

2.0 NEED FOR THE PROPOSED FACILITY

The FPSC is the sole forum for the determination of need for a proposed facility subject to the PPSA (Section 403.519, F.S.). On July 18, 2011, FPL petitioned the FPSC and received an exemption from the requirement of Rule 25-22.082(18), F.A.C. that a request for proposals (RFP) be conducted for the modernization of the existing Port Everglades Units 1 through 4. In its order granting the exemption, the FPSC reached the following conclusions:

- FPL has demonstrated that PEEC will likely increase the reliable supply of electricity to the utility's ratepayers by providing base load generation to the area of most concentrated use on FPL's system;
- FPL has demonstrated that PEEC will otherwise serve the public welfare by providing benefits beyond the provision of electric service; and
- It is unlikely that a respondent to an RFP could provide similar benefits.

(FPSC Order No. PSC-11-0360-PAA-EI, dated August 26, 2011, at page 3, attached.)

On November 21, 2011, FPL filed a Petition to Determine Need for Modernization of the Port Everglades Plant with the FPSC (see FPSC Docket No. 110309 for the PEEC filing at <http://www.psc.state.fl.us/dockets/cms/docketdetails2.aspx?docket=110309>). The FPSC is expected to rule on this petition early 2012.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for exemption under Rule 25-22.082(18), F.A.C., from issuing request for proposals (RFPs) for modernization of the Port Everglades Plant, by Florida Power & Light Company.

DOCKET NO. 110228-EI
ORDER NO. PSC-11-0360-PAA-EI
ISSUED: August 26, 2011

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING PETITION FOR EXEMPTION

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission (“Commission”) that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (“F.A.C.”).

Background

The scope and intent of Rule 25-22.082, F.A.C., also commonly referred to as the “Bid Rule” is,

to provide the Commission information to evaluate a public utility’s decision regarding the addition of generating capacity pursuant to Section 403.519, Florida Statutes. The use of a Request for Proposals . . . process is an appropriate means to ensure that a public utility’s selection of a proposed generation addition is the most cost effective alternative available.¹

As defined in Rule 25-22.082(2)(c), F.A.C., a Request for Proposal (“RFP”) is “a document in which a public utility publishes the price and non-price attributes of its next planned generating unit in order to solicit and screen, for potential subsequent contract negotiations,

¹ *Id.* (Section 403.519, Florida Statutes, governs this Commission’s determinations of need for electrical power plants subject to the Florida Electrical Power Plant Siting Act.).

competitive proposals for supply-side alternatives to the public utility's next planned generating unit."

At subsection (18), the Bid Rule provides for an exemption from the RFP process based on certain findings by this Commission. Pursuant to this subsection, on July 18, 2011, Florida Power & Light Company ("FPL" or "Company") filed its Petition to Request Exemption under Rule 25-22.082(18), F.A.C., from Issuing Requests for Proposal for the Modernization of the Port Everglades Plant ("Petition").

We have jurisdiction in this matter pursuant to Rule 25-22.082, F.A.C., Chapter 366, Florida Statutes, and Section 403.519, Florida Statutes.

Decision

Pursuant to Rule 25-22.082(18), F.A.C., in order for FPL to be granted the requested exemption from the Bid Rule, the Company must show and we must find, *one* of the following with respect to FPL's proposal for the modernization of the Port Everglades plant ("Project"):

- A. it "will likely result in a lower cost supply of electricity to the utility's general body of ratepayers;"
- B. it will "increase the reliable supply of electricity to the utility's general body of ratepayers;" *or*
- C. it "otherwise will serve the public welfare." *Id.*

The Project will remove four 1960s-era oil and natural gas-fueled steam electric generating units that are located in eastern Broward County and total 1,200 MW of generating capacity, and replace them with a highly efficient, state-of-the-art combined-cycle power plant with up to 1,280 MW of generation. The Project will be centrally located to serve the most concentrated area of FPL's customer base. We have previously granted exemptions from the Bid Rule for the modernization of FPL's power plants at Cape Canaveral and Riviera Beach; these ongoing projects are very similar to the Project.

FPL asserts that the Project meets *all three* criteria outlined in Rule 25-22.082(18), F.A.C. In support of this assertion, FPL contends that the Project will: provide reliable base load capacity to a region on the FPL system where demand is the highest; improve the fuel efficiency of generation at the Port Everglades plant by approximately 35%; improve the environmental profile of this facility; reduce system emissions; reduce the need for new transmission investment; and, provide needed jobs for Florida's economy. FPL also argues that an RFP will add unnecessary time to the project development process and will not identify any alternative that will offer the economic and strategic benefits associated with the Project. FPL states that it will competitively bid the construction and procurement of major equipment for the new facility so that its customers will be ensured of lowest cost construction.

FPL asserts that the Project will result in more than \$400 million Cumulative Present Value Revenue Requirements (CPVRR) savings compared to bringing back units from inactive reserve status. According to FPL, the savings will be derived from greater fuel efficiency of the

new unit, reduced emission costs, reduced operating and maintenance expenses, and enhanced unit availability.

The Port Everglades plant site is strategically located to serve FPL's customers in the most concentrated area of FPL's system. Locating generation sources as close to the load as possible reduces the reliance upon the transmission system and also reduces overall costs of service. Port Everglades has multiple advantages including (1) adequate land size and zoning, (2) access to fuel transportation infrastructure (gas pipeline), (3) transmission facilities, and (4) water supply and transportation. It is unlikely that a responder to an RFP could match these desirable attributes and resources. Since the existing Port Everglades units are older and less efficient, they are not used very often and the system relies on imported power via the transmission system. The Project will add base load generation close to the load and thereby, reduce the need for new transmission investment. Thus, the modernization of the Port Everglades site is expected to result in significant customer savings when compared to other viable greenfield sites upon which FPL, or a third party, might propose to construct a power plant.

FPL estimates that the proposed Project will create an estimated 650 direct jobs at its peak; provide more than \$20 million in new tax revenue to local governments and school districts, and result in significant environmental benefits compared to the existing plant. In addition, use of the existing site, facilities, and committed resources such as water, should not result in additional land use impacts, such as impact on wetlands associated with locating new gas pipelines or transmission facilities. Thus, the Project will provide benefits beyond the provision of electric service.

Upon review, we find that by its Petition, the Company has demonstrated that:

- the Project will likely result in a lower cost supply of electricity to the utility's ratepayers by improving the fuel efficiency of FPL's generating resources;
- the Project will likely increase the reliable supply of electricity to the utility's ratepayers by providing base load generation to the area of most concentrated use on FPL's system; and,
- the Project will otherwise serve the public welfare by providing benefits beyond the provision of electric service.

We further find that it is unlikely that a respondent to an RFP could provide similar benefits.

Based on the foregoing, we shall grant FPL's petition for exemption from the RFP requirement of Rule 25-22.082, F.A.C., for the modernization of its Port Everglades plant. However, our granting the exemption to the Bid Rule does not relieve the Company of any requirements during a future need determination process, including a demonstration that the project is the most cost-effective source of power or whether conservation or renewable generation can mitigate the need for the modernization of the Port Everglades facility.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the July 18, 2011, Florida Power & Light Company Petition to Request Exemption under Rule 25-22.082(18), F.A.C., from Issuing Requests for Proposal for the Modernization of the Port Everglades Plant is hereby granted. It is further,

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 26th day of August, 2011.

/s/ Ann Cole

ANN COLE

Commission Clerk

Florida Public Service Commission

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Tallahassee, Florida 32399

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CWM

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 16, 2011.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.