo, Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 9, 2019



SECTION No. IX
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CANCELS SECOND REVISED SHEET NO. 9.437

Contracts and related documents may be mailed to the address below or delivered during normal business hours (8:00 a.m. to 4:45 p.m.) to the visitors' entrance at the address below:

Duke Energy Florida, LLC
d/b/a Duke Energy
299 First Avenue North
St. Petersburg, FL 33701

Attention: Director of QF Contracts DEF 155

20.7 Applicable Law

This Contract shall be construed in accordance with and governed by the laws of the State of Florida, and the rights of the parties shall be construed in accordance with the laws of the State of Florida.

20.8 Taxation

The RF/QF shall hold DEF and its general body of ratepayers harmless from the effects of any additional taxes, assessments or other impositions that arise as a result of the purchase of energy and capacity from the RF/QF in lieu of other energy and capacity. Any savings in regards to taxes or assessments shall be included in the avoided cost payments made to the RF/QF to the extent permitted by law. In the event DEF becomes liable for additional taxes, assessments or impositions arising out of its transactions with the RF/QF under this tariff schedule or any related interconnection agreement or due to changes in laws affecting DEF's purchases of energy and capacity from the RF/QF occurring after the execution of an agreement under this tariff schedule and for which DEF would not have been liable if it had produced the energy and/or constructed facilities sufficient to provide the capacity contemplated under such agreement itself, DEF may bill the RF/QF monthly for such additional expenses or may offset them against amounts due to the RF/QF from DEF. Any savings in taxes, assessments or impositions that accrue to DEF as a result of its purchase of energy and capacity under this tariff schedule that are not already reflected in the avoided energy or avoided capacity payments made to the RF/QF hereunder, shall be passed on to the RF/QF to the extent permitted by law without consequential penalty or loss of such benefit to DEF.

ISSUED BY: Javier Portuondo, Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: June 5, 2018



SECTION No. IX
~~THIRD-FOURTH~~ REVISED SHEET NO. 9.438
CANCELS ~~SECOND-THIRD~~ REVISED SHEET NO.
9.438

20.9 Dispute, Venue and Waiver of Jury Trial~~Resolution of Disputes~~

~~20.9.1~~ Notice of Dispute

~~In the event that any dispute, controversy or claim arising out of or relating to this Contract or the breach, termination or validity thereof should arise between the Parties (a "Dispute"), the Party may declare a Dispute by delivering to the other Party a written notice identifying the disputed issue.~~

~~20.9.2~~ Resolution by Parties

~~Upon receipt of a written notice claiming a Dispute, executives of both Parties shall meet at a mutually agreeable time and place within ten (10) business days after delivery of such notice and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the Dispute. In such meetings and exchanges, a Party shall have the right to designate as confidential any information that such Party offers. No confidential information exchanged in such meetings for the purpose of resolving a Dispute may be used by a Party in litigation against the other Party. If the matter has not been resolved within thirty (30) calendar days of the disputing Party's notice having been issued, or if the Parties fail to meet within ten (10) business days as required above, either Party may initiate binding arbitration in St. Petersburg, Florida, conducted in accordance with the then current American Arbitration Association's ("AAA") Large, Complex Commercial Rules or other mutually agreed upon procedures.~~

With respect to any Dispute, suit, action or proceedings relating to this Contract, each party irrevocably submits to the exclusive jurisdiction of the courts of the State of Florida and the United States District Court located in Hillsborough County in Tampa, Florida, and in respect of the transactions contemplated hereby, and hereby waive, and agree not to assert, as a defense in any Dispute, action, suit or proceeding for the interpretation or enforcement hereof or of any such document, that it is not subject thereto or that such Dispute, action, suit or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Contract or any such document may not be enforced in or by such courts, and the Parties hereto irrevocably agree that all claims with respect to such action or proceeding shall be heard and determined in such a court. The Parties hereby consent to and grant any such court jurisdiction over the persons of such Parties solely for such purpose and over the subject matter of such Dispute and agree that mailing of process or other papers in connection with any such action or proceeding in the manner provided in Section 20.6 hereof or in such other manner as may be permitted by Law shall be valid and sufficient service thereof.

ISSUED BY: Javier Portuondo, Director/Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: July 13, 2017



SECTION No. IX
~~THIRD-FOURTH~~ REVISED SHEET NO. 9.438
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9.438

Each Party acknowledges and agrees that any controversy which may arise under this Contract is likely to involve complicated and difficult issues, and therefore each Party hereby irrevocably and unconditionally waives any right a Party may have to a trial by jury in respect of any litigation resulting from, arising out of or relating to this Contract or the transactions contemplated hereby. Each Party certifies and acknowledges that (a) no representative, agent or attorney of the other Party has represented, expressly or otherwise, that such other Party would not, in the event of litigation, seek to enforce the foregoing waiver, (b) each Party understands and has considered the implications of this waiver, (c) each Party makes this waiver voluntarily and (d) each Party has been induced to enter into this Contract by, among other things, the mutual waivers and certifications in this Section 20.9.

20.10 Limitation of Liability

IN NO EVENT SHALL DEF, ITS PARENT CORPORATION, OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR MULTIPLE DAMAGES RESULTING FROM ANY CLAIM OR CAUSE OF ACTION, WHETHER BROUGHT IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE OR STRICT LIABILITY), OR ANY OTHER LEGAL THEORY.

ISSUED BY: Javier Portuondo, ~~Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 13, 2017~~



SECTION No. IX
THIRD REVISED SHEET NO. 9.439
CANCELS SECOND REVISED SHEET NO. 9.439

20.11 Severability

If any part of this Contract, for any reason, is declared invalid or unenforceable by a public authority of appropriate jurisdiction, then such decision shall not affect the validity of the remainder of the Contract, which remainder shall remain in force and effect as if this Contract had been executed without the invalid or unenforceable portion.

20.12 Complete Agreement and Amendments

All previous communications or agreements between the Parties, whether verbal or written, with reference to the subject matter of this Contract are hereby abrogated. No amendment or modification to this Contract shall be binding unless it shall be set forth in writing and duly executed by both Parties. This Contract constitutes the entire agreement between the Parties.

20.13 Survival of Contract

Subject to the requirements of Section 20.4, this Contract, as it may be amended from time to time, shall be binding upon, and inure to the benefit of, the Parties' respective successors-in-interest and legal representatives.

20.14 Record Retention

Each Party shall maintain for a period of five (5) years from the date of termination hereof all records relating to the performance of its obligations hereunder.

20.15 No Waiver

No waiver of any of the terms and conditions of this Contract shall be effective unless in writing and signed by the Party against whom such waiver is sought to be enforced. Any waiver of the terms hereof shall be effective only in the specific instance and for the specific purpose given. The failure of a Party to insist, in any instance, on the strict performance of any of the terms and conditions hereof shall not be construed as a waiver of such Party's right in the future to insist on such strict performance.

20.16 Set-Off

DEF may at any time, but shall be under no obligation to, set off or recoup any and all sums due from the RF/QF against sums due to the RF/QF hereunder without undergoing any legal process.

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 13, 2017



SECTION No. IX
FIFTH REVISED SHEET NO. 9.440
CANCELS FOURTH REVISED SHEET NO. 9.440

20.17 Change in Environmental Law or Other Regulatory Requirements

- (a) As used herein, "Change(s) in Environmental Law or Other Regulatory Requirements" means the enactment, adoption, promulgation, implementation, or issuance of, or a new or changed interpretation of, any statute, rule, regulation, permit, license, judgment, order or approval by a governmental entity that specifically addresses environmental or regulatory issues and that takes effect after the Effective Date.
- (b) The Parties acknowledge that Change(s) in Environmental Law or Other Regulatory Requirements could significantly affect the cost of the Avoided Unit ("Avoided Unit Cost Changes") and agree that, if any such change(s) should affect the cost of the Avoided Unit more than the Threshold defined in Section 20.17(c) below, the Party affected by such change(s) may avail itself of the remedy set forth in Section 20.17(d) below as its sole and exclusive remedy.
- (c) The Parties recognize and agree that certain Change(s) in Environmental Law or Other Regulatory Requirements may occur that do not rise to a level that the Parties desire to impact this Contract. Accordingly, the Parties agree that for the purposes of this Contract, such change(s) will not be deemed to have occurred unless the change in Avoided Cost resulting from such change(s) exceed a mutually agreed upon amount. This mutually agreed upon amount is attached to this Contract in Appendix E.
- (d) If an Avoided Unit Cost Change meets the threshold set forth in Section 20.17(c) above, the affected Party may request the avoided cost payments under this Contract be recalculated and that the avoided cost payments for the remaining term of the Contract be adjusted based on the recalculation, subject to the approval of the FPSC. Any dispute regarding the application of this Section 20.17 shall be resolved in accordance with Section 20.9.

20.18 Provision of Information.

Within a reasonable period of time after receiving a written request therefore from the requesting Party, the other Party hereto shall provide the requesting Party with information that is reasonable and related to the non-requesting Party and/or the facilities or operations of the non-requesting Party that the requesting Party reasonably requires in order to comply with a Requirement of Law or any requirement of Generally Accepted Accounting Principles promulgated by the Financial Accounting Standards Board (or any successor thereto), (including, but not limited to, FIN 46-R) applicable to the requesting Party. In the event that a party requires information or reports that are not within its possession to meet financial reporting requirements, the parties will work in good faith to enable the requesting party to meet its financial reporting requirements.

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 13, 2017



SECTION No. IX
THIRD REVISED SHEET NO. 9.441
CANCELS SECOND REVISED SHEET NO. 9.441

IN WITNESS WHEREOF, the RF/QF has executed this Contract on the date set forth below.

RF/QF

Signature

Print Name

Title

Date

IN WITNESS WHEREOF, DEF has acknowledged receipt of this executed Contract.

DUKE ENERGY FLORIDA, LLC.

Signature

Print Name

Title

Date

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 13, 2017



SECTION No. IX
EIGHTH REVISED SHEET NO. 9.442
CANCELS SEVENTH REVISED SHEET NO. 9.442

APPENDIX A

**TO
DUKE ENERGY FLORIDA, LLC
RENEWABLE OR QUALIFYING FACILITY LESS THAN 100 KW
STANDARD OFFER CONTRACT**

MONTHLY CAPACITY PAYMENT CALCULATION

Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Standard Offer Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Producer or a Qualifying Facility less than 100 kW.

- A. In the event that the ACBF is less than or equal to 75%, then no Monthly Capacity Payment shall be due. That is:

$$MCP = 0$$

- B. In the event that the ACBF is greater than 75% but less than 95%, then the Monthly Capacity Payment shall be calculated by using the following formula:

$$MCP = BCP \times [1 - [5 \times (.95 - ACBF)] \times CC$$

- C. In the event that the ACBF is equal to or greater than 95%, then the Monthly Capacity Payment shall be calculated by using the following formula:

$$MCP = BCP \times CC$$

Where:

MCP = Monthly Capacity Payment in dollars.

BCP = Base Capacity Payment in \$/kW/Month as specified in Appendix D or E.

CC = Committed Capacity in kW.

ISSUED BY: Javier Portuondo, Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: June 5, 2018



SECTION No. IX
SECOND REVISED SHEET NO. 9.443
CANCELS FIRST REVISED SHEET NO. 9.443

- ACBF = Annual Capacity Billing Factor. The ACBF shall be the electric energy actually received by DEF for the 12 consecutive months preceding the date of calculation excluding any energy received during an event of Force Majeure in which the Committed Capacity is temporarily set equal to 0 kW, divided by the product of the Committed Capacity and the number of hours in the 12 consecutive months preceding the date of calculation excluding the hours during an event of Force Majeure in which the Committed Capacity is temporarily set equal to 0 kW. If an event of Force Majeure occurs during the 12 consecutive months preceding the date of calculation in which the Committed Capacity is temporarily set to a value greater than 0 kW then the 12 month rolling average will be pro-rated accordingly. During the first 12 consecutive Monthly Billing Periods commencing with the first Monthly Billing Period in which Capacity Payments are to be made, the calculation of 12-month rolling average ACBF shall be performed as follows (a) during the first Monthly Billing Period, the ACBF shall be equal to the Monthly Availability Factor; (b) thereafter, the calculation of the ACBF shall be computed by summing the electric energy actually received by DEF for the number of full consecutive months preceding the date of calculation excluding any energy received during an event of Force Majeure in which the Committed Capacity is temporarily set equal to 0 kW, divided by the product of the Committed Capacity and the number of hours in the number of full consecutive months preceding the date of calculation excluding the hours during an event of Force Majeure in which the Committed Capacity is temporarily set equal to 0 kW. If an event of Force Majeure occurs during the months preceding the date of calculation in which the Committed Capacity is temporarily set to a value greater than 0 kW then the 12 month rolling average will be pro-rated accordingly. This calculation shall be performed at the end of each Monthly Billing Period until enough Monthly Billing Periods have elapsed to calculate a true 12-month rolling average ACBF.
- MAF = Monthly Availability Factor. The total energy received during the Monthly Billing Period for which the calculation is made, divided by the product of Committed Capacity times the total hours during the Monthly Billing Period.
- Monthly Billing Period = The period beginning on the first calendar day of each calendar month, except that the initial Monthly Billing Period shall consist of the period beginning 12:01 a.m., on the Capacity Delivery Date and ending with the last calendar day of such month.

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: April 29, 2013



SECTION No. IX
FOURTH REVISED SHEET 9.444
CANCELS THIRD REVISED SHEET NO. 9.444

**APPENDIX B
TO
DUKE ENERGY FLORIDA, LLC
RENEWABLE OR QUALIFYING FACILITY LESS THAN 100 KW
STANDARD OFFER CONTRACT**

TERMINATION FEE

Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Standard Offer Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Producer or a Qualifying Facility less than 100 kW.

The “Termination Fee” shall be the sum of the values for each month beginning with the month in which the Capacity Delivery Date occurs through the month of the Termination Date (or month of calculation, as the case may be) computed according to the following formula:

$$\sum_{i=1}^n (MCP_i - MCPC_i) \cdot (1 + r)^{(n-i)}$$

with: $MCPC = 0$ for all periods prior to the in-service date of the Avoided Unit:

where

- i = number of Monthly Billing Periods commencing with the Capacity Delivery Date (i.e., the month in which Capacity Delivery Date occurs = 1; the month following this month in which Capacity Delivery Date occurs = 2 etc.)
- n = the number of Monthly Billing Periods which have elapsed from the month in which the Capacity Delivery Date occurs through the month of termination (or month of calculation, as the case may be)
- r = DEF's incremental after-tax avoided cost of capital (defined as r in Appendix D).
- MCP_i = Monthly Capacity Payment paid to RF/QFQF corresponding to the Monthly Billing Period i , calculated in accordance with Appendix A.
- $MCPC_i$ = Monthly Capacity Payment for Option A corresponding to the Monthly Billing Period i , calculated in accordance with this Contract.

ISSUED BY: Javier Portuondo, Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: June 5, 2018



SECTION No. IX
SIXTH REVISED SHEET NO. 9.445
CANCELS FIFTH REVISED SHEET NO. 9.445

In the event that for any Monthly Billing Period, the computation of the value of the Termination Fee for such Monthly Billing Period (as set forth above) yields a value less than zero, the amount of the Termination Fee shall be decreased by the amount of such value expressed as a positive number (the "Initial Reduction Value"); provided, however, that such Initial Reduction Value shall be subject to the following adjustments (the Initial Reduction Value, as adjusted, the "Reduction Value"):

- a. In the event that in the applicable Monthly Billing Period the Annual Capacity Billing Factor, as defined in Appendix A is less than or equal to 75%, then the Initial Reduction Value shall be adjusted to equal zero (Reduction Value = 0), and the Termination Fee shall not be reduced for the applicable Monthly Billing Period.
- b. In the event that in the applicable Monthly Billing Period the Annual Capacity Billing Factor, as defined in Appendix A, is greater than 75% but less than 95%, then the Reduction Value shall be determined as follows:

$$\text{Reduction Value} = \text{Initial Reduction Value} \times [5 \times (\text{ACBF} - .95)]$$

For the applicable Monthly Billing period, the Termination Fee shall be reduced by the amount of such Reduction Value.

- c. In the event that in the applicable Monthly Billing Period the Annual Capacity Billing Factor, as defined in Appendix A, is equal to or greater than 95%, then the Initial Reduction Value shall not be adjusted (Reduction Value = Initial Reduction Value), and the Termination Fee shall be reduced for the applicable Monthly Billing period by the amount of the Initial Reduction Value.

In no event shall DEF be liable to the RF/QF at any time for any amount by which the Termination Fee, adjusted in accordance with the foregoing, is less than zero (0).

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: June 9, 2016



SECTION No. IX
SECOND REVISED SHEET NO. 9.446
CANCELS FIRST SHEET NO. 9.446

**APPENDIX C
TO
DUKE ENERGY FLORIDA, LLC
RENEWABLE OR QUALIFYING FACILITY LESS THAN 100 KW
STANDARD OFFER CONTRACT**

DETAILED PROJECT INFORMATION

Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Standard Offer Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Producer or a Qualifying Facility less than 100 kW.

Each eligible Contract received by DEF will be evaluated to determine if the underlying RF/QF project is financially and technically viable. The RF/QF shall, to the extent available, provide DEF with a detailed project proposal which addresses the information requested below:

I. FACILITY DESCRIPTION

- Project Name
- Project Location
- * Street Address
- * Size Plot Plan
- * Legal Description of Site
- Generating Technology
- Primary Fuel
- Alternate Fuel (if applicable)
- Committed Capacity
- Expected In-Service Date
- Contact Person
- * Individual's Name and Title
- * Company Name
- * Address
- * Telephone Number
- * Fax Number

II. PROJECT PARTICIPANTS

- Indicate the entities responsible for the following project management activities and provide a detailed description of the experience and capabilities of the entities:

ISSUED BY: Javier Portuondo, Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: June 5, 2018



SECTION No. IX
FIRST REVISED SHEET NO. 9.447
CANCELS ORIGINAL SHEET NO. 9.447

- * Project Development
 - * Siting and Licensing the Facility
 - * Designing the Facility
 - * Constructing the Facility
 - * Securing the Fuel Supply
 - * Operating the Facility
- Provide details on all electrical facilities which are currently under construction or operational which were developed by the RF/QF.
 - Describe the financing structure for the projects identified above, including the type of financing used, the permanent financing term, the major lenders and the percentage of equity invested at Financial Closing.

III. FUEL SUPPLY

- Describe all fuels to be used to generate electricity at the Facility. Indicate the specific physical and chemical characteristics of each fuel type (*e.g.* Btu content, sulfur content, ash content, etc.). Identify special considerations regarding fuel supply origin, source and handling, storage and processing requirements.
- Provide AFR necessary to support planned levels of generation and list the assumptions used to determine these quantities.
- Provide a summary of the status of the fuel supply arrangements in place to meet the AFR, in each year of the proposed operating life of the Facility. Use the categories below to describe the current arrangement for securing the AFR.

<u>Category</u>	<u>Description of Fuel Supply Arrangement</u>
owned =	fuel is from a fully developed source owned by one or more of the project participants
contract =	fully executed firm fuel contract exists between the developer(s) and fuel supplier(s)
LOI =	a letter of intent for fuel supply exists between developer(s) and fuel supplier(s)
SPP =	small power production facility will burn biomass, waste, or another renewable resource
spot =	fuel supply will be purchased on the spot market
none =	no firm fuel supply arrangement currently in place
other =	fuel supply arrangement which does not fit any of the above categories (please describe)

- Indicate the percentage of the Facility's AFR which is covered by the above fuel supply arrangement(s) for each proposed operating year. The percent of AFR covered for each operating year must total 100%. For fuel supply arrangements identified as owned, contract, or LOI, provide documentation to support this category and explain the fuel price mechanism of the arrangement. In addition, indicate whether or not the fuel price includes delivery and, if so, to what location.

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: April 29, 2013



SECTION No. IX
FIRST REVISED SHEET NO. 9.448
CANCELS ORIGINAL SHEET NO. 9.448

- Describe fuel transportation networks available for delivering all primary and secondary fuel to the Facility site. Indicate the mode, route and distance of each segment of the journey, from fuel source to the Facility site. Discuss the current status and pertinent factors impacting future availability of the transportation network.
- Provide AFTR necessary to support planned levels of generation and list the assumptions used to determine these quantities.
- Provide a summary of the status of the fuel transportation arrangements in place to meet the AFTR in each year of the proposed operating life of the Facility. Use the categories below to describe the current arrangement for securing the AFTR.
 - owned = fuel transport via a fully developed system owned by one or more of the project participants
 - contract = fully executed firm transportation contract exists between the developer(s) and fuel transporter(s)
 - LOI = a letter of intent for fuel transport exists between developer(s) and fuel transporter(s)
 - spot = fuel transportation will be purchased on the spot market
 - none = no firm fuel transportation arrangement currently in place
 - other = fuel transportation arrangement which does not fit any of the above categories (please describe)
- Provide the maximum, minimum and average fuel inventory levels to be maintained for primary and secondary fuels at the Facility site. List the assumptions used in determining the inventory levels.
- Provide information regarding RF/QF's plans to maintain sufficient on site fuel to deliver capacity and energy for an uninterrupted seventy-two (72) hour period.

IV. PLANT DISPATCHABILITY/CONTROLLABILITY

- Provide the following operating characteristics and a detailed explanation supporting the performance capabilities indicated:
 - * Ramp Rate (MW/minute)
 - * Peak Capability (% above Committed Capacity)
 - * Minimum power level (% of Committed Capacity)
 - * Facility Turnaround Time, Hot to Hot (hours)
 - * Start-up Time from Cold Shutdown (hours)
 - * Unit Cycling (# cycles/yr.)
 - * MW and MVAR Control (ACC, Manual, Other (please explain))

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: April 29, 2013



SECTION No. IX
FIRST REVISED SHEET NO. 9.449
CANCELS ORIGINAL SHEET NO. 9.449

V. SITING AND LICENSING

- Provide a licensing/permitting milestone schedule, which lists all permits, licenses and variances, required to site the Facility. The milestone schedule shall also identify key milestone dates for baseline monitoring, application preparation, agency review, certification and licensing/siting board approval, and agency permit issuance.
- Provide a licensing/permitting plan that addresses the issues of air emission, water use, wastewater discharge, wetlands, endangered species, protected properties, surrounding land use, zoning for the Facility, associated linear facilities and support of and opposition to the Facility.
- List the emission/effluent discharge limits the Facility will meet and describe in detail the pollution control equipment to be used to meet these limits.

VI. FACILITY DEVELOPMENT AND PERFORMANCE

- Submit a detailed engineering, procurement, construction, startup and commercial operation schedule. The schedule shall include milestones for site acquisition, engineering phases, selection of the major equipment vendors, architect engineer, and Facility operator, steam host integration and delivery of major equipment. A discussion of the current status of each milestone should also be included where applicable.
- Attach a diagram of the power block arrangement. Provide a list of the major equipment vendors and the name and model number of the major equipment to be installed.
- Provide a detailed description of the proposed environmental control technology for the Facility and describe the capabilities of the proposed technology.
- Attach preliminary flow diagrams for the steam system, water system, and fuel system, and a main electrical one line diagram for the Facility.
- State the expected heat rate (HHV) at 75 degrees Fahrenheit for loads of 100%, 75% and 50%. In addition, attach a preliminary heat balance for the Facility.

VII. FINANCIAL

- Provide DEF with assurances that the proposed RF/QF project is financially viable in accordance with FPSC Rule 25-17.0832(4)(c) by attaching a detailed pro-forma cash flow analysis. The pro-forma must include, at a minimum, the following assumptions for each year of the project.

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: April 29, 2013



SECTION No. IX
FIRST REVISED SHEET NO. 9.450
CANCELS ORIGINAL SHEET NO. 9.450

- Annual Project Revenues

- * Capacity Payments (\$ and \$/kW/Mo.)
- * Variable O&M (\$ and \$/MWh)
- * Energy (\$ and \$/MWh)
- * Tipping Fees (\$ and \$/ton)
- * Interest Income
- * Other Revenues
- * Variable O&M Escalation (%/yr.)
- * Energy Escalation (%/yr.)
- * Tipping Fee Escalation (%/yr.)

- Annual Project Expense

- * Fixed O&M (\$ and \$/kW/Mo.)
- * Variable O&M (\$ and \$/MWh)
- * Energy (\$ and \$/MWh)
- * Property Taxes (\$)
- * Insurance (\$)
- * Emission Compliance (\$ and \$/MWh)
- * Depreciation (\$ and %/yr.)
- * Other Expenses (\$)
- * Fixed O&M Escalation (%/yr.)
- * Variable O&M Escalation (%/yr.)
- * Energy Escalation (%/yr.)

- Other Project Information

- * Installed Cost of the Facility (\$ and \$/kW)
- * Committed Capacity (kW)
- * Average Heat Rate - HHV (MBTU/kWh)
- * Federal Income Tax Rate (%)
- * Facility Capacity Factor (%)
- * Energy Sold to DEF (MWh)

- Permanent Financing

- * Permanent Financing Term (yr.)
- * Project Capital Structure (percentage of long-term debt, subordinated debt, tax exempt debt and equity)
- * Financing Costs (cost of long-term debt, subordinated debt, tax exempt debt and equity)
- * Annual Interest Expense
- * Annual Debt Service (\$)
- * Amortization Schedule (beginning balance, interest expense, principal reduction, ending balance)

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: April 29, 2013



SECTION No. IX
FIRST REVISED SHEET NO. 9.451
CANCELS ORIGINAL SHEET NO. 9.451

- Provide details of the financing plan for the project and indicate whether the project will be non-recourse project financed. If it will not be project financed please explain the alternative financing arrangement.
- Submit financial statements for the last two years on the principals of the project, and provide an illustration of the project ownership structure.

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: April 29, 2013



SECTION No. IX
~~SECOND-THIRD~~ REVISED SHEET NO. 9.452
CANCELS ~~FIRST-SECOND~~ REVISED SHEET NO.
9.452

APPENDIX D

TO DUKE ENERGY FLORIDA, LLC RENEWABLE OR QUALIFYING FACILITY LESS THAN 100 KW STANDARD OFFER CONTRACT

RATE SCHEDULE COG-2

Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Standard Offer Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Producer or a Qualifying Facility less than 100 kW.

SCHEDULE

COG-2, Firm Capacity and Energy from a Renewable Facility ("RF/QF") or a Qualifying Facility less than 100 kW ("QF")

AVAILABLE

DEF will, under the provisions of this schedule and the Contract to which this Appendix is attached and incorporated into by reference, purchase firm capacity and energy offered by a RF/QF as defined in the ~~contract~~ Contract. DEF's obligation to contract to purchase firm capacity from such RF/QF by means of this schedule and the Contract will continue no later than the Expiration Date.

APPLICABLE

To RF/QFs as defined in the Contract producing capacity and energy for sale to DEF on a firm basis pursuant to the terms and conditions of this schedule and the Contract. "Firm Capacity and Energy" are described by FPSC Rule 25-17.0832, F.A.C., and are capacity and energy produced and sold by a RF/QF pursuant to the Contract provisions addressing (among other things) quantity, time and reliability of delivery.

CHARACTER OF SERVICE

Purchases within the territory served by DEF shall be, at the option of DEF, single or three phase, 60-hertz alternating current at any available standard DEF voltage. Purchases from outside the territory served by DEF shall be three phase, 60-hertz alternating current at the voltage level available at the interchange point between DEF and the entry delivering the Firm Capacity and Energy from the RF/QF.

ISSUED BY: Javier Portuondo, ~~Managing Director~~ Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~June 5, 2018~~



SECTION No. IX
FIRST REVISED SHEET NO. 9.453
CANCELS ORIGINAL SHEET NO. 9.453

LIMITATION

Purchases under this schedule are subject to FPSC Rules 25-17.080 through 25-17.310, F.A.C., and are limited to those RF/QFs which:

- A. Are defined in the Contract;
- B. Execute a Contract;

RATES FOR PURCHASES BY DEF

Firm Capacity and Energy are purchased at unit cost, in dollars per kilowatt per month and cents per kilowatt-hour, respectively, based on the value of deferring additional capacity required by DEF. For the purpose of this schedule, an Avoided Unit has been designated by DEF. DEF's next Avoided Unit has been identified in Section 4 of the Contract. Schedule 1 to this Appendix describes the methodology used to calculate payment schedules, general terms, and conditions applicable to the Contract filed and approved pursuant to FPSC Rules 25-17.080 through 25-17.310, F.A.C.

A. Firm Capacity Rates

Four options, A through D, as set forth below, are available for payments of firm capacity that is produced by a RF/QF and delivered to DEF. Once selected, an option shall remain in effect for the term of the Contract. Exemplary payment schedules, shown below, contain the monthly rate per kilowatt of firm Capacity which the RF/QF has contractually committed to deliver to DEF and are based on a contract term which extends through the Termination Date in Section 4 of the Contract. Payment schedules for other contract terms will be made available to any RF/QF upon request and may be calculated based on the methodologies described in Schedule 1. The currently approved parameters used to calculate the following schedule of payments are found in Schedule 2 to this Appendix.

Option A - Fixed Value of Deferral Payments - Normal Capacity

Payment schedules under this option are based on the value of a year-by-year deferral of DEF's Avoided Unit with an in-service date as of the Avoided Unit In-Service Date in Section 4 of the Contract, calculated in accordance with FPSC Rule 25-17.0832, F.A.C., as described in Schedule 1. Once this option is selected, the current schedule of payments shall remain fixed and in effect throughout the term of the Contract. The payment schedule for this option follows in Table 3.

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: April 29, 2013



SECTION No. IX
FIRST REVISED SHEET NO. 9.454
CANCELS ORIGINAL SHEET NO. 9.454

Option B - Fixed Value of Deferral Payments - Early Capacity

Payment schedules under this option are based upon the early capital cost component of the value of a year-by-year deferral of the Avoided Unit. The term "early" with respect to Option B means that these payments can start prior to the anticipated in-service date of the Avoided Unit; provided, however, that under no circumstances may payments begin before this RF/QF is delivering Firm Capacity and Energy to DEF pursuant to the terms of the Contract. When this option is selected, the Capacity Payments shall be made monthly commencing no earlier than the Capacity Delivery Date of the RF/QF and calculated as shown on Schedule 1. Capacity Payments under Option B do not result in a prepayment or create a future benefit.

The RF/QF shall select the month and year in which the deliveries of firm capacity and energy to DEF are to commence and Capacity Payments are to start. DEF will provide the RF/QF with a schedule of capacity payment rates based on the month and year in which the deliveries of firm capacity and energy are to commence and the term of the Contract. The exemplary payment schedule in Table 3 is based on a contract term that begins on the Exemplary Early Capacity Payment Date in Section 4 of the Contract.

Option C - Fixed Value of Deferral Payment - Levelized Capacity

Payment schedules under this option are based upon the levelized capital cost component of the value of a year-by-year deferral of the Avoided Unit. The capital portion of Capacity Payments under this option shall consist of equal monthly payments over the term of the Contract, calculated as shown on Schedule 1. The fixed operation and maintenance portion of Capacity Payments shall be equal to the value of the year-by-year deferral of fixed operation and maintenance expense associated with the Avoided Unit. These calculations are shown in Schedule 1. The payment schedule for this option is contained in Table 3. Capacity Payments under Option C do not result in a prepayment or create a future benefit.

Option D - Fixed Value of Deferral Payment - Early Levelized Capacity

Payment schedules under this option are based upon the early levelized capital cost component of the value of a year-by-year deferral of the Avoided Unit. The capital portion of Capacity Payments under this option shall consist of equal monthly payments over the term of the Contract, calculated as shown on Schedule 1. The fixed operation and maintenance expense shall be calculated as shown in Schedule 1.

The RF/QF shall select the month and year in which the deliveries of firm capacity and energy to DEF are to commence and Capacity Payments are to start. DEF will provide the RF/QF with a schedule of capacity payment rates based on the month and year in which the deliveries of firm capacity and energy are to commence and the term of the Contract. The exemplary payment schedule in Table 3 is based on a contract term that begins on the Exemplary Early Capacity Payment Date in Section 4 of the Contract.

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: April 29, 2013



SECTION No. IX
~~THIRTEENTH-FOURTEENTH~~ REVISED SHEET NO.
9.455
CANCELS ~~TWELFTH-THIRTEENTH~~ REVISED SHEET
NO. 9.455

TABLE 3
EXAMPLE MONTHLY CAPACITY PAYMENT IN \$/kW/MONTH
DEF'S June 1, 2027 Undesignated CT
Renewable or Qualifying Facility Standard Offer Contract Avoided Capacity Payments
(\$/kW/MONTH)

Contract Year	<u>Option A</u> Normal Capacity Payment Starting on the Avoided Unit In-Service Date	<u>Option B</u> Early Capacity Payment Starting on the Exemplary Capacity Payment Date	<u>Option C</u> Levelized Capacity Payment Starting on the Avoided Unit In-Service Date	<u>Option D</u> Early Levelized Capacity Payment Starting on the Exemplary Capacity Payment Date
2024				
2025		3.71 3.49		3.94 3.73
2026		3.75 3.53		3.95 3.73
2027	4.78 4.50	3.80 3.58	5.05 4.77	3.95 3.74
2028	4.85 4.56	3.85 3.63	5.05 4.77	3.95 3.74
2029	4.91 4.63	3.90 3.69	5.05 4.78	3.96 3.74
2030	4.97 4.69	3.96 3.74	5.06 4.78	3.96 3.75
2031	5.04 4.76	4.01 3.79	5.06 4.78	3.97 3.75
2032	5.11 4.83	4.06 3.85	5.07 4.79	3.97 3.75
2033	5.17 4.90	4.11 3.90	5.07 4.79	3.97 3.76
2034	5.24 4.97	4.17 3.95	5.08 4.80	3.98 3.76
2035	5.31 5.04	4.22 4.01	5.08 4.80	3.98 3.76
2036	5.38 5.11	4.28 4.07	5.09 4.81	3.99 3.77
2037	5.45 5.18	4.34 4.13	5.09 4.81	3.99 3.77

- The Capacity Payment schedules contained in this Contract assume a term of ten years from the Avoided Unit In-Service Date. In the event the RF/QF requests a term greater than ten years but less than the Avoided Unit Life then DEF shall prepare a schedule of Capacity Payments for the requested term. Such Capacity Payment rates shall be calculated utilizing the value-of-deferral methodology described in FPSC Rule 25-17.0832(6).

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 0, 2010~~



SECTION No. IX
SECOND REVISED SHEET NO. 9.456
CANCELS FIRST REVISED SHEET NO. 9.456

2. The RF/QF may also request an alternative Capacity Payment rate stream from DEF as authorized by Rule 25-17.250(4). Regardless of the Capacity Payment rate stream requested by the RF/QF, the cumulative present value of the capital cost payments made to the RF/QF over the term of the Contract shall not exceed the cumulative present value of the capital cost payments had such payments been made pursuant to FPSC Rule 25-17.0832(4)(g)(i). Fixed operation and maintenance expense shall be calculated to conform with FPSC Rule 25-17.0832(6)(b). Such an alternative Capacity Payment rate shall be subject to the Termination Fee in Appendix B.

In the event that alternative Capacity Payment rates are agreed upon, such Capacity Payment rate schedule shall be attached to the Contract in Appendix E.

B. Energy Rates

Payments Prior to the Avoided Unit In-Service Date

1. The energy rate, in cents per kilowatt-hour (¢/kWh), shall be based on DEF's actual hourly avoided energy costs which are calculated by DEF in accordance with FPSC Rule 25-17.0825, F.A.C.

The calculation of payments to the RF/QF shall be based on the sum over all hours of the billing period, of the product of each hour's avoided energy cost times the amount of energy (kWh) delivered to DEF from the Facility for that hour. All purchases shall be adjusted for losses from the point of metering to the point of interconnection.

2. Upon request of the RF/QF, DEF shall provide the RF/QF the option of receiving energy payments based on DEF's year-by-year projection of system incremental costs prior to hourly economy energy sales to other utilities, based on normal weather and fuel conditions plus a mutually agreed upon market volatility risk premium.

Payments Starting on Avoided Unit In-Service Date

The calculation of payments to the RF/QF for energy delivered to DEF on and after the Avoided Unit In-Service Date shall be the sum, over all hours of the Monthly Billing Period, of the product of (a) each hour's Firm Energy Rate (¢/kWh); and (b) the amount of energy (kWh) delivered to DEF from the Facility during that hour.

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 13, 2017



SECTION No. IX
ELEVENTH REVISED SHEET NO. 9.457
CANCELS TENTH REVISED SHEET NO. 9.457

For any period during which energy is delivered by the RF/QF to DEF, the Firm Energy Rate in cents per kilowatt hour (¢/kWh) shall be the following on an hour-by-hour basis: the lesser of (a) the As-Available Energy Rate and (b) the Avoided Unit Energy Cost. The Avoided Unit Energy Cost, in cents per kilowatt - hour (¢/kWh) shall be defined as the product of (a) the Avoided Unit Fuel Cost and (b) the Avoided Unit Heat Rate; plus (c) the Avoided Unit Variable O&M.

For the purposes of this agreement, the Avoided Unit Fuel Cost shall be determined from gas price published in Platts Inside FERC, Gas Market Report, first of the month posting for Florida Gas Transmission ("FGT") Zone 3, plus other charges, surcharges and percentages that are in effect from time to time.

The Parties may mutually agree to fix a minority portion of the base firm energy payments associated with the Avoided Unit and amortize that fixed portion, on a present value basis, over the term of the Contract. Such fixed firm energy payments may, at the option of the RF/QF, start as early as the Avoided Unit In-Service Date. For purposes of this paragraph, "base firm energy payments associated with the Avoided Unit" means the energy costs of the Avoided Unit to the extent that the Avoided Unit would have been operated. If this option is mutually agreed upon, it will be attached to this Contract in Appendix E.

ESTIMATED AS-AVAILABLE ENERGY COST

As required in Section 25-17.0825, F.A.C., information relating to as-available energy cost projections will be provided within 30 days of a written request for such projections by any interested person.

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 13, 2017



SECTION No. IX
FOURTEENTH REVISED SHEET NO. 9.458
CANCELS THIRTEENTH REVISED SHEET NO. 9.458

ESTIMATED UNIT FUEL COST

As required in Section 25-17.0832, F.A.C., the estimated fuel costs associated with DEF's Avoided Unit are based on current estimates of the price of natural gas and will be provided within 30 days of a written request for such projections by any interested person.

DELIVERY VOLTAGE ADJUSTMENT

DEF's average system line losses are analyzed annually for the prior calendar year, and delivery efficiencies are developed for the transmission, distribution primary, and distribution secondary voltage levels. This analysis is provided in the DEF's Procedures For Changing The Real Power Loss Factor (currently Attachment Q) in its Open Access Transmission Tariff and DEF's fuel cost recovery filing with the FPSC. An adjustment factor, calculated as the reciprocal of the appropriate delivery efficiency factor, is applicable to the above determined energy costs if the RF/QF is within DEF's service territory to reflect the delivery voltage level at which RF/QF energy is received by the DEF.

The Delivery Voltage Adjustment will be calculated based on the current delivery efficiencies in conjunction with DEF's Open Access Transmission Tariff as approved by the FERC. The current Delivery Voltage Adjustment will be provided within 30 days of a written request by any interested person.

PERFORMANCE CRITERIA

Payments for firm Capacity are conditioned on the RF/QF's ability to maintain the following performance criteria:

A. **Capacity Delivery Date**

The Capacity Delivery Date shall be no later than the Required Capacity Delivery Date.

B. **Availability and Capacity Factor**

The Facility's availability and capacity factor are used in the determination of firm Capacity Payments through a performance based calculation as detailed in Appendix A to the Contract.

ISSUED BY: Javier Portuondo, Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 9, 2019



SECTION No. IX
THIRD REVISED SHEET NO. 9.459
CANCELS SECOND REVISED SHEET NO. 9.459

METERING REQUIREMENTS

The RF/QFs within the territory served by DEF shall be required to purchase from DEF hourly recording meters to measure their energy deliveries to DEF. Energy purchases from the RF/QFs outside the territory of DEF shall be measured as the quantities scheduled for interchange to DEF by the entity delivering Firm Capacity and Energy to DEF.

BILLING OPTIONS

A RF/QF, upon entering into this Contract for the sale of firm capacity and energy or prior to delivery of as-available energy, may elect to make either simultaneous purchases from and sales to DEF, or net sales to DEF; provided, however, that no such arrangement shall cause the RF/QF to sell more than the Facility's net output. A decision on billing methods may only be changed: 1) when a RF/QF selling as-available energy enters into this Contract for the sale of firm capacity and energy; 2) when a Contract expires or is lawfully terminated by either the RF/QF or DEF; 3) when the RF/QF is selling as-available energy and has not changed billing methods within the last twelve months; 4) when the election to change billing methods will not contravene the provisions of FPSC Rule 25-17.0832 or a contract between the RF/QF and DEF.

If a RF/QF elects to change billing methods, such changes shall be subject to the following: 1) upon at least thirty days advance written note to DEF; 2) the installation by DEF of any additional metering equipment reasonably required to effect the change in billing and upon payment by the RF/QF for such metering equipment and its installation; and 3) upon completion and approval by DEF of any alteration(s) to the interconnection reasonably required to effect the change in billing and upon payment by the RF/QF for such alteration(s).

Payments due a RF/QF will be made monthly and normally by the twentieth business day following the end of the billing period. The kilowatt-hours sold by the RF/QF and the applicable avoided energy rates at which payment are being made shall accompany the payment to the RF/QF.

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: July 13, 2017



SECTION No. IX
FOURTH REVISED SHEET NO. 9.460
CANCELS THIRD REVISED SHEET NO. 9.460

CHARGES TO RENEWABLE ENERGY PROVIDER

The RF/QF shall be responsible for all applicable charges as currently approved or as they may be approved by the Florida Public Service Commission, including, but not limited to:

A. Retail Service Charges

The RF/QF shall be responsible for all FPSC approved charges for any retail service that may be provided by DEF. The RF/QF shall be billed at the customer charge rate stated in DEF's applicable standby tariff monthly for the costs of meter reading, billing, and other administrative costs.

B. Interconnection Charges

Applicable Interconnection Charges are included in the transmission arrangements entered into with the Transmission Provider. Notwithstanding the above, Interconnection Charges must be in accordance with the provisions of FPSC Rule 25-17.087.

C. Transmission Charges

Applicable Transmission Charges are included in the transmission arrangements entered into with the Transmission Provider. Notwithstanding the above, Transmission Charges must be in accordance with the provisions of FPSC Rule 25-17.087.

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: April 29, 2013



SECTION No. IX
~~FIRST-SECOND~~ REVISED SHEET NO. 9.461
CANCELS ~~ORIGINAL-FIRST~~ REVISED SHEET
NO. 9.461

TERMS OF SERVICE

- A. It shall be the RF/QF's responsibility to inform DEF of any change in its electric generation capability.
- B. Any electric service delivered by DEF to a RF/QF located in DEF's service area shall be subject to the following terms and conditions:
- (1) A RF/QF shall be metered separately and billed under the applicable retail rate schedule(s), whose terms and conditions shall pertain.
 - (2) A security deposit will be required in accordance with FPSC Rules 25-17.082(5) and 25-6.097, F.A.C., and the following:
 - (i) In the first year of operation, the security deposit should be based upon the singular month in which the RF/QF's projected purchases from DEF exceed, by the greatest amount, DEF's estimated purchases from the RF/QF. The security deposit should be equal to twice the amount of the difference estimated for that month. The deposit is required upon interconnection.
 - (ii) For each year thereafter, a review of the actual sales and purchases between the RF/QF and DEF will be conducted to determine the actual month of maximum difference. The security deposit should be adjusted to equal twice the greatest amount by which the actual monthly purchases by the RF/QF exceed the actual sales in DEF in that month.
 - (3) DEF shall specify the point of interconnection and voltage level.
 - (4) The RF/QF must enter into an agreement for interconnection to DEF's system. Specific features of the RF/QF and its interconnection to DEF's facilities will be considered by DEF in preparing the interconnection agreement. In order to assure timely completion of the interconnection facilities, the RF/QF cannot suspend the interconnection agreement or the construction of the interconnection facilities. Notwithstanding the above, interconnection with, and delivery into, the Company's system must be accomplished in accordance with the provisions of FPSC Rule 25-17.087.
- C. Service under this rate schedule is subject to the rules and regulations of the FPSC.

ISSUED BY: Javier Portuondo, Director/Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: April 20, 2013



SECTION No. IX
FIRST REVISED SHEET NO. 9.462
CANCELS ORIGINAL SHEET NO. 9.462

**SCHEDULE 1
TO RATE SCHEDULE COG-2**

CALCULATION OF VALUE OF DEFERRAL PAYMENTS

APPLICABILITY

This Schedule 1 provides a detailed description of the methodology used by DEF to calculate the monthly values of deferring or avoiding the Avoided Unit identified in the Contract. When used in conjunction with the current FPSC-approved cost parameters associated with the Avoided Unit contained in Schedule 2, a RF/QF may determine the applicable value of deferral capacity payment rate associated with the timing and operation of its particular facility should the RF/QF enter into a Contract with DEF.

Also contained in this Schedule 1 is the discussion of the types and forms of surety bond requirements or equivalent assurance for payment of the Termination Fee acceptable to DEF in the event of contractual default by a RF/QF.

CALCULATION OF VALUE OF DEFERRAL OPTION A

FPSC Rule 25-17.0832(5) specifies that avoided capacity costs, in dollars per kilowatt per month, associated with capacity sold to a utility by a RF/QF pursuant to Contract shall be defined as the year-by-year value of deferral of the Avoided Unit. The year-by-year value of deferral shall be the difference in revenue requirements associated with deferring the Avoided Unit one year, and shall be calculated as follows:

$$VAC_m = 1/12 [KI_n (1 - R) / (1 - R^L) + O_n]$$

Where, for a one year deferral:

VAC_m	=	utility's monthly value of avoided capacity, in dollars per kilowatt per month, for each month of year n;
K	=	present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present valued to the middle of the first year;
R	=	$(1 + i_p) / (1 + r)$;
I_n	=	total direct and indirect cost, in mid-year dollars per kilowatt including AFUDC but excluding CWIP, of the Avoided Unit with an in-service date of year n, including all identifiable and quantifiable costs relating to the construction for the Avoided Unit which would have been paid had the Avoided Unit been constructed;

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: April 29, 2013



SECTION No. IX
FIRST REVISED SHEET NO. 9.463
CANCELS ORIGINAL SHEET NO, 9.463

- O_n = total fixed operation and maintenance expense for the year n , in mid-year dollars per kilowatt per year, of the Avoided Unit;
- i_p = annual escalation rate associated with the plant cost of the Avoided Unit;
- i_o = annual escalation rate associated with the operation and maintenance expense of the Avoided Unit;
- r = annual discount rate, defined as the utility's incremental after-tax cost of capital;
- L = expected life of the Avoided Unit; and
- n = year for which the Avoided Unit is deferred starting with the Avoided Unit In-Service Date and ending with the Termination Date.

CALCULATION OF FIXED VALUE OF DEFERRAL PAYMENTS - EARLY CAPACITY-OPTION B

Under the fixed value of deferral Option A, payments for firm capacity shall not commence until the in-service date of the Avoided unit(s). At the option of the RF/QF, however, DEF may begin making payments for capacity consisting of the capital cost component of the value of a year-by-year deferral of the Avoided Unit prior to the anticipated in-service date of the Avoided Unit. When such payments for capacity are elected, the avoided capital cost component of Capacity Payments shall be paid monthly commencing no earlier than the Capacity Delivery Date of the RF/QF, and shall be calculated as follows:

$$A_M = [A_c (1 + i_p)^{(m-1)} + A_o (1 + i_o)^{(m-1)}] / 12 \quad \text{for } m = 1 \text{ to } t$$

Where:

- A_M = monthly payments to be made to the RF/QF for each month of the contract year n , in dollars per kilowatt per month in which RF/QF delivers capacity pursuant to the early capacity option;
- i_p = annual escalation rate associated with the plant cost of the Avoided Unit;
- i_o = annual escalation rate associated with the operation and maintenance expense of the Avoided Unit;

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: April 29, 2013



SECTION No. IX
FIRST REVISED SHEET NO. 9.464
CANCELS ORIGINAL SHEET NO. 9.464

m = year for which the fixed value of deferral payments under the early capacity option are made to a RF/QF, starting in year one and ending in the year t ;

t = the Term, in years, of the Contract:

A_c = $F [(1 - R) / (1 - R^t)]$

Where:

F = the cumulative present value, in the year that the contractual payments will begin, of the avoided capital cost component of Capacity Payments which would have been made had Capacity Payments commenced with the Avoided Unit In-Service Date;

R = $(1 + i_p) / (1 + r)$

r = annual discount rate, defined as DEF's incremental after-tax cost of capital; and

A_o = $G [(1 - R) / (1 - R^t)]$

Where:

G = The cumulative present value, in the year that the contractual payments will begin, of the avoided fixed operation and maintenance expense component of Capacity Payments which would have been made had Capacity Payments commenced with the Avoided Unit In-Service Date.

R = $(1 + i_o) / (1 + r)$

The currently approved parameters applicable to the formulas above are found in Schedule 2.

**CALCULATION OF FIXED VALUE OF DEFERRAL PAYMENTS -
LEVELIZED AND EARLY LEVELIZED CAPACITY - OPTION C & OPTION D,
RESPECTIVELY**

Monthly fixed value of deferral payments for levelized and early levelized capacity shall be calculated as follows:

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: April 29, 2013



SECTION No. IX
FIRST REVISED SHEET NO. 9.465
CANCELS ORIGINAL SHEET NO. 9.465

$$P_L = (F / 12) \cdot [r / 1 - (1 + r)^{-t}] + O$$

Where:

- P_L = the monthly levelized capacity payment, starting on or prior to the in-service date of DEF's Avoided Unit(s);
- F = the cumulative present value, in the year that the contractual payments will begin, of the avoided capital cost component of the Capacity Payments which would have been made had the Capacity Payments not been levelized;
- r = the annual discount rate, defined as DEF's incremental after-tax cost of capital;
- t = the Term, in years of the Contract
- O = the monthly fixed operation and maintenance component of the Capacity Payments, calculated in accordance with calculation of the fixed value of deferral payments for the levelized capacity or the early levelized capacity options.

RISK-RELATED GUARANTEES

With the exception of governmental solid waste facilities covered by FPSC Rule 25-17.091, FPSC Rule 25-17.0832 (4)(e)10 requires that, when fixed value of deferral payments - early capacity, levelized capacity, or early levelized capacity are elected, the RF/QF must provide a surety bond or equivalent assurance of securing the payment of a Termination Fee in the event the RF/QF is unable to meet the terms and conditions of its Contract. Depending on the nature of the RF/QF's operation, financial health and solvency, and its ability to meet the terms and conditions of the Contract, one of the following may constitute an equivalent assurance of payment:

- (1) Bond;
- (2) Cash deposit(s) with DEF;
- (3) Unconditional, irrevocable, direct pay Letter of Credit;
- (4) Unsecured promise by a municipal, county or state government to repay payments for early or levelized capacity in the event of default, in conjunction with a legally binding commitment from such government allowing the utility to levy a surcharge on either the electric bills of the government's electricity consuming facilities or the constituent electric customers of such government to assure that payments for early or levelized capacity are repaid;
- (5) Unsecured promise by a privately-owned RF/QF to repay payments for early or levelized capacity in the event of default, in conjunction with a legally binding commitment from the owner(s) of the RF/QF, parent company, and/or subsidiary companies located in Florida to assure that payments for early, levelized or early levelized capacity are repaid; or
- (6) Other guarantees acceptable to DEF.

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: April 29, 2013



SECTION No. IX
FIRST REVISED SHEET NO. 9.466
CANCELS ORIGINAL SHEET NO. 6.466

DEF will cooperate with each RF/QF applying for fixed value of deferral payments under the early, levelized or early levelized capacity options to determine the exact form of an "equivalent assurance" for payment of the Termination Fee to be required based on the particular aspects of the RF/QF. DEF will endeavor to accommodate an equivalent assurance of repayment which is in the best interests of both the RF/QF and DEF's ratepayers.

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: April 29, 2013



SECTION No. IX
~~THIRTEENTH-FOURTEENTH~~ REVISED SHEET
NO. 9.467
CANCELS ~~TWELFTH-THIRTEENTH~~ REVISED
SHEET NO. 9.467

**SCHEDULE 2
TO RATE SCHEDULE COG-2 CAPACITY OPTION PARAMETERS**

**FIXED VALUE OF DEFERRAL PAYMENTS -
NORMAL CAPACITY OPTION PARAMETERS**

Where, for one year deferral:

		<u>Value</u>
VAC _m	= DEF's value of avoided capacity and O&M, in dollars per kilowatt per month, during month m;	4.78 <u>4.50</u>
K	= present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present valued to the middle of the first year;	1.28 <u>46</u>
I _n	= total direct and indirect cost, in mid-year dollars per kilowatt including AFUDC but excluding CWIP, of the Avoided Unit with an in-service date of year n;	675.46 <u>647.36</u>
O _n	= total fixed operation and maintenance expense, for the year n, in mid-year dollars per kilowatt per year, of the Avoided Unit;	2.06 <u>1.95</u>
i _p	= annual escalation rate associated with the plant cost of the Avoided Unit;	1.27 <u>1.37</u> %
i _o	= annual escalation rate associated with the operation and maintenance expense of the Avoided Unit;	2.50%
r	= annual discount rate, defined as DEF's incremental after-tax cost of capital;	7.15 <u>7.10</u> %
L	= expected life of the Avoided Unit;	35
n	= year for which the Avoided Unit is deferred starting with the Avoided Unit In-Service Date and ending with the Termination Date.	2027

ISSUED BY: Javier Portuondo, ~~Managing Director~~Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 9, 2019~~



SECTION No. IX
~~THIRTEENTH~~ FOURTEENTH REVISED SHEET NO.
9.468
CANCELS ~~TWELFTH~~ THIRTEENTH REVISED
SHEET NO. 9.468

**FIXED VALUE OF DEFERRAL PAYMENTS -
EARLY CAPACITY OPTION PARAMETERS**

A_m	=	monthly avoided capital cost component of Capacity Payments to be made to the RF/QF starting as early as two years prior to the Avoided Unit In-Service Date, in dollars per kilowatt per month;	3.573.36
i_p	=	annual escalation rate associated with the plant cost of the Avoided Unit;	1.271.37%
n	=	year for which early Capacity Payments to a RF/QF are to begin;	2025
F	=	the cumulative present value of the avoided capital cost component of Capacity Payments which would have been made had Capacity Payments commenced with the anticipated in-service date of the Avoided Unit and continued for a period of 10 years;	268.44 <u>273.20</u>
r	=	annual discount rate, defined as DEF's incremental after-tax cost of capital;	7.15 <u>7.10%</u>
t	=	the Term, in years, of the Contract for the purchase of firm capacity commencing prior to the in-service date of the Avoided Unit;	13
G	=	the cumulative present value of the avoided fixed operation and maintenance expense component of Capacity Payments which would have been made had Capacity Payments commenced with the anticipated in-service date of the Avoided Unit and continued until the Termination Date.	10.55 <u>10.76</u>

ISSUED BY: Javier Portuondo, ~~Managing Director~~ Vice President, Rates & Regulatory Strategy - FL
EFFECTIVE: ~~July 0, 2019~~



SECTION No. IX
SECOND REVISED SHEET NO. 9.470
CANCELS FIRST SHEET NO. 9.470

APPENDIX E

TO
DUKE ENERGY FLORIDA, LLC
RENEWABLE OR QUALIFYING FACILITY LESS THAN 100 KW
STANDARD OFFER CONTRACT

AGREED UPON PAYMENT SCHEDULES
AND OTHER MUTUAL AGREEMENTS

ISSUED BY: Javier Portuondo, Managing Director, Rates & Regulatory Strategy - FL
EFFECTIVE: June 5, 2018



SECTION No. IX
FIRST REVISED SHEET NO. 9.475
CANCELS ORIGINAL SHEET NO. 9.475

**APPENDIX F
FPSC RULES 25-17.080 THROUGH 25-17.310
ARE PROVIDED IN SECTION VIII
ON THIS TARIFF BOOK**

ISSUED BY: Javier Portuondo, Director, Rates & Regulatory Strategy - FL
EFFECTIVE: April 29, 2013

Item 11

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Kistner, Ellis) *TB*
Office of the General Counsel (Passidomo) *TLT*

RE: Docket No. 20200112-EQ – Petition for approval of revisions to standard offer contract and rate schedule COG-2, by Tampa Electric Company.

AGENDA: 06/09/20 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Section 366.91(3), Florida Statutes (F.S.), requires each investor-owned utility (IOU) to continuously offer to purchase capacity and energy from renewable generating facilities and small qualifying facilities. Florida Public Service Commission (Commission) Rules 25-17.200 through 25-17.310, Florida Administrative Code (F.A.C.), implement the statute and require each IOU to file with the Commission, by April 1 of each year, a revised standard offer contract based on the next avoidable fossil fueled generating unit of each technology type identified in the utility's current Ten-Year Site Plan. On April 1, 2020, Tampa Electric Company (TECO) filed a petition for approval of its amended standard offer contract based on its 2020 Ten-Year Site Plan. The Commission has jurisdiction over this standard offer contract pursuant to Sections 366.04 through 366.055, and 366.91, F.S.

Discussion of Issues

Issue 1: Should the Commission approve the amended standard offer contract and rate schedule COG-2 filed by Tampa Electric Company?

Recommendation: Yes. The provisions of TECO's amended standard offer contract and associated rate schedule COG-2 conform to all requirements of Rules 25-17.200 through 25-17.310, F.A.C. The amended standard offer contract provides flexibility in the arrangements for payments so that a developer of renewable generation may select the payment stream best suited to its financial needs. (Kistner)

Staff Analysis: Section 366.91(3), F.S., and Rule 25-17.250, F.A.C., require that TECO, an IOU, continuously make available a standard offer contract for the purchase of firm capacity and energy from renewable generating facilities (RF) and small qualifying facilities (QF) with design capacities of 100 kilowatts (kW) or less. Pursuant to Rules 25-17.250(1) and (3), F.A.C., the standard offer contract must provide a term of at least 10 years, and the payment terms must be based on the utility's next avoidable fossil-fueled generating unit identified in its most recent Ten-Year Site Plan, or if no avoided unit is identified, its next avoidable planned purchase.

TECO has identified a 18.5 megawatt (MW) natural gas-fueled internal combustion reciprocating engine (IC) as the next avoidable planned generating unit in its 2020 Ten-Year Site Plan. TECO states that it selected the ICs over either combustion turbines or combined cycles to better match the size of its 2021 reserve margin need, and that ICs offered reliability benefits over other unit types. While there are no preset subscription limits under Rule 25-17.260, F.A.C., and an RF/QF may contract for more than the amount of the avoided unit, TECO must petition the Commission if it receives a standard offer contract that is not needed for reliability or would increase costs to the general body of ratepayers.

The projected in-service date of the avoided unit is December 1, 2021. This unit is one of five 18.5 MW ICs scheduled to enter service in December 2021, with construction commencing in December 2020. Pursuant to Rule 25-17.250, F.A.C., when this unit is no longer available to be used for the standard offer contract, such as when the utility commences construction, TECO must file a revised standard offer contract based on the next unit of the same generating type, if any. Based on TECO's 2020 Ten-Year Site Plan, the next avoidable unit would be an IC with an in-service date of January 2025.

Under TECO's standard offer contract, the RF/QF operator commits to certain minimum performance requirements based on the identified avoided unit, such as being operational and delivering an agreed upon amount of capacity by the in-service date of the avoided unit, and thereby becomes eligible for capacity payments in addition to payments received for energy. 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, in a situation where one or both parties desire particular contract terms other than those established in the standard offer.

In order to promote renewable generation, the Commission requires the IOU to offer multiple options for capacity payments, including the options to receive early or levelized payments. If the RF/QF operator elects to receive capacity payments under the normal or levelized contract

options, it will receive as-available energy payments only until the in-service date of the avoided unit (in this case December 1, 2021), and thereafter, begin receiving capacity payments in addition to the energy payments. If either the early or early levelized option is selected, then the operator will begin receiving capacity payments earlier than the in-service date of the avoided unit. However, payments made under the early capacity payment options tend to be lower in the later years of the contract term because the net present value (NPV) of the total payments must remain equal for all contract payment options.

Table 1 contains TECO's estimates of the annual payments for the normal and levelized capacity payment options available under the revised standard offer contract to an operator with a 50 MW facility, operating at a capacity factor of 80 percent, which is the minimum capacity factor required under the contract to qualify for full capacity payments. Due to the upcoming 2021 in-service date of the avoided unit, no annual examples of early payments are provided. Early payments, if applicable, would be made for months avoided. Normal and levelized capacity payments begin with the projected in-service date of the avoided unit (December 1, 2021).

**Table 1 - Estimated Annual Payments to a 50 MW Renewable Facility
(80% Capacity Factor)**

Year	Energy Payments	Capacity Payments	
		Normal	Levelized
	\$(000)	\$(000)	\$(000)
2021 ¹	9,516	5,403	5,867
2022	9,983	5,513	5,890
2023	9,437	5,626	5,914
2024	10,123	5,740	5,938
2025	10,786	5,857	5,963
2026	12,338	5,977	5,988
2027	12,361	6,099	6,014
2028	12,992	6,223	6,041
2029	13,728	6,350	6,068
2030	15,129	6,479	6,095
2031	15,771	6,612	6,124
2032	16,415	6,746	6,152
2033	16,836	6,884	6,182
2034	18,363	7,024	6,212
2035	19,149	7,168	6,243
2036	20,040	7,314	6,274
2037	21,631	7,463	6,307
2038	22,260	7,615	6,339
2039	23,129	7,771	6,373
2040	24,434	7,929	6,407
Total	323,810	131,794	122,393
Total (NPV)	179,896	65,718	65,718

Source: TECO's Response to Staff's First Data Request²

TECO's standard offer contract, in type-and-strike format, is included as Attachment A to this recommendation. The changes made to TECO's tariff sheets are consistent with the updated avoided unit. Revisions include updates to calendar dates and payment information which reflect the current economic and financial assumptions for the avoided unit.

Conclusion

Staff recommends that the amended standard offer contract and rate schedule COG-2 be approved as filed. The provisions of TECO's amended standard offer contract and associated rate schedule conform to all requirements of Rules 25-17.200 through 25-17.310, F.A.C. The amended standard offer contract provides flexibility in the arrangements for payments so that a developer of renewable generation may select the payment stream best suited to its financial needs.

¹While Row values for 2021 are the annual value, an RF/QF would only be eligible for a single month.

²Document No. 02003-2020, filed April 17, 2020, in Docket No. 20200111-EQ.

Issue 2: Should this docket be closed?

Recommendation: Yes. This docket should be closed upon issuance of a consummating order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Commission's Proposed Agency Action Order. Potential signatories should be aware that, if a timely protest is filed, TECO's standard offer contract may subsequently be revised. (Passidomo)

Staff Analysis: This docket should be closed upon the issuance of a consummating order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Commission's Proposed Agency Action Order. Potential signatories should be aware that, if a timely protest is filed, TECO's standard offer contract may subsequently be revised.



ORIGINAL SHEET NO. 8.202

**STANDARD OFFER CONTRACT FOR THE PURCHASE OF
CONTRACTED CAPACITY AND ASSOCIATED ENERGY FROM
A RENEWABLE GENERATING FACILITY OR A SMALL QUALIFYING FACILITY**

This standard offer contract ("Contract") is made and entered into this ____ day of _____, _____ by and between _____, the owner and/or operator of a Facility, as defined below, hereinafter referred to as the "Capacity and Energy Provider" or "CEP" and Tampa Electric Company, a private utility corporation organized under the laws of the State of Florida (hereinafter referred to as the "Company"). The following documents are attached to this Contract and incorporated herein by reference: Appendix I, Evaluation Procedure for Standard Offer Contracts; Appendix II, COG -2 Standard Offer Contract Rate for Purchase of Contracted Capacity and Associated Energy, including all attached appendices thereto; and Appendix III, Interconnection Agreement. The CEP and the Company are also identified hereinafter individually, as a "Party" and collectively, as the "Parties". This Contract may also be referred to herein as the "Standard Offer Contract."

WITNESSETH:

WHEREAS, the CEP is the owner and/or operator of a Facility; and

WHEREAS, the CEP desires to sell Contracted Capacity and Associated Energy, as those terms are defined below; and

WHEREAS, the Company desires to purchase Contracted Capacity and Associated Energy in accordance with Chapter 366.91 F.S. and Florida Public Service Commission (FPSC) Rules 25-17.080 through 25-17.310, Florida Administrative Code (F.A.C.) and the Company's Rate Schedule COG-2; and

WHEREAS, the CEP has signed an Interconnection Agreement with the transmission service provider that serves the CEP's Facility, as defined below; and

WHEREAS, such Interconnection Agreement is attached and incorporated hereto as Appendix III; and

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



FIRST REVISED SHEET NO. 8.204
CANCELS ORIGINAL SHEET NO. 8.204

WHEREAS, the Florida Public Service Commission ("FPSC") has approved the form of this Contract for the purchase of Contracted Capacity and Associated Energy from the CEP;

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein and other good and valuable considerations the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **Definitions:**

- a. **Actual Capacity:** "Actual Capacity" shall mean the amount of Anticipated Capacity, as defined below, that can be made available to the Company at the Delivery Point and which the CEP has confirmed: (1) through performance testing prior to the Commercial In-Service Date, as defined below; and (2) at any time thereafter upon the Company's request.
- b. **Anticipated Capacity:** "Anticipated Capacity" shall mean the amount of capacity that the CEP intends to make available to the Company at the Delivery Point in _____ kW or in _____ MW from the Facility beginning on or before _____, the in-service date of the Designated Avoided Unit, as defined below.
- c. **Associated Energy:** "Associated Energy" shall mean the energy generated at the Facility, as defined below, by the generating source designated to supply Contracted Capacity and which is delivered to the Company at the Delivery Point, as defined below.
- d. **Company Transmission Service:** "Company Transmission Service" shall mean the network transmission service required through the Company's transmission system to deliver Associated Energy from the Delivery Point to the Company's native load customers.
- e. **Construction Commencement Date:** "Construction Commencement Date" shall mean the date on which the CEP's: (1) on-site activity is coordinated and continuous; and (2) active construction efforts are undertaken and on-going relative to the actual construction of major project features other than site preparation work; provided, however, that such date shall occur no later than _____.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: July 29, 2008



FIRST REVISED SHEET NO. 8.206
CANCELS ORIGINAL SHEET NO. 8.206

- f. **Contracted Capacity:** "Contracted Capacity" shall mean the amount of Actual Capacity in _____ kW or in _____ MW that the CEP commits to reserve, make available and supply to the Company from its Facility on a firm, first-call, subordinate-to-no-other-entity-or-party, on-call, as-needed basis, and for which the Company commits to pay the CEP.
- g. **Delivery Point:** "Delivery Point" shall mean: (1) the Interconnection Point, as described below, if the Facility is directly interconnected to the Company's transmission system; or (2) a point on the Company's transmission system, mutually agreed to by the Parties, at which the CEP shall deliver Contracted Capacity and Associated Energy via a third-party transmission service provider, if the Facility is not directly interconnected to the Company's transmission system.
- h. **Designated Avoided Unit:** "Designated Avoided Unit." shall mean the generating unit, from among those units identified in the Appendices C through F to the Company's COG-2 Tariff as the Company's avoided units, selected by the CEP as the unit the CEP wishes to help avoid, or defer, and upon which capacity and energy payments to the CEP will be based. The CEP selects the Designated Avoided Unit from Appendix _____ of Rate Schedule COG-2.
- i. **Eastern Prevailing Time:** "Eastern Prevailing Time" or "EPT" shall mean the time in effect in the Eastern Time Zone of the United States of America, whether Eastern Standard Time or Eastern Daylight Time.
- j. **Evaluation Procedure:** "Evaluation Procedure" shall mean the procedure used by the Company to evaluate each eligible standard offer contract received by the Company as to its technical reliability, viability and financial stability, as well as other relevant information, in accordance with FPSC Rule 25-17.0832, F.A.C., and the Company's Procedure for Processing Standard Offer Contracts as defined in Rate Schedule COG-2. The criteria used to evaluate standard offer contracts are attached hereto as Appendix I.
- k. **Extended Facility In-Service Date:** "Extended Facility In-Service Date" shall mean an extension of the Facility In-Service Date, as defined below, for a period not to exceed five (5) months which may be granted in accordance with Section 7 below.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: July 29, 2008



FIRST REVISED SHEET NO. 8.208
CANCELS ORIGINAL SHEET NO. 8.208

- l. **Facility:** "Facility" shall mean the CEP's proposed generating facility described in greater detail in Section 2, below.
- m. **Facility In-Service Date:** "Facility In-Service Date" shall mean the date on which the Facility is available to supply Contracted Capacity and deliver Associated Energy to the Company (also referred to in the electric power industry as the commercial in-service date or commercial operation date).
- n. **FERC:** "FERC" shall mean the Federal Energy Regulatory Commission or any similar or successor governmental body exercising the same or equivalent jurisdiction.
- o. **Interconnection Point:** "Interconnection Point" shall mean the plant busbar connection to the high side of the Facility's step-up transformer(s) where Contract Capacity and Associated Energy shall be delivered to the transmission service provider that serves the Facility. The Interconnection Point shall be specified in detail in the Interconnection Agreement (see Appendix III).
- p. **Non-Dispatched Capacity:** "Non-Dispatched Capacity" shall mean the amount of Contracted Capacity that the Company declines to schedule or request during any given hour, due to an emergency condition, or any other condition/reason. The Company shall adjust the Dispatch Schedule, as defined below, as soon as practical to reflect the amount of Non-Dispatched Capacity, or ignore scheduled capacity levels altogether (if conditions require immediate action to protect the integrity and/or reliability of the Company's generating system and/or transmission system); however, the Company shall make reasonable efforts to minimize departures from the Dispatch Schedule.
- q. **Non-Dispatched Energy:** "Non-Dispatched Energy" shall mean the energy associated with Non-Dispatched Capacity and which the Company declines to accept during any given hour, due to an emergency condition, or any other condition/reason.
- r. **Qualifying Facility:** "Qualifying Facility" shall mean a cogeneration facility, or small power production facility, that satisfies the definition of, and qualifies as, a Qualifying Facility in accordance with the provisions of Subpart B of Subchapter K, Part 292 of Chapter I, Title 18, Code of Federal Regulations (C.F.R.), promulgated by the FERC, as the same may be amended from time to time, and must be "new capacity" pursuant to the Public Utilities Regulatory Policies Act of 1978 (PURPA), construction of which began on or after November 9, 1978.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: July 29, 2008



FIRST REVISED SHEET NO. 8.212
CANCELS ORIGINAL SHEET NO. 8.212

- s. Renewable Generating Facility:** "Renewable Generating Facility" shall mean a generating facility that satisfies the definition of, and qualifies as, a renewable generating facility in accordance with the provisions of Section 366.91, Florida Statutes and Rule 25-17.210 (1), F.A.C.
- t. Small Qualifying Facility:** "Small Qualifying Facility" shall mean a Qualifying Facility with a design capacity of 100 kW or less, as defined by subsection 25-17.080(3), F.A. C.
- u. Third-Party Transmission Services:** "Third-Party Transmission Services" shall mean the firm transmission service(s) and ancillary services required to deliver Contracted Capacity and Associated Energy from the Facility to the Company's transmission system if the Facility is not directly interconnected to the Company's transmission system.
2. **CEP's Proposed Facility:** The CEP contemplates installing and operating a Facility designed to produce a maximum of _____ kilowatts (kW) to be located at _____, which shall be and remain the specific site of the Facility providing Contracted Capacity and Associated Energy under this Contract throughout the Term, as described below, of this Contract. The Facility is designed, operated and controlled to satisfy the interconnection requirements of the Company's transmission system or the third-party transmission service provider that serves the Facility, as applicable. The Facility shall: (a) satisfy the Company's Open Access Transmission Tariff ("OATT") requirements and/or all non-FERC jurisdictional interconnection and/or transmission service agreements required by the CEP to deliver Contracted Capacity and Associated Energy to the Company, as applicable, to be designated a Company network resource and receive network transmission service from the Company; (b) be fully dispatchable in the manner set forth in Appendix ___ of Rate Schedule COG-2; and (c) be an existing Renewable Generating Facility or a Small Qualifying Facility **or** a Renewable Generating Facility or a Small Qualifying Facility that the CEP proposes to construct and operate.
3. **Term:** The "Term" of this Contract shall commence immediately upon its execution by the Parties and shall terminate at 12:01 A.M. on the later of: (a) the last day of the tenth year following the in-service date of the avoided unit, or (b) _____ (a date selected by the CEP provided that such date is no later than the day after the last day of the life of the avoided unit identified in Section 1h above).

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: July 29, 2008



FIRST REVISED SHEET NO. 8.214
CANCELS ORIGINAL SHEET NO. 8.214

4. **Company's Capacity and Energy Purchase Commitment:** The Company agrees to purchase all Contracted Capacity and Associated Energy, excluding Non-Dispatched Energy, generated at the Facility and provided to the Company at the Delivery Point by the CEP pursuant to this Contract, excluding the amount of capacity and energy consumed by the Facility's station service equipment (such as generator auxiliaries, emissions control and monitoring equipment, fuel handling equipment, etc.) and all transmission system losses incurred by the CEP to effect delivery of Contracted Capacity and Associated Energy to the Delivery Point.
5. **Non-Dispatched Capacity and Non-Dispatched Energy Restriction:** To the extent that there is Non-Dispatched Capacity and Non-Dispatched Energy during a given hour, such Non-Dispatched Capacity and Non-Dispatched Energy shall not be made available or sold by the CEP, or otherwise used in any way or disposed of, without the Company's prior written consent.
6. **Responsibilities for Interconnection Service, Third-Party Transmission Service and Company Transmission Service:** It is the responsibility of the CEP to request and secure the required interconnection service from the transmission service provider that serves the CEP's Facility, whether a third-party transmission service provider or the Company transmission service provider. If the Facility is not located within the Company's transmission system, it is the responsibility of the CEP to request and secure the required third-party transmission service(s) required to deliver Contracted Capacity and Associated Energy to the Company's transmission system. It is the responsibility of the CEP to: (i) satisfy the third-party transmission provider's, or the Company's, OATT requirements and/or all non-FERC jurisdictional interconnection and/or transmission service agreements required by the CEP to deliver Contracted Capacity and Associated Energy to the Company, as applicable; (ii) arrange and pay to interconnect the Facility to the third-party transmission service provider; (iii) become and continue to be an eligible customer under the third-party transmission provider's OATT, or the Company's OATT, as applicable, during the Term; and (iv) request and purchase all required firm Third-Party Transmission Services and interconnection service, if applicable, in a timely manner to satisfy the provisions of this Contract.

If the Facility is located within the Company's transmission system, it is the responsibility of the Company to request and secure the network transmission service required to deliver Contracted Capacity and Associated Energy from the Delivery Point to the Company's native load customers. It is the responsibility of the Company to request and secure network transmission service in a timely manner to satisfy the provisions of this Contract.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: July 29, 2008



**SIXTEENTH REVISED SHEET NO. 8.215
CANCELS FIFTEENTH REVISED SHEET NO. 8.215**

Continued from Sheet No. 8.214

7. **Extension of Facility In-Service Date:** The CEP may request and the Company may grant, at its sole discretion, an Extended Facility In-Service Date provided, however, that the CEP shall be subject to the applicable provisions of the Completion Security subsection of the Security Guarantees section of this Contract. If the Facility In-Service Date is delayed and an Extended Facility In-Service Date has not been granted, or the Extended Facility In-Service Date is not satisfied, the CEP shall be subject to the applicable provisions of the Completion Security subsection of the Security Guarantees section of this Contract, which may be requested by the CEP and may be granted by the Company, at its sole discretion.
8. **Billing Methodology:** The billing methodology applicable to the Company's purchase, and the CEP's sale, of Contract Capacity and Associated Energy pursuant to this Contract shall be: (i) () Net Billing Arrangement; or (ii) () Simultaneous Purchase and Sale Arrangement, such purchases being arranged from the interconnecting utility and sales being made to the Company. Once made, the selection of a billing methodology may only be changed in accordance with FPSC Rule 25-17.082, F.A.C., and shall be in accordance with the following provisions:
- a. upon at least 30 days advance written notice to the Company; and
 - b. upon installation by the Company of any additional metering equipment reasonably required to effect the change in billing methodology; and
 - c. upon payment by the CEP for such metering equipment and its installation; and
 - d. upon the Company's approval and completion of any alterations to the Interconnection Point that are reasonably required to effect the change in billing methodology and upon payment by the CEP for such alterations.

The Parties agree that the CEP's obligation to generate and sell Contracted Capacity and Associated Energy from the Facility is subject to both scheduled and unscheduled outages of the Facility and the transmission service(s) required to effect delivery of same to the Delivery Point. Neither Party shall be required to compensate the other Party for Contracted Capacity and Associated Energy which from time to time may not be generated and sold by the CEP, or received and purchased by the Company, as a result of such scheduled and unscheduled outages. The Parties agree to use best efforts to minimize the duration of any scheduled or unscheduled outages which from time to time may interrupt the purchase and sale of Contracted Capacity and Associated Energy under this Contract.

Continued to Sheet No. 8.216

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: June 30, 2009



SECOND REVISED SHEET NO. 8.216
CANCELS FIRST REVISED SHEET NO. 8.216

Continued from Sheet No. 8.215

9. **Payment:**

a. **Associated Energy Payment:** The Company agrees to pay the CEP for Associate Energy delivered to the Company at the Delivery Point in accordance with the energy payment options, rates, and procedures contained in Rate Schedule COG-2 attached hereto as Appendix II.

i. **Standard Energy Payments:** Associated Energy payments made prior to _____, shall be based on the Company's actual avoided energy costs as defined in Appendix B of Rate Schedule COG-2.

Beginning _____, to the extent that the Designated Avoided Unit would have been operated had it been installed by the Company, the CEP's Associated Energy payments will be based on the Company's Designated Avoided Unit's energy costs as calculated in Appendix - ___ of Rate Schedule COG-2, otherwise the CEP's Associated Energy payment will be based on the Company's actual avoided energy costs. The determination of which energy cost shall be applied will be made hourly.

ii. **Fixed Energy Payments:** The CEP does ___ does not ___ request fixed Associated Energy payments as follows:

___ Yes ___ No, as to Associated Energy payments made prior to _____, which, if requested, shall be based on the Company's year-by-year projection of system incremental fuel costs prior to hourly economy energy sales to other utilities, based on normal weather and fuel market conditions, plus a fuel market volatility risk premium mutually agreed to by Tampa Electric and the CEP, which projected system incremental fuel costs will be provided by the Company within 30 days of the date of request by the CEP. The CEP and Tampa agree to the following fuel market volatility risk premium(s): _____.

___ Yes ___ No, as to Associated Energy payments, calculated as follows: Subsequent to the determination of full avoided cost and subject to the provisions of paragraphs 25-17.0823(3)(a) through (d) F.A.C., a portion of the base energy costs associated with the avoided unit, mutually agreed upon by the Company and the CEP, shall be fixed and amortized on a present value basis over this Contract commencing, at the election of the CEP, as early as the in-service date of the CEP's Facility. "Base energy costs associated with the avoided unit" means the energy costs

Continued to Sheet No. 8.218

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: June 30, 2009



ORIGINAL SHEET NO. 8.218

of the avoided unit to the extent that the Designated Avoided Unit would have been operated.

The stream of Fixed Energy Payments to the CEP, calculated as stated above, will be provided by the Company within 30 days of the date of request by the CEP.

b. Contracted Capacity Payment:

- i. **Dispatch Requirements:** In order to receive a Contracted Capacity Payment for each calendar month that the Facility is to be dispatched, the CEP must meet or exceed both the minimum Monthly Availability and Monthly Capacity Factor requirements.
- ii. **Commencement of Contracted Capacity Payments:** The CEP elects to receive, and the Company agrees to commence calculating, Contracted Capacity payments in accordance with this Contract starting with the first Monthly Period following _____.
- iii. **Contracted Capacity Payment Options:** The following five (5) options are available to the CEP for payment of Contracted Capacity delivered by the CEP:
 1. Value of Deferral Capacity Payments;
 2. Early Capacity Payments;
 3. Levelized Capacity Payments;
 4. Early Levelized Capacity Payments; or
 5. Other Contracted Capacity Payment Option agreed upon by the Parties that best satisfies the financing requirements of the Facility. Such Other Contracted Capacity Payment Option is described as follows:

The CEP elects to receive Contracted Capacity payments pursuant to option _____ above.

The CEP _____ does _____ does not elect to have Early Capacity Payments consisting of the capital component of the Company's Designated Avoided Unit commence on _____ (a date any time after the actual Facility In-Service date and before the anticipated in-service date of the Company's Designated Avoided Unit).

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



FIRST REVISED SHEET NO. 8.222
CANCELS ORIGINAL SHEET NO. 8.222

Regardless of the Contracted Capacity Payment Option elected by the CEP, the cumulative present value of payments for the Contracted Capacity made to the CEP over the Term shall not exceed the cumulative present value of payments for the Contracted Capacity which would have been made to the CEP had such payments been made pursuant to subparagraph 25-17.0832(4)(g)1., F.A.C. All fixed operation and maintenance expense shall be calculated in conformance with subsection 25-17.0832(6), F.A.C.

At the end of each Monthly Period, beginning with the Monthly Period specified in Section 9.b.ii, the Company will calculate the CEP's Monthly Availability and Capacity Factor. During the Term, if the CEP's Monthly Availability and Capacity Factor equals or exceeds the Minimum Performance Standards (MPS) as set forth for in Rate Schedule COG-2, Appendix __, then the Company agrees to pay the CEP a Monthly Capacity Payment as calculated in paragraph 5 of the section entitled Basis for Monthly Capacity Payment Calculation in Appendix __ of Rate Schedule COG-2.

The Contracted Capacity payment for a given month during the Term will be added to the Associated Energy payment for such month and tendered by the Company to the CEP as a single payment as promptly as possible, normally by the 20th business day following the day the meter is read or the amount of Associated Energy delivered via the third-party transmission service provider is confirmed by the Company.

10. **Other Contracted Capacity Payment Security Guarantees:** If the CEP selects Option 5 under the Contracted Capacity Payment Options, the following security guarantees _____ will _____ be _____ required:
11. **Construction and Performance Security Guarantees:** The Company requires certain security guarantees to ensure the completion of construction and performance under this Contract in order to protect its ratepayers in the event the CEP fails to deliver Contracted Capacity and Associated Energy in the amount and times specified in this Contract, which shall be in form and substance as described herein. Such security may be refunded in the manner described in Sections 11.a. and 11.b. Pursuant to FPSC Rule 25-17.091, F.A.C., a utility may not require security guarantees from a Municipal Solid Waste Facility as required in FPSC Rule 25-17.0832(2)(d) and (3)(f)(1), F.A.C. However, at its option, a Municipal Solid Waste Facility may provide such risk-related guarantees.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: July 29, 2008



**SECOND REVISED SHEET NO. 8.224
CANCELS FIRST REVISED SHEET NO. 8.224**

Continued from Sheet No. 8.222

- a. **Completion Security:** If the CEP or its guarantor, if any, does not qualify for unsecured credit in Company's reasonable sole discretion, the CEP shall pay to the Company a security deposit equal to \$30.00 per kilowatt (\$30.00/kW) of Contracted Capacity as security for the CEP's completion of the Facility by the Facility In-Service Date. Such security will be required within sixty (60) days of execution of this Contract. Such security shall be in the form of cash deposited in an interest bearing escrow account mutually acceptable to the Company and the CEP; an unconditional and irrevocable direct pay letter of credit in form and substance satisfactory to the Company; or a performance bond in form and substance satisfactory to the Company. The form of security required will be in the sole discretion of the Company and will be in such form as to allow the Company immediate access to the funds in the event that the CEP fails to complete the construction and achieve commercial in-service status by the Facility In-Service Date.

If the Facility In-Service Date is achieved, then the entire deposit and any interest therein, if applicable, shall be refunded to the CEP upon payment by the CEP of the Performance Security as required in Section 11.b.

If the Facility In-Service Date is delayed, the Company may, upon the request of the CEP, at its sole discretion, agree to an Extended Facility In-Service Date, in which case the Company shall be entitled to retain or draw down on an amount equal to twenty percent (20%) of the original deposit amount for each month (or portion thereof) that the Facility In-Service Date is delayed. If the Facility In-Service Date is delayed and an Extended Facility In-Service Date has not been granted or the Extended Facility In-Service Date is not satisfied or delayed beyond the Extended Facility In-Service Date, the Company shall retain all of the deposit and terminate this Contract.

Notwithstanding the foregoing if the CEP does not satisfy the Construction Commencement Date or the Facility In-Service Date as defined in COG-2 in accordance with the terms and conditions of this Contract, this Contract shall be rendered of no force and effect, except for those provisions of this Agreement that provide the Company rights and remedies as against CEP because of its failure to meet the Construction Commencement Date or the Facility In-Service Date.

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ISSUED BY: C. R. Black, President

DATE EFFECTIVE: June 30, 2009



FIRST REVISED SHEET NO. 8.226
CANCELS ORIGINAL SHEET NO. 8.226

b. **Performance Security:** Within 60 days after the later of the Facility In-Service Date or the in-service date of the Designated Avoided Unit, the CEP shall pay the Company a deposit in the amount of \$30.00/kW of Contracted Capacity as security for the CEP's performance under this Contract. Such security deposit shall be provided in the same manner as the Completion Security deposit as described in Section 11.a. Such Performance Security shall be retained by the Company for 12 months from the later of the Facility In-Service Date or the in-service date of the Designated Avoided Unit.

If, at the end of the 12-month period so described, the Facility's 12-month average of each month's numerical value for both the monthly Availability Factor and the Monthly Capacity Factor meet the Minimum Performance Standards (MPS) for as set forth in Rate Schedule COG-2, Appendix __, then the CEP shall be entitled to a refund of such deposit. However, if at the end of the first 12-month period, the Facility's 12-month average of each month's numerical value for both the Monthly Availability Factor and the Monthly Capacity Factor fail to meet the MPS, then the Company shall be entitled to retain or draw down 50% of such deposit and retain the remainder of the security for an additional 12-month period.

If, at the end of the 24th month, the Facility's 12-month average of each month's numerical value for both the Monthly Availability Factor and the Monthly Capacity Factor again fail to achieve the MPS, for the most recent 12-month period, then the Company shall be entitled to retain the remainder of the security and to terminate this Contract. However, if at the end of the 24th month, the Facility's 12-month average of each month's numerical value for both the Monthly Availability Factor and the Monthly Capacity Factor meet the MPS, for the most recent 12-month period, then the CEP shall be entitled to a refund of the remaining deposit.

For the purpose of this calculation, the 12-month average of a parameter shall be defined to equal the sum of each month's average numerical value for that parameter, for the most recent 12-month period, divided by 12.

12. **Liquidated Damages:** The Parties hereto agree that the Company would be substantially damaged in amounts that would be difficult or impossible to ascertain in the event that the CEP fails to satisfy the Facility In-Service Date or to provide a Facility which meets the MPS. In the event that the Company terminates this Contract for the CEP's failure to achieve the Facility In-Service Date or achieve the MPS once in service, the Company may retain all of the Completion or Performance Security as liquidated damages, not as penalty, in lieu of actual damages and the CEP hereby waives any defenses as to the validity of any such liquidated damages. In the event the

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: July 29, 2008



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CANCELS ORIGINAL SHEET NO. 8.228

CEP defaults, it forfeits the aforesaid Completion or Performance Security. In addition thereto, the Company shall be entitled to pursue such equitable remedies against the CEP as may be available.

13. **Production and Maintenance Schedule:** During the Term, the CEP agrees to the following:
- a. The CEP shall provide the Company in writing prior to April 1st of each calendar year an estimate of the amount of electricity to be generated by the CEP and delivered to the Company for each month of the following calendar year, including the time, duration and magnitude of any planned outages of the Facility or reductions to the amount of Contracted Capacity that the CPE can make available at the Delivery Point.
 - b. By July 1st of each calendar year, the Company shall notify the CEP in writing whether the requested scheduled maintenance period(s) for the Facility are acceptable. If the Company cannot accept any of the requested period(s), the Company shall advise the CEP of the time period closest to the requested period(s) when the outage(s) can be scheduled. The CEP shall only schedule outages during periods approved by the Company and such approval shall not be unreasonably withheld. Once the schedule has been established and approved, either Party requesting a subsequent change in such schedule, except when such event is due to Force Majeure, must obtain approval for such change from the other Party. Such approval shall not be unreasonably withheld or delayed.
 - c. During the Term, the CEP shall employ qualified personnel for managing, operating and maintaining the Facility and for coordinating such with the Company. The CEP shall ensure that operating personnel are on duty at all times, twenty-four (24) clock hours per calendar day and seven (7) calendar days per week. Additionally, during the Term, the CEP shall operate and maintain the Facility in such a manner as to ensure compliance with its obligations hereunder.
 - d. The Company shall not be obligated to purchase and may require curtailed or reduced deliveries of Associated Energy, to the extent necessary to maintain the reliability and integrity of any part of the Company's system, or if the Company determines that a failure to do so is likely to endanger life or property, or is likely to result in significant disruption of electric service to the Company's Customers. The Company shall give the CEP prior notice, if practicable, of its intent to refuse, curtail or reduce the Company's acceptance of Associated Energy pursuant to this subsection and will act to minimize the frequency and duration of such occurrences.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: July 29, 2008



FIRST REVISED SHEET NO. 8.232
CANCELS ORIGINAL SHEET NO. 8.232

- e. The Company shall not be required to accept or purchase Associated Energy during any period in which, due to operational circumstances, acceptance or purchase of such Associated Energy would result in the Company's incurring costs greater than those which it would incur by generating an equal additional amount of energy with its own resources. The Company shall give the CEP as much prior notice as practicable of its intent not to accept Associated Energy pursuant to this subsection.
 - f. The CEP shall promptly update the yearly generation schedule and maintenance schedule of the Facility as soon as any change to such schedules are determined to be necessary;
 - g. The CEP shall comply with reasonable requirements of the Company regarding day-to-day or hour-by-hour communications between the Parties relative to the performance of this Contract.
14. **Dispatch Procedure:** Commencing on the calendar day prior to the Facility In-Service Date or the Extended Facility In-Service Date, as applicable, and continuing each calendar day thereafter during the Term, by 7:00 A.M. EPT, the CEP shall electronically transmit the hour-by-hour amounts of Contracted Capacity expected to be available from the Facility the next day ("Available Schedule"). Commencing on the calendar day prior to the Facility In-Service Date or the Extended Facility In-Service Date, as applicable, and continuing each calendar day thereafter during the Term, by 3:00 P.M. EPT, the Company shall electronically transmit the hour-by-hour amounts of Contracted Capacity that the Company desires the CEP to dispatch from the Facility the next day based on the Available Schedule supplied at 7:00 A.M. EPT by the CEP ("Dispatch Schedule"). The CEP's Available Schedule and the Company's Dispatch Schedule for Fridays will include Saturday, Sunday, and Monday schedules. The CEP's Available Schedule and the Company's Dispatch Schedule during holiday periods will be similarly adjusted to include the holiday period. The CEP shall control and operate the Facility in accordance with the Company's Dispatch Schedule.

From time to time, the Company may be required to adjust the Dispatch Schedule, as described in the definition of Non-Dispatched Capacity, and/or the CEP may be required to adjust the Dispatch Schedule due to an unscheduled or forced outage of all, or a portion of, the Facility; however, each Party shall make reasonable efforts to minimize departures from the Dispatch Schedule.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: July 29, 2008



FIRST REVISED SHEET NO. 8.234
CANCELS ORIGINAL SHEET NO. 8.234

15. **Additional Criteria:** The CEP shall comply with the reasonable requests of the Company regarding daily or hourly communications. Commencing on the calendar day prior to the Facility In-Service Date or the Extended Facility In-Service Date, as applicable, and continuing during the Term:
- a. The CEP shall provide monthly generation estimates for the Facility by December 1 for the next calendar year; and
 - b. The CEP shall promptly update its yearly generation schedule for the Facility when any changes are determined necessary; and
 - c. The CEP shall agree to reduce generation from the Facility or take other appropriate action as requested by the Company for safety reasons or to preserve system integrity; and
 - d. The CEP shall coordinate scheduled outages of the Facility with the Company.
16. **Automatic Generation Control:** At the Company's discretion, the CEP will operate the Facility with Automatic Generation Control (AGC) equipment, speed governors, and voltage regulators in-service, except at such times when operational constraints of the equipment prevent AGC operation.
17. **CEP's Obligation if the CEP Receives Payments Pursuant to Contracted Capacity Payment Options 2, 3, 4, or 5:** The Parties recognize that Rule 25-17.0832, F. A. C., may require the repayment by the CEP of all, or a portion of any, Capacity Payments made to the CEP pursuant to Contracted Capacity Payment Options 2, 3, 4, or 5 of Section 9.b.iii if the CEP fails to perform pursuant to the terms and conditions of this Contract. To ensure that the CEP will satisfy its obligation to make any such repayments, the following provisions will apply:
- The Company shall establish a Repayment Account to accrue the sum of the capacity payments that may have to be repaid by the CEP to the Company. Amounts shall be added to the Repayment Account each month through _____, in the amount of the Company's payments to the CEP for capacity delivered prior to _____. Beginning on _____, the difference between the

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: July 29, 2008



~~SEVENTH-EIGHTH~~ REVISED SHEET NO. 8.236
CANCELS ~~SIXTH-SEVENTH~~ REVISED SHEET NO. 8.236

Continued from Sheet No. 8.234

Contracted Capacity payment made to the CEP and the "normal" Contracted Capacity payment calculated pursuant to Contracted Capacity payment option 1 (Value of Deferral Payments) in COG-2 will also be added each month to the Repayment Account, so long as the payment made to the CEP is greater than the monthly payment the CEP would have received if it had selected Contracted Capacity Payment Option 1 in Section 6.b.iii. The annual balance in the Repayment Account shall accrue interest at an annual rate of ~~7.042%~~6.703%

Also beginning on _____, at such time that the Monthly Contracted Capacity Payment made to the CEP, pursuant to the Contracted Capacity Payment Option selected, is less than the "normal" Monthly Contracted Capacity Payment in Capacity Payment Option 1 in COG-2, there shall be debited from the Repayment Account an Early Payment Offset Amount to reduce the balance in the Repayment Account. Such Early Payment Offset Amount shall be equal to the amount which the Company would have paid for capacity in that month if Contracted Capacity payments had been calculated pursuant to Contracted Capacity Payment Option 1 in COG-2 and the CEP had elected to begin receiving Contracted Capacity payments on _____, minus the Monthly Contracted Capacity Payment the Company makes to the CEP (assuming the MPS are met or exceeded), pursuant to the Contracted Capacity Payment Option chosen by the CEP in Section 6.b.ii.

The CEP shall owe the Company and be liable for the current balance in the Repayment Account. The Company agrees to notify the CEP monthly as to the current Repayment Account balance.

In the event of default by the CEP, the total Repayment Account balance shall become due and payable within twenty (20) business days of receipt of written notice, as reimbursement for the Early Contracted Capacity Payments made to the CEP by the Company. The CEP's obligation to reimburse the Company in the amount of the balance in the Repayment Account shall survive the termination of the CEP's Contract with the Company. Such reimbursement shall not be construed to constitute liquidated damages and shall in no way limit the right of the Company to pursue all its remedies at law or in equity against the CEP.

Continued to Sheet No. 8.238

ISSUED BY: N. G. Tower, President

DATE EFFECTIVE: ~~May 14, 2019~~



SECOND REVISED SHEET NO. 8.238
CANCELS FIRST REVISED SHEET NO. 8.238

Prior to receipt of Contracted Capacity Payments pursuant to Contracted Capacity Payment Options 2, 3, 4, or 5, the CEP shall secure its obligation to repay any balance in the Repayment Account in the event the CEP defaults pursuant to this Contract. Such security shall be in the form of cash deposited in an interest bearing escrow account mutually acceptable to the Company and the CEP; an unconditional and irrevocable direct pay letter of credit in form and substance satisfactory to the Company; or a performance bond in form and substance satisfactory to the Company. The form of security required will be in the sole discretion of the Company and will be in such form as to allow the Company immediate access to the funds in the event of default by the CEP. Florida Statute 377.709(4) requires the local government to refund Early Contracted Capacity Payments should a Municipal Solid Waste Facility owned, operated by or on the behalf of a local government be abandoned, closed down or rendered illegal. Therefore a utility may not require risk-related guarantees from a Municipal Solid Waste Facility as required in FPSC Rule 25-17.0832(2)(c) and (3)(e)(8), F.A.C. However, at its option, a Municipal Solid Waste Facility may provide such risk-related guarantees.

18. **Ownership and Offering For Sale of Renewable Energy Attributes:** A CEP that owns and/or operates a Renewable Generating Facility retains any and all rights to own and sell any and all environmental attributes associated with the electrical generation of such Renewable Generating Facility, including but not limited to any and all renewable energy certificates, "green tags", or other tradeable environmental interests (collectively "RECs"), of any description. In the event that the CEP decides to sell any such environmental attributes during the term of this Contract, the CEP shall provide notice to the Company of its intent to sell such environmental attributes and provide the Company a reasonable opportunity to offer to purchase such environmental attributes.
19. **Changes in Environmental and Governmental Regulations:** This Contract may be re-opened, at the election of either Party, as a result of new environmental and other regulatory requirements enacted during the Term that affect the Company's full avoided costs of the unit on which this Contract is based.
20. **Non-Performance Provisions:** The CEP shall not receive a Contracted Capacity payment during any month during the Term in which the CEP fails to meet the MPS for Monthly Availability and Monthly Capacity Factor of the Company's Designated Avoided Unit as defined in Rate Schedule COG-2, Appendix _____. In addition, if for any month starting _____, the CEP fails to achieve the MPS, and the Monthly Contracted Capacity Payment that would have been made to the CEP pursuant

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: August 7, 2009



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to the Contracted Capacity payment option selected is less than the "normal" Monthly Contracted Capacity Payment had the CEP selected Option 1, then the CEP shall be liable for and shall pay the Company an amount equal to the Early Payment Offset Amount for the month; provided, however, that such calculation shall assume that the CEP satisfied the MPS. Any payments thus required of the CEP shall be separately invoiced by the Company to Energy Provider after each month for which such payment is due and shall be paid by the CEP within twenty (20) business days after receipt of such invoice by the CEP. Such payment shall be debited from the Capacity Account as an Early Payment Offset Amount provided that any such payment will not exceed the current balance in the Capacity Account.

21. **Default:**

a. **Mandatory Default:** The CEP shall be in default under this Contract if it:

- i. is dissolved (other than pursuant to a consolidation, amalgamation or merger); or
- ii. becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; or
- iii. makes a general assignment, arrangement or composition with or for the benefit of its creditors; or
- iv. institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (a) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (b) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; or
- v. seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; or

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ISSUED BY: C. R. Black, President

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- vi. has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; or
 - vii. fails to perform in accordance with Section 11.b.
 - viii. fails to maintain its status as a Renewable Energy Facility or small Qualifying Facility as required herein; or
 - ix. fails to achieve, on both accounts, a minimum Monthly Availability Factor of fifty percent (50%) and fails to achieve a minimum Monthly Capacity Factor of fifty percent, during the same month, for twelve (12) consecutive months starting .
- b. **Optional Default:** The Company may declare the CEP to be in default if:
- i. at any time prior to _____, and after Monthly Contracted Capacity Payments have begun, the Company has sufficient reason to believe that the CEP is unable to deliver the entire amount of Contracted Capacity; or
 - ii. after Monthly Capacity Payments have begun, the CEP fails each month, for twenty-four (24) consecutive months, to meet the MPS; or
 - iii. the CEP refuses, is unable or anticipatorily breaches its obligation to deliver the entire amount of Contracted Capacity after _____.
- c. **Default Remedy:** In the event of default by the CEP, the total Repayment Account balance shall become due and payable within 20 business days of receipt of written notice, as reimbursement for the Early Capacity Payments made to the CEP by the Company. The CEP's obligation to reimburse the Company in the amount of the balance in the Repayment Account shall survive the termination of this Contract. Such reimbursement shall not be construed to constitute liquidated damages and shall in no way limit the right of the Company to pursue all its remedies at law or in equity against the CEP.

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ISSUED BY: C. R. Black, President

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22. **General Provisions:**

- a. **Permits:** The CEP hereby agrees to seek to obtain any and all governmental permits, certifications, or other authority the CEP is required to obtain as a prerequisite to engaging in the activities provided for in this Contract. The Company hereby agrees to seek to obtain, at the CEP's expense, any and all governmental permits, certifications or other authority the Company is required to obtain as a prerequisite to engaging in the activities described in this Contract
- b. **Indemnification:** The Company and the CEP shall each be responsible for its own facilities in ensuring adequate safeguards for other Company customers, the Company and Energy Provider personnel and equipment, and for the protection of its own generating system. The Company and the CEP shall each indemnify and save the other harmless from any and all claims, demands, costs, or expense for loss, damage, or injury to persons or property of the other caused by, arising out of, or resulting from:
 - i. any act or omission by a Party or that Party's contractors, agents, servants and employees in connection with the installation or operation of that Party's generation system or the operation thereof in connection with the other Party's system; and
 - ii. any defect in, failure of, or fault related to a Party's generation system; and
 - iii. the negligence of a Party or negligence of that Party's contractors, agents servants and employees; and
 - iv. any other event or act that is the result of, or proximately caused by a Party.
- c. **Insurance:** The CEP shall deliver to the Company, at least fifteen (15) days prior to the start of any interconnection work, a certificate of insurance certifying the CEP's coverage under a liability insurance policy issued by a reputable insurance company authorized to do business in the State of Florida naming the CEP as named insured, and the Company as an additional named insured, which policy shall contain a broad form contractual endorsement specifically covering the liabilities accepted under this Contract arising out of the interconnection to the Facility, or caused by operation of any of the Facility's equipment or by the CEP's failure to maintain its equipment in satisfactory and safe operating condition.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: July 29, 2008



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- i. In subsequent years, a certificate of insurance renewal must be provided annually to the Company indicating the CEP's continued coverage as described herein. Renewal certification shall be sent to:

Tampa Electric Company
c/o Director of Risk Management
Tampa Electric Company
702 North Franklin Street (33602)
P. O. Box 111
Tampa, FL 33601
 - ii. The policy providing such coverage shall provide public liability insurance, including coverage for personal injury, death and property damage, in an amount not less than \$1,000,000 for each occurrence; provided however, if the CEP has insurance with limits greater than the minimum limits required herein, the CEP shall set any amount higher than the minimum limits required by the Company to satisfy the insurance requirements of this Contract.
 - iii. The above required policy shall be endorsed with a provision whereby the insurance company to notify the Company thirty (30) days prior to the effective date of any cancellation or material change in said policy.
 - iv. The CEP shall pay all premiums and other charges due on said policy and keep said policy in force during the entire period of interconnection with the Company or the Term if the Facility is not interconnected to the Company's transmission system.
- d. **Force Majeure:** If either Party shall be unable, by reason of Force Majeure, to carry out its obligations under this Contract, either wholly or in part, the Party so failing shall give written notice and full particulars of such cause or causes to the other Party as soon as possible after the occurrence of any such cause; and such obligations shall be suspended during the continuance of such hindrance, which, however, shall be remedied with all possible dispatch; and the obligations, terms and conditions of this Contract shall be extended for such period as may be necessary for the purpose of making good any suspension so caused. The term "Force Majeure" shall be taken to mean all acts of God, strikes, lockouts or other industrial disturbances at the manufacturing site of the major equipment components or the construction site, wars, blockades, insurrections, riots, arrests and restraints of rules

ISSUED BY: C. R. Black, President

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and people, explosions, fires, floods, lightning, wind, perils of the sea, accidents to equipment or machinery or similar occurrences; provided, however that no occurrence may be claimed to be a Force Majeure occurrence if it is caused by the negligence or lack of due diligence on the part of the Party attempting to make such claim and specifically does not include interruption in fuel supply. The CEP agrees to pay the costs necessary to reactivate the Facility and/or the interconnection with the Company's system if the same are rendered inoperable due to actions of the CEP, its agents, or Force Majeure events affecting the Facility or the interconnection with the Company.

If the Facility is interconnected to the Company's transmission system, the Company agrees to reactivate at its own cost the interconnection with the Facility in circumstances where any interruptions to such interconnections are caused by the Company or its agents.

e. Representations, Warranties, and Covenants of the CEP

The CEP represents and warrants that as of the date this Contract is executed:

- i. **Organization, Standing and Qualification:** The CEP is a (corporation, partnership, or other, as applicable) duly organized and validly existing in good standing under the laws of and has all necessary power and authority to carry on its business as presently conducted, to own or hold under lease its properties and to enter into and perform its obligations under this Contract and all other related documents and agreements to which it is or shall be a Party. The CEP is duly qualified or licensed to do business in the State of Florida and in all other jurisdictions wherein the nature of its business and operations or the character of the properties owned or leased by it makes such qualification or licensing necessary and where the failure to be so qualified or licensed would impair its ability to perform its obligations under this Contract or would result in a material liability to or would have a material adverse effect on the Company.
- ii. **Due Authorization, No Approvals, No Defaults, etc.:** Each of the execution, delivery and performance by the CEP of this Contract has been duly authorized by all necessary action on the part of the CEP, does not require any approval, except as has been heretofore obtained, of the (shareholders, partners, or others, as applicable) of the CEP or any consent of or approval from any trustee, lessor or holder of any indebtedness or other obligation of the CEP, except for such as have been duly obtained, and does not contravene or constitute a default under any law, the (articles of incorporation, bylaws, or other as applicable) of the CEP, or any agreement,

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judgment, injunction, order, decree or other instrument binding upon the CEP, or subject the Facility or any component part thereof to any lien other than as contemplated or permitted by this Contract.

- iii. **Compliance with Laws:** The CEP has knowledge of all laws and business practices that must be followed in performing its obligations under this Contract. The CEP is in compliance with all laws, except to the extent that failure to comply therewith would not, in the aggregate, have a material adverse effect on the CEP or the Company. By entering into this Contract, the CEP represents and warrants that Facility is a renewable facility pursuant to Rule 25-17.210(1) and(2) F.A.C. or a QF with a design capacity of 100 kW, or less, pursuant to Rule 17.080 F.A.C. and confirms such representation and warranty with the signature of the CEP's authorized representative on this Contract.
- iv. **Governmental Approvals:** Except as expressly contemplated herein, neither the execution and delivery by the CEP of this Contract, nor the consummation by the CEP of any of the transactions contemplated thereby, requires the consent or approval of, the giving of notice to, the registration with, the recording or filing of any document with, or the taking of any other action in respect of governmental authority, except in respect of permits (a) which have already been obtained and are in full force and effect or (b) are not yet required (and with respect to which the CEP has no reason to believe that the same will not be readily obtainable in the ordinary course of business upon due application therefore).
- v. **No Proceedings:** There are no actions, suits, proceedings or investigations pending or, to the knowledge of the CEP, threatened against it at law or in equity before any court or tribunal of the United States or any other jurisdiction which individually or in the aggregate could result in any materially adverse effect on the CEP's business, properties, or assets or its condition, financial or otherwise, or in any impairment of its ability to perform its obligations under this Contract. The CEP has no knowledge of a violation or default with respect to any law which could result in any such materially adverse effect or impairment. CEP is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt;
- f. **Conditions Precedent:** Notwithstanding any other provisions of this Contract including the provisions of Section 20.b, the Company shall have the right to terminate this Contract by notice to the CEP, without cause, liability or obligation, if

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ISSUED BY: C. R. Black, President

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one or more of the following conditions, after reasonable effort by the CEP, shall not have been or cannot be satisfied in the Company's good faith judgment, and in the time periods described below. The Company in its sole discretion may extend the CEP's time for satisfying these conditions if one or more of the events described below is pending as of such date and it is reasonable to expect that such event will be accomplished within sixty (60) days:

- i. The CEP satisfies the Construction Commencement Date;
- ii. If the Facility is a small Qualifying Facility, on or before the Facility In-Service Date: The CEP secures certification of the Facility as a Qualifying Facility as defined herein and as certified by the FERC.
- iii. If the Facility is a small Qualifying Facility, on or before the Facility In-Service Date, and at all times throughout the remaining Term, such Facility shall maintain its status as a Qualifying Facility as defined herein and as certified by the FERC. By the end of the first quarter of each calendar year, the CEP shall furnish the Company a notarized certificate by an officer of the CEP certifying that the Facility has continuously maintained qualifying status on a calendar year basis since the commencement of the Term.
- iv. Within 9 months after the effective date of this Contract: The CEP secures any and all land use and zoning approvals reasonably necessary to obtain construction financing and authorizes the commencement of construction of the Facility on a basis not substantially adverse to the Company;
- v. Within 9 months after the effective date of this Contract: The CEP has secured all other environmental and construction permits and other governmental approvals reasonably necessary to obtain construction financing and to begin construction of the Facility on a basis not substantially adverse to the Company;
- vi. Within 9 months after the effective date of this Contract: The CEP achieves closing of financing for construction of the Facility;
- vii. On or before _____, the CEP provides to the Company written evidence of the rights to adequate fuel supply for the Facility in a form satisfactory to the Company;

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



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- viii. Within 9 months after the effective date of this Contract: The CEP provides evidence in writing in a form satisfactory to the Company indicating and substantiating the ownership of or the right to use the real property at the specific site upon which the Facility will be located; and
- ix. Within 9 months after the effective date of this Contract: The CEP provides sufficient information satisfactory to the Company describing the technical capability and experience of the Facility's technology, including the environmental performance of the Facility.
- g. **Assignment:** The Company and the CEP shall have the right to assign its benefits under this Contract, but the CEP shall not have the right to assign its obligations and duties without the Company's prior written consent and such consent shall not be unreasonably withheld.
- h. **Disclaimer:** In executing this Contract, the Company does not, nor should it be construed, to extend its credit or financial support for the benefit of any third parties lending money to or having other transactions with the CEP or any assignee of this Contract.
- i. **Notification:** For purposes of making any and all non-emergency oral and written notices, payments or the like required under the provisions of this Contract, the Parties designate the following to be notified or to whom payment shall be sent until such time as either Party furnishes the other Party written instructions changing such designate.
- | | |
|--------------|-----------------------------------|
| For: the CEP | For: the Company |
| _____ | c/o Manager-Wholesale Contracts, |
| _____ | Wholesale Marketing and Sales |
| _____ | Tampa Electric Company |
| _____ | 702 North Franklin Street (33602) |
| _____ | P.O. Box 111 |
| _____ | Tampa, Florida 33601 |
- j. **Governing Law and Jurisdiction:** This Contract shall be governed by and construed and enforced in accordance with the laws, rules, and regulations of the State of Florida and the Company's Tariff as may be modified, changed, or amended from time to time. With respect to any suit, action or proceedings relating to this Contract, each party irrevocably submits to the exclusive jurisdiction of the courts of the State of Florida and the United States District Court located in

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Hillsborough County in Tampa, Florida; and waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party. Nothing shall prevent the Beneficiary from enforcing any related judgment against the Guarantor in any other jurisdiction.

- **k. Waiver of jury trial:** Each party waives, to the fullest extent permitted by applicable law, any and all rights it may have to a trial by jury in respect of any suit, action or proceeding relating to this agreement or any credit support document. Each party (i) certifies that no representative, agent or attorney of the other party or any credit support provider has represented, expressly or otherwise, that such other party would not, in the event of such a suit, action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into this agreement and provide for any credit support document, as applicable, by, among other things, the mutual waivers and certifications in this section.

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- i. **Taxation:** In the event that the Company becomes liable for additional taxes, including interest and/or penalties arising from an Internal Revenue Services determination, through audit, ruling or other authority, that the Company's payments to the CEP for capacity under Options B, C, or D are not fully deductible when paid (additional tax liability), the Company may bill the CEP monthly for the costs, including carrying charges, interest and/or penalties, associated with the fact that all or a portion of these capacity payments are not currently deductible for federal and/or state income tax purposes. The Company, at its option, may offset these costs against amounts due the CEP hereunder. These costs would be calculated so as to place the Company in the same economic position in which it would have been if the entire capacity payments had been deductible in the period in which the payments were made. If the Company decides to appeal the Internal Revenue Service's determination, the decision as to whether the appeal should be made through the administrative or judicial process or both, and all subsequent decisions pertaining to the appeal (both substantive and procedural), shall rest exclusively with the Company.
- m. **Severability:** If any part of this Contract, for any reason, be declared invalid, or unenforceable by a court or public authority of appropriate jurisdiction, then such decision shall not affect the validity of the remainder of this Contract, which remainder shall remain in force and effect as if this Contract had been executed without the invalid or unenforceable portion.
- n. **Complete Contract and Amendments:** All previous communications or agreements between the Parties, whether verbal or written, with reference to the subject matter of this Contract are hereby abrogated. No amendment or modification to this Contract shall be binding unless it shall be set forth in writing and duly executed by both Parties to this Contract.
- o. **Incorporation of Rate Schedule:** The Parties agree that this Contract shall be subject to all of the provisions contained in the Company's published Rate Schedule COG-2 as approved and on file with the FPSC. The Rate Schedule is incorporated herein by reference.
- p. **Survival of Contract:** This Contract, as it may be amended from time to time, shall be binding and inure to the benefit of the Parties' respective successors-in-interest and legal representatives.

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ISSUED BY: C. R. Black, President

DATE EFFECTIVE: June 30, 2009



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- q. **Record Retention:** The CEP agrees to retain for a period of five (5) years from the date of termination hereof all records relating to the performance of its obligations hereunder, and to cause all CEP entities to retain for the same period all such records.
- r. **No Waiver:** No waiver of any of the terms and conditions of this Contract shall be effective unless in writing and signed by the Party against whom such waiver is sought to be enforced. Any waiver of the terms hereof shall be effective only in the specific instance and for the specific purpose given. The failure of a Party to insist, in any instance, on the strict performance of any of the terms and conditions hereof shall not be construed as a waiver of such Party's right in the future to insist on such strict performance.
- s. **Set-off:** The Company may at any time, but shall be under no obligation to, set off any and all sums due from the CEP against sums due to the CEP hereunder.
- t. **Assistance With the Company FIN 46R Compliance:** Accounting rules set forth in Financial Accounting Standards Board Interpretation No. 46 (Revised December 2003) ("FIN 46R"), as well as future amendments and interpretations of those rules, may require the Company to evaluate whether the CEP must be consolidated, as a variable interest entity (as defined in FIN 46R), in the financial statements of the Company. The CEP agrees to fully cooperate with the Company and make available to the Company all financial data and other information, as deemed necessary by the Company, to perform that evaluation on a timely basis at inception of the PPA and periodically as required by FIN 46R. If the result of a the evaluation under FIN 46R indicates that the CEP must be consolidated in the financial statements of the Company, the CEP agrees to provide financial statements, together with other required information, as determined by the Company, for inclusion in disclosures contained in the footnotes to the financial statements and in the Company's required filings with the Securities and Exchange Commission ("SEC"). The CEP shall provide this information to the Company in a timeframe consistent with the Company's earnings release and SEC filing schedules, to be determined at the Company's discretion. The CEP also agrees to fully cooperate with the Company and the Company's independent auditors in completing an assessment of the CEP's internal controls as required by the Sarbanes-Oxley Act of 2002 and in performing any audit procedures necessary for the independent auditors to issue their opinion on the consolidated financial statements of the Company. The Company will treat any information provided by the CEP in satisfying Section 22(s) as confidential information and shall only disclose such information to the extent required by accounting and SEC rules and any applicable laws.

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ISSUED BY: C. R. Black, President

DATE EFFECTIVE: June 30, 2009



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IN WITNESS WHEREOF, CEP and the Company have executed this Contract the day and year first above written.

WITNESSES:

Name of Capacity and Energy Provider

By: _____

Its: _____

WITNESSES:

Tampa Electric Company

By: _____

Its: _____

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



ORIGINAL SHEET NO. 8.266

**EVALUATION PROCEDURE
FOR STANDARD OFFER CONTRACTS**

Standard Offer Contracts shall be evaluated and then accepted based on meeting specific criteria. This Evaluation Procedure will insure the acceptance of Standard Offer Contracts that meet the Company's needs and are in the best interest of customers.

Each eligible Standard Offer Contract received by the Company will be evaluated as to its technical reliability, viability and financial stability, as well as other relevant information, in accordance with FPSC Rule 25-17.0832, F.A.C., and the Company's Procedure for Processing Standard Offer Contracts as defined in Rate Schedule COG-2.

Energy Providers submitting Standard Offer Contracts to the Company should, at the same time, submit specific information for each of the following evaluation criteria. Failure to provide this information may result in a determination of non-viability by the Company. Each eligible Standard Offer Contract received will be evaluated based upon the information provided in response to the following list of parameters:

EVALUATION PARAMETERS:

1. **Technical Viability:**
 - a. What is the technology being proposed?
 - b. Has the technology been demonstrated or commercially applied? Please explain.
 - c. Has the CEP previously utilized this technology elsewhere?
Construction: Please provide performance record and experience with project technology.
Operations: Please provide operator's experience and performance record in comparable facilities.
 - d. Has a project feasibility study been conducted by an Independent Engineer to assess the project technology and its potential effect on the project's financial results? Please explain.
 - e. What thermal efficiency must be maintained by the unit(s) in order to retain status as a qualifying facility ("QF")?
2. **Fuel Supply:**
 - a. What is the primary fuel type?
 - b. What are the annual fuel requirements? (primary/alternate)
 - c. Has primary fuel supply been secured? Is the fuel supply domestic, cross-border or foreign? What the term of the fuel supply agreement?
 - d. Is an alternate fuel required?

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



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- e. Has an alternate fuel supply been secured? Is the alternate fuel supply domestic, cross-border or foreign? What is the term of the alternate fuel supply agreement?
- f. Have transportation arrangements for both primary and alternate fuels been secured (firm/interruptible, provide detail)?
- g. Are the pricing terms of the fuel supply agreement(s) directly tied to the corresponding energy payments?
- h. If the fuel is considered to be renewable, please describe the renewable nature of the fuel and the environmental impact of its production and use to generate power.

3. **Reliability:**

- a. Dispatchability: Will the Facility be dispatched on request or will it be base-loaded? Please explain.
- b. QF Status: Has the project obtained FERC certification as a QF? Has application been made for FERC certification? Please explain.
- c. Operations and Maintenance: Who will provide O&M for the Facility: (a) developer; or (b) third party? If third party, please provide the name and address of the third party that will be used and any information that would describe their capability to perform this role.
- d. Thermal Energy Host: If project is QF, provide the following information regarding any thermal energy (e.g. steam) host associated with the project:
 - i. Please explain the importance of the energy, taken by the thermal energy host, to the overall operations of the thermal energy host.
 - ii. Are there adequate alternative candidates in close proximity to the Facility that could serve as a potential thermal energy host replacement?
 - iii. What is the minimum thermal energy "take" necessary for the project to maintain QF status?
 - iv. Has a thermal energy host been secured?
 - v. Is the thermal energy host already in existence?
 - vi. Is it a new thermal energy host? (Is it identifiable?)
 - vii. What are the thermal energy host's operating hours?
 - viii. Are the thermal energy host's business cycle or thermal requirements seasonal? If so explain.
- e. Permits: What permits or licenses will be required for the project? Have the necessary permits or licenses been secured? What specific environmental considerations must the project meet?
- f. Construction Schedule: Has a construction schedule including milestones been formulated? Please provide detail.

ISSUED BY: C. R. Black, President

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- g. Site Control: Has the project's location been identified? Has the site been secured? Does the site require specific environmental considerations, i.e. wetlands, etc.? Please explain.

4. **Developer's Qualifications:**

- a. Project's Financial Stability: The Company will assess the creditworthiness of the project developer and/or its guarantor, if any, and determine in the Company's reasonable sole discretion if the project developer's level of unsecured credit is sufficient to provide the required Security to the Company. Please provide detail for the project developer or its guarantor, if any: (a) audited year-end financial statements (including balance sheet, income statement, and statement of cash flows) for the past three fiscal years, and (b) senior unsecured bond ratings from Moody's Investors Service and Standard and Poor's, if applicable.
- b. Developer's Experience: Has developer any projects in operation? Has developer any other projects under construction? Please provide details for each previous Independent Power Production or QF projects undertaken by the developer, including but not limited to:
- i. Financial arrangements and Institutions,
 - ii. Fuel contracts,
 - iii. Scheduling/project control information,
 - iv. Regulatory treatment,
 - v. Ownership structure, i.e. partnership, limited partnership, contract buy-outs, etc., and
 - vi. Total operating experience and performance.
- c. Project Financing: Has project financing been secured? Will ownership equity in project be 15% or greater? Will the project be structured as a non-recourse financing project? Please provide detail.
- d. Working Capital: Has long-term working capital been secured? Are sufficient reserves available to fund 6 months of debt service? Are sufficient funds available to cover 6 months of O&M expenses? Does project have warranties for key operating equipment during the first year of operations? Please provide detail.

5. **Additional Information:** Please provide the following additional general information to assist the Company in evaluating your Standard Offer Contract

- a. Standard Offer Committed Capacity (MW):
- b. Size and type of generation:
- c. Any existing or planned capacity commitments or energy sales to other utilities, if so provide detail:

Continued to Sheet No. 8.282

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: June 30, 2009



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CANCELS ORIGINAL SHEET NO. 8.282

Continued from Sheet No. 8.278

- d. Will the project directly interconnect into the Company's transmission grid? Please explain:
- e. If the project is located external to the Company's retail service area, how will the power be delivered to the Company? Please explain:
- f. Will steam host use a portion of electric generation, if so provide detail:
- g. Please provide developer's ownership structure for this project:
- h. Developer's insurance carrier:
 - o Property damage insurance:
 - o Business interruption insurance:
 - o Rating of insurance carrier:
- i. Please provide estimates of the following:
 - o Expected annual metered electric output,
 - o Expected annual metered useful thermal output, in Btu/hr X operating hours/year,
 - o Expected annual metered fuel input, in Btu/hr X operating hours/year
- j. Other:

EVALUATION CRITERIA AND SCORING: The Company will accept a Standard Offer Contract on the basis of the information provided in response to the evaluation criteria and upon its judgment of other relevant factors. A Standard Offer Contract which has convincingly demonstrated that the project is financially and technically viable and that the committed capacity would be available by the date specified in the Standard Offer Contract will be accepted for further negotiations leading to a contract offer.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: June 30, 2009



ORIGINAL SHEET NO. 8.284

**STANDARD OFFER CONTRACT RATE FOR
PURCHASE OF CONTRACTED CAPACITY AND ASSOCIATED ENERGY**

SCHEDULE: COG-2, firm capacity and energy

AVAILABLE: Tampa Electric Company, herein after referred to as the "Company," will purchase firm capacity and energy offered by renewable generating facilities or qualifying facilities with a design capacity of 100 kW or less ("small qualifying facility") to which a Standard Offer Contract is available under Chapter 366.91 Florida Statutes (F.S) and Florida Public Service Commission (FPSC) Rules 25-17.080 through 25-17.300, Florida Administrative Code (F.A.C.). Unless specifically referred to, a renewable generation facility or a small qualifying facility may be referred to as the "Capacity and Energy Provider" or "CEP". The Company has designated the generating units identified in Appendices C through F, as its Designated Avoided Units. Pursuant to FPSC Rule 25-17.250(2), the Company will accept firm capacity and energy offered by any CEP under the provisions of this schedule for a specific Designated Avoided Unit until:

1. A request for proposals (RFP) pursuant to Rule 25-22.082, F.A.C., is issued for the specific planned generating unit; or
2. The utility files a petition for a need determination or commences construction for the specific generating unit not subject to Rule 25-22.082, F.A.C., or
3. The generating unit upon which the standard offer contract was based is no longer part of the utility's generation plan, as evidenced by FPSC approval of a petition to that effect filed with the FPSC or by its removal from the utility's most recent Ten Year Site Plan.

The Company will negotiate and may contract with any CEP as defined to in Chapter 366.91 F. S. and FPSC Rule 25-17.080, F.A.C., irrespective of its location, which is either directly or indirectly interconnected with the Company, for the purchase of firm capacity and energy pursuant to terms and conditions which deviate from this schedule where such negotiated contracts are in the best interest of the Company's ratepayers and subject to FPSC approval of such a contract.

APPLICABLE: To any CEP to which Standard Offer Contracts are available under Chapter 366.91 F. S. and FPSC Rule 25-17.0832(4)(a), F.A.C., irrespective of its location, producing capacity and energy for sale to the Company on a firm basis pursuant to the terms and conditions of this schedule and the Company's Standard Offer Contract or a separately negotiated contract.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



ORIGINAL SHEET NO. 8.286

Firm capacity and energy are described in FPSC Rule 25-17.0832, F.A.C., and are capacity and energy produced and sold by the CEP pursuant to a negotiated or Standard Offer Contract and subject to certain contractual provisions as to quantity, time and reliability of delivery. Criteria for achieving CEP status shall be those set out in Chapter 366.91 F.S. and FPSC Rules 25-17.080, 25-17.082(4)(a), and 25-17.091, F.A.C., as applicable.

CHARACTER OF SERVICE: Purchases within the territory served by the Company shall be, at the option of the Company, single or 3-phase, 60 Hertz, alternating current at any available standard Company voltage. Purchases from outside the territory served by the Company shall be three-phase, 60 Hertz, alternating current at the voltage level available at the interchange point between the Company and the entity delivering firm capacity and energy from the CEP.

LIMITATIONS: Purchases under this schedule are subject to the Company's "General Standards for Safety and Interconnection of Cogeneration and Small Power Production Facilities to the Electric Utility System (if applicable)," Federal Energy Regulatory Commission (FERC) Electric Open Access Transmission Tariff (OATT) and associated transmission interconnection tariffs (if applicable), North American Electric Reliability Council (NERC) and Florida Reliability Coordinating Council (FRCC) Reliability Standards, that are applicable to generation and transmission facilities which are connected to, or being planned to be connected to the Company's transmission system (document provided upon request) and to FPSC Rules 25-17.080 through 25-17.091, F.A.C. and are limited to those CEPs which are defined by FPSC Rule 25-17.082(4)(a), F.A.C. and which:

1. execute a Company Standard Offer Contract for the Company's purchase of firm capacity and energy; and
2. commit to commence deliveries of firm capacity and energy no later than the in-service date of the Designated Avoided Unit, and to continue such deliveries through the later of the last day of the tenth year following the in-service date of the avoided unit or the date selected by the CEP that is no later than the day after the last day of the life of the avoided unit.

RATES FOR PURCHASES BY THE COMPANY: firm capacity and energy are purchased at unit costs, in dollars per kilowatt per month (\$/kW/month) and cents per kilowatt-hour (¢/kWh), respectively, based on the value of deferring additional Company generating capacity.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



ORIGINAL SHEET NO. 8.288

Firm capacity and energy are described in FPSC Rule 25-17.0832, F.A.C., and are capacity and energy produced and sold by the CEP pursuant to a negotiated or Standard Offer Contract and subject to certain contractual provisions as to quantity, time and reliability of delivery. Criteria for achieving small qualifying facility or renewable facility status shall be those set out in Chapter 366.91 F.S. and FPSC Rules 25-17.080, 25-17.082(4)(a), and 25-17.091, F.A.C., as applicable.

1. **Firm Capacity Rates:** Five options (i.e. Options 1, 2, 3, 4, and 5, as set forth below) are available for payment of firm capacity which is produced by the CEP and delivered to the Company. Once selected, the selected option shall remain in effect for the term of the contract with the Company. Exemplary payment schedules for Options 1 through 4, shown for each Designated Avoided Unit are identified in Appendices C through F, contain the monthly rate per kilowatt (kW) of firm capacity the CEP could contractually commit to deliver to the Company. These examples are based on a contract term which extends at least ten years beyond the in-service date of the Designated Avoided Unit. Payment schedules for longer contract terms will be made available to the CEP upon request and may be calculated based on the methodologies described in Appendix A. A payment schedule for Option 5, if selected by the CEP, will be calculated based on Appendix A and the Option 5 description contained in Section 6.b.iii.(5) of the Standard Offer Contract and will be made available by the Company within 30 days of a request by the CEP. At a maximum, firm capacity and energy shall be delivered for a period of time equal to the anticipated plant life of the Designated Avoided Unit, commencing with the in-service date of the Designated Avoided Unit.

Option 1 - Value of Deferral Capacity Payments:

Value of Deferral Capacity Payments shall commence the in-service date of the Designated Avoided Unit, provided the CEP is delivering firm capacity and energy to the Company in accordance with the Minimum Performance Standards (MPS) as described for each Designated Avoided Unit contained in Appendices C through F. Capacity payments under this option shall consist of monthly payments, escalating annually, of the avoided capital and fixed operating and maintenance expense associated with the Designated Avoided Unit and shall be equal to the value of the year-by-year deferral of the Designated Avoided Unit, calculated in conformance with FPSC Rule 25-17.0832, F.A.C., as described in Appendix A.

Option 2 - Early Capacity Payments:

Payment schedules under this option are based on an equivalent net present value of the Value of Deferral Capacity Payments for the Designated Avoided Unit. The earliest date that Early Capacity Payments can be received by the CEP shall be the Commercial In-service Date of the CEP's generating facility. The CEP shall select the

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DATE EFFECTIVE: May 22, 2007



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month and year in which the delivery of firm capacity and energy to the Company is to commence and capacity payments are to start. Early Capacity Payments shall consist of monthly payments, escalating annually, of the avoided capital and fixed operating and maintenance expense associated with the Designated Avoided Unit. Avoided Capacity Payments shall be calculated in conformance with FPSC Rules 25-17.0832 and 25-17.250(4), F.A.C., as described in Appendix A. At the option of the CEP, Early Capacity Payments may commence at any time after the specified earliest capacity payment date and before the in-service date of the Designated Avoided Unit provided the CEP is delivering firm capacity and energy to the Company in accordance with MPS as described for each Designated Avoided Unit contained in Appendices C through F. Where Early Capacity Payments are elected, the cumulative present value of the capacity paid to the CEP over the term of the contract shall not exceed the cumulative present value of the capacity payments which would have been made to the CEP had such payments been made pursuant to Option 1.

Option 3 - Levelized Capacity Payments:

Levelized capacity payments shall commence on the in-service date of the Designated Avoided Unit, provided the CEP is delivering firm capacity and energy to the Company in accordance with the MPS as described for each Designated Avoided Unit contained in Appendices C through F. The capital portion of the capacity payment under this option shall consist of equal monthly payments over the term of the contract, calculated in accordance with FPSC Rule 25-17.0832, F.A.C., as described in Appendix A. The fixed operation and maintenance expense portion of the capacity payment shall be equal to the value of the year-by-year deferral of fixed operation and maintenance expenses associated with the Designated Avoided Unit calculated in conformance with Appendix A. Where Levelized Capacity Payments are elected, the cumulative present value of the capacity paid to the CEP over the term of the contract shall not exceed the cumulative present value of the capacity payments which would have been made to the CEP had such payments been made pursuant to Option 1.

Option 4 - Early Levelized Capacity Payments:

Early Levelized Capacity Payment schedules under this option are based on an equivalent net present value of the Value of Deferral Capacity Payments for the Designated Avoided Unit. The earliest date that Early Levelized Capacity Payments can be received by the CEP shall be the Commercial In-service Date of the CEP's generating facility. The capital portion of the capacity payment under this Option shall consist of equal monthly payments over the term of the contract, calculated in accordance with FPSC Rule 25-17.0832, F.A.C., as described in Appendix A. The fixed operation and maintenance expense portion of the capacity payments shall be equal to

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DATE EFFECTIVE: May 22, 2007



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the value of the year-by-year deferral of fixed operation and maintenance expenses associated with the Designated Avoided Unit calculated in conformance with Appendix A. At the option of the CEP, Early Levelized Capacity Payments shall commence at any time beginning on or after the Commercial In-service Date of the CEP's generating facility and before the in-service date of the Designated Avoided Unit provided the CEP is delivering firm capacity and energy to the Company in accordance with the MPS as described for each Designated Avoided Unit contained in Appendices C through F. The CEP shall select the month and year in which the delivery of firm capacity and energy to the Company is to commence and capacity payments are to start. Where Early Levelized Capacity Payments are elected, the cumulative present value of the capacity payments paid to the CEP over the term of the contract shall not exceed the cumulative present value of the capacity payments which would have been made to the CEP had such payments been made pursuant to Option 1.

Option 5 - Other

In accordance with FPSC Rule 25-17.250(4) F.A.C., the CEP may elect a payment stream for the capital component of the Company's avoided unit, including front-end loaded payments, that best meets the financing requirements of the CEP. Where front-end loaded capacity payments are elected, the cumulative present value of the capacity payments paid to the CEP over the term of the contract shall not exceed the cumulative present value of the capacity payments which would have been made to the CEP had such payments been made pursuant to Option 1. A payment schedule for Option 5 will be developed reflecting the interests of the CEP for front-end loading and will be made available for review by the CEP within 30 days of the date of the request for Option 5, and interests of the CEP have been made known to the Company. Any such Option 5 selection may require additional associated security considerations that will be developed by the Company and presented to the CEP at the same time as the payment schedule. The payment schedule and security considerations will be subject to mutual agreement and approval by the FPSC.

The Company will provide the CEP with a schedule of capacity payment rates based on the month and year in which the delivery of firm capacity and energy are to commence and the term of the contract. The currently approved parameters used to calculate the schedule of payments for each Designated Avoided Unit are found in Appendices D through G of this Schedule.

Regardless of the payment stream elected by the CEP, the cumulative present value of capital cost payments made to the CEP over the term of this Agreement shall not exceed the cumulative present value of the capital cost payments which would have

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



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been made to the CEP had such payments been made pursuant to FPSC Rule 25-17.0832(4)(g)1., F.A.C. All fixed operation and maintenance expense shall be calculated in conformance with FPSC Rule 25-17.0832(6), F.A.C.

2. **Standard Energy Payment Rates:**

The calculation of energy payments to the CEP shall be based on the sum, over all hours of the Monthly Period, of the product of each hour's Energy Payment Rate times the energy purchased from the CEP by the Company for that hour. All purchases shall be adjusted for losses reflecting delivery voltage.

- a. **As-available Energy Payment Rate:** "As-Available Energy" is energy generated by the CEP's facility for purchase by the Company during time periods when the Designated Avoided Unit would not have been operated had it been installed by the Company. The payment rate in ¢/kWh for As-Available Energy is based on the Company's actual hourly avoided energy costs which are calculated by the Company in accordance with FPSC Rule 25-17.0825, F.A.C. Avoided energy costs include incremental fuel and identifiable variable operation and maintenance expenses.

The methodology to be used in the calculation of the avoided energy costs is described in Appendix B.

The As-available Energy Payment rate will apply to energy delivered by the CEP in the period prior to the in-service date of the Designated Avoided Unit and the periods after the in-service date of the Designated Avoided Unit to the extent that the Designated Avoided Unit would have been dispatched and operated by the Company.

- b. **Unit Energy Payment Rate:** To the extent that the Designated Avoided Unit would have been dispatched and operated by the Company, the Unit Energy Payment Rate in ¢/kWh will apply and shall be based on the cost of fuel used by and variable operating and maintenance expense associated with the Designated Avoided Unit. The calculation used to determine the Unit Energy Payment Rate is shown under part 2 of the section titled "Basis for Monthly Energy Payment Calculation" of the Designated Avoided Unit Appendices, "C" through "F".

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DATE EFFECTIVE: July 29, 2008



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3. **Fixed Energy Payment Options:**

- a. **Fixed As-Available Energy Payments:** In accordance with FPSC Rule 25-17.250(6)(a) F.A.C., the CEP may elect Fixed As-Available Energy Payments for the period prior to the in-service date of the avoided unit. The Fixed As-Available Energy Payments shall be based on the Company's year-by-year projection of system incremental fuel costs prior to hourly economy energy sales to other utilities, based on normal weather and fuel market conditions plus a fuel market volatility risk premium mutually agreed upon by the Company and the CEP and approved by the FPSC.
- b. **Fixed Base Energy Payments:** At the election of the CEP, a portion of the base energy costs associated with the avoided unit, mutually agreed upon by the Company and the CEP, may be fixed and amortized on a present value basis over the term of the contract starting as early as the in-service date of the CEP's generating facility pursuant to FPSC Rule 25-17.250(6)(b) F.A.C. "Base energy costs associated with the avoided unit" means the energy costs of the avoided unit to the extent the unit would have been operated. The Company shall develop a schedule of such Fixed Base Energy Payments for the consideration of the CEP based on the expressed interests of the CEP. Should the CEP select Fixed Base Energy Payments, the Company may require additional associated security considerations which will also be mutually agreed upon by the Company and the CEP and approved by the FPSC.

PERFORMANCE CRITERIA: In addition to the following provisions, payments for firm capacity are conditioned on the CEP's ability to meet or exceed the Minimum Performance Standards (MPS) for each of the Company's Designated Avoided Unit as described for each in Appendices C through F:

1. **CEP's Commercial In-Service Date:** Capacity Payments shall not commence until the CEP has attained and demonstrated commercial in-service status. The Commercial In-Service Date of the CEP shall be defined as the first day of the month following the successful completion by the CEP of maintaining an hourly kW output for a 24 hour period, as metered at the point of interconnection with the Company, equal to or greater than the CEP's "Contracted Capacity" as designated in the Standard Offer Contract. A CEP shall coordinate the operation of its facility during this test period with the Company to insure that the performance of its facility during this 24 hour period is reflective of the anticipated day to day operation of the CEP.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: July 29, 2008



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2. **Monthly Availability and Monthly Capacity Factor:** Upon achieving commercial in-service status, payments for firm capacity shall be made monthly in accordance with the capacity payment rate option selected by the CEP and subject to the provision that the CEP equals or exceeds the MPS for Monthly Availability and Monthly Capacity Factor of the Company's Designated Avoided Unit, as defined in Appendices C through F of this schedule, on which the Standard Offer Contract is based.
3. **CEP's Obligation if CEP Receives Capacity Payments Under Capacity Payments Options 2, 3, 4, or 5:** The CEP's payment option choice pursuant to Paragraph 6.b.iii of the Company's Standard Offer Contract may result in payments made by the Company for capacity delivered prior to the in-service date of the avoided unit. Similarly, Levelized and Early-Levelized, and front-end loaded Other Capacity Payments for capacity delivered on or after the in-service date of the avoided unit, may also exceed the year-by-year value of deferring the Designated Avoided Unit as specified in this Agreement. The Parties recognize that capacity payments that exceed the year-by-year value of deferring the avoided unit may have to be repaid by the CEP in the event the CEP fails to perform pursuant to the terms and conditions of the Company's Standard Offer Contract.

To ensure that the CEP will satisfy its obligation to make any repayment to the Company, the following provisions will apply:

The Company shall establish a Repayment Account to accrue the sum of the capacity payments that may have to be repaid by the CEP to the Company. Amounts shall be added to the Repayment Account each month through the month prior to the in-service month of the avoided unit, in the amount of the Company's Early Capacity Payments made to the CEP pursuant to the CEP's chosen payment option.

Beginning on the in-service date of the avoided unit, the difference between the capacity payment made to the CEP and the "normal" capacity payment calculated pursuant to Option 1 will also be added each month to the Repayment Account, so long as the payment to the CEP is greater than the monthly payment the CEP would have received if it had selected Option 1 in Paragraph 6.b.iii, of the Company's Standard Offer Contract.

Also beginning on the in-service date of the avoided unit, at such time that the Monthly Capacity Payment made to the EP, pursuant to the Capacity Payment Option selected, is less than the "normal" Monthly Capacity Payment in Option 1, there shall be debited from the Repayment Account an Early Payment Offset Amount to reduce the balance in

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



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the Repayment Account. Such Early Payment Offset Amount shall be equal to the amount which the Company would have paid for capacity in that month if capacity payments had been calculated pursuant to Option 1 and the CEP had elected to begin receiving capacity payments on the in-service date of the avoided unit minus the Monthly Capacity Payment the Company makes to the CEP (assuming the MPS are met or exceeded), pursuant to the Capacity Payment Option chosen by the CEP.

Monthly Capacity Payments will not be made to the CEP for any month the CEP fails to meet the MPS and if applicable, a payment will be required by the CEP to the Company in an amount equal to the Early Payment Offset for that month. In the event a payment is required from the CEP to the Company, the CEP's Repayment Account will be reduced by the amount of such payment provided that any such payment will not exceed the current balance in the Repayment Account.

The CEP shall owe the Company and be liable for the current balance in the Repayment Account. The annual balance in the Repayment Account shall accrue interest at an annual rate of 7.88%. The Company agrees to notify the CEP monthly as to the current Repayment Account balance.

In the event of default by the EP, the total Repayment Account balance shall become due and payable within 20 business days of receipt of written notice, as reimbursement for the Capacity Payments made to the CEP by the Company in excess of "normal capacity payments.

The CEP's obligation to reimburse the Company in the amount of the balance in the Repayment Account shall survive the termination of the CEP's Standard Offer Contract with the Company. Such reimbursement shall not be construed to constitute liquidated damages and shall in no way limit the right of the Company to pursue all its remedies at law or in equity against the CEP.

Prior to receipt of Early, Levelized, Early-Levelized, or front-end loaded Other Capacity Payments the CEP shall secure its obligation to repay any balance in the Repayment Account in the event the CEP defaults under the terms of its Standard Offer Contract with the Company.

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DATE EFFECTIVE: May 22, 2007



**ELEVENTH REVISED SHEET NO. 8.306
CANCELS TENTH REVISED SHEET NO. 8.306**

Continued from Sheet No. 8.304

Such security shall be in the form of cash deposited in an interest bearing escrow account mutually acceptable to the Company and the EP; an unconditional and irrevocable direct pay letter of credit in form and substance satisfactory to the Company; or a performance bond in form and substance satisfactory to the Company. The form of security required will be in the sole discretion of the Company and will be in such form as to allow the Company immediate access to the funds in the event of default by the CEP.

Florida Statute 377.709(4) requires a local government to refund Early Capacity Payments should a Municipal Solid Waste Facility owned, operated by or on the behalf of the local government be abandoned, closed down or rendered illegal. Therefore a utility may not require risk-related guarantees from a Municipal Solid Waste Facility as required in FPSC Rule 25-17.0832 (2)(c) and (3)(e)(8), F. A. C. However, at its option, a Municipal Solid Waste Facility may provide such risk-related guarantees.

4. Additional Criteria:

- a. The CEP shall provide monthly generation estimates by December 1 for the next calendar year; and
- b. The CEP shall promptly update its yearly generation schedule when any changes are determined necessary; and
- c. The CEP shall agree to reduce generation or take other appropriate action as requested by the Company for safety reasons or to preserve system integrity; and
- d. The CEP shall coordinate scheduled outages with the Company;
- e. The CEP shall comply with the reasonable requests of the Company regarding daily or hourly communications.

DELIVERY VOLTAGE ADJUSTMENT: Energy Payments to CEPs within the Company's service territory shall be adjusted according to the delivery voltage by the following multipliers:

Rate Schedule	Adjustment Factor
RS, GS	1.0524
GSD, SBF	1.0488
IS, SBI	1.0170

Continued to Sheet No. 8.308

ISSUED BY: N. G. Tower, President

DATE EFFECTIVE: January 1, 2020



ORIGINAL SHEET NO. 8.308

METERING REQUIREMENTS: CEPs within the territory served by the Company shall be required to purchase from the Company the necessary hourly recording meters to measure their energy production. Unless special circumstances warrant, meters shall be read at monthly intervals on the approximate corresponding day of each meter reading period. Energy purchases from CEPs outside the territory served by the Company shall be measured as the quantities scheduled for interchange to the Company by the entity delivering firm capacity and energy to the Company.

BILLING OPTIONS: The CEP, upon entering into a contract for the sale of Contracted Capacity and Associated Energy or prior to delivery of As-Available Energy to the Company, shall elect to make either simultaneous purchases from the interconnecting utility and sales to the Company or net sales to the Company. The billing option elected may only be changed:

1. when the CEP selling As-Available Energy enters into a negotiated contract or Standard Offer Contract for the sale of firm capacity and energy; or
2. when a firm capacity and energy contract expires or is lawfully terminated by either the EP, or the Company; or
3. when the CEP is selling As-Available Energy and has not changed billing methods within the last 12 months; and
4. when the election to change billing methods will not contravene the provisions of FPSC Rule 25-17.0832, F.A.C., or any contract between the CEP and the Company.

If the CEP elects to change billing methods in accordance with FPSC Rule 25-17.082, F.A.C., such a change shall be subject to the following provisions

1. upon at least 30 days advance written notice to the Company; and
2. upon the installation by the Company of any additional metering equipment reasonably required to effect the change in billing methodology and upon payment by the CEP for such metering equipment and its installation; and
3. upon completion and approval by the Company of any alterations to the interconnection reasonably required to effect the change in billing methodology and upon payment by the CEP for such alterations

Should the CEP elect the Simultaneous Purchases and Sales billing option, purchases of electric service by the CEP from the interconnecting utility shall be billed at the retail rate schedule under which the CEP load would receive service as a customer of the utility; sales of electricity delivered by the CEP to the purchasing utility shall be purchased at the utilities avoided capacity and energy rates, where applicable, in accordance with FPSC Rules 25-17.0825 and 25-17.0832, F.A.C.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



**FOURTH REVISED SHEET NO. 8.312
CANCELS THIRD REVISED SHEET NO. 8.312**

Continued from Sheet No. 8.308

Should the CEP elect a Net Billing Arrangement, the hourly net capacity and energy sales delivered to the purchasing utility shall be purchased at the utility's avoided capacity and energy rates, where applicable, in accordance with FPSC Rules 25-17.0825 and 25-17.0832, F.A.C. Purchases from the interconnecting utility shall be billed at the retail rate schedule, under which the CEP load would receive service as a customer of the utility.

Although a billing option may be changed in accordance with FPSC Rule 25-17.082, F.A.C., the Contracted Capacity may only change through mutual negotiations satisfactory to the CEP and the Company.

Basic Service charges that are directly attributable to the purchase of firm capacity and energy from the CEP are deducted from the CEP's total monthly payment. A statement covering the charges and payments due the CEP is rendered monthly and payment normally is made by the 20th business day following the end of the Monthly Period.

CHARGES/CREDITS TO THE CEP:

1. **Basic Service Charges:** A monthly Basic Service Charge will be rendered for maintaining an account for the CEP engaged in either an As-Available Energy or firm capacity and energy transaction and for other applicable administrative costs. Actual charges will depend on how the CEP is interconnected to the Company.

CEPs not directly interconnected to the Company, will be billed \$990 monthly as a Basic Service Charge.

Monthly Basic Service charges, applicable to CEPs directly interconnected to the Company, by Rate Schedule are:

RATE SCHEDULE	BASIC SERVICE CHARGE (\$)	RATE SCHEDULE	BASIC SERVICE CHARGE (\$)
RS	15.05		
GS	18.06	GST	20.07
GSD (secondary)	30.10	GSDT (secondary)	30.10
GSD (primary)	130.44	GSDT (primary)	130.44
GSD (subtrans.)	993.27	GSDT (subtrans.)	993.27
SBF (secondary)	55.18	SBFT (secondary)	55.18
SBF (primary)	155.51	SBFT (primary)	155.51
SBF (subtrans.)	1,018.36	SBFT (subtrans.)	1,018.36
IS (primary)	624.05	IST (primary)	624.05
IS (subtrans.)	2,379.85	IST (subtrans.)	2,379.85
SBI (primary)	649.14		
SBI (subtrans.)	2,404.93		

Continued to Sheet No. 8.314

ISSUED BY: N. G. Tower, President

DATE EFFECTIVE: January 1, 2020



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If CEP takes service under Rate Rider GSLM-2 or GSLM-3, an additional Basic Service Charge of \$200.00 will apply.

When appropriate, the Basic Service Charge will be deducted from the CEP's monthly payment. A statement of the charges or payments due the CEP will be rendered monthly. Payment normally will be made by the 20th business day following the end of the billing period.

2. **Interconnection Charge for Non-Variable Utility Expenses:** The CEP shall bear the cost required for interconnection including the metering. The CEP shall have the option of payment in full for interconnection or make equal monthly installment payments over a 36 month period together with interest at the rate then prevailing for 30 days highest grade commercial paper; such rate to be determined by the Company 30 days prior to the date of each payment.
3. **Interconnection Charge for Variable Utility Expenses:** The CEP shall be billed monthly for the cost of variable utility expenses associated with the operation and maintenance of the interconnection. These costs include a) the Company's inspections of the interconnection and b) maintenance of any equipment beyond that which would be required to provide normal electric service to the CEP with respect to other Customers with similar load characteristics.
4. **Taxes and Assessments:** The CEP shall be billed monthly an amount equal to the taxes, assessments, or other impositions, if any, for which the Company is liable as a result of its purchases of firm capacity and energy produced by the CEP.

If the Company obtains any tax savings as a result of its purchases of firm capacity and energy produced by the CEP, which tax savings would not have otherwise been obtained, those tax savings shall be credited to the CEP.

5. **Emission Allowance Clause:** Subject to approval by the FPSC, the CEP shall receive a monthly credit, to the extent the Company can identify the same, equal to the value, if any, of any reduction in the number of air emission allowances used by the Company as a result of its purchase of firm capacity and energy produced by the EP; provided that no such credit shall be given if the cost of compliance associated with air emission standards is included in the determination of full avoided cost.

TERMS OF SERVICE:

1. It shall be the CEP's responsibility to inform the Company of any change in its electric generation capability.

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: November 1, 2013



ORIGINAL SHEET NO. 8.316

2. Any electric service delivered by the Company to the CEP shall be metered separately and billed under the applicable retail rate schedule and the terms and conditions of the applicable rate schedule shall pertain.
3. A billing security deposit will be required in accordance with FPSC Rules 25-17.082(5) and 25-6.097, F.A.C., and the following:
 - a. In the first year of operation, the security deposit should be based upon the singular month in which the CEP's projected purchases from the utility exceed, by the greatest amount, the utility's estimated purchases from the CEP. The security deposit should be equal to twice the amount of the difference estimated for that month. The deposit should be required upon interconnection.
 - b. For each year thereafter, a review of the actual sales and purchases between the CEP and the utility shall be conducted to determine the actual month of maximum difference. The security deposit shall be adjusted to equal twice the greatest amount by which the actual monthly purchases by the CEP exceed the actual sales to the utility in that month.
4. The Company will, under the provisions of this Schedule, require an agreement with the CEP upon the Company's filed Standard Offer Contract.
5. Service under this rate schedule is subject to the rules and regulations of the Company and the FPSC.

SPECIAL PROVISIONS:

1. Negotiated contracts deviating from the above standard rate schedule are allowable provided they are agreed to by the Company and approved by the FPSC
2. In accordance with the provision in FPSC Rule 25-17.0883, F.A.C., the Company is required to provide transmission and distribution service to enable a retail customer, at that customer's request, to transmit electrical power generated at one location to the customer's facilities at another location when provision of such service and its associated charges, terms, and other conditions are not reasonably projected to result in higher cost of electric service to the Company's general body of retail and wholesale Customers or adversely affect the adequacy or reliability of electric service to all Customers.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



ORIGINAL SHEET NO. 8.318

A determination of whether or not such service is likely to result in higher cost electric service will be made by the Company by evaluating the results of an appropriately adjusted FPSC approved cost effectiveness methodology, in addition to other modeling analyses.

3. In accordance with FPSC Rule 25-17.089, F.A.C., upon request by a CEP, the Company shall provide transmission service in accordance with its OATT to wheel As-Available Energy or firm capacity and energy produced by the CEP from the CEP to another electric utility.
4. The rates, terms, and conditions for any transmission and ancillary services provide to the CEP shall be those approved by the FERC and contained in the Company's OATT.
5. A CEP may apply for transmission and ancillary services from the Company in accordance with the Company's OATT. Requests for service must be submitted on the Company's Open Access Same-Time Information System ("OASIS"). The Company's contact person, phone number and address is posted and updated on the OASIS and can be viewed by the public on the Internet at the address: http://www.enx.com/FOA_Contacts.html. A copy of the Company's OATT is also posted at the address: http://www.enx.com/FOA/teco_home.html.
6. If the CEP is located outside of the Company's transmission area, then the CEP must arrange for long term firm 3rd-party transmission, ancillary services and an Interconnection Agreement on all necessary external transmission paths for the term of the contract.

PROCEDURE FOR PROCESSING STANDARD OFFER CONTRACTS: Within 60 days of the receipt of a signed, completed Standard Offer Contract, the Company shall either accept and sign the Standard Offer Contract and return it within 5 days to the CEP or petition the Commission not to accept the Standard Offer Contract and provide justification for the refusal.

All Standard Offer Contracts received will be given equal consideration and each will be reviewed in accordance with the Company's Evaluation Procedure for Standard Offer Contracts. The criteria and procedure used to evaluate Standard Offer Contracts are attached to the Standard Offer Contract as Appendix I.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



ORIGINAL SHEET NO. 8.322

Each delivered Standard Offer Contract should be clearly labeled "Standard Offer Contract" and shall only be received at the Company's main business address:

Tampa Electric Company
c/o Manager - Wholesale Contracts,
Wholesale Marketing and Sales
702 North Franklin Street (33602)
P. O. Box 111
Tampa, Florida 33601

Certified mail will be the preferred means of Standard Offer Contract delivery.

Each eligible Standard Offer Contract will be evaluated as to its technical reliability, viability and financial stability, as well as other relevant information, in accordance with FPSC Rule 25-17.0832, F.A.C.

The Company will select and accept Standard Offer Contracts, after the evaluation process, which have convincingly demonstrated that their project is financially and technically viable and that the Contracted Capacity and Associated Energy would be available by the date specified in the Standard Offer Contract.

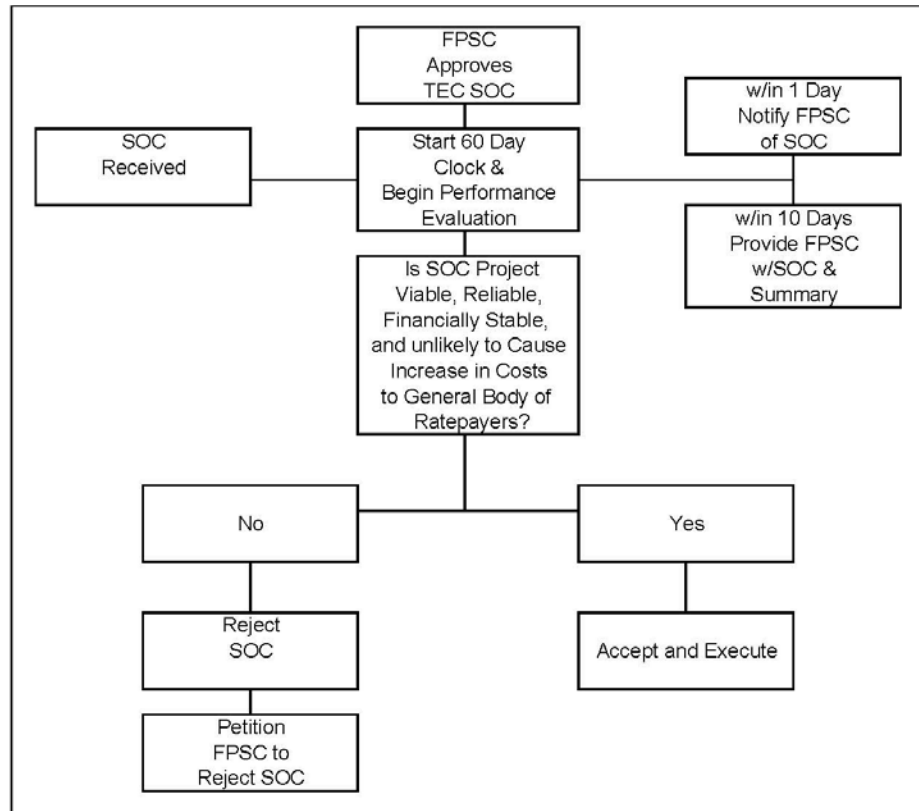
ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



ORIGINAL SHEET NO. 8.324

PROCEDURE FOR PROCESSING STANDARD OFFER CONTRACTS



ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



~~NINTH-TENTH~~ REVISED SHEET NO. 8.326
CANCELS ~~EIGHTH-NINTH~~ REVISED SHEET NO. 8.326

**RATE SCHEDULE COG-2
TABLE OF APPENDICES**

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ISSUED BY: N. G. Tower, President

DATE EFFECTIVE: ~~June 5, 2018~~



ORIGINAL SHEET NO. 8.328

**RATE SCHEDULE COG-2
APPENDIX A
VALUE OF DEFERRAL METHODOLOGY**

Appendix A provides a detailed description of the methodology used by the Company to calculate the monthly value of deferring the Designated Avoided Unit referred to in Rate Schedule COG-2. When used in conjunction with the current FPSC-approved cost parameters associated with each Designated Avoided Unit contained in Appendices C through E, the CEP may determine the applicable value of deferral capacity payment rate associated with the timing and operation of its particular facility should the CEP enter into a Standard Offer Contract with the Company.

Also contained in Appendix A is a discussion of the types and forms of surety bond requirements or equivalent assurance of repayment of early, Levelized, Early Levelized, or front-end loaded Other Capacity Payments acceptable to the Company in the event of contractual default by the CEP.

CALCULATION OF VALUE OF DEFERRAL: FPSC Rule 25-17.0832(6), F.A.C., specifies that avoided capacity costs, in dollars per kilowatt per month, associated with firm capacity sold to a utility by the CEP pursuant to the utility's Standard Offer shall be defined as the value of a year-by-year deferral of the Designated Avoided Unit and shall be calculated as follows:

$$VAC_m = 1/12 [K I_n (1-R_p) / (1-R_p^L) + O_n]$$

FPSC Rule 25-17.0832(6)(a), F.A.C., specifies that, beginning with the in-service date of the Company's Designated Avoided Unit, for a one year deferral:

VAC_m = Company's monthly value of avoided capacity, \$/kW/month, for each month of year n;

K = present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present value to the middle of the first year;

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



ORIGINAL SHEET NO. 8.332

- I_n = total direct and indirect cost, in mid-year \$/kW including AFUDC but excluding CWIP, of the Designated Avoided Unit(s) with an in-service date of year n , including all identifiable and quantifiable costs relating to the construction of the Designated Avoided Unit that would have been paid had the Designated Avoided Unit(s) been constructed;
- O_n = total fixed operation and maintenance expense for the year n , in mid-year \$/kW/year, of the Designated Avoided Unit(s);
- i_p = annual escalation rate associated with the plant cost of the Designated Avoided Unit(s);
- i_o = annual escalation rate associated with the operation and maintenance expense of the Designated Avoided Unit(s);
- r = annual discount rate, defined as the Company's incremental after tax cost of capital;
- L = expected life of the Designated Avoided Unit(s); and
- $R_P = (1 + i_p) / (1 + r)$
- n = year for which the Designated Avoided Unit is deferred starting with its original anticipated in-service date and ending with the termination of the contract for the purchase of firm capacity and energy.

CALCULATION OF EARLY CAPACITY PAYMENTS: FPSC Rule 25-17.0832(6)(b), F.A.C., specifies that, normally, payment for firm capacity shall not commence until the in-service date of the Designated Avoided Unit(s). At the option of the CEP, however, the Company may begin making Early Capacity Payments consisting of the fixed operation and maintenance expense and the capital cost component of the value of a year-by-year deferral of the Designated Avoided Unit(s). When such Early Capacity Payments are elected, capacity payments shall be paid monthly commencing no earlier than the Commercial In-Service date of the CEP, and shall be calculated as follows:

$$A_m = [A_c(1 + i_p)^{(m-1)} + A_o(1 + i_o)^{(m-1)}] / 12 \quad \text{for } m = 1 \text{ to } t$$

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



ORIGINAL SHEET NO. 8.334

Beginning with the earliest avoidance date of the Company's Designated Avoided Unit(s), for a one year deferral:

A_m = monthly early capacity payments to be made to the CEP for each month of the contract year n , in \$/kW/month, starting no earlier than the in-service date of the CEP's generating facility;

m = year for which early capacity payments to the CEP are made;

t = the term, in years, of the contract for the purchase of firm capacity if early capacity payments commence in year m ;

$$A_c = F [(1 - R_p) / (1 - R_p^t)]$$

Where:

F = the cumulative present value, in the year contractual payments will begin, of the avoided capital cost component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the Designated Avoided Unit(s);

$$A_o = G [(1 - R_o) / (1 - R_o^t)]$$

Where:

G = the cumulative present value in the year that the contractual payments will begin, of the avoided fixed operation and maintenance expense component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the Designated Avoided Unit(s).

$$R_o = (1 + i_o) / (1 + r)$$

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



FIRST REVISED SHEET NO. 8.336
CANCELS ORIGINAL SHEET NO. 8.336

Continued from Sheet No. 8.334

CALCULATION OF LEVELIZED AND EARLY LEVELIZED CAPACITY PAYMENTS: FPSC Rule 25-17.0832(6)(c), F.A.C., specifies that, Monthly Levelized and Early Levelized Capacity Payments shall be calculated as follows:

$$P_L = F/12 \{ r / [1 - (1 + r)^{-1}] \} + O$$

Where:

- P_L = the monthly levelized capacity payment, starting on or prior to the in-service date of the Designated Avoided Unit(s);
- O = the monthly fixed operation and maintenance component of the capacity payments, calculated in accordance with FPSC Rule 25-17.0832, paragraph 6(a) for Levelized Capacity Payments or with paragraph 6(b) for Early Levelized Capacity Payments, F.A.C.

Currently approved parameters for each Designated Avoided Unit applicable to the formulas above are found in Appendices C through F.

CALCULATION OF MONTHLY AVAILABILITY AND CAPACITY FACTOR: Pursuant to FPSC Rule 25-17.0832, F.A.C., and Docket No. 891049-EU, the CEP must meet or exceed, on a monthly basis, the MPS of the Company's Designated Avoided Unit(s) as described in Appendices C through F of COG-2 in order to receive monthly capacity payments. At the end of each Monthly Period, beginning with the Monthly Period specified in Paragraph 6.b.ii of the Company's Standard Offer Contract, the Company will calculate the CEP's Monthly Availability and Monthly Capacity Factor.

REPAYMENT OF EARLY CAPACITY PAYMENTS: FPSC Rule 25-17.0832(3)(c), F.A.C., requires that when early, levelized, early levelized, and front-end loaded capacity payments are elected, the CEP must provide a security deposit for assurance of repayment of Early Capacity Payments in the event the CEP is unable to meet the terms and conditions of its contract. Depending on the nature of the CEP's operation, financial health and solvency of the CEP or its guarantor, if any, and its ability to meet the terms and conditions of the Company's Standard Offer Contract; one of the following may constitute an equivalent assurance of repayment:

Continued to Sheet No. 8.338

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: June 30, 2009



ORIGINAL SHEET NO. 8.338

1. cash deposited in an interest bearing escrow account mutually acceptable to the Company and the EP; or
2. an unconditional and irrevocable direct pay letter of credit in form and substance satisfactory to the Company; or
3. a performance bond in form and substance satisfactory to the Company.

The form of security required will be in the sole discretion of the Company and will be in such form as to allow the Company immediate access to the funds in the event that the CEP fails to meet the terms and conditions of its contract

The Company will cooperate with each CEP applying for Capacity Payments under Capacity Payment Options 2, 3, 4, or 5 to determine the exact form of an "equivalent assurance of repayment" to be required based on the particular aspects of the CEP. The Company will endeavor to accommodate an equivalent assurance of repayment which is in the best interests of both the CEP and the Company's ratepayers.

Florida Statute 377.709(4), requires the local government to refund Early Capacity Payments should a Municipal Solid Waste Facility owned, operated by or on behalf of a local government be abandoned, closed down or rendered illegal, therefore a utility may not require risk-related guarantees from a Municipal Solid Waste Facility as required in FPSC Rule 25-17.0832(2)(c) and (3)(e)(8), F.A.C. However, at its option, a Municipal Solid Waste Facility may provide such risk-related guarantees.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



SECOND REVISED SHEET NO. 8.344
CANCELS FIRST REVISED SHEET NO. 8.344

**RATE SCHEDULE COG-2
APPENDIX B
METHODOLOGY TO BE USED IN THE CALCULATION OF AVOIDED ENERGY COST**

The methodology the Company has implemented in order to determine the appropriate avoided energy costs and any payments thereof to be rendered to CEPs is consistent with the provisions of Order No. 23625 in Docket No. 891049-EU, issued on October 16, 1990; the Amendment of FPSC Rules 25-17.080 et seq, F.A.C.

The avoided energy costs methodology used to determine payments to CEPs on an hourly basis is based on the incremental cost of fuel using the average price of replacement fuel purchased in excess of contract minimums. Generally, avoided energy costs are defined to include incremental fuel, identifiable variable operation and maintenance expenses, identifiable variable purchased power costs and an adjustment for line losses reflecting delivery voltage.

Under normal conditions the Company will have additional generation resources available which can carry its native load and firm interchange sales without the CEP's contribution. When this is the case and the CEP is present, the incremental fuel portion of the avoided energy cost is equal to the difference between the Company's production cost at 2 load levels, with and without the CEP's contribution.

In those situations where the Company's maximum available generation (not including its minimum operating reserves) is insufficient to carry its native load and firm interchange sales, in the absence of the CEP contribution, the Company's incremental fuel component of the avoided energy cost will be determined by:

1. system lambda - if "off-system purchases" are not being made and all available generation has been dispatched; or
2. the highest incremental cost of any "off-system purchases" that are being made for native load.

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: June 19, 2012



FIRST REVISED SHEET NO. 8.352
CANCELS ORIGINAL SHEET NO. 8.352

Examples of these situations are found in Exhibits 1- 4.

The As-Available Avoided Energy Cost, as determined by this methodology, is priced at a level not to exceed the Company's incremental fuel and identifiable variable operating and maintenance (O&M) expenses including the cost of any off-system purchases for native load.

PARAMETERS FOR DETERMINING AS-AVAILABLE AVOIDED ENERGY COSTS: The Company uses production costing methods for determining avoided energy cost payments to CEPs. Computerized production costing is accomplished on an hourly basis. The parameters used are as follows:

1. The system load is the actual system load at the Hour Ending with the clock hour (HE).
2. The first allocation of load for production costing is to those units that are base loaded at a certain level for operating reasons. The remainder of the load is allocated to units available for economic dispatch through the use of incremental cost curves.
3. The fuel costs associated with each of the Company's units operating at its allocated level of generation is determined by using the individual units input/output equation, its heat rate performance factor and the composite price of supplemental fuel.
4. The Company's own production cost for each hour of operation at a particular generation level equals the sum of the individual units' fuel cost for that hour. The production cost, thus determined, consists of the composite price of replacement fuel based on supplemental purchases and the incremental heat rate for the generating system.
5. The Company's total cost equals its own production cost (paragraph 4 above), identified variable O&M, plus the cost of any off-system purchases to serve native load.
6. Native load includes all firm and non-firm retail load.
7. The cost of off-system firm and non-firm variable purchases is defined as the highest energy cost energy block purchased for native load during the hour.
8. Firm interchange sales are included in production cost calculations.

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: June 19, 2012



SECOND REVISED SHEET NO. 8.356
CANCELS FIRST REVISED SHEET NO. 8.356

Continued from Sheet No. 8.352

9. The Company's Maximum Available Generation in this methodology is defined as the maximum capacity less operating reserve requirements.
10. The "Standard Tariff Block" is defined to be an x-megawatt (XMW) block equivalent to the combined actual hourly generation delivered to the Company from all CEPs making As-Available Energy sales to the Company. In the absence of metered information on exports from the CEP making As-Available Energy sales to the Company, an estimate of the hourly exports from that Facility will be used, rounded to the nearest 5 MW and then added to the sum of all other known As-Available Energy purchases for that hour.

Continued to Sheet No. 8.376

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: June 25, 2013



**SECOND REVISED SHEET NO. 8.376
CANCELS FIRST REVISED SHEET NO. 8.376**

Continued from Sheet no. 8.356

SUPPLEMENTAL FUEL:

The term "supplemental fuel" refers to the variable cost for additional fuel to be delivered to Tampa Electric's generation facilities. The supplemental fuel price includes the cost of the fuel commodity at market prices plus the variable cost to deliver the commodity to the generation facility. Market prices for coal, oil and natural gas are based on published indexes or current market activity for commodities of comparable quality to those used in Tampa Electric's generation facilities.

AVOIDED ENERGY COST CALCULATIONS:

Example: 1 Off-system purchases are not being made. The Company's generation is capable of carrying its native load and firm sales.

The procedure used to deterministically calculate the incremental avoided energy cost associated with As-Available Energy on an hour by hour basis when no off-system purchases are taking place is as follows:

The 1st calculation determines the Company's production cost without the benefit of cogeneration.

Continue to Sheet No. 8.378

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: July 13, 2010



FIRST REVISED SHEET NO. 8.378
CANCELS ORIGINAL SHEET NO. 8.378

In these instances, the \$/MWH price that the Company will pay the CEPs is determined by calculating the production cost at 2 load levels.

The 2nd calculation determines the Company's production cost with the benefit of cogeneration.

After each of the 2 calculations are made, the avoided energy cost rate is calculated by dividing the difference in production cost between the 2 calculations described above by the "Standard Tariff Block." [The "Standard Tariff Block" is defined to be an XMW block equivalent to the combined actual hourly generation delivered to the Company from all CEPs making As-Available Energy sales to the Company. In the absence of metered information on exports from the CEP making As-Available Energy sales to the Company, an estimate of the hourly exports from that Facility will be used, rounded to the nearest 5 MWs and then added to the sum of the other as-available purchases for that hour. Prior to the in-service date of the appropriate Designated Avoided Unit, firm energy sales will be equivalent to as-available sales. Beginning with the in-service date of the appropriate Designated Avoided Unit(s), firm energy purchases from CEPs shall be treated as as-available energy for the purposes of determining the XMW block size only during the periods that the appropriate Designated Avoided Unit would not be operated.] The difference in production costs divided by the XMW block determines the As-Available Energy Payment Rate (AEPR) for the hour. The AEPR will be applied to the "Actual" CEP MWs purchased during the hour to determine payment to each CEP supplying As-Available Energy, and each CEP supplying firm energy in those instances where the avoided unit would not have been operated during the hour. See Exhibit 1.

Example 2 Off-system purchases are not being made. The Company's generation can only carry its native load and firm sales with the CEP contribution.

The procedure used to deterministically calculate the incremental avoided energy cost associated with As-Available Energy on an hour by hour basis whenever the Company is not purchasing off-system interchange is as follows:

In this instance, the avoided energy cost that the Company will pay the CEPs will be determined by calculating the production cost at the last MW load level. The avoided energy cost is the production cost at system lambda. See Exhibit 2.

In the situation where the Company's generation is not fully dispatched, and additional generation capability is available to price a portion of the CEP block, then the CEP block will be priced at a combination of the difference between the Company's production cost at 2 load levels as previously defined and at system lambda. See Exhibit 3.

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DATE EFFECTIVE: June 19, 2012



FIRST REVISED SHEET NO. 8.382
CANCELS ORIGINAL SHEET NO. 8.382

Example 3 Off-system purchases are being made to serve native load.

The procedure used to deterministically calculate the incremental avoided energy cost associated with As-Available Energy on an hour by hour basis whenever the Company is making off-system purchases for native load is as follows:

In this instance, the \$/MWH price that the Company will pay is determined by applying the highest incremental cost of the off-system purchases to the CEP block. See Exhibit 4.

DELIVERY VOLTAGE ADJUSTMENT: A credit for avoided line losses reflecting the voltage at which generation by the CEPs is received is included in the Company's procedure for the determination of incremental avoided energy cost associated with As-Available Energy. Tampa Electric uses the adjustment factors shown on Sheet No. 8.306 for calculating the compensation for avoided line losses at the transmission and distribution system voltage levels based on the appropriate classification of service.

Example: (Firm Standby Time-of-Day)

Actual Incremental Hourly Avoided Energy Cost is:
\$14.80/MWH

Adjustment Factor for Line Losses:
1.0561

The Actual Incremental Hourly Avoided Energy Cost adjusted for avoided line losses associated with As-Available Energy provided to the Company would then become, in this example, \$15.63/MWH.

"IDENTIFIABLE" INCREMENTAL VARIABLE O&M: Tampa Electric's methodology for determining incremental avoided energy costs associated with As-Available Energy includes a procedure for calculating "identifiable" incremental variable O&M (VOM) expense.

A VOM rate (\$/MWH) is calculated annually for each Tampa Electric generating group. A generating group comprises units of the same type with similar size and operating characteristics (e.g., Big Bend coal units, Bayside CCs, Polk IGCC, all 180 MW CTs, etc.). The VOM rate for a generating group is calculated by dividing the previous year's identifiable VOM expenses for the group by the previous year's generation in megawatt-hours for the group.

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DATE EFFECTIVE: June 19, 2012



ORIGINAL SHEET NO. 8.392

The incremental avoided energy cost associated with As-Available Energy is adjusted in each hour by the applicable VOM group rate(s) for the generation being avoided in that hour.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



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CANCELS ORIGINAL SHEET NO. 8.394

RESERVED FOR FUTURE USE

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: July 13, 2010



SECOND REVISED SHEET NO. 8.396
CANCELS FIRST REVISED SHEET NO. 8.396

EXHIBIT 1

Example: Off-system purchases are not being made. The Company's generation is capable of carrying its native load and firm sales.

Given:

Actual CEP Energy = 50 MWs
The Company's Maximum Available Generation = 1560 MWs
Native Load = 1550 MWs
Firm Sales = 10 MWs

First Calculation (WITHOUT CEP):

Production Cost at 1560 MWs = \$20,275/hour

Second Calculation (WITH CEP):

Production Cost at 1510 MWs = \$19,500/hour

Third Calculation (CEP Rate \$/MWH):

Actual Hourly Avoided Energy Cost = (\$20,275/hour - \$19,500/hour) / (50 MW)

or

As-Available Energy Payment Rate (AEPR) = \$15.50/MWH

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: June 19, 2012



SECOND REVISED SHEET NO. 8.398
CANCELS FIRST REVISED SHEET NO. 8.398

EXHIBIT 2

Example: Off-system purchases are not being made. The Company's generation can carry its native load and firm sales only with the CEP contribution.

Given:

Actual CEP Energy = 50 MWs
The Company's Maximum Available Generation = 1460 MWs
Native Load = 1500 MWs
Firm Sale = 10 MWs

First Calculation:

Production Cost at 1460 MWs = \$18,900/hour

Second Calculation:

Production Cost at 1459 MWs = \$18,882.50/hour

Third Calculation (CEP Rate \$/MWH):

Actual Hourly Avoided Energy Cost at 1 MW (system λ ¹) =
 $(\$18,900/\text{hour} - \$18,882.50/\text{hour}) / (1 \text{ MW})$

or

As-Available Energy Payment Rate (AEPR) = \$17.50/MWH

¹ In this example, system λ is the production cost for the last MW segment to meet the load after dispatching all available generation capacity.

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SECOND REVISED SHEET NO. 8.402
CANCELS FIRST REVISED SHEET NO. 8.402

EXHIBIT 3

Example: Off-system purchases are not being made to serve native load and firm sales. Available generation capacity is not fully dispatched. Without the CEP's contribution, the Company's native load and firm sales can be carried only with additional power purchases.

Given:

Actual CEP Energy = 50 MWs
The Company's Maximum Available Generation = 1530 MWs
The Company's Actual Generation = 1500 MWs
Native Load = 1540 MWs
Firm Sale = 10 MWs

Step 1 (Calculations for First 30 MWs)

First Calculation (Without CEP):

Production Cost at 1530 MWs = \$20,590/hour

Second Calculation (With CEP):

Production Cost at 1500 MWs = \$20,050/hour

Third Calculation:

Actual Hourly Avoided Energy Cost at 30 MWs =
 $(\$20,590/\text{hour}) - (\$20,050/\text{hour}) = \$540/\text{hour}$

Step 2 (Calculations for Remaining 20 MWs)

First Calculation:

Production Cost at 1530 MWs = \$20,590/hour

Second Calculation:

Production Cost at 1529 MWs = \$20,571.50/hour

Third Calculation:

Actual Hourly Avoided Energy Cost at 1 MW (system λ^1) for 20 MWs =
 $(\$20,590/\text{hour} - \$20,571.50/\text{hour}) \times (20 \text{ MWs}) = \$370/\text{hour}$

Step 3 (Calculation of Composite Rate for Total 50 MW Block)

Composite Actual Hourly Avoided Energy Cost of 50 MW Block = $(\$540 + \$370) / 50 \text{ MW}$
or

As-Available Energy Payment Rate (AEPR) = \$18.20/MWH

¹ In this example, system λ is the production cost for the last MW segment to meet the load after dispatching all available generation capacity.

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DATE EFFECTIVE: June 19, 2012



FIRST REVISED SHEET NO. 8.404
CANCELS ORIGINAL SHEET NO. 8.404

EXHIBIT 4

Example: Off-system purchases are being made. The Company's native load and firm sales can be carried only with additional purchase power.

Given:

Actual CEP Energy = 50 MWs
The Company's Maximum Available Generation = 1500 MWs
The Company's Actual Generation = 1500 MWs
Native Load = 1540 MWs
Firm Sales = 20 MWs
Off-System Purchase¹ = 10 MWs Costing \$400/hour

Actual Incremental Hourly Avoided Energy Cost = \$400 / 10 MW

Or

As-Available Energy Payment Rate (AEPR) = \$40/hour

¹ Off-System Purchase shall be the highest cost purchased energy block bought during the hour for native load.

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: June 19, 2012



~~NINTH-TENTH~~ REVISED SHEET NO. 8.406
CANCELS ~~EIGHTH-NINTH~~ REVISED SHEET NO. 8.406

**RATE SCHEDULE COG-2
APPENDIX C**

2023-COMBUSTION TURBINE2021 Reciprocating Engine

This Designated Avoided Unit is a 245-18.5 MW (winter rating) natural gas-fired ~~combustion turbine~~ Reciprocating Engine with a JANUARY 1, 2023~~DECEMBER 1, 2021~~, in-service date.

MINIMUM PERFORMANCE STANDARDS

In order to receive a Monthly Capacity Payment, all Contracted Capacity and Associated Energy provided by CEPs shall meet or exceed the following MPS on a monthly basis. The MPS are based on the anticipated peak and off-peak dispatchability, unit availability, and operating factor of the Designated Avoided Unit over the term of this Standard Offer Contract. The CEP's proposed generating facility ("the Facility") as defined in the Standard Offer Contract will be evaluated against the anticipated performance of a ~~combustion turbine~~Reciprocating Engine, starting with the first Monthly Period following the date selected in Paragraph 6.b.ii of the Company's Standard Offer Contract.

1. **Dispatch Requirements:** The CEP shall provide peaking capacity to the Company on a firm commitment, first-call, on-call, as-needed basis. In order to receive a Contracted Capacity Payment for each calendar month that the Facility is to be dispatched, the CEP must meet or exceed both the minimum Monthly Availability and Monthly Capacity Factor requirements.
2. **Dispatch Procedure:** Commencing on the calendar day prior to the Facility In-Service Date or the Extended Facility In-Service Date, as applicable, and continuing each calendar day thereafter during the Term, by 7:00 A.M. EPT, the CEP shall electronically transmit a schedule ("Available Schedule") of the hour-by-hour amounts of Contracted Capacity expected to be available from the Facility the next day ("Committed Capacity"). Commencing on the calendar day prior to the Facility In-Service Date or the Extended Facility In-Service Date, as applicable, and continuing each calendar day thereafter during the Term, by 3:00 P.M. EPT, the Company shall electronically transmit the hour-by-hour amounts of Contracted Capacity that the Company desires the CEP to dispatch from the Facility the next day based on the Available Schedule supplied at 7:00 A.M. EPT by the CEP ("Dispatch Schedule"). The CEP's Available Schedule and the Company's Dispatch

Continued to Sheet No. 8.408

ISSUED BY: N. G. Tower, President

DATE EFFECTIVE: June 5, 2018



**FIRST REVISED SHEET NO. 8.408
CANCELS ORIGINAL SHEET NO. 8.408**

Schedule for Fridays will include Saturday, Sunday, and Monday schedules. The CEP's Available Schedule and the Company's Dispatch Schedule during holiday periods will be similarly adjusted. The CEP shall control and operate the Facility in accordance with the Company's Dispatch Schedule. From time to time (i.e. during emergency conditions), the Company may be required to adjust the Dispatch Schedule or ignore scheduled levels altogether, however, each Party shall make reasonable efforts to minimize departures from the Dispatch Schedule.

3. **Automatic Generation Control:** At the Company's discretion, the CEP will operate the Facility with Automatic Generation Control (AGC) equipment, speed governors, and voltage regulators in-service, except at such times when operational constraints of the equipment prevent AGC operation.
4. **Start-up Time:** Upon notification by the Company, the CEP's Facility shall provide its capacity within 15 minutes from a cold-start condition to maximum capacity.
5. **Minimum Run Time:** Minimum run time for the CEP's unit shall be 1 hour.

BASIS FOR MONTHLY CAPACITY PAYMENT CALCULATION:

1. **Monthly Availability Factor:** The Monthly Availability Factor of the CEP's generating facility will be calculated by averaging the Hourly Availability Factors for each hour of the Monthly Period. The Hourly Availability Factor may not exceed 100% and shall be defined as the hourly Committed Capacity expressed as a percentage of Contracted Capacity to the nearest whole percentile. The CEP is required to achieve a minimum Monthly Availability Factor of 90% in order to meet the MPS and be eligible to receive a Monthly Capacity Payment. Periods of Annual Planned Maintenance will be excluded from the calculation of the Monthly Availability Factor. For purposes of calculating the Monthly Availability Factor, the CEP's Committed Capacity may not exceed its Contracted Capacity.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: July 29, 2008



FIRST REVISED SHEET NO. 8.414
CANCELS ORIGINAL SHEET NO. 8.414

2. **Monthly Capacity Factor:** In addition to the MPS for Monthly Availability, the CEP shall provide capacity into the Company's electric grid in order to meet or exceed a Monthly Capacity Factor of 80%. The Monthly Capacity Factor for the period April 1st through October 31st shall be defined as the sum of 80% of the Monthly Average On-peak Operating Factor plus 20% of the Monthly Average Off-peak Operating Factor. The Monthly Capacity Factor for the period November 1st through March 31st shall be defined as the sum of 90% of the Monthly Average On-peak Operating Factor plus 10% of the Monthly Average Off-peak Operating Factor.
 - a. **Operating Factor:** The CEP shall endeavor to provide capacity in the amount dispatched by the Company. The Company may at times request capacity in an amount that exceeds the Committed Capacity as declared by CEP the previous day.

However, the Operating Factor may not exceed 100% and shall be defined as the actual energy received during each hour that the CEP unit is dispatched by the Company divided by the lesser of the CEP's Committed Capacity or the capacity requested by the Company for that hour, expressed to the nearest whole percentile.
 - b. **Monthly Average On-peak Operating Factor:** The monthly average of the Operating Factor for all hours the CEP unit has been dispatched during On-peak Hours will be termed the Monthly Average On-peak Operating Factor.
 - c. **Monthly Average Off-peak Operating Factor:** The monthly average of the Operating Factor for all hours the CEP unit has been dispatched during Off-peak Hours will be termed the Monthly Average Off-peak Operating Factor.
3. **Off-Peak and On-Peak Hours:** Those weekday hours occurring April 1 through October 31, from 12:00 noon to 9:00 p.m. and November 1 through March 31, from 6:00 a.m. to 10:00 a.m. and from 6:00 p.m. to 10:00 p.m. All other weekday hours and weekends shall be deemed Off-peak Hours including the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. The Company shall have the right to change such On-peak Hours by providing written notice to CEP a minimum of 90 calendar days prior to such change.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: July 29, 2008



**FOURTH REVISED SHEET NO. 8.416
CANCELS THIRD REVISED SHEET NO. 8.416**

Continued from Sheet No. 8.414

4. **Annual Scheduled Maintenance:** Each year the CEP shall prepare, coordinate, and provide by April 1st all planned maintenance with the Company. The Company will review and approve annual/major scheduled maintenance by July 1st for the balance of the current year and following calendar year. A maximum of 10 days (240 hours) each year for annual maintenance and a maximum of 4 weeks (672 hours) every fifteenth year for major maintenance will be allowed. Scheduled maintenance shall not be planned during January, July, August, or December. At the option of the CEP and with written consent from the Company, scheduled outage time may be utilized during any other months to improve the CEP's Availability and Capacity Factors and such scheduled outage hours will be disregarded from the Monthly Availability Factor and Capacity Factor calculations. However, once allowable maintenance hours have been utilized, all other hours during the year will be considered in Availability and Capacity Factor calculations.
5. **Monthly Capacity Payment:** Starting with the CEP's Commercial In-Service Date, for months when the CEP unit has been dispatched (provided that CEP has achieved at least a 90% Monthly Availability Factor), the Monthly Capacity Payment for each Monthly Period shall be calculated according to the following:
 - a. In the event that the Monthly Capacity Factor is less than 80%, no Monthly Capacity Payment shall be paid to the CEP. That is:

$$\text{MCP} = \$0$$

- b. In the event that the Monthly Capacity Factor is greater than or equal to 80% but less than 90%, the Monthly Capacity Payment shall be calculated from the following formula:

$$\text{MCP} = [(\text{BCC}) \times (.02 \times (\text{CF} - 45))] \times \text{CC}$$

Continued on Sheet No. 8.418

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: July 21, 2015



ORIGINAL SHEET NO. 8.418

- c. In the event that the Monthly Capacity Factor is greater than or equal to 90%, the Monthly Capacity Payment shall be calculated from the following formula:

$$MCP = (BCC) \times CC$$

Where:

- MCP = Monthly Capacity Payment in dollars.
BCC = Base Capacity Credit in \$/KW-Month (*as exemplified by the Payment Schedules included in this Appendix for the minimum contract term under Capacity Payment Options 1, 2, 3 and 4.*)
CC = Contracted Capacity in KW
CF = Monthly Capacity Factor; or

During April 1 - October 31:

$$= 80\% \times \text{Monthly Average On-peak Operating Factor} + 20\% \times \text{Monthly Average Off-peak Operating Factor}$$

During November 1 - March 31:

$$= 90\% \times \text{Monthly Average On-peak Operating Factor} + 10\% \times \text{Monthly Average Off-peak Operating Factor}$$

6. **Non-Dispatch Condition:** The CEP may be entitled to a Monthly Capacity Payment (BCC x CC) even if the CEP's unit was not dispatched by the Company during a Monthly Period. In this instance however, in order to cover the Company's operating reserve criteria, the CEP unit must have achieved a minimum Monthly Availability Factor of 90% for the Monthly Period to be eligible to receive a Monthly Capacity Payment.

In the event the CEP unit is dispatched during one but not the other (On-peak vs. Off-peak) period during the month, the CEP's Monthly Average Operating Factor for the "non-dispatched" period will be set equal to the Monthly Average Operating Factor achieved during the "dispatched" period, for the purpose of calculating the Monthly Capacity Factor, as defined in Paragraph 2 above.

The CEP may be entitled to a Monthly Capacity Payment when the CEP's unit is out of service during the month for allowable scheduled maintenance in accordance with the Paragraph 4 above.

ISSUED BY: C. R. Black, President

DATE EFFECTIVE: May 22, 2007



~~TWELFTH-THIRTEENTH~~ REVISED SHEET NO. 8.422
CANCELS ~~ELEVENTH-TWELFTH~~ REVISED SHEET NO.
8.422

Continued from Sheet No. 8.418

PARAMETERS FOR AVOIDED CAPACITY COSTS

Beginning with the in-service date (~~4/4/2023~~12/1/2021) of the Company's Designated Avoided Unit, a ~~245MW~~18.5MW (Winter Rating) natural gas-fired ~~Combustion Turbine~~ Reciprocating Engine, for a 1 year deferral:

		VALUE
VAC _m =	Company's monthly value of avoided capacity, \$/kW/month, for each month of year n	4.689.0
K =	present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present value to the middle of the first year	4.4147 <u>1.2503</u>
I _n =	total direct and indirect cost, in mid-year \$/kW including AFUDC but excluding CWIP, of the Designated Avoided Unit(s) with an in-service date of year n, including all identifiable and quantifiable costs relating to the construction of the Designated Avoided Unit that would have been paid had the Designated Avoided Unit(s) been constructed	584.40 <u>1169.89</u>
O _n =	total fixed operation and maintenance expense for the year n, in mid-year \$/kW/year, of the Designated Avoided Unit(s);	6.1521.10
i _p =	annual escalation rate associated with the plant cost of the Designated Avoided Unit(s)	2.40 %
i _o =	annual escalation rate associated with the operation and maintenance expense of the Designated Avoided Unit(s);	2.2%
r =	discount rate, defined as the Company's incremental after tax cost of capital;	7.0426 <u>7.03</u> %

Continued to Sheet No. 4.424

ISSUED BY: N. G. Tower, President

DATE EFFECTIVE: ~~May 14, 2019~~



~~TWELFTH-THIRTEENTH~~ REVISED SHEET NO. 8.424
CANCELS ~~ELEVENTH-TWELFTH~~ REVISED SHEET NO.
8.424

Continued from Sheet No. 8.422

L	=	expected life of the Designated Avoided Unit(s); and	30
n	=	year for which the Designated Avoided Unit is deferred starting with its original anticipated in-service date and ending with the termination of the contract for the purchase of firm capacity and energy.	2023 <u>2021</u>
A _m	=	monthly early capacity payments to be made to the CEP for each month of the contract year n, in \$/kW/month, if payments start in 2019 <u>2020</u>	3.21 <u>7.86</u>
m	=	Earliest year in which early capacity payments to the CEP may begin;	2019 <u>2020</u> *
F	=	the cumulative present value, in the year contractual payments will begin, of the avoided capital cost component of capacity payments over the term of the contract which would have been made had capacity payments commenced with the anticipated in-service date of the Designated Avoided Unit(s);	505.64 <u>1054.07</u> *
t	=	the term, in years, of the contract for the purchase of firm capacity if early capacity payments commence in year m;	24 <u>20</u> *

* Actual values will be determined based on the capacity payment start date and contract term selected by the CEP.

Continued to Sheet No. 8.426

ISSUED BY: N. G. Tower, President

DATE EFFECTIVE: ~~May 14, 2019~~



~~TWELFTH-THIRTEENTH~~ REVISED SHEET NO. 8.426
CANCELS ~~ELEVENTH-TWELFTH~~ REVISED SHEET NO. 8.426

Continued from Sheet No. 8.424

2021 RECIPROCATING ENGINE - AVOIDED UNIT
MONTHLY CAPACITY PAYMENT RATE (\$/KW-MONTH)
NON-LEVELIZED PAYMENT OPTIONS

		<u>OPTION 1</u>		<u>OPTION 2</u>		
		<u>NORMAL PAYMENT</u>		<u>EARLY PAYMENT</u>		
<u>CONTRACT YEAR</u>		<u>Starting</u> <u>12/1/2021</u>	<u>Starting</u> <u>1/1/2020</u>			
<u>FROM</u>	<u>TO</u>	<u>\$/kW-mo</u>	<u>\$/kW-mo</u>			
-		-	-			
<u>1/1/20</u>	<u>12/31/20</u>		<u>8.10</u>			
<u>1/1/21</u>	<u>12/31/21</u>	<u>9.00</u>	<u>8.27</u>			
<u>1/1/22</u>	<u>12/31/22</u>	<u>9.19</u>	<u>8.43</u>			
<u>1/1/23</u>	<u>12/31/23</u>	<u>9.38</u>	<u>8.61</u>			
<u>1/1/24</u>	<u>12/31/24</u>	<u>9.57</u>	<u>8.78</u>			
<u>1/1/25</u>	<u>12/31/25</u>	<u>9.76</u>	<u>8.96</u>			
<u>1/1/26</u>	<u>12/31/26</u>	<u>9.96</u>	<u>9.14</u>			
<u>1/1/27</u>	<u>12/31/27</u>	<u>10.16</u>	<u>9.33</u>			
<u>1/1/28</u>	<u>12/31/28</u>	<u>10.37</u>	<u>9.52</u>			
<u>1/1/29</u>	<u>12/31/29</u>	<u>10.58</u>	<u>9.72</u>			
<u>1/1/30</u>	<u>12/31/30</u>	<u>10.80</u>	<u>9.91</u>			
<u>1/1/31</u>	<u>12/31/31</u>	<u>11.02</u>	<u>10.12</u>			
<u>1/1/32</u>	<u>12/31/32</u>	<u>11.24</u>	<u>10.32</u>			
<u>1/1/33</u>	<u>12/31/33</u>	<u>11.47</u>	<u>10.53</u>			
<u>1/1/34</u>	<u>12/31/34</u>	<u>11.71</u>	<u>10.75</u>			
<u>1/1/35</u>	<u>12/31/35</u>	<u>11.95</u>	<u>10.97</u>			
<u>1/1/36</u>	<u>12/31/36</u>	<u>12.19</u>	<u>11.19</u>			
<u>1/1/37</u>	<u>12/31/37</u>	<u>12.44</u>	<u>11.42</u>			
<u>1/1/38</u>	<u>12/31/38</u>	<u>12.69</u>	<u>11.65</u>			
<u>1/1/39</u>	<u>12/31/39</u>	<u>12.95</u>	<u>11.89</u>			
<u>1/1/40</u>	<u>12/31/40</u>	<u>13.22</u>				
<u>1/1/41</u>	<u>12/31/41</u>	<u>13.49</u>				
<u>1/1/42</u>	<u>12/31/42</u>					

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ISSUED BY: N. G. Tower, President

DATE EFFECTIVE: ~~May 14, 2019~~



~~TWELFTH-THIRTEENTH~~ REVISED SHEET NO. 8.426
CANCELS ~~ELEVENTH-TWELFTH~~ REVISED SHEET NO.
8.426

Continued from Sheet No. 8.424

2023 COMBUSTION TURBINE - AVOIDED UNIT
MONTHLY CAPACITY PAYMENT RATE (\$/KW-MONTH)
NON-LEVELIZED PAYMENT OPTIONS

		OPTION-1	OPTION-2			
		NORMAL PAYMENT	EARLY PAYMENT			
CONTRACT YEAR		Starting 1/1/2023	Starting 1/1/2022	Starting 1/1/2021	Starting 1/1/2020	Starting 1/1/2019
FROM	TO	\$/KW-me	\$/KW-me	\$/KW-me	\$/KW-me	\$/KW-me
-	-	-	-	-	-	-
1/1/19	12/31/19	-	-	-	-	3.21
1/1/20	12/31/20	-	-	-	3.52	3.28
1/1/21	12/31/21	-	-	3.86	3.59	3.35
1/1/22	12/31/22	-	4.24	3.94	3.67	3.42
1/1/23	12/31/23	4.68	4.33	4.02	3.75	3.49
1/1/24	12/31/24	4.77	4.42	4.11	3.82	3.57
1/1/25	12/31/25	4.87	4.52	4.20	3.91	3.64
1/1/26	12/31/26	4.98	4.61	4.29	3.99	3.72
1/1/27	12/31/27	5.08	4.71	4.38	4.07	3.80
1/1/28	12/31/28	5.19	4.81	4.47	4.16	3.88
1/1/29	12/31/29	5.30	4.91	4.56	4.25	3.96
1/1/30	12/31/30	5.41	5.02	4.66	4.34	4.04
1/1/31	12/31/31	5.53	5.12	4.76	4.43	4.13
1/1/32	12/31/32	5.64	5.23	4.86	4.52	4.21
1/1/33	12/31/33	5.76	5.34	4.96	4.62	4.30
1/1/34	12/31/34	5.88	5.45	5.06	4.71	4.39
1/1/35	12/31/35	6.01	5.57	5.17	4.81	4.49
1/1/36	12/31/36	6.13	5.69	5.28	4.91	4.58
1/1/37	12/31/37	6.26	5.81	5.39	5.02	4.68
1/1/38	12/31/38	6.40	5.93	5.51	5.12	4.78
1/1/39	12/31/39	6.53	6.06	5.62	5.23	4.88
1/1/40	12/31/40	6.67	6.18	5.74	5.34	4.98
1/1/41	12/31/41	6.81	6.31	5.86	5.46	5.09
1/1/42	12/31/42	6.95	6.44	5.99	5.57	5.19

Continued to Sheet No. 8.427

ISSUED BY: N. G. Tower, President

DATE EFFECTIVE: May 14, 2019



~~SEVENTH-EIGHTH~~ REVISED SHEET NO. 8.427
CANCELS ~~SIXTH-SEVENTH~~ REVISED SHEET NO. 8.427

Continued from Sheet No. 8.426

2021 RECIPROCATING ENGINE - AVOIDED UNIT
MONTHLY CAPACITY PAYMENT RATE (\$/KW-MONTH)
LEVELIZED PAYMENT OPTIONS

		OPTION 3	OPTION 4			
		LEVELIZED NORMAL PAYMENT	EARLY LEVELIZED PAYMENT			
CONTRACT YEAR		Starting 12/1/2021	Starting 12/1/2020			
FROM	TO	\$/kW-mo	\$/kW-mo			
-	-	-	-			
<u>1/1/20</u>	<u>12/31/20</u>	-	<u>9.18</u>			
<u>1/1/21</u>	<u>12/31/21</u>	<u>9.78</u>	<u>9.21</u>			
<u>1/1/22</u>	<u>12/31/22</u>	<u>9.82</u>	<u>9.25</u>			
<u>1/1/23</u>	<u>12/31/23</u>	<u>9.86</u>	<u>9.28</u>			
<u>1/1/24</u>	<u>12/31/24</u>	<u>9.90</u>	<u>9.32</u>			
<u>1/1/25</u>	<u>12/31/25</u>	<u>9.94</u>	<u>9.36</u>			
<u>1/1/26</u>	<u>12/31/26</u>	<u>9.98</u>	<u>9.40</u>			
<u>1/1/27</u>	<u>12/31/27</u>	<u>10.02</u>	<u>9.44</u>	Intentionally Left Blank		
<u>1/1/28</u>	<u>12/31/28</u>	<u>10.07</u>	<u>9.48</u>			
<u>1/1/29</u>	<u>12/31/29</u>	<u>10.11</u>	<u>9.52</u>			
<u>1/1/30</u>	<u>12/31/30</u>	<u>10.16</u>	<u>9.56</u>			
<u>1/1/31</u>	<u>12/31/31</u>	<u>10.21</u>	<u>9.60</u>			
<u>1/1/32</u>	<u>12/31/32</u>	<u>10.25</u>	<u>9.65</u>			
<u>1/1/33</u>	<u>12/31/33</u>	<u>10.30</u>	<u>9.69</u>			
<u>1/1/34</u>	<u>12/31/34</u>	<u>10.35</u>	<u>9.74</u>			
<u>1/1/35</u>	<u>12/31/35</u>	<u>10.40</u>	<u>9.79</u>			
<u>1/1/36</u>	<u>12/31/36</u>	<u>10.46</u>	<u>9.84</u>			
<u>1/1/37</u>	<u>12/31/37</u>	<u>10.51</u>	<u>9.89</u>			
<u>1/1/38</u>	<u>12/31/38</u>	<u>10.57</u>	<u>9.94</u>			
<u>1/1/39</u>	<u>12/31/39</u>	<u>10.62</u>	<u>9.99</u>			
<u>1/1/40</u>	<u>12/31/40</u>	<u>10.68</u>				
<u>1/1/41</u>	<u>12/31/41</u>					
<u>1/1/42</u>	<u>12/31/42</u>					

ISSUED BY: N. G. Tower, President

DATE EFFECTIVE: ~~May 14, 2019~~



SEVENTH-EIGHTH REVISED SHEET NO. 8.427
CANCELS SIXTH-SEVENTH REVISED SHEET NO. 8.427

2023 COMBUSTION TURBINE—AVOIDED UNIT
MONTHLY CAPACITY PAYMENT RATE (\$/KW-MONTH)
LEVELIZED PAYMENT OPTIONS

		OPTION-3	OPTION-4			
		LEVELIZED NORMAL PAYMENT	EARLY-LEVELIZED-PAYMENT			
CONTRACT YEAR		Starting 1/1/2023	Starting 1/1/2022	Starting 1/1/2021	Starting 1/1/2020	Starting 1/1/2019
FROM	TO	\$/KW-mo	\$/KW-mo	\$/KW-mo	\$/KW-mo	\$/KW-mo
-	-	-	-	-	-	-
1/1/19	12/31/19	-	-	-	-	3.79
1/1/20	12/31/20	-	-	-	4.13	3.80
1/1/21	12/31/21	-	-	4.50	4.14	3.80
1/1/22	12/31/22	-	4.92	4.51	4.14	3.81
1/1/23	12/31/23	5.39	4.93	4.52	4.15	3.82
1/1/24	12/31/24	5.40	4.94	4.53	4.16	3.83
1/1/25	12/31/25	5.41	4.95	4.54	4.17	3.84
1/1/26	12/31/26	5.43	4.96	4.55	4.18	3.85
1/1/27	12/31/27	5.44	4.98	4.56	4.19	3.86
1/1/28	12/31/28	5.45	4.99	4.57	4.20	3.86
1/1/29	12/31/29	5.46	5.00	4.58	4.21	3.87
1/1/30	12/31/30	5.48	5.01	4.59	4.22	3.88
1/1/31	12/31/31	5.49	5.02	4.61	4.23	3.89
1/1/32	12/31/32	5.50	5.04	4.62	4.24	3.90
1/1/33	12/31/33	5.52	5.05	4.63	4.25	3.91
1/1/34	12/31/34	5.53	5.06	4.64	4.26	3.92
1/1/35	12/31/35	5.54	5.07	4.65	4.28	3.93
1/1/36	12/31/36	5.56	5.09	4.67	4.29	3.95
1/1/37	12/31/37	5.57	5.10	4.68	4.30	3.96
1/1/38	12/31/38	5.59	5.12	4.69	4.31	3.97
1/1/39	12/31/39	5.60	5.13	4.71	4.32	3.98
1/1/40	12/31/40	5.62	5.15	4.72	4.34	3.99
1/1/41	12/31/41	5.64	5.16	4.73	4.35	4.00
1/1/42	12/31/42	5.65	5.18	4.75	4.36	4.02

Continued to Sheet No. 8.428

ISSUED BY: N. G. Tower, President

DATE EFFECTIVE: ~~May 14, 2019~~



~~TENTH~~ ~~ELEVENTH~~ REVISED SHEET NO. 8.428
CANCELS ~~NINTH~~ ~~TENTH~~ REVISED SHEET NO. 8.428

Continued from Sheet No. 8.427

BASIS FOR MONTHLY ENERGY PAYMENT CALCULATION:

1. **Energy Payment Rate:** Prior to the in-service date of the avoided unit, the CEP's Energy Payment Rate shall be the Company's As-Available Energy Payment Rate (AEPR), as described in Appendix B. Starting the in-service date of the avoided unit, the basis for determining the Energy Payment Rate will be whether:
 - a. The Company has dispatched the CEP's unit on AGC; or
 - b. The Company has dispatched the CEP's unit off AGC and the CEP is operating its unit at or below the dispatched level; or
 - c. The Company has dispatched the CEP's unit off AGC but the CEP is operating its unit above the dispatched level; or
 - d. The Company has not dispatched the CEP's unit but the CEP is providing capacity and energy.

Note: For any given hour the CEP unit must be operating on AGC a minimum of 30 minutes to qualify under case (a).

The CEP's total monthly energy payment shall equal; (1) the sum of the hourly energy at the Unit Energy Payment Rate (UEPR), when the CEP's unit was dispatched by the Company, plus (2) the sum of the hourly energy at the corresponding hourly AEPR when the CEP's unit was operating at times other than when the Company dispatched the unit.

2. **Unit Energy Payment Rate:** Starting the in-service date of the avoided unit, the CEP will be paid at the UEPR for energy provided in Paragraph 1.a, Paragraph 1.b and that portion of the energy provided up to the dispatched level in Paragraph 1.c as defined above. The UEPR, which is based on the Company's Designated Avoided Unit and Heat Rate value of ~~11,3068~~ 101 Btu/kWh, will be calculated monthly by the following formula:

$$UEPR = FC + O_v$$

where;

O_v = Unit Variable Operation & Maintenance Expense in \$/MWH.

Continued to Sheet No. 8.434

ISSUED BY: N. G. Tower, President

DATE EFFECTIVE: ~~May 14, 2019~~



~~TENTH-ELEVENTH~~ REVISED SHEET NO. 8.434
CANCELS ~~NINTH-TENTH~~ REVISED SHEET NO. 8.434

Continued from Sheet No. 8.428

FC = Fuel Component of the Energy Payment in \$/MWH as defined by:

$$FC = \frac{11,3068,101 \text{ Btu/kWh} \times FP}{1,000}$$

where;

FP = Fuel Price in \$/MMBTU determined by:

$$FP = GC / (1 - FRP) + TC$$

where;

GC = Fuel Price in \$/MMBTU determined by taking the first publication of each month of Inside FERC's Gas Market Report low price quotation under the column titled "Index" for "Florida Gas Transmission Co., "Zone 2", listings.

TC = then currently approved Florida Gas Transmission (FGT) Company tariff rate in \$/MMBTU for forward haul Interruptible Market Area Transportation (ITS-1), including usage and surcharges.

FRP = then currently approved FGT Company tariff Fuel Reimbursement Charge Percentage in percent applicable to forward hauls for recovery of costs associated with the natural gas used to operate FGT's pipeline system.

3. **As-Available Energy Payment Rate (AEPR):** For energy provided and not covered under Paragraph 2 above, the AEPR will be applicable and will be based on the system avoided energy cost as defined in Appendix B.

Continued to Sheet No. 8.436

ISSUED BY: N. G. Tower, President

DATE EFFECTIVE: ~~May 14, 2019~~



~~TWELFTH-THIRTEENTH~~ REVISED SHEET NO. 8.436
CANCELS ~~ELEVENTH-TWELFTH~~ REVISED SHEET NO.
8.436

Continued from Sheet No. 8.428

PARAMETERS FOR AVOIDED UNIT ENERGY AND VARIABLE OPERATION AND MAINTENANCE COSTS

Beginning on ~~January 1, 2023~~DECEMBER 1, 2021, to the extent that the Designated Avoided Unit(s) would have been operated had it been installed by the Company:

	VALUE
O_v = total variable operating and maintenance expense, in \$/MWH, of the Designated Avoided Unit(s), in year n	<u>2,238.73</u>
H = The average annual heat rate, in British Thermal Units (Btus) per kilowatt-hour (Btu/kWh), of the Designated Avoided Unit(s)	<u>11,3068.101</u>

ISSUED BY: N. G. Tower, President

DATE EFFECTIVE: ~~May 14, 2019~~



SECOND REVISED SHEET NO. 8.438
CANCELS FIRST REVISED SHEET NO. 8.438

RESERVED FOR FUTURE USE

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: July 13, 2010



TWENTIETH REVISED SHEET NO. 8.440
CANCELS NINETEENTH REVISED SHEET NO. 8.440

RESERVE FOR FUTURE USE

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: July 13, 2010



**FIRST REVISED SHEET NO. 8.442
CANCELS ORIGINAL SHEET NO. 8.442**

RESERVED FOR FUTURE USE

ISSUED BY: G. L. Gillette, President

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FIRST REVISED SHEET NO. 8.444
CANCELS ORIGINAL SHEET NO. 8.444

RESERVED FOR FUTURE USE

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: July 13, 2010



FIRST REVISED SHEET NO. 8.446
CANCELS ORIGINAL SHEET NO. 8.446

RESERVED FOR FUTURE USE

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SECOND REVISED SHEET NO. 8.448
CANCELS FIRST REVISED SHEET NO. 8.448

RESERVED FOR FUTURE USE

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: July 13, 2010



TWENTY-SECOND REVISED SHEET NO. 8.450
CANCELS TWENTY-FIRST REVISED SHEET NO. 8.450

RESERVED FOR FUTURE USE

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: July 13, 2010



SECOND REVISED SHEET NO. 8.452
CANCELS FIRST REVISED SHEET NO. 8.452

RESERVED FOR FUTURE USE

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DATE EFFECTIVE: July 13, 2010



SECOND REVISED SHEET NO. 8.454
CANCELS FIRST REVISED SHEET NO. 8.454

RESERVED FOR FUTURE USE

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: July 13, 2010



SECOND REVISED SHEET NO. 8.456
CANCELS FIRST REVISED SHEET NO. 8.456

RESERVED FOR FUTURE USE

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: July 13, 2010



**SECOND REVISED SHEET NO. 8.458
CANCELS FIRST REVISED SHEET NO. 8.458**

RESERVED FOR FUTURE USE

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: July 13, 2010



TWENTY-SECOND REVISED SHEET NO. 8.460
CANCELS TWENTY-FIRST REVISED SHEET NO. 8.460

RESERVED FOR FUTURE USE

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: July 13, 2010

TAMPA ELECTRIC COMPANY

ORIGINAL SHEET NO. 8.700

**GENERAL STANDARDS FOR SAFETY
AND INTERCONNECTION OF COGENERATION AND
SMALL POWER PRODUCTION FACILITIES TO
THE ELECTRIC UTILITY SYSTEM**

The following section is based on Florida Public Service Commission (FPSC) Rule 25-17.087, Florida Administrative Code, (F.A.C.), Interconnection and Standards and is applicable throughout Tampa Electric Company's (the Company's) service area:

1. The Company shall interconnect with any qualifying facility (qf) which:
 - a. is in its service area;
 - b. requests interconnection;
 - c. agrees to meet system standards specified in this Rule;
 - d. agrees to pay the cost of interconnection; and
 - e. signs an interconnection agreement.
2. Nothing in this rule shall be construed to preclude the Company from evaluating each request for interconnection on its own merits and modifying the general standards specified in this Rule to reflect the result of such an evaluation.
3. Where the Company refuses to interconnect with a qf or attempts to impose unreasonable standards pursuant to subsection (2) of this rule, the qf may petition the FPSC for relief. The Company shall have the burden of demonstrating to the FPSC why interconnection with the qfs should not be required or that the standards the Company seeks to impose on the qfs pursuant to subsection (2) are reasonable.
4. Upon a showing of credit worthiness, the qfs shall have the option of making monthly installment payments over a period no longer than 36 months toward the full cost of interconnection. However, where the qfs exercises that option, the Company shall charge interest on the amount owing. The Company shall charge such interest at the 30 day highest grade commercial paper rate. In any event, no the Company may not bear the cost of interconnection.

Continued to Sheet No. 8.705

ISSUED BY: J. B. Ramil, President

DATE EFFECTIVE: March 30, 1999

TAMPA ELECTRIC COMPANY

ORIGINAL SHEET NO. 8.705

Continued from Sheet No. 8.700

5. **Application for Interconnection:** A qf shall not operate electric generating equipment in parallel with the Company's electric system without the prior written consent of the Company. Formal application for interconnection shall be made by the qf prior to the installation of any generation related equipment. This application shall be accompanied by the following:

- a. Physical layout drawings, including dimensions;
- b. All associated equipment specifications and characteristics including technical parameters, ratings, basic impulse levels, electrical main one-line diagrams, schematic diagrams, system protections, frequency, voltage, current and interconnection distance;
- c. Functional and logic diagrams, control and meter diagrams, conductor sizes and length, and any other relevant data which might be necessary to understand the proposed system and to be able to make a coordinated system;
- d. Power characteristics in watts and vars;
- e. Expected radio-noise, harmonic generation and telephone interference factor;
- f. Synchronizing methods; and
- g. Operating/instruction manuals.

Any subsequent change in the system must also be submitted for review and written approval prior to actual modification. The above mentioned review, recommendations and approval by the Company do not relieve the qf from complete responsibility for the adequate engineering design, construction and operation of the qf equipment and for any liability for injuries to property or persons associated with any failure to perform in a proper and safe manner for any reason.

Continued to Sheet No. 8.710

ISSUED BY: J. B. Ramil, President

DATE EFFECTIVE: March 30, 1999

TAMPA ELECTRIC COMPANY

ORIGINAL SHEET NO. 8.710

Continued from Sheet No. 8.705

6. **Personnel Safety:** Adequate protection and safe operational procedures must be developed and followed by the joint system. These operating procedures must be approved by both the Company and the qf. The qf shall be required to furnish, install, operate and maintain in good order and repair, and be solely responsible for, without cost to the Company, all facilities required for the safe operation of the generation system in parallel with the Company's system.

The qf shall permit the Company's employees to enter upon its property at any reasonable time for the purpose of inspection and/or testing the qf's equipment, facilities, or apparatus. Such inspections shall not relieve the qf from its obligation to maintain its equipment in safe and satisfactory operating condition.

The Company's approval of isolating devices used by the qf will be required to ensure that these will comply with the Company's switching and tagging procedure for safe working clearances.

- a. **Disconnect switch:** A manual disconnect switch, of the visible load break type, to provide a separation point between the qf's generation system and the Company's system, shall be required. The Company will specify the location of the disconnect switch. The switch shall be mounted separate from the meter socket and shall be readily accessible to the Company and be capable of being locked in the open position with a Company padlock. The Company may reserve the right to open the switch (i.e., isolating the qf's generation system) without prior notice to the qf. To the extent practicable, however, prior notice shall be given.

Continued to Sheet No. 8.715

ISSUED BY: J. B. Ramil, President

DATE EFFECTIVE: March 30, 1999

TAMPA ELECTRIC COMPANY

ORIGINAL SHEET NO. 8.715

Continued from Sheet No. 8.710

Any of the following conditions shall be cause for disconnection:

- i. The Company's system emergencies and/or maintenance requirements; Hazardous conditions existing on the qf's generating or protective equipment as determined by the Company;
- ii. Adverse effects of the qf's generation to the Company's other electric consumers and/or system as determined by the Company;
- iii. Failure of the qf to maintain any required insurance; or
- iv. Failure of the qf to comply with any existing or future regulations, rules, orders or decisions of any governmental or regulatory authority having jurisdiction over the qf's electric generating equipment or the operation of such equipment.

b. **Responsibility and Liability:** The Company and the qf shall each be responsible for its own facilities. The Company and the qf shall each be responsible for ensuring adequate safeguards for other Company customers, the Company and qf personnel and equipment, and for the protection of its own generating system. The Company and the qf shall each indemnify and save the other harmless from any and all claims, demands, costs, or expense for loss, damage, or injury to persons or property of the other caused by, arising out of, or resulting from:

- i. Any act or omission by a party, or that party's contractors, agents, servants and employees in connection with the installation or operation of that party's generation system or the operation thereof in connection with the other party's system;
- ii. Any defect in, failure of, or fault related to a party's generation system;
- iii. The negligence of a party or negligence of that party's contractors, agents, servants or employees; or

Continued to Sheet No. 8.720

ISSUED BY: J. B. Ramil, President

DATE EFFECTIVE: March 30, 1999



FIRST REVISED SHEET NO. 8.720
CANCELS ORIGINAL SHEET NO. 8.720

Continued from Sheet No. 8.715

- iv. Any other event or act that is the result of, or proximately caused by a party.

For the purpose of this paragraph, the term party shall mean either the Company or QF, as the case may be.

With respect to a QF that is the state, a state agency or subdivision (as those terms are defined in Section 768.28(2), Florida Statutes, or the successor thereto), the obligations of Customer set forth in Paragraph 6.b above shall be subject to Section 768.28 (or the successor thereto), including the limitations contained therein. With respect to a QF that is the United States of America, or agency or subdivision thereof, the obligations set forth in the first sentence of Paragraph 6.b shall not apply. In either case, the Company reserves its rights under Section 768.28 (or the successor thereto), and the Federal Tort Claims Act (or the successor thereto), as applicable, including, but not limited to, the right to pursue legislative relief.

- c. **Insurance:** The QF shall deliver to the Company, at least fifteen (15) days prior to the start of any interconnection work, a certificate of insurance certifying the QF's coverage under a liability insurance policy issued by a reputable insurance company authorized to do business in the State of Florida naming the QF as named insured, and the Company as an additional named insured, which policy shall contain a broad form contractual endorsement specifically covering the liabilities accepted under this agreement arising out of the interconnection to the QF, or caused by operation of any of the QF's equipment or by the QF's failure to maintain its equipment in satisfactory and safe operating condition.

- i. In subsequent years, a certificate of insurance renewal must be provided annually to the Company indicating the QF's continued coverage as described herein. Renewal certification shall be sent to:

Tampa Electric Company
Risk Management Department
P. O. Box 111
Tampa, FL 33601

- ii. The policy providing such coverage for a Standard Offer Contract shall provide public liability insurance, including coverage for personal injury, death and property damage, in an amount not less than \$1,000,000 for each occurrence; provided however, if QF has insurance with limits greater than the minimum limits required herein, the QF shall set any amount higher than the minimum limits required by the Company to satisfy the insurance requirements of this Agreement.

Continued to Sheet No. 8.725

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: June 25, 2013



FIRST REVISED SHEET NO. 8.725
CANCELS ORIGINAL SHEET NO. 8.725

Continued from Sheet No. 8.720

iii. The policy providing such coverage for a Negotiated Contract shall provide public liability insurance, including coverage for personal injury, death and property damage, in an amount not less than \$1,000,000 for each occurrence. The Parties may negotiate the amount of insurance over \$1,000,000.

iv. The above required policy shall be endorsed with a provision requiring the insurance company will notify the Company thirty (30) days prior to the effective date of cancellation or material change in said policy.

v. The QF shall pay all premiums and other charges due on said policy and keep said policy in force during the entire period of interconnection with the Company.

vi. As an alternative to the foregoing insurance requirement, the QF may self-insure upon receiving the Company's prior written approval. The Company will provide the QF with written notification of approval or disapproval of a self-insurance application with 30 business days after the Company's receipt of all documentation required to support the application. In the event that the Company approves QF's request to self-insure, QF shall provide proof of its continuing ability to self-insure to the Company on an annual basis, or more frequently if requested by the Company. Notwithstanding the foregoing, the minimum insurance coverage amount set forth above shall be limited for the state, a state agency or subdivision (as those terms are defined in Section 768.28(2), or the successor thereto), to the maximum dollar amounts set forth in Section 768.28(5), or the successor thereto.

7. **Protection and Operation:** It will be the responsibility of the QF to provide all devices necessary to protect the QF's equipment from damage by the abnormal conditions and operations which occur on the Company system that result from interruptions and restorations of service by the Company's equipment and personnel. The QF shall protect its generator and associated equipment from overvoltage, undervoltage, overload, short circuits (including ground fault condition), open circuits, phase unbalance and reversal, over or under frequency condition, and other injurious electrical conditions that may arise on the Company's system and any reclose attempt by the Company.

The Company may reserve the right to perform such tests as it deems necessary to ensure safe and efficient protection and operation of the QF's equipment.

Continued to Sheet No. 8.730

ISSUED BY: G. L. Gillette, President

DATE EFFECTIVE: June 25, 2013

TAMPA ELECTRIC COMPANY

ORIGINAL SHEET NO. 8.730

Continued from Sheet No. 8.725

a. **Loss of source:** The qf shall provide, or the Company will provide at the qf's expense, approved protective equipment necessary to immediately, completely, and automatically disconnect the qf's generation from the Company's system in the event of a fault on the qf's system, a fault on the Company's system, or loss of source on the Company's system. Disconnection must be completed within the time specified by the Company in its standard operating procedure for its electric system for loss of a source on the Company's system.

This automatic disconnecting device may be of the manual or automatic reclose type and shall not be capable of reclosing until after service is restored by the Company. The type and size of the device shall be approved by the Company depending upon the installation. Adequate test data or technical proof that the device meets the above criteria must be supplied by the qf to the Company. The Company shall approve a device that will perform the above functions at minimal capital and operating costs to the qf.

b. **Coordination and Synchronization:** The qf shall be responsible for coordination and synchronization of the qf's equipment with the Company's electrical system, and assumes all responsibility for damage that may occur from improper coordination or synchronization of the generator with the Company's system.

c. **Electrical characteristics:** Single phase generator interconnections with the Company are permitted at power levels up to 20 KW. For power levels exceeding 20 KW, a three phase balanced interconnection will normally be required. For the purpose of calculating connected generation, 1 horsepower equals 1 kilowatt. The qf shall interconnect with the Company at the voltage of the available distribution or transmission line of the Company for the locality of the interconnection, and shall utilize one of the standard connections (single phase, three phase, wye, delta) as approved by the Company.

Continued to Sheet No. 8.735

ISSUED BY: J. B. Ramil, President

DATE EFFECTIVE: March 30, 1999

TAMPA ELECTRIC COMPANY

ORIGINAL SHEET NO. 8.735

Continued from Sheet No. 8.730

The Company may reserve the right to require a separate transformation and/or service for a qf's generation system, at the qf's expense. The qf shall bond all neutrals of the qf's system to the Company's neutral, and shall install a separate driven ground with a resistance value which shall be determined by the Company and bond this ground to the qf's system neutral.

- d. **Exceptions** A qf's generator having a capacity rating that can:
- i. Produce power in excess of one half of the minimum Company customer requirements of the interconnected distribution or transmission circuit; or
 - ii. produce power flows approaching or exceeding the thermal capacity of the connected Company distribution or transmission lines or transformers; or
 - iii. adversely affect the operation of the Company or other Company customer's voltage, frequency or overcurrent control and protection devices; or
 - iv. adversely affect the quality of service to other Company customers; or
 - v. interconnect at voltage levels greater than distribution voltages, will require more complex interconnection facilities as deemed necessary by the Company.

8. **Quality of Service:** The qf's generated electricity shall meet the following minimum guidelines:

- a. **Frequency:** The governor control on the prime mover shall be capable of maintaining the generator output frequency within limits for loads from no-load up to rated output. The limits for frequency shall be 60 hertz (cycles per second), plus or minus an instantaneous variation of less than 1%.
- b. **Voltage:** The regulator control shall be capable of maintaining the generator output voltage within limits for loads from no-load up to rated output. The limits for voltage shall be the nominal operating voltage level, plus or minus 5%.

Continued to Sheet No. 8.740

ISSUED BY: J. B. Ramil, President

DATE EFFECTIVE: March 30, 1999

TAMPA ELECTRIC COMPANY

ORIGINAL SHEET NO. 8.740

Continued from Sheet No. 8.735

- c. **Harmonics:** The output sine wave distortion shall be deemed acceptable when it does not have a higher content (root mean square) of harmonics than the Company's normal harmonic content at the interconnection point.
- d. **Power Factor:** The qf's generation system shall be designed, operated and controlled to provide reactive power requirements from 0.95 lagging to 0.95 leading power factor at the point of interconnection with Company. Induction generators shall have static capacitors that provide at least 95% of the magnetizing current requirements of the induction generator field. (Capacitors shall not be so large as to permit self-excitation of the qf's generator field).
- e. **DC Generators:** Direct current generators may be operated in parallel with the Company's system through a synchronous inverter. The inverter must meet all criteria in these rules.

9. **Metering:** The actual metering equipment required, its voltage rating, number of phases, size, current transformers, potential transformers, number of inputs and associated memory is dependent on the type, size and location of the electric service provided. In situations where power may flow both in and out of the qf's system, power flowing into the qf's system will be measured separately from power flowing out of the qf's system.

The Company will provide, at no additional cost to the qf, the metering equipment necessary to measure capacity and energy deliveries to the qf. The Company will provide, at the qf's expense, the necessary additional metering equipment to measure capacity and energy deliveries by the qf to the Company.

10. **Cost Responsibility:** The qf is required to bear all costs associated with the change-out, upgrading or addition of protective devices, transformers,

Continued to Sheet No. 8.745

ISSUED BY: J. B. Ramil, President

DATE EFFECTIVE: March 30, 1999

TAMPA ELECTRIC COMPANY

ORIGINAL SHEET NO. 8.745

Continued from Sheet No. 8.740

lines, services, meters, switches, and associated equipment and devices beyond that which would be required to provide normal service to the qf if the qf were a non-generating customer. These costs shall be paid by the qf to the Company for all material and labor that is required. Prior to any work being done by the Company, the Company shall supply the qf with a written cost estimate of all its required materials and labor and an estimate of the date by which construction of the interconnection will be completed. This estimate shall be provided to the qf within 60 days after the qf provides the Company with its final electrical plans. The Company shall also provide project timing and feasibility information to the qf.

11. The Company shall submit, to the FPSC, a standard agreement for the interconnection by qfs as part of their Standard Offer contract or contracts required by FPSC Rule 25-17.0832(3), F.A.C.

ISSUED BY: J. B. Ramil, President

DATE EFFECTIVE: March 30, 1999

Item 12

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Kistner, Ellis) *TB*
Office of the General Counsel (Weisenfeld) *TL7*

RE: Docket No. 20200114-EQ – Petition for approval of renewable energy tariff and standard offer contract, by Florida Power & Light Company.

AGENDA: 06/09/20 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Staff recommends the Commission consider with Docket No. 20200115-EQ

Case Background

Section 366.91(3), Florida Statutes (F.S.), requires each investor-owned utility (IOU) to continuously offer to purchase capacity and energy from renewable generating facilities and small qualifying facilities. Florida Public Service Commission (Commission) Rules 25-17.200 through 25-17.310, Florida Administrative Code (F.A.C.), implement the statute and require each IOU to file with the Commission, by April 1 of each year, a revised standard offer contract based on the next avoidable fossil fueled generating unit of each technology type identified in the utility's current Ten-Year Site Plan. On April 1, 2020, Florida Power & Light Company (FPL) filed a petition for approval of its revised standard offer contract, based on its 2020 Ten-Year Site Plan. Since its initial filing, FPL has filed two revisions to its petition to correct

Docket No. 20200114-EQ

Date: May 28, 2020

typographical and calculation errors.¹ The Commission has jurisdiction over this standard offer contract pursuant to Sections 366.04 through 366.055, and 366.91, F.S.

¹See Document Nos. 02341-2020 and 02557-2020 in Docket No. 20200114-EQ.

Discussion of Issues

Issue 1: Should the Commission approve the revised standard offer contract and associated rate schedule QS-2 filed by Florida Power & Light Company?

Recommendation: Yes. The provisions of FPL's revised standard offer contract and associated rate schedule QS-2 conform to all requirements of Rules 25-17.200 through 25-17.310, F.A.C. The revised standard offer contract provides flexibility in the arrangements for payments so that a developer of renewable generation may select the payment stream best suited to its financial needs. (Kistner)

Staff Analysis: Section 366.91(3), F.S., and Rule 25-17.250, F.A.C., require that FPL, an IOU, continuously make available a standard offer contract for the purchase of firm capacity and energy from renewable generating facilities (RF) and small qualifying facilities (QF) with design capacities of 100 kilowatts (kW) or less. Pursuant to Rules 25-17.250(1) and (3), F.A.C., the standard offer contract must provide a term of at least 10 years, and the payment terms must be based on the utility's next avoidable fossil-fueled generating unit identified in its most recent Ten-Year Site Plan, or if no avoided unit is identified, its next avoidable planned purchase.

FPL's submitted 2020 Ten-Year Site Plan does not feature an avoidable fossil-fueled generating unit or planned purchases that could be deferred during the planning period, FPL could opt to offer only a standard contract for energy payments based on its as-available energy cost. However, to encourage renewable generation, FPL has identified a 1,991 megawatt (MW) natural gas-fired combined cycle unit (CC) as the next planned generating unit. The projected in-service date of the unit is June 1, 2030. The Commission has approved using a unit outside of the Ten-Year Site Plan planning period previously.²

Under FPL's standard offer contract, the RF/QF operator commits to certain minimum performance requirements based on the identified avoided unit, such as being operational and delivering an agreed upon amount of capacity by the in-service date of the avoided unit, and thereby becomes eligible for capacity payments in addition to payments received for energy. 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, in a situation where one or both parties desire particular contract terms other than those established in the standard offer.

In order to promote renewable generation, the Commission requires the IOU to offer multiple options for capacity payments, including the options to receive early or levelized payments. If the RF/QF operator elects to receive capacity payments under the normal or levelized contract options, it will receive as-available energy payments only until the in-service date of the avoided unit (in this case June 1, 2030), and thereafter, begin receiving capacity payments in addition to the energy payments. If either the early or early levelized option is selected, then the operator will begin receiving capacity payments earlier than the in-service date of the avoided unit. However, payments made under the early capacity payment options tend to be lower in the later

²See Order No. PSC-2018-0316-PAA-EQ, issued June 20, 2018, in Docket No. 20180083-EQ, In re: *Petition for approval of renewable energy tariff and standard offer contract, by Florida Power & Light Company*.

years of the contract term because the net present value (NPV) of the total payments must remain equal for all contract payment options.

Table 1 contains FPL's estimates of the annual payments for each payment option available under the revised standard offer contract to an operator with a 50 MW facility operating at a capacity factor of 94 percent, which is the minimum capacity factor required under the contract to qualify for full capacity payments. Normal and levelized capacity payments begin with the projected in-service date of the avoided unit (June 1, 2030), while early and early levelized capacity payments begin in 2026 for this example.

**Table 1 - Estimated Annual Payments to a 50 MW Renewable Facility
(94% Capacity Factor)**

Year	Energy Payment \$(000)	Capacity Payment (By Type)			
		Normal \$(000)	Levelized \$(000)	Early \$(000)	Early Levelized \$(000)
2021	6,908	-	-	-	-
2022	6,933	-	-	-	-
2023	8,038	-	-	-	-
2024	8,709	-	-	-	-
2025	9,648	-	-	-	-
2026	10,212	-	-	1,975	2,217
2027	10,639	-	-	2,014	2,217
2028	11,517	-	-	2,054	2,217
2029	11,540	-	-	2,095	2,217
2030	11,625	3,263	3,574	2,137	2,217
2031	11,910	3,332	3,574	2,180	2,217
2032	12,556	3,402	3,574	2,223	2,217
2033	12,862	3,473	3,574	2,268	2,217
2034	13,404	3,546	3,574	2,313	2,217
2035	13,035	3,620	3,574	2,359	2,217
2036	13,102	3,696	3,574	2,407	2,217
2037	12,370	3,774	3,574	2,455	2,217
2038	12,076	3,853	3,574	2,504	2,217
2039	13,828	3,934	3,574	2,554	2,217
2040	13,613	4,016	3,574	2,605	2,217
Total	224,525	39,908	39,316	34,143	33,253
Total (NPV)	105,773	13,601	13,601	13,601	13,601

Source: FPL's Amended Response to Staff's First Data Request³

³Document No. 02342-2020, filed May 1, 2020, in Docket No. 20200114-EQ.

FPL's standard offer contract, in type-and-strike format, is included as Attachment A to this recommendation. The changes made to FPL's tariff sheets are consistent with the updated avoided unit. Revisions include updates to calendar dates and payment information which reflect the current economic and financial assumptions for the avoided unit.

Conclusion

Staff recommends that FPL's revised standard offer contract and associated rate schedule QS-2 be approved as filed. The provisions of FPL's revised standard offer contract conform to all requirements of Rules 25-17.200 through 25-17.310, F.A.C. The revised standard offer contract provides flexibility in the arrangements for payments so that a developer of renewable generation may select the payment stream best suited to its financial needs.

Issue 2: Should this docket be closed?

Recommendation: Yes. This docket should be closed upon issuance of a consummating order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Commission's Proposed Agency Action Order. Potential signatories should be aware that, if a timely protest is filed, FPL's standard offer contract may subsequently be revised. (Weisenfeld)

Staff Analysis: This docket should be closed upon the issuance of a consummating order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Commission's Proposed Agency Action Order. Potential signatories should be aware that, if a timely protest is filed, FPL's standard offer contract may subsequently be revised.

FLORIDA POWER & LIGHT COMPANY

~~Twelfth~~^{Thirteenth} Revised Sheet No. 9.030
Cancels ~~Eleventh~~^{Twelfth} Revised Sheet No. 9.030

STANDARD OFFER CONTRACT FOR THE PURCHASE OF
CAPACITY AND ENERGY FROM A RENEWABLE ENERGY FACILITY OR A QUALIFYING
FACILITY WITH A DESIGN CAPACITY OF 100 KW OR LESS (~~2026~~2030 AVOIDED UNIT)

THIS STANDARD OFFER CONTRACT (the "Contract") is made and entered this ____ day of _____, _____, by and between _____ (herein after "Qualified Seller" or "QS") a corporation/limited liability company organized and existing under the laws of the State of _____ and owner of a Renewable Energy Facility as defined in section 25-17.210 (1) F.A.C. or a Qualifying Facility with a design capacity of 100 KW or less as defined in section 25-17.250, and Florida Power & Light Company (hereinafter "FPL") a corporation organized and existing under the laws of the State of Florida. The QS and FPL shall be jointly identified herein as the "Parties". This Contract contains five Appendices; Appendix A, QS-2 Standard Rate for Purchase of Capacity and Energy; Appendix B, Pay for Performance Provisions; Appendix C, Termination Fee; Appendix D, Detailed Project Information and Appendix E, contract options to be selected by QS.

WITNESSETH:

WHEREAS, the QS desires to sell and deliver, and FPL desires to purchase and receive, firm capacity and energy to be generated by the QS consistent with the terms of this Contract, Section 366.91, Florida Statutes, and/or Florida Public Service Commission ("FPSC") Rules 25-17.082 through 25-17.091, F.A.C. and FPSC Rules 25-17.200 through 25.17.310.F.A.C.

WHEREAS, the QS has signed an interconnection agreement with FPL (the "Interconnection Agreement"), or it has entered into valid and enforceable interconnection/transmission service agreement(s) with the utility (or those utilities) whose transmission facilities are necessary for delivering the firm capacity and energy to FPL (the "Wheeling Agreement(s)");

WHEREAS, the FPSC has approved the form of this Standard Offer Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Facility or a Qualifying Facility with a design capacity of 100 KW or less; and

WHEREAS, the Facility is capable of delivering firm capacity and energy to FPL for the term of this Contract in a manner consistent with the provisions of this Contract; and

WHEREAS, Section 366.91(3), Florida Statutes, provides that the "prudent and reasonable costs associated with a QS energy contract shall be recovered from the ratepayers of the contracting utility, without differentiating among customer classes, through the appropriate cost-recovery clause mechanism" administered by the FPSC.

NOW, THEREFORE, for mutual consideration the Parties agree as follows:

(Continued on Sheet No. 9.031)

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective: ~~June 11, 2019~~

FLORIDA POWER & LIGHT COMPANY

Second Revised Sheet No. 9.031
Cancels First Sheet No. 9.031

(Continued from Sheet No. 9.030)

1. **QS Facility**

The QS contemplates, installing operating and maintaining a _____ KVA _____ generating facility located at _____ (hereinafter called the "Facility"). The Facility is designed to produce a maximum of _____ kilowatts ("KW") of electric power at an 85% lagging to 85% leading power factor. The Facility's location and generation capabilities are as described in the table below.

TECHNOLOGY AND GENERATOR CAPABILITIES	
Location: Specific legal description (e.g., metes and bounds or other legal description with street address required)	City: County:
Generator Type (Induction or Synchronous)	
Type of Facility (Hydrogen produced from sources other than fossil fuels, biomass as defined in Section 25-17.210 (2) F.A.C. , solar energy, geothermal energy, wind energy, ocean energy, hydroelectric power, waste heat from sulfuric acid manufacturing operations: or <100KW cogenerator)	
Technology	
Fuel Type and Source	
Generator Rating (KVA)	
Maximum Capability (KW)	
Minimum Load	
Peaking Capability	
Net Output (KW)	
Power Factor (%)	
Operating Voltage (kV)	
Peak Internal Load KW	

The following sections (a) through (e) are applicable to Renewable Energy Facilities ("REFs") and section (e) is only applicable to Qualifying Facilities with a design capacity of 100 KW or less:

- (a) If the QS is a REF, the QS represents and warrants that (i) the sole source(s) of fuel or power used by the Facility to produce energy for sale to FPL during the term of this Contract shall be such sources as are defined in and provided for pursuant to Sections 366.91(2) (a) and (b), Florida Statutes, and FPSC Rules 25-17.210(1) and (2), F.A.C.; (ii) Fossil fuels shall be limited to the minimum quantities necessary for start-up, shut-down and for operating stability at minimum load; and (iii) the REF is capable of generating the amount of capacity pursuant to Section 5 of this Agreement without the use of fossil fuels.
- (b) The Parties agree and acknowledge that if the QS is a REF, the QS will not charge for, and FPL shall have no obligation to pay for, any electrical energy produced by the Facility from a source of fuel or power except as specifically provided for in paragraph 1(a) above.

(Continued on Sheet No. 9.032)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: July 13, 2017

FLORIDA POWER & LIGHT COMPANY

~~Fourteenth~~^{Fifteenth} Revised Sheet No. 9.032
Cancels ~~Thirteenth~~^{Fourteenth} Revised Sheet No. 9.032

(Continued from Sheet No. 9.031)

- (c) If the QS is a REF, the QS shall, on an annual basis and within thirty (30) days after the anniversary date of this Contract and on an annual basis thereafter for the term of this Contract, deliver to FPL a report certified by an officer of the QS: (i) stating the type and amount of each source of fuel or power used by the QS to produce energy during the twelve month period prior to the anniversary date (the "Contract Year"); and (ii) verifying that one hundred percent (100%) of all energy sold by the QS to FPL during the Contract Year complies with Sections 1(a) and (b) of this Contract.
- (d) If the QS is a REF, the QS represents and warrants that the Facility meets the renewable energy requirements of Section 366.91(2)(a) and (b), Florida Statutes, and FPSC Rules 25-17.210(1) and (2)-, F.A.C., and that the QS shall continue to meet such requirements throughout the term of this Contract. FPL shall have the right at all times to inspect the Facility and to examine any books, records, or other documents of the QS that FPL deems necessary to verify that the Facility meets such requirements.
- (e) The Facility (i) has been certified or has self-certified as a "qualifying facility" pursuant to the Regulations of the Federal Energy Regulatory Commission ("FERC"), or (ii) has been certified by the FPSC as a "qualifying facility" pursuant to Rule 25-17.080(1). A QS that is a qualifying facility with a design capacity of less than 100 KW shall maintain the "qualifying status" of the Facility throughout the term of this Contract. FPL shall have the right at all times to inspect the Facility and to examine any books and records or other documents of the Facility that FPL deems necessary to verify the Facility's qualifying status. On or before March 31 of each year during the term of this Contract, the QS shall provide to FPL a certificate signed by an officer of the QS certifying that the Facility has continuously maintained qualifying status.

2. Term of Contract

Except as otherwise provided herein, this Contract shall become effective immediately upon its execution by the Parties (the "Effective Date") and shall have the termination date stated in Appendix E, unless terminated earlier in accordance with the provisions hereof. Notwithstanding the foregoing, if the Capacity Delivery Date (as defined in Section 5.5) of the Facility is not accomplished by the in-service date of the avoided unit, or such later date as may be permitted by FPL pursuant to Section 5 of this Contract, FPL will be permitted to terminate this Contract consistent with the terms herein without further obligations, duties or liability to the QS.

3. Minimum Specifications

Following are the minimum specifications pertaining to this Contract:

- 1. The avoided unit ("Avoided Unit") options on which this Contract is based are detailed in Appendix A.
- 2. This offer shall expire on April 1, ~~2020~~²⁰²¹.
- 3. The date by which firm capacity and energy deliveries from the QS to FPL shall commence is the in-service date of the Avoided Unit (or such later date as may be permitted by FPL pursuant to Section 5 of this contract) unless the QS chooses a capacity payment option that provides for early capacity payments pursuant to the terms of this Contract.
- 4. The period of time over which firm capacity and energy shall be delivered from the QS to FPL is as specified in Appendix E; provided, such period shall be no less than a minimum of ten (10) years after the in-service date of the Avoided Unit.
- 5. The following are the minimum performance standards for the delivery of firm capacity and energy by the QS to qualify for full capacity payments under this Contract:

	On Peak *	All Hours
Availability	94.0%	94.0%

* QS Performance and On Peak hours shall be as measured and/or described in FPL's Rate Schedule QS-2 attached hereto as Appendix A

(Continued on Sheet No. 9.032.1)

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective: ~~June 11, 2019~~

FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No. 9.032.1
Cancels Original Sheet No. 9.032.1

(Continued from Sheet No. 9.032)

3.2 QS, at no cost to FPL, shall be responsible to:

3.2.1 Design, construct, and maintain the Facility in accordance with this Contract, applicable law, regulatory, and governmental approvals, any requirements of warranty agreements or similar agreements, prudent industry practice, insurance policies, and the Interconnection Agreement or Wheeling Agreement.

3.2.2 Perform all studies, pay all fees, obtain all necessary approvals and execute all necessary agreements (including the Interconnection Agreement or the Wheeling Agreement(s)) in order to schedule and deliver the firm capacity and energy to FPL.

3.2.3 Obtain and maintain all permits, certifications, licenses, consents or approvals of any governmental or regulatory authority necessary for the construction, operation, and maintenance of the Facility (the "Permits"). QS shall keep FPL reasonably informed as to the status of its permitting efforts and shall promptly inform FPL of any Permits it is unable to obtain, that are delayed, limited, suspended, terminated, or otherwise constrained in a way that could limit, reduce, interfere with, or preclude QS's ability to perform its obligations under this Contract (including a statement of whether and to what extent this circumstance may limit or preclude QS's ability to perform under this Contract.)

3.2.4 Demonstrate to FPL's reasonable satisfaction that QS has established Site Control, an agreement for the ownership or lease of the Facility's site, for the Term of the Contract.

3.2.5 Complete all environmental impact studies and comply with applicable environmental laws necessary for the construction, operation, and maintenance of the Facility.

3.2.6 At FPL's request, provide to FPL electrical specifications and design drawings pertaining to the Facility for FPL's review prior to finalizing design of the Facility and before beginning construction work based on such specifications and drawings, provided FPL's review of such specifications and design shall not be construed as endorsing the specification, and design thereof, or as any express or implied warranties including performance, safety, durability or reliability of the Facility. QS shall provide to FPL reasonable advance notice of any changes in the Facility and provide to FPL specifications and design drawings of any such changes.

3.2.7 Within fifteen (15) days after the close of each month from the first month following the Effective Date until the Capacity Delivery Date, provide to FPL a monthly progress report (in a form reasonably satisfactory to FPL) and agree to regularly scheduled meetings between representatives of QS and FPL to review such monthly reports and discuss QS's construction progress. The Monthly Progress Report shall indicate whether QS is on target to meet the Capacity Delivery Date. If, for any reason, FPL has reason to believe that QS may fail to achieve the Capacity Delivery Date, then, upon FPL's request, QS shall submit to FPL, within ten (10) business days of such request, a remedial action plan ("Remedial Action Plan") that sets forth a detailed description of QS's proposed course of action to promptly achieve the Capacity Delivery Date. Delivery of a Remedial Action Plan does not relieve QS of its obligation to meet the Capacity Delivery Date.

3.3 FPL shall have the right, but not the obligation, to:

3.3.1 Inspect during business hours upon reasonable notice, or obtain copies of all Permits held by QS.

3.3.2 Consistent with Section 3.2.6, notify QS in writing of the results of the review within thirty (30) days of FPL's receipt of all specifications for the Facility, including a description of any flaws perceived by FPL in the design.

3.3.3 Inspect the Facility's construction site or on-site QS data and information pertaining to the Facility during business hours upon reasonable notice.

(Continued on Sheet No. 9.033)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: September 13, 2016

FLORIDA POWER & LIGHT COMPANY

Ninth Revised Sheet No. 9.033
Cancels Eighth Sheet No. 9.033

(Continued from Sheet No. 9.032.1)

4. Sale of Energy and Capacity by the QS

4.1 Consistent with the terms hereof, the QS shall sell and deliver to FPL and FPL shall purchase and receive from the QS at the Delivery Point (defined below) all of the energy and firm capacity generated by the Facility. FPL shall have the sole and exclusive right to purchase all energy and capacity produced by the Facility. The purchase and sale of energy and firm capacity pursuant to this Contract shall be a () net billing arrangement or () simultaneous purchase and sale arrangement; provided, however, that no such arrangement shall cause the QS to sell more energy and firm capacity than the Facility's net output. The billing methodology may be changed at the option of the QS, subject to the provisions of FPL Rate Schedule QS-2. For purposes of this Contract, Delivery Point shall be defined as either: (a) the point of interconnection between FPL's system and the transmission system of the final utility transmitting energy and firm capacity from the Facility to the FPL system, as specifically described in the applicable Wheeling Agreement, or (b) the point of interconnection between the Facility and FPL's transmission system, as specifically described in the Interconnection Agreement.

4.2 The QS shall not rely on interruptible standby service for the start up requirements (initial or otherwise) of the Facility.

4.3 The QS shall be responsible for all costs, charges and penalties associated with development and operation of the Facility.

4.4 The QS shall be responsible for all interconnection, electric losses, transmission and ancillary service arrangements and costs required to deliver, on a firm basis, the firm capacity and energy from the Facility to the Delivery Point.

5. Committed Capacity/Capacity Delivery Date

5.1 The QS commits to sell and deliver firm capacity to FPL at the Delivery Point, the amount of which shall be determined in accordance with this Section 5 (the "Committed Capacity"). Subject to Section 5.3 the Committed Capacity shall be _____ KW, delivery date no later than the in-service date of the Avoided Unit or as otherwise specified in Appendix E (the "Guaranteed Capacity Delivery Date").

5.2 Testing of the capacity of the Facility (each such test, a "Committed Capacity Test") shall be performed in accordance with the procedures set forth in Section 6. The Demonstration Period (defined herein) for the first Committed Capacity Test shall commence no earlier than six (6) months prior to the Capacity Delivery Date and testing must be completed by 11:59 p.m. on the date prior to the Guaranteed Delivery Date. The first Committed Capacity Test shall be deemed successfully completed when the QS demonstrates to FPL's satisfaction that the Facility can make available capacity of at least one hundred percent (100%) of the Committed Capacity set forth in Section 5.1. Subject to Section 6.1, the QS may schedule and perform up to three (3) Committed Capacity Tests to satisfy the capacity requirements of the Contract.

5.3 FPL shall have the right to require the QS, by notice no less than ten (10) business days prior to such proposed test, to validate the Committed Capacity of the Facility by means of subsequent Committed Capacity Tests as follows: (a) once per each Summer period and once per each Winter period at FPL's sole discretion, (b) at any time the QS is unable to comply with any material obligation under this Contract for a period of thirty (30) days or more in the aggregate as a consequence of an event of Force Majeure, and (c) at any time the QS fails in three consecutive months to achieve an Annual Capacity Billing Factor, as defined in Appendix B (the "ACBF"), equal to or greater than 70%. The results of any such test shall be provided to FPL within seven (7) days of the conclusion of such test. On and after the date of such requested Committed Capacity Test, and until the completion of a subsequent Committed Capacity Test, the Committed Capacity shall be deemed as the lower of the tested capacity or the Committed Capacity as set forth in Section 5.1.

5.4 Notwithstanding anything to the contrary herein, the Committed Capacity shall not exceed the amount set forth in Section 5.1 without the prior written consent of FPL, such consent not unreasonably withheld.

5.5 The "Capacity Delivery Date" shall be defined as the first calendar day immediately after the date following the last to occur of (a) the Facility's successful completion of the first Committed Capacity Test but no earlier than the commencement date for deliveries of firm capacity and energy (as such is specified in Appendix E) and (b) the satisfaction by QS of the following Delivery Date Conditions (defined below).

(Continued on Sheet No. 9.033.1)

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective: June 5, 2018

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 9.033.1

(Continue from Sheet No. 9.033)

5.5.1 A certificate addressed to FPL from a Licensed Professional Engineer (reasonably acceptable to FPL in all respects) stating: (a) the nameplate capacity rating of the Facility at the anticipated time of commercial operation, which must be at least 94% of the Expected Nameplate Capacity Rating; (b) that the Facility is able to generate electric energy reliably in amounts expected by this Agreement and in accordance with all other terms and conditions hereof; (c) that Start-Up Testing of the Facility has been completed; and (d) that, pursuant to Section 8.4, all system protection and control and Automatic Generation Control devices are installed and operational.

5.5.2 A certificate addressed to FPL from a Licensed Professional Engineer (reasonably acceptable to FPL in all respects) stating, in conformance with the requirements of the Interconnection Agreement, that: (a) all required interconnection facilities have been constructed; (b) all required interconnection tests have been completed; and (c) the Facility is physically interconnected with the System in conformance with the Interconnection Agreement and able to deliver energy consistent with the terms of this Agreement.

5.5.3 A certificate addressed from a Licensed Professional Engineer (reasonably acceptable to FPL in all respects) stating that QS has obtained or entered into all permits and agreements with respect to the Facility necessary for construction, ownership, operation, and maintenance of the Facility (the "Required Agreements"). QS must provide copies of any or all Required Agreements requested by FPL.

5.5.4 An opinion from a law firm or attorney, registered or licensed in the State of Florida (reasonably acceptable to FPL in all respects), stating, after all appropriate and reasonable inquiry, that: (a) QS has obtained or entered into all Required Agreements; (b) neither QS nor the Facility is in violation of or subject to any liability under any applicable law; and (c) QS has duly filed and had recorded all of the agreements, documents, instruments, mortgages, deeds of trust, and other writings described in Section 9.7.

5.5.5 FPL has received the Completion/Performance Security ((a) through (e), the "Commercial Operation Conditions").

FPL shall have ten (10) Business Days after receipt either to confirm to QS that all of the Delivery Date Conditions have been satisfied or have occurred, or to state with specificity what FPL reasonably believes has not been satisfied.

5.6 The QS shall be entitled to receive capacity payments beginning on the Capacity Delivery Date, provided, the Capacity Delivery Date occurs on or before the in-service date of the Avoided Unit (or such later date permitted by FPL pursuant to the following sentence). If the Capacity Delivery Date does not occur on or before the Guaranteed Capacity Delivery Date, FPL shall be entitled to the Completion/Performance Security (as set forth in Section 9) in full, and in addition, has the right but not the obligation to allow the QS up to an additional five (5) months to achieve the Capacity Delivery Date. If the QS fails to achieve the Capacity Delivery Date either by (a) the Guaranteed Delivery Date or b) such later date as permitted by FPL, FPL shall have no obligation to make any capacity payments under this Contract and FPL will be permitted to terminate this Contract, consistent with the terms herein, without further obligations, duties or liability to the QS.

(Continue on Sheet No. 9.034)

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective: June 5, 2018

FLORIDA POWER & LIGHT COMPANY

Third Revised Sheet No. 9.034
Cancels Second Sheet No. 9.034

(Continued from Sheet No. 9.033.1)

6. Testing Procedures

6.1 The Committed Capacity Test must be completed successfully within a sixty-hour period (the "Demonstration Period"), which period, including the approximate start time of the Committed Capacity Test, shall be selected and scheduled by the QS by means of a written notice to FPL delivered at least thirty (30) days prior to the start of such period. The provisions of the foregoing sentence shall not apply to any Committed Capacity Test required by FPL under any of the provisions of this Contract. FPL shall have the right to be present onsite to monitor any Committed Capacity Test required or permitted under this Contract.

6.2 Committed Capacity Test results shall be based on a test period of twenty-four (24) consecutive hours (the "Committed Capacity Test Period") at the highest sustained net KW rating at which the Facility can operate without exceeding the design operating conditions, temperature, pressures, and other parameters defined by the applicable manufacturer(s) for steady state operations at the Facility. If the QS is a REF the Committed Capacity Test shall be conducted utilizing as the sole fuel source fuels or energy sources included in the definition in Section 366.91, Florida Statutes. The Committed Capacity Test Period shall commence at the time designated by the QS pursuant to Section 6.1 or at such other time requested by FPL pursuant to Section 5.3; provided, however, that the Committed Capacity Test Period may commence earlier than such time in the event that FPL is notified of, and consents to, such earlier time.

6.3 For the avoidance of doubt, normal station service use of unit auxiliaries, including, without limitation, cooling towers, heat exchangers, and other equipment required by law, shall be in service during the Committed Capacity Test Period. Further, the QS shall affect deliveries of any quantity and quality of contracted cogenerated steam to the steam host during the Committed Capacity Test Period.

6.4 The capacity of the Facility shall be the average net capacity (generator output minus auxiliary) measured over the Committed Capacity Test Period.

6.5 The Committed Capacity Test shall be performed according to prudent industry testing procedures satisfactory to FPL for the appropriate technology of the QS.

6.6 Except as otherwise provided herein, results of any Committed Capacity Test shall be submitted to FPL by the QS within seven (7) days of the conclusion of the Committed Capacity Test.

7. Payment for Electricity Produced by the Facility

7.1 Energy

FPL agrees to pay the QS for energy produced by the Facility and delivered to the Delivery Point in accordance with the rates and procedures contained in FPL's approved Rate Schedule QS-2, attached hereto as Appendix A, as it may be amended from time to time and pursuant to the election of energy payment options as specified in Appendix E. The Parties agree that this Contract shall be subject to all of the provisions contained in Rate Schedule QS-2 as approved and on file with the FPSC.

7.2 Firm Capacity

FPL agrees to pay the QS for the firm capacity described in Section 5 in accordance with the rates and procedures contained in Rate Schedule QS-2, attached hereto as Appendix A, as it may be amended and approved from time to time by the FPSC, and pursuant to the election of a capacity payment option as specified in Appendix E. The QS understands and agrees that capacity payments will be made under the early capacity payment options only if the QS has achieved the Capacity Delivery Date and is delivering firm capacity and energy to FPL. Once elected by the QS, the capacity payment option cannot be changed during the term of this Contract.

7.3 Payments

Payments due the QS will be made monthly and normally by the twentieth business day following the end of the billing period. A statement of the kilowatt-hours sold by the QS and the applicable avoided energy rate at which payments are being made shall accompany the payment to the QS.

(Continued on Sheet No. 9.035)

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective:

FLORIDA POWER & LIGHT COMPANY

~~Second~~Third Revised Sheet No. 9.034
Cancels ~~Second~~First Sheet No. 9.034

(Continued from Sheet No. 9.033.1)

6. Testing Procedures

6.1 The Committed Capacity Test must be completed successfully within a sixty-hour period (the "Demonstration Period"), which period, including the approximate start time of the Committed Capacity Test, shall be selected and scheduled by the QS by means of a written notice to FPL delivered at least thirty (30) days prior to the start of such period. The provisions of the foregoing sentence shall not apply to any Committed Capacity Test required by FPL under any of the provisions of this Contract. FPL shall have the right to be present onsite to monitor any Committed Capacity Test required or permitted under this Contract.

6.2 Committed Capacity Test results shall be based on a test period of twenty-four (24) consecutive hours (the "Committed Capacity Test Period") at the highest sustained net KW rating at which the Facility can operate without exceeding the design operating conditions, temperature, pressures, and other parameters defined by the applicable manufacturer(s) for steady state operations at the Facility. If the QS is a REF the Committed Capacity Test shall be conducted utilizing as the sole fuel source fuels or energy sources included in the definition in Section 366.91, Florida Statutes. The Committed Capacity Test Period shall commence at the time designated by the QS pursuant to Section 6.1 or at such other time requested by FPL pursuant to Section 5.3; provided, however, that the Committed Capacity Test Period may commence earlier than such time in the event that FPL is notified of, and consents to, such earlier time.

6.3 For the avoidance of doubt, normal station service use of unit auxiliaries, including, without limitation, cooling towers, heat exchangers, and other equipment required by law, shall be in service during the Committed Capacity Test Period. Further, the QS shall affect deliveries of any quantity and quality of contracted cogenerated steam to the steam host during the Committed Capacity Test Period.

6.4 The capacity of the Facility shall be the average net capacity (generator output minus auxiliary) measured over the Committed Capacity Test Period.

6.5 The Committed Capacity Test shall be performed according to prudent industry testing procedures satisfactory to FPL for the appropriate technology of the QS.

6.6 Except as otherwise provided herein, results of any Committed Capacity Test shall be submitted to FPL by the QS within seven (7) days of the conclusion of the Committed Capacity Test.

7. Payment for Electricity Produced by the Facility

7.1 Energy

FPL agrees to pay the QS for energy produced by the Facility and delivered to the Delivery Point in accordance with the rates and procedures contained in FPL's approved Rate Schedule QS-2, attached hereto as Appendix A, as it may be amended from time to time and pursuant to the election of energy payment options as specified in Appendix E. The Parties agree that this Contract shall be subject to all of the provisions contained in Rate Schedule QS-2 as approved and on file with the FPSC.

7.2 Firm Capacity

FPL agrees to pay the QS for the firm capacity described in Section 5 in accordance with the rates and procedures contained in Rate Schedule QS-2, attached hereto as Appendix A, as it may be amended and approved from time to time by the FPSC, and pursuant to the election of a capacity payment option as specified in Appendix E. The QS understands and agrees that capacity payments will be made under the early capacity payment options only if the QS has achieved the Capacity Delivery Date and is delivering firm capacity and energy to FPL. Once elected by the QS, the capacity payment option cannot be changed during the term of this Contract.

7.3 Payments

Payments due the QS will be made monthly and normally by the twentieth business day following the end of the billing period. A statement of the kilowatt-hours sold by the QS and the applicable avoided energy rate at which payments are being made shall accompany the payment to the QS.

(Continued on Sheet No. 9.035)

Issued by: ~~S. E. Romig~~Tiffany Cohen, Director, Rates and Tariffs
Effective: ~~September 13, 2016~~

FLORIDA POWER & LIGHT COMPANY

Second Revised Sheet No. 9.035
Cancels First Sheet No. 9.035

(Continued from Sheet No. 9.034)

8. Electricity Production and Plant Maintenance Schedule

8.1 During the term of this Contract, no later than sixty (60) days prior to the Capacity Delivery Date and prior to April 1 of each calendar year thereafter, the QS shall submit to FPL in writing a detailed plan of: (a) the amount of firm capacity and energy to be generated by the Facility and delivered to the Delivery Point for each month of the following calendar year, and (b) the time, duration and magnitude of any scheduled maintenance period(s) and any anticipated reductions in capacity.

8.2 By October 31 of each calendar year, FPL shall notify the QS in writing whether the requested scheduled maintenance periods in the detailed plan are acceptable. If FPL objects to any of the requested scheduled maintenance periods, FPL shall advise the QS of the time period closest to the requested period(s) when the outage(s) can be scheduled. The QS shall schedule maintenance outages only during periods approved by FPL, such approval not unreasonably withheld. Once the schedule for maintenance has been established and approved by FPL, either Party may request a subsequent change in such schedule and, except when such event is due to Force Majeure, request approval for such change from the other Party, such approval not to be unreasonably withheld or delayed. Scheduled maintenance outage days shall be limited to seven (7) days per calendar year unless the manufacturer's recommendation of maintenance outage days for the technology and equipment used by the Facility exceeds such 7 day period, provided, such number of days is considered reasonable by prudent industry standards and does not exceed two (2) fourteen (14) day intervals, one in the Spring and one in the Fall, in any calendar year. The scheduled maintenance outage days applicable for the QS are _____ days in the Spring and _____ days in the Fall of each calendar year, provided the conditions specified in the previous sentence are satisfied. In no event shall maintenance periods be scheduled during the following periods: June 1 through and including October 31st and December 1 through and including February 28 (or 29th as the case may be).

8.3 The QS shall comply with reasonable requests by FPL regarding day-to-day and hour-by-hour communication between the Parties relative to electricity production and maintenance scheduling.

8.4 Dispatch and Control

8.4.1 The power supplied by the QS hereunder shall be in the form of three-phase 60 Hertz alternating current, at a nominal operating voltage of _____,000 volts (_____ kV) and power factor dispatchable and controllable in the range of 85% lagging to 85% leading as measured at the Delivery Point to maintain system operating parameters, as specified by FPL.

8.4.2 At all times during the term of this Contract, the QS shall operate and maintain the Facility: (a) in such a manner as to ensure compliance with its obligations hereunder, in accordance with prudent engineering and operating practices and applicable law, and (b) with all system protective equipment in service whenever the Facility is connected to, or is operated in parallel with, FPL's system. The QS shall install at the Facility those system protection and control devices necessary to ensure safe and protected operation of all energized equipment during normal testing and repair. The QS shall have qualified personnel test and calibrate all protective equipment at regular intervals in accordance with good engineering and operating practices. A unit functional trip test shall be performed after each overhaul of the Facility's turbine, generator or boilers and the results shall be provided to FPL prior to returning the Facility to service. The specifics of the unit functional trip test will be consistent with good engineering and operating practices.

8.4.3 If the Facility is separated from the FPL system for any reason, under no circumstances shall the QS reconnect the Facility into FPL's system without first obtaining FPL's prior written approval.

8.4.4 During the term of this Contract, the QS shall employ qualified personnel for managing, operating and maintaining the Facility and for coordinating such with FPL. If the Facility has a Committed Capacity greater than 10 MW then, the QS shall ensure that operating personnel are on duty at all times, twenty-four (24) hours a calendar day and seven (7) calendar days a week. If the Facility has a Committed Capacity equal to or less than 10 MW then the QS shall ensure that operating personnel are on duty at least eight (8) hours per day from 8 AM EST to 5 PM EST from Monday to Friday, with an operator on call at all other hours.

8.4.5 FPL shall at all times be excused from its obligation to purchase and receive energy and capacity hereunder, and FPL shall have the ability to require the QS to curtail or reduce deliveries of energy, to the extent necessary (a) to maintain the reliability and integrity of any part of FPL's system, (b) in the event that FPL determines that a failure to do so is likely to endanger life or property, or (c) is likely to result in significant disruption of electric service to FPL's customers. FPL shall give the QS prior notice, if practicable, of its intent to refuse, curtail or reduce FPL's acceptance of energy and firm capacity pursuant to this Section and will act to minimize the frequency and duration of such occurrences.

(Continued on Sheet No. 9.036)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: September 13, 2016

FLORIDA POWER & LIGHT COMPANY

**Third Revised Sheet No. 9.036
Cancels Second Sheet No. 9.036**

(Continued from Sheet No. 9.035)

8.4.6 After providing notice to the QS, FPL shall not be required to purchase or receive energy from the QS during any period in which, due to operational circumstances, the purchase or receipt of such energy would result in FPL's incurring costs greater than those which it would incur if it did not make such purchases. An example of such an occurrence would be a period during which the load being served is such that the generating units on line are base load units operating at their minimum continuous ratings and the purchase of additional energy would require taking a base load unit off the line and replacing the remaining load served by that unit with peaking-type generation. FPL shall give the QS as much prior notice as practicable of its intent not to purchase or receive energy and firm capacity pursuant to this Section.

8.4.7 If the Facility has a Committed Capacity less than 75 MW, control, scheduling and dispatch of firm capacity and energy shall be the responsibility of the QS. If the Facility has a Committed Capacity greater than or equal to 75 MW, then control, scheduling and dispatch of firm capacity and energy shall be the responsibility of the QS, except during a "Dispatch Hour", i.e., any clock hour for which FPL requests the delivery of such capacity and energy. During any Dispatch Hour: (a) control of the Facility will either be by Seller's manual control under the direction of FPL (whether orally or in writing) or by Automatic Generation Control by FPL's system control center as determined by FPL, and (b) FPL may request that the real power output be at any level up to the Committed Capacity of the Facility, provided, in no event shall FPL require the real power output of the Facility to be below the Facility's Minimum Load without decommitting the Facility. The Facility shall deliver the capacity and energy requested by FPL within _____ minutes, taking into account the operating limitations of the generating equipment as specified by the manufacturer, provided such time period specified herein is considered reasonable by prudent industry standards for the technology and equipment being utilized and assuming the Facility is operating at or above its Minimum Load. Start-up time from Cold Shutdown and Facility Turnaround time from Hot to Hot will be taken into consideration provided such are reasonable and consistent with prudent industry practices for the technology and equipment being utilized. The Facility's Operating Characteristics have been provided by the QS and are set forth in Appendix D, Section IV of Rate Schedule QS-2.

8.4.8 If the Facility has a Committed Capacity of less than 75 MW, FPL may require during certain periods, by oral, written, or electronic notification that the QS cause the Facility to reduce output to a level below the Committed Capacity but not lower than the Facility's Minimum Load. FPL shall provide as much notice as practicable, normally such notice will be of at least four (4) hours. The frequency of such request shall not exceed eighteen (18) times per calendar year and the duration of each request shall not exceed four (4) hours.

8.4.9 FPL's exercise of its rights under this Section 8 shall not give rise to any liability or payment obligation on the part of FPL, including any claim for breach of contract or for breach of any covenant of good faith and fair dealing.

9. Completion/Performance Security

The security contemplated by this Section 9 constitutes security for, but is not a limitation of, QS's obligations hereunder and shall not be FPL's exclusive remedy for QS's failure to perform in accordance with this Agreement.

9.1 As security for the achievement of the Guaranteed Capacity Delivery Date and satisfactory performance of its obligations hereunder, the QS shall provide FPL either: (a) an unconditional, irrevocable, standby letter of credit(s) with an expiration date no earlier than the end of the first (1st) anniversary of the Capacity Delivery Date (or the next business day thereafter), issued by a U.S. commercial bank or the U.S. branch of a foreign bank having a Credit Rating of A- or higher by S&P or A3 or higher by Moody's (a "Qualified Issuer"), in form and substance acceptable to FPL (including provisions (i) permitting partial and full draws and (ii) permitting FPL to draw in full if such letter of credit is not renewed or replaced as required by the terms hereof at least thirty (30) business days prior to its expiration date) ("Letter of Credit"); (b) a bond, issued by a financially sound Company acceptable to FPL, and in a form and substance acceptable to FPL, ("Bond"); or (c) a cash collateral deposited with FPL ("Cash Collateral") (any of (a), (b), or (c), the "Completion/Performance Security"). Completion/Performance Security shall be provided in the amount and by the date listed below:

(a) \$50.00 per kW (for the number of kW of Committed Capacity set forth in Section 5.1) to be delivered to FPL within five (5) business days of the Effective Date; and

(b) \$100.00 per kW (for the number of kW of Committed Capacity set forth in Section 5.1) to be delivered to FPL two years before the Guaranteed Capacity Delivery Date.

"Credit Rating" means with respect to any entity, on any date of determination, the respective ratings then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancement) by S&P, Moody's or other specified rating agency or agencies or if such entity does not have a rating for its unsecured, senior long-term debt or deposit obligations, then the rating assigned to such entity as its "corporate credit rating" by S&P.

(Continued on Sheet No. 9.037)

**Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective: June 5, 2018**

FLORIDA POWER & LIGHT COMPANY

Ninth Revised Sheet No. 9.037
Cancels Eighth Revised Sheet No. 9.037

(Continued from Sheet No. 9.036)

"Moody's" means Moody's Investors Service, Inc. or its successor.

"S&P" means Standard & Poor's Ratings Group (a division of The McGraw-Hill Companies, Inc.) or its successor.

9.2 The specific security instrument provided for purposes of this Contract is:

- () Letter of Credit.
- () Bond.
- () Cash Collateral.

9.3 FPL shall have the right to monitor (a) the financial condition of the issuer of a Letter of Credit in the event any Letter of Credit is provided by the QS, and (b) the insurer, in the case of any Bond. In the event the issuer of a Letter of Credit no longer qualifies as Qualified Issuer or the issuer of a Bond is no longer financially sound, FPL may require the QS to replace the Letter of Credit or the Bond, as applicable. Such replacement Letter of Credit or bond must be issued by a Qualified Issuer or a financially sound issuer, as applicable, within ten (10) business days following written notification to the QS of the requirement to replace. Failure by the QS to comply with the requirements of this Section 9.3 shall be grounds for FPL to draw in full on the existing Letter of Credit or bond and to exercise any other remedies it may have hereunder.

9.4 Notwithstanding the foregoing provisions of this Section 9, pursuant to FPSC Rule 25-17.091(4), F.A.C., a QS qualifying as a "Solid Waste Facility" pursuant to Section 377.709(3) or (5), F.S., respectively, may use an unsecured written commitment or promise to pay in a form reasonably acceptable to FPL, by the local government which owns the Facility or on whose behalf the QS operates the Facility, to secure its obligation to achieve on a timely basis the Capacity Delivery Date and the satisfactory performance of its obligations hereunder.

9.5 FPL shall be entitled to draw the Completion/Performance Security to satisfy any obligation or liability of QS arising pursuant to this Contract.

9.5.1 If the QS fails to achieve the Capacity Delivery Date on or before the in-service date of the Avoided Unit or such later date as permitted by FPL pursuant to Section 5.6, FPL shall be entitled immediately to receive, draw upon, or retain, as the case may be, one-hundred (100%) of the Completion/Performance Security as liquidated damages free from any claim or right of any nature whatsoever of the QS, including any equity or right of redemption by the QS. The Parties acknowledge that the injury that FPL will suffer as a result of delayed availability of Committed Capacity and energy is difficult to ascertain and that FPL may accept such sums as liquidated damages and resort to any other remedies which may be available to it under law or in equity.

9.5.2 In the event that FPL requires the QS to perform one or more Committed Capacity Test(s) at any time on or before the first anniversary of the Capacity Delivery Date pursuant to Section 5.3 and, in connection with any such Committed Capacity Test(s), the QS fails to demonstrate a Capacity of at least one-hundred percent (100%) of the Committed Capacity set forth in Section 5.1, FPL shall be entitled immediately to receive, draw upon, or retain, as the case may be, one-hundred percent (100%) of the Completion/Performance Security as liquidated damages free from any claim or right of any nature whatsoever of the QS, including any equity or right of redemption by the QS.

9.5.3 QS shall promptly, but in no event more than five (5) business days following any draws on the Completion/Performance Security, replenish the Completion/Performance Security to the amounts required herein.

9.6 The QS, as the Pledgor of the Completion/Performance Security, hereby pledges to FPL, as the secured Party, as security for the achievement of the Capacity Delivery Date and satisfactory performance of its obligations hereunder, and grants to FPL a first priority continuing security interest in, lien on and right of set-off against all Completion/Performance Security transferred to or received by FPL hereunder. Upon the transfer or return by FPL to the QS of Completion/Performance Security, the security interest and lien granted hereunder on that Completion/Performance Security will be released immediately and, to the extent possible, without any further action by either party.

(Continued on Sheet No. 9.038)

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective: June 5, 2018

FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No. 9.038
Cancels Original Sheet No. 9.038

(Continued from Sheet No. 9.037)

9.7 In lieu of any interest, dividends or other amounts paid or deemed to have been paid with respect to Cash Collateral held by FPL (all of which may be retained by FPL), FPL will transfer to the QS on a monthly basis the Interest Amount, as calculated by FPL.

"Interest Amount" means, with respect to each monthly period, the aggregate sum of the amounts of interest calculated for each day in that monthly period on the principal amount of Cash Collateral held by FPL on that day, determined by FPL for each such day as follows:

- (x) the amount of that Cash Collateral on that day; multiplied by
- (y) the Interest Rate in effect for that day; divided by
- (z) 360.

"Interest Rate" means: the Federal Funds Overnight rate as from time to time in effect.

"Federal Funds Overnight Rate" means, for the relevant determination date, the rate opposite the caption "Federal Funds (Effective)" as set forth for that day in the weekly statistical release designated as H.15 (519), or any successor publication, published by the Board of Governors of the Federal Reserve System. If on the determination date such rate is not yet published in H.15 (519), the rate for that date will be the rate set in Composite 3:30 P.M. Quotations for U.S. Government Securities for that day under the caption "Federal Funds/Effective Rate." If on the determination date such rate is not yet published in either H.15 (519) or Composite 3:30 P.M. Quotations for U.S. Government Securities, the rate for that date will be determined as if the Parties had specified "USD-Federal Funds-Reference Dealers" as the applicable rate.

10. Termination Fee

10.1 In the event that the QS receives capacity payments pursuant to Option B, Option C, Option D or Option E (as such options are defined in Appendix A and elected by the QS in Appendix E) or receives energy payments pursuant to the Fixed Firm Energy Payment Option (as such option is defined in Appendix A and elected by the QS in Appendix E) then, upon the termination of this Contract, the QS shall owe and be liable to FPL for a termination fee calculated in accordance with Appendix C (the "Termination Fee"). The QS's obligation to pay the Termination Fee shall survive the termination of this Contract. FPL shall provide the QS, on a monthly basis, a calculation of the Termination Fee.

10.1.1 The Termination Fee shall be secured (with the exception of governmental solid waste facilities covered by FPSC Rule 25-17.091 in which case the QS may use an unsecured written commitment or promise to pay, in a form reasonably acceptable to FPL, by the local government which owns the Facility or on whose behalf the QS operates the Facility, to secure its obligation to pay the Termination Fee) by the QS by: (a) an unconditional, irrevocable, standby letter(s) of credit issued by Qualified Issuer in form and substance acceptable to FPL (including provisions (a) permitting partial and full draws and (b) permitting FPL to draw upon such letter of credit, in full, if such letter of credit is not renewed or replaced at least thirty (30) business days prior to its expiration date, ("Termination Fee Letter of Credit"); (b) a bond, issued by a financially sound Company and in a form and substance acceptable to FPL, ("Termination Fee Bond"); or (c) a cash collateral deposit with FPL ("Termination Fee Cash Collateral") (any of (a), (b), or (c), the "Termination Security").

10.1.2 The specific security instrument selected by the QS for purposes of this Contract is:

- ☐ Termination Fee Letter of Credit
- ☐ Termination Fee Bond
- ☐ Termination Fee Cash Collateral

10.1.3 FPL shall have the right to monitor the financial condition of (i) the issuer of a Termination Fee Letter of Credit in the case of any Termination Fee Letter of Credit and (ii) the insurer(s), in the case of any Termination Fee Bond. In the event the issuer of a Termination Fee Letter of Credit is no longer a Qualified Issuer or the issuer of a Termination Fee Bond is no longer financially sound, FPL may require the QS to replace the Termination Fee Letter of Credit or the Termination Fee Bond, as applicable. In the event that FPL notifies the QS that it requires such a replacement, the replacement Termination Fee Letter of Credit or Termination Fee Bond, as applicable, must be issued by a Qualified Issuer or financially sound company within ten (10) business days following such notification. Failure by the QS to comply with the requirements of this Section 10.1.2 shall be grounds for FPL to draw in full on any existing Termination Fee Letter of Credit or Termination Fee Bond and to exercise any other remedies it may have hereunder.

(Continued on Sheet No. 9.039)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: September 13, 2016

FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No. 9.039
Cancels Original Sheet No. 9.039

(Continued from Sheet No. 9.038)

10.1.4 After the close of each calendar quarter (March 31, June 30, September 30, and December 31) occurring subsequent to the Capacity Delivery Date, the QS shall provide to FPL within ten (10) business days of the close of such calendar quarter with written assurance and documentation (the "Security Documentation"), in form and substance acceptable to FPL, that the amount of the most recently provided Termination Security is sufficient to cover the balance of the Termination Fee. In addition to the foregoing, at any time during the term of this Contract, FPL shall have the right to request, and the QS shall be obligated to deliver within five (5) business days of such request, such Security Documentation. Failure by the QS to comply with the requirements of this Section 10.1.3 shall be grounds for FPL to draw in full on any existing Termination Fee Letter of Credit or Termination Fee Bond or to retain any Termination Fee Cash Collateral, and to exercise any other remedies it may have hereunder to be applied against any Termination Fee that may be due and owing to FPL or that may in the future be due and owing to FPL.

10.1.5 Upon any termination of this Contract following the Capacity Delivery Date, FPL shall be entitled to receive (and in the case of the Termination Fee Letter of Credit or Termination Fee Bond, draw upon such Termination Fee Letter of Credit or Termination Fee Bond) and retain one- hundred percent (100%) of the Termination Security to be applied against any Termination Fee that may be due and owing to FPL or that may in the future be due and owing to FPL. FPL will transfer to the QS any proceeds and Termination Security remaining after liquidation, set-off and/or application under this Article after satisfaction in full of all amounts payable by the QS with respect to any Termination Fee or other obligations due to FPL; the QS in all events will remain liable for any amounts remaining unpaid after any liquidation, set-off and/or application under this Article.

10.2 The QS, as the Pledgor of the Termination Security, hereby pledges to FPL, as the secured Party, as security for the Termination Fee, and grants to FPL a first priority continuing security interest in, lien on and right of set-off against all Termination Security transferred to or received by FPL hereunder. Upon the transfer or return by FPL to the QS of Termination Security, the security interest and lien granted hereunder on that Termination Security will be released immediately and, to the extent possible, without any further action by either party.

10.3 In lieu of any interest, dividends or other amounts paid or deemed to have been paid with respect to Termination Fee Cash Collateral held by FPL (all of which may be retained by FPL), FPL will transfer to the QS on a monthly basis the Interest Amount, Pursuant to Section 9.7.

11. Performance Factor

FPL desires to provide an incentive to the QS to operate the Facility during on-peak and off-peak periods in a manner which approximates the projected performance of FPL's Avoided Unit. A formula to achieve this objective is attached as Appendix B.

(Continued on Sheet No. 9.040)

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FLORIDA POWER & LIGHT COMPANY

Fourth Revised Sheet No. 9.040
Cancels Third Revised Sheet No. 9.040

(Continued from Sheet No. 9.039)

12. Default

Notwithstanding the occurrence of any Force Majeure as described in Section 16, each of the following shall constitute an Event of Default:

- 12.1 The QS fails to meet the applicable requirements specified in Section 1 of this Contract.;
- 12.2 The QS changes or modifies the Facility from that provided in Section 1 with respect to its type, location, technology or fuel source, without prior written approval from FPL.;
- 12.3 After the Capacity Delivery Date, the Facility fails, for twelve (12) consecutive months, to maintain an Annual Capacity Billing Factor, as described in Appendix B, of at least 70%.;
- 12.4 The QS fails to comply with any of the provisions of Section 9.0 hereof (Completion/Performance Security).
- 12.5 The QS fails to comply with any of the provisions of Section 10.0 hereof (Termination Security).;
- 12.6 The QS ceases the conduct of active business; or if proceedings under the federal bankruptcy law or insolvency laws shall be instituted by or for or against the QS or if a receiver shall be appointed for the QS or any of its assets or properties; or if any part of the QS's assets shall be attached, levied upon, encumbered, pledged, seized or taken under any judicial process, and such proceedings shall not be vacated or fully stayed within 30 days thereof; or if the QS shall make an assignment for the benefit of creditors, or admit in writing its inability to pay its debts as they become due.
- 12.7 The QS fails to give proper assurance acceptable to FPL of adequate performance as specified under this Contract within 30 days after FPL, with reasonable grounds for insecurity, has requested in writing such assurance.
- 12.8 The QS materially fails to perform as specified under this Contract, including, but not limited to, the QS's obligations under any part of Sections 8, and 18.
- 12.9 The QS fails to achieve the permitting, licensing, certification, and all federal, state and local governmental environmental and licensing approvals required to initiate construction of the Facility by no later than one year prior to Guaranteed Capacity Date.
- 12.10 The QS fails to comply with any of the provisions of Section 18.3 hereof (Project Management).
- 12.11 Any of the representations or warranties made by the QS in this Contract is false or misleading in any material respect.
- 12.12 The occurrence of an event of default by the QS under the Interconnection Agreement or any applicable Wheeling Agreement;
- 12.13 The QS fails to satisfy its obligations under Section 18.14 hereof (Assignment).
- 12.14 The QS fails to deliver to FPL in accordance with this Contract any energy or firm capacity required to be delivered hereunder or the delivery or sale of any such energy and firm capacity to an entity other than FPL.
- 12.15 The QS fails to perform any material covenant or obligation under this Contract not specifically mentioned in this Section 12.
- 12.16 If at any time after the Capacity Delivery Date, the QS reduces the Committed Capacity due to an event of Force Majeure and fails to repair the Facility and reset the Committed Capacity to the level set forth in Section 5.1 (as such level may be reduced by Section 5.3) within twelve (12) months following the occurrence of such event of Force Majeure.

(Continued on Sheet No. 9.041)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: September 13, 2016

FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No. 9.041
Cancels Original Sheet No. 9.041

(Continued from Sheet No. 9.040)

13. FPL's Rights in the Event of Default

13.1 Upon the occurrence of any of the Events of Default in Section 12, FPL may:

- (a) terminate this Contract, without penalty or further obligation, except as set forth in Section 13.2, by written notice to the QS, and offset against any payment(s) due from FPL to the QS, any monies otherwise due from the QS to FPL;
- (b) draw on the Completion/Performance Security pursuant to Section 9 or collect the Termination Fee pursuant to Section 10 as applicable; and
- (c) exercise any other remedy(ies) which may be available to FPL at law or in equity.

13.2 In the case of an Event of Default, the QS recognizes that any remedy at law may be inadequate because this Contract is unique and/or because the actual damages of FPL may be difficult to reasonably ascertain. Therefore, the QS agrees that FPL shall be entitled to pursue an action for specific performance, and the QS waives all of its rights to assert as a defense to such action that FPL's remedy at law is adequate.

13.3 Termination shall not affect the liability of either party for obligations arising prior to such termination or for damages, if any, resulting from any breach of this Contract.

14. Indemnification/Limits

14.1 FPL and the QS shall each be responsible for its own facilities. FPL and the QS shall each be responsible for ensuring adequate safeguards for other FPL customers, FPL's and the QS's personnel and equipment, and for the protection of its own generating system. Subject to section 2.7 Indemnity to Company, or section 2.71 Indemnity to Company – Governmental, FPL's General Rules and Regulations of Tariff Sheet No.6.020 each party (the "Indemnifying Party") agrees, to the extent permitted by applicable law, to indemnify, pay, defend, and hold harmless the other party (the "Indemnified Party") and its officers, directors, employees, agents and contractors (hereinafter called respectively, "FPL Entities" and "QS Entities") from and against any and all claims, demands, costs, or expenses for loss, damage, or injury to persons or property of the Indemnified Party (or to third parties) caused by, arising out of, or resulting from: (a) a breach by the Indemnifying Party of its covenants, representations, and warranties or obligations hereunder; (b) any act or omission by the Indemnifying Party or its contractors, agents, servants or employees in connection with the installation or operation of its generation system or the operation thereof in connection with the other Party's system; (c) any defect in, failure of, or fault related to, the Indemnifying Party's generation system; (d) the negligence or willful misconduct of the Indemnifying Party or its contractors, agents, servants or employees; or (e) any other event, act or incident, including the transmission and use of electricity, that is the result of, or proximately caused by, the Indemnifying Party or its contractors, agents, servants or employees.

14.2 Payment by an Indemnified Party will not be a condition precedent to the obligations of the Indemnifying Party under Section 14. No Indemnified Party under Section 14 shall settle any claim for which it claims indemnification hereunder without first allowing the Indemnifying Party the right to defend such a claim. The Indemnifying Party shall have no obligations under Section 14 in the event of a breach of the foregoing sentence by the Indemnified Party. Section 14 shall survive termination of this Agreement.

14.3 Limitation on Consequential, Incidental and Indirect Damages. TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER THE QS NOR FPL, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, MEMBERS, PARENTS, SUBSIDIARIES OR AFFILIATES, SUCCESSORS OR ASSIGNS, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, MEMBERS, PARENTS, SUBSIDIARIES OR AFFILIATES, SUCCESSORS OR ASSIGNS, SHALL BE LIABLE TO THE OTHER PARTY OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, MEMBERS, PARENTS, SUBSIDIARIES OR AFFILIATES, SUCCESSORS OR ASSIGNS, FOR CLAIMS, SUITS, ACTIONS OR CAUSES OF ACTION FOR INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, MULTIPLE OR CONSEQUENTIAL DAMAGES CONNECTED WITH OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE OF THIS CONTRACT, OR ANY ACTIONS UNDERTAKEN IN CONNECTION WITH OR RELATED TO THIS CONTRACT, INCLUDING WITHOUT LIMITATION, ANY SUCH DAMAGES WHICH ARE BASED UPON CAUSES OF ACTION FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND MISREPRESENTATION), BREACH OF WARRANTY, STRICT LIABILITY, STATUTE, OPERATION OF LAW, UNDER ANY INDEMNITY PROVISION OR ANY OTHER THEORY OF RECOVERY. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY, AND SUCH DIRECT DAMAGES SHALL BE THE SOLE AND EXCLUSIVE MEASURE OF DAMAGES AND

(Continued on Sheet No. 9.042)

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FLORIDA POWER & LIGHT COMPANY

Second Revised Sheet No. 9.042
Cancels First Sheet No. 9.042

(Continued from Sheet No. 9.041)

ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED; PROVIDED, HOWEVER, THE PARTIES AGREE THAT THE FOREGOING LIMITATIONS WILL NOT IN ANY WAY LIMIT LIABILITY OR DAMAGES UNDER ANY THIRD PARTY CLAIMS OR THE LIABILITY OF A PARTY WHOSE ACTIONS GIVING RISE TO SUCH LIABILITY CONSTITUTE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THE PROVISIONS OF THIS SECTION SHALL APPLY REGARDLESS OF FAULT AND SHALL SURVIVE TERMINATION, CANCELLATION, SUSPENSION, COMPLETION OR EXPIRATION OF THIS CONTRACT. NOTHING CONTAINED IN THIS AGREEMENT SHALL BE DEEMED TO BE A WAIVER OF A PARTY'S RIGHT TO SEEK INJUNCTIVE RELIEF.

15. Insurance

15.1 The QS shall procure or cause to be procured, and shall maintain throughout the entire term of this Contract, a policy or policies of liability insurance issued by an insurer acceptable to FPL on a standard "Insurance Services Office" commercial general liability form (such policy or policies, collectively, the "QS Insurance"). A certificate of insurance shall be delivered to FPL at least fifteen (15) calendar days prior to the start of any interconnection work. At a minimum, the QS Insurance shall contain (a) an endorsement providing coverage, including products liability/completed operations coverage for the term of this Contract, and (b) a broad form contractual liability endorsement covering liabilities (i) which might arise under, or in the performance or nonperformance of, this Contract and the Interconnection Agreement, or (ii) caused by operation of the Facility or any of the QS's equipment or by the QS's failure to maintain the Facility or the QS's equipment in satisfactory and safe operating condition. Effective at least fifteen (15) calendar days prior to the synchronization of the Facility with FPL's system, the QS Insurance shall be amended to include coverage for interruption or curtailment of power supply in accordance with industry standards. Without limiting the foregoing, the QS Insurance must be reasonably acceptable to FPL. Any premium assessment or deductible shall be for the account of the QS and not FPL.

15.2 The QS Insurance shall have a minimum limit of one million dollars (\$1,000,000) per occurrence, combined single limit, for bodily injury (including death) or property damage.

15.3 In the event that such insurance becomes totally unavailable or procurement thereof becomes commercially impracticable, such unavailability shall not constitute an Event of Default under this Contract, but FPL and the QS shall enter into negotiations to develop substitute protection which the Parties in their reasonable judgment deem adequate.

15.4 To the extent that the QS Insurance is on a "claims made" basis, the retroactive date of the policy(ies) shall be the effective date of this Contract or such other date as may be agreed upon to protect the interests of the FPL Entities and the QS Entities. Furthermore, to the extent the QS Insurance is on a "claims made" basis, the QS's duty to provide insurance coverage shall survive the termination of this Contract until the expiration of the maximum statutory period of limitations in the State of Florida for actions based in contract or in tort. To the extent the QS Insurance is on an "occurrence" basis, such insurance shall be maintained in effect at all times by the QS during the term of this Contract.

15.5 The QS Insurance shall provide that it may not be cancelled or materially altered without at least thirty (30) calendar days' written notice to FPL. The QS shall provide FPL with a copy of any material communication or notice related to the QS Insurance within ten (10) business days of the QS's receipt or issuance thereof.

15.6 The QS shall be designated as the named insured and FPL shall be designated as an additional named insured under the QS Insurance. The QS Insurance shall be endorsed to be primary to any coverage maintained by FPL.

16. Force Majeure

Force Majeure is defined as an event or circumstance that is not within the reasonable control of, or the result of the negligence of, the affected party, and which, by the exercise of due diligence, the affected party is unable to overcome, avoid, or cause to be avoided in a commercially reasonable manner. Such events or circumstances may include, but are not limited to, acts of God, war, riot or insurrection, blockades, embargoes, sabotage, epidemics, explosions and fires not originating in the Facility or caused by its operation, hurricanes, floods, strikes, lockouts or other labor disputes, difficulties (not caused by the failure of the affected party to comply with the terms of a collective bargaining agreement), or actions or restraints by court order or governmental authority or arbitration award. Force Majeure shall not include (a) the QS's ability to sell capacity and energy to another market at a more advantageous price; (b) equipment breakdown or inability to use equipment caused by its design, construction, operation, maintenance or inability to meet regulatory standards, or otherwise caused by an event originating in the Facility; (c) a failure of performance of any other entity, including any entity providing electric transmission service to the QS, except to the extent that such failure was caused by an event that would otherwise qualify as a Force Majeure event; (d) failure of the QS to timely apply for or obtain permits.

(Continued on Sheet No. 9.043)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: September 13, 2016

FLORIDA POWER & LIGHT COMPANY

**First Revised Sheet No. 9.043
Cancels Original Sheet No. 9.043**

(Continued from Sheet No. 9.042)

16.1 Except as otherwise provided in this Contract, each party shall be excused from performance when its nonperformance was caused, directly or indirectly by an event of Force Majeure.

16.2 In the event of any delay or nonperformance resulting from an event of Force Majeure, the party claiming Force Majeure shall notify the other party in writing within two (2) business days of the occurrence of the event of Force Majeure, of the nature, cause, date of commencement thereof and the anticipated extent of such delay, and shall indicate whether any deadlines or date(s), imposed hereunder may be affected thereby. The suspension of performance shall be of no greater scope and of no greater duration than the cure for the Force Majeure requires. A party claiming Force Majeure shall not be entitled to any relief therefore unless and until conforming notice is provided. The party claiming Force Majeure shall notify the other party of the cessation of the event of Force Majeure or of the conclusion of the affected party's cure for the event of Force Majeure, in either case within two (2) business days thereof.

16.3 The party claiming Force Majeure shall use its best efforts to cure the cause(s) preventing its performance of this Contract; provided, however, the settlement of strikes, lockouts and other labor disputes shall be entirely within the discretion of the affected party, and such party shall not be required to settle such strikes, lockouts or other labor disputes by acceding to demands which such party deems to be unfavorable.

16.4 If the QS suffers an occurrence of an event of Force Majeure that reduces the generating capability of the Facility below the Committed Capacity, the QS may, upon notice to FPL, temporarily adjust the Committed Capacity as provided in Sections 16.5 and 16.6. Such adjustment shall be effective the first calendar day immediately following FPL's receipt of the notice or such later date as may be specified by the QS. Furthermore, such adjustment shall be the minimum amount necessitated by the event of Force Majeure.

16.5 If the Facility is rendered completely inoperative as a result of Force Majeure, the QS shall temporarily set the Committed Capacity equal to 0 KW until such time as the Facility can partially or fully operate at the Committed Capacity that existed prior to the Force Majeure. If the Committed Capacity is 0 KW, FPL shall have no obligation to make capacity payments hereunder.

16.6 If, at any time during the occurrence of an event of Force Majeure or during its cure, the Facility can partially or fully operate, then the QS shall temporarily set the Committed Capacity at the maximum capability that the Facility can reasonably be expected to operate.

16.7 Upon the cessation of the event of Force Majeure or the conclusion of the cure for the event of Force Majeure, the Committed Capacity shall be restored to the Committed Capacity that existed immediately prior to the Force Majeure. Notwithstanding any other provision of this Contract, upon such cessation or cure, FPL shall have the right to require a Committed Capacity Test to demonstrate the Facility's compliance with the requirements of this section 16.7. Any Committed Capacity Test required by FPL under this Section shall be additional to any Committed Capacity Test under Section 5.3.

16.8 During the occurrence of an event of Force Majeure and a reduction in Committed Capacity under Section 16.4, all Monthly Capacity Payments shall reflect, pro rata, the reduction in Committed Capacity, and the Monthly Capacity Payments will continue to be calculated in accordance with the pay-for-performance provisions in Appendix B.

16.9 The QS agrees to be responsible for and pay the costs necessary to reactivate the Facility and/or the interconnection with FPL's system if the same is (are) rendered inoperable due to actions of the QS, its agents, or Force Majeure events affecting the QS, the Facility or the interconnection with FPL. FPL agrees to reactivate, at its own cost, the interconnection with the Facility in circumstances where any interruptions to such interconnections are caused by FPL or its agents.

17. Representations, Warranties, and Covenants of QS

The QS represents and warrants that as of the Effective Date and for the term of this Contract:

17.1 Organization, Standing and Qualification

The QS is a _____ (corporation, partnership, or other, as applicable) duly organized and validly existing in good standing under the laws of _____ and has all necessary power and authority to carry on its business as presently conducted, to own or hold under lease its properties and to enter into and perform its obligations under this Contract and all other related documents and agreements to which it is or shall be a Party. The QS is duly qualified or licensed to do business in the State of Florida and in all other jurisdictions wherein the nature of its business and operations or the character of the properties owned or leased by it makes such qualification or licensing necessary and where the failure to be so qualified or licensed would impair its ability to perform its obligations under this Contract or would result in a material liability to or would have a material adverse effect on FPL.

(Continued on Sheet No. 9.044)

**Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: August 18, 2009**

FLORIDA POWER & LIGHT COMPANY

Second Revised Sheet No. 9.044
Cancels First Sheet No. 9.044

(Continued from Sheet No. 9.043)

17.2 Due Authorization, No Approvals, No Defaults, etc.

Each of the execution, delivery and performance by the QS of this Contract has been duly authorized by all necessary action on the part of the QS, does not require any approval, except as has been heretofore obtained, of the _____ (shareholders, partners, or others, as applicable) of the QS or any consent of or approval from any trustee, lessor or holder of any indebtedness or other obligation of the QS, except for such as have been duly obtained, and does not contravene or constitute a default under any law, the _____ (articles of incorporation, bylaws, or other as applicable) of the QS, or any agreement, judgment, injunction, order, decree or other instrument binding upon the QS, or subject the Facility or any component part thereof to any lien other than as contemplated or permitted by this Contract. This Contract constitutes QS's legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, except as such enforceability may be limited by applicable bankruptcy laws from time to time in effect that affect creditors' rights generally or by general principles of equity (regardless of whether such enforcement is considered in equity or at law).

17.3 Compliance with Laws

The QS has knowledge of all laws and business practices that must be followed in performing its obligations under this Contract. The QS is in compliance with all laws, except to the extent that failure to comply therewith would not, in the aggregate, have a material adverse effect on the QS or FPL.

17.4 Governmental Approvals

Except as expressly contemplated herein, neither the execution and delivery by the QS of this Contract, nor the consummation by the QS of any of the transactions contemplated thereby, requires the consent or approval of, the giving of notice to, the registration with, the recording or filing of any document with, or the taking of any other action in respect of governmental authority, except in respect of permits (a) which have already been obtained and are in full force and effect or (b) are not yet required (and with respect to which the QS has no reason to believe that the same will not be readily obtainable in the ordinary course of business upon due application therefore).

17.5 No Suits, Proceedings

There are no actions, suits, proceedings or investigations pending or, to the knowledge of the QS, threatened against it at law or in equity before any court or tribunal of the United States or any other jurisdiction which individually or in the aggregate could result in any materially adverse effect on the QS's business, properties, or assets or its condition, financial or otherwise, or in any impairment of its ability to perform its obligations under this Contract. The QS has no knowledge of a violation or default with respect to any law which could result in any such materially adverse effect or impairment. The QS is not in breach of, in default under, or in violation of, any applicable Law, or the provisions of any authorization, or in breach of, in default under, or in violation of, or in conflict with any provision of any promissory note, indenture or any evidence of indebtedness or security therefore, lease, contract, or other agreement by which it is bound, except for any such breaches, defaults, violations or conflicts which, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on the business or financial condition of Buyer or its ability to perform its obligations hereunder.

17.6 Environmental Matters

17.6.1 QS Representations

To the best of its knowledge after diligent inquiry, the QS knows of no (a) existing violations of any environmental laws at the Facility, including those governing hazardous materials or (b) pending, ongoing, or unresolved administrative or enforcement investigations, compliance orders, claims, demands, actions, or other litigation brought by governmental authorities or other third parties alleging violations of any environmental law or permit which would materially and adversely affect the operation of the Facility as contemplated by this Contract.

17.6.2 Ownership and Offering For Sale Of Renewable Energy Attributes

The QS retains any and all rights to own and to sell any and all environmental attributes associated with the electric generation of the Facility, including but not limited to, any and all renewable energy certificates, "green tags" or other tradable environmental interests (collectively "RECs"), of any description.

(Continued on Sheet No. 9.045)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: August 18, 2009

FLORIDA POWER & LIGHT COMPANY

**Third Revised Sheet No. 9.045
Cancels Second Revised Sheet No. 9.045**

(Continued from Sheet No. 9.044)

17.6.3 Changes in Environmental and Governmental Regulations

If new environmental and other regulatory requirements enacted during the term of the Contract change FPL's full avoided cost of the unit on which the Contract is based, either party can elect to have the contract reopened.

17.7 Interconnection/Wheeling Agreement

The QS has executed an interconnection agreement with FPL, or represents or warrants that it has entered into a valid and enforceable Interconnection Agreement with the utility in whose service territory the Facility is located, pursuant to which the QS assumes contractual responsibility to make any and all transmission-related arrangements (including control area services) between the QS and the transmitting utility for delivery of the Facility's capacity and energy to FPL.

17.8 Technology and Generator Capabilities

That for the term of this Contract the Technology and Generator Capabilities table set forth in Section 1 is accurate and complete.

18. General Provisions

18.1 Project Viability

To assist FPL in assessing the QS's financial and technical viability, the QS shall provide the information and documents requested in Appendix D or substantially similar documents, to the extent the documents apply to the type of Facility covered by this Contract, and to the extent the documents are available. All documents to be considered by FPL must be submitted at the time this Contract is presented to FPL. Failure to provide the following such documents may result in a determination of non-viability by FPL.

18.2 Permits; Site Control

The QS hereby agrees to obtain and maintain Permits which the QS is required to obtain as a prerequisite to engaging in the activities specified in this Contract. QS shall also obtain and maintain Site Control for the Term of the Contract.

18.3 Project Management

18.3.1 If requested by FPL, the QS shall submit to FPL its integrated project schedule for FPL's review within sixty calendar days from the execution of this Contract, and a start-up and test schedule for the Facility at least sixty calendar days prior to start-up and testing of the Facility. These schedules shall identify key licensing, permitting, construction and operating milestone dates and activities. If requested by FPL, the QS shall submit progress reports in a form satisfactory to FPL every calendar month until the Capacity Delivery Date and shall notify FPL of any changes in such schedules within ten calendar days after such changes are determined. FPL shall have the right to monitor the construction, start-up and testing of the Facility, either on-site or off-site. FPL's technical review and inspections of the Facility and resulting requests, if any, shall not be construed as endorsing the design thereof or as any warranty as to the safety, durability or reliability of the Facility.

18.3.2 The QS shall provide FPL with the final designer's/manufacture's generator capability curves, protective relay types, proposed protective relay settings, main one-line diagrams, protective relay functional diagrams, and alternating current and direct current elementary diagrams for review and inspection at FPL no later than one hundred eighty calendar days prior to the initial synchronization date.

18.4 Assignment

This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns. This Agreement shall not be assigned or transferred by either Party without the prior written consent of the other Party, such consent to be granted or withheld in such other Party's sole discretion. Any direct or indirect change of control of QS (whether voluntary or by operation of law) shall be deemed an assignment and shall require the prior written consent of FPL. Notwithstanding the foregoing, either Party may, without the consent of the other Party, assign or transfer this Agreement: (a) to any lender as collateral security for obligations under any financing documents entered into with such lender provided, QS shall be responsible for FPL's reasonable costs and expenses associated with the review, negotiation, execution and delivery of any documents or information pursuant to such collateral assignment, including reasonable attorneys' fees (b) to an affiliate of such Party; *provided*, that such affiliate's creditworthiness is equal to or better than that of such Party (and in no event less than Investment Grade) as determined reasonably by the non-assigning or non-transferring Party and; *provided, further*, that any such affiliate shall agree in writing to be bound by and to assume the terms and conditions hereof and any and all obligations to the non-assigning or non-transferring Party arising or accruing hereunder from and after the date of such assumption. "Investment Grade" means BBB- or above from Standard & Poor's Corporation or Baa2 or above from Moody's Investor Services.

18.5 Disclaimer

In executing this Contract, FPL does not, nor should it be construed, to extend its credit or financial support for the benefit of any third parties lending money to or having other transactions with the QS or any assignee of this Contract.

(Continued on Sheet No. 9.046)

**Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: September 13, 2016**

FLORIDA POWER & LIGHT COMPANY

**First Revised Sheet No. 9.046
Cancels Original Sheet No. 9.046**

(Continued from Sheet No. 9.045)

18.6 Notification

All formal notices relating to this Contract shall be deemed duly given when delivered in person, or sent by registered or certified mail, or sent by fax if followed immediately with a copy sent by registered or certified mail, to the individuals designated below. The Parties designate the following individuals to be notified or to whom payment shall be sent until such time as either Party furnishes the other Party written instructions to contact another individual:

For the QS:

For FPL:

Florida Power & Light Company

700 Universe Boulevard
Juno Beach, FL 33408
Attn: EMT Contracts Department

This signed Contract and all related documents may be presented no earlier than 8:00 a.m. on the effective date of the Standard Offer Contract, as determined by the FPSC. Contracts and related documents may be mailed to the address below or delivered during normal business hours (8:00 a.m. to 4:45 p.m.) to the visitors' entrance at the address below:

Florida Power & Light Company
700 Universe Boulevard, Juno Beach, FL 33408
Attention: Contracts Manager/Coordinator
EMT Contracts Department

18.7 Applicable Law

This Contract shall be construed in accordance with and governed by, and the rights of the Parties shall be construed in accordance with, the laws of the State of Florida as to all matters, including but not limited to matters of validity, construction, effect, performance and remedies, without regard to conflict of law rules thereof.

18.8 Venue

The Parties hereby irrevocably submit to the exclusive jurisdiction of the United States District Court for the Southern District of Florida or, in the event that jurisdiction for any matter cannot be established in the United States District Court for the Southern District of Florida, in the state court for Palm Beach County, Florida, solely in respect of the interpretation and enforcement of the provisions of this Contract and of the documents referred to in this Contract, and in respect of the transactions contemplated hereby, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof or of any such document, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Contract or any such document may not be enforced in or by such courts, and the Parties hereto irrevocably agree that all claims with respect to such action or proceeding shall be heard and determined in such a court. The Parties hereby consent to and grant any such court jurisdiction over the persons of such Parties solely for such purpose and over the subject matter of such dispute and agree that mailing of process or other papers in connection with any such action or proceeding in the manner provided in Section 18.8 hereof or in such other manner as may be permitted by Law shall be valid and sufficient service thereof.

(Continued on Sheet No. 9.047)

**Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: October 4, 2011**

FLORIDA POWER & LIGHT COMPANY

**First Revised Sheet No. 9.047
Cancels Original Sheet No. 9.047**

(Continued from Sheet No. 9.046)

18.9. Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS CONTRACT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT A PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION RESULTING FROM, ARISING OUT OF OR RELATING TO THIS CONTRACT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (a) NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (b) EACH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (c) EACH PARTY MAKES THIS WAIVER VOLUNTARILY AND (d) EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS CONTRACT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 18.9

18.10 Taxation

In the event that FPL becomes liable for additional taxes, including interest and/or penalties arising from an Internal Revenue Service's determination, through audit, ruling or other authority, that FPL's payments to the QS for capacity under Options B, C, D, E or for energy pursuant to the Fixed Firm Energy Payment Option D are not fully deductible when paid (additional tax liability), FPL may bill the QS monthly for the costs, including carrying charges, interest and/or penalties, associated with the fact that all or a portion of these capacity payments are not currently deductible for federal and/or state income tax purposes. FPL, at its option, may offset these costs against amounts due the QS hereunder. These costs would be calculated so as to place FPL in the same economic position in which it would have been if the entire capacity payments had been deductible in the period in which the payments were made. If FPL decides to appeal the Internal Revenue Service's determination, the decision as to whether the appeal should be made through the administrative or judicial process or both, and all subsequent decisions pertaining to the appeal (both substantive and procedural), shall rest exclusively with FPL.

18.11 Severability

If any part of this Contract, for any reason, is declared invalid, or unenforceable by a public authority of appropriate jurisdiction, then such decision shall not affect the validity of the remainder of the Contract, which remainder shall remain in force and effect as if this Contract had been executed without the invalid or unenforceable portion.

18.12 Complete Agreement and Amendments

All previous communications or agreements between the Parties, whether verbal or written, with reference to the subject matter of this Contract are hereby abrogated. No amendment or modification to this Contract shall be binding unless it shall be set forth in writing and duly executed by both Parties. This Contract constitutes the entire agreement between the Parties.

18.13 Survival of Contract

This Contract, as it may be amended from time to time, shall be binding upon, and inure to the benefit of, the Parties' respective successors-in-interest and legal representatives.

18.14 Record Retention

The QS agrees to retain for a period of five (5) years from the date of termination hereof all records relating to the performance of its obligations hereunder, and to cause all QS Entities to retain for the same period all such records.

18.15 No Waiver

No waiver of any of the terms and conditions of this Contract shall be effective unless in writing and signed by the Party against whom such waiver is sought to be enforced. Any waiver of the terms hereof shall be effective only in the specific instance and for the specific purpose given. The failure of a Party to insist, in any instance, on the strict performance of any of the terms and conditions hereof shall not be construed as a waiver of such Party's right in the future to insist on such strict performance.

(Continued on Sheet No. 9.048)

**Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: September 13, 2016**

FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No. 9.048
Cancels Original Sheet No. 9.048

(Continued from Sheet No. 9.047)

18.16 Set-Off

FPL may at any time, but shall be under no obligation to, set off any and all sums due from the QS against sums due to the QS hereunder.

18.17 Assistance With FPL's evaluation of FIN 46R

Accounting rules set forth in Financial Accounting Standards Board Interpretation No. 46 (Revised December 2003) ("FIN 46R"), as well as future amendments and interpretations of those rules, may require FPL to evaluate whether the QS must be consolidated, as a variable interest entity (as defined in FIN 46R), in the consolidated financial statements of FPL. The QS agrees to fully cooperate with FPL and make available to FPL all financial data and other information, as deemed necessary by FPL, to perform that evaluation on a timely basis at inception of the PPA and periodically as required by FIN 46R. If the result of an evaluation under FIN 46R indicates that the QS must be consolidated in the financial statements of FPL, the QS agrees to provide financial statements, together with other required information, as determined by FPL, for inclusion in disclosures contained in the footnotes to the financial statements and in FPL's required filings with the Securities and Exchange Commission ("SEC"). The QS shall provide this information to FPL in a timeframe consistent with FPL's earnings release and SEC filing schedules, to be determined at FPL's discretion. The QS also agrees to fully cooperate with FPL and FPL's independent auditors in completing an assessment of the QS's internal controls as required by the Sarbanes-Oxley Act of 2002 and in performing any audit procedures necessary for the independent auditors to issue their opinion on the consolidated financial statements of FPL. FPL will treat any information provided by the QS in satisfying Section 18.17 as confidential information and shall only disclose such information to the extent required by accounting and SEC rules and any applicable laws.

IN WITNESS WHEREOF, the QS and FPL executed this Contract this _____ day of _____.

WITNESS:

FLORIDA POWER & LIGHT COMPANY

Date _____

WITNESS:

_____(QS)

Date _____

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: July 29, 2008

FLORIDA POWER & LIGHT COMPANY

Sixth Revised Sheet No. 10.300
Cancels Fifth Revised Sheet No. 10.300

RATE SCHEDULE QS-2
APPENDIX A
TO THE STANDARD OFFER CONTRACT
STANDARD RATE FOR PURCHASE OF FIRM CAPACITY AND ENERGY
FROM A RENEWABLE ENERGY FACILITY
OR A QUALIFYING FACILITY WITH A DESIGN CAPACITY OF 100 KW OR LESS

SCHEDULE

QS-2, Firm Capacity and Energy

AVAILABLE

The Company will, under the provisions of this Schedule and the Company's "Standard Offer Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Facility or a Qualifying Facility with a design capacity of 100 KW or less" ("Standard Offer Contract"), purchase firm capacity and energy offered by a Renewable Energy Facility specified in Section 366.91, Florida Statutes or by a Qualifying Facility with a design capacity of 100 KW or less as specified in FPSC Rule 25-17-0832(4) and which is either directly or indirectly interconnected with the Company. Both of these types of facilities shall also be referred to herein as Qualified Seller or "QS".

The Company will petition the FPSC for closure upon any of the following as related to the generating unit upon which this standard offer contract is based i.e. the Avoided Unit : (a) a request for proposals (RFP) pursuant to Rule 25-22.082, F.A.C., is issued, (b) the Company files a petition for a need determination or commences construction of the Avoided Unit when the generating unit is not subject to Rule 25-22.082, F.A.C., or (c) the generating unit upon which the standard offer contract is based is no longer part of the utility's generation plan, as evidenced by a petition to that effect filed with the Commission or by the utility's most recent Ten Year Site Plan.

APPLICABLE

To Renewable Energy Facilities as specified in Section 366.91, Florida Statutes producing capacity and energy from qualified renewable resources for sale to the Company on a firm basis pursuant to the terms and conditions of this schedule and the Company's "Standard Offer Contract". Firm Renewable Capacity and Renewable Energy are capacity and energy produced and sold by a QS pursuant to the Standard Offer Contract provisions addressing (among other things) quantity, time and reliability of delivery.

To Qualifying Facilities ("QF"), with a design capacity of 100 KW or less, as specified in FPSC Rule 25-17.0832(4)(a) producing capacity and energy for sale to the Company on a firm basis pursuant to the terms and conditions of this schedule and the Company's "Standard Offer Contract", Firm Capacity and Energy are described by FPSC Rule 25-17.0832, F.A.C., and are capacity and energy produced and sold by a QF pursuant to the Standard Offer Contract provisions addressing (among other things) quantity, time and reliability of delivery.

CHARACTER OF SERVICE

Purchases within the territory served by the Company shall be, at the option of the Company, single or three phase, 60 hertz alternating current at any available standard Company voltage. Purchases from outside the territory served by the Company shall be three phase, 60 hertz alternating current at the voltage level available at the interchange point between the Company and the entity delivering the Firm Energy and Capacity from the QS.

LIMITATION

Purchases under this schedule are subject to Section 366.91, Florida Statutes and/or FPSC Rules 25-17.0832 through 25-17.091, F.A.C., and 25-17.200 through 25-17.310 F.A.C and are limited to those Facilities which:

- A. Commit to commence deliveries of firm capacity and energy no later than the in-service date of the Avoided Unit, as detailed in Appendix II, and to continue such deliveries for a period of at least 10 years up to a maximum of the life of the avoided unit;
- B. Are not currently under contract with the Company or with any other entity for the Facility's output for the period specified above

(Continued on Sheet No. 10.301)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: June 25, 2013

FLORIDA POWER & LIGHT COMPANY

Seventh Revised Sheet No. 10.301
Cancels Sixth Revised Sheet No. 10.301

(Continued from Sheet No. 10.300)

RATES FOR PURCHASES BY THE COMPANY

Firm Capacity and Energy are purchased at a unit cost, in dollars per kilowatt per month and cents per kilowatt-hour, respectively, based on the capacity required by the Company. For the purpose of this Schedule, an Avoided Unit has been designated by the Company, and is detailed in Appendix II to this Schedule. Appendix I to this Schedule describes the methodology used to calculate payment schedules, applicable to the Company's Standard Offer Contract filed and approved pursuant to Section 366.91, Florida Statutes and to FPSC Rules 25-17.082 through 25-17.091, F.A.C and 25-17.200 through 25-17.310, F.A.C.

A. Firm Capacity Rates

Options A through E are available for payment of firm capacity which is produced by a QS and delivered to the Company. Once selected, an option shall remain in effect for the term of the Standard Offer Contract with the Company. A payment schedule, for the normal payment option as shown below, contains the monthly rate per kilowatt of Firm Capacity which the QS has contractually committed to deliver to the Company and is based on a contract term which extends ten (10) years beyond the in-service date of the Avoided Unit. Payment schedules for other contract terms, as specified in Appendix E, will be made available to any QS upon request and may be calculated based upon the methodologies described in Appendix I. The currently approved parameters used to calculate the schedule of payments are found in Appendix II to this Schedule.

Adjustment to Capacity Payment

The firm capacity rates will be adjusted to reflect the impact that the location of the QS will have on FPL system reliability due to constraints imposed on the operation of FPL transmission tie lines.

Appendix III shows, for illustration purposes, the factors that would be used to adjust the firm capacity rate for different geographical areas. The actual adjustment would be determined on a case-by-case basis. The amount of such adjustment, as well as a binding contract rate for firm capacity, shall be provided to the QS within sixty days of FPL execution of the signed Standard Offer Contract.

Option A - Fixed Value of Deferral Payments - Normal Capacity

Payment schedules under this option are based on the value of a single year purchase with an in-service date of the Avoided Unit, as described in Appendix I. Once this option is selected, the current schedule of payments shall remain fixed and in effect throughout the term of the Standard Offer Contract.

(Continued on Sheet No. 10.302)

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FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.302

(Continued from Sheet No. 10.301)

Option B - Fixed Value of Deferral Payments - Early Capacity

Payment schedules under this option are based upon the early capital cost component of the value of a year-by-year deferral of the Company's Avoided Unit provided; however, that under no circumstances may payments begin before the QS is delivering firm capacity and energy to the Company pursuant to the terms of the Standard Offer Contract. When this option is selected, the capacity payments shall be made monthly commencing no earlier than the Capacity Delivery Date of the QS and calculated using the methodology shown on Appendix I.

The QS shall select the month and year in which the deliveries of firm capacity and energy to the Company are to commence and capacity payments are to start. The Company will provide the QS with a schedule of capacity payment rates based on the month and year in which the deliveries of firm capacity and energy are to commence and the term of the Standard Offer Contract as specified in Appendix E.

Option C - Fixed Value of Deferral Payment - Levelized Capacity

Payment schedules under this option are based upon the levelized capital cost component of the value of a year-by-year deferral of the Company's Avoided Unit. The capital portion of capacity payments under this option shall consist of equal monthly payments over the term of the Standard Offer Contract, calculated as shown on Appendix I. The fixed operation and maintenance portion of the capacity payments shall be equal to the value of the year-by-year deferral of fixed operation and maintenance expense associated with the Company's Avoided Unit. The methodology used to calculate this option is shown in Appendix I. The Company will provide the QS with a schedule of capacity payment rates based on the month and year in which the deliveries of firm capacity and energy are to commence and the term of the Standard Offer Contract as specified in Appendix E.

Option D - Fixed Value of Deferral Payment - Early Levelized Capacity

Payment schedules under this option are based upon the early levelized capital cost component of the value of a year-by-year deferral of the Company's Avoided Unit. The capital portion of the capacity payments under this option shall consist of equal monthly payments over the term of the Standard Offer Contract, calculated as shown on Appendix I. The fixed operation and maintenance expense shall be calculated as shown in Appendix I. At the option of the QS, payments for early levelized capacity shall commence at any time before the anticipated in-service date of the Company's Avoided Unit as specified in Appendix E, provided that the QS is delivering firm capacity and energy to the Company pursuant to the terms of the Standard Offer Contract. The Company will provide the QS with a schedule of capacity payment rates based on the month and year in which the deliveries of firm capacity and energy are to commence and the term of the Standard Offer Contract as specified in Appendix E.

Option E - Flexible Payment Option

Payment schedules under this option are based upon a payment stream elected by the QS consisting of the capital component of the Company's avoided unit. Payments can commence at any time after the actual in-service date of the QS and before the anticipated in-service date of the utility's avoided unit, as specified in Appendix E, provided that the QS is delivering firm capacity and energy to the Company pursuant to the terms of the Standard Offer Contract. Regardless of the payment stream elected by the QS, the cumulative present value of capital cost payments made to the QS over the term of the contract shall not exceed the cumulative present value of the capital cost payments which would have been made to the QS had such payments been made pursuant to FPSC Rule 25-17.0832(4)(g)1, F.A.C. Fixed operation and maintenance expense shall be calculated in conformance with Rule 25-17.0832(6), F.A.C. The Company will provide the QS with a schedule of capacity payment rates based on the information specified in Appendix E.

(Continued on Sheet No. 10.303)

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FLORIDA POWER & LIGHT COMPANY

Sixth Revised Sheet No. 10.303
Cancels Fifth Revised Sheet No. 10.303

(Continued from Sheet No. 10.302)

B. Energy Rates

(1) Payments Associated with As-Available Energy Costs prior to the In-Service Date of the Avoided Unit.

Options A or B are available for payment of energy which is produced by the QS and delivered to the Company prior to the in-service date of the Avoided Unit. The QS shall indicate its selection in Appendix E. Once selected, an option shall remain in effect for the term of the Standard Offer Contract with the Company.

Option A – Energy Payments based on Actual Energy Costs

The energy rate, in cents per kilowatt-hour (¢/KWh), shall be based on the Company's actual hourly avoided energy costs which are calculated by the Company in accordance with FPSC Rule 25-17.0825, F.A.C. Avoided energy costs include incremental fuel, identifiable operation and maintenance expenses, and an adjustment for line losses reflecting delivery voltage. The calculation of the Company's avoided energy costs reflects the delivery of energy from the region of the Company in which the Delivery Point of the QS is located. When economy transactions take place, the incremental costs are calculated as described in FPL's Rate Schedule COG-1.

The calculation of payments to the QS shall be based on the sum, over all hours of the billing period, of the product of each hour's avoided energy cost times the purchases of energy from the QS by the Company for that hour. All purchases of energy shall be adjusted for losses from the point of metering to the Delivery Point.

Option B – Energy Payments based on the year by year projection of As-Available energy costs

The energy rate, in cents per kilowatt-hour (¢/KWh), shall be based on the Company's year by year projection of system incremental fuel costs, prior to hourly economy sales to other utilities, based on normal weather and fuel market conditions (annual As-Available Energy Cost Projection which are calculated by the Company in accordance with FPSC Rule 25-17.0825, F.A.C. and with FPSC Rule 25-17.250(6) (a) F.A.C.) plus a fuel market volatility risk premium mutually agreed upon by the utility and the QS. Prior to the start of each applicable calendar year, the Company and the QS shall mutually agree on the fuel market volatility risk premium for the following calendar year, normally no later than November 15. The Company will provide its projection of the applicable annual As-Available Energy Cost prior to the start of the calendar year, normally no later than November 15 of each applicable calendar year. In addition to the applicable As-Available Energy Cost projection the energy payment will include identifiable operation and maintenance expenses, an adjustment for line losses reflecting delivery voltage and a factor that reflects in the calculation of the Company's Avoided Energy Costs the delivery of energy from the region of the Company in which the Delivery Point of the QS is located.

The calculation of payments to the QS shall be based on the sum, over all hours of the billing period, of the product of each hour's applicable Projected Avoided Energy Cost times the purchases of energy from the QS by the Company for that hour. All purchases of energy shall be adjusted for losses from the point of metering to the Delivery Point.

(2) Payments Associated with Applicable Avoided Energy Costs after the In-Service Date of the Avoided Unit.

Option C is available for payment of energy which is produced by the QS and delivered to the Company after the in-service date of the avoided unit. In addition, Option D is available to the QS which elects to fix a portion of the firm energy payment. The QS shall indicate its selection of Option D in Appendix E, once selected, Option D shall remain in effect for the term of the Standard Offer Contract.

Option C- Energy Payments based on Actual Energy Costs starting on the in-service date of the Avoided Unit, as detailed in Appendix II.

The calculation of payments to the QS for energy delivered to FPL on and after the in-service date of the Avoided Unit shall be the sum, over all hours of the Monthly Billing Period, of the product of (a) each hour's firm energy rate (¢/KWh); and (b) the amount of energy (KWH) delivered to FPL from the Facility during that hour.

(Continued on Sheet No. 10.304)

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FLORIDA POWER & LIGHT COMPANY

Eighth Revised Sheet No. 10.304
Cancels Seventh Revised Sheet No. 10.304

(Continued from Sheet No. 10.303)

For any Dispatch Hour the firm energy rate shall be, on an hour-by-hour basis, the Company's Avoided Unit Energy Cost. For any other period during which energy is delivered by the QS to FPL, the firm energy rate in cents per kilowatt hour (¢/KWh) shall be the following on an hour-by-hour basis: the lesser of (a) the as-available energy rate calculated by FPL in accordance with FPSC Rule 25-17.0825, FAC, and FPL's Rate Schedule COG-1, as they may each be amended from time to time and (b) the Company's Avoided Unit Energy Cost. The Company's Avoided Unit Energy Cost, in cents per kilowatt-hour (¢/KWh) shall be defined as the product of: (a) the fuel price in \$/mmBTU as determined from gas prices published in Platts Inside FERC Gas Market Report, first of the month posting for Florida Gas Transmission Zone 3, plus all charges, surcharges and percentages that are in effect from time to time for service under Gulfstream Natural Gas System's Rate Schedule FTS; and (b) the average annual heat rate of the Avoided Unit, plus (c) an additional payment for variable operation and maintenance expenses which will be escalated based on the actual Producer Price Index. All energy purchases shall be adjusted for losses from the point of metering to the Delivery Point. The calculation of the Company's avoided energy cost reflects the delivery of energy from the geographical area of the Company in which the Delivery Point of the QS is located.

Option D- Fixed Firm Energy Payments Starting as early as the In-Service Date of the QS Facility

The calculation of payments to the QS for energy delivered to FPL may include an adjustment at the election of the QS in order to implement the provisions of Rule 25-17.250 (6) (b), F.A.C. Subsequent to the determination of full avoided cost and subject to the provisions of Rule 25-17.0832(3) (a) through (d), F.A.C., a portion of the base energy costs associated with the avoided unit, mutually agreed upon by the utility and renewable energy generator, shall be fixed and amortized on a present value basis over the term of the contract starting, at the election of the QS, as early as the in-service date of the QS. "Base energy costs associated with the avoided unit" means the energy costs of the avoided unit to the extent the unit would have operated. The portion of the base energy costs mutually agreed to by the Company and the QS shall be specified in Appendix E. The Company will provide the QS with a schedule of "Fixed Energy Payments" over the term of the Standard Offer Contract based on the applicable information specified in Appendix E.

ESTIMATED AS-AVAILABLE ENERGY COST

As required in Section 25-17.0832, F.A.C. as-available energy cost projections until the in-service date of the avoided unit will be provided within 30 days of receipt by FPL of a written request for such projections by any interested person.

ESTIMATED UNIT FUEL COST

As required in Section 25-17.0832, F.A.C. the estimated unit fuel costs associated with the Company's Avoided Unit and based on current estimates of the price of natural gas will be provided within 30 days of a written request for such an estimate.

(Continued on Sheet No. 10.305)

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FLORIDA POWER & LIGHT COMPANY

Sixth Revised Sheet No. 10.305
Cancels Fifth Revised Sheet No. 10.305

(Continued from Sheet No. 10.304)

DELIVERY VOLTAGE ADJUSTMENT

Energy payments to a QS within the Company's service territory shall be adjusted according to the delivery voltage by the multipliers provided in Appendix II.

PERFORMANCE CRITERIA

Payments for Firm Capacity are conditioned on the QS's ability to maintain the following performance criteria:

A. Capacity Delivery Date

The Capacity Delivery Date shall be no later than the projected in-service date of the Company's Avoided Unit, as detailed in Appendix II.

B. Availability and Capacity Factor

The Facility's availability and capacity factor are used in the determination of firm capacity payments through a performance based calculation as detailed in Appendix B to the Company's Standard Offer Contract.

METERING REQUIREMENTS

A QS within the territory served by the Company shall be required to purchase from the Company hourly recording meters to measure their energy deliveries to the Company. Energy purchases from a QS outside the territory of the Company shall be measured as the quantities scheduled for interchange to the Company by the entity delivering Firm Capacity and Renewable Energy to the Company.

For the purpose of this Schedule, the on-peak hours shall be those hours occurring April 1 through October 31 Mondays through Fridays, from 12 noon to 9:00 pm. excluding Memorial Day, Independence Day and Labor Day; and November 1 through March 31 Mondays through Fridays from 6:00 a.m. to 10:00 a.m. and 6:00 p.m. to 10:00 p.m. prevailing Eastern time excluding Thanksgiving Day, Christmas Day, and New Years Day.. FPL shall have the right to change such On-Peak Hours by providing the QS a minimum of thirty calendar days' advance written notice.

BILLING OPTIONS

A QS, upon entering into a Standard Offer Contract for the sale of firm capacity and energy or prior to delivery of as-available energy, may elect to make either simultaneous purchases from and sales to the Company, or net sales to the Company; provided, however, that no such arrangement shall cause the QS to sell more than the Facility's net output. A decision on billing methods may only be changed: 1) when a QS selling as-available energy enters into a Standard Offer Contract for the sale of firm capacity and energy; 2) when a Standard Offer Contract expires or is lawfully terminated by either the QS or the Company; 3) when the QS is selling as-available energy and has not changed billing methods within the last twelve months; 4) when the election to change billing methods will not contravene this Tariff or the contract between the QS and the Company.

If a QS elects to change billing methods, such changes shall be subject to the following: 1) upon at least thirty days advance written notice to the Company; 2) the installation by the Company of any additional metering equipment reasonably required to effect the change in billing and upon payment by the QS for such metering equipment and its installation; and 3) upon completion and approval by the Company of any alteration(s) to the interconnection reasonably required to effect the change in billing and upon payment by the QS for such alteration(s).

Payments due a QS will be made monthly and normally by the twentieth business day following the end of the billing period. The kilowatt-hours sold by the QS and the applicable avoided energy rates at which payments are being made shall accompany the payment to the QS.

A statement covering the charges and payments due the QS is rendered monthly, and payment normally is made by the twentieth business day following the end of the billing period.

(Continued on Sheet No. 10.306)

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FLORIDA POWER & LIGHT COMPANY

Seventh Revised Sheet No. 10.306
Cancels Sixth Revised Sheet No. 10.306

(Continued from Sheet No. 10.305)

CHARGES TO ENERGY FACILITY

The QS shall be responsible for all applicable charges as currently approved or as they may be approved by the Florida Public Service Commission, including, but not limited to:

A. Customer Charges:

Monthly customer charges for meter reading, billing and other applicable administrative costs as per applicable Customer Rate Schedule.

B. Interconnection Charge for Non-Variable Utility Expenses

The QS shall bear the cost required for interconnection, including the metering. The QS shall have the option of (i) payment in full for the interconnection costs including the time value of money during the construction of the interconnection facilities and providing a Bond, Letter of Credit or comparable assurance of payment acceptable to the Company adequate to cover the interconnection cost estimates, (ii) payment of monthly invoices from the Company for actual costs progressively incurred by the Company in installing the interconnection facilities, or (iii) upon a showing of credit worthiness, making equal monthly installment payments over a period no longer than thirty-six (36) months toward the full cost of interconnection. In the latter case, the Company shall assess interest at the rate then prevailing for thirty (30) day highest grade commercial paper, such rate to be specified by the Company thirty (30) days prior to the date of each installment payment by the QS.

C. Interconnection Charge for Variable Utility Expenses

The QS shall be billed monthly for the variable utility expenses associated with the operation and maintenance of the interconnection facilities. These include (a) the Company's inspections of the interconnection facilities and (b) maintenance of any equipment beyond that which would be required to provide normal electric service to the QS if no sales to the Company were involved.

In lieu of payment for actual charges, the QS may pay a monthly charge equal to a percentage of the installed cost of the interconnection facilities as provided in Appendix II.

D. Taxes and Assessments

In the event that FPL becomes liable for additional taxes, including interest and/or penalties arising from an Internal Revenue Service's determination, through audit, ruling or other authority, that FPL's payments to the QS for capacity under options B, C, D, E or for energy pursuant to the Fixed Firm Energy Payment Option D are not fully deductible when paid (additional tax liability), FPL may bill the QS monthly for the costs, including carrying charges, interest and/or penalties, associated with the fact that all or a portion of these capacity payments are not currently deductible for federal and/or state income tax purposes. FPL, at its option, may offset these costs against amounts due the QS hereunder. These costs would be calculated so as to place FPL in the same economic position in which it would have been if the entire early, levelized or early levelized capacity payments or the Fixed Firm Energy Payment had been deductible in the period in which the payments were made. If FPL decides to appeal the Internal Revenue Service's determination, the decision as to whether the appeal should be made through the administrative or judicial process or both, and all subsequent decisions pertaining to the appeal (both substantive and procedural), shall rest exclusively with FPL.

(Continued on Sheet No. 10.307)

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FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.307

(Continued from Sheet No. 10.306)

TERMS OF SERVICE

- (1) It shall be the QS's responsibility to inform the Company of any change in its electric generation capability.
- (2) Any electric service delivered by the Company to a QS located in the Company's service area shall be subject to the following terms and conditions:
 - (a) A QS shall be metered separately and billed under the applicable retail rate schedule(s), whose terms and conditions shall pertain.
 - (b) A security deposit will be required in accordance with FPSC Rules 25-17.082(5) and 25-6.097, F.A.C., and the following:
 - (i) In the first year of operation, the security deposit should be based upon the singular month in which the QS's projected purchases from the Company exceed, by the greatest amount, the Company's estimated purchases from the QS. The security deposit should be equal to twice the amount of the difference estimated for that month. The deposit is required upon interconnection.
 - (ii) For each year thereafter, a review of the actual sales and purchases between the QS and the Company will be conducted to determine the actual month of maximum difference. The security deposit should be adjusted to equal twice the greatest amount by which the actual monthly purchases by the QS exceed the actual sales to the Company in that month.
 - (c) The Company shall specify the point of interconnection and voltage level.
 - (d) The QS must enter into an interconnection agreement with the Company which will, among other things, specify safety and reliability standards for the interconnection to the Company's system. In most instances, the Company's filed Interconnection Agreement for Qualifying Facilities will be used; however, special features of the QS or its interconnection to the Company's facilities may require modifications to this Interconnection Agreement or the safety and reliability standards contained therein.
- (3) Service under this rate schedule is subject to the rules and regulations of the Company and the Florida Public Service Commission.

SPECIAL PROVISIONS

- (1) Special contracts deviating from the above standard rate schedule are allowable provided the Company agrees to them and they are approved by the Florida Public Service Commission.

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FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.308

APPENDIX I
TO RATE SCHEDULE QS-2
CALCULATION OF VALUE OF DEFERRAL PAYMENTS

APPLICABILITY

Appendix I provides a detailed description of the methodology used by the Company to calculate the monthly values of deferring or avoiding the Company's Avoided Unit identified in Schedule QS-2. When used in conjunction with the current FPSC-approved cost parameters associated with the Company's Avoided Unit contained in Appendix II, a QS may determine the applicable value of deferral capacity payment rate associated with the timing and operation of its particular facility should the QS enter into a Standard Offer Contract with the Company.

CALCULATION OF VALUE OF DEFERRAL OPTION A

FPSC Rule 25-17.0832(5) specifies that avoided capacity costs, in dollars per kilowatt per month, associated with capacity sold to a utility by a QS pursuant to the Company's Standard Offer Contract shall be defined as the year-by-year value of deferral of the Company's Avoided Unit. The year-by-year value of deferral shall be the difference in revenue requirements associated with deferring the Company's Avoided Unit one year, and shall be calculated as follows:

Where, for a one year deferral:

VAC_m	=	utility's monthly value of avoided capacity and O & M, in dollars per kilowatt per month, for each month of year n;
K	=	present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present valued to the middle of the first year;
R	=	$(1 + ip) / (1 + r)$;
I_o	=	total direct and indirect cost, in mid-year dollars per kilowatt including AFUDC but excluding CWIP, of the Company's Avoided Unit with an in-service date of year n, including all identifiable and quantifiable costs relating to the construction of the Company's Avoided Unit which would have been paid had the Unit been constructed;
O_s	=	total fixed operation and maintenance expense for the year n, in mid-year dollars per kilowatt per year, of the Company's Avoided Unit;
i_p	=	annual escalation rate associated with the plant cost of the Company's Avoided Unit(s);
i_o	=	annual escalation rate associated with the operation and maintenance expense of the Company's Avoided Unit(s);
r	=	annual discount rate, defined as the utility's incremental after-tax cost of capital;
L	=	expected life of the Company's Avoided Unit(s); and
n	=	year for which the Company's Avoided Unit(s) is (are) deferred starting with its (their) original anticipated in-service date(s) and ending with the termination of the Company's Standard Offer Contract.

(Continued on Sheet No. 10.309)

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FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.309

(Continued from Sheet No. 10.308)

CALCULATION OF FIXED VALUE OF DEFERRAL PAYMENTS – EARLY CAPACITY–OPTION B

Normally, payments for firm capacity shall not commence until the in-service date of the Company's Avoided Unit(s). At the option of the QS, however, the Company may begin making payments for early capacity consisting of the capital cost component of the value of a year-by-year deferral of the Company's Avoided Unit starting as early as the in-service date of the QS facility. When such payments for early capacity are elected, the avoided capital cost component of capacity payments shall be paid monthly commencing no earlier than the Capacity Delivery Date of the QS, and shall be calculated as

$$A_m = A_c \frac{(1 + i_p)^{(m-1)}}{12} + A_o \frac{(1 + i_o)^{(m-1)}}{12} \text{ for } m = 1 \text{ to } t$$

follows:

Where:

- A_m = monthly payments to be made to the QS for each month of the contract year n , in dollars per kilowatt per month in which QS delivers capacity pursuant to the early capacity option;
- i_p = annual escalation rate associated with the plant cost of the Company's Avoided Unit(s);
- i_o = annual escalation rate associated with the operation and maintenance expense of the Company's Avoided Unit(s);
- m = year for which the fixed value of deferral payments under the early capacity option are made to a QS, starting in year one and ending in the year t ;
- t = the term, in years, of the Standard Offer Contract;

$$A_c = F \left[\frac{(1 - R)}{(1 - R^{-t})} \right]$$

Where:

- F = the cumulative present value, in the year that the contractual payments will begin, of the avoided capital cost component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the Company's Avoided Unit(s);
- R = $(1 + i_p) / (1 + r)$
- r = annual discount rate, defined as the Company's incremental after-tax cost of capital; and

$$A_o = G \left[\frac{(1 - R)}{(1 - R^{-t})} \right]$$

Where:

- G = The cumulative present value, in the year that the contractual payments will begin, of the avoided fixed operation and maintenance expense component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the Company's Avoided Unit(s).
- R = $(1 + i_o) / (1 + r)$

The currently approved parameters applicable to the formulas above are found in Appendix II.

(Continued on Sheet No. 10.310)

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FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.310

(Continued from Sheet No. 10.309)

**CALCULATION OF FIXED VALUE OF DEFERRAL PAYMENTS – LEVELIZED AND EARLY LEVELIZED CAPACITY –
OPTION C & OPTION D, RESPECTIVELY**

Monthly fixed value of deferral payments for levelized and early levelized capacity shall be calculated as follows:

$$P_L = \frac{F}{12} \times \frac{r}{1 - (1 + r)^{-t}} + O$$

Where:

- P_L = the monthly levelized capacity payment, starting on or prior to the in-service date of the Company's Avoided Unit(s);
- F = the cumulative present value, in the year that the contractual payments will begin, of the avoided capital cost component of the capacity payments which would have been made had the capacity payments not been levelized;
- r = the annual discount rate, defined as the Company's incremental after-tax cost of capital;
- t = the term, in years, of the Standard Offer Contract;
- O = the monthly fixed operation and maintenance component of the capacity payments, calculated in accordance with calculation of the fixed value of deferral payments for the levelized capacity or the early levelized capacity options.

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FLORIDA POWER & LIGHT COMPANY

~~Fourteenth-Fifteenth~~ Revised Sheet No. 10.311
Cancels ~~Thirteenth-Fourteenth~~ Revised Sheet No. 10.311

APPENDIX II
TO RATE SCHEDULE QS-2
~~2026-2030~~ AVOIDED UNIT INFORMATION

The Company's Avoided Unit has been determined to be a ~~1,886.1~~ 1,991 MW Combined Cycle Unit with an in-service date of June 1, ~~2026~~ 2030 and a contract heat rate of ~~6,300~~ 5,996 Btu/kWh.

EXAMPLE STANDARD OFFER CONTRACT AVOIDED CAPACITY PAYMENTS
FOR A CONTRACT TERM OF TEN YEARS FROM THE IN-SERVICE DATE OF THE AVOIDED UNIT

	Option A	Option B	Option C	Option D
	(\$/KW/MONTH)			
Contract Year	Normal Capacity Payment	Early Capacity Payment	Levelized Capacity Payment	Early Levelized Capacity Payment
2022	\$ -	\$ - \$ 3.16	\$ -	\$ - \$ 3.62
2023	\$ -	\$ - \$ 3.24	\$ -	\$ - \$ 3.62
2024	\$ -	\$ - \$ 3.32	\$ -	\$ - \$ 3.62
2025	\$ -	\$ - \$ 3.40	\$ -	\$ - \$ 3.62
2026	\$ - \$ 5.46	\$ 3.29 \$ 3.49	\$ - \$ 6.04	\$ - \$ 3.69 \$ 3.62
2027	\$ - \$ 5.50	\$ 3.36 \$ 3.58	\$ - \$ 6.04	\$ - \$ 3.69 \$ 3.62
2028	\$ - \$ 5.73	\$ 3.42 \$ 3.67	\$ - \$ 6.04	\$ - \$ 3.69 \$ 3.62
2029	\$ - \$ 5.87	\$ 3.49 \$ 3.76	\$ - \$ 6.04	\$ - \$ 3.69 \$ 3.62
2030	\$ 5.44 \$ 6.02	\$ 3.56 \$ 3.85	\$ 5.96 \$ 6.04	\$ - \$ 3.69 \$ 3.62
2031	\$ 5.55 \$ 6.17	\$ 3.63 \$ 3.95	\$ 5.96 \$ 6.04	\$ - \$ 3.69 \$ 3.62
2032	\$ 5.67 \$ 6.32	\$ 3.71 \$ 4.05	\$ 5.96 \$ 6.04	\$ - \$ 3.69 \$ 3.62
2033	\$ 5.79 \$ 6.48	\$ 3.78 \$ 4.15	\$ 5.96 \$ 6.04	\$ - \$ 3.69 \$ 3.62
2034	\$ 5.91 \$ 6.64	\$ 3.86 \$ 4.25	\$ 5.96 \$ 6.04	\$ - \$ 3.69 \$ 3.62
2035	\$ 6.03 \$ 6.81	\$ 3.93 \$ 4.36	\$ 5.96 \$ 6.04	\$ - \$ 3.69 \$ 3.62
2036	\$ 6.16 \$ 6.98	\$ 4.01 \$ 4.47	\$ 5.96 \$ 6.04	\$ - \$ 3.69 \$ 3.62
<u>2037</u>	<u>\$ 6.29</u>	<u>\$ 4.09</u>	<u>\$ 5.96</u>	<u>\$ - \$ 3.69</u>
<u>2038</u>	<u>\$ 6.42</u>	<u>\$ 4.17</u>	<u>\$ 5.96</u>	<u>\$ - \$ 3.69</u>
<u>2039</u>	<u>\$ 6.56</u>	<u>\$ 4.26</u>	<u>\$ 5.96</u>	<u>\$ - \$ 3.69</u>
<u>2040</u>	<u>\$ 6.69</u>	<u>\$ 4.34</u>	<u>\$ 5.96</u>	<u>\$ - \$ 3.69</u>

ESTIMATED AS-AVAILABLE ENERGY COST

For informational purposes, the most recent estimated incremental avoided energy costs for the next ten years will be provided within thirty (30) days of written request.

ESTIMATED UNIT FUEL COSTS (\$/MMBtu):

The most recent estimated unit fuel costs for the Company's avoided unit will be provided within thirty (30) days of written request.

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective: ~~June 11, 2019~~

FLORIDA POWER & LIGHT COMPANY

~~Seventh-Eighth~~ Revised Sheet No. 10.311.1
Cancels ~~Sixth-Seventh~~ Revised Sheet No. 10.311.1

~~2026-2030~~ AVOIDED UNIT FIXED VALUE OF DEFERRAL PAYMENTS - NORMAL CAPACITY OPTION PARAMETERS

Where, for a one-year deferral:

		Value
VAC _m	= Company's value of avoided capacity and O&M, in dollars per kilowatt per month, during month m;	\$ 5,449 5.4390
K	= present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present valued to the middle of the first year;	1,302 1.4194
I _n	= total direct and indirect cost, in mid-year dollars per kilowatt including AFUDC but excluding CWIP, of the Company's Avoided Unit with an in-service date of year " <u>n</u> ";	\$ 695.8 4635.92
O _n	= total fixed operation and maintenance expense, for the year n, in mid-year dollars per kilowatt per year, of the Company's Avoided Unit;	\$ 14.42 12.49
i _p	= annual escalation rate associated with the plant cost of the Company's Avoided Unit;	2.50 2.00%
i _o	= annual escalation rate associated with the operation and maintenance expense of the Company's Avoided Unit;	2.50%
r	= annual discount rate, defined as the Company's incremental after-tax cost of capital;	7.73 7.52%
L	= expected life of the Company's Avoided Unit;	40
n	= year for which the Company's Avoided Unit is deferred starting with its original anticipated in-service date and ending with the termination of the Standard Offer Contract.	2026 — 2030

FIXED VALUE OF DEFERRAL PAYMENTS - EARLY CAPACITY OPTION PARAMETERS

A _m	= monthly capacity payments to be made to the QS starting on the year the QS elects to start receiving early capacity payments, in dollars per kilowatt per month;	*
i _p	= annual escalation rate associated with the plant cost of the Company's Avoided Unit;	2.50 2.00%
i _o	= annual escalation rate associated with the operation and maintenance expense of the Company's Avoided Unit;	2.50%
n	= year for which early capacity payments to a QS are to begin; (at the election of the QS early capacity payments may commence anytime after the actual in-service date of the QS facility and before the anticipated in-service date of the Company's avoided unit)	*
F	= the cumulative present value of the avoided capital cost component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the Company's Avoided Unit and continued for a period of 10 years;	\$ 490.16 486.14
r	= annual discount rate, defined as the Company's incremental after-tax cost of capital;	7.73 7.52%
t	= the term, in years, of the Standard Offer Contract for the purchase of firm capacity commencing in the year the QS elects to start receiving early capacity payments prior to the in-service date of the Company's Avoided Unit;	*
G	= the cumulative present value of the avoided fixed operation and maintenance expense component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the Company's Avoided Unit and continued for a period of 10 years.	\$ 108.99 94.56

*From Appendix E

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Effective: ~~June 11, 2019~~

FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No. 10.311.2
Cancels Original Sheet No. 10.311.2

RESERVED FOR FUTURE USE

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective: June 11, 2019

FLORIDA POWER & LIGHT COMPANY

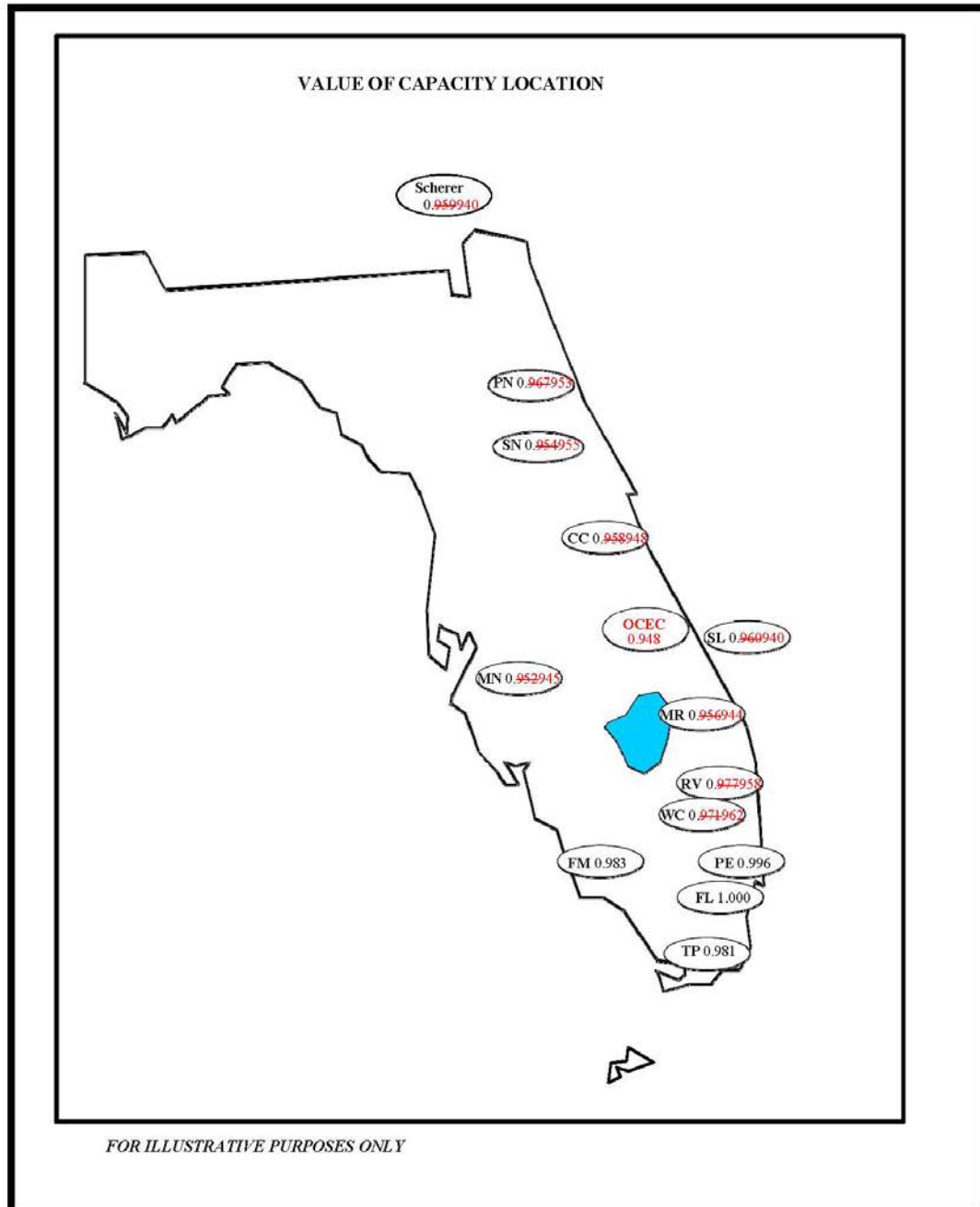
First Revised Sheet No. 10.311.3
Cancels Original Sheet No. 10.311.3

RESERVED FOR FUTURE USE

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective: June 11, 2019

FLORIDA POWER & LIGHT COMPANY

~~Seventh~~^{Eighth} Revised Sheet No. 10.312
Cancels ~~Seventh~~^{Sixth} Revised Sheet No. 10.312



Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective: ~~June 11, 2019~~

FLORIDA POWER & LIGHT COMPANY

Second Revised Sheet No. 10.313
Cancels First Revised Sheet No. 10.313

APPENDIX B
TO THE STANDARD OFFER CONTRACT
FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY
FROM RENEWABLE ENERGY FACILITIES
OR QUALIFYING FACILITIES WITH A DESIGN CAPACITY OF 100 KW OR LESS
PAY FOR PERFORMANCE PROVISIONS MONTHLY CAPACITY PAYMENT CALCULATION

1. Monthly Capacity Payments (MCP) for each Monthly Billing Period shall be computed according to the following:

- A. In the event that the Annual Capacity Billing Factor ("ACBF"), as defined below, is less than 80%, then no Monthly Capacity Payment shall be due. That is:

$$MCP = 0$$

- B. In the event that the ACBF is equal to or greater than 80% but less than 94%, then the Monthly Capacity Payment shall be calculated by using the following formula:

$$MCP = BCP \times [1 + 4 \times (ACBF - 94\%)] \times CC$$

- C. In the event that the ACBF is equal to or greater than 94%, then the Monthly Capacity Payment shall be calculated by using the following formula:

$$MCP = BCP \times CC$$

Where:

MCP = Monthly Capacity Payment in dollars.

BCP = Base Capacity Payment in \$/KW/Month as specified in FPL's Rate Schedule QS-2.

CC = Committed Capacity in KW.

ACBF = Annual Capacity Billing Factor. This factor is calculated using the 12 months rolling average of the Monthly Capacity Factor. This 12 month rolling average shall be defined as the sum of the 12 consecutive Monthly Capacity Factors preceding the date of calculation, divided by 12. During the first 12 consecutive Monthly Billing Periods, commencing with the first Monthly Billing Period in which Capacity payments are to be made, the calculation of the Annual Capacity Billing Factor shall be performed as follows: (a) during the first Monthly Billing Period, the Annual Capacity Billing Factor shall be equal to the Monthly Capacity Factor; (b) thereafter, the calculation of the Annual Capacity Billing Factor shall be computed by dividing the sum of the Monthly Capacity Factors during the first year's Monthly Billing Periods in which Capacity payments are to be made by the number of Monthly Billing Periods which have elapsed. This calculation shall be performed at the end of each Monthly Billing Period until enough Monthly Billing Periods have elapsed to calculate a true 12-month rolling average Annual Capacity Billing Factor. Periods during which the Facility has temporarily set its Committed Capacity equal to 0 KW due to a Force Majeure event pursuant to Section 16 shall be excluded from the applicable capacity factor calculation.

MCF = Monthly Capacity Factor. The sum of (i) the Hourly Factors of the Non-Dispatch Hours plus (ii) the Hourly Factors of the Dispatch Hours or the Hourly factors of the hours when FPL requested reduced deliveries pursuant to Sections 8.4.6 and 8.4.8 (Reduced Delivery Hour), divided by the number of hours in the Monthly Billing Period.

HFNDH = Hourly Factor of a Non-Dispatch Hour. The energy received during the hour divided by the Committed Capacity. For purposes of calculating the Hourly Factor of a Non-Dispatch Hour the energy received shall not exceed the Committed Capacity.

HFDH = Hourly Factor of a Dispatch Hour or a Reduced Delivery Hour. The scheduled energy received divided by the scheduled energy requested. For purposes of calculating the Hourly Factor of a Dispatch Hour or the Hourly Factor of a Reduced Delivery Hour the scheduled energy received shall not exceed the scheduled energy requested.

On-Peak Hours = Those hours occurring April 1 through October 31 Mondays through Fridays, from 12 noon to 9:00 p.m. excluding Memorial Day, Independence Day and Labor Day; and November 1 through March 31 Mondays through Fridays from 6:00 a.m. to 10:00 a.m. and 6:00 p.m. to 10:00 p.m. prevailing Eastern time excluding Thanksgiving Day, Christmas Day and New Year's Day. FPL shall have the right to change such On- Peak Hours by providing the QS a minimum of thirty calendar days' advance notice.

Monthly Billing Period = The period beginning on the first calendar day of each calendar month, except that the initial Monthly Billing Period shall consist of the period beginning 12:01 a.m. on the Capacity Delivery Period Date and ending with the last calendar day of such month.

Scheduled Energy and Dispatch Hours are as defined in Section 8.4.7 of the Standard Offer Contract.

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: August 27, 2015

FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No. 10.314
Cancels Original Sheet No. 10.314

APPENDIX C
TO THE STANDARD OFFER CONTRACT
TERMINATION FEE

The Termination Fee shall be the sum of the values for each month beginning with the month in which the Capacity Delivery Date occurs through the month of termination (or month of calculation, as the case may be), computed according to the following formula:

Termination Fee = Termination Fee applicable to Capacity Payment Option plus Termination Fee applicable to Fixed Firm Energy Option

Termination Fee applicable to Capacity Payment Options B, C, D and E

$$\sum_{i=1}^n (MCP_i - MCPC_i) \times t^{(n-i)}$$

with: $MCPC_i = 0$ for all periods prior to the in-service date of the Company's Avoided Unit;

where:

- i = number of the Monthly Billing Period commencing with the Capacity Delivery Date (i.e., the month in which Capacity Delivery Date occurs = 1; the month following the month in which Capacity Delivery Date occurs = 2, etc.)
- n = the number of Monthly Billing Periods which have elapsed from the month in which the Capacity Delivery Date occurs through the month of termination (or month of calculation, as the case may be)
- t = the future value of an amount factor necessary to compound a sum monthly so the annual percentage rate derived will equal FPL's incremental after-tax avoided cost of capital (defined as r in QS-2). For any Monthly Billing Period in which $MCPC_i$ is greater than MCP_i , t shall equal 1.
- MCP_i = Monthly Capacity Payment paid to QS corresponding to the Monthly Billing Period i, calculated in accordance with Appendix B.
- $MCPC_i$ = Monthly Capacity Payment for Option A corresponding to the Monthly Billing Period i, calculated in accordance with QS-2

In the event that for any Monthly Billing Period, the computation of the value of the Capacity Payment Termination Fee for such Monthly Billing Period (as set forth above) yields a value equal to or greater than zero, the amount of the Capacity Payment Termination Fee shall be increased by the amount of such value.

In the event that for any Monthly Billing Period, the computation of the value of the Capacity Payment Termination Fee for such Monthly Billing Period (as set forth above) yields a value less than zero, the amount of the Capacity Payment Termination Fee shall be decreased by the amount of such value expressed as a positive number (the "Initial Reduction Value"); provided, however, that such Initial Reduction Value shall be subject to the following adjustments (the Initial Reduction Value, as adjusted, the "Reduction Value"):

- In the event that in the applicable Monthly Billing Period the Annual Capacity Billing Factor (ACBF), as defined in Appendix B is less than 80%, then the Initial Reduction Value shall be adjusted to equal zero (Reduction Value = 0), and the Capacity Payment Termination Fee shall not be reduced for the applicable Monthly Billing Period.
- In the event that in the applicable Monthly Billing Period the Annual Capacity Billing Factor (ACBF), as defined in Appendix B, is equal to or greater than 80% but less than ~~92.4~~94%, then the Reduction Value shall be determined as follows:

$$\text{Reduction Value} = \text{Initial Reduction Value} \times [0.04 \times (\text{ACBF} - \del{92.4}{94})]$$

For the applicable Monthly Billing Period, the Termination Fee shall be reduced by the amount of such Reduction Value.

In no event shall FPL be liable to the QS at any time for any amount by which the Capacity Payment Termination Fee, adjusted in accordance with the foregoing, is less than zero (0).

Termination Fee applicable to the Fixed Firm Energy Payment Option D

Prior to in-service date of avoided unit:

The Termination Fee for the Fixed Firm Energy Option shall be equal to the cumulative sum of the Fixed Firm Energy Payments made to the QS pursuant to Option D, starting with the in-service date of the QS facility, for each billing cycle. Such number shall reach the maximum amount on the billing cycle immediately preceding the billing cycle associated with the in-service date of the Avoided Unit.

After in-service date of avoided unit:

The Termination Fee shall be decreased each billing cycle following the in-service date of the avoided unit by an amount equal to the difference between the projected Fixed Energy Cost that was used in the calculation to determine the base energy cost to be fixed and amortized pursuant to Option D for such billing cycle and the amortized Fixed Firm Energy Payment in cents/KWH times the energy delivered by the QS not to exceed the MWH block specified in Appendix E.

Issued by: ~~S.E. Romig~~ Tiffany Cohen, Director, Rates and Tariffs
Effective: ~~May 22, 2007~~

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.315

**APPENDIX D
TO THE STANDARD OFFER CONTRACT
DETAILED PROJECT INFORMATION**

Each eligible Contract received by FPL will be evaluated to determine if the underlying QS project is financially and technically viable. The QS shall, to the extent available, provide FPL with a detailed project proposal which addresses the information requested below.

I. FACILITY DESCRIPTION

- Project Name
- Project Location
 - ◆ Street Address
 - ◆ Site Plot Plan
 - ◆ Legal Description of Site
- Generating Technology
- Facility Classification (include types from statute)
- Primary Fuel
- Alternate Fuel (if applicable)
- Committed Capacity
- Expected In-Service Date
- Steam Host (for cogeneration facilities)
 - ◆ Street Address
 - ◆ Legal Description of Steam Host
 - ◆ Host's annual steam requirements (lbs/yr)
- Contact Person
 - ◆ Individual's Name and Title
 - ◆ Company Name
 - ◆ Address
 - ◆ Telephone Number
 - ◆ Telecopy Number

II. PROJECT PARTICIPANTS

- Indicate the entities responsible for the following project management activities and provide a detailed description of the experience and capabilities of the entities:
 - ◆ Project Development
 - ◆ Siting and Licensing the Facility
 - ◆ Designing the Facility
 - ◆ Constructing the Facility
 - ◆ Securing the Fuel Supply
 - ◆ Operating the Facility
- Provide details on all electrical generation facilities which are currently under construction or operational which were developed by the QS.
- Describe the financing structure for the projects identified above, including the type of financing used, the permanent financing term, the major lenders, and the percentage of equity invested at financial closing.

(Continued on Sheet No. 10.316)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: May 22, 2007

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.316

(Continued from Sheet No. 10.315)

III. FUEL SUPPLY

- Describe all fuels to be used to generate electricity at the Facility. Indicate the specific physical and chemical characteristics of each fuel type (e.g., Btu content, sulfur content, ash content, etc.). Identify special considerations regarding fuel supply origin, source and handling, storage and processing requirements.
- Provide annual fuel requirements (AFR) necessary to support the requirements pursuant to Section 366.91, Florida Statutes, and the planned levels of generation and list the assumptions used to determine these quantities.
- Provide a summary of the status of the fuel supply arrangements in place to meet the AFR in each year of the proposed operating life of the Facility. Use the categories below to describe the current arrangement for securing the AFR.

Category	Description of Fuel Supply Arrangement
owned =	fuel is from a fully developed source owned by one or more of the project participants
contract =	fully executed firm fuel contract exists between the developer(s) and fuel supplier(s)
LOI =	a letter of intent for the fuel supply exists between developer(s) and fuel supplier(s)
REF =	renewable energy facility will burn biomass, waste, or another renewable resource
spot =	fuel supply will be purchased on the spot market
none =	no firm fuel supply arrangement currently in place
other =	fuel supply arrangement which does not fit any of the above categories (please describe)

- Indicate the percentage of the Facility's AFR which is covered by the above fuel supply arrangement(s) for each proposed operating year. The percent of AFR covered for each operating year must total 100%. For fuel supply arrangements identified as owned, contract, or LOI, provide documentation to support this category and explain the fuel price mechanism of the arrangement. In addition, indicate whether or not the fuel price includes delivery and, if so, to what location.
- Describe fuel transportation networks available for delivering all primary and secondary fuel to the Facility site. Indicate the mode, route and distance of each segment of the journey, from fuel source to the Energy Facility site. Discuss the current status and pertinent factors impacting future availability of the transportation network.
- Provide annual fuel transportation requirements (AFTR) necessary to support planned levels of generation and list the assumptions used to determine these quantities.
- Provide a summary of the status of the fuel transportation arrangements in place to meet the AFTR in each year of the proposed operating life of the Energy Facility. Use the categories below to describe the current arrangement for securing the AFTR.

owned =	fuel transport via a fully developed system owned by one or more of the project participants
contract =	fully executed firm transportation contract exists between the developer(s) and fuel transporter(s)
LOI =	a letter of intent for fuel transport exists between developer(s) and fuel transporter(s)
Spot =	fuel transportation will be purchased on the spot market
none =	no firm fuel transportation arrangement currently in place
other =	fuel transportation arrangement which does not fit any of the above categories (please describe)

- Indicate the percentage of the Facility's AFR which is covered by the above fuel supply arrangement(s) for each proposed operating year. The percent of AFR covered for each operating year must total 100%. For fuel supply arrangements identified as owned, contract, or LOI, provide documentation to support this category and explain the transportation price mechanism of the arrangement.
- Provide the maximum, minimum, and average fuel inventory levels to be maintained for primary and secondary fuels at the Facility site. List the assumptions used in determining the inventory levels.

(Continued on Sheet No. 10.317)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: May 22, 2007

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.317

(Continued from Sheet No. 10.316)

IV. PLANT DISPATCHABILITY/CONTROLLABILITY

- Provide the following operating characteristics and a detailed explanation supporting the performance capabilities indicated.
 - ♦ Ramp Rate (MW/minute)
 - ♦ Peak Capability (% above Committed Capacity)
 - ♦ Minimum power level (% of Committed Capacity)
 - ♦ Facility Turnaround Time, Hot to Hot (hours)
 - ♦ Start-up Time from Cold Shutdown (hours)
 - ♦ Unit Cycling (# cycles/yr)
 - ♦ MW and MVAR Control (AGC, Manual, Other (please explain))

V. SITING AND LICENSING

- Provide a licensing/permitting milestone schedule which lists all permits, licenses and variances required to site the Facility. The milestone schedule shall also identify key milestone dates for baseline monitoring, application preparation, agency review, certification and licensing/siting board approval, and agency permit issuance.
- Provide a licensing/permitting plan that addresses the issues of air emissions, water use, wastewater discharge, wetlands, endangered species, protected properties, solid waste, surrounding land use, zoning for the Facility, associated linear facilities, and support of and opposition to the Facility.
- List the emission/effluent discharge limits the Facility will meet, and describe in detail the pollution control equipment to be used to meet these limits.

VI. FACILITY DEVELOPMENT AND PERFORMANCE

- Submit a detailed engineering, procurement, construction, startup and commercial operation schedule. The schedule shall include milestones for site acquisition, engineering phases, selection of the major equipment vendors, architect engineer, EPC contractor, and Facility operator, steam host integration, and delivery of major equipment. A discussion of the current status of each milestone should also be included where applicable.
- Attach a diagram of the power block arrangement. Provide a list of the major equipment vendors and the name and model number of the major equipment to be installed.
- Provide a detailed description of the proposed environmental control technology for the Facility and describe the capabilities of the proposed technology.
- Attach preliminary flow diagrams for the steam system, water system, and fuel system, and a main electrical one line diagram for the Facility.
- State the expected heat rate (HHV) at 75 degrees Fahrenheit for loads of 100%, 75%, and 50%. In addition, attach a preliminary heat balance for the Facility.
- [NOTE: add any requirements related to demonstrating that the facility meets the requirements under the statute or applicable rules]

(Continued on Sheet No. 10.318)

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: May 22, 2007

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.318

(Continued from Sheet No. 10.317)

VII. FINANCIAL

- Provide FPL with assurances that the proposed QS project is financially viable consistent with FPSC Rule 25-17.0832(4) (c) by attaching a detailed pro-forma cash flow analysis. The pro-forma must include, at a minimum, the following assumptions for each year of the project.
 - ♦ Annual Project Revenues
 - Capacity Payments (\$ and \$/KW/Mo)
 - Variable O&M (\$ and \$/MWh)
 - Energy (\$ and \$/MWh)
 - Steam Revenues (\$ and %/lb.)
 - Tipping Fees (\$ and \$/ton)
 - Interest Income
 - Other Revenues
 - Variable O&M Escalation (%/yr)
 - Energy Escalation (%/yr)
 - Steam Escalation (%/yr)
 - Tipping Fee Escalation (%/yr)
 - ♦ Annual Project Expenses
 - Fixed O&M (\$ and \$/KW/Mo)
 - Variable O&M (\$ and \$/MWh)
 - Energy (\$ and \$/MWh)
 - Property Taxes (\$)
 - Insurance (\$)
 - Emission Compliance (\$ and \$/MWh)
 - Depreciation (\$ and %/yr)
 - Other Expenses (\$)
 - Fixed O&M Escalation (%/yr)
 - Variable O&M Escalation (%/yr)
 - Energy Escalation (%/yr)
 - ♦ Other Project Information
 - Installed Cost of the Energy Facility (\$ and \$/KW)
 - Committed Capacity (KW)
 - Average Heat Rate - HHV (MBTU/KWh)
 - Federal Income Tax Rate (%)
 - Facility Capacity Factor (%)
 - Energy Sold to FPL (MWh)
 - ♦ Permanent Financing
 - Permanent Financing Term (yrs)
 - Project Capital Structure (percentage of long-term debt, subordinated debt, tax exempt debt, and equity)
 - Financing Costs (cost of long-term debt, subordinated debt, tax exempt debt, and equity)
 - Annual Interest Expense
 - Annual Debt Service (\$)
 - Amortization Schedule (beginning balance, interest expense, principal reduction, ending balance)
- Provide details of the financing plan for the project and indicate whether the project will be non-recourse project financed. If it will not be project financed please explain the alternative financing arrangement.
- Submit financial statements for the last two years on the principals of the project, and provide an illustration of the project ownership structure.

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Effective: May 22, 2007

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 10.319

**APPENDIX E
TO THE STANDARD OFFER CONTRACT
CONTRACT OPTIONS TO BE SELECTED BY QS**

Term of Contract

Execution date _____
Termination date _____

Firm Capacity Rates

Commencement date for deliveries of Firm Energy and Capacity _____

Capacity Payment Option Selected (from available Options A through E) _____

If Option E is selected proposed payment stream:

Schedule of Capacity Payments to be provided by the Company based on applicable parameters follows:

<u>Year</u>	<u>\$/KW/Month</u>
-------------	--------------------

Energy Rates

Energy payment Options selected applicable to energy produced by the QS and delivered to the Company (from available Option A or B **and** D)

Select from Option A or B

And _____

Select D _____

If Option D is selected by the QS; the Company and the QS mutually agree on fixing and amortizing the following portion of the Base Energy Costs associated with the Avoided Unit

_____ % which yields _____ MWH

Projected Energy Cost of Energy Produced by Avoided Unit (provided by the Company):

<u>Year</u>	<u>Projected Fixed Energy Cost (in Cents/KWH or in Dollars)</u>
-------------	---

Based on the projections of Energy Costs Produced by the Avoided Unit and the mutually agreed upon Portion of the Base Energy Costs associated with the Avoided Unit the Fixed Energy Payment shall be _____ \$/MWH or \$ _____ (as applicable).

Issued by: S. E. Romig, Director, Rates and Tariffs
Effective: May 22, 2007

Item 13

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Kistner, Ellis) *TB*
Office of the General Counsel (Weisenfeld) *TL7*

RE: Docket No. 20200115-EQ – Petition for approval of new standard offer for purchase of firm capacity and energy from renewable energy facilities or small qualifying facilities and rate schedule QS-2, by Gulf Power Company.

AGENDA: 06/09/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Staff recommends the Commission consider with Docket No. 20200114-EQ

Case Background

Section 366.91(3), Florida Statutes (F.S.), requires each investor-owned utility (IOU) to continuously offer to purchase capacity and energy from renewable generating facilities and small qualifying facilities. Florida Public Service Commission (Commission) Rules 25-17.200 through 25-17.310, Florida Administrative Code (F.A.C.), implement the statute and require each IOU to file with the Commission, by April 1 of each year, a revised standard offer contract based on the next avoidable fossil fueled generating unit of each technology type identified in the utility's current Ten-Year Site Plan (TYSP). On April 1, 2020, Gulf Power Company (Gulf) filed a petition for approval of its new standard offer contract, based on its 2020 TYSP. On May 1, 2020, Gulf filed revisions to its proposed tariff sheets to correct a calculation error. The

Docket No. 20200115-EQ

Date: May 28, 2020

Commission has jurisdiction over this standard offer contract pursuant to Sections 366.04 through 366.055, and 366.91, F.S.

Discussion of Issues

Issue 1: Should the Commission approve Gulf's new standard offer contract and associated rate schedule QS-2?

Recommendation: Yes. The provisions of Gulf's new standard offer contract and associated rate schedule conform to all requirements of Rules 25-17.200 through 25-17.310, F.A.C. The new standard offer contract provides flexibility in the arrangements for payments so that a developer of renewable generation may select the payment stream best suited to its financial needs. Staff recommends that the new standard offer contract and rate schedule QS-2 be approved, with the prior standard offer contract and rate schedule REF-1 being cancelled. (Kistner)

Staff Analysis: Section 366.91(3), F.S., and Rule 25-17.250, F.A.C., require that Gulf, an IOU, continuously make available a standard offer contract for the purchase of firm capacity and energy from renewable generating facilities (RF) and small qualifying facilities (QF) with design capacities of 100 kilowatts (kW) or less. Pursuant to Rules 25-17.250(1) and (3), F.A.C., the standard offer contract must provide a term of at least 10 years, and the payment terms must be based on the utility's next avoidable fossil-fueled generating unit identified in its most recent TYSP, or if no avoided unit is identified, its next avoidable planned purchase.

Gulf submitted a joint TYSP with Florida Power & Light Company (FPL) for 2020, as the companies plan to merge into a single remaining entity by 2022. As the combined TYSP does not feature an avoidable fossil-fueled generating unit or planned purchases that could be deferred during the planning period, Gulf could opt to offer only a standard contract for energy payments based on its as-available energy cost. However, to encourage renewable generation, Gulf has identified a 1,991 megawatt (MW) natural gas-fired combined cycle unit (CC) as the next planned generating unit, the same as identified in the FPL Standard Offer Contract. The projected in-service date of the unit is June 1, 2030. The Commission has approved using a unit outside of the TYSP planning period previously.¹

Gulf's new standard offer contract and associated rate schedule QS-2, included as Attachment A, would replace its prior standard offer contract and associated rate schedule REF-1. They are functionally identical to FPL's except for those economic factors that, per Commission Rules, must be utility specific, and some geographic differences. An example of a specific economic factor is the incremental after tax cost of capital, which is 6.95 percent for Gulf, while it is 7.52 percent for FPL. This results in different payment values from the FPL Standard Offer Contract because certain values are calculated from these factors. For the geographic differences, the referenced time zone has been changed from "Eastern" to "Central" and the "Value of Capacity Location" map on Tariff Sheet No. 9.81.12 shows the value at locations corresponding to Gulf's generators rather than FPL's.

Under Gulf's standard offer contract, the RF/QF operator commits to certain minimum performance requirements based on the identified avoided unit, such as being operational and

¹Order No. PSC-2018-0316-PAA-EQ, issued June 20, 2018, in Docket No. 20180083-EQ, In re: *Petition for approval of renewable energy tariff and standard offer contract, by Florida Power & Light Company*.

delivering an agreed upon amount of capacity by the in-service date of the avoided unit, and thereby becomes eligible for capacity payments in addition to payments received for energy. 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, in a situation where one or both parties desire particular contract terms other than those established in the standard offer.

In order to promote renewable generation, the Commission requires the IOU to offer multiple options for capacity payments, including the options to receive early or levelized payments. If the RF/QF operator elects to receive capacity payments under the normal or levelized contract options, it will receive as-available energy payments only until the in-service date of the avoided unit (in this case June 1, 2030), and thereafter, begin receiving capacity payments in addition to the energy payments. If either the early or early levelized option is selected, then the operator will begin receiving capacity payments earlier than the in-service date of the avoided unit. However, payments made under the early capacity payment options tend to be lower in the later years of the contract term because the net present value (NPV) of the total payments must remain equal for all contract payment options.

Table 1 contains Gulf's estimates of the annual payments for each payment option available under the new standard offer contract to an operator with a 50 MW facility operating at a capacity factor of 94 percent, which is the minimum capacity factor required under the contract to qualify for full capacity payments. Normal and levelized capacity payments begin with the projected in-service date of the avoided unit (June 1, 2030), while early and early levelized capacity payments begin in 2026 for this example.

**Table 1 - Estimated Annual Payments to a 50 MW Renewable Facility
(94% Capacity Factor)**

Year	Energy Payment (\$000)	Capacity Payment (By Type)			
		Normal	Levelized	Early	Early Levelized
		(\$000)	(\$000)	(\$000)	(\$000)
2021	6,908	-	-	-	-
2022	6,933	-	-	-	-
2023	8,038	-	-	-	-
2024	8,709	-	-	-	-
2025	9,648	-	-	-	-
2026	10,212	-	-	1,965	2,210
2027	10,639	-	-	2,004	2,210
2028	11,517	-	-	2,044	2,210
2029	11,540	-	-	2,085	2,210
2030	11,280	3,205	3,515	2,127	2,210
2031	11,075	3,273	3,515	2,170	2,210
2032	11,309	3,341	3,515	2,213	2,210
2033	11,481	3,412	3,515	2,257	2,210
2034	11,672	3,483	3,515	2,302	2,210
2035	11,850	3,556	3,515	2,348	2,210
2036	12,048	3,631	3,515	2,395	2,210
2037	12,168	3,707	3,515	2,443	2,210
2038	12,309	3,785	3,515	2,492	2,210
2039	12,437	3,865	3,515	2,542	2,210
2040	12,586	3,946	3,515	2,593	2,210
Total	214,358	39,206	38,665	33,982	33,157
Total (NPV)	107,338	14,433	14,433	14,433	14,433

Source: Gulf's Amended Response to Staff's First Data Request²

Conclusion

The provisions of Gulf's new standard offer contract and associated rate schedule conform to all requirements of Rules 25-17.200 through 25-17.310, F.A.C. The new standard offer contract provides flexibility in the arrangements for payments so that a developer of renewable generation may select the payment stream best suited to its financial needs. Accordingly, staff recommends that the new standard offer contract and rate schedule QS-2 be approved, with the prior standard offer contract and rate schedule REF-1 being cancelled.

²Document No. 02347-2020, filed May 1, 2020 in Docket No. 20200115-EQ.

Issue 2: Should this docket be closed?

Recommendation: Yes. This docket should be closed upon issuance of a consummating order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Commission's Proposed Agency Action Order. Potential signatories should be aware that, if a timely protest is filed, Gulf's standard offer contract may subsequently be revised. (Weisenfeld)

Staff Analysis: This docket should be closed upon the issuance of a consummating order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Commission's Proposed Agency Action Order. Potential signatories should be aware that, if a timely protest is filed, Gulf's standard offer contract may subsequently be revised.



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Ninth Revised Sheet No. 9.1
Canceling Eighth Revised Sheet No. 9.1

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ISSUED BY: ~~Charles S. Boyett~~ Tiffany Cohen



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**STANDARD OFFER CONTRACT FOR THE PURCHASE OF
CAPACITY AND ENERGY FROM A RENEWABLE ENERGY FACILITY OR A QUALIFYING FACILITY
WITH A DESIGN CAPACITY OF 100 KW OR LESS (2030 AVOIDED UNIT)**

THIS STANDARD OFFER CONTRACT (the "Contract") is made and entered this ____ day of _____, _____, by and between _____ (herein after "Qualified Seller" or "QS") a corporation/limited liability company organized and existing under the laws of the State of _____ and owner of a Renewable Energy Facility as defined in section 25-17.210 (1) F.A.C. or a Qualifying Facility with a design capacity of 100 KW or less as defined in section 25-17.250, and Gulf Power Company (hereinafter "GULF POWER") a corporation organized and existing under the laws of the State of Florida. The QS and GULF POWER shall be jointly identified herein as the "Parties". This Contract contains five Appendices; Appendix A, QS-2 Standard Rate for Purchase of Capacity and Energy; Appendix B, Pay for Performance Provisions; Appendix C, Termination Fee; Appendix D, Detailed Project Information and Appendix E, contract options to be selected by QS.

WITNESSETH:

WHEREAS, the QS desires to sell and deliver, and GULF POWER desires to purchase and receive, firm capacity and energy to be generated by the QS consistent with the terms of this Contract, Section 366.91, Florida Statutes, and/or Florida Public Service Commission ("FPSC") Rules 25-17.082 through 25-17.091, F.A.C. and FPSC Rules 25-17.200 through 25-17.310.F.A.C.

WHEREAS, the QS has signed an interconnection agreement with GULF POWER (the "Interconnection Agreement"), or it has entered into valid and enforceable interconnection/transmission service agreement(s) with the utility (or those utilities) whose transmission facilities are necessary for delivering the firm capacity and energy to GULF POWER (the "Wheeling Agreement(s)");

WHEREAS, the FPSC has approved the form of this Standard Offer Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Facility or a Qualifying Facility with a design capacity of 100 KW or less; and

WHEREAS, the Facility is capable of delivering firm capacity and energy to GULF POWER for the term of this Contract in a manner consistent with the provisions of this Contract; and

WHEREAS, Section 366.91(3), Florida Statutes, provides that the "prudent and reasonable costs associated with a QS energy contract shall be recovered from the ratepayers of the contracting utility, without differentiating among customer classes, through the appropriate cost-recovery clause mechanism" administered by the FPSC.

NOW, THEREFORE, for mutual consideration the Parties agree as follows:

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1. **QS Facility**

The QS contemplates, installing operating and maintaining a _____ KVA _____ generating facility located at _____ (hereinafter called the "Facility"). The Facility is designed to produce a maximum of _____ kilowatts ("KW") of electric power at an 85% lagging to 85% leading power factor. The Facility's location and generation capabilities are as described in the table below.

TECHNOLOGY AND GENERATOR CAPABILITIES	
Location: Specific legal description (e.g., metes and bounds or other legal description with street address required)	City: County:
Generator Type (Induction or Synchronous)	
Type of Facility (Hydrogen produced from sources other than fossil fuels, biomass as defined in Section 25-17.210 (2) F.A.C. , solar energy, geothermal energy, wind energy, ocean energy, hydroelectric power, waste heat from sulfuric acid manufacturing operations: or <100KW cogenerator)	
Technology	
Fuel Type and Source	
Generator Rating (KVA)	
Maximum Capability (KW)	
Minimum Load	
Peaking Capability	
Net Output (KW)	
Power Factor (%)	
Operating Voltage (kV)	
Peak Internal Load KW	

The following sections (a) through (e) are applicable to Renewable Energy Facilities ("REFs") and section (e) is only applicable to Qualifying Facilities with a design capacity of 100 KW or less:

- (a) If the QS is a REF, the QS represents and warrants that (i) the sole source(s) of fuel or power used by the Facility to produce energy for sale to GULF POWER during the term of this Contract shall be such sources as are defined in and provided for pursuant to Sections 366.91(2) (a) and (b), Florida Statutes, and FPSC Rules 25-17.210(1) and (2), F.A.C.; (ii) Fossil fuels shall be limited to the minimum quantities necessary for start-up, shut-down and for operating stability at minimum load; and (iii) the REF is capable of generating the amount of capacity pursuant to Section 5 of this Agreement without the use of fossil fuels.
- (b) The Parties agree and acknowledge that if the QS is a REF, the QS will not charge for, and GULF POWER shall have no obligation to pay for, any electrical energy produced by the Facility from a source of fuel or power except as specifically provided for in paragraph 1(a) above.

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- (c) If the QS is a REF, the QS shall, on an annual basis and within thirty (30) days after the anniversary date of this Contract and on an annual basis thereafter for the term of this Contract, deliver to GULF POWER a report certified by an officer of the QS: (i) stating the type and amount of each source of fuel or power used by the QS to produce energy during the twelve month period prior to the anniversary date (the "Contract Year"); and (ii) verifying that one hundred percent (100%) of all energy sold by the QS to GULF POWER during the Contract Year complies with Sections 1(a) and (b) of this Contract.
- (d) If the QS is a REF, the QS represents and warrants that the Facility meets the renewable energy requirements of Section 366.91(2)(a) and (b), Florida Statutes, and FPSC Rules 25-17.210(1) and (2)-, F.A.C., and that the QS shall continue to meet such requirements throughout the term of this Contract. GULF POWER shall have the right at all times to inspect the Facility and to examine any books, records, or other documents of the QS that GULF POWER deems necessary to verify that the Facility meets such requirements.
- (e) The Facility (i) has been certified or has self-certified as a "qualifying facility" pursuant to the Regulations of the Federal Energy Regulatory Commission ("FERC"), or (ii) has been certified by the FPSC as a "qualifying facility" pursuant to Rule 25-17.080(1). A QS that is a qualifying facility with a design capacity of less than 100 KW shall maintain the "qualifying status" of the Facility throughout the term of this Contract. GULF POWER shall have the right at all times to inspect the Facility and to examine any books and records or other documents of the Facility that GULF POWER deems necessary to verify the Facility's qualifying status. On or before March 31 of each year during the term of this Contract, the QS shall provide to GULF POWER a certificate signed by an officer of the QS certifying that the Facility has continuously maintained qualifying status.

2. Term of Contract

Except as otherwise provided herein, this Contract shall become effective immediately upon its execution by the Parties (the "Effective Date") and shall have the termination date stated in Appendix E, unless terminated earlier in accordance with the provisions hereof. Notwithstanding the foregoing, if the Capacity Delivery Date (as defined in Section 5.5) of the Facility is not accomplished by the in-service date of the avoided unit, or such later date as may be permitted by GULF POWER pursuant to Section 5 of this Contract, GULF POWER will be permitted to terminate this Contract consistent with the terms herein without further obligations, duties or liability to the QS.

3. Minimum Specifications

Following are the minimum specifications pertaining to this Contract:

1. The avoided unit ("Avoided Unit") options on which this Contract is based are detailed in Appendix A.
2. This offer shall expire on April 1, 2021.
3. The date by which firm capacity and energy deliveries from the QS to GULF POWER shall commence is the in-service date of the Avoided Unit (or such later date as may be permitted by GULF POWER pursuant to Section 5 of this contract) unless the QS chooses a capacity payment option that provides for early capacity payments pursuant to the terms of this Contract.
4. The period of time over which firm capacity and energy shall be delivered from the QS to GULF POWER is as specified in Appendix E; provided, such period shall be no less than a minimum of ten (10) years after the in-service date of the Avoided Unit.
5. The following are the minimum performance standards for the delivery of firm capacity and energy by the QS to qualify for full capacity payments under this Contract:

	On Peak *	All Hours
Availability	94.0%	94.0%

* QS Performance and On Peak hours shall be as measured and/or described in GULF POWER's Rate Schedule QS-2 attached hereto as Appendix A

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4. Sale of Energy and Capacity by the QS

4.1 Consistent with the terms hereof, the QS shall sell and deliver to GULF POWER and GULF POWER shall purchase and receive from the QS at the Delivery Point (defined below) all of the energy and firm capacity generated by the Facility. GULF POWER shall have the sole and exclusive right to purchase all energy and capacity produced by the Facility. The purchase and sale of energy and firm capacity pursuant to this Contract shall be a () net billing arrangement or () simultaneous purchase and sale arrangement; provided, however, that no such arrangement shall cause the QS to sell more energy and firm capacity than the Facility's net output. The billing methodology may be changed at the option of the QS, subject to the provisions of GULF POWER Rate Schedule QS-2. For purposes of this Contract, Delivery Point shall be defined as either: (a) the point of interconnection between GULF POWER's system and the transmission system of the final utility transmitting energy and firm capacity from the Facility to the GULF POWER system, as specifically described in the applicable Wheeling Agreement, or (b) the point of interconnection between the Facility and GULF POWER's transmission system, as specifically described in the Interconnection Agreement.

4.2 The QS shall not rely on interruptible standby service for the start up requirements (initial or otherwise) of the Facility.

4.3 The QS shall be responsible for all costs, charges and penalties associated with development and operation of the Facility.

4.4 The QS shall be responsible for all interconnection, electric losses, transmission and ancillary service arrangements and costs required to deliver, on a firm basis, the firm capacity and energy from the Facility to the Delivery Point.

5. Committed Capacity/Capacity Delivery Date

5.1 The QS commits to sell and deliver firm capacity to GULF POWER at the Delivery Point, the amount of which shall be determined in accordance with this Section 5 (the "Committed Capacity"). Subject to Section 5.3 the Committed Capacity shall be KW, delivery date no later than the in-service date of the Avoided Unit or as otherwise specified in Appendix E (the "Guaranteed Capacity Delivery Date").

5.2 Testing of the capacity of the Facility (each such test, a "Committed Capacity Test") shall be performed in accordance with the procedures set forth in Section 6. The Demonstration Period (defined herein) for the first Committed Capacity Test shall commence no earlier than six (6) months prior to the Capacity Delivery Date and testing must be completed by 11:59 p.m. on the date prior to the Guaranteed Delivery Date. The first Committed Capacity Test shall be deemed successfully completed when the QS demonstrates to GULF POWER's satisfaction that the Facility can make available capacity of at least one hundred percent (100%) of the Committed Capacity set forth in Section 5.1. Subject to Section 6.1, the QS may schedule and perform up to three (3) Committed Capacity Tests to satisfy the capacity requirements of the Contract.

5.3 GULF POWER shall have the right to require the QS, by notice no less than ten (10) business days prior to such proposed test, to validate the Committed Capacity of the Facility by means of subsequent Committed Capacity Tests as follows: (a) once per each Summer period and once per each Winter period at GULF POWER's sole discretion, (b) at any time the QS is unable to comply with any material obligation under this Contract for a period of thirty (30) days or more in the aggregate as a consequence of an event of Force Majeure, and (c) at any time the QS fails in three consecutive months to achieve an Annual Capacity Billing Factor, as defined in Appendix B (the "ACBF"), equal to or greater than 70%. The results of any such test shall be provided to GULF POWER within seven (7) days of the conclusion of such test. On and after the date of such requested Committed Capacity Test, and until the completion of a subsequent Committed Capacity Test, the Committed Capacity shall be deemed as the lower of the tested capacity or the Committed Capacity as set forth in Section 5.1.

5.4 Notwithstanding anything to the contrary herein, the Committed Capacity shall not exceed the amount set forth in Section 5.1 without the prior written consent of GULF POWER, such consent not unreasonably withheld.

5.5 The "Capacity Delivery Date" shall be defined as the first calendar day immediately after the date following the last to occur of (a) the Facility's successful completion of the first Committed Capacity Test but no earlier than the commencement date for deliveries of firm capacity and energy (as such is specified in Appendix E) and (b) the satisfaction by QS of the following Delivery Date Conditions (defined below).

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5.5.1 A certificate addressed to GULF POWER from a Licensed Professional Engineer (reasonably acceptable to GULF POWER in all respects) stating: (a) the nameplate capacity rating of the Facility at the anticipated time of commercial operation, which must be at least 94% of the Expected Nameplate Capacity Rating; (b) that the Facility is able to generate electric energy reliably in amounts expected by this Agreement and in accordance with all other terms and conditions hereof; (c) that Start-Up Testing of the Facility has been completed; and (d) that, pursuant to Section 8.4, all system protection and control and Automatic Generation Control devices are installed and operational.

5.5.2 A certificate addressed to GULF POWER from a Licensed Professional Engineer (reasonably acceptable to GULF POWER in all respects) stating, in conformance with the requirements of the Interconnection Agreement, that: (a) all required interconnection facilities have been constructed; (b) all required interconnection tests have been completed; and (c) the Facility is physically interconnected with the System in conformance with the Interconnection Agreement and able to deliver energy consistent with the terms of this Agreement.

5.5.3 A certificate addressed from a Licensed Professional Engineer (reasonably acceptable to GULF POWER in all respects) stating that QS has obtained or entered into all permits and agreements with respect to the Facility necessary for construction, ownership, operation, and maintenance of the Facility (the "Required Agreements"). QS must provide copies of any or all Required Agreements requested by GULF POWER.

5.5.4 An opinion from a law firm or attorney, registered or licensed in the State of Florida (reasonably acceptable to GULF POWER in all respects), stating, after all appropriate and reasonable inquiry, that: (a) QS has obtained or entered into all Required Agreements; (b) neither QS nor the Facility is in violation of or subject to any liability under any applicable law; and (c) QS has duly filed and had recorded all of the agreements, documents, instruments, mortgages, deeds of trust, and other writings described in Section 9.7.

5.5.5 GULF POWER has received the Completion/Performance Security ((a) through (e), the "Commercial Operation Conditions").

GULF POWER shall have ten (10) Business Days after receipt either to confirm to QS that all of the Delivery Date Conditions have been satisfied or have occurred, or to state with specificity what GULF POWER reasonably believes has not been satisfied.

5.6 The QS shall be entitled to receive capacity payments beginning on the Capacity Delivery Date, provided, the Capacity Delivery Date occurs on or before the in-service date of the Avoided Unit (or such later date permitted by GULF POWER pursuant to the following sentence). If the Capacity Delivery Date does not occur on or before the Guaranteed Capacity Delivery Date, GULF POWER shall be entitled to the Completion/Performance Security (as set forth in Section 9) in full, and in addition, has the right but not the obligation to allow the QS up to an additional five (5) months to achieve the Capacity Delivery Date. If the QS fails to achieve the Capacity Delivery Date either by (a) the Guaranteed Delivery Date or b) such later date as permitted by GULF POWER, GULF POWER shall have no obligation to make any capacity payments under this Contract and GULF POWER will be permitted to terminate this Contract, consistent with the terms herein, without further obligations, duties or liability to the QS.

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6. Testing Procedures

6.1 The Committed Capacity Test must be completed successfully within a sixty-hour period (the "Demonstration Period"), which period, including the approximate start time of the Committed Capacity Test, shall be selected and scheduled by the QS by means of a written notice to GULF POWER delivered at least thirty (30) days prior to the start of such period. The provisions of the foregoing sentence shall not apply to any Committed Capacity Test required by GULF POWER under any of the provisions of this Contract. GULF POWER shall have the right to be present onsite to monitor any Committed Capacity Test required or permitted under this Contract.

6.2 Committed Capacity Test results shall be based on a test period of twenty-four (24) consecutive hours (the "Committed Capacity Test Period") at the highest sustained net KW rating at which the Facility can operate without exceeding the design operating conditions, temperature, pressures, and other parameters defined by the applicable manufacturer(s) for steady state operations at the Facility. If the QS is a REF the Committed Capacity Test shall be conducted utilizing as the sole fuel source fuels or energy sources included in the definition in Section 366.91, Florida Statutes. The Committed Capacity Test Period shall commence at the time designated by the QS pursuant to Section 6.1 or at such other time requested by GULF POWER pursuant to Section 5.3; provided, however, that the Committed Capacity Test Period may commence earlier than such time in the event that GULF POWER is notified of, and consents to, such earlier time.

6.3 For the avoidance of doubt, normal station service use of unit auxiliaries, including, without limitation, cooling towers, heat exchangers, and other equipment required by law, shall be in service during the Committed Capacity Test Period. Further, the QS shall affect deliveries of any quantity and quality of contracted cogenerated steam to the steam host during the Committed Capacity Test Period.

6.4 The capacity of the Facility shall be the average net capacity (generator output minus auxiliary) measured over the Committed Capacity Test Period.

6.5 The Committed Capacity Test shall be performed according to prudent industry testing procedures satisfactory to GULF POWER for the appropriate technology of the QS.

6.6 Except as otherwise provided herein, results of any Committed Capacity Test shall be submitted to GULF POWER by the QS within seven (7) days of the conclusion of the Committed Capacity Test.

7. Payment for Electricity Produced by the Facility

7.1 Energy

GULF POWER agrees to pay the QS for energy produced by the Facility and delivered to the Delivery Point in accordance with the rates and procedures contained in GULF POWER's approved Rate Schedule QS-2, attached hereto as Appendix A, as it may be amended from time to time and pursuant to the election of energy payment options as specified in Appendix E. The Parties agree that this Contract shall be subject to all of the provisions contained in Rate Schedule QS-2 as approved and on file with the FPSC.

7.2 Firm Capacity

GULF POWER agrees to pay the QS for the firm capacity described in Section 5 in accordance with the rates and procedures contained in Rate Schedule QS-2, attached hereto as Appendix A, as it may be amended and approved from time to time by the FPSC, and pursuant to the election of a capacity payment option as specified in Appendix E. The QS understands and agrees that capacity payments will be made under the early capacity payment options only if the QS has achieved the Capacity Delivery Date and is delivering firm capacity and energy to GULF POWER. Once elected by the QS, the capacity payment option cannot be changed during the term of this Contract.

7.3 Payments

Payments due the QS will be made monthly and normally by the twentieth business day following the end of the billing period. A statement of the kilowatt-hours sold by the QS and the applicable avoided energy rate at which payments are being made shall accompany the payment to the QS.

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8. Electricity Production and Plant Maintenance Schedule

8.1 During the term of this Contract, no later than sixty (60) days prior to the Capacity Delivery Date and prior to April 1 of each calendar year thereafter, the QS shall submit to GULF POWER in writing a detailed plan of: (a) the amount of firm capacity and energy to be generated by the Facility and delivered to the Delivery Point for each month of the following calendar year, and (b) the time, duration and magnitude of any scheduled maintenance period(s) and any anticipated reductions in capacity.

8.2 By October 31 of each calendar year, GULF POWER shall notify the QS in writing whether the requested scheduled maintenance periods in the detailed plan are acceptable. If GULF POWER objects to any of the requested scheduled maintenance periods, GULF POWER shall advise the QS of the time period closest to the requested period(s) when the outage(s) can be scheduled. The QS shall schedule maintenance outages only during periods approved by GULF POWER, such approval not unreasonably withheld. Once the schedule for maintenance has been established and approved by GULF POWER, either Party may request a subsequent change in such schedule and, except when such event is due to Force Majeure, request approval for such change from the other Party, such approval not to be unreasonably withheld or delayed. Scheduled maintenance outage days shall be limited to seven (7) days per calendar year unless the manufacturer's recommendation of maintenance outage days for the technology and equipment used by the Facility exceeds such 7 day period, provided, such number of days is considered reasonable by prudent industry standards and does not exceed two (2) fourteen (14) day intervals, one in the Spring and one in the Fall, in any calendar year. The scheduled maintenance outage days applicable for the QS are _____ days in the Spring and _____ days in the Fall of each calendar year, provided the conditions specified in the previous sentence are satisfied. In no event shall maintenance periods be scheduled during the following periods: June 1 through and including October 31st and December 1 through and including February 28 (or 29th as the case may be).

8.3 The QS shall comply with reasonable requests by GULF POWER regarding day-to-day and hour-by-hour communication between the Parties relative to electricity production and maintenance scheduling.

8.4 Dispatch and Control

8.4.1 The power supplied by the QS hereunder shall be in the form of three-phase 60 Hertz alternating current, at a nominal operating voltage of _____,000 volts (_____ kV) and power factor dispatchable and controllable in the range of 85% lagging to 85% leading as measured at the Delivery Point to maintain system operating parameters, as specified by GULF POWER.

8.4.2 At all times during the term of this Contract, the QS shall operate and maintain the Facility: (a) in such a manner as to ensure compliance with its obligations hereunder, in accordance with prudent engineering and operating practices and applicable law, and (b) with all system protective equipment in service whenever the Facility is connected to, or is operated in parallel with, GULF POWER's system. The QS shall install at the Facility those system protection and control devices necessary to ensure safe and protected operation of all energized equipment during normal testing and repair. The QS shall have qualified personnel test and calibrate all protective equipment at regular intervals in accordance with good engineering and operating practices. A unit functional trip test shall be performed after each overhaul of the Facility's turbine, generator or boilers and the results shall be provided to GULF POWER prior to returning the Facility to service. The specifics of the unit functional trip test will be consistent with good engineering and operating practices.

8.4.3 If the Facility is separated from the GULF POWER system for any reason, under no circumstances shall the QS reconnect the Facility into GULF POWER's system without first obtaining GULF POWER's prior written approval.

8.4.4 During the term of this Contract, the QS shall employ qualified personnel for managing, operating and maintaining the Facility and for coordinating such with GULF POWER. If the Facility has a Committed Capacity greater than 10 MW then, the QS shall ensure that operating personnel are on duty at all times, twenty-four (24) hours a calendar day and seven (7) calendar days a week. If the Facility has a Committed Capacity equal to or less than 10 MW then the QS shall ensure that operating personnel are on duty at least eight (8) hours per day from 8 AM CST to 5 PM CST from Monday to Friday, with an operator on call at all other hours.

8.4.5 GULF POWER shall at all times be excused from its obligation to purchase and receive energy and capacity hereunder, and GULF POWER shall have the ability to require the QS to curtail or reduce deliveries of energy, to the extent necessary (a) to maintain the reliability and integrity of any part of GULF POWER's system, (b) in the event that GULF POWER determines that a failure to do so is likely to endanger life or property, or (c) is likely to result in significant disruption of electric service to GULF POWER's customers. GULF POWER shall give the QS prior notice, if practicable, of its intent to refuse, curtail or reduce GULF POWER's acceptance of energy and firm capacity pursuant to this Section and will act to minimize the frequency and duration of such occurrences.

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8.4.6 After providing notice to the QS, GULF POWER shall not be required to purchase or receive energy from the QS during any period in which, due to operational circumstances, the purchase or receipt of such energy would result in GULF POWER's incurring costs greater than those which it would incur if it did not make such purchases. An example of such an occurrence would be a period during which the load being served is such that the generating units on line are base load units operating at their minimum continuous ratings and the purchase of additional energy would require taking a base load unit off the line and replacing the remaining load served by that unit with peaking-type generation. GULF POWER shall give the QS as much prior notice as practicable of its intent not to purchase or receive energy and firm capacity pursuant to this Section.

8.4.7 If the Facility has a Committed Capacity less than 75 MW, control, scheduling and dispatch of firm capacity and energy shall be the responsibility of the QS. If the Facility has a Committed Capacity greater than or equal to 75 MW, then control, scheduling and dispatch of firm capacity and energy shall be the responsibility of the QS, except during a "Dispatch Hour", i.e., any clock hour for which GULF POWER requests the delivery of such capacity and energy. During any Dispatch Hour: (a) control of the Facility will either be by Seller's manual control under the direction of GULF POWER (whether orally or in writing) or by Automatic Generation Control by GULF POWER's system control center as determined by GULF POWER, and (b) GULF POWER may request that the real power output be at any level up to the Committed Capacity of the Facility, provided, in no event shall GULF POWER require the real power output of the Facility to be below the Facility's Minimum Load without decommitting the Facility. The Facility shall deliver the capacity and energy requested by GULF POWER within minutes, taking into account the operating limitations of the generating equipment as specified by the manufacturer, provided such time period specified herein is considered reasonable by prudent industry standards for the technology and equipment being utilized and assuming the Facility is operating at or above its Minimum Load. Start-up time from Cold Shutdown and Facility Turnaround time from Hot to Hot will be taken into consideration provided such are reasonable and consistent with prudent industry practices for the technology and equipment being utilized. The Facility's Operating Characteristics have been provided by the QS and are set forth in Appendix D, Section IV of Rate Schedule QS-2.

8.4.8 If the Facility has a Committed Capacity of less than 75 MW, GULF POWER may require during certain periods, by oral, written, or electronic notification that the QS cause the Facility to reduce output to a level below the Committed Capacity but not lower than the Facility's Minimum Load. GULF POWER shall provide as much notice as practicable, normally such notice will be of at least four (4) hours. The frequency of such request shall not exceed eighteen (18) times per calendar year and the duration of each request shall not exceed four (4) hours.

8.4.9 GULF POWER's exercise of its rights under this Section 8 shall not give rise to any liability or payment obligation on the part of GULF POWER, including any claim for breach of contract or for breach of any covenant of good faith and fair dealing.

9. Completion/Performance Security

The security contemplated by this Section 9 constitutes security for, but is not a limitation of, QS's obligations hereunder and shall not be GULF POWER's exclusive remedy for QS's failure to perform in accordance with this Agreement.

9.1 As security for the achievement of the Guaranteed Capacity Delivery Date and satisfactory performance of its obligations hereunder, the QS shall provide GULF POWER either: (a) an unconditional, irrevocable, standby letter of credit(s) with an expiration date no earlier than the end of the first (1st) anniversary of the Capacity Delivery Date (or the next business day thereafter), issued by a U.S. commercial bank or the U.S. branch of a foreign bank having a Credit Rating of A- or higher by S&P or A3 or higher by Moody's (a "Qualified Issuer"), in form and substance acceptable to GULF POWER (including provisions (i) permitting partial and full draws and (ii) permitting GULF POWER to draw in full if such letter of credit is not renewed or replaced as required by the terms hereof at least thirty (30) business days prior to its expiration date) ("Letter of Credit"); (b) a bond, issued by a financially sound Company acceptable to GULF POWER and in a form and substance acceptable to GULF POWER, ("Bond"); or (c) a cash collateral deposited with GULF POWER ("Cash Collateral") (any of (a), (b), or (c), the "Completion/Performance Security"). Completion/Performance Security shall be provided in the amount and by the date listed below:

(a) \$50.00 per kW (for the number of kW of Committed Capacity set forth in Section 5.1) to be delivered to GULF POWER within five (5) business days of the Effective Date; and

(b) \$100.00 per kW (for the number of kW of Committed Capacity set forth in Section 5.1) to be delivered to GULF POWER two years before the Guaranteed Capacity Delivery Date.

"Credit Rating" means with respect to any entity, on any date of determination, the respective ratings then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancement) by S&P, Moody's or other specified rating agency or agencies or if such entity does not have a rating for its unsecured, senior long-term debt or deposit obligations, then the rating assigned to such entity as its "corporate credit rating" by S&P.

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"Moody's" means Moody's Investors Service, Inc. or its successor.

"S&P" means Standard & Poor's Ratings Group (a division of The McGraw-Hill Companies, Inc.) or its successor.

9.2 The specific security instrument provided for purposes of this Contract is:

- () Letter of Credit.
- () Bond.
- () Cash Collateral.

9.3 GULF POWER shall have the right to monitor (a) the financial condition of the issuer of a Letter of Credit in the event any Letter of Credit is provided by the QS, and (b) the insurer, in the case of any Bond. In the event the issuer of a Letter of Credit no longer qualifies as Qualified Issuer or the issuer of a Bond is no longer financially sound, GULF POWER may require the QS to replace the Letter of Credit or the Bond, as applicable. Such replacement Letter of Credit or bond must be issued by a Qualified Issuer or a financially sound issuer, as applicable, within ten (10) business days following written notification to the QS of the requirement to replace. Failure by the QS to comply with the requirements of this Section 9.3 shall be grounds for GULF POWER to draw in full on the existing Letter of Credit or bond and to exercise any other remedies it may have hereunder.

9.4 Notwithstanding the foregoing provisions of this Section 9, pursuant to FPSC Rule 25-17.091(4), F.A.C., a QS qualifying as a "Solid Waste Facility" pursuant to Section 377.709(3) or (5), F.S., respectively, may use an unsecured written commitment or promise to pay in a form reasonably acceptable to GULF POWER, by the local government which owns the Facility or on whose behalf the QS operates the Facility, to secure its obligation to achieve on a timely basis the Capacity Delivery Date and the satisfactory performance of its obligations hereunder.

9.5 GULF POWER shall be entitled to draw the Completion/Performance Security to satisfy any obligation or liability of QS arising pursuant to this Contract.

9.5.1 If the QS fails to achieve the Capacity Delivery Date on or before the in-service date of the Avoided Unit or such later date as permitted by GULF POWER pursuant to Section 5.6, GULF POWER shall be entitled immediately to receive, draw upon, or retain, as the case may be, one-hundred (100%) of the Completion/ Performance Security as liquidated damages free from any claim or right of any nature whatsoever of the QS, including any equity or right of redemption by the QS. The Parties acknowledge that the injury that GULF POWER will suffer as a result of delayed availability of Committed Capacity and energy is difficult to ascertain and that GULF POWER may accept such sums as liquidated damages and resort to any other remedies which may be available to it under law or in equity.

9.5.2 In the event that GULF POWER requires the QS to perform one or more Committed Capacity Test(s) at any time on or before the first anniversary of the Capacity Delivery Date pursuant to Section 5.3 and, in connection with any such Committed Capacity Test(s), the QS fails to demonstrate a Capacity of at least one-hundred percent (100%) of the Committed Capacity set forth in Section 5.1, GULF POWER shall be entitled immediately to receive, draw upon, or retain, as the case may be, one-hundred percent (100%) of the Completion/Performance Security as liquidated damages free from any claim or right of any nature whatsoever of the QS, including any equity or right of redemption by the QS.

9.5.3 QS shall promptly, but in no event more than five (5) business days following any draws on the Completion/Performance Security, replenish the Completion/Performance Security to the amounts required herein.

9.6 The QS, as the Pledgor of the Completion/Performance Security, hereby pledges to GULF POWER, as the secured Party, as security for the achievement of the Capacity Delivery Date and satisfactory performance of its obligations hereunder, and grants to GULF POWER a first priority continuing security interest in, lien on and right of set-off against all Completion/Performance Security transferred to or received by GULF POWER hereunder. Upon the transfer or return by GULF POWER to the QS of Completion/Performance Security, the security interest and lien granted hereunder on that Completion/Performance Security will be released immediately and, to the extent possible, without any further action by either party.

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9.7 In lieu of any interest, dividends or other amounts paid or deemed to have been paid with respect to Cash Collateral held by GULF POWER (all of which may be retained by GULF POWER), GULF POWER will transfer to the QS on a monthly basis the Interest Amount, as calculated by GULF POWER.

"Interest Amount" means, with respect to each monthly period, the aggregate sum of the amounts of interest calculated for each day in that monthly period on the principal amount of Cash Collateral held by GULF POWER on that day, determined by GULF POWER for each such day as follows:

- (x) the amount of that Cash Collateral on that day; multiplied by
- (y) the Interest Rate in effect for that day; divided by
- (z) 360.

"Interest Rate" means: the Federal Funds Overnight rate as from time to time in effect.

"Federal Funds Overnight Rate" means, for the relevant determination date, the rate opposite the caption "Federal Funds (Effective)" as set forth for that day in the weekly statistical release designated as H.15 (519), or any successor publication, published by the Board of Governors of the Federal Reserve System. If on the determination date such rate is not yet published in H.15 (519), the rate for that date will be the rate set in Composite 3:30 P.M. Quotations for U.S. Government Securities for that day under the caption "Federal Funds/Effective Rate." If on the determination date such rate is not yet published in either H.15 (519) or Composite 3:30 P.M. Quotations for U.S. Government Securities, the rate for that date will be determined as if the Parties had specified "USD-Federal Funds-Reference Dealers" as the applicable rate.

10. Termination Fee

10.1 In the event that the QS receives capacity payments pursuant to Option B, Option C, Option D or Option E (as such options are defined in Appendix A and elected by the QS in Appendix E) or receives energy payments pursuant to the Fixed Firm Energy Payment Option (as such option is defined in Appendix A and elected by the QS in Appendix E) then, upon the termination of this Contract, the QS shall owe and be liable to GULF POWER for a termination fee calculated in accordance with Appendix C (the "Termination Fee"). The QS's obligation to pay the Termination Fee shall survive the termination of this Contract. GULF POWER shall provide the QS, on a monthly basis, a calculation of the Termination Fee.

10.1.1 The Termination Fee shall be secured (with the exception of governmental solid waste facilities covered by FPSC Rule 25-17.091 in which case the QS may use an unsecured written commitment or promise to pay, in a form reasonably acceptable to GULF POWER, by the local government which owns the Facility or on whose behalf the QS operates the Facility, to secure its obligation to pay the Termination Fee) by the QS by: (a) an unconditional, irrevocable, standby letter(s) of credit issued by Qualified Issuer in form and substance acceptable to GULF POWER (including provisions (a) permitting partial and full draws and (b) permitting GULF POWER to draw upon such letter of credit, in full, if such letter of credit is not renewed or replaced at least thirty (30) business days prior to its expiration date, ("Termination Fee Letter of Credit"); (b) a bond, issued by a financially sound Company and in a form and substance acceptable to GULF POWER, ("Termination Fee Bond"); or (c) a cash collateral deposit with GULF POWER ("Termination Fee Cash Collateral") (any of (a), (b), or (c), the "Termination Security").

10.1.2 The specific security instrument selected by the QS for purposes of this Contract is:

- ☐ Termination Fee Letter of Credit
- ☐ Termination Fee Bond
- ☐ Termination Fee Cash Collateral

10.1.3 GULF POWER shall have the right to monitor the financial condition of (i) the issuer of a Termination Fee Letter of Credit in the case of any Termination Fee Letter of Credit and (ii) the insurer(s), in the case of any Termination Fee Bond. In the event the issuer of a Termination Fee Letter of Credit is no longer a Qualified Issuer or the issuer of a Termination Fee Bond is no longer financially sound, GULF POWER may require the QS to replace the Termination Fee Letter of Credit or the Termination Fee Bond, as applicable. In the event that GULF POWER notifies the QS that it requires such a replacement, the replacement Termination Fee Letter of Credit or Termination Fee Bond, as applicable, must be issued by a Qualified Issuer or financially sound company within ten (10) business days following such notification. Failure by the QS to comply with the requirements of this Section 10.1.2 shall be grounds for GULF POWER to draw in full on any existing Termination Fee Letter of Credit or Termination Fee Bond and to exercise any other remedies it may have hereunder.

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10.1.4 After the close of each calendar quarter (March 31, June 30, September 30, and December 31) occurring subsequent to the Capacity Delivery Date, the QS shall provide to GULF POWER within ten (10) business days of the close of such calendar quarter with written assurance and documentation (the "Security Documentation"), in form and substance acceptable to GULF POWER, that the amount of the most recently provided Termination Security is sufficient to cover the balance of the Termination Fee. In addition to the foregoing, at any time during the term of this Contract, GULF POWER shall have the right to request, and the QS shall be obligated to deliver within five (5) business days of such request, such Security Documentation. Failure by the QS to comply with the requirements of this Section 10.1.3 shall be grounds for GULF POWER to draw in full on any existing Termination Fee Letter of Credit or Termination Fee Bond or to retain any Termination Fee Cash Collateral, and to exercise any other remedies it may have hereunder to be applied against any Termination Fee that may be due and owing to GULF POWER or that may in the future be due and owing to GULF POWER.

10.1.5 Upon any termination of this Contract following the Capacity Delivery Date, GULF POWER shall be entitled to receive (and in the case of the Termination Fee Letter of Credit or Termination Fee Bond, draw upon such Termination Fee Letter of Credit or Termination Fee Bond) and retain one- hundred percent (100%) of the Termination Security to be applied against any Termination Fee that may be due and owing to GULF POWER or that may in the future be due and owing to GULF POWER. GULF POWER will transfer to the QS any proceeds and Termination Security remaining after liquidation, set-off and/or application under this Article after satisfaction in full of all amounts payable by the QS with respect to any Termination Fee or other obligations due to GULF POWER; the QS in all events will remain liable for any amounts remaining unpaid after any liquidation, set-off and/or application under this Article.

10.2 The QS, as the Pledgor of the Termination Security, hereby pledges to GULF POWER, as the secured Party, as security for the Termination Fee, and grants to GULF POWER a first priority continuing security interest in, lien on and right of set-off against all Termination Security transferred to or received by GULF POWER hereunder. Upon the transfer or return by GULF POWER to the QS of Termination Security, the security interest and lien granted hereunder on that Termination Security will be released immediately and, to the extent possible, without any further action by either party.

10.3 In lieu of any interest, dividends or other amounts paid or deemed to have been paid with respect to Termination Fee Cash Collateral held by GULF POWER (all of which may be retained by GULF POWER), GULF POWER will transfer to the QS on a monthly basis the Interest Amount, Pursuant to Section 9.7.

11. Performance Factor

GULF POWER desires to provide an incentive to the QS to operate the Facility during on-peak and off-peak periods in a manner which approximates the projected performance of GULF POWER's Avoided Unit. A formula to achieve this objective is attached as Appendix B.

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12. Default

Notwithstanding the occurrence of any Force Majeure as described in Section 16, each of the following shall constitute an Event of Default:

- 12.1 The QS fails to meet the applicable requirements specified in Section 1 of this Contract.;
- 12.2 The QS changes or modifies the Facility from that provided in Section 1 with respect to its type, location, technology or fuel source, without prior written approval from GULF POWER.;
- 12.3 After the Capacity Delivery Date, the Facility fails, for twelve (12) consecutive months, to maintain an Annual Capacity Billing Factor, as described in Appendix B, of at least 80%.;
- 12.4 The QS fails to comply with any of the provisions of Section 9.0 hereof (Completion/Performance Security).
- 12.5 The QS fails to comply with any of the provisions of Section 10.0 hereof (Termination Security).;
- 12.6 The QS ceases the conduct of active business; or if proceedings under the federal bankruptcy law or insolvency laws shall be instituted by or for or against the QS or if a receiver shall be appointed for the QS or any of its assets or properties; or if any part of the QS's assets shall be attached, levied upon, encumbered, pledged, seized or taken under any judicial process, and such proceedings shall not be vacated or fully stayed within 30 days thereof; or if the QS shall make an assignment for the benefit of creditors, or admit in writing its inability to pay its debts as they become due.
- 12.7 The QS fails to give proper assurance acceptable to GULF POWER of adequate performance as specified under this Contract within 30 days after GULF POWER, with reasonable grounds for insecurity, has requested in writing such assurance-.
- 12.8 The QS materially fails to perform as specified under this Contract, including, but not limited to, the QS's obligations under any part of Sections 8, and 18.
- 12.9 The QS fails to achieve the permitting, licensing, certification, and all federal, state and local governmental environmental and licensing approvals required to initiate construction of the Facility by no later than one year prior to Guaranteed Capacity Date.
- 12.10 The QS fails to comply with any of the provisions of Section 18.3 hereof (Project Management).
- 12.11 Any of the representations or warranties made by the QS in this Contract is false or misleading in any material respect.
- 12.12 The occurrence of an event of default by the QS under the Interconnection Agreement or any applicable Wheeling Agreement;
- 12.13 The QS fails to satisfy its obligations under Section 18.14 hereof (Assignment).
- 12.14 The QS fails to deliver to GULF POWER in accordance with this Contract any energy or firm capacity required to be delivered hereunder or the delivery or sale of any such energy and firm capacity to an entity other than GULF POWER.
- 12.15 The QS fails to perform any material covenant or obligation under this Contract not specifically mentioned in this Section 12.
- 12.16 If at any time after the Capacity Delivery Date, the QS reduces the Committed Capacity due to an event of Force Majeure and fails to repair the Facility and reset the Committed Capacity to the level set forth in Section 5.1 (as such level may be reduced by Section 5.3) within twelve (12) months following the occurrence of such event of Force Majeure.

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13. GULF POWER's Rights in the Event of Default

13.1 Upon the occurrence of any of the Events of Default in Section 12, GULF POWER may:

(a) terminate this Contract, without penalty or further obligation, except as set forth in Section 13.2, by written notice to the QS, and offset against any payment(s) due from GULF POWER to the QS, any monies otherwise due from the QS to GULF POWER;

as (b) draw on the Completion/Performance Security pursuant to Section 9 or collect the Termination Fee pursuant to Section 10 applicable; and

(c) exercise any other remedy(ies) which may be available to GULF POWER at law or in equity.

13.2 In the case of an Event of Default, the QS recognizes that any remedy at law may be inadequate because this Contract is unique and/or because the actual damages of GULF POWER may be difficult to reasonably ascertain. Therefore, the QS agrees that GULF POWER shall be entitled to pursue an action for specific performance, and the QS waives all of its rights to assert as a defense to such action that GULF POWER's remedy at law is adequate.

13.3 Termination shall not affect the liability of either party for obligations arising prior to such termination or for damages, if any, resulting from any breach of this Contract.

14. Indemnification/Limits

14.1 GULF POWER and the QS shall each be responsible for its own facilities. GULF POWER and the QS shall each be responsible for ensuring adequate safeguards for other GULF POWER customers, GULF POWER's and the QS's personnel and equipment, and for the protection of its own generating system. Each party (the "Indemnifying Party") agrees, to the extent permitted by applicable law, to indemnify, pay, defend, and hold harmless the other party (the "Indemnified Party") and its officers, directors, employees, agents and contractors (hereinafter called respectively, "GULF POWER Entities" and "QS Entities") from and against any and all claims, demands, costs, or expenses for loss, damage, or injury to persons or property of the Indemnified Party (or to third parties) caused by, arising out of, or resulting from: (a) a breach by the Indemnifying Party of its covenants, representations, and warranties or obligations hereunder; (b) any act or omission by the Indemnifying Party or its contractors, agents, servants or employees in connection with the installation or operation of its generation system or the operation thereof in connection with the other Party's system; (c) any defect in, failure of, or fault related to, the Indemnifying Party's generation system; (d) the negligence or willful misconduct of the Indemnifying Party or its contractors, agents, servants or employees; or (e) any other event, act or incident, including the transmission and use of electricity, that is the result of, or proximately caused by, the Indemnifying Party or its contractors, agents, servants or employees.

14.2 Payment by an Indemnified Party will not be a condition precedent to the obligations of the Indemnifying Party under Section 14. No Indemnified Party under Section 14 shall settle any claim for which it claims indemnification hereunder without first allowing the Indemnifying Party the right to defend such a claim. The Indemnifying Party shall have no obligations under Section 14 in the event of a breach of the foregoing sentence by the Indemnified Party. Section 14 shall survive termination of this Agreement.

14.3 Limitation on Consequential, Incidental and Indirect Damages. TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER THE QS NOR GULF POWER, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, MEMBERS, PARENTS, SUBSIDIARIES OR AFFILIATES, SUCCESSORS OR ASSIGNS, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, MEMBERS, PARENTS, SUBSIDIARIES OR AFFILIATES, SUCCESSORS OR ASSIGNS, SHALL BE LIABLE TO THE OTHER PARTY OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, MEMBERS, PARENTS, SUBSIDIARIES OR AFFILIATES, SUCCESSORS OR ASSIGNS, FOR CLAIMS, SUITS, ACTIONS OR CAUSES OF ACTION FOR INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, MULTIPLE OR CONSEQUENTIAL DAMAGES CONNECTED WITH OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE OF THIS CONTRACT, OR ANY ACTIONS UNDERTAKEN IN CONNECTION WITH OR RELATED TO THIS CONTRACT, INCLUDING WITHOUT LIMITATION, ANY SUCH DAMAGES WHICH ARE BASED UPON CAUSES OF ACTION FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND MISREPRESENTATION), BREACH OF WARRANTY, STRICT LIABILITY, STATUTE, OPERATION OF LAW, UNDER ANY INDEMNITY PROVISION OR ANY OTHER THEORY OF RECOVERY. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY, AND SUCH DIRECT DAMAGES SHALL BE THE SOLE AND EXCLUSIVE MEASURE OF DAMAGES AND

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ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED; PROVIDED, HOWEVER, THE PARTIES AGREE THAT THE FOREGOING LIMITATIONS WILL NOT IN ANY WAY LIMIT LIABILITY OR DAMAGES UNDER ANY THIRD PARTY CLAIMS OR THE LIABILITY OF A PARTY WHOSE ACTIONS GIVING RISE TO SUCH LIABILITY CONSTITUTE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THE PROVISIONS OF THIS SECTION SHALL APPLY REGARDLESS OF FAULT AND SHALL SURVIVE TERMINATION, CANCELLATION, SUSPENSION, COMPLETION OR EXPIRATION OF THIS CONTRACT. NOTHING CONTAINED IN THIS AGREEMENT SHALL BE DEEMED TO BE A WAIVER OF A PARTY'S RIGHT TO SEEK INJUNCTIVE RELIEF.

15. Insurance

15.1 The QS shall procure or cause to be procured, and shall maintain throughout the entire term of this Contract, a policy or policies of liability insurance issued by an insurer acceptable to GULF POWER on a standard "Insurance Services Office" commercial general liability form (such policy or policies, collectively, the "QS Insurance"). A certificate of insurance shall be delivered to GULF POWER at least fifteen (15) calendar days prior to the start of any interconnection work. At a minimum, the QS Insurance shall contain (a) an endorsement providing coverage, including products liability/completed operations coverage for the term of this Contract, and (b) a broad form contractual liability endorsement covering liabilities (i) which might arise under, or in the performance or nonperformance of, this Contract and the Interconnection Agreement, or (ii) caused by operation of the Facility or any of the QS's equipment or by the QS's failure to maintain the Facility or the QS's equipment in satisfactory and safe operating condition. Effective at least fifteen (15) calendar days prior to the synchronization of the Facility with GULF POWER's system, the QS Insurance shall be amended to include coverage for interruption or curtailment of power supply in accordance with industry standards. Without limiting the foregoing, the QS Insurance must be reasonably acceptable to GULF POWER. Any premium assessment or deductible shall be for the account of the QS and not GULF POWER.

15.2 The QS Insurance shall have a minimum limit of one million dollars (\$1,000,000) per occurrence, combined single limit, for bodily injury (including death) or property damage.

15.3 In the event that such insurance becomes totally unavailable or procurement thereof becomes commercially impracticable, such unavailability shall not constitute an Event of Default under this Contract, but GULF POWER and the QS shall enter into negotiations to develop substitute protection which the Parties in their reasonable judgment deem adequate.

15.4 To the extent that the QS Insurance is on a "claims made" basis, the retroactive date of the policy(ies) shall be the effective date of this Contract or such other date as may be agreed upon to protect the interests of the GULF POWER Entities and the QS Entities. Furthermore, to the extent the QS Insurance is on a "claims made" basis, the QS's duty to provide insurance coverage shall survive the termination of this Contract until the expiration of the maximum statutory period of limitations in the State of Florida for actions based in contract or in tort. To the extent the QS Insurance is on an "occurrence" basis, such insurance shall be maintained in effect at all times by the QS during the term of this Contract.

15.5 The QS Insurance shall provide that it may not be cancelled or materially altered without at least thirty (30) calendar days' written notice to GULF POWER. The QS shall provide GULF POWER with a copy of any material communication or notice related to the QS Insurance within ten (10) business days of the QS's receipt or issuance thereof.

15.6 The QS shall be designated as the named insured and GULF POWER shall be designated as an additional named insured under the QS Insurance. The QS Insurance shall be endorsed to be primary to any coverage maintained by GULF POWER.

16. Force Majeure

Force Majeure is defined as an event or circumstance that is not within the reasonable control of, or the result of the negligence of, the affected party, and which, by the exercise of due diligence, the affected party is unable to overcome, avoid, or cause to be avoided in a commercially reasonable manner. Such events or circumstances may include, but are not limited to, acts of God, war, riot or insurrection, blockades, embargoes, sabotage, epidemics, explosions and fires not originating in the Facility or caused by its operation, hurricanes, floods, strikes, lockouts or other labor disputes, difficulties (not caused by the failure of the affected party to comply with the terms of a collective bargaining agreement), or actions or restraints by court order or governmental authority or arbitration award. Force Majeure shall not include (a) the QS's ability to sell capacity and energy to another market at a more advantageous price; (b) equipment breakdown or inability to use equipment caused by its design, construction, operation, maintenance or inability to meet regulatory standards, or otherwise caused by an event originating in the Facility; (c) a failure of performance of any other entity, including any entity providing electric transmission service to the QS, except to the extent that such failure was caused by an event that would otherwise qualify as a Force Majeure event; (d) failure of the QS to timely apply for or obtain permits.

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16.1 Except as otherwise provided in this Contract, each party shall be excused from performance when its nonperformance was caused, directly or indirectly by an event of Force Majeure.

16.2 In the event of any delay or nonperformance resulting from an event of Force Majeure, the party claiming Force Majeure shall notify the other party in writing within two (2) business days of the occurrence of the event of Force Majeure, of the nature, cause, date of commencement thereof and the anticipated extent of such delay, and shall indicate whether any deadlines or date(s), imposed hereunder may be affected thereby. The suspension of performance shall be of no greater scope and of no greater duration than the cure for the Force Majeure requires. A party claiming Force Majeure shall not be entitled to any relief therefore unless and until conforming notice is provided. The party claiming Force Majeure shall notify the other party of the cessation of the event of Force Majeure or of the conclusion of the affected party's cure for the event of Force Majeure, in either case within two (2) business days thereof.

16.3 The party claiming Force Majeure shall use its best efforts to cure the cause(s) preventing its performance of this Contract; provided, however, the settlement of strikes, lockouts and other labor disputes shall be entirely within the discretion of the affected party, and such party shall not be required to settle such strikes, lockouts or other labor disputes by acceding to demands which such party deems to be unfavorable.

16.4 If the QS suffers an occurrence of an event of Force Majeure that reduces the generating capability of the Facility below the Committed Capacity, the QS may, upon notice to GULF POWER, temporarily adjust the Committed Capacity as provided in Sections 16.5 and 16.6. Such adjustment shall be effective the first calendar day immediately following GULF POWER's receipt of the notice or such later date as may be specified by the QS. Furthermore, such adjustment shall be the minimum amount necessitated by the event of Force Majeure.

16.5 If the Facility is rendered completely inoperative as a result of Force Majeure, the QS shall temporarily set the Committed Capacity equal to 0 KW until such time as the Facility can partially or fully operate at the Committed Capacity that existed prior to the Force Majeure. If the Committed Capacity is 0 KW, GULF POWER shall have no obligation to make capacity payments hereunder.

16.6 If, at any time during the occurrence of an event of Force Majeure or during its cure, the Facility can partially or fully operate, then the QS shall temporarily set the Committed Capacity at the maximum capability that the Facility can reasonably be expected to operate.

16.7 Upon the cessation of the event of Force Majeure or the conclusion of the cure for the event of Force Majeure, the Committed Capacity shall be restored to the Committed Capacity that existed immediately prior to the Force Majeure. Notwithstanding any other provision of this Contract, upon such cessation or cure, GULF POWER shall have the right to require a Committed Capacity Test to demonstrate the Facility's compliance with the requirements of this section 16.7. Any Committed Capacity Test required by GULF POWER under this Section shall be additional to any Committed Capacity Test under Section 5.3.

16.8 During the occurrence of an event of Force Majeure and a reduction in Committed Capacity under Section 16.4, all Monthly Capacity Payments shall reflect, pro rata, the reduction in Committed Capacity, and the Monthly Capacity Payments will continue to be calculated in accordance with the pay-for-performance provisions in Appendix B.

16.9 The QS agrees to be responsible for and pay the costs necessary to reactivate the Facility and/or the interconnection with GULF POWER's system if the same is (are) rendered inoperative due to actions of the QS, its agents, or Force Majeure events affecting the QS, the Facility or the interconnection with GULF POWER. GULF POWER agrees to reactivate, at its own cost, the interconnection with the Facility in circumstances where any interruptions to such interconnections are caused by GULF POWER or its agents.

17. Representations, Warranties, and Covenants of QS

The QS represents and warrants that as of the Effective Date and for the term of this Contract:

17.1 Organization, Standing and Qualification

The QS is a _____ (corporation, partnership, or other, as applicable) duly organized and validly existing in good standing under the laws of _____ and has all necessary power and authority to carry on its business as presently conducted, to own or hold under lease its properties and to enter into and perform its obligations under this Contract and all other related documents and agreements to which it is or shall be a Party. The QS is duly qualified or licensed to do business in the State of Florida and in all other jurisdictions wherein the nature of its business and operations or the character of the properties owned or leased by it makes such qualification or licensing necessary and where the failure to be so qualified or licensed would impair its ability to perform its obligations under this Contract or would result in a material liability to or would have a material adverse effect on GULF POWER.

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17.2 Due Authorization, No Approvals, No Defaults, etc.

Each of the execution, delivery and performance by the QS of this Contract has been duly authorized by all necessary action on the part of the QS, does not require any approval, except as has been heretofore obtained, of the _____ (shareholders, partners, or others, as applicable) of the QS or any consent of or approval from any trustee, lessor or holder of any indebtedness or other obligation of the QS, except for such as have been duly obtained, and does not contravene or constitute a default under any law, the _____ (articles of incorporation, bylaws, or other as applicable) of the QS, or any agreement, judgment, injunction, order, decree or other instrument binding upon the QS, or subject the Facility or any component part thereof to any lien other than as contemplated or permitted by this Contract. This Contract constitutes QS's legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, except as such enforceability may be limited by applicable bankruptcy laws from time to time in effect that affect creditors' rights generally or by general principles of equity (regardless of whether such enforcement is considered in equity or at law).

17.3 Compliance with Laws

The QS has knowledge of all laws and business practices that must be followed in performing its obligations under this Contract. The QS is in compliance with all laws, except to the extent that failure to comply therewith would not, in the aggregate, have a material adverse effect on the QS or GULF POWER.

17.4 Governmental Approvals

Except as expressly contemplated herein, neither the execution and delivery by the QS of this Contract, nor the consummation by the QS of any of the transactions contemplated thereby, requires the consent or approval of, the giving of notice to, the registration with, the recording or filing of any document with, or the taking of any other action in respect of governmental authority, except in respect of permits (a) which have already been obtained and are in full force and effect or (b) are not yet required (and with respect to which the QS has no reason to believe that the same will not be readily obtainable in the ordinary course of business upon due application therefore).

17.5 No Suits, Proceedings

There are no actions, suits, proceedings or investigations pending or, to the knowledge of the QS, threatened against it at law or in equity before any court or tribunal of the United States or any other jurisdiction which individually or in the aggregate could result in any materially adverse effect on the QS's business, properties, or assets or its condition, financial or otherwise, or in any impairment of its ability to perform its obligations under this Contract. The QS has no knowledge of a violation or default with respect to any law which could result in any such materially adverse effect or impairment. The QS is not in breach of, in default under, or in violation of, any applicable Law, or the provisions of any authorization, or in breach of, in default under, or in violation of, or in conflict with any provision of any promissory note, indenture or any evidence of indebtedness or security therefore, lease, contract, or other agreement by which it is bound, except for any such breaches, defaults, violations or conflicts which, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on the business or financial condition of Buyer or its ability to perform its obligations hereunder.

17.6 Environmental Matters

17.6.1 QS Representations

To the best of its knowledge after diligent inquiry, the QS knows of no (a) existing violations of any environmental laws at the Facility, including those governing hazardous materials or (b) pending, ongoing, or unresolved administrative or enforcement investigations, compliance orders, claims, demands, actions, or other litigation brought by governmental authorities or other third parties alleging violations of any environmental law or permit which would materially and adversely affect the operation of the Facility as contemplated by this Contract.

17.6.2 Ownership and Offering For Sale Of Renewable Energy Attributes

The QS retains any and all rights to own and to sell any and all environmental attributes associated with the electric generation of the Facility, including but not limited to, any and all renewable energy certificates, "green tags" or other tradable environmental interests (collectively "RECs"), of any description.

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17.6.3 Changes in Environmental and Governmental Regulations

If new environmental and other regulatory requirements enacted during the term of the Contract change GULF POWER's full avoided cost of the unit on which the Contract is based, either party can elect to have the contract reopened.

17.7 Interconnection/Wheeling Agreement

The QS has executed an interconnection agreement with GULF POWER, or represents or warrants that it has entered into a valid and enforceable Interconnection Agreement with the utility in whose service territory the Facility is located, pursuant to which the QS assumes contractual responsibility to make any and all transmission-related arrangements (including control area services) between the QS and the transmitting utility for delivery of the Facility's capacity and energy to GULF POWER.

17.8 Technology and Generator Capabilities

That for the term of this Contract the Technology and Generator Capabilities table set forth in Section 1 is accurate and complete.

18. General Provisions

18.1 Project Viability

To assist GULF POWER in assessing the QS's financial and technical viability, the QS shall provide the information and documents requested in Appendix D or substantially similar documents, to the extent the documents apply to the type of Facility covered by this Contract, and to the extent the documents are available. All documents to be considered by GULF POWER must be submitted at the time this Contract is presented to GULF POWER. Failure to provide the following such documents may result in a determination of non-viability by GULF POWER.

18.2 Permits; Site Control

The QS hereby agrees to obtain and maintain Permits which the QS is required to obtain as a prerequisite to engaging in the activities specified in this Contract. QS shall also obtain and maintain Site Control for the Term of the Contract.

18.3 Project Management

18.3.1 If requested by GULF POWER, the QS shall submit to GULF POWER its integrated project schedule for GULF POWER's review within sixty calendar days from the execution of this Contract, and a start-up and test schedule for the Facility at least sixty calendar days prior to start-up and testing of the Facility. These schedules shall identify key licensing, permitting, construction and operating milestone dates and activities. If requested by GULF POWER, the QS shall submit progress reports in a form satisfactory to GULF POWER every calendar month until the Capacity Delivery Date and shall notify GULF POWER of any changes in such schedules within ten calendar days after such changes are determined. GULF POWER shall have the right to monitor the construction, start-up and testing of the Facility, either on-site or off-site. GULF POWER's technical review and inspections of the Facility and resulting requests, if any, shall not be construed as endorsing the design thereof or as any warranty as to the safety, durability or reliability of the Facility.

18.3.2 The QS shall provide GULF POWER with the final designer's/manufacture's generator capability curves, protective relay types, proposed protective relay settings, main one-line diagrams, protective relay functional diagrams, and alternating current and direct current elementary diagrams for review and inspection at GULF POWER no later than one hundred eighty calendar days prior to the initial synchronization date.

18.4 Assignment

This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns. This Agreement shall not be assigned or transferred by either Party without the prior written consent of the other Party, such consent to be granted or withheld in such other Party's sole discretion. Any direct or indirect change of control of QS (whether voluntary or by operation of law) shall be deemed an assignment and shall require the prior written consent of GULF POWER. Notwithstanding the foregoing, either Party may, without the consent of the other Party, assign or transfer this Agreement: (a) to any lender as collateral security for obligations under any financing documents entered into with such lender provided, QS shall be responsible for GULF POWER's reasonable costs and expenses associated with the review, negotiation, execution and delivery of any documents or information pursuant to such collateral assignment, including reasonable attorneys' fees (b) to an affiliate of such Party; *provided*, that such affiliate's creditworthiness is equal to or better than that of such Party (and in no event less than Investment Grade) as determined reasonably by the non-assigning or non-transferring Party and; *provided, further*, that any such affiliate shall agree in writing to be bound by and to assume the terms and conditions hereof and any and all obligations to the non-assigning or non-transferring Party arising or accruing hereunder from and after the date of such assumption. "Investment Grade" means BBB- or above from Standard & Poor's Corporation or Baa2 or above from Moody's Investor Services.

18.5 Disclaimer

In executing this Contract, GULF POWER does not, nor should it be construed, to extend its credit or financial support for the benefit of any third parties lending money to or having other transactions with the QS or any assignee of this Contract.

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18.6 Notification

All formal notices relating to this Contract shall be deemed duly given when delivered in person, or sent by registered or certified mail, or sent by fax if followed immediately with a copy sent by registered or certified mail, to the individuals designated below. The Parties designate the following individuals to be notified or to whom payment shall be sent until such time as either Party furnishes the other Party written instructions to contact another individual:

For the QS:

For GULF POWER:

Gulf Power Company

700 Universe Boulevard
Juno Beach, FL 33408
Attn: EMT Contracts Department

This signed Contract and all related documents may be presented no earlier than 8:00 a.m. on the effective date of the Standard Offer Contract, as determined by the FPSC. Contracts and related documents may be mailed to the address below or delivered during normal business hours (8:00 a.m. to 4:45 p.m.) to the visitors' entrance at the address below:

Gulf Power Company
700 Universe Boulevard, Juno Beach, FL
33408 Attention: Contracts
Manager/Coordinator EMT Contracts
Department

18.7 Applicable Law

This Contract shall be construed in accordance with and governed by, and the rights of the Parties shall be construed in accordance with, the laws of the State of Florida as to all matters, including but not limited to matters of validity, construction, effect, performance and remedies, without regard to conflict of law rules thereof.

18.8 Venue

The Parties hereby irrevocably submit to the exclusive jurisdiction of the United States District Court for the Southern District of Florida or, in the event that jurisdiction for any matter cannot be established in the United States District Court for the Southern District of Florida, in the state court for Palm Beach County, Florida, solely in respect of the interpretation and enforcement of the provisions of this Contract and of the documents referred to in this Contract, and in respect of the transactions contemplated hereby, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof or of any such document, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Contract or any such document may not be enforced in or by such courts, and the Parties hereto irrevocably agree that all claims with respect to such action or proceeding shall be heard and determined in such a court. The Parties hereby consent to and grant any such court jurisdiction over the persons of such Parties solely for such purpose and over the subject matter of such dispute and agree that mailing of process or other papers in connection with any such action or proceeding in the manner provided in Section

18.8 hereof or in such other manner as may be permitted by Law shall be valid and sufficient service thereof.

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18.9. Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS CONTRACT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT A PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION RESULTING FROM, ARISING OUT OF OR RELATING TO THIS CONTRACT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (a) NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (b) EACH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (c) EACH PARTY MAKES THIS WAIVER VOLUNTARILY AND (d) EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS CONTRACT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 18.9

18.10 Taxation

In the event that GULF POWER becomes liable for additional taxes, including interest and/or penalties arising from an Internal Revenue Service's determination, through audit, ruling or other authority, that GULF POWER's payments to the QS for capacity under Options B, C, D, E or for energy pursuant to the Fixed Firm Energy Payment Option D are not fully deductible when paid (additional tax liability), GULF POWER may bill the QS monthly for the costs, including carrying charges, interest and/or penalties, associated with the fact that all or a portion of these capacity payments are not currently deductible for federal and/or state income tax purposes. GULF POWER, at its option, may offset these costs against amounts due the QS hereunder. These costs would be calculated so as to place GULF POWER in the same economic position in which it would have been if the entire capacity payments had been deductible in the period in which the payments were made. If GULF POWER decides to appeal the Internal Revenue Service's determination, the decision as to whether the appeal should be made through the administrative or judicial process or both, and all subsequent decisions pertaining to the appeal (both substantive and procedural), shall rest exclusively with GULF POWER.

18.11 Severability

If any part of this Contract, for any reason, is declared invalid, or unenforceable by a public authority of appropriate jurisdiction, then such decision shall not affect the validity of the remainder of the Contract, which remainder shall remain in force and effect as if this Contract had been executed without the invalid or unenforceable portion.

18.12 Complete Agreement and Amendments

All previous communications or agreements between the Parties, whether verbal or written, with reference to the subject matter of this Contract are hereby abrogated. No amendment or modification to this Contract shall be binding unless it shall be set forth in writing and duly executed by both Parties. This Contract constitutes the entire agreement between the Parties.

18.13 Survival of Contract

This Contract, as it may be amended from time to time, shall be binding upon, and inure to the benefit of, the Parties' respective successors-in-interest and legal representatives.

18.14 Record Retention

The QS agrees to retain for a period of five (5) years from the date of termination hereof all records relating to the performance of its obligations hereunder, and to cause all QS Entities to retain for the same period all such records.

18.15 No Waiver

No waiver of any of the terms and conditions of this Contract shall be effective unless in writing and signed by the Party against whom such waiver is sought to be enforced. Any waiver of the terms hereof shall be effective only in the specific instance and for the specific purpose given. The failure of a Party to insist, in any instance, on the strict performance of any of the terms and conditions hereof shall not be construed as a waiver of such Party's right in the future to insist on such strict performance.

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18.16 Set-Off

GULF POWER may at any time, but shall be under no obligation to, set off any and all sums due from the QS against sums due to the QS hereunder.

18.17 Assistance With GULF POWER's evaluation of FIN 46R

Accounting rules set forth in Financial Accounting Standards Board Interpretation No. 46 (Revised December 2003) ("FIN 46R"), as well as future amendments and interpretations of those rules, may require GULF POWER to evaluate whether the QS must be consolidated, as a variable interest entity (as defined in FIN 46R), in the consolidated financial statements of GULF POWER. The QS agrees to fully cooperate with GULF POWER and make available to GULF POWER all financial data and other information, as deemed necessary by GULF POWER, to perform that evaluation on a timely basis at inception of the PPA and periodically as required by FIN 46R. If the result of an evaluation under FIN 46R indicates that the QS must be consolidated in the financial statements of GULF POWER, the QS agrees to provide financial statements, together with other required information, as determined by GULF POWER, for inclusion in disclosures contained in the footnotes to the financial statements and in GULF POWER's required filings with the Securities and Exchange Commission ("SEC"). The QS shall provide this information to GULF POWER in a timeframe consistent with GULF POWER's earnings release and SEC filing schedules, to be determined at GULF POWER's discretion. The QS also agrees to fully cooperate with GULF POWER and GULF POWER's independent auditors in completing an assessment of the QS's internal controls as required by the Sarbanes-Oxley Act of 2002 and in performing any audit procedures necessary for the independent auditors to issue their opinion on the consolidated financial statements of GULF POWER. GULF POWER will treat any information provided by the QS in satisfying Section 18.17 as confidential information and shall only disclose such information to the extent required by accounting and SEC rules and any applicable laws.

IN WITNESS WHEREOF, the QS and GULF POWER executed this Contract this _____ day of _____.

WITNESS:

GULF POWER COMPANY

Date _____

WITNESS:

_____. (QS)

Date _____

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**RATE SCHEDULE QS-2
APPENDIX A
TO THE STANDARD OFFER CONTRACT
STANDARD RATE FOR PURCHASE OF FIRM CAPACITY AND ENERGY
FROM A RENEWABLE ENERGY FACILITY
OR A QUALIFYING FACILITY WITH A DESIGN CAPACITY OF 100 KW OR LESS**

SCHEDULE

QS-2, Firm Capacity and Energy

AVAILABLE

The Company will, under the provisions of this Schedule and the Company's "Standard Offer Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Facility or a Qualifying Facility with a design capacity of 100 KW or less" ("Standard Offer Contract"), purchase firm capacity and energy offered by a Renewable Energy Facility specified in Section 366.91, Florida Statutes or by a Qualifying Facility with a design capacity of 100 KW or less as specified in FPSC Rule 25-17- 0832(4) and which is either directly or indirectly interconnected with the Company. Both of these types of facilities shall also be referred to herein as Qualified Seller or "QS".

The Company will petition the FPSC for closure upon any of the following as related to the generating unit upon which this standard offer contract is based i.e. the Avoided Unit : (a) a request for proposals (RFP) pursuant to Rule 25-22.082, F.A.C., is issued, (b) the Company files a petition for a need determination or commences construction of the Avoided Unit when the generating unit is not subject to Rule 25-22.082, F.A.C., or (c) the generating unit upon which the standard offer contract is based is no longer part of the utility's generation plan, as evidenced by a petition to that effect filed with the Commission or by the utility's most recent Ten Year Site Plan.

APPLICABLE

To Renewable Energy Facilities as specified in Section 366.91, Florida Statutes producing capacity and energy from qualified renewable resources for sale to the Company on a firm basis pursuant to the terms and conditions of this schedule and the Company's "Standard Offer Contract". Firm Renewable Capacity and Renewable Energy are capacity and energy produced and sold by a QS pursuant to the Standard Offer Contract provisions addressing (among other things) quantity, time and reliability of delivery.

To Qualifying Facilities ("QF"), with a design capacity of 100 KW or less, as specified in FPSC Rule 25-17.0832(4)(a) producing capacity and energy for sale to the Company on a firm basis pursuant to the terms and conditions of this schedule and the Company's "Standard Offer Contract", Firm Capacity and Energy are described by FPSC Rule 25-17.0832, F.A.C., and are capacity and energy produced and sold by a QF pursuant to the Standard Offer Contract provisions addressing (among other things) quantity, time and reliability of delivery.

CHARACTER OF SERVICE

Purchases within the territory served by the Company shall be, at the option of the Company, single or three phase, 60 hertz alternating current at any available standard Company voltage. Purchases from outside the territory served by the Company shall be three phase, 60 hertz alternating current at the voltage level available at the interchange point between the Company and the entity delivering the Firm Energy and Capacity from the QS.

LIMITATION

Purchases under this schedule are subject to Section 366.91, Florida Statutes and/or FPSC Rules 25-17.0832 through 25-17.091, F.A.C., and 25-17.200 through 25-17.310 F.A.C and are limited to those Facilities which:

- A. Commit to commence deliveries of firm capacity and energy no later than the in-service date of the Avoided Unit, as detailed in Appendix II, and to continue such deliveries for a period of at least 10 years up to a maximum of the life of the avoided unit;
- B. Are not currently under contract with the Company or with any other entity for the Facility's output for the period specified above

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RATES FOR PURCHASES BY THE COMPANY

Firm Capacity and Energy are purchased at a unit cost, in dollars per kilowatt per month and cents per kilowatt-hour, respectively, based on the capacity required by the Company. For the purpose of this Schedule, an Avoided Unit has been designated by the Company, and is detailed in Appendix II to this Schedule. Appendix I to this Schedule describes the methodology used to calculate payment schedules, applicable to the Company's Standard Offer Contract filed and approved pursuant to Section 366.91, Florida Statutes and to FPSC Rules 25-17.082 through 25-17.091, F.A.C and 25-17.200 through 25-17.310, F.A.C.

A. Firm Capacity Rates

Options A through E are available for payment of firm capacity which is produced by a QS and delivered to the Company. Once selected, an option shall remain in effect for the term of the Standard Offer Contract with the Company. A payment schedule, for the normal payment option as shown below, contains the monthly rate per kilowatt of Firm Capacity which the QS has contractually committed to deliver to the Company and is based on a contract term which extends ten (10) years beyond the in-service date of the Avoided Unit. Payment schedules for other contract terms, as specified in Appendix E, will be made available to any QS upon request and may be calculated based upon the methodologies described in Appendix I. The currently approved parameters used to calculate the schedule of payments are found in Appendix II to this Schedule.

Adjustment to Capacity Payment

The firm capacity rates will be adjusted to reflect the impact that the location of the QS will have on GULF POWER system reliability due to constraints imposed on the operation of GULF POWER transmission tie lines.

Appendix III shows, for illustration purposes, the factors that would be used to adjust the firm capacity rate for different geographical areas. The actual adjustment would be determined on a case-by-case basis. The amount of such adjustment, as well as a binding contract rate for firm capacity, shall be provided to the QS within sixty days of GULF POWER execution of the signed Standard Offer Contract.

Option A - Fixed Value of Deferral Payments - Normal Capacity

Payment schedules under this option are based on the value of a single year purchase with an in-service date of the Avoided Unit, as described in Appendix I. Once this option is selected, the current schedule of payments shall remain fixed and in effect throughout the term of the Standard Offer Contract.

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Option B - Fixed Value of Deferral Payments - Early Capacity

Payment schedules under this option are based upon the early capital cost component of the value of a year-by-year deferral of the Company's Avoided Unit provided; however, that under no circumstances may payments begin before the QS is delivering firm capacity and energy to the Company pursuant to the terms of the Standard Offer Contract. When this option is selected, the capacity payments shall be made monthly commencing no earlier than the Capacity Delivery Date of the QS and calculated using the methodology shown on Appendix I.

The QS shall select the month and year in which the deliveries of firm capacity and energy to the Company are to commence and capacity payments are to start. The Company will provide the QS with a schedule of capacity payment rates based on the month and year in which the deliveries of firm capacity and energy are to commence and the term of the Standard Offer Contract as specified in Appendix E.

Option C - Fixed Value of Deferral Payment - Levelized Capacity

Payment schedules under this option are based upon the levelized capital cost component of the value of a year- by-year deferral of the Company's Avoided Unit. The capital portion of capacity payments under this option shall consist of equal monthly payments over the term of the Standard Offer Contract, calculated as shown on Appendix I.

I. The fixed operation and maintenance portion of the capacity payments shall be equal to the value of the year- by-year deferral of fixed operation and maintenance expense associated with the Company's Avoided Unit. The methodology used to calculate this option is shown in Appendix I. The Company will provide the QS with a schedule of capacity payment rates based on the month and year in which the deliveries of firm capacity and energy are to commence and the term of the Standard Offer Contract as specified in Appendix E.

Option D - Fixed Value of Deferral Payment - Early Levelized Capacity

Payment schedules under this option are based upon the early levelized capital cost component of the value of a year-by-year deferral of the Company's Avoided Unit. The capital portion of the capacity payments under this option shall consist of equal monthly payments over the term of the Standard Offer Contract, calculated as shown on Appendix I. The fixed operation and maintenance expense shall be calculated as shown in Appendix I. At the option of the QS, payments for early levelized capacity shall commence at any time before the anticipated in- service date of the Company's Avoided Unit as specified in Appendix E, provided that the QS is delivering firm capacity and energy to the Company pursuant to the terms of the Standard Offer Contract. The Company will provide the QS with a schedule of capacity payment rates based on the month and year in which the deliveries of firm capacity and energy are to commence and the term of the Standard Offer Contract as specified in Appendix E.

Option E -- Flexible Payment Option

Payment schedules under this option are based upon a payment stream elected by the QS consisting of the capital component of the Company's avoided unit. Payments can commence at any time after the actual in-service date of the QS and before the anticipated in-service date of the utility's avoided unit, as specified in Appendix E, provided that the QS is delivering firm capacity and energy to the Company pursuant to the terms of the Standard Offer Contract. Regardless of the payment stream elected by the QS, the cumulative present value of capital cost payments made to the QS over the term of the contract shall not exceed the cumulative present value of the capital cost payments which would have been made to the QS had such payments been made pursuant to FPSC Rule 25- 17.0832(4)(g)1, F.A.C. Fixed operation and maintenance expense shall be calculated in conformance with Rule 25-17.0832(6),F.A.C. The Company will provide the QS with a schedule of capacity payment rates based on the information specified in Appendix E.

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Energy Rates

(1) Payments Associated with As-Available Energy Costs prior to the In-Service Date of the Avoided Unit.

Options A or B are available for payment of energy which is produced by the QS and delivered to the Company prior to the in-service date of the Avoided Unit. The QS shall indicate its selection in Appendix E, Once selected; an option shall remain in effect for the term of the Standard Offer Contract with the Company.

Option A – Energy Payments based on Actual Energy Costs

The energy rate, in cents per kilowatt-hour (¢/KWh), shall be based on the Company's actual hourly avoided energy costs which are calculated by the Company in accordance with FPSC Rule 25-17.0825, F.A.C. Avoided energy costs include incremental fuel, identifiable operation and maintenance expenses, and an adjustment for line losses reflecting delivery voltage. The calculation of the Company's avoided energy costs reflects the delivery of energy from the region of the Company in which the Delivery Point of the QS is located. When economy transactions take place, the incremental costs are calculated as described in GULF POWER's Rate Schedule COG-1.

The calculation of payments to the QS shall be based on the sum, over all hours of the billing period, of the product of each hour's avoided energy cost times the purchases of energy from the QS by the Company for that hour. All purchases of energy shall be adjusted for losses from the point of metering to the Delivery Point.

Option B – Energy Payments based on the year by year projection of As-Available energy costs

The energy rate, in cents per kilowatt-hour (¢/KWh), shall be based on the Company's year by year projection of system incremental fuel costs, prior to hourly economy sales to other utilities, based on normal weather and fuel market conditions (annual As-Available Energy Cost Projection which are calculated by the Company in accordance with FPSC Rule 25-17.0825, F.A.C. and with FPSC Rule 25-17.250(6) (a) F.A.C.) plus a fuel market volatility risk premium mutually agreed upon by the utility and the QS. Prior to the start of each applicable calendar year, the Company and the QS shall mutually agree on the fuel market volatility risk premium for the following calendar year, normally no later than November 15. The Company will provide its projection of the applicable annual As-Available Energy Cost prior to the start of the calendar year, normally no later than November 15 of each applicable calendar year. In addition to the applicable As-Available Energy Cost projection the energy payment will include identifiable operation and maintenance expenses, an adjustment for line losses reflecting delivery voltage and a factor that reflects in the calculation of the Company's Avoided Energy Costs the delivery of energy from the region of the Company in which the Delivery Point of the QS is located.

The calculation of payments to the QS shall be based on the sum, over all hours of the billing period, of the product of each hour's applicable Projected Avoided Energy Cost times the purchases of energy from the QS by the Company for that hour. All purchases of energy shall be adjusted for losses from the point of metering to the Delivery Point.

(2) Payments Associated with Applicable Avoided Energy Costs after the In-Service Date of the Avoided Unit.

Option C is available for payment of energy which is produced by the QS and delivered to the Company after the in-service date of the avoided unit. In addition, Option D is available to the QS which elects to fix a portion of the firm energy payment. The QS shall indicate its selection of Option D in Appendix E, once selected, Option D shall remain in effect for the term of the Standard Offer Contract.

Option C- Energy Payments based on Actual Energy Costs starting on the in-service date of the Avoided Unit as detailed in Appendix II.

The calculation of payments to the QS for energy delivered to GULF POWER on and after the in-service date of the Avoided Unit shall be the sum, over all hours of the Monthly Billing Period, of the product of (a) each hour's firm energy rate (¢/KWh); and (b) the amount of energy (KWH) delivered to GULF POWER from the Facility during that hour.

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For any Dispatch Hour the firm energy rate shall be, on an hour-by-hour basis, the Company's Avoided Unit Energy Cost. For any other period during which energy is delivered by the QS to GULF POWER, the firm energy rate in cents per kilowatt hour (¢/KWh) shall be the following on an hour-by-hour basis: the lesser of (a) the as-available energy rate calculated by GULF POWER in accordance with FPSC Rule 25-17.0825, FAC, and GULF POWER's Rate Schedule COG-1, as they may each be amended from time to time and (b) the Company's Avoided Unit Energy Cost. The Company's Avoided Unit Energy Cost, in cents per kilowatt-hour (¢/KWh) shall be defined as the product of: (a) the fuel price in \$/mmBTU as determined from gas prices published in Platts Inside FERC Gas Market Report, first of the month posting for Florida Gas Transmission Zone 3, plus all charges, surcharges and percentages that are in effect from time to time for service under Gulfstream Natural Gas System's Rate Schedule FTS; and (b) the average annual heat rate of the Avoided Unit, plus (c) an additional payment for variable operation and maintenance expenses which will be escalated based on the actual Producer Price Index. All energy purchases shall be adjusted for losses from the point of metering to the Delivery Point. The calculation of the Company's avoided energy cost reflects the delivery of energy from the geographical area of the Company in which the Delivery Point of the QS is located.

Option D- Fixed Firm Energy Payments Starting as early as the In-Service Date of the QS Facility

The calculation of payments to the QS for energy delivered to GULF POWER may include an adjustment at the election of the QS in order to implement the provisions of Rule 25-17.250 (6) (b), F.A.C. Subsequent to the determination of full avoided cost and subject to the provisions of Rule 25-17.0832(3) (a) through (d), F.A.C., a portion of the base energy costs associated with the avoided unit, mutually agreed upon by the utility and renewable energy generator, shall be fixed and amortized on a present value basis over the term of the contract starting, at the election of the QS, as early as the in-service date of the QS. "Base energy costs associated with the avoided unit" means the energy costs of the avoided unit to the extent the unit would have operated. The portion of the base energy costs mutually agreed to by the Company and the QS shall be specified in Appendix E. The Company will provide the QS with a schedule of "Fixed Energy Payments" over the term of the Standard Offer Contract based on the applicable information specified in Appendix E.

ESTIMATED AS-AVAILABLE ENERGY COST

As required in Section 25-17.0832, F.A.C. as-available energy cost projections until the in-service date of the avoided unit will be provided within 30 days of receipt by GULF POWER of a written request for such projections by any interested person.

ESTIMATED UNIT FUEL COST

As required in Section 25-17.0832, F.A.C. the estimated unit fuel costs associated with the Company's Avoided Unit and based on current estimates of the price of natural gas will be provided within 30 days of a written request for such an estimate.

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DELIVERY VOLTAGE ADJUSTMENT

Energy payments to a QS within the Company's service territory shall be adjusted according to the delivery voltage by the multipliers provided in Appendix II.

PERFORMANCE CRITERIA

Payments for Firm Capacity are conditioned on the QS's ability to maintain the following performance criteria:

A. Capacity Delivery Date

The Capacity Delivery Date shall be no later than the projected in-service date of the Company's Avoided Unit, as detailed in Appendix II.

B. Availability and Capacity Factor

The Facility's availability and capacity factor are used in the determination of firm capacity payments through a performance based calculation as detailed in Appendix B to the Company's Standard Offer Contract.

METERING REQUIREMENTS

A QS within the territory served by the Company shall be required to purchase from the Company hourly recording meters to measure their energy deliveries to the Company. Energy purchases from a QS outside the territory of the Company shall be measured as the quantities scheduled for interchange to the Company by the entity delivering Firm Capacity and Renewable Energy to the Company.

For the purpose of this Schedule, the on-peak hours shall be those hours occurring April 1 through October 31 Mondays through Fridays, from 12 noon to 9:00 pm. excluding Memorial Day, Independence Day and Labor Day; and November 1 through March 31 Mondays through Fridays from 6:00 a.m. to 10:00 a.m. and 6:00 p.m. to 10:00 p.m. prevailing Central time excluding Thanksgiving Day, Christmas Day, and New Year's Day. GULF POWER shall have the right to change such On-Peak Hours by providing the QS a minimum of thirty calendar days' advance written notice.

BILLING OPTIONS

A QS, upon entering into a Standard Offer Contract for the sale of firm capacity and energy or prior to delivery of as-available energy, may elect to make either simultaneous purchases from and sales to the Company, or net sales to the Company; provided, however, that no such arrangement shall cause the QS to sell more than the Facility's net output. A decision on billing methods may only be changed: 1) when a QS selling as-available energy enters into a Standard Offer Contract for the sale of firm capacity and energy; 2) when a Standard Offer Contract expires or is lawfully terminated by either the QS or the Company; 3) when the QS is selling as-available energy and has not changed billing methods within the last twelve months; 4) when the election to change billing methods will not contravene this Tariff or the contract between the QS and the Company.

If a QS elects to change billing methods, such changes shall be subject to the following: 1) upon at least thirty days advance written notice to the Company; 2) the installation by the Company of any additional metering equipment reasonably required to effect the change in billing and upon payment by the QS for such metering equipment and its installation; and 3) upon completion and approval by the Company of any alteration(s) to the interconnection reasonably required to effect the change in billing and upon payment by the QS for such alteration(s).

Payments due a QS will be made monthly and normally by the twentieth business day following the end of the billing period. The kilowatt-hours sold by the QS and the applicable avoided energy rates at which payments are being made shall accompany the payment to the QS.

A statement covering the charges and payments due the QS is rendered monthly, and payment normally is made by the twentieth business day following the end of the billing period.

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CHARGES TO ENERGY FACILITY

The QS shall be responsible for all applicable charges as currently approved or as they may be approved by the Florida Public Service Commission, including, but not limited to:

A. Customer Charges:

Monthly customer charges for meter reading, billing and other applicable administrative costs as per applicable Customer Rate Schedule.

B. Interconnection Charge for Non-Variable Utility Expenses

The QS shall bear the cost required for interconnection, including the metering. The QS shall have the option of (i) payment in full for the interconnection costs including the time value of money during the construction of the interconnection facilities and providing a Bond, Letter of Credit or comparable assurance of payment acceptable to the Company adequate to cover the interconnection cost estimates, (ii) payment of monthly invoices from the Company for actual costs progressively incurred by the Company in installing the interconnection facilities, or (iii) upon a showing of credit worthiness, making equal monthly installment payments over a period no longer than thirty-six (36) months toward the full cost of interconnection. In the latter case, the Company shall assess interest at the rate then prevailing for thirty (30) day highest grade commercial paper, such rate to be specified by the Company thirty (30) days prior to the date of each installment payment by the QS.

C. Interconnection Charge for Variable Utility Expenses

The QS shall be billed monthly for the variable utility expenses associated with the operation and maintenance of the interconnection facilities. These include (a) the Company's inspections of the interconnection facilities and (b) maintenance of any equipment beyond that which would be required to provide normal electric service to the QS if no sales to the Company were involved.

In lieu of payment for actual charges, the QS may pay a monthly charge equal to a percentage of the installed cost of the interconnection facilities as provided in Appendix II.

D. Taxes and Assessments

In the event that GULF POWER becomes liable for additional taxes, including interest and/or penalties arising from an Internal Revenue Service's determination, through audit, ruling or other authority, that GULF POWER's payments to the QS for capacity under options B, C, D, E or for energy pursuant to the Fixed Firm Energy Payment Option D are not fully deductible when paid (additional tax liability), GULF POWER may bill the QS monthly for the costs, including carrying charges, interest and/or penalties, associated with the fact that all or a portion of these capacity payments are not currently deductible for federal and/or state income tax purposes. GULF POWER, at its option, may offset these costs against amounts due the QS hereunder. These costs would be calculated so as to place GULF POWER in the same economic position in which it would have been if the entire early, levelized or early levelized capacity payments or the Fixed Firm Energy Payment had been deductible in the period in which the payments were made. If GULF POWER decides to appeal the Internal Revenue Service's determination, the decision as to whether the appeal should be made through the administrative or judicial process or both, and all subsequent decisions pertaining to the appeal (both substantive and procedural), shall rest exclusively with GULF POWER.

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TERMS OF SERVICE

- (1) It shall be the QS's responsibility to inform the Company of any change in its electric generation capability.
- (2) Any electric service delivered by the Company to a QS located in the Company's service area shall be subject to the following terms and conditions:
 - (a) A QS shall be metered separately and billed under the applicable retail rate schedule(s), whose terms and conditions shall pertain.
 - (b) A security deposit will be required in accordance with FPSC Rules 25-17.082(5) and 25-6.097, F.A.C., and the following:
 - (i) In the first year of operation, the security deposit should be based upon the singular month in which the QS's projected purchases from the Company exceed, by the greatest amount, the Company's estimated purchases from the QS. The security deposit should be equal to twice the amount of the difference estimated for that month. The deposit is required upon interconnection.
 - (ii) For each year thereafter, a review of the actual sales and purchases between the QS and the Company will be conducted to determine the actual month of maximum difference. The security deposit should be adjusted to equal twice the greatest amount by which the actual monthly purchases by the QS exceed the actual sales to the Company in that month.
 - (c) The Company shall specify the point of interconnection and voltage level.
 - (d) The QS must enter into an interconnection agreement with the Company which will, among other things, specify safety and reliability standards for the interconnection to the Company's system. In most instances, the Company's filed Interconnection Agreement for Qualifying Facilities will be used; however, special features of the QS or its interconnection to the Company's facilities may require modifications to this Interconnection Agreement or the safety and reliability standards contained therein.
- (3) Service under this rate schedule is subject to the rules and regulations of the Company and the Florida Public Service Commission.

SPECIAL PROVISIONS

- (1) Special contracts deviating from the above standard rate schedule are allowable provided the Company agrees to them and they are approved by the Florida Public Service Commission.

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**APPENDIX I
TO RATE SCHEDULE QS-2
CALCULATION OF VALUE OF
DEFERRAL PAYMENTS**

APPLICABILITY

Appendix I provides a detailed description of the methodology used by the Company to calculate the monthly values of deferring or avoiding the Company's Avoided Unit identified in Schedule QS-2. When used in conjunction with the current FPSC-approved cost parameters associated with the Company's Avoided Unit contained in Appendix II, a QS may determine the applicable value of deferral capacity payment rate associated with the timing and operation of its particular facility should the QS enter into a Standard Offer Contract with the Company.


CALCULATION OF VALUE OF DEFERRAL OPTION A

FPSC Rule 25-17.0832(5) specifies that avoided capacity costs, in dollars per kilowatt per month, associated with capacity sold to a utility by a QS pursuant to the Company's Standard Offer Contract shall be defined as the year-by-year value of deferral of the Company's Avoided Unit. The year-by-year value of deferral shall be the difference in revenue requirements associated with deferring the Company's Avoided Unit one year, and shall be calculated as follows:

Where, for a one-year deferral:

- VAC_m = utility's monthly value of avoided capacity and O&M, in dollars per kilowatt per month, for each month of year n ;
- K = present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present valued to the middle of the first year;
- R = $(1 + i_p) / (1 + r)$;
- I_n = total direct and indirect cost, in mid-year dollars per kilowatt including AFUDC but excluding CWIP, of the Company's Avoided Unit with an in-service date of year n , including all identifiable and quantifiable costs relating to the construction of the Company's Avoided Unit which would have been paid had the Unit been constructed;
- O_n = total fixed operation and maintenance expense for the year n , in mid-year dollars per kilowatt per year, of the Company's Avoided Unit;
- i_p = annual escalation rate associated with the plant cost of the Company's Avoided Unit(s);
- i_o = annual escalation rate associated with the operation and maintenance expense of the Company's Avoided Unit(s);
- r = annual discount rate, defined as the utility's incremental after-tax cost of capital;
- L = expected life of the Company's Avoided Unit(s); and
- n = year for which the Company's Avoided Unit(s) is (are) deferred starting with its (their) original anticipated in-service date(s) and ending with the termination of the Company's Standard Offer Contract.

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CALCULATION OF FIXED VALUE OF DEFERRAL PAYMENTS – EARLY CAPACITY-OPTION B

Normally, payments for firm capacity shall not commence until the in-service date of the Company's Avoided Unit(s). At the option of the QS, however, the Company may begin making payments for early capacity consisting of the capital cost component of the value of a year-by-year deferral of the Company's Avoided Unit starting as early as the in-service date of the QS facility. When such payments for early capacity are elected, the avoided capital cost component of capacity payments shall be paid monthly commencing no earlier than the Capacity Delivery Date of the QS, and shall be calculated as follows:

$$A_m = A_c \frac{(1+i_p)^{(m-1)}}{12} + A_o \frac{(1+i_o)^{(m-1)}}{12} \text{ for } m = 1 \text{ to } t$$

Where:

A_m = monthly payments to be made to the QS for each month of the contract year n , in dollars per kilowatt per month in which QS delivers the early capacity option;

i_p = annual escalation rate associated with the plant cost of the Company's Avoided Unit(s);

i_o = annual escalation rate associated with the operation and maintenance expense of the Company's Avoided Unit(s);

m = year for which the fixed value of deferral payments under the early option are made to a QS, starting in year one and ending in the year t ;

t = the term, in years, of the Standard Offer Contract;

A_o = $F [(1-R)/(1-R^t)]$

Where:

F = the cumulative present value, in the year that the contractual payments will begin, of the avoided capital cost component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the Company's Avoided Unit(s);

R = $(1+i_p)/(1+r)$

r = annual discount rate, defined as the Company's incremental after-tax cost of capital; and

A_o = $G [(1-R)/(1-R^t)]$


Where:

G = The cumulative present value, in the year that the contractual payments will begin, of the avoided fixed operation and maintenance expense component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the Company's Avoided Unit(s).

R = $(1+i_o)/(1+r)$

The currently approved parameters applicable to the formulas above are found in Appendix II.

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CALCULATION OF FIXED VALUE OF DEFERRAL PAYMENTS – LEVELIZED AND EARLY LEVELIZED CAPACITY
– OPTION C & OPTION D, RESPECTIVELY


Monthly fixed value of deferral payments for levelized and early levelized capacity shall be calculated as follows:

$$P_L = \frac{F}{12} \times \frac{r}{1-(1+r)^{-t}} + O$$

Where:

P_L	=	the monthly levelized capacity payment, starting on or prior to the in-service date of the Company's Avoided Unit(s);
F	=	the cumulative present value, in the year that the contractual will begin, of the avoided capital cost component of the payments which would have been made had the capacity been levelized;
r	=	the annual discount rate, defined as the Company's incremental cost of capital;
t	=	the term, in years, of the Standard Offer Contract;
O	=	the monthly fixed operation and maintenance component of the payments, calculated in accordance with calculation of the fixed deferral payments for the levelized capacity or the early levelized capacity options.

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APPENDIX II
TO RATE SCHEDULE QS-2
2030 AVOIDED UNIT INFORMATION

The Company's Avoided Unit has been determined to be a 1,991 MW Combined Cycle Unit with an in-service date of June 1, 2030 and a contract heat rate of 5,996 Btu/kWh.

EXAMPLE STANDARD OFFER CONTRACT AVOIDED CAPACITY PAYMENTS
FOR A CONTRACT TERM OF TEN YEARS FROM THE IN-SERVICE DATE OF THE AVOIDED UNIT
(\$/KW/MONTH)

	Option A	Option B	Option C	Option D
Contract Year	Normal Capacity Payment	Early Capacity Payment	Levelized Capacity Payment	Early Levelized Capacity Payment
2022	\$ -	\$ -	\$ -	\$ -
2023	\$ -	\$ -	\$ -	\$ -
2024	\$ -	\$ -	\$ -	\$ -
2025	\$ -	\$ -	\$ -	\$ -
2026	\$ -	\$3.28	\$ -	\$3.68
2027	\$ -	\$3.34	\$ -	\$3.68
2028	\$ -	\$3.41	\$ -	\$3.68
2029	\$ -	\$3.48	\$ -	\$3.68
2030	\$5.34	\$3.54	\$5.86	\$3.68
2031	\$5.45	\$3.62	\$5.86	\$3.68
2032	\$5.57	\$3.69	\$5.86	\$3.68
2033	\$5.69	\$3.76	\$5.86	\$3.68
2034	\$5.81	\$3.84	\$5.86	\$3.68
2035	\$5.93	\$3.91	\$5.86	\$3.68
2036	\$6.05	\$3.99	\$5.86	\$3.68
2037	\$6.18	\$4.07	\$5.86	\$3.68
2038	\$6.31	\$4.15	\$5.86	\$3.68
2039	\$6.44	\$4.24	\$5.86	\$3.68
2040	\$6.58	\$4.32	\$5.86	\$3.68

ESTIMATED AS-AVAILABLE ENERGY COST

For informational purposes, the most recent estimated incremental avoided energy costs for the next ten years will be provided within thirty (30) days of written request.

ESTIMATED UNIT FUEL COSTS (\$/MMBtu):
The most recent estimated unit fuel costs for the Company's avoided unit will be provided within thirty (30) days of written request.

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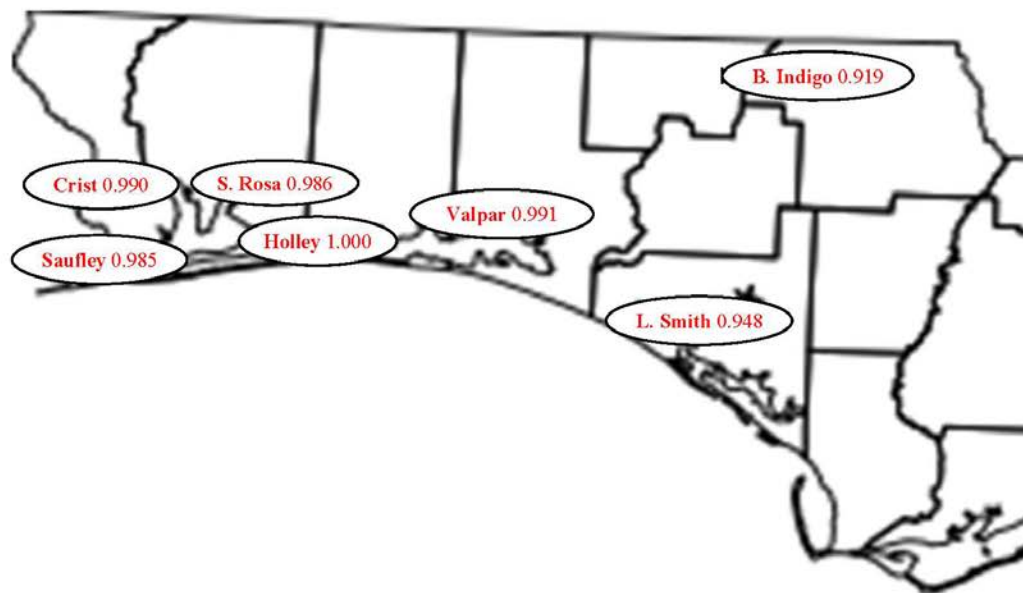
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VALUE OF CAPACITY LOCATION



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2030 AVOIDED UNIT FIXED VALUE OF DEFERRAL PAYMENTS - NORMAL CAPACITY OPTION PARAMETERS

Where, for a one-year deferral:		<u>Value</u>
VAC _m	= Company's value of avoided capacity and O&M, in dollars per kilowatt per month, during month m;	\$5.3425
K	= present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present valued to the middle of the first year;	1.4846
I _n	= total direct and indirect cost, in mid-year dollars per kilowatt including AFUDC but excluding CWIP, of the Company's Avoided Unit with an in-service date of year n;	\$635.92
O _n	= total fixed operation and maintenance expense, for the year n, in mid-year dollars per kilowatt per year, of the Company's Avoided Unit;	\$12.69
i _p	= annual escalation rate associated with the plant cost of the Company's Avoided Unit;	2.00%
i _o	= annual escalation rate associated with the operation and maintenance expense of the Company's Avoided Unit;	2.50%
r	= annual discount rate, defined as the Company's incremental after-tax cost of capital;	6.95%
L	= expected life of the Company's Avoided Unit;	40
n	= year for which the Company's Avoided Unit is deferred starting with its original anticipated in-service date and ending with the termination of the Standard Offer Contract.	2030

FIXED VALUE OF DEFERRAL PAYMENTS - EARLY CAPACITY OPTION PARAMETERS

A _m	= monthly capacity payments to be made to the QS starting on the year the QS elects to start receiving early capacity payments, in dollars per kilowatt per month;	*
i _p	= annual escalation rate associated with the plant cost of the Company's Avoided Unit;	2.00%
i _o	= annual escalation rate associated with the operation and maintenance expense of the Company's Avoided Unit;	2.50%
n	= year for which early capacity payments to a QS are to begin; (at the election of the QS early capacity payments may commence anytime after the actual in-service date of the QS facility and before the anticipated in-service date of the Company's avoided unit)	*
F	= the cumulative present value of the avoided capital cost component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the Company's Avoided Unit and continued for a period of 10 years;	\$490.8
r	= annual discount rate, defined as the Company's incremental after-tax cost of capital;	6.95%
t	= the term, in years, of the Standard Offer Contract for the purchase of firm capacity commencing in the year the QS elects to start receiving early capacity payments prior to the in-service date of the Company's Avoided Unit;	*
G	= the cumulative present value of the avoided fixed operation and maintenance expense component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the Company's Avoided Unit and continued for a period of 10 years.	\$98.71

*From Appendix E

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**APPENDIX B
TO THE STANDARD OFFER CONTRACT
FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY
FROM RENEWABLE ENERGY FACILITIES
OR QUALIFYING FACILITIES WITH A DESIGN CAPACITY OF 100 KW OR LESS
PAY FOR PERFORMANCE PROVISIONS MONTHLY CAPACITY PAYMENT CALCULATION**

1. Monthly Capacity Payments (MCP) for each Monthly Billing Period shall be computed according to the following:

A. In the event that the Annual Capacity Billing Factor ("ACBF"), as defined below, is less than 80%, then no Monthly Capacity Payment shall be due. That is:

$$MCP = 0$$

B. In the event that the ACBF is equal to or greater than 80% but less than 94%, then the Monthly Capacity Payment shall be calculated by using the following formula:

$$MCP = BCP \times [1 + 4 \times (ACBF - 94\%)] \times CC$$

C. In the event that the ACBF is equal to or greater than 94%, then the Monthly Capacity Payment shall be calculated by using the following formula:

$$MCP = BCP \times CC$$

Where:

MCP = Monthly Capacity Payment in dollars.

BCP = Base Capacity Payment in \$/KW/Month as specified in GULF POWER's Rate Schedule QS-2.

CC = Committed Capacity in KW.

ACBF = Annual Capacity Billing Factor. This factor is calculated using the 12 months rolling average of the Monthly Capacity Factor. This 12 month rolling average shall be defined as the sum of the 12 consecutive Monthly Capacity Factors preceding the date of calculation, divided by 12. During the first 12 consecutive Monthly Billing Periods, commencing with the first Monthly Billing Period in which Capacity payments are to be made, the calculation of the Annual Capacity Billing Factor shall be performed as follows: (a) during the first Monthly Billing Period, the Annual Capacity Billing Factor shall be equal to the Monthly Capacity Factor; (b) thereafter, the calculation of the Annual Capacity Billing Factor shall be computed by dividing the sum of the Monthly Capacity Factors during the first year's Monthly Billing Periods in which Capacity payments are to be made by the number of Monthly Billing Periods which have elapsed. This calculation shall be performed at the end of each Monthly Billing Period until enough Monthly Billing Periods have elapsed to calculate a true 12-month rolling average Annual Capacity Billing Factor. Periods during which the Facility has temporarily set its Committed Capacity equal to 0 KW due to a Force Majeure event pursuant to Section 16 shall be excluded from the applicable capacity factor calculation.

MCF = Monthly Capacity Factor. The sum of (i) the Hourly Factors of the Non-Dispatch Hours plus (ii) the Hourly Factors of the Dispatch Hours or the Hourly factors of the hours when GULF POWER requested reduced deliveries pursuant to Sections 8.4.6 and 8.4.8 (Reduced Delivery Hour); divided by the number of hours in the Monthly Billing Period.

HFNDH = Hourly Factor of a Non-Dispatch Hour. The energy received during the hour divided by the Committed Capacity. For purposes of calculating the Hourly Factor of a Non-Dispatch Hour the energy received shall not exceed the Committed Capacity.

HFDH = Hourly Factor of a Dispatch Hour or a Reduced Delivery Hour. The scheduled energy received divided by the scheduled energy requested. For purposes of calculating the Hourly Factor of a Dispatch Hour or the Hourly Factor of a Reduced Delivery Hour the scheduled energy received shall not exceed the scheduled energy requested.

On-Peak Hours = Those hours occurring April 1 through October 31 Mondays through Fridays, from 12 noon to 9:00 p.m. excluding Memorial Day, Independence Day and Labor Day; and November 1 through March 31 Mondays through Fridays from 6:00 a.m. to 10:00 a.m. and 6:00 p.m. to 10:00 p.m. prevailing Central time excluding Thanksgiving Day, Christmas Day and New Year's Day. GULF POWER shall have the right to change such On- Peak Hours by providing the QS a minimum of thirty calendar days' advance notice.

Monthly Billing Period = The period beginning on the first calendar day of each calendar month, except that the initial Monthly Billing Period shall consist of the period beginning 12:01 a.m. on the Capacity Delivery Period Date and ending with the last calendar day of such month.

Scheduled Energy and Dispatch Hours are as defined in Section 8.4.7 of the Standard Offer Contract.

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APPENDIX C
TO THE STANDARD OFFER
CONTRACT TERMINATION FEE

The Termination Fee shall be the sum of the values for each month beginning with the month in which the Capacity Delivery Date occurs through the month of termination (or month of calculation, as the case may be), computed according to the following formula:

Termination Fee = Termination Fee applicable to Capacity Payment Option plus Termination Fee applicable to Fixed Firm Energy Option Termination Fee applicable to Capacity Payment Options B, C, D and E

$$\sum_{i=1}^n (MCP_i - MCPC_i) \times t^{(n-i)}$$

with: MCPC_i = 0 for all periods prior to the in-service date of the Company's Avoided Unit;

where:

- i = number of the Monthly Billing Period commencing with the Capacity Delivery Date (i.e., the month in which Capacity Delivery Date occurs = 1; the month following the month in which Capacity Delivery Date occurs = 2; etc.)
- n = the number of Monthly Billing Periods which have elapsed from the month in which the Capacity Delivery Date occurs through the month of termination (or month of calculation, as the case may be)
- t = the future value of an amount factor necessary to compound a sum monthly so the annual percentage rate derived will equal GULF POWER's incremental after-tax avoided cost of capital (defined as r in QS-2). For any Monthly Billing Period in which MCPC_i is greater than MCP_i, t shall equal 1.
- MCP_i = Monthly Capacity Payment paid to QS corresponding to the Monthly Billing Period i, calculated in accordance with Appendix B.
- MCPC_i = Monthly Capacity Payment for Option A corresponding to the Monthly Billing Period i, calculated in accordance with QS-2.

In the event that for any Monthly Billing Period, the computation of the value of the Capacity Payment Termination Fee for such Monthly Billing Period (as set forth above) yields a value equal to or greater than zero, the amount of the Capacity Payment Termination Fee shall be increased by the amount of such value.

In the event that for any Monthly Billing Period, the computation of the value of the Capacity Payment Termination Fee for such Monthly Billing Period (as set forth above) yields a value less than zero, the amount of the Capacity Payment Termination Fee shall be decreased by the amount of such value expressed as a positive number (the "Initial Reduction Value"); provided, however, that such Initial Reduction Value shall be subject to the following adjustments (the Initial Reduction Value, as adjusted, the "Reduction Value"):

- a. In the event that in the applicable Monthly Billing Period the Annual Capacity Billing Factor (ACBF), as defined in Appendix B is less than 80%, then the Initial Reduction Value shall be adjusted to equal zero (Reduction Value = 0), and the Capacity Payment Termination Fee shall not be reduced for the applicable Monthly Billing Period.
- b. In the event that in the applicable Monthly Billing Period the Annual Capacity Billing Factor (ACBF), as defined in Appendix B, is equal to or greater than 80% but less than 94%, then the Reduction Value shall be determined as follows:

$$\text{Reduction Value} = \text{Initial Reduction Value} \times [0.04 \times (\text{ACBF} - 94\%)]$$

For the applicable Monthly Billing Period, the Termination Fee shall be reduced by the amount of such Reduction Value.

In no event shall GULF POWER be liable to the QS at any time for any amount by which the Capacity Payment Termination Fee, adjusted in accordance with the foregoing, is less than zero (0).

Termination Fee applicable to the Fixed Firm Energy Payment Option D

Prior to in-service date of avoided unit:

The Termination Fee for the Fixed Firm Energy Option shall be equal to the cumulative sum of the Fixed Firm Energy Payments made to the QS pursuant to Option D, starting with the in-service date of the QS facility, for each billing cycle. Such number shall reach the maximum amount on the billing cycle immediately preceding the billing cycle associated with the in-service date of the Avoided Unit.

After in-service date of avoided unit:

The Termination Fee shall be decreased each billing cycle following the in-service date of the avoided unit by an amount equal to the difference between the projected Fixed Energy Cost that was used in the calculation to determine the base energy cost to be fixed and amortized pursuant to Option D for such billing cycle and the amortized Fixed Firm Energy Payment in cents/kWh times the energy delivered by the QS not to exceed the MWh block specified in Appendix E.

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**APPENDIX D
TO THE STANDARD OFFER
CONTRACT DETAILED PROJECT
INFORMATION**

Each eligible Contract received by GULF POWER will be evaluated to determine if the underlying QS project is financially and technically viable. The QS shall, to the extent available, provide GULF POWER with a detailed project proposal which addresses the information requested below.


I. FACILITY DESCRIPTION

- Project Name
- Project Location
 - ◆ Street Address
 - ◆ Site Plot Plan
 - ◆ Legal Description of Site
- Generating Technology
- Facility Classification (include types from statute)
- Primary Fuel
- Alternate Fuel (if applicable)
- Committed Capacity
- Expected In-Service Date
- Steam Host (for cogeneration facilities)
 - ◆ Street Address
 - ◆ Legal Description of Steam Host
 - ◆ Host's annual steam requirements (lbs/yr)
- Contact Person
 - ◆ Individual's Name and Title
 - ◆ Company Name
 - ◆ Address
 - ◆ Telephone Number
 - ◆ Telecopy Number

II. PROJECT PARTICIPANTS

- Indicate the entities responsible for the following project management activities and provide a detailed description of the experience and capabilities of the entities:
 - ◆ Project Development
 - ◆ Siting and Licensing the Facility
 - ◆ Designing the Facility
 - ◆ Constructing the Facility
 - ◆ Securing the Fuel Supply
 - ◆ Operating the Facility
- Provide details on all electrical generation facilities which are currently under construction or operational which were developed by the QS.
- Describe the financing structure for the projects identified above, including the type of financing used, the permanent financing term, the major lenders, and the percentage of equity invested at financial closing.

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III. FUEL SUPPLY

- Describe all fuels to be used to generate electricity at the Facility. Indicate the specific physical and chemical characteristics of each fuel type (e.g., Btu content, sulfur content, ash content, etc.). Identify special considerations regarding fuel supply origin, source and handling, storage and processing requirements.
- Provide annual fuel requirements (AFR) necessary to support the requirements pursuant to Section 366.91, Florida Statutes, and the planned levels of generation and list the assumptions used to determine these quantities.
- Provide a summary of the status of the fuel supply arrangements in place to meet the ARFR in each year of the proposed operating life of the Facility. Use the categories below to describe the current arrangement for securing the AFR.

Category Description of Fuel Supply Arrangement fuel is from a fully developed

owned = source owned by one or more of the project participants

contract = fully executed firm fuel contract exists between the developer(s) and fuel

supplier(s) LOI = a letter of intent for the fuel supply exists between developer(s) and fuel

supplier(s) REF = renewable energy facility will burn biomass, waste, or another renewable

resource spot = fuel supply will be purchased on the spot market

none = no firm fuel supply arrangement currently in place

other = fuel supply arrangement which does not fit any of the above categories (please describe)

- Indicate the percentage of the Facility's AFR which is covered by the above fuel supply arrangement(s) for each proposed operating year. The percent of AFR covered for each operating year must total 100%. For fuel supply arrangements identified as owned, contract, or LOI, provide documentation to support this category and explain the fuel price mechanism of the arrangement. In addition, indicate whether or not the fuel price includes delivery and, if so, to what location.
- Describe fuel transportation networks available for delivering all primary and secondary fuel to the Facility site. Indicate the mode, route and distance of each segment of the journey, from fuel source to the Energy Facility site. Discuss the current status and pertinent factors impacting future availability of the transportation network.
- Provide annual fuel transportation requirements (AFTR) necessary to support planned levels of generation and list the assumptions used to determine these quantities.
- Provide a summary of the status of the fuel transportation arrangements in place to meet the AFTR in each year of the proposed operating life of the Energy Facility. Use the categories below to describe the current arrangement for securing the AFTR.

owned = fuel transport via a fully developed system owned by one or more of the project

participants contract = fully executed firm transportation contract exists between the developer(s) and

fuel transporter(s) LOI = a letter of intent for fuel transport exists between developer(s) and fuel

transporter(s)

Spot = fuel transportation will be purchased on the

spot market none = no firm fuel transportation arrangement

currently in place

other = fuel transportation arrangement which does not fit any of the above categories (please

describe)

- Indicate the percentage of the Facility's AFR which is covered by the above fuel supply arrangement(s) for each proposed operating year. The percent of AFR covered for each operating year must total 100%. For fuel supply arrangements identified as owned, contract, or LOI, provide documentation to support this category and explain the transportation price mechanism of the arrangement.
- Provide the maximum, minimum, and average fuel inventory levels to be maintained for primary and secondary fuels at the Facility site. List the assumptions used in determining the inventory levels.

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IV. PLANT DISPATCHABILITY/CONTROLLABILITY

- Provide the following operating characteristics and a detailed explanation supporting the performance capabilities indicated.
 - ◆ Ramp Rate (MW/minute)
 - ◆ Peak Capability (% above Committed Capacity)
 - ◆ Minimum power level (% of Committed Capacity)
 - ◆ Facility Turnaround Time, Hot to Hot (hours)
 - ◆ Start-up Time from Cold Shutdown (hours)
 - ◆ Unit Cycling (# cycles/yr)
 - ◆ MW and MVAR Control (AGC, Manual, Other (please explain))


V. SITING AND LICENSING

- Provide a licensing/permitting milestone schedule which lists all permits, licenses and variances required to site the Facility. The milestone schedule shall also identify key milestone dates for baseline monitoring, application preparation, agency review, certification and licensing/siting board approval, and agency permit issuance.
- Provide a licensing/permitting plan that addresses the issues of air emissions, water use, wastewater discharge, wetlands, endangered species, protected properties, solid waste, surrounding land use, zoning for the Facility, associated linear facilities, and support of and opposition to the Facility.
- List the emission/effluent discharge limits the Facility will meet, and describe in detail the pollution control equipment to be used to meet these limits.

VI. FACILITY DEVELOPMENT AND PERFORMANCE

- Submit a detailed engineering, procurement, construction, startup and commercial operation schedule. The schedule shall include milestones for site acquisition, engineering phases, selection of the major equipment vendors, architect engineer, EPC contractor, and Facility operator, steam host integration, and delivery of major equipment. A discussion of the current status of each milestone should also be included where applicable.
- Attach a diagram of the power block arrangement. Provide a list of the major equipment vendors and the name and model number of the major equipment to be installed.
- Provide a detailed description of the proposed environmental control technology for the Facility and describe the capabilities of the proposed technology.
- Attach preliminary flow diagrams for the steam system, water system, and fuel system, and a main electrical one-line diagram for the Facility.
- State the expected heat rate (HHV) at 75 degrees Fahrenheit for loads of 100%, 75%, and 50%. In addition, attach a preliminary heat balance for the Facility.
- [NOTE: add any requirements related to demonstrating that the facility meets the requirements under the statute or applicable rules]

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VII. FINANCIAL

- Provide GULF POWER with assurances that the proposed QS project is financially viable consistent with FPSC Rule 25-17.0832(4) (c) by attaching a detailed pro-forma cash flow analysis. The pro-forma must include, at a minimum, the following assumptions for each year of the project.
 - ◆ Annual Project Revenues
 - Capacity Payments (\$ and \$/KW/Mo)
 - Variable O&M (\$ and \$/MWh)
 - Energy (\$ and \$/MWh)
 - Steam Revenues (\$ and %/lb.)
 - Tipping Fees (\$ and \$/ton)
 - Interest Income
 - Other Revenues
 - Variable O&M Escalation (%/yr)
 - Energy Escalation (%/yr)
 - Steam Escalation (%/yr)
 - Tipping Fee Escalation (%/yr)
 - ◆ Annual Project Expenses
 - Fixed O&M (\$ and \$/KW/Mo)
 - Variable O&M (\$ and \$/MWh)
 - Energy (\$ and \$/MWh)
 - Property Taxes (\$)
 - Insurance (\$)
 - Emission Compliance (\$ and \$/MWh)
 - Depreciation (\$ and %/yr)
 - Other Expenses (\$)
 - Fixed O&M Escalation (%/yr)
 - Variable O&M Escalation (%/yr)
 - Energy Escalation (%/yr)
 - ◆ Other Project Information
 - Installed Cost of the Energy Facility (\$ and \$/KW)
 - Committed Capacity (KW)
 - Average Heat Rate - HHV (MBTU/KWh)
 - Federal Income Tax Rate (%)
 - Facility Capacity Factor (%)
 - Energy Sold to GULF POWER (MWH)
 - ◆ Permanent Financing
 - Permanent Financing Term (yrs)
 - Project Capital Structure (percentage of long-term debt, subordinated debt, tax exempt debt, and equity)
 - Financing Costs (cost of long-term debt, subordinated debt, tax exempt debt, and equity)
 - Annual Interest Expense
 - Annual Debt Service (\$)
 - Amortization Schedule (beginning balance, interest expense, principal reduction, ending balance)
- Provide details of the financing plan for the project and indicate whether the project will be non-recourse project financed. If it will not be project financed, please explain the alternative financing arrangement.
- Submit financial statements for the last two years on the principals of the project, and provide an illustration of the project ownership structure.

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APPENDIX E
TO THE STANDARD OFFER CONTRACT
CONTRACT OPTIONS TO BE SELECTED BY QS

Avoided Unit Selected

Term of Contract

Execution date
Termination date

Firm Capacity Rates

Commencement date for deliveries of Firm Energy and Capacity _____

Capacity Payment Option Selected (from available Options A through E) _____
If Option E is selected proposed payment stream:

Schedule of Capacity Payments to be provided by the Company based on applicable parameters follows:

Year \$/KW/Month

Energy Rates

Energy payment Options selected applicable to energy produced by the QS and delivered to the Company (from available Option A or B **and** D)

Select from Option A or B

And

Select D

If Option D is selected by the QS; the Company and the QS mutually agree on fixing and amortizing the following portion of the Base Energy Costs associated with the Avoided Unit
_____ % which yields _____ MWH

Projected Energy Cost of Energy Produced by Avoided Unit (provided by the Company):

Year Projected Fixed Energy Cost (in Cents/KWH or in Dollars)

Based on the projections of Energy Costs Produced by the Avoided Unit and the mutually agreed upon Portion of the Base Energy Costs associated with the Avoided Unit the Fixed Energy Payment shall be
_____ \$/MWH or \$ _____ (as applicable).

Issued by: **Tiffany Cohen**

Item 14

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (M. Watts, K. Johnson, Ramos) *TB*
Office of the General Counsel (Lherisson) *JC*

RE: Docket No. 20200012-WS – Application for amendment of Certificates 669-W and 571-S to delete territory in Sumter County, by South Sumter Utility Company, LLC.

AGENDA: 06/09/20 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

South Sumter Utility Company, LLC (SSU or Utility) is a Class C utility which provides service in Sumter County to approximately 1,854 water and wastewater customers. The Utility is in the Southwest Florida Management District and is not in a water use caution area. In its 2018 Annual Report, the Utility reported operating revenues of \$3,220 for water and \$4,136 for wastewater, and a net operating loss of \$218,749 for water and \$226,407 for wastewater.¹

On January 8, 2020, pursuant to Section 367.045, Florida Statutes (F.S.), the Utility applied for an amendment to delete part of its service territory from Certificate Nos. 669-W and 571-S. The Utility does not currently provide water or wastewater service to this area. The Utility requested this territory be deleted from the service area because of the separation by the Florida Turnpike and the related difficulty in extending service to the area. For these reasons, SSU believes it is

¹ The Utility has requested an extension to file its 2019 Annual Report.

Docket No. 20200012-WS

Date: May 28, 2020

not the best alternative for water and wastewater service to the area. The Commission has jurisdiction pursuant to Section 367.045, F.S.

Discussion of Issues

Issue 1: Should the Commission approve SSU's application for amendment of Certificate Nos. 669-W and 571-S to delete territory from its certificated service area in Sumter County?

Recommendation: Yes. The Commission should approve the application filed by SSU to delete territory, as reflected on Attachment A, from its certificated service area, effective the day of the Commission's vote. The resultant order should serve as SSU's amended certificate and should be retained by the Utility. (M. Watts)

Staff Analysis: As stated, on January 8, 2020, SSU applied for an amendment to delete a portion of its certificated area. The area proposed to be deleted (deletion area) is currently undeveloped.

The deletion area is planned to be developed to serve approximately 1,161 equivalent residential connections. However, the deletion area is separated from adjacent SSU territory by Florida's Turnpike. SSU stated in its application that the reason for the proposed deletion is the difficulty in extending service across Florida's Turnpike. In response to staff's first data request, SSU stated that a newly created water and wastewater service provider, Gibson Place Utility Company, LLC (Gibson), is the best alternative to provide water and wastewater service to the deletion area.² Staff has been advised that Gibson, which is affiliated with the Villages, plans to file an application for original water and wastewater certificates to serve territory that will include the territory being deleted from SSU's certificated territory.

An adequate service territory map and a territory description have been provided as prescribed by Rule 25-30.036(4)(e) and (g), Florida Administrative Code (F.A.C.). A description of the territory requested to be deleted by the Utility is appended to this recommendation as Attachment A. The Utility submitted an affidavit with its January 8, 2020, application consistent with Rule 25-30.036(4)(k), F.A.C., stating that it has tariffs and annual reports on file with the Commission. Within its application, the Utility indicated it had filed its 2018 Annual Report. The Utility has requested an additional extension through June 1, 2020, to file its 2019 Annual Report. In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, F.A.C. No objections to the application have been received and the time for filing such has expired.

Staff recommends that it is in the public interest to approve the application filed by SSU to amend its water certificate to delete the territory shown on Attachment A from its certificated service area. The resultant Commission order should serve as SSU's amended certificate and should be retained by the Utility.

² Document No. 00752-2020, filed February 3, 2020.

Date: May 28, 2020

Issue 2: Should this docket be closed?

Recommendation: Yes. If staff's recommendation in Issue 1 is approved, no further action is required, and the docket should be closed. (Lherisson)

Staff Analysis: If Issue 1 is approved, no further action is required, and the docket should be closed.

SOUTH SUMTER UTILITY COMPANY, LLC

SUMTER AND LAKE COUNTIES

AREA TO BE DELETED FROM WATER AND WASTEWATER TERRITORY

THE EAST 1,443.75 FEET OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING SOUTHERLY OF FLORIDA'S TURNPIKE.

AND:

THAT PORTION OF THE EAST 1,443.75 FEET OF SECTION 12, TOWNSHIP 20 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING NORTH OF COUNTY ROAD C-470; LESS RIGHT-OF-WAY FOR FLORIDA'S TURNPIKE.

AND:

ALL OF SECTION 7, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, LYING SOUTH OF THE WEST BOUNDARY OF FLORIDA'S TURNPIKE, LESS THE RIGHT-OF-WAY FOR COUNTY ROAD NO. 470 IN LAKE COUNTY, FLORIDA.

LESS:

COMMENCE AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 20 SOUTH, RANGE 24 EAST; THENCE N01°01'02" WEST ALONG THE EAST LINE OF THE NE 1/4 OF SAID SECTION 18, A DISTANCE OF 2,658.28 FEET TO THE NORTHEAST CORNER OF SAID SECTION 18; THENCE S89°00'55" WEST ALONG THE NORTH LINE OF THE NE 1/4 OF SAID SECTION 18, A DISTANCE OF 593.64 FEET TO A POINT OF INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF FLORIDA'S TURNPIKE; THENCE LEAVING THE NORTH LINE OF THE NE 1/4 OF SAID SECTION 18, N44°00'55" WEST ALONG SAID WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 95.76 FEET TO A POINT OF INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 470; SAID INTERSECTION ALSO BEING THE POINT OF BEGINNING; THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY LINE OF FLORIDA'S TURNPIKE S89°00'55" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 329.45 FEET; THENCE S80°29'04" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 134.83 FEET; THENCE S89°00'55" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 1,456.67 FEET; THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY LINE N00°59'05" WEST A DISTANCE OF 130.00 FEET; THENCE N89°00'55" EAST A DISTANCE OF 850.00 FEET; THENCE N00°59'05"W A DISTANCE OF 850.00 FEET; THENCE N41°56'49" WEST A DISTANCE OF 738.95 FEET; THENCE N45°59'05" EAST A DISTANCE OF 100.00 FEET TO THE SAID WESTERLY RIGHT-OF-WAY LINE OF FLORIDA'S TURNPIKE; THENCE ALONG SAID

WESTERLY RIGHT-OF-WAY LINE S44°00'55" EAST A DISTANCE OF 2,170.00 FEET TO THE POINT OF BEGINNING.

AND LESS:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 7, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, THEN N00°55'51" WEST ALONG THE WEST BOUNDARY LINE OF SAID SECTION 7, 50.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF COUNTY ROAD NO. 470; THENCE N89°02'38" EAST ALONG SAID RIGHT-OF-WAY LINE 1,347.80 FEET TO THE POINT OF BEGINNING; THENCE N00°57'22" WEST 350.00 FEET; THENCE N89°02'38" EAST 750.00 FEET; THENCE S00°57'22" EAST 350.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF COUNTY ROAD NO. 470; THENCE S89°02'38" WEST ALONG SAID RIGHT-OF-WAY LINE 750.00 FEET TO THE POINT OF BEGINNING.

**SOUTH SUMTER UTILITY COMPANY, LLC
SUMTER AND LAKE COUNTIES
WATER AND WASTEWATER SERVICE AREA**

THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 16, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY; LESS THE NORTH 400.00 FEET THEREOF.

AND TOGETHER WITH:

THAT PORTION OF SECTION 16, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 16; THENCE ALONG THE WEST LINE THEREOF, N00°18'48"E, A DISTANCE OF 257.28 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF STATE ROAD NO. 44; THENCE DEPARTING SAID WEST LINE AND ALONG SAID RIGHT-OF-WAY, S69°24'48"E, 433.00 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY, S50°23'55"W, 154.72 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 217.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC THEREOF THROUGH A CENTRAL ANGLE OF 18°41'07", A DISTANCE OF 70.77 FEET TO A POINT THAT IS 200.00 FEET SOUTHWEST, BY PERPENDICULAR MEASUREMENT, OF THE SOUTHWESTERLY RIGHT-OF-WAY FOR STATE ROAD NO. 44; THENCE PARALLEL WITH SAID RIGHT-OF-WAY, S69°24'48"E, 600.91 FEET; THENCE DEPARTING SAID PARALLEL LINE, N20°35'12"E, 200.00 FEET TO SAID SOUTHWESTERLY RIGHT-OF-WAY OF STATE ROAD NO. 44; THENCE ALONG SAID RIGHT-OF-WAY, S69°24'48"E, 74.40 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY, S17°39'39"W, 106.18 FEET TO A POINT ON THE ARC OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 140.00 FEET AND A CHORD BEARING AND DISTANCE OF S04°38'58"E, 103.87 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 43°33'01", A DISTANCE OF 106.41 FEET; THENCE S69°24'48"E, 116.86 FEET; THENCE N05°30'26"W, 1.10 FEET TO A POINT ON THE ARC OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 154.00 FEET AND A CHORD BEARING AND DISTANCE OF S48°30'33"E, 25.49 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 09°29'37", A DISTANCE OF 25.52 FEET; THENCE S53°15'22"E, 85.06 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 50.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC THEREOF THROUGH A CENTRAL ANGLE OF 126°42'45", A DISTANCE OF 110.58 FEET; THENCE N00°01'58"E, 158.76 FEET TO A POINT ON THE ARC OF A CURVE CONCAVE SOUTHEASTERLY, HAVING

A RADIUS OF 10.00 FEET AND A CHORD BEARING AND DISTANCE OF N55°18'35"E, 16.44 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 110°33'24", A DISTANCE OF 19.30 FEET; THENCE S69°24'43"E, 51.90 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 4.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC THEREOF THROUGH A CENTRAL ANGLE OF 90°00'00", A DISTANCE OF 6.28 FEET; THENCE N20°35'12"E, 0.03 FEET; THENCE S69°24'48"E, 66.63 FEET TO THE EAST LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 16; THENCE ALONG SAID EAST LINE, S00°14'48"W, 636.19 FEET; THENCE DEPARTING SAID EAST LINE, S89°56'16"W, 120.39 FEET; THENCE S00°14'35"W, 9.72 FEET; THENCE S89°55'47"W, 49.96 FEET; THENCE S89°56'16"W, 257.43 FEET; THENCE N00°39'39"W, 55.25 FEET; THENCE N06°43'11"E, 52.69 FEET; THENCE N20°25'53"E, 46.67 FEET; THENCE N33°16'06"E, 42.34 FEET; THENCE N32°58'24"E, 59.52 FEET; THENCE N18°09'21"E, 46.07 FEET; THENCE N04°24'08"E, 40.99 FEET; THENCE N03°21'45"W, 62.56 FEET; THENCE N74°38'09"W, 282.28 FEET; THENCE S54°12'20"W, 269.75 FEET; THENCE N39°36'05"W, 372.27 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 217.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC THEREOF THROUGH A CENTRAL ANGLE OF 04°31'01", A DISTANCE OF 17.11 FEET TO A NON-TANGENT LINE; THENCE S54°54'56"W, ALONG SAID NON-TANGENT LINE, 66.00 FEET; THENCE S61°45'05"W, 101.78 FEET; THENCE S28°09'14"E, 74.89 FEET; THENCE S61°48'31"W, 70.72 FEET; THENCE S10°43'23"E, 99.76 FEET; THENCE S61°45'05"W, 113.06 FEET TO THE WEST LINE OF SAID SOUTHWEST 1/4 OF THE NORTHWEST 1/4; THENCE ALONG SAID WEST LINE, N00°18'48"E, 621.56 FEET TO THE POINT OF BEGINNING.

AND TOGETHER WITH:

THAT LAND LYING IN SECTION 16, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 16, THENCE N00°00'00"E, ALONG THE WEST LINE THEREOF A DISTANCE OF 519.27 FEET; THENCE DEPARTING SAID WEST LINE, S58°29'59"E, 219.59 FEET TO A POINT ON THE ARC OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 310.00 FEET AND A CHORD BEARING AND DISTANCE OF S36°50'14"E, 576.22 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 136°40'38", A DISTANCE OF 739.49 FEET; THENCE S00°03'40"E, 542.22 FEET; THENCE S89°38'01"W, 250.00 FEET; THENCE S00°03'40"E, 700.00 FEET; THENCE N89°38'01"E, 100.00 FEET; THENCE S00°03'40"E, 50.00 FEET; THENCE S89°38'01"W, 173.03 FEET; THENCE N21°59'07"W, 40.26 FEET; THENCE S77°35'26"W, 48.35 FEET; THENCE S09°29'23"E, 27.69 FEET; THENCE S89°38'01"W, 158.08 FEET; THENCE N00°12'05"E, 1,352.31 FEET TO THE POINT OF BEGINNING.

LESS:

THAT LAND LYING IN SECTION 16, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 16, N00°00'00"E, ALONG THE WEST LINE THEREOF A DISTANCE OF 519.27 FEET; THENCE DEPARTING SAID WEST LINE, S58°29'59"E, 219.59 FEET TO A POINT ON THE ARC OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 310.00 FEET AND A CHORD BEARING AND DISTANCE OF S02°36'15"E, 347.64 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 68°12'39", A DISTANCE OF 369.06 FEET; THENCE S53°17'27"W, 8.51 FEET TO THE POINT OF BEGINNING; THENCE S35°18'00"E, 5.78 FEET; THENCE S55°05'17"W, 18.33 FEET; THENCE N34°23'34"W, 13.88 FEET; THENCE N53°11'59"E, 18.12 FEET; THENCE S35°18'00"E, 8.70 FEET TO THE POINT OF BEGINNING.

AND:

THE SOUTHEAST 1/4 OF SECTION 17, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA.

AND:

THAT PORTION OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF SECTION 17, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING SOUTH AND WEST OF FLORIDA'S TURNPIKE.

AND:

THE NORTH 811.80 FEET OF THE EAST 1,716.00 FEET OF THE SOUTHWEST 1/4 OF SECTION 17, TOWNSHIP 19 SOUTH RANGE 23 EAST, SUMTER COUNTY, FLORIDA.

AND:

THAT PORTION OF THE EAST 858.00 FEET OF THE SOUTHWEST 1/4 OF SECTION 17, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING NORTH AND EAST OF FLORIDA'S TURNPIKE; LESS THE NORTH 811.80 FEET THEREOF.

AND LESS:

RIGHT OF WAY FOR COUNTY ROAD 181.

AND TOGETHER WITH:

THAT PORTION OF THE NORTHEAST 1/4 OF SECTION 17, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SAID NORTHEAST 1/4; THENCE ALONG THE SOUTH LINE THEREOF, N89°50'57"W, 1,980.76 FEET TO THE WEST LINE OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 17; THENCE DEPARTING SAID SOUTH LINE AND ALONG SAID EAST LINE, N00°17'31"E, 704.32 FEET; THENCE DEPARTING SAID WEST LINE, S89°52'27"E, 627.34 FEET; THENCE N00°17'57"E, 630.00 FEET TO THE NORTH LINE OF THE SOUTH 1/2 OF SAID NORTHEAST 1/4; THENCE ALONG SAID NORTH LINE, S89°52'27"E, 33.00 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID NORTHEAST 1/4; THENCE DEPARTING SAID NORTH LINE, N00°17'57"E, ALONG THE WEST LINE OF THE NORTHEAST 1/4 OF SAID NORTHEAST 1/4 A DISTANCE OF 750.62 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF STATE ROAD NO. 44 ; THENCE DEPARTING SAID WEST LINE AND ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY, S69°24'48"E, 960.52 FEET TO A POINT THAT IS 420.00 FEET WEST OF THE EAST LINE OF SAID NORTHEAST 1/4; THENCE DEPARTING SAID SOUTHWESTERLY RIGHT-OF-WAY AND PARALLEL WITH SAID EAST LINE, S00°18'48"W, 812.35 FEET; THENCE DEPARTING SAID PARALLEL LINE, S89°50'57"E, 420.00 FEET TO THE EAST LINE OF SAID NORTHEAST 1/4; THENCE ALONG SAID EAST LINE, S00°18'48"W, 937.50 FEET TO THE POINT OF BEGINNING.

LESS:

RIGHT-OF-WAY FOR COUNTY ROAD 156.

AND LESS:

RIGHT-OF-WAY FOR COUNTY ROAD 179.

AND:

THAT PORTION OF THE SOUTHEAST 1/4 OF SECTION 18, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING SOUTH AND WEST OF FLORIDA'S TURNPIKE AND LYING EAST OF THE RIGHT-OF-WAY FOR U.S. HIGHWAY 301.

AND:

THAT PORTION OF THE NORTH 3/4 OF THE EAST 1/2 OF SECTION 19, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING EAST OF THE RIGHT-OF-WAY FOR U.S. HIGHWAY 301; LESS ANY PORTION THEREOF, DESCRIBED AS FOLLOWS: BEGIN AT THE NORTHWEST CORNER OF THE SOUTHEAST 1/4; THENCE S89°25'01"E, ALONG THE NORTH LINE THEREOF A DISTANCE OF 474.00 FEET; THENCE DEPARTING SAID NORTH LINE, S25°22'49"W, 728.89 FEET; THENCE S06°34'19"W, 665.47 FEET; THENCE N89°32'09"W, 90.00 FEET TO THE WEST LINE OF SAID SOUTHEAST 1/4 CORNER; THENCE ALONG SAID WEST LINE, N00°11'57"E, 1,323.73 FEET TO THE POINT OF BEGINNING.

AND:

THAT PORTION OF SECTION 20, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 20; THENCE WEST ALONG THE NORTH LINE THEREOF, A DISTANCE OF 1,310.54 FEET; THENCE DEPARTING SAID NORTH LINE, RUN SOUTH FOR 724.63 FEET; THENCE EAST, 165.00 FEET; THENCE SOUTH, 303.71 FEET; THENCE EAST 169.94 FEET; THENCE SOUTH 303.71 FEET; THENCE WEST 541 FEET, MORE OR LESS, TO THE NORTHEASTERLY RIGHT-OF-WAY FOR FLORIDA'S TURNPIKE; THENCE SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY A DISTANCE OF 2,234 FEET, MORE OR LESS, TO THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 20; THENCE NORTH ALONG SAID EAST LINE, 297.32 FEET TO THE SOUTHEAST CORNER OF SAID NORTHEAST 1/4; THENCE NORTH ALONG THE EAST LINE THEREOF, A DISTANCE OF 2,666.25 FEET TO THE POINT OF BEGINNING.

AND:

THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LESS THE RIGHT-OF-WAY FOR FLORIDA'S TURNPIKE AND LESS RIGHT OF WAY FOR COUNTY ROAD 181.

AND LESS:

ANY PORTION OF THOSE LANDS LYING IN SECTION 20, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: BEGIN AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 20; THENCE S89°54'08"E, ALONG THE NORTH LINE THEREOF, 338.16 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF FLORIDA'S TURNPIKE; THENCE DEPARTING SAID NORTH LINE AND ALONG SAID RIGHT-OF-WAY, S56°58'48"E, 258.62 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY, S33°01'12"W, 200.00 FEET; THENCE N56°58'48"W, 532.03 FEET TO THE WEST LINE OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4; THENCE ALONG SAID WEST LINE, N00°13'51"E, 19.28 FEET TO THE POINT OF BEGINNING.

AND TOGETHER WITH:

THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA.

AND:

THAT PORTION OF SECTION 20, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING SOUTHWEST OF FLORIDA'S TURNPIKE, DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 SAID SECTION 20 RUN ALONG THE EAST LINE THEREOF, N00°13'44"W, 46.67 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID EAST LINE, N00°13'44"W, 1,878.15 FEET, MORE OR LESS, TO THE SOUTHWESTERLY RIGHT-OF-WAY OF FLORIDA'S TURNPIKE; THENCE N43°22'33"W, ALONG SAID RIGHT-OF-WAY 3,007.70 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 5,579.58 FEET; THENCE NORTHWESTERLY ALONG THE ARC THEREOF THROUGH A CENTRAL ANGLE OF 07°55'57", A DISTANCE OF 772.48 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 20; THENCE DEPARTING SAID SOUTHWESTERLY RIGHT-OF-WAY AND ALONG SAID WEST LINE, S00°14'50"E, 659.43 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 20; THENCE DEPARTING SAID WEST LINE AND ALONG THE NORTH LINE OF SOUTHEAST 1/4 OF THE NORTHWEST 1/4, RUN S89°42'48"W, 1,322.27 FEET TO THE NORTHWEST CORNER THEREOF; THENCE DEPARTING SAID NORTH LINE AND ALONG THE WEST LINE OF SAID SOUTHEAST 1/4 OF SAID NORTHWEST 1/4, S00°09'48"E, 654.10 FEET; THENCE DEPARTING SAID WEST LINE, EAST, 353.45 FEET; THENCE SOUTH, 178.54 FEET; THENCE EAST, 580.00 FEET; THENCE NORTH, 178.54 FEET; THENCE EAST, 515.00 FEET; THENCE SOUTH, 666.78 FEET; THENCE WEST, 155.00 FEET; THENCE SOUTH, 612.46 FEET; THENCE EAST, 310.00 FEET; THENCE NORTH, 612.46 FEET; THENCE EAST, 690.00 FEET; THENCE SOUTH, 662.46 FEET; THENCE EAST, 346.52 FEET; THENCE S00°14'17"E, 662.45 FEET; THENCE WEST, 643.40 FEET; THENCE S00°00'35"E, 1,310.50 FEET; THENCE EAST, 1,310.07 FEET; THENCE NORTH, 34.86 FEET; THENCE EAST, 699.16 FEET TO THE POINT OF BEGINNING.

AND:

THAT PORTION OF THE NORTH 3/4 OF THE WEST 1/2 OF SECTION 21, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING WESTERLY OF LAKE OKAHUMPKA AND LYING NORTHEASTERLY OF FLORIDA'S TURNPIKE.

LESS:

ANY PORTION LYING WITHIN THE NORTH 1/2 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 21.

AND TOGETHER WITH:

THOSE PORTIONS OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF SECTION 21, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA AND THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 21 LYING SOUTH OF LAKE OKAHUMPKA; LESS RIGHT-OF-WAY FOR FLORIDA'S TURNPIKE.

AND:

THOSE PORTIONS OF SECTION 27, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 AND THE SOUTH 1/2 OF SAID SECTION 27; LESS RIGHT-OF-WAY FOR FLORIDA'S TURNPIKE AND LESS RIGHT-OF-WAY FOR COUNTY ROAD NO. C-468; AND LESS: FROM THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 27, RUN S00°27'14"W, 1,063.37 FEET TO A POINT 900.00 FEET NORTH OF THE RIGHT-OF-WAY FOR COUNTY ROAD C-468 AND THE POINT OF BEGINNING; THENCE S00°27'14"W, 900.00 FEET TO SAID RIGHT-OF-WAY; THENCE S63°16'44"W ALONG SAID RIGHT-OF-WAY 168.53 FEET; THENCE N00°27'14"E, 900.00 FEET; THENCE N63°16'44"E 168.53 FEET TO THE POINT OF BEGINNING.

AND:

ALL OF SECTION 28, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; LESS RIGHT-OF-WAY FOR FLORIDA'S TURNPIKE AND LESS RIGHT-OF-WAY FOR COUNTY ROAD NO. C-468.

AND:

THAT PORTION OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA LYING NORTH OF COUNTY ROAD NO. C-468.

AND:

THAT PORTION OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE NORTHEAST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 29, RUN S00°01'14"E, ALONG THE EAST LINE THEREOF A DISTANCE OF 448.33 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID EAST LINE, S00°01'14"E, 2,210.14 FEET TO THE SOUTHEAST CORNER OF SAID NORTHEAST 1/4; THENCE DEPARTING SAID EAST LINE AND ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID NORTHEAST 1/4, S89°55'49"W, 1,317.71 FEET TO THE NORTHEAST CORNER OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 29; THENCE DEPARTING SAID SOUTH LINE AND ALONG THE EAST LINE OF SAID WEST 1/2, S00°08'41"W, 1,158.85 FEET; THENCE DEPARTING SAID EAST LINE, WEST, 639.67 FEET; THENCE NORTH, 3,500.73 FEET; THENCE EAST, 1,260.07 FEET; THENCE SOUTH, 130.14 FEET; THENCE EAST, 699.51 FEET TO THE POINT OF BEGINNING.

AND

THOSE PORTIONS OF SECTION 33, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS;

THE NORTH 3/4 OF THE EAST 1/2 OF SAID SECTION; LESS RIGHT-OF-WAY FOR COUNTY ROAD 501 AND LESS RIGHT-OF-WAY FOR COUNTY ROAD C-468;

AND

THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 33, TOWNSHIP 19 SOUTH, RANGE 23 EAST, AND THE NORTH 30.00 FEET OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 33; LESS THAT PORTION OF THE EAST 35.75 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, LYING SOUTH OF THE NORTH 208.71 FEET THEREOF, ALSO LESS RIGHT-OF-WAY FOR COUNTY ROAD 501;

AND:

ALL OF SECTION 34, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; LESS RIGHT-OF-WAY FOR FLORIDA'S TURNPIKE; ALSO LESS RIGHT-OF-WAYS FOR COUNTY ROAD C-468 AND COUNTY ROAD 501.

AND:

THAT PORTION OF THE SOUTH 3/4 OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING SOUTH OF THE RIGHT-OF-WAY FOR STATE ROAD NO. 44 AND WEST OF COUNTY ROAD NO. C-468, LESS AND EXCEPT THE WEST 1/4 OF THE WEST 1/2 OF SAID SECTION, AND LESS AND EXCEPT THE SOUTH 139 FEET OF THE WEST 1,000 FEET OF THE EAST 3/4 OF THE NORTHWEST 1/4 OF SAID SECTION, AND LESS AND EXCEPT THE WEST 1,000 FEET OF THE EAST 3/4 OF THE SOUTHWEST 1/4 OF SAID SECTION, LESS ANY PORTION THEREOF LYING SOUTH OF THE FOLLOWING DESCRIBED LINE: COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 23 AND RUN S89°32'28"E, 1,666.68 FEET; THENCE N00°11'52"E, 12.60 FEET TO THE POINT OF BEGINNING; THENCE RUN S89°58'28"E, 914.12 FEET TO THE WEST RIGHT-OF-WAY OF COUNTY ROAD NO. C-468 AND THE POINT OF TERMINUS OF SAID LINE.

AND:

THAT PORTION OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING EAST OF COUNTY ROAD C-468 AND SOUTH OF THE RIGHT OF WAY FOR STATE ROAD 44.

AND:

THE SOUTHWEST 1/4 AND THAT PORTION OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING SOUTH OF THE SOUTH RIGHT-OF-WAY OF STATE ROAD NO. 44 AND LYING WESTERLY OF THE WESTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD 44; SAID WESTERLY RIGHT-OF-WAY BEING DESCRIBED AS FOLLOWS: FROM THE SOUTHEAST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 24, RUN S89°32'23"W, ALONG THE SOUTH LINE THEREOF, A DISTANCE OF

1,660.42 FEET TO A POINT ON SAID WESTERLY RIGHT-OF-WAY AND THE POINT OF BEGINNING; THENCE N15°33'34"W, 76.17 FEET; THENCE N33°40'40"W, 89.06 FEET; THENCE N56°01'00"W, 109.03 FEET; THENCE N81°01'49"W, 111.45 FEET; THENCE N08°58'11"E, 220.30 FEET; THENCE S81°01'49"E, 195.00 FEET; THENCE N78°16'29"E, 90.30 FEET; THENCE N43°41'47"E, 58.88 FEET; THENCE N16°11'00"E, 61.72 FEET TO THE POINT OF TERMINUS.

AND:

ALL OF SECTION 25, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LESS THE NORTH 1/2 OF THE NORTHEAST 1/4 AND LESS THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION.

AND:

THAT PORTION OF SECTION 26, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING EASTERLY AND SOUTHERLY OF COUNTY ROAD C-468, LESS THE EAST 436.00 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION, LYING SOUTH OF COUNTY ROAD NO. C-468.

AND:

ALL OF SECTION 36, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, AND THAT PORTION OF SECTION 35, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING NORTH OF FLORIDA'S TURNPIKE.

AND:

THOSE PORTIONS OF SECTIONS 1 AND 2, TOWNSHIP 20 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING NORTH OF FLORIDA'S TURNPIKE.

LESS:

THAT LAND LYING IN SECTION 1, TOWNSHIP 20 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 23 EAST IN SUMTER COUNTY, FLORIDA; THENCE RUN S00°40'20"W, ALONG THE EAST BOUNDARY OF SAID SECTION 1, A DISTANCE OF 1,740.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S00°40'20"W, ALONG SAID EAST BOUNDARY OF SECTION 1, A DISTANCE OF 1,057.86 FEET TO THE EAST 1/4 CORNER OF SAID SECTION 1; THENCE S00°44'45"W, ALONG SAID EAST BOUNDARY OF SECTION 1, A DISTANCE OF 2,487.49 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF FLORIDA'S TURNPIKE; THENCE RUN ALONG SAID NORTHERLY RIGHT OF WAY LINE THE FOLLOWING THREE (3) COURSES: (1) N42°21'30"W, A DISTANCE OF 505.19 FEET TO A CURVE THAT IS CONCAVE TO THE SOUTHWEST; (2) THENCE NORTHWESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 1,498.35 FEET (SAID CURVE HAVING A RADIUS OF 5,879.58 FEET, A CENTRAL ANGLE OF 14°36'04" AND

A CHORD BEARING AND DISTANCE OF N49°46'20"W, 1,494.30 FEET); (3) THENCE N57°03'06"W, A DISTANCE OF 287.77 FEET; THENCE N02°21'09"W, A DISTANCE OF 337.71 FEET; THENCE N00°39'29"E, A DISTANCE OF 1,724.92 FEET; THENCE S89°36'07"E, A DISTANCE OF 1,733.89 FEET RETURNING TO THE POINT OF BEGINNING.

AND:

THOSE PORTIONS OF SECTIONS 6, 7, 8, 9, 16, AND 17, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 6, WHICH IS THE POINT OF BEGINNING; THENCE RUN NORTH 00°39'41" EAST, ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 6, A DISTANCE OF 2,360.48 FEET; THENCE DEPARTING SAID WEST LINE, RUN SOUTH 30°29'04" EAST, A DISTANCE OF 19.79 FEET; THENCE RUN SOUTH 20°37'14" EAST, A DISTANCE OF 84.19 FEET; THENCE RUN SOUTH 76°53'11" EAST, A DISTANCE OF 47.78 FEET; THENCE RUN SOUTH 36°10'15" EAST, A DISTANCE OF 68.70 FEET; THENCE RUN SOUTH 53°58'30" EAST, A DISTANCE OF 83.28 FEET; THENCE RUN SOUTH 44°52'44" EAST, A DISTANCE OF 70.96 FEET; THENCE RUN SOUTH 03°00'03" WEST, A DISTANCE OF 85.15 FEET; THENCE RUN SOUTH 64°52'10" EAST, A DISTANCE OF 45.25 FEET; THENCE RUN SOUTH 88°04'24" EAST, A DISTANCE OF 34.38 FEET; THENCE RUN NORTH 09°21'14" EAST, A DISTANCE OF 78.78 FEET; THENCE RUN SOUTH 88°37'45" EAST, A DISTANCE OF 36.40 FEET; THENCE RUN NORTH 61°16'45" EAST, A DISTANCE OF 78.67 FEET; THENCE RUN NORTH 79°11'16" EAST, A DISTANCE OF 87.21 FEET; THENCE RUN NORTH 82°04'48" EAST, A DISTANCE OF 69.61 FEET; THENCE RUN NORTH 60°17'41" EAST, A DISTANCE OF 102.77 FEET; THENCE RUN SOUTH 46°03'35" EAST, A DISTANCE OF 89.04 FEET; THENCE RUN SOUTH 25°57'33" EAST, A DISTANCE OF 431.46 FEET; THENCE RUN SOUTH 46°18'25" EAST, A DISTANCE OF 100.01 FEET; THENCE RUN SOUTH 80°46'10" EAST, A DISTANCE OF 82.69 FEET; THENCE RUN SOUTH 82°49'12" EAST, A DISTANCE OF 85.20 FEET; THENCE RUN SOUTH 39°42'02" EAST, A DISTANCE OF 45.75 FEET; THENCE RUN SOUTH 14°23'50" WEST, A DISTANCE OF 70.58 FEET; THENCE RUN SOUTH 29°58'34" EAST, A DISTANCE OF 76.07 FEET; THENCE RUN SOUTH 23°08'46" EAST, A DISTANCE OF 39.04 FEET; THENCE RUN SOUTH 11°00'19" WEST, A DISTANCE OF 95.71 FEET; THENCE RUN SOUTH 09°22'14" WEST, A DISTANCE OF 123.51 FEET; THENCE RUN SOUTH 09°41'56" EAST, A DISTANCE OF 80.26 FEET; THENCE RUN SOUTH 43°34'44" EAST, A DISTANCE OF 98.73 FEET; THENCE RUN NORTH 76°35'25" EAST, A DISTANCE OF 50.82 FEET; THENCE RUN SOUTH 62°33'16" EAST, A DISTANCE OF 86.58 FEET; THENCE RUN SOUTH 64°36'42" EAST, A DISTANCE OF 71.30 FEET; THENCE RUN NORTH 76°42'30" EAST, A DISTANCE OF

44.48 FEET; THENCE RUN SOUTH 32°12'12" EAST, A DISTANCE OF 957.86 FEET; THENCE RUN SOUTH 07°10'01" WEST, A DISTANCE OF 91.08 FEET; THENCE RUN SOUTH 61°21'16" EAST, A DISTANCE OF 47.28 FEET; THENCE RUN SOUTH 40°28'15" EAST, A DISTANCE OF 120.86 FEET; THENCE RUN SOUTH 44°33'11" EAST, A DISTANCE OF 69.24 FEET; THENCE RUN SOUTH 37°26'37" EAST, A DISTANCE OF 89.41 FEET; THENCE RUN SOUTH 07°06'18" EAST, A DISTANCE OF 113.64 FEET; THENCE RUN SOUTH 09°52'34" EAST, A DISTANCE OF 113.85 FEET; THENCE RUN SOUTH 35°28'16" WEST, A DISTANCE OF 89.69 FEET; THENCE RUN SOUTH 64°22'33" EAST, A DISTANCE OF 118.81 FEET; THENCE RUN SOUTH 52°22'56" EAST, A DISTANCE OF 90.58 FEET; THENCE RUN NORTH 79°20'02" EAST, A DISTANCE OF 136.10 FEET; THENCE RUN NORTH 52°22'55" EAST, A DISTANCE OF 86.83 FEET; THENCE RUN NORTH 36°24'30" EAST, A DISTANCE OF 105.87 FEET; THENCE RUN NORTH 48°55'55" EAST, A DISTANCE OF 45.49 FEET; THENCE RUN SOUTH 89°56'18" EAST, A DISTANCE OF 151.08 FEET; THENCE RUN NORTH 24°38'40" EAST, A DISTANCE OF 110.35 FEET; THENCE RUN NORTH 46°09'26" EAST, A DISTANCE OF 81.02 FEET; THENCE RUN SOUTH 86°18'52" EAST, A DISTANCE OF 62.24 FEET; THENCE RUN SOUTH 27°38'50" EAST, A DISTANCE OF 68.64 FEET; THENCE RUN SOUTH 41°23'00" EAST, A DISTANCE OF 95.74 FEET; THENCE RUN SOUTH 09°19'22" EAST, A DISTANCE OF 161.00 FEET; THENCE RUN SOUTH 22°58'56" EAST, A DISTANCE OF 78.10 FEET; THENCE RUN SOUTH 41°13'52" WEST, A DISTANCE OF 71.83 FEET; THENCE RUN SOUTH 67°32'49" WEST, A DISTANCE OF 60.90 FEET; THENCE RUN SOUTH 22°37'04" WEST, A DISTANCE OF 125.78 FEET; THENCE RUN SOUTH 05°54'07" WEST, A DISTANCE OF 58.17 FEET; THENCE RUN SOUTH 09°17'29" EAST, A DISTANCE OF 113.07 FEET; THENCE RUN SOUTH 17°42'35" WEST, A DISTANCE OF 84.59 FEET; THENCE RUN SOUTH 54°18'47" EAST, A DISTANCE OF 86.37 FEET; THENCE RUN SOUTH 59°31'01" EAST, A DISTANCE OF 114.87 FEET; THENCE RUN SOUTH 62°38'05" EAST, A DISTANCE OF 134.39 FEET; THENCE RUN SOUTH 39°09'25" EAST, A DISTANCE OF 51.70 FEET; THENCE RUN SOUTH 80°59'23" EAST, A DISTANCE OF 80.02 FEET; THENCE RUN NORTH 35°54'34" EAST, A DISTANCE OF 63.23 FEET; THENCE RUN SOUTH 74°27'55" EAST, A DISTANCE OF 81.89 FEET; THENCE RUN SOUTH 04°00'12" EAST, A DISTANCE OF 73.97 FEET; THENCE RUN SOUTH 80°14'56" EAST, A DISTANCE OF 67.06 FEET; THENCE RUN SOUTH 62°54'57" EAST, A DISTANCE OF 47.02 FEET; THENCE RUN SOUTH 80°58'05" EAST, A DISTANCE OF 47.16 FEET; THENCE RUN NORTH 50°24'47" EAST, A DISTANCE OF 52.77 FEET; THENCE RUN NORTH 16°30'08" WEST, A DISTANCE OF 34.10 FEET; THENCE RUN NORTH 00°36'32" WEST, A DISTANCE OF 52.85 FEET; THENCE RUN SOUTH 40°59'45" EAST, A DISTANCE OF 106.23 FEET; THENCE RUN SOUTH 55°44'00" EAST, A DISTANCE OF 86.62 FEET; THENCE RUN SOUTH 33°10'27" EAST, A DISTANCE OF 83.20 FEET; THENCE RUN SOUTH 55°17'24" EAST, A DISTANCE OF 68.84 FEET; THENCE RUN SOUTH 46°21'25" EAST, A DISTANCE OF 101.01 FEET; THENCE RUN NORTH 74°50'26" EAST, A DISTANCE OF 86.17 FEET;

THENCE RUN SOUTH 82°04'41" EAST, A DISTANCE OF 120.38 FEET; THENCE RUN NORTH 58°22'49" EAST, A DISTANCE OF 68.80 FEET; THENCE RUN SOUTH 60°56'38" EAST, A DISTANCE OF 75.22 FEET; THENCE RUN SOUTH 03°14'40" WEST, A DISTANCE OF 76.66 FEET; THENCE RUN SOUTH 50°59'10" WEST, A DISTANCE OF 90.51 FEET; THENCE RUN SOUTH 36°37'10" WEST, A DISTANCE OF 76.43 FEET; THENCE RUN SOUTH 12°29'53" EAST, A DISTANCE OF 471.98 FEET; THENCE RUN SOUTH 24°47'34" EAST, A DISTANCE OF 104.62 FEET; THENCE RUN SOUTH 12°21'53" WEST, A DISTANCE OF 65.63 FEET; THENCE RUN SOUTH 18°03'40" EAST, A DISTANCE OF 67.17 FEET; THENCE RUN SOUTH 25°58'11" EAST, A DISTANCE OF 64.57 FEET; THENCE RUN SOUTH 27°55'06" EAST, A DISTANCE OF 100.44 FEET; THENCE RUN SOUTH 35°22'32" WEST, A DISTANCE OF 59.70 FEET; THENCE RUN SOUTH 13°35'06" EAST, A DISTANCE OF 68.53 FEET; THENCE RUN SOUTH 51°53'59" EAST, A DISTANCE OF 156.93 FEET; THENCE RUN SOUTH 66°50'45" EAST, A DISTANCE OF 64.60 FEET; THENCE RUN SOUTH 48°38'48" WEST, A DISTANCE OF 54.10 FEET; THENCE RUN SOUTH 08°34'50" WEST, A DISTANCE OF 80.78 FEET; THENCE RUN SOUTH 08°53'51" WEST, A DISTANCE OF 102.76 FEET; THENCE RUN SOUTH 13°03'25" WEST, A DISTANCE OF 64.08 FEET; THENCE RUN SOUTH 27°21'03" WEST, A DISTANCE OF 92.67 FEET; THENCE RUN SOUTH 58°32'05" WEST, A DISTANCE OF 39.73 FEET; THENCE RUN SOUTH 05°28'43" WEST, A DISTANCE OF 111.73 FEET; THENCE RUN SOUTH 12°31'44" WEST, A DISTANCE OF 83.93 FEET; THENCE RUN SOUTH 55°17'54" WEST, A DISTANCE OF 62.16 FEET; THENCE RUN NORTH 84°37'02" WEST, A DISTANCE OF 51.91 FEET; THENCE RUN NORTH 88°34'03" WEST, A DISTANCE OF 32.60 FEET; THENCE RUN SOUTH 42°06'52" WEST, A DISTANCE OF 58.01 FEET; THENCE RUN SOUTH 12°33'12" WEST, A DISTANCE OF 37.53 FEET; THENCE RUN SOUTH 20°36'57" WEST, A DISTANCE OF 33.88 FEET; THENCE RUN SOUTH 20°04'52" EAST, A DISTANCE OF 53.52 FEET; THENCE RUN SOUTH 24°42'25" EAST, A DISTANCE OF 74.30 FEET; THENCE RUN SOUTH 30°43'24" EAST, A DISTANCE OF 665.00 FEET; THENCE RUN SOUTH 76°34'14" EAST, A DISTANCE OF 477.21 FEET; THENCE RUN SOUTH 71°58'41" EAST, A DISTANCE OF 165.94 FEET; THENCE RUN SOUTH 54°48'46" EAST, A DISTANCE OF 79.68 FEET; THENCE RUN SOUTH 62°41'15" EAST, A DISTANCE OF 108.65 FEET; THENCE RUN SOUTH 62°55'30" EAST, A DISTANCE OF 667.14 FEET; THENCE RUN SOUTH 60°27'48" EAST, A DISTANCE OF 87.14 FEET; THENCE RUN SOUTH 64°03'50" EAST, A DISTANCE OF 106.68 FEET; THENCE RUN SOUTH 43°54'25" EAST, A DISTANCE OF 79.20 FEET; THENCE RUN SOUTH 72°01'07" EAST, A DISTANCE OF 124.60 FEET; THENCE RUN SOUTH 60°09'14" EAST, A DISTANCE OF 62.29 FEET; THENCE RUN SOUTH 31°27'02" EAST, A DISTANCE OF 86.64 FEET; THENCE RUN SOUTH 63°57'31" EAST, A DISTANCE OF 63.36 FEET; THENCE RUN NORTH 89°40'02" EAST, A DISTANCE OF 61.47 FEET; THENCE RUN SOUTH 25°03'35" EAST, A DISTANCE OF 41.98 FEET; THENCE RUN SOUTH 58°26'41" EAST, A DISTANCE OF 77.10 FEET; THENCE RUN NORTH 64°51'43" EAST, A DISTANCE OF 59.71 FEET; THENCE RUN

NORTH 22°27'00" EAST, A DISTANCE OF 133.33 FEET; THENCE RUN NORTH 52°49'57" EAST, A DISTANCE OF 66.67 FEET; THENCE RUN NORTH 35°29'20" EAST, A DISTANCE OF 82.69 FEET; THENCE RUN NORTH 27°10'34" EAST, A DISTANCE OF 56.95 FEET; THENCE RUN SOUTH 79°02'53" EAST, A DISTANCE OF 94.44 FEET; THENCE RUN NORTH 62°59'52" EAST, A DISTANCE OF 87.39 FEET; THENCE RUN SOUTH 55°10'19" EAST, A DISTANCE OF 51.33 FEET; THENCE RUN SOUTH 56°42'06" EAST, A DISTANCE OF 76.72 FEET; THENCE RUN SOUTH 69°38'47" EAST, A DISTANCE OF 98.62 FEET; THENCE RUN SOUTH 33°07'22" EAST, A DISTANCE OF 66.32 FEET; THENCE RUN SOUTH 12°34'18" EAST, A DISTANCE OF 67.51 FEET; THENCE RUN SOUTH 73°43'09" EAST, A DISTANCE OF 32.57 FEET; THENCE RUN NORTH 88°46'08" EAST, A DISTANCE OF 89.59 FEET; THENCE RUN SOUTH 72°00'24" EAST, A DISTANCE OF 88.54 FEET; THENCE RUN NORTH 82°00'35" EAST, A DISTANCE OF 82.23 FEET; THENCE RUN NORTH 28°08'41" EAST, A DISTANCE OF 77.60 FEET; THENCE RUN SOUTH 79°52'28" EAST, A DISTANCE OF 72.13 FEET; THENCE RUN SOUTH 84°08'18" EAST, A DISTANCE OF 76.52 FEET; THENCE RUN SOUTH 50°04'27" EAST, A DISTANCE OF 116.72 FEET; THENCE RUN SOUTH 18°05'38" EAST, A DISTANCE OF 86.72 FEET; THENCE RUN SOUTH 11°26'26" WEST, A DISTANCE OF 91.89 FEET; THENCE RUN SOUTH 29°04'26" EAST, A DISTANCE OF 89.79 FEET; THENCE RUN SOUTH 09°58'55" EAST, A DISTANCE OF 91.28 FEET; THENCE RUN SOUTH 40°14'22" EAST, A DISTANCE OF 56.45 FEET; THENCE RUN SOUTH 43°10'08" EAST, A DISTANCE OF 86.77 FEET; THENCE RUN SOUTH 30°23'40" EAST, A DISTANCE OF 63.23 FEET; THENCE RUN SOUTH 36°06'06" WEST, A DISTANCE OF 69.17 FEET; THENCE RUN SOUTH 49°24'38" EAST, A DISTANCE OF 39.36 FEET; THENCE RUN NORTH 51°47'53" EAST, A DISTANCE OF 66.55 FEET; THENCE RUN SOUTH 18°39'03" EAST, A DISTANCE OF 66.42 FEET; THENCE RUN SOUTH 13°29'51" EAST, A DISTANCE OF 121.98 FEET; THENCE RUN SOUTH 37°08'09" EAST, A DISTANCE OF 78.28 FEET; THENCE RUN SOUTH 18°59'20" EAST, A DISTANCE OF 85.31 FEET; THENCE RUN SOUTH 29°01'05" WEST, A DISTANCE OF 50.31 FEET; THENCE RUN SOUTH 14°39'12" WEST, A DISTANCE OF 122.19 FEET; THENCE RUN SOUTH 18°44'14" EAST, A DISTANCE OF 78.53 FEET; THENCE RUN SOUTH 53°17'25" EAST, A DISTANCE OF 80.53 FEET; THENCE RUN SOUTH 37°24'41" EAST, A DISTANCE OF 83.16 FEET; THENCE RUN SOUTH 55°25'31" EAST, A DISTANCE OF 71.44 FEET; THENCE RUN NORTH 58°27'23" EAST, A DISTANCE OF 43.35 FEET; THENCE RUN SOUTH 19°10'27" EAST, A DISTANCE OF 37.15 FEET; THENCE RUN SOUTH 63°34'27" WEST, A DISTANCE OF 31.07 FEET; THENCE RUN SOUTH 22°20'25" EAST, A DISTANCE OF 134.31 FEET; THENCE RUN SOUTH 08°26'23" WEST, A DISTANCE OF 67.96 FEET; THENCE RUN SOUTH 22°50'36" EAST, A DISTANCE OF 95.16 FEET; THENCE RUN SOUTH 68°08'39" EAST, A DISTANCE OF 101.39 FEET; THENCE RUN SOUTH 84°06'33" EAST, A DISTANCE OF 143.78 FEET; THENCE RUN SOUTH 53°36'32" EAST, A DISTANCE OF 79.23 FEET; THENCE RUN SOUTH 62°30'27" EAST, A DISTANCE OF 79.89 FEET; THENCE RUN SOUTH 80°26'17"

EAST, A DISTANCE OF 103.16 FEET; THENCE RUN SOUTH 50°11'10" EAST, A DISTANCE OF 58.15 FEET; THENCE RUN SOUTH 66°52'59" EAST, A DISTANCE OF 72.77 FEET; THENCE RUN SOUTH 63°53'24" EAST, A DISTANCE OF 143.33 FEET; THENCE RUN SOUTH 83°14'16" EAST, A DISTANCE OF 82.39 FEET; THENCE RUN SOUTH 46°01'21" EAST, A DISTANCE OF 132.57 FEET; THENCE RUN SOUTH 30°59'41" EAST, A DISTANCE OF 81.79 FEET; THENCE RUN NORTH 86°11'27" EAST, A DISTANCE OF 73.17 FEET; THENCE RUN NORTH 62°36'40" EAST, A DISTANCE OF 109.25 FEET; THENCE RUN NORTH 76°42'21" EAST, A DISTANCE OF 117.81 FEET; 1) THENCE RUN SOUTH 00°30'28" WEST, A DISTANCE OF 58.37 FEET; 2) THENCE RUN NORTH 59°53'32" EAST, A DISTANCE OF 54.81 FEET; 3) THENCE RUN SOUTH 43°52'35" EAST, A DISTANCE OF 38.23 FEET; 4) THENCE RUN SOUTH 75°34'26" EAST, A DISTANCE OF 45.20 FEET; 5) THENCE RUN SOUTH 70°37'50" EAST, A DISTANCE OF 23.34 FEET; 6) THENCE RUN SOUTH 65°59'05" EAST, A DISTANCE OF 142.77 FEET; 7) THENCE RUN SOUTH 71°48'27" EAST, A DISTANCE OF 41.59 FEET; 8) THENCE RUN SOUTH 73°29'01" EAST, A DISTANCE OF 85.77 FEET; 9) THENCE RUN NORTH 83°59'28" EAST, A DISTANCE OF 72.88 FEET; 10) THENCE RUN NORTH 82°39'04" EAST, A DISTANCE OF 75.52 FEET; 11) THENCE RUN NORTH 22°53'15" EAST, A DISTANCE OF 49.24 FEET; 12) THENCE RUN NORTH 42°47'28" EAST, A DISTANCE OF 36.32 FEET; 13) THENCE RUN NORTH 66°51'09" EAST, A DISTANCE OF 48.16 FEET; 14) THENCE RUN NORTH 82°25'46" EAST, A DISTANCE OF 75.22 FEET; 15) THENCE RUN NORTH 82°09'15" EAST, A DISTANCE OF 66.23 FEET; 16) THENCE RUN NORTH 72°05'31" EAST, A DISTANCE OF 32.56 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST 1/4 OF SECTION 9; 1) THENCE RUN SOUTH 00°30'28" WEST, ALONG SAID WEST LINE, A DISTANCE OF 107.66 FEET; 2) THENCE DEPARTING SAID WEST LINE, RUN SOUTH 89°33'30" EAST, A DISTANCE OF 841.08 FEET; 3) THENCE RUN SOUTH 02°20'16" EAST, A DISTANCE OF 303.39 FEET; 4) THENCE RUN SOUTH 60°11'33" EAST, A DISTANCE OF 535.18 FEET; 5) THENCE RUN SOUTH 00°10'55" WEST, A DISTANCE OF 387.25 FEET; 6) THENCE RUN SOUTH 00°48'18" WEST, A DISTANCE OF 599.91 FEET; 7) THENCE RUN SOUTH 88°56'30" EAST, A DISTANCE OF 2,556.25 FEET; 8) THENCE RUN SOUTH 00°49'33" WEST, A DISTANCE OF 5.52 FEET; 9) THENCE RUN SOUTH 43°39'58" WEST, A DISTANCE OF 170.17 FEET; 10) THENCE RUN SOUTH 13°50'45" WEST, A DISTANCE OF 147.54 FEET; 11) THENCE RUN SOUTH 26°56'42" EAST, A DISTANCE OF 135.90 FEET; 12) THENCE RUN SOUTH 41°29'44" EAST, A DISTANCE OF 127.17 FEET; 13) THENCE RUN SOUTH 00°49'33" WEST, A DISTANCE OF 891.81 FEET; 14) THENCE RUN NORTH 88°56'27" WEST, A DISTANCE OF 65.00 FEET; 15) THENCE RUN SOUTH 00°49'33" WEST, A DISTANCE OF 644.96 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF COUNTY ROAD NO. 470, THENCE RUN ALONG SAID NORTH AND EAST RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES AND DISTANCES: 1) THENCE RUN NORTH 88°56'30" WEST, A DISTANCE OF 2,673.97 FEET TO A POINT OF CURVATURE OF A 1095.82 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST; 2) THENCE RUN

NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°43'22" AN ARC DISTANCE OF 1,716.01 FEET TO A POINT OF TANGENCY; 3) THENCE RUN NORTH 00°46'52" EAST, A DISTANCE OF 378.96 FEET TO A POINT OF CURVATURE OF A 1196.40 FOOT RADIUS CURVE CONCAVE TO THE WEST; 4) THENCE RUN NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 30°56'25" AN ARC DISTANCE OF 646.07 FEET TO A POINT OF NON-TANGENCY; THENCE DEPARTING SAID RIGHT-OF-WAY LINE, RUN S89°13'08"E, A DISTANCE OF 120.24 FEET TO A POINT ON THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 17; THENCE RUN NORTH 00°46'52" EAST, ALONG SAID EAST LINE, A DISTANCE OF 535.00 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 9; THENCE RUN NORTH 00°30'28" EAST, ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 9, A DISTANCE OF 100.00 FEET; THENCE RUN NORTH 89°24'17" WEST, A DISTANCE OF 807.90 FEET; THENCE RUN SOUTH 00°30'28" WEST, A DISTANCE OF 99.99 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF SAID COUNTY ROAD NO. 470, SAID POINT BEING ON A 1196.40 FOOT RADIUS NONTANGENT CURVE CONCAVE TO THE SOUTH WHOSE RADIUS POINT BEARS SOUTH 17°12'59" WEST; THENCE RUN WESTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES AND DISTANCES: 1) THENCE RUN ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16°37'16" AN ARC DISTANCE OF 347.07 FEET TO A POINT OF TANGENCY; 2) THENCE RUN NORTH 89°24'17" WEST, A DISTANCE OF 1,259.47 FEET; THENCE DEPARTING SAID NORTH RIGHT-OF-WAY LINE, RUN THE FOLLOWING FIVE (5) COURSES AND DISTANCES) 1) THENCE NORTH 00°35'45" EAST, A DISTANCE OF 88.48 FEET TO A POINT OF CURVATURE OF A 105.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST; 2) THENCE RUN NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°35'45" AN ARC DISTANCE OF 166.03 FEET TO A POINT OF TANGENCY; 3) THENCE RUN NORTH 90°00'00" WEST, A DISTANCE OF 2,533.64 FEET; 4) THENCE RUN SOUTH 00°32'45" WEST, A DISTANCE OF 36.20 FEET; 5) THENCE RUN NORTH 89°23'48" WEST, A DISTANCE OF 232.60 FEET; THENCE RUN NORTH 42°26'19" WEST, A DISTANCE OF 1,523.35 FEET; THENCE RUN SOUTH 47°33'41" WEST, A DISTANCE OF 270.00 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF THE FLORIDA TURNPIKE (STATE ROAD NO. 91, A VARIABLE WIDTH RIGHT-OF-WAY, THENCE RUN NORTH 42°26'19" WEST, ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 5,966.03 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 6; THENCE DEPARTING SAID NORTHEASTERLY RIGHT-OF-WAY LINE, RUN NORTH 00°45'14" EAST, ALONG SAID WEST LINE, A DISTANCE OF 2,487.91 FEET TO THE POINT OF BEGINNING.

AND:

A PORTION OF SECTION 9, TOWNSHIP 20 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 9; THENCE RUN SOUTH 89°11'07" EAST, ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 9, A DISTANCE OF 2,650.14 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 9; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 00°45'24" EAST, ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 9, A DISTANCE OF 1,340.43 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID EAST LINE, RUN THE FOLLOWING FIVE (5) COURSES AND DISTANCES: 1) THENCE RUN NORTH 90°00'00" WEST, A DISTANCE OF 1,427.39 FEET; 2) THENCE RUN NORTH 20°12'05" EAST, A DISTANCE OF 896.56 FEET; 3) THENCE RUN SOUTH 89°45'55" EAST, A DISTANCE OF 1,510.88 FEET; 4) THENCE RUN SOUTH 00°00'00" EAST, A DISTANCE OF 538.26 FEET; 5) THENCE RUN NORTH 90°00'00" EAST, A DISTANCE OF 1,602.12 FEET; THENCE THE FOLLOWING TWO (2) COURSES AND DISTANCES: 1) THENCE RUN SOUTH 00°36'49" WEST, A DISTANCE OF 831.10 FEET; 2) THENCE RUN NORTH 88°50'30" WEST, A DISTANCE OF 192.44 FEET; THENCE THE FOLLOWING FOUR (4) COURSES AND DISTANCES: 1) THENCE RUN NORTH 74°45'27" WEST, A DISTANCE OF 957.72 FEET; 2) THENCE RUN NORTH 90°00'00" WEST, A DISTANCE OF 631.59 FEET; 3) THENCE RUN NORTH 01°16'27" EAST, A DISTANCE OF 278.48 FEET; 4) THENCE RUN NORTH 90°00'00" WEST, A DISTANCE OF 244.47 FEET TO THE POINT OF BEGINNING.

AND:

THE SOUTH 360.00 FEET OF THE WEST 330.00 FEET OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 AND THE SOUTH 1/2 OF THE WEST 3/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 AND THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 AND THE WEST 1/2 OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 AND THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, ALL LYING WITHIN SECTION 36, TOWNSHIP 19 SOUTH, RANGE 22 EAST, SUMTER COUNTY, FLORIDA.

AND:

THAT PORTION OF THE WEST 3/4 OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 19 SOUTH, RANGE 22 EAST, SUMTER COUNTY, FLORIDA, LYING EAST OF THE EASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 301 AND LYING EAST OF THE EASTERLY RIGHT-OF-WAY FOR THE CSX TRANSPORTATION, INC. RAILROAD.

AND:

THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 36, TOWNSHIP 19 SOUTH, RANGE 22 EAST, SUMTER COUNTY, FLORIDA; LESS THE WEST 462.00 FEET OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 36; LESS RIGHT-OF-WAY FOR US HIGHWAY 301.

AND TOGETHER WITH:

THE WEST 1/2 OF THE SOUTHWEST 1/4 AND THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 31, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA.

AND:

THE NORTH 1/2 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 22 EAST, SUMTER COUNTY, FLORIDA, LYING WEST OF THE WESTERLY RIGHT-OF-WAY FOR THE CSX TRANSPORTATION, INC. RAILROAD AND LYING EAST OF THE EASTERLY RIGHT-OF-WAY FOR U.S. HIGHWAY 301.

AND:

THAT LAND LYING IN SECTIONS 1 AND 12, TOWNSHIP 20 SOUTH, RANGE 22 EAST AND SECTION 6, TOWNSHIP 20 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 6, THENCE S89°46'01"E, ALONG THE NORTH LINE OF SAID NORTHWEST 1/4 A DISTANCE OF 1,332.29 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 6; THENCE DEPARTING SAID NORTH LINE, S00°25'14"W, ALONG THE EAST LINE OF SAID NORTHWEST 1/4 OF THE NORTHWEST 1/4 A DISTANCE OF 517.80 FEET TO THE POINT OF INTERSECTION WITH THE THREAD OF SHADY BROOK; THENCE DEPARTING SAID EAST LINE AND SOUTHWESTERLY ALONG THE THREAD OF SHADY BROOK THE FOLLOWING COURSES: S30°39'11"W, 206.13 FEET; THENCE S36°48'33"W, 143.00 FEET; THENCE S34°04'51"W, 43.09 FEET; THENCE S63°06'48"W, 108.78 FEET; THENCE S72°59'03"W, 51.27 FEET; THENCE S80°53'56"W, 47.52 FEET; THENCE S86°58'55"W, 99.28 FEET; THENCE S63°14'45"W, 238.03 FEET; THENCE S64°37'12"W, 183.19 FEET; THENCE S54°17'50"W, 178.15 FEET; THENCE S36°57'57"W, 104.22 FEET; THENCE S64°03'19"W, 91.46 FEET; THENCE S79°02'43"W, 121.33 FEET; THENCE S49°27'14"W, 52.20 FEET; THENCE S34°24'56"W, 9.47 FEET TO A POINT ON THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 1; THENCE CONTINUE, S34°24'56"W, 30.44 FEET; THENCE S59°44'16"W, 154.04 FEET; THENCE S30°49'44"W, 144.25 FEET; THENCE N87°27'56"W, 58.62 FEET; THENCE S85°40'21"W, 48.94 FEET; THENCE S18°42'44"E, 63.68 FEET; THENCE S14°30'36"W, 130.54 FEET; THENCE S01°07'45"W, 141.92 FEET; THENCE S24°03'28"W, 76.51 FEET; THENCE S10°05'36"E, 115.89 FEET; THENCE S16°05'47"W, 63.83 FEET; THENCE S32°41'14"E, 75.25 FEET; THENCE S04°35'00"W, 116.68 FEET; THENCE S26°25'53"W, 52.90 FEET; THENCE S00°21'54"E, 51.65 FEET; THENCE S19°42'07"W, 154.14 FEET; THENCE S43°35'24"W, 41.44 FEET; THENCE S21°30'06"W, 74.55 FEET; THENCE S48°42'48"W, 65.81 FEET; THENCE S02°37'42"W, 40.74 FEET; THENCE S62°22'04"E, 32.55 FEET; THENCE S09°07'03"E, 60.17 FEET; THENCE S16°24'40"W, 113.37 FEET; THENCE S05°46'29"W, 251.39 FEET; THENCE

S04°15'32"W, 130.09 FEET; THENCE S25°36'48"W, 117.38 FEET; THENCE S06°12'21"W, 138.59 FEET; THENCE S36°14'33"W, 232.60 FEET; THENCE S46°14'48"W, 169.06 FEET; THENCE S04°49'15"W, 88.45 FEET; THENCE S03°42'48"E, 192.67 FEET; THENCE S19°04'40"W, 31.06 FEET; THENCE S34°27'35"W, 36.09 FEET; THENCE S58°44'08"W, 44.18 FEET; THENCE S59°26'37"W, 58.33 FEET; THENCE S38°32'20"W, 55.47 FEET; THENCE S16°35'41"W, 84.01 FEET; THENCE S21°33'55"W, 97.20 FEET; THENCE S23°54'32"E, 28.66 FEET; THENCE S41°29'27"E, 26.10 FEET; THENCE S30°59'47"E, 39.28 FEET; THENCE S14°55'52"E, 38.10 FEET; THENCE S11°49'58"W, 88.82 FEET; THENCE S19°00'08"W, 46.72 FEET; THENCE S28°49'18"W, 23.67 FEET; THENCE S40°08'04"W, 39.25 FEET; THENCE S38°36'42"W, 41.08 FEET; THENCE S21°12'41"W, 38.95 FEET; THENCE S16°26'36"W, 24.74 FEET; THENCE S09°11'47"W, 28.03 FEET; THENCE S08°34'46"W, 23.19 FEET; THENCE S05°21'12"E, 29.61 FEET; THENCE S28°10'45"E, 36.92 FEET; THENCE S75°29'10"E, 20.45 FEET; THENCE N67°11'38"E, 22.32 FEET; THENCE N88°20'00"E, 26.86 FEET; THENCE S74°55'26"E, 27.38 FEET; THENCE S43°39'31"E, 44.11 FEET; THENCE S41°08'31"E, 42.24 FEET; THENCE S22°17'43"E, 51.17 FEET; THENCE S19°34'30"E, 61.33 FEET; THENCE S32°49'22"W, 61.93 FEET; THENCE S37°12'00"E, 66.43 FEET TO A POINT ON THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 12; THENCE CONTINUE, S37°12'00"E, 39.30 FEET; THENCE S36°28'50"E, 150.92 FEET; THENCE S28°41'04"E, 139.61 FEET; THENCE S31°11'07"E, 125.28 FEET; THENCE S15°02'29"E, 46.48 FEET; THENCE S25°54'31"W, 70.38 FEET; THENCE S76°11'03"W, 66.74 FEET; THENCE S37°11'56"W, 61.96 FEET; THENCE S08°45'08"W, 44.31 FEET; THENCE S29°20'21"W, 56.13 FEET; THENCE S65°06'50"W, 84.81 FEET; THENCE S35°05'50"W, 33.63 FEET; THENCE S04°01'16"E, 81.82 FEET; THENCE S08°08'17"E, 31.27 FEET; THENCE S82°32'13"W, 52.89 FEET; THENCE S76°06'15"W, 53.55 FEET; THENCE S51°31'21"W, 72.74 FEET; THENCE N76°04'09"W, 74.49 FEET; THENCE S70°24'30"W, 94.69 FEET; THENCE N75°53'26"W, 83.36 FEET; THENCE N78°44'02"W, 101.62 FEET; THENCE S57°51'16"W, 70.43 FEET; THENCE S82°18'42"W, 123.84 FEET; THENCE N76°08'09"W, 91.02 FEET; THENCE N69°31'29"W, 170.51 FEET; THENCE N70°22'02"W, 75.02 FEET; THENCE S72°31'51"W, 44.94 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY FOR THE CSX TRANSPORTATION, INC. RAILROAD; THENCE DEPARTING THE THREAD OF SHADY BROOK, N21°14'42"W, ALONG SAID EASTERLY RAILROAD RIGHT-OF-WAY A DISTANCE OF 6,598.34 FEET TO A POINT ON THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 1; THENCE DEPARTING SAID EASTERLY RAILROAD RIGHT-OF-WAY AND ALONG SAID NORTH LINE, S89°52'06"E, 1,731.21 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 1; THENCE ALONG THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 1, S89°45'59"E, 2,648.68 FEET TO THE POINT OF BEGINNING.

LESS:

ANY PORTION LYING THEREOF WITHIN THE NORTH 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 22 EAST, SUMTER COUNTY, FLORIDA.

AND:

THAT PORTION OF THE NORTH 3/4 OF SECTION 34, TOWNSHIP 19 SOUTH, RANGE 22 EAST, SUMTER COUNTY, FLORIDA; LYING EAST OF THE RIGHT-OF-WAY FOR I-75; LESS THE NORTH 1,543.15 FEET THEREOF.

AND:

THAT PORTION OF THE SOUTH 3/4 OF SECTION 35, TOWNSHIP 19 SOUTH, RANGE 22 EAST, LYING WESTERLY OF THE RAILROAD RIGHT-OF-WAY AND EAST OF THE RIGHT-OF-WAY FOR I-75; LESS THE NORTH 1,543.15 FEET OF THE WEST 1/2 OF SAID SECTION 35.

AND LESS:

THE FOLLOWING PORTIONS THEREOF LYING WITHIN THE FLORIDA DEPARTMENT OF TRANSPORTATION RETENTION AREA ABUTTING I-75:

COMMENCE AT THE SOUTHEAST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 34, TOWNSHIP 19 SOUTH, RANGE 22 EAST; THENCE RUN NORTH 89°55'49" WEST, ALONG THE SOUTH LINE OF SAID NORTHEAST 1/4 OF SECTION 34, A DISTANCE OF 18.99 FEET TO THE EASTERLY RIGHT-OF-WAY OF INTERSTATE 75; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 02°55'02" WEST, ALONG SAID EASTERLY RIGHT-OF-WAY, A DISTANCE OF 364.40 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY, RUN NORTH 87°04'58" EAST, A DISTANCE OF 156.99 FEET; THENCE RUN NORTH 02°55'02" WEST, A DISTANCE OF 136.45 FEET; THENCE RUN NORTH 40°45'13" EAST, A DISTANCE OF 35.67 FEET; THENCE RUN NORTH 82°57'32" EAST, A DISTANCE OF 146.29 FEET; THENCE RUN NORTH 06°58'02" WEST, A DISTANCE OF 144.00 FEET; THENCE RUN SOUTH 82°57'32" WEST, A DISTANCE OF 318.19 FEET TO THE AFORESAID EASTERLY RIGHT-OF-WAY OF INTERSTATE 75; THENCE SOUTH 02°55'02" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY, A DISTANCE OF 293.53 FEET TO THE POINT OF BEGINNING.

AND LESS:

THE FOLLOWING PORTIONS THEREOF LYING WITHIN THE FLORIDA DEPARTMENT OF TRANSPORTATION RETENTION AREA ABUTTING I-75:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 35, TOWNSHIP 19 SOUTH, RANGE 22 EAST; THENCE RUN SOUTH 89°53'30" EAST, ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 35, A DISTANCE OF 135.93 FEET TO THE EASTERLY RIGHT-OF-WAY OF INTERSTATE 75; THENCE RUN NORTH 02°54'42"

WEST, ALONG SAID EASTERLY RIGHT-OF-WAY, A DISTANCE OF 366.88 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY, RUN NORTH 87°05'18" EAST, A DISTANCE OF 239.75 FEET; THENCE RUN NORTH 33°58'33" EAST, A DISTANCE OF 71.55 FEET; THENCE RUN NORTH 16°53'49" WEST, A DISTANCE OF 41.01 FEET; THENCE RUN NORTH 57°25'06" WEST, A DISTANCE OF 96.33 FEET; THENCE RUN NORTH 16°39'27" WEST, A DISTANCE OF 71.29 FEET; THENCE RUN NORTH 55°26'15" WEST, A DISTANCE OF 32.23 FEET; THENCE RUN NORTH 71°52'05" WEST, A DISTANCE OF 81.29 FEET; THENCE RUN SOUTH 87°05'18" WEST, A DISTANCE OF 75.97 FEET TO THE AFORESAID EASTERLY RIGHT-OF-WAY OF INTERSTATE 75; THENCE RUN SOUTH 02°54'42" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY, A DISTANCE OF 271.00 FEET TO THE POINT OF BEGINNING.

AND LESS:

THE FOLLOWING PORTIONS THEREOF LYING WITHIN THE FLORIDA DEPARTMENT OF TRANSPORTATION RETENTION AREA ABUTTING I-75:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 35, TOWNSHIP 19 SOUTH, RANGE 22 EAST; THENCE RUN SOUTH 89°53'30" EAST, ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 35, A DISTANCE OF 135.93 FEET TO THE EASTERLY RIGHT-OF-WAY OF INTERSTATE 75; THENCE RUN NORTH 02°54'42" WEST, ALONG SAID EASTERLY RIGHT-OF-WAY, A DISTANCE OF 1,097.87 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY, RUN NORTH 87°05'18" EAST, A DISTANCE OF 43.15 FEET; THENCE RUN SOUTH 48°26'25" EAST, A DISTANCE OF 53.64 FEET; THENCE RUN SOUTH 79°17'09" EAST, A DISTANCE OF 31.50 FEET; THENCE RUN NORTH 80°58'57" EAST, A DISTANCE OF 79.35 FEET; THENCE RUN SOUTH 77°07'58" EAST, A DISTANCE OF 95.95 FEET; THENCE RUN SOUTH 50°59'36" EAST, A DISTANCE OF 35.25 FEET; THENCE RUN SOUTH 24°50'48" EAST, A DISTANCE OF 62.16 FEET; THENCE RUN SOUTH 23°18'50" EAST, A DISTANCE OF 177.33 FEET; THENCE RUN SOUTH 75°01'46" EAST, A DISTANCE OF 56.05 FEET; THENCE RUN NORTH 54°25'59" EAST, A DISTANCE OF 119.80 FEET; THENCE RUN NORTH 39°27'28" WEST, A DISTANCE OF 455.30 FEET; THENCE RUN NORTH 77°08'05" WEST, A DISTANCE OF 53.26 FEET; THENCE RUN SOUTH 82°09'08" WEST, A DISTANCE OF 83.10 FEET; THENCE RUN NORTH 48°26'15" WEST, A DISTANCE OF 87.83 FEET; THENCE RUN SOUTH 87°05'18" WEST, A DISTANCE OF 80.91 FEET TO THE AFORESAID EASTERLY RIGHT-OF-WAY OF INTERSTATE 75; THENCE RUN SOUTH 02°54'42" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY, A DISTANCE OF 172.01 FEET TO THE POINT OF BEGINNING.

AND LESS:

BEGIN AT THE NORTHWEST CORNER OF SE 1/4 OF NE 1/4 OF SECTION 35, TOWNSHIP 19 SOUTH, RANGE 22 EAST; RUN S08°00' WEST 223.00 FEET; THENCE SOUTH 89°47'10" WEST 91.97 FEET; THENCE N04°08'45" EAST 221.35 FEET TO NORTH

LINE OF SW 1/4 OF NE 1/4; THENCE N89°41'10" EAST 107.15 FEET TO POINT OF BEGINNING.

AND LESS:

THAT PORTION OF SAID SECTION 35 DESCRIBED AS FOLLOWS: BEGIN AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 35; THENCE RUN EAST ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 181.33, MORE OR LESS, TO A POINT ON THE WESTERLY RAILROAD RIGHT-OF-WAY, HEREBY REFERRED TO AS POINT "A"; THENCE RETURN TO THE POINT OF BEGINNING AND RUN WEST ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 35, A DISTANCE OF 200.00 FEET; THENCE NORTH, PARALLEL WITH THE EAST LINE OF SAID SOUTHWEST 1/4 A DISTANCE OF 1,981.86 FEET; THENCE DEPARTING SAID PARALLEL LINE, RUN S67°33'00"E, 1,103.02 FEET TO A POINT ON THE WESTERLY RAILROAD RIGHT-OF-WAY; THENCE SOUTHWESTERLY ALONG SAID WESTERLY RIGHT-OF-WAY TO POINT "A".

AND LESS:

RIGHT-OF-WAY FOR COUNTY ROAD 525.

AND LESS:

RIGHT-OF-WAY FOR THE COUNTY ROAD 525E.

AND TOGETHER WITH:

THAT PORTION OF THE NORTH 3/4 OF SECTION 2, TOWNSHIP 20 SOUTH, RANGE 22 EAST, SUMTER COUNTY, FLORIDA, LYING WESTERLY OF THE RAILROAD RIGHT-OF-WAY AND LYING EAST OF INTERSTATE 75.

LESS:

THAT PORTION OF SAID SECTION 2 DESCRIBED AS FOLLOWS: BEGIN AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 2, THENCE S89°55'42"E, ALONG THE NORTH LINE THEREOF A DISTANCE OF 181.33 FEET TO THE WESTERLY RAILROAD RIGHT-OF-WAY; THENCE DEPARTING SAID NORTH LINE AND ALONG SAID WESTERLY RIGHT-OF-WAY, RUN S22°27'00"W, 1,096.47 FEET; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY, RUN N02°06'44"E, 1,014.54 FEET TO A POINT ON THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 2; THENCE ALONG SAID NORTH LINE, S89°55'42"E, 200.00 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

FLORIDA PUBLIC SERVICE COMMISSION

**Authorizes
South Sumter Utility Company, LLC
Pursuant to
Certificate Number 669-W**

to provide water service in Sumter and Lake Counties in accordance with the provisions of Chapter 367, Florida Statutes, and the Rule, regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
PSC-17-0059-PAA-WS	2/24/2017	20160220-WS	Original Certificate
PSC-2019-0154-FOF-WS	4/24/2019	20180131-WS	Amendment
*	*	20200012-WS	Amendment

*** Order Numbers and dates to be provided at time of issuance**

FLORIDA PUBLIC SERVICE COMMISSION

**Authorizes
South Sumter Utility Company, LLC
Pursuant to
Certificate Number 571-S**

to provide wastewater service in Sumter and Lake Counties in accordance with the provisions of Chapter 367, Florida Statutes, and the Rule, regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
PSC-17-0059-PAA-WS	2/24/2017	20160220-WS	Original Certificate
PSC-2019-0154-FOF-WS	4/24/2019	20180131-WS	Amendment
*	*	20200012-WS	Amendment

*** Order Numbers and dates to be provided at time of issuance**

Item 15

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Kunkler) *JH*
Office of the General Counsel (Passidomo, Dziechciarz) *LT*

RE: Docket No. 20200141-TA – Compliance investigation of AAV Certificate No. 7790, issued to A.SUR Net, Inc., for apparent fourth-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

AGENDA: 06/09/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

A.SUR Net, Inc. (A.SUR Net or the Company) is a regulated telecommunications company located in North Miami Beach, Florida. The Company's application for an alternative access vendor (AAV) certificate was approved by the Commission on March 15, 2001, by Order No. PSC-01-0647-PAA-TA. Pursuant to Section 364.336, Florida Statutes (F.S.), certificate holders must pay a minimum annual Regulatory Assessment Fee (RAF) if the certificate was active during any portion of the calendar year.

Pursuant to Section 350.113(4), F.S., RAF forms are mailed to regulated companies for the period January 1 through December 31, at least 45 days prior to the date that payment of the fee is due. Pursuant to Rule 25-4.0161(2), Florida Administrative Code (F.A.C.), the RAF form and applicable fees are due to the Commission by January 30 of the subsequent year.

In keeping with Commission rules and statutes, 2019 RAF forms were mailed on December 9, 2019, for the period January 1, 2019 through December 31, 2019. The RAF form and applicable fees were due on or before January 30, 2020. As of the date of this recommendation, the Commission has not received payment from A.SUR Net.

On February 20, 2020, the Commission mailed a letter to the Company informing them that, according to Commission records, their RAF payment had not yet been received, and was past due. The letter also informed the Company that payment would need to be postmarked within 15 calendar days of receipt of the notice, as evidenced by the certified mail receipt, and, if not received by that date, a RAF rule violation penalty would be imposed. Pursuant to Rule 25-4.0161, F.A.C., a RAF rule violation penalty of \$500, \$1,000, or \$2,000, is automatically imposed, depending on the number of previous dockets opened against the entity for violation of the RAF rule.

A.SUR Net had three prior dockets opened for violation of Rule 25-4.0161, F.A.C.— Docket No. 20060463-TA, Docket No. 20070346-TA, and Docket No. 20090222-TA. Because this docket was opened for an apparent fourth violation of Rule 25-4.0161, F.A.C., by the Company, staff is required to file a recommendation addressing the fourth violation for the Commission's consideration and further action.

The Commission has jurisdiction over this matter pursuant to Sections 350.113, 364.336, and 364.285, F.S.

Discussion of Issues

Issue 1: Should the Commission impose a penalty and a cost of collection, together totaling \$4,000, or cancel the A.SUR Net, Inc. tariff and remove A.SUR Net, Inc., TA057, from the register for an apparent fourth violation of Section 364.336, F.S., and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies?

Recommendation: A.SUR Net, Inc. should pay a penalty and the cost of collection, together totaling \$4,000, as well as remit any unpaid Regulatory Assessment Fees, along with accrued statutory late payment charges, or have its AAV tariff cancelled and its name removed from the register. (Kunkler, Dziechciarz, Passidomo)

Staff Analysis: The Commission has opened three prior dockets, in 2006, 2007, and 2009, to address the same rule violation by A.SUR Net, Inc. In all three dockets, the Company's failure to pay past due RAFs by the delinquency notice deadlines resulted in the Company paying not only the delinquent RAFs, but also the statutory late payment penalties and interest amounts, and additional penalties per Rule 25-4.0161(12), F.A.C.

Due to the failure to timely pay the past due RAFs, A.SUR Net, Inc. paid additional rule penalties of \$500 in 2006, \$1,000 in 2007, and \$2,000 in 2009, along with all RAF amounts, statutory penalties, and interest charges.

In the case of A.SUR Net, Inc.'s failure to pay its 2019 RAF, staff reached out by phone to the Company on February 13, 2020, and on May 12, 2020. On each occasion, the Company was unresponsive. Additionally, staff emailed the Company on May 13, 2020, and as of the date of this recommendation, the Company has not responded.

For a company's fourth-time failure to pay the RAF, Rule 25-4.0161(13), F.A.C., provides that staff shall file a recommendation for the Commission's consideration and further action. Pursuant to this rule, the Commission has authority, and also discretion, to either cancel the company's certificate, or waive the cancellation if a penalty, plus the outstanding RAF, including accrued statutory late payment charges, are paid in full. While the Company has had three prior violations of this Rule, the most recent violation for RAF non-compliance occurred over 10 years ago, in Docket No. 20090222-TA.

Considering that the Company has paid the outstanding RAFs and penalties three times previously (2006, 2007, and 2009), as well as taking into account the extended amount of time that has elapsed since its last RAF rule violation (11 years), staff believes that if the Company pays the outstanding 2019 RAFs, including accrued statutory late payment charges, along with an appropriate penalty, A.SUR Net Inc.'s certificate should not be cancelled.

Rule 25-4.0161, F.A.C., does not specify a penalty amount for a fourth rule violation. As stated earlier, the rule prescribes a penalty of \$500, \$1,000, or \$2,000, depending on the number of previous violations (i.e. dockets opened due to a utility's failure to pay). Staff notes that the penalty amount per the rule doubles each time a subsequent RAF rule violation occurs up to three violations. Since this is the Company's fourth RAF rule violation, staff believes an

appropriate penalty is \$4,000, which equates to a doubling of the \$2,000 penalty amount for a third RAF rule violation.¹ Pursuant to Section 364.285, F.S., the Commission has authority to penalize up to \$25,000.

Staff has calculated a total amount due based on the above. Pursuant to Section 350.113(4), F.S., 5 percent of the 2019 RAF amount due is imposed as a penalty for each 30 days or fraction thereof during the time in which the failure continues, not to exceed a total penalty of 25 percent.² Additionally, an interest rate of 12 percent per annum is also applied to any delinquent amounts. Thus, as of May 28, 2020, the Company owes an estimated 2019 RAF amount of \$2,217.45, plus a late penalty in the amount of \$443.48 (5 percent x 4 months x \$2,217.45), plus accrued interest in the amount of \$88.68, which results in a total amount due of \$2,749.61.³ This amount, added to the staff-proposed fourth violation penalty amount of \$4,000, including cost of collections, results in a total amount due to the Commission of \$6,749.61.

It is relevant to this docket to note that, pursuant to Rule 25-4.0161(14), F.A.C., if a company reapplies for a certificate, the company must pay all prior unpaid regulatory assessment fees, plus the penalty and interest, and any prior unpaid penalty assessed in accordance with subsection (11).

Therefore, staff recommends it is appropriate for the Commission to require A.SUR Net, Inc. to pay the outstanding RAF, including accrued statutory late payment charges, along with the \$4,000 penalty in full, for a total of \$6,749.61, within 21 days of the issuance of the Proposed Agency Action Order. Furthermore, staff recommends it is appropriate that, if the Company fails to pay this amount by that date, the Company's AAV tariff and registration should be cancelled and removed from the register; in which case, staff requests administrative authority to cancel the Company's AAV tariff and certificate.

¹Order No. PSC-08-0796-PAA-TI, issued on December 3, 2008, in Docket No. 20080349-TI, *In re: Compliance investigation of IXC Registration No. TJ008, issued to Executive Business Centers, Inc., for apparent fourth-time violation of Section 364.336, F.S. and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.*

²Section 350.113(4), F.S., provides a prorated penalty amount for the first month of delinquency; however, this provision has no effect on this case since the delinquency period has been longer than one month.

³Staff notes that the 2019 RAF amount is based on the Company's 2018 annual revenues.

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, F.A.C., within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), F.S., any issues not in dispute should be deemed stipulated. If the Company fails to timely file a protest and to request a Section 120.57, F.S., hearing, the facts should be deemed admitted and the right to a hearing waived. If the Company fails to pay the penalty and cost of collection, and Regulatory Assessment Fee, including statutory late payment charges, in full, prior to the expiration of the Proposed Agency Action Order, then the Company's AAV tariff should be cancelled administratively and its name removed from the register, and the collection of the past due Regulatory Assessment Fee, including any accrued statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. If the Company's AAV tariff is cancelled and its name removed from the register in accordance with the Commission's Order from this recommendation, the Company should be required to immediately cease and desist providing alternative access telecommunications service in Florida. This docket should be closed administratively either upon receipt of the payment of the penalty and cost of collection, and Regulatory Assessment Fee, including accrued statutory late payment charges, or upon cancellation of the Company's AAV tariff and removal of its name from the register. (Passidomo, Dziechciarz)

Staff Analysis: Staff recommends that the Commission take action as set forth in the foregoing staff recommendation statement.

Item 16

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Smith II, Kunkler) *JH*
Office of the General Counsel (Stiller) *JC*

RE: Docket No. 20200059-EI – Petition for approval of amortization rate for customer account management system, by Gulf Power Company.

AGENDA: 06/09/20 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On February 24, 2020, Gulf Power Company (Gulf or Company) filed a request for approval of amortization rate for its Customer Account Management System (Petition). The Company's request is in accordance with Section 366.04, Florida Statutes (F.S.), and Rule 25-6.0436(3)(a) and 25-6.0436(3)(b), Florida Administrative Code (F.A.C.).

Pursuant to Rule 25-6.0436(3)(a), F.A.C., electric utilities are required to maintain depreciation rates and accumulated depreciation reserves in accounts or subaccounts in accordance with the Uniform System of Accounts for Public Utilities and Licensees, as found in the Code of Federal Regulations, which is incorporated by reference in Rule 25-6.014(1), F.A.C.¹ Rule 25-6.0436(3)(a), F.A.C., requires that: "[u]pon establishing a new account or subaccount

¹Code of Federal Regulations, Title 18, Subchapter C, Part 101, for Major Utilities, as revised April 1, 2013.

classification, each utility shall request Commission approval of a depreciation rate for the new plant category.

In its Petition, Gulf explains that its former billing system, referred to as Customer Service System (CSS), is owned by Southern Company, and could only be used by Gulf through the end of 2020. Gulf further explained that a new billing system, the Customer Account Management System (CAMS), replaced the CSS.

Gulf successfully instituted a partial roll-out of the new CAMS during the fourth quarter of 2019. The Company completed the full implementation of the CAMS on February 24, 2020. The current net book value on Gulf's books for the CSS is \$0.

Staff is not aware of any public comments or concerns regarding this matter.

The Commission has jurisdiction in this matter pursuant to Sections 366.04, 366.05, and 366.06, F.S.

Discussion of Issues

Issue 1: Should Gulf's request to establish a new sub-account and annual depreciation rate applicable to its CAMS software be approved, and, if so, what is the appropriate depreciation rate?

Recommendation: Yes, a new sub-account and annual depreciation rate applicable to Gulf's new CAMS software should be approved. The appropriate annual depreciation rate for the CAMS software is 5 percent. (Kunkler)

Staff Analysis: Gulf states that the CAMS software directly facilitates a wide variety of customer service interactions.² According to the Company, these customer service interactions include customer billing, maintaining an online application, and a mobile application for customers to manage accounts.³ Additionally, CAMS includes an option for starting and stopping service, as well as an interactive phone system with digital self-service options.⁴ The estimated total capital cost associated with the CAMS software is \$92 million.⁵

In response to Staff's First Data Request, Gulf stated that the CAMS software is currently recorded in Account 303, Miscellaneous Intangible Plant.⁶ This account has an approved amortization period of seven years. The Company is requesting authorization to establish a sub-account within Account 303, specifically for the CAMS software. The sub-account for the new CAMS software is Account 303.5 – Capitalization of Software.

The Company also is requesting to extend the amortization period in this CAMS-specific sub-account from seven to 20 years. In addition to the Company's request that the Commission approve a 20-year average service life (ASL), Gulf is requesting approval of a zero percent net salvage level (NS) for depreciating its CAMS software. An annual depreciation rate of 5 percent is computed by using these parameters.⁷ The Company makes clear in its petition that the proposed 20-year ASL or amortization period is for accounting purposes only and will have no impact on consumer base rates during the current settlement term, approved in Order No. PSC-2017-0178-S-EI.⁸

To support its proposed 20-year ASL, Gulf explained that its former billing system, CSS, was placed into service in the late 1990s, and was still being used in 2020.⁹ In addition, the Company

²Document No. 01897-2020, Gulf Power Company's response to Staff's First Data Request, No. 3.

³See Id.

⁴See Id.

⁵Document No. 01897-2020, Gulf Power Company's response to Staff's First Data Request, No. 2.

⁶Document No. 01897-2020, Gulf Power Company's response to Staff's First Data Request, No. 1(a).

⁷Rules 25-6.0436(1)(e) and 25-6.0436(1)(m), F.A.C., specify the Commission's depreciation rate formulae and methodologies.

⁸Order No. PSC-2017-0178-S-EI, issued May 16, 2017, in Docket No. 20160186-EI, *In re: Petition for rate increase by Gulf Power Company*; Docket No. 20160170-EI *In re: Petition for approval of 2016 depreciation and dismantlement studies, approval of proposed depreciation rates and annual dismantlement accruals and Plant Smith Units 1 and 2 regulatory asset amortization, by Gulf Power Company*.

⁹Document No. 01897-2020, Gulf Power Company's response to Staff's First Data Request, No. 9.

Date: May 28, 2020

stated its “request for a 20-year amortization period is well supported by both Gulf Power and industry experience.”¹⁰

In its Petition, Gulf referenced Docket 20120015-EI,¹¹ in which Florida Power & Light Company (FPL) requested to extend the depreciable life of its newly implemented general ledger accounting system, SAP,¹² from five to 20 years, in order to more closely align with the period in which customers would experience the benefit of the system.¹³ The Commission approved a settlement in that docket which, although not precedential, recognized a depreciable life of 20 years for the SAP system.¹⁴ Similar to both the CSS and the SAP depreciable life extension, the CAMS software is expected to provide service to Gulf’s customers for approximately 20 years.

Gulf states that the underlying software for CAMS is SAP’s S4 system, which includes an ongoing maintenance contract with Gulf’s parent company, NextEra Energy.¹⁵ Additionally, Gulf states that NextEra Energy has worked with SAP for more than 15 years, and has had no significant interruptions of service.¹⁶ Gulf believes that the proposed 20-year ASL for the CAMS software will allow accounting consistency between FPL and Gulf.

Given the circumstances presented by Gulf, staff agrees that a 20-year life is a more accurate reflection of the expected service life of the CAMS software, and will result in a more accurate depreciation expense.

For the reasons outlined in this analysis, staff recommends that an annual depreciation rate of 5 percent be approved for the new CAMS software, applicable to Gulf’s newly-established sub-account, Account 303.5 – Capitalization of Software.

¹⁰Id.

¹¹Document No. 01071-2020, Petition of Gulf Power Company for Approval of Amortization Rate for Customer Account Management System, pg. 4.

¹²The SAP general ledger accounting system is produced by the enterprise software company of the same name, SAP.

¹³Document No. 01616-2012, in Docket No. 20120015-EI, Direct testimony of Kim Ousdahl and Exhs. KO-1 through KO-13, Pg. 14.

¹⁴Order No. PSC-2013-0023-S-EI, issued January 14, 2013, in Docket No. 20120015-EI, *In re: Petition for increase in rates by Florida Power & Light Company*, p. 21.

¹⁵Document No. 01897-2020, Gulf Power Company’s response to Staff’s First Data Request, No. 5.

¹⁶See Id.

Date: May 28, 2020

Issue 2: If the new amortization rate in Issue 1 is approved, what should be the effective date?

Recommendation: If the amortization rate is approved in Issue 1, staff recommends an implementation date of February 24, 2020. (Smith II)

Staff Analysis: Gulf filed its Petition on February 24, 2020. Gulf explained in a response to staff's data request that it also began recording depreciation expense related to the CAMS system that same month.¹⁷ Since the goal of depreciation expense is to match the expense with the useful life of the asset, staff believes it is appropriate to allow Gulf to implement the new amortization rate as of February 24, 2020, in order for the Company to record the appropriate amortization expense. Therefore, staff recommends an implementation date of February 24, 2020.

¹⁷Document No. 01897-2020, Gulf's Responses to Staff's First Data Request, No. 1.

Date: May 28, 2020

Issue 3: If the Commission approves staff's recommendation in Issue 1, should any accounting entries or adjustments be authorized as part of this docket?

Recommendation: Yes. Staff recommends the Commission authorize accounting entries to reflect the new amortization rate. (Smith II)

Staff Analysis: Gulf stated that it placed \$71.9 million related to CAMS software into Account 303 Miscellaneous Intangible Plant.¹⁸ The Company further explained that it began recording depreciation expense based on the previously approved 7-year life.¹⁹ The resulting depreciation expense of \$428,000 and \$856,000 was recorded in February and March 2020, respectively.

In its Petition, Gulf requested that the new 20-year amortization rate be implemented retroactively to the filing date of this Petition.²⁰ Gulf explained that if the Commission approves the requested 20-year rate in the instant case, it would reverse the depreciation expense.²¹ Gulf further explained that this reversal would be accomplished by debiting Account 404 - Amortization of limited term Electric Plant, and crediting Account 111 - Accumulated Provision for Amortization of Electric Utility Plant for the amounts previously recorded at the 7-year rate, and recording the appropriate expense at the newly approved 20-year rate.²² The Company stated that if the new 20-year rate was approved in June of 2020, these adjustments would total \$1.9 million.²³ No transfers between accounts would be necessary.²⁴

Staff believes Gulf's request is appropriate because, as discussed in Issue 1, the 20-year rate more accurately reflects the useful life of the CAMS system and, therefore, results in a more accurate and appropriate depreciation expense. Staff recommends the Commission authorize Gulf to make the appropriate accounting adjustments reflecting the requested 20-year amortization rate.

¹⁸Document No. 01897-2020, Gulf's Responses to Staff's First Data Request, No. 1.

¹⁹Id.

²⁰Document No. 01071-2020, Petition of Gulf Power Company for Approval of Amortization Rate for Customer Account Management System.

²¹Document No. 01897-2020, Gulf's Responses to Staff's First Data Request, No. 4.

²²Id.

²³Id.

²⁴Document No. 01897-2020, Gulf's Responses to Staff's First Data Request, No. 1.

Date: May 28, 2020

Issue 4: Should this docket be closed?

Recommendation: If no protest to this proposed agency action is filed by a substantially affected person within 21 days of the issuance of the order, a consummating order should be issued and the docket should be closed. (Stiller)

Staff Analysis: If no protest to this proposed agency action is filed by a substantially affected person within 21 days of the issuance of the order, a consummating order should be issued and the docket should be closed.

Item 17

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Forrest) *JGH, ED*
Office of the General Counsel (Trierweiler) *JC*

RE: Docket No. 20200097-EI – Petition for approval of budget billing tariff modifications by Gulf Power Company.

AGENDA: 06/09/20 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 06/09/20 (Gulf Power Company waived the 60-Day Suspension Date to the June 9, 2020 Agenda Conference)

SPECIAL INSTRUCTIONS: None

Case Background

On March 20, 2020, Gulf Power Company (Gulf or utility) filed a petition with the Commission that seeks to revise its budget billing tariff. This revision would affect customers participating in the optional budget billing tariff that also have outdoor lighting service. The proposed revisions would remove the costs associated with Rate Schedule OS (outdoor lighting tariff), from inclusion in the budget billing calculation. Rather, the outdoor lighting tariff costs would be charged as a separate line item on the customer's bill. The utility states that this change is necessary as a result of modifications to its account management system. This petition would modify Tariff Sheet Nos. 6.32, 6.32.1, and 6.33, as shown in legislative format in Attachment A to the recommendation.

Docket No. 20200097-EI

Date: May 28, 2020

During the review of this petition, staff issued a data request to Gulf on March 31, 2020, for which responses were received on April 14, 2020. The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission approve Gulf's proposed modifications to its budget billing tariff?

Recommendation: Yes, the Commission should approve Gulf's proposed modifications to its budget billing tariff effective June 9, 2020. (Forrest)

Staff Analysis: The optional budget billing tariff provides customers with stable electric bills by averaging and leveling out energy costs over an annual cycle. This allows participating customers to pay approximately the same amount each month. Currently, a customer participating in the utility's outdoor lighting tariff would have the lighting costs incorporated into its budget billing calculation and billing amount. In February 2020, the utility transitioned to a new customer management program called Customer Account Management System (CAMS). Gulf states that the new system does not allow the outdoor lighting tariff costs to be incorporated into the budget billing calculation.

According to Gulf, the CAMS system requires electric and multi-service accounts, like outdoor lighting, to be viewed and treated as two separate contracts under one single account. This technical limitation does not allow for budget billing to occur across multiple contracts. Therefore, the utility must remove the outdoor lighting contract from the budget bill calculation, while keeping the electric contract on budget billing.

Gulf states that customers enrolled in the outdoor lighting tariff incur an average monthly usage charge of \$11.10 for lighting services. Due to the limited fluctuations in outdoor lighting usage, these customers would only see a small fluctuation in their bills as a result of the lighting costs being a separate line item charge. Currently, Gulf states that this change would affect approximately 5,000 of the 38,000 budget billing customers. The affected outdoor lighting tariff customers will be notified of the change pursuant to the terms of the budget billing tariff. Any over/under billing will be charged or refunded in accordance with the terms of Gulf's budget billing tariff.

Conclusion

According to Gulf, the company's recently installed customer billing system will not allow for customer outdoor lighting tariff costs to be incorporated into the budget billing calculation. In addition, due to the limited fluctuation in outdoor lighting bills, removing the lighting billing from the budget billing calculation would not adversely impact customers. For the reasons stated above, staff believes that the proposed changes to Gulf's budget billing tariff are appropriate. Gulf stated that impacted customers would be notified via a bill message on their next bill. Staff recommends that the Commission should approve Gulf's proposed modifications to its budget billing tariff effective June 9, 2020.

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. (Trierweiler)

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.



Gulf Power®

Section No. VI
~~Eighth-Ninth~~ Revised Sheet No. 6.32
Canceling ~~Eighth-Seventh~~ Revised Sheet No. 6.32

RATE SCHEDULE BB BUDGET BILLING (OPTIONAL RIDER)

PAGE
1 of 2

EFFECTIVE DATE
March 29, 2019

AVAILABILITY:

Available throughout the entire territory served by the Company.

APPLICABILITY:

This budget billing rider will, upon request by the Customer, be applied to any customer receiving electric service under Rate Schedules RS, RSVP, GS, GSD, GSDT, GSTOU, LP, LPT, PX, PXT, and RTP except those customers with current delinquent bills or those customers disqualified from the program within the twelve preceding months. Eligible customers will be notified of availability of this rider annually. Gulf Power shall have 30 days to establish Budget Billing upon request of the Customer.

BILLING:

Under the Budget Billing plan, the Monthly billing is determined as follows:

1. The Annual Base Amount is calculated using the most recent 12 months billings for the premises (~~including-excluding~~ billings for Rate Schedule OS, ~~if any,~~) and then averaged and rounded to the nearest whole dollar (Monthly Budget Billing Amount). If the customer has not occupied the premises for 12 months, the Annual Base Amount will be determined by the Customer's available monthly billings plus the previous occupant's billings. If the premises is new or sufficient actual consumption is not available, a 12-month estimated bill will be used.
2. The Monthly Budget Billing Amount is recalculated every month using the most recent Annual Base Amount plus any deferred balances (the difference in prior billings made under the Budget Billing Plan and that of actual charges).

$$\begin{array}{rclcl} \text{Monthly Budget} & = & \text{12-month Summation} & + & \text{Deferred} \\ \text{Billing Amount} & & \text{Actual or Est. Annual Base} & & \text{Balance} \\ & & 12 & & \end{array}$$

ISSUED BY: ~~Charles S. Boyett~~ Tiffany Cohen



Gulf Power®

Section No. VI

~~Sixth~~Seventh Revised Sheet No. 6.32.1

Canceling ~~Sixth~~Fifth Revised Sheet No. 6.32.1

PAGE

EFFECTIVE DATE

~~March 29, 2019~~

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ISSUED BY: ~~Charles S. Boyett~~Tiffany Cohen

Date: May 28, 2020



Gulf Power®

Section No. VI

~~Third~~Fourth Revised Sheet No. 6.33Canceling ~~Third~~Second Revised Sheet No. 6.33

PAGE 2 of 2	EFFECTIVE DATE March 29, 2019
----------------	----------------------------------

(Continued from Rate Schedule BB, Sheet No. 6.32)

For each month except the annual review month, if the difference between the newly calculated Monthly Budget Billing Amount and the current Monthly Budget Billing Amount is greater than \$5.00 and 10%, then the Monthly Budget Billing Amount will be reestablished at the newly calculated amount (rounded to the nearest whole dollar). In the Customer's annual review month, the Monthly Billing Amount will be reestablished at the newly calculated amount.

3. At the Customer's option (in lieu of carrying the deferred balance forward in the recalculation of the Monthly Budget Billing Amount) any deferred balance that is outstanding at the Customer's annual review may be settled either through being applied to the Customer's new bill (if a credit balance) or direct payment to the Company (if a debit balance).

TERM OF CONTRACT:

Upon request of the Customer, billing under the provisions of this rider shall continue thereafter until terminated as provided below.

TERMINATION:

Billing under this agreement shall be subject to termination by either party giving notice to the other party. This agreement may be terminated by the Company if the account becomes delinquent. In the event billing under this agreement is terminated, any amount the Customer has been underbilled shall immediately become due and payable to the Company and any amount overbilled shall be refunded to the Customer. Billing may be terminated under this agreement without terminating or affecting any service agreement between the Company and the Customer. In such event, billing under the normal monthly billing procedure will be resumed subsequent to the settlement statement rendered by the Company; however, nothing in this agreement shall be construed to waive the Company's rights to discontinue service in the event of failure to pay bills or for any other lawful cause as set forth in its electric tariff.

Service under this rate schedule is subject to Rules and Regulations of the Company and the Florida Public Service Commission.

ISSUED BY: ~~Charles S. Boyett~~Tiffany Cohen

Item 18

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Guffey) JGH
Office of the General Counsel (Stiller) JSC

RE: Docket No. 20200121-EI – Petition for approval of revised customer specified lighting tariff, by Tampa Electric Company.

AGENDA: 06/09/20 – Regular Agenda – Tariff Filing –Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 6/12/2020 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

Case Background

On April 13, 2020, Tampa Electric Company (TECO or utility) filed a petition seeking approval of its revised Customer Specified Lighting Tariff (LS-2 tariff). TECO proposes to revise Tariff Sheet No. 6.830 to enable the utility to offer metered service to its LS-2 customers. Currently, the LS-2 tariff is only available as non-metered lighting service. The Commission approved the LS-2 tariff in Order No. PSC-2019-0063-TRF.¹

During the review of this petition, staff issued a data request to TECO for which responses were received on May 5, 2020. TECO filed a revision to Tariff Sheet No. 6.830 which corrected a scrivener's error on May 8, 2020. The proposed revised Tariff Sheet No. 6.830 in legislative format is 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 (F.S.).

¹ Order No. PSC-2019-0063-TRF-EI, issued February 18, 2019, in Docket No. 20180222-EI, *In re: Petition for approval of customer specified lighting tariff by Tampa Electric Company.*

Discussion of Issues

Issue 1: Should the Commission approve TECO's revised Customer Specified Lighting Tariff (LS-2) Sheet No. 6.830, as shown in Attachment A?

Recommendation: Yes. The Commission should approve TECO's revised LS-2 Sheet No. 6.830, as shown in Attachment A, effective June 9, 2020. The proposed LS-2 tariff revision allows TECO to offer LS-2 customers the option to receive metered lighting service. (Guffey)

Staff Analysis: TECO offers two outdoor lighting service tariffs: the Lighting Service (LS-1) tariff and the LS-2 tariff. Under the LS-1 tariff, customers have the option of unmetered lighting service for TECO-owned fixtures or of metered lighting service for customer-owned fixtures. The LS-1 tariff lists the TECO-owned fixtures available for the unmetered option and the energy is billed based on the estimated usage of the fixture. Under the customer-owned option, TECO provides the energy only and the customer is responsible for maintaining the fixtures. The customer may own fixtures that are not offered by TECO. TECO explained that the majority of LS-1 customers take service under the unmetered utility-owned fixtures option; however, approximately 200 customers own the lighting facilities and use the energy-only rate offering under the LS-1 tariff.

The LS-2 tariff allows TECO to offer service for utility-owned specific fixtures or poles that are not available under the LS-1 tariff. If a customer requests a special or unique fixture, TECO purchases and installs the lighting facilities and bills the customer for the fixture and maintenance cost based on the in-place value of the facilities. Under the current LS-2 tariff, service is unmetered and the energy is billed based on the estimated usage of the fixture.

TECO explained that while the LS-1 tariff provides a metered service option, the current LS-2 tariff does not offer a metered service option. The proposed revision in the LS-2 tariff adds a section titled *Special Conditions* which outlines pricing for metered service. The proposed charges for metered service are the same as the currently approved LS-1 metered energy charge of 2.510 cents per kilowatt-hour (kWh) and basic service charge of \$10.52 per month. Other charges such as energy conservation, capacity, and environmental charges will also be applicable.

TECO explained that the petition was filed in response to LS-1 customers who own metered lighting systems and expressed an interest to transfer ownership and maintenance of the fixtures to TECO. If the fixtures the customer owns are not offered by the utility under the LS-1 tariff, service would have to be transferred to the LS-2 tariff to allow TECO to take ownership of the lighting facilities. In response to staff's data request, TECO stated that an advantage to a customer transferring from LS-1 to LS-2 would be the maintenance, repair, and replacement of their lighting system would be the responsibility of TECO.

Customers taking service under the LS-2 tariff are required to sign a Bright Choices Outdoor Lighting Agreement (agreement) with a minimum 20 year initial term and successive one year terms continuing thereafter until either party provides the other party a 90 day written notice of termination. In response to staff's data request, TECO stated that if an LS-1 customer transferred

Date: May 28, 2020

to LS-2 and later desires to transfer back to LS-1, an early termination penalty would be applicable, per the agreement.

TECO stated that it currently does not have any customers taking service under the LS-2 tariff, but approximately six LS-1 customers have expressed some interest in transferring to the LS-2 tariff to allow TECO to take ownership of the facilities. TECO explained that any compensation to the customer for the transferred lighting facilities would be negotiated between the customer and TECO and the negotiated amount would be specified in the agreement. The utility states the types of customers who would be interested in transferring are municipal lighting systems, parking lot lighting systems, and lighting in car lots/business spaces. TECO explained that if a customer requests their metered lighting system to be taken over by TECO, the utility would evaluate the existing condition and type of lighting equipment and upgrades needed to the equipment.

Conclusion

Staff has reviewed TECO's petition and response to staff's data request, and believes the proposed revision to the LS-2 tariff to allow for metered service, as currently is available under the LS-1 tariff, is reasonable and appropriate. Staff recommends that the Commission should approve TECO's revised LS-2 Sheet No. 6.830, as shown in Attachment A, effective June 9, 2020.

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. (Stiller)

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.



ORIGINAL FIRST REVISED SHEET NO. 6.830
CANCELS ORIGINAL SHEET NO. 6.830

CUSTOMER SPECIFIED LIGHTING SERVICE

SCHEDULE: LS-2

AVAILABLE: Entire service area

APPLICABLE:

Customer Specified Lighting Service is applicable to any customer for the sole purpose of lighting roadways or other outdoor areas. Service hereunder is provided for the sole and exclusive benefit of the customer, and nothing herein or in the contract executed hereunder is intended to benefit any third party or to impose any obligation on the Company to any such third party. At the Company's option, a deposit amount of up to a two (2) month's average bill may be required at anytime.

CHARACTER OF SERVICE:

Service is provided during the hours of darkness normally on a dusk-to-dawn basis.

At the Company's option and at the customer's request, the company may permit a timer to control a lighting system provided under this rate schedule that is not used for dedicated street or highway lighting. The Company shall install and maintain the timer at the customer's expense. The Company shall program the timer to the customer's specifications as long as such service does not exceed 2,100 hours each year. Access to the timer is restricted to company personnel.

LIMITATION OF SERVICE:

Installation shall be made only when, in the judgment of the Company, location of the proposed lights are, and will continue to be, feasible and accessible to Company personnel and equipment for both construction and maintenance and such installation is not appropriate as a public offering under LS-1.

TERM OF SERVICE:

Service under this rate schedule shall, at the option of the customer, be for an initial term of twenty (20) years beginning on the date one or more of the lighting equipment is installed, energized, and ready for use and shall continue after the initial term for successive one-year terms until terminated by either party upon providing ninety (90) days prior written notice.

SPECIAL CONDITIONS:

On lighting systems not subject to other rate schedules, the monthly rate for energy served at primary or secondary voltage, at the company's option, shall be 2.510¢ per kWh of metered usage, plus a Basic Service Charge of \$10.52 per month and the applicable additional charges as specified on Sheet Nos. 6.020 and 6.021

Continued to Sheet No. 6.835

ISSUED BY: N. G. Tower, President

DATE EFFECTIVE: February 5, 2019

Item 19

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: May 28, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Guffey) *JG#*
Office of the General Counsel (Trierweiler) *JSC*

RE: Docket No. 20200085-GU – Joint Petition for approval of territorial agreement in Sumter County by Peoples Gas System, the City of Leesburg and South Sumter Gas Company.

AGENDA: 06/09/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On March 11, 2020, Peoples Gas System (Peoples) and the City of Leesburg (Leesburg), collectively the joint petitioners, filed a petition seeking Commission approval of a Territorial Agreement delineating their respective service boundaries in Sumter County, Florida. Staff notes that South Sumter Gas Company, LLC, although listed in the title of the petition, is not a party to the proposed Territorial Agreement.¹ The proposed Territorial Agreement and a map depicting the current service territories and proposed changes, and boundary areas to be served by Peoples and Leesburg are provided in Attachment A to this recommendation.

¹ The joint petitioners confirmed this in response No.1 in staff's first data request (Document No. 01761-2020).

On February 23, 2018, Peoples filed a petition in Docket No. 20180055-GU,² requesting that the Commission resolve a territorial dispute between Peoples and Leesburg and/or South Sumter Gas Company, LLC. The Petition alleged that Peoples and Leesburg and/or South Sumter Gas Company, LLC were in a dispute as to the rights of each to provide natural gas services to the customers in Sumter County, including The Villages. The area in dispute is characterized by residential areas of varying density, interspersed with commercial support areas, and is referred to as Bigham North, Bigham West, Bigham East (Bigham developments).

On August 21, 2018, the Commission referred the dispute to the Division of Administrative Hearings (DOAH). DOAH assigned an Administrative Law Judge (ALJ) for the purpose of conducting an administrative hearing and issuing a Recommended Order³ on the territorial dispute. The administrative hearing was held from June 24 to 27, 2019, and a Recommended Order was issued on September 30, 2019.⁴ In that Order, the ALJ awarded Peoples the disputed territory encompassing the Bigham North, Bigham East, and Bigham West developments in the Villages in Sumter County. The ALJ's Order did not award any other territory to any of the parties. At the January 14, 2020 Commission Conference, the Commission adopted the ALJ's Recommended Order without modification by final Order No. PSC-2020-0052-FOF-GU.⁵

The proposed Territorial Agreement in the instant docket incorporates the Commission's decision in Order No. PSC-2020-0052-FOF-GU, a separate Settlement Agreement between the parties addressing the transfer of infrastructure from Leesburg to Peoples, and establishes new service boundary lines between the joint petitioners for the remaining portions of the county. The referenced Settlement Agreement is not subject to Commission approval, and hence was provided to staff for informational purposes only upon request. The joint petitioners believe the Territorial Agreement will avoid future litigation and territorial disputes in Sumter County and enhance natural gas service for customers.

During the review of this joint petition, staff issued two data requests to the joint petitioners on March 20, 2020 and April 15, 2020, for which responses were received on April 3, 2020 and May 1, 2020, respectively. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

² *In re: Petition to resolve territorial dispute in Sumter County and/or Lake County with City of Leesburg and/or South Sumter Gas Company, LLC, by Peoples Gas System.*

³ "Recommended Order" is defined in Section 120.52(15), F.S., as the official recommendation of the ALJ assigned by DOAH or of any other duly authorized presiding officer, other than the agency head or member thereof.

⁴ *Peoples Gas System vs. South Sumter Gas Company, LLC, and City of Leesburg*, DOAH Case No. 18-4422, Recommended Order issued on September 30, 2019.

⁵ Order No. PSC-2020-0052-FOF-GU, issued February 11, 2020, in Docket No. 20180055-GU, *In re: Petition to resolve territorial dispute in Sumter County and/or Lake County with City of Leesburg and/or South Sumter Gas Company, LLC, by Peoples Gas System.*

Discussion of Issues

Issue 1: Should the Commission approve the proposed Territorial Agreement between Peoples and Leesburg in Sumter County?

Recommendation: Yes, the Commission should approve the proposed Territorial Agreement between Peoples and Leesburg in Sumter County. The proposed Territorial Agreement is in the public interest and it will enable Peoples and Leesburg to avoid duplication of facilities and serve their customers in an efficient manner. (Guffey)

Staff Analysis: Pursuant to Section 366.04(2)(d), F.S., and Rule 25-6.0440, Florida Administrative Code (F.A.C.), the Commission has the jurisdiction to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities. Unless the Commission determines that the agreement will cause a detriment to the public interest, the agreement should be approved.⁶

Peoples and Leesburg Territorial Agreement

The proposed Territorial Agreement between Peoples and Leesburg was executed on March 9, 2020, and would continue to be in effect until modification by mutual agreement by the parties and approved by the Commission or until termination or modification mandated by court order, as stated in Section 1.1 of the territorial agreement.

The joint petitioners stated that as a result of Order No. PSC-2020-0052-FOF-GU, 3,625 (includes 3,615 residential and 10 commercial customers) Leesburg service customers in Bigham North, Bigham West, and Bigham East will be transferred to be served by Peoples, effective June 1, 2020.⁷ Pursuant to the proposed Territorial Agreement in the instant docket, the joint petitioners will also transfer three additional customers (fire station, a district building, and The Villages Grown—a hydroponic and aeroponic farm) located adjacent to Bailey West Development to Peoples. Section 2.1 of the proposed Territorial Agreement also includes additional areas in Sumter County to be served by Peoples in the future. The joint petitioners also stated that any new customers taking service within the areas contained in Article II – Boundary Provisions of the proposed Territorial Agreement will be served by either Peoples or Leesburg according to the future service areas identified in the map (Attachment A to this recommendation).⁸

During the pendency of Docket No. 20180055-GU, Leesburg filed a territorial dispute petition in Docket No. 20180185-GU against Peoples regarding its natural gas service to Suwannee American Cement Company, LLC in Sumter County. This petition is still pending before the Commission. Pursuant to Section 2.1 of the proposed Territorial Agreement and pursuant to the Settlement Agreement, the Suwannee American Cement Company, LLC will continue to be served by Peoples. In response to staff's first data request, the joint petitioners stated that the unresolved issues in Docket No. 20180185-GU will be resolved if the proposed Territorial

⁶ *Utilities Commission of the City of New Smyrna Beach v. Florida Public Service Commission*, 469 So. 2d 731 (Fla. 1985).

⁷ Responses No. 7 and No. 12 in staff's first data request (Document No. 01761-2020).

⁸ Response No. 7 in staff's first data request (Document No. 01761-2020).

Date: May 28, 2020

Agreement is approved by the Commission and Leesburg will voluntarily dismiss its petition in Docket No. 20180185-GU.

Transfer of Assets

The joint petitioners, in paragraph 10 of the petition and in paragraph 9 of the Territorial Agreement, stated their intention to provide an orderly transfer of assets in the Bigham developments without the need for further litigation. Rule 25-7.0471(2)(a), F.A.C., requires the Commission to consider the reasonableness of the purchase price of any facilities being transferred.

In response to staff's first data request, the joint petitioners stated that Peoples will be paying for the infrastructure for the approximately 3,625 Bigham development customers to be transferred to Peoples. South Sumter Gas Company, LLC, was retained by Leesburg to act as a construction company which constructed the infrastructure to serve the Bigham developments. Peoples will pay \$5,000,000 to South Sumter Gas Company, LLC, with \$500,000 to be retained by Peoples to pay for warranty claims. The balance will be paid to South Sumter Gas Company, LLC, in one year less claims for warranty issues related to the infrastructure being transferred. This payment amount would result in a per customer amount ranging between \$1,241 to \$1,379 depending on the reduction for warranty expenses. Through its adoption of the ALJ's Recommended Order, the Commission concluded in Order No. PSC-2020-0052-FOF-GU that "the cost-per-home for Leesburg and SSGC to provide service in Bigham is \$1,800. In addition, Leesburg will be installing automated meters at a cost of \$72.80 per home. The preponderance of evidence indicates that PGS cost-per-home is \$1,579."⁹

The per customer purchase price stated above is less than the cost determined by Order No. PSC-2020-0052-FOF-GU. The joint petitioners also stated that no purchase price has been affixed to Leesburg's transfer of its Bigham development infrastructure, as Leesburg did not incur significant costs in installing infrastructure in the Bigham developments.¹⁰ Staff believes the negotiated infrastructure transfer cost is reasonable and approximates the cost established in Order No. PSC-2020-0052-FOF-GU.

Customer Deposits and Notification

Leesburg notified its affected natural gas customers via a letter dated April 1, 2020 (Attachment B to this recommendation), which stated that their customer deposit will be applied towards the final bill or outstanding balance, and any remaining deposit amount will be directly refunded to the customer by check within 30 to 45 days of the date of transfer (June 1, 2020). Of the 3,625 Leesburg customers to be transferred to Peoples, per Commission Order PSC-2020-0052-FOF-GU, 1,909 customers have a deposit on file with Leesburg.¹¹ Leesburg's customer deposit is \$50.

Peoples is proposing a \$50 deposit for Leesburg customers transferred to Peoples. After 12 months of service, Peoples will reassess the deposit amount in accordance with 366.05(1), F.S. According to Peoples' customer notification (Attachment C), it will collect the deposit in its first

⁹ Order No. PSC-2020-0052-FOF-GU at p. 92 (Conclusion of Law 160).

¹⁰ Response No. 8 in Commission staff's first data request (Document No. 01761-2020).

¹¹ Response No. 17 in Commission staff's first data request (Document No. 01761-2020).

Date: May 28, 2020

bill in July 2020 and return the deposit with interest after 23 months of continuous service and no more than one late payment. Peoples' tariff allows transferred customers to request a credit check to evaluate if the customer would qualify to have the deposit waived. Peoples included information in its customer notification (Attachment C) on how customers can request the credit check to determine if the deposit can be waived.

Pursuant to the proposed Territorial Agreement, three additional commercial customers will be transferred to Peoples. These three customers currently are being served by Leesburg and are located outside of the area ordered to be transferred to Peoples in Order No. PSC-2020-0052-FOF-GU. The parties have agreed to transfer these customers to Peoples in the proposed Territorial Agreement.¹² In response to staff's second data request, Peoples stated that it will contact the three additional customers individually to discuss the transfer and applicable billing rates.¹³

Conclusion

Through the proposed Territorial Agreement, the joint petitioners will be able to serve customers within clearly defined service areas, comport with the requirements of Order No. PSC-2020-0052-FOF-GU, resolve the dispute in Docket No. 20180185-GU, avoid future litigation, eliminate any potential uneconomic duplication of facilities, and serve current and future customers without service disruption.

After review of the joint petition and the petitioners' joint responses to Commission staff's data requests, staff recommends that the proposed Territorial Agreement is in the public interest and will enable Peoples and Leesburg to serve their current and future customers efficiently. It appears that the proposed Territorial Agreement eliminates any potential uneconomic duplication of facilities and will not cause a decrease in reliability of natural gas service. Pursuant to the joint petition and response No. 3 to Commission staff's first data request, the petitioners stated that approval of this Territorial Agreement will establish definitive service boundaries and avoid future litigation. Additionally, as stated in the petition and in response to Commission staff's first data request No. 6, Leesburg will withdraw its counter-petition in Docket No. 20180185-GU to resolve the territorial dispute related to the Suwannee American Cement, if the Commission approves the proposed Territorial Agreement. As such, Commission staff believes that the proposed Territorial Agreement between Peoples and Leesburg will not cause a detriment to the public interest and recommends Commission approval.

¹² Response No. 1 in staff's second data request (Document No. 02343-2020).

¹³ Response No. 2 in staff's second data request (Document No. 02343-2020).

Date: May 28, 2020

Issue 2: Should this docket be closed?

Recommendation: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Trierweiler)

Staff Analysis: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.

TERRITORIAL AGREEMENT

This Territorial Agreement (the "Agreement") is made and entered into this 9th day of March, 2020, by and between Peoples Gas System, a division of Tampa Electric Company, a Florida corporation ("Peoples") and the City of Leesburg, a municipal corporation organized and existing under the laws of the State of Florida ("Leesburg").

RECITALS

1. Leesburg and South Sumter Gas Company, a Florida corporation ("SSGC" or The Villages") have entered into an agreement for Leesburg to provide natural gas service to certain properties of The Villages community located in in Sumter County, Florida.
2. Peoples was serving The Villages Development known as Fenney when the agreement between Leesburg and SSGC was entered into. Peoples has existing infrastructure in Sumter County, Florida.
3. Peoples filed a territorial dispute with the Florida Public Service Commission ("Commission") on February 23, 2018 titled *Petition to resolve territorial dispute in Sumter County and/or Lake County with the City of Leesburg and/or South Sumter Gas Company*, Docket No. 20180055-GU. The case was referred to an administrative law judge and a final hearing was held from June 24, 2019 – June 27, 2019.
4. The administrative law judge issued a Recommended Order on September 30, 2019.
5. On January 14, 2020, the Commission adopted the Recommended Order as its Final Order (PSC-2020-0052-FOF-GU). That Order awarded Peoples the territory

encompassing three (3) Villages Developments known as Bigham North, Bigham East and Bigham West. Those developments were being served by Leesburg pursuant to its agreement with SSGC. The Order did not award any other territory to any of the parties.

6. During the pendency of Peoples' territorial dispute petition against Leesburg and SSGC, Leesburg filed a territorial dispute petition with the Commission against Peoples regarding service to Suwannee American Cement. That petition, Docket No. 20180185-GU, is still pending and has not been resolved.

7. The Villages and Leesburg desire to have Leesburg provide natural gas service in future Villages developments in Sumter County, Florida. Peoples does not object to Leesburg providing natural gas service to certain Villages developments as depicted on the attached map.

8. Peoples intends to file additional territorial disputes regarding Leesburg serving future developments in Sumter County, Florida, if this Agreement is not executed and approved by the Commission.

9. The parties wish to provide an orderly transfer of infrastructure in the Bigham developments without the need for further litigation.

10. The parties wish to avoid and eliminate future territorial disputes in Sumter County arising out of Leesburg's providing natural gas service to the Villages Developments. The parties agree that this Agreement will resolve the ongoing issues among the parties in the subject area, Sumter County, Florida, and enhance the ability of customers to receive natural gas service.

NOW THEREFORE, in fulfillment of the purposes and desires described above,

and in consideration of the mutual covenants and agreements herein contained and referenced by attachment, the parties, subject to and upon the terms and conditions set forth hereby agree as follows:

ARTICLE I

TERM OF AGREEMENT

Section 1.1

After this Agreement becomes effective, pursuant to Section 2.1 hereof, it shall continue in effect until modification by mutual agreement by the parties and approval by the Commission or until termination or modification mandated by a court with appropriate jurisdiction.

ARTICLE II

BOUNDARY PROVISIONS

Section 2.1

The map attached hereto and labeled Exhibit A depicts boundary lines in Sumter County, Florida delineating the natural gas service area reserved to Peoples and the natural gas service area reserved to Leesburg with respect to service to natural gas customers. The boundary areas to be served by the respective parties are described as follows:

City of Leesburg

Leesburg will be the natural gas provider in the areas shown on the map in green which include:

- (a) Any area within the Leesburg city limits.

(b) Carter 5b1-4, 5c, and 5c1-4, and all commercial and recreational centers located therein.

(c) The Coleman Prison.

(d) All portions of future developments in areas shown in green on Exhibit B.

Peoples Gas System

Peoples shall serve all areas shaded in blue, including but not limited to the following Villages Developments:

(a) The Rick Scott Industrial Park and areas adjacent thereto.

(b) The developments known as Pinkstaff 10A and all areas west of Pinkstaff.

(c) Hickman 3D1 thru 3D3.

(d) Meggison 4A1 thru 4C2, including the four recreation centers and commercial development at State Road 44 and the north side of County Road 468.

(e) Bailey West, including the Villages Grown, the Fire Station, office complex and all commercial development along State Road 44 and County Road 468.

(f) Bailey East, including the recreation center and all commercial development along State Road 44.

(g) Portions of Carter at 5A1, 5D1, 5D2-3, including three recreation centers and commercial development along State Road 468.

(h) Suwanee American Cement Company, LLC

Section 2.2

Each of the parties agrees that it will not, except as provided under separate written agreement, provide or offer to provide natural gas service to customers within the territory herein reserved to the other party.

Section 2.3

Leesburg is currently providing natural gas service to customers located in Bigham North, Bigham East, Bigham West, and in portions of Bailey West and the fire station adjacent to Bailey West (the "Existing Customers"), which is situated within territory reserved under this Territorial Petition Peoples. Those approximately 3,625 existing customers shall be transferred to Peoples.

ARTICLE III

MISCELLANEOUS PROVISIONS

Section 3.1

The failure of either party to enforce any provision of this Agreement in any instance shall not be construed as a waiver or relinquishment on its part of any such provision but the same shall nevertheless be and remain in full force and effect.

Section 3.2

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

Section 3.3

This Agreement shall be governed by the laws of the State of Florida.

Section 3.4

The parties hereto recognize and agree that each of them is subject to the jurisdiction of the Commission with regard to the subject of their respective territories as set forth in this Agreement and further agree that this Agreement shall have no force or effect unless and until it is approved by the Commission in accordance with applicable procedures. The parties further agree that this Agreement, if and when approved by the Commission, shall be subject to the continuing jurisdiction of the Commission and may be terminated or modified only mutual agreement of the parties and by order of the Commission. No modification or termination of this Agreement by the parties hereto shall be effective unless and until approved by the Commission (or any successor agency with power to consider approval or modification hereof). Each party agrees to promptly notify the other in writing of any petition, application or request for modification of this Agreement made to the Commission and to serve upon the other party copies of all pleadings or other papers filed in connection therewith.

Section 3.5

This Agreement shall be effective on the date it is approved by the Commission in accordance with Section 3.4 hereof.

Section 3.6

This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one agreement.

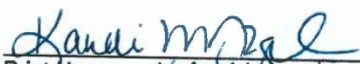
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date and year first above stated.

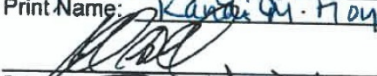
PEOPLES GAS SYSTEM, a
division of Tampa Electric
Company


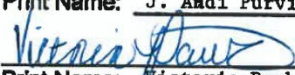
By: 


Print name: T. J. Seelinger

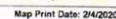
Its: President


Print Name: Kandi M. Boyd


Print Name: Richard F. Wall


Print Name: J. Andi Purvis

Print Name: Victoria Parks

CITY OF LEESBURG
By: 
Print name: Elise A. Dennison
Its: Mayor





April 1, 2020

«Customer_Name»

«Customer_Master_Mailing_Address»

Re: Important changes to account # «Customer_ID»-«Location_ID»

Location: «Location_Address_Without_Jurisdiction»

Dear Valued Customer:

We're reaching out to let you know that your natural gas service and account will be transferred to TECO Peoples Gas on **June 1, 2020**. There will be no interruption of your service during the transfer.

The transfer of your account is a result of service territory changes between the City of Leesburg and Peoples Gas regarding the areas each company serves with natural gas. These changes were approved by the Florida Public Service Commission in January 2020.

We are working closely with Peoples Gas to make this transition as smooth as possible. You do not need to do anything at this time regarding the transfer of service. Peoples Gas will be reaching out to you to set up your account.

If you have a deposit with the City of Leesburg, your deposit will be applied to the outstanding balance on your City of Leesburg gas account and any remaining deposit funds will be refunded directly to you. Peoples Gas, however, may require an account deposit. It is not expected that the transfer will affect your rates.

Please know we have appreciated the opportunity to serve you and are confident in the service you will receive from Peoples Gas. You'll hear from Peoples Gas soon, but should you have any questions about the transfer of your natural gas service in the meantime, please don't hesitate to call us at **352-728-9800** or Peoples Gas at **352-671-4550** or toll free at **866-896-1222**. You can also contact Peoples Gas via email at LeesburgNewCustomer@tecoenergy.com.

Sincerely,

City of Leesburg
501 W Meadow Street
Leesburg, FL 34748



Account number:
Date

Dear NAME,

Welcome to Peoples Gas! We've been delivering safe, resilient, clean and affordable natural gas energy solutions to customers across Florida for 125 years and we're so pleased you're joining our customer family. We're ready to help you every step of the way and want to reassure you that you will not experience an interruption in your natural gas service during the transition of your account from the city of Leesburg to Peoples Gas.

To finalize setting up your account, please call us by May 22, 2020 at 352-671-4550 or 866-896-1222. We want to ensure we have your correct name, address and other personal information included on your account. You may need to provide your Social Security number or other personal identification numbers to verify your identity.

Your gas service will transfer to Peoples Gas on June 1, 2020 without interruption. Please continue to contact the city of Leesburg at **352-728-9800** with any questions about your service until that time. When you receive your final bill from the city of Leesburg, please make your payment by the specified due date using your usual payment method. This will ensure that your Leesburg account is in good standing when it transitions to Peoples Gas.

You will not need to pay a fee to start your Peoples Gas account, however we will collect a \$50 deposit to secure your account. The deposit will be included on the first bill you receive from Peoples Gas in July, and will be returned to you with interest after 23 months of continuous service and no more than one late payment. Interested in waiving the deposit? You may contact us to request that we run a credit check to see if you qualify.

We are reviewing your past natural gas history with the city of Leesburg and will assign you to the appropriate Peoples Gas rate class depending on your typical usage. Here's an overview of our residential rate classes and monthly charges:

	RS-1 (0-99 therms/month)	RS-2 (100-249 therms/month)	RS-3 (250-1,999 therms/month)
Customer Charge	\$11.40	\$14.25	\$19.01
Distribution Charge	\$0.46066/therm	\$0.46066/therm	\$0.46066/therm
PGA*	\$0.76495/therm	\$0.76495/therm	\$0.76495/therm

*The PGA, or Purchased Gas Adjustment, is the cost of natural gas purchased for you by Peoples Gas and delivered to your property. This cost can adjust monthly.

We want to make doing business with us as easy as possible for you. Visit tecoaccount.com to register for your online account access. You can manage your account, enroll in programs, view and pay your bill and more, all from the device of your choice. We've included some frequently asked questions with this letter. Should you think of anything else you'd like to ask, please contact us by calling **352-671-4550** or toll free at **866-896-1222**, or by sending an email to LeesburgNewCustomer@tecoenergy.com.

We value safety above all else, so we offer important tips to help you use natural gas safely, identify pipelines in your area, be prepared for storms and more at peoplesgas.com/safety. And our commitment to safety extends beyond your natural gas service. We protect your sensitive information which we may require as part of our process to verify your identity and review your credit.

We look forward to starting service with you in June.

Thank you,

Peoples Gas

**Frequently asked questions about the transition of natural gas accounts
from the city of Leesburg to Peoples Gas**

Q. Why is my account transitioning from the city of Leesburg to Peoples Gas?

A. The transfer of your account is a result of an agreement between the city of Leesburg and Peoples Gas regarding the areas each company serves with natural gas. The agreement was approved by the Florida Public Service Commission in January 2020.

Q. Will Peoples Gas charge a deposit?

A. Yes, Peoples Gas will charge a \$50 deposit to secure residential accounts. If you would like to learn more about having the deposit waived, you may contact us at **352-671-4550** or toll free at **866-896-1222** and we will run a credit check to see if you qualify.

Q. Will Peoples Gas charge a start-up fee?

A. No, you will not be charged a start-up or activation fee when your account transitions to Peoples Gas.

Q. Will I lose service during the transition?

A. No, you should not experience an interruption in your natural gas service when your account transitions to Peoples Gas.

Q. Will my billing and due dates be the same with Peoples Gas as they are with Leesburg?

A. You can expect to receive your bill around the same time that you received your bill from the city of Leesburg – likely in the first part of the month.

Q. I receive a paperless bill from the city of Leesburg. How can I receive a paperless bill from Peoples Gas?

A. If you are already a paperless billing customer, when your account transitions to Peoples Gas, we will automatically enroll your account in our free paperless billing program.

Q. My payment is automatically deducted from my bank account each month. How can I pay my Peoples Gas bill the same way?

A. Peoples Gas offers Direct Debit, a free and easy way to automatically pay your bill each month. To sign up, visit **tecoaccount.com**. Once you register your account, you'll be able to enroll in Direct Debit with one click.

Q. I make my payment electronically through my bank each month. How can I pay my Peoples Gas bill the same way?

A. If you pay your bills using your bank's online payment service, you'll need to remove your city of Leesburg account information after your final bill and update your bank with your new Peoples Gas account information.

Q. Can I manage my account online?

A. Yes, Peoples Gas offers online account access at **tecoaccount.com**. If you have any problems registering your account, please contact us and we'll be happy to help.

Q. I have other questions about my account. How can I reach Peoples Gas?

A. We have a dedicated team ready to assist you with any questions you may have about this transition. Please contact us weekdays from 7:30 a.m. to 6 p.m. at **352-671-4550** or toll free at **866-896-1222**, or send an email to **LeesburgNewCustomer@tecoenergy.com**.