

FLORIDA PUBLIC SERVICE COMMISSION
CERTIFICATE OF NEED DETERMINATION
FOR
NEW POWER PLANTS IN FLORIDA

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BACKGROUND

The Florida Public Service Commission (FPSC) is legally charged with assuring that the public is being served with reliable utilities at reasonable costs. Reliable supplies require that appropriate capacity reserves are available. Both over construction and under construction of electric generating capacity are not in the public's best interest, due to lack of reliability on one hand and excessive cost on the other. Alternative means of meeting customer's service needs may be more appropriate, such as through energy conservation or renewable energy. Furthermore, there are times when it is prudent to replace older or less efficient generating units, or there may be times when it is in the public's best interest to assure appropriate fuel mixes.

Accordingly, before any new electric generation in Florida may be constructed, it must receive certification from the FPSC that the facility is needed and is in the best interests of the public. The purpose of this white paper is to review the legal basis under which this certification is made, and the criteria which are applied.

FLORIDA STATUTES SECTION 403.519

Section 403.519, Florida Statutes is the law that requires that the FPSC must make the determination of the need for electrical capacity. The determination must be made only after balancing demands for electrical power plant location and operation with the broad interests of the public. The FPSC's mission

includes that customers are served best by markets that facilitate the efficient provision of safe and reliable utility services at fair prices. It is the FPSC's mission to ensure that the regulatory process results in fair and reasonable rates while encouraging and facilitating responsible use of resources and technology in the provision and consumption of utility services. A key component of the FPSC's mission is to manage the electrical capacity needs in the State to ensure there is not excess capacity.

The intent of this legislation is to determine the need for an electrical power plant subject to the Florida Electrical Power Plant Siting Act. The FPSC is the sole forum for the determination of this matter. In making its determination in compliance with F.S.A. § 403.519, the FPSC shall take into account the following:

- Need for electric system reliability and integrity,
- Need for adequate electricity at a reasonable cost, and
- Whether the proposed plant is the most cost-effective alternative available.

Further, as per F.S.A. § 403.519, the FPSC shall expressly consider the conservation measures taken by or reasonably available to the applicant which might mitigate the need for the proposed plant. The FPSC's determination of need for an electrical power plant creates a presumption of public need and necessity.

MAXIMUM COST-EFFECTIVE CONSERVATION AND RENEWABLE ENERGY

The FPSC requires jurisdictional utilities to perform studies to establish the cost-effective levels of energy conservation. These studies are compared to independent studies performed by the FPSC and are carefully scrutinized as to their assumptions and methodologies. Section 366.82, Florida Statutes, part of

the Florida Energy Efficiency and Conservation Act (FEECA), requires the FPSC to adopt goals to increase the efficiency of energy consumption, increase the development of cogeneration, and reduce and control the growth rates of electric consumption and weather-sensitive peak demand. Pursuant to § 366.82(2), Florida Statutes, the FPSC must review a utility's conservation goals not less than every five years. These statutes are implemented by Rules 25-17.001 and 25-17.0021, Florida Administrative Code that specify the form of economic analysis that is to be applied- which in Florida is called the Rate Impact Measure test. Although GRU is not a jurisdictional utility, the FPSC will review GRU's conservation goals as part of the need determination process.

REQUEST FOR PROPOSALS TO ASSURE LEAST COST

Cost-effectiveness is an important part of the need determination. As part of the need determination process, the FPSC has adopted rules that require IOU's to formally and in a reasonable manner, seek alternative proposals to meet the stated objectives of the applicant's "self-build" proposal. The applicant's Capacity Request for Proposal (RFP)¹ to afford potential generation suppliers² an opportunity to submit a proposal as an alternative to the utility's next planned generating unit. The responses to the Capacity RFP is to provide the FPSC with the highest quality information possible to evaluate an electric utility's decision regarding the addition of generating capacity pursuant to § 403.519, Florida Statutes. The use of a Capacity RFP process is a means to ensure that an electric utility's selection of a proposed generation addition is the most cost-effective alternative available.

¹ Fla. Admin. Code Ann. R. 25-22.082 is referred to as the Bid Rule. The Bid Rule applies to all electric utilities subject to the FPSC's ratemaking authority, as defined in Section 366.02(1), Florida Statutes.

² A participant may include, but is not limited to, utility and non-utility generators, Exempt Wholesale Generators (EWGs), Qualifying Facilities (QFs), marketers, and affiliates of public utilities, as well as providers of turnkey offerings, distributed generation, and other utility supply side alternatives.

Prior to filing a petition for determination of need for an electrical power plant, while the Bid Rule³ is not required for municipal utilities, demonstration of the electric utility having adequately considered market alternatives will need to be made. GRU staff believes that following the Bid Rule process would be in the best interests of the Gainesville community.

CAPACITY RFP CRITERIA

The Capacity RFP is an excellent means of securing low cost⁴ options and settles whether there is a less costly market alternative. The purpose of the criteria provides a means for the electric utility and the FPSC to evaluate the proposals received in response to the Capacity RFP in a fair comparison with the utility's next planned generating unit identified in the Capacity RFP. Accordingly, the FPSC requires that the applicant provide a high level of detail to assist in the development of competing proposals. The electric utility's Capacity RFP shall include, at a minimum:

- A detailed technical description of the utility's next planned generating unit or units on which the RFP is based, as well as the financial assumptions and parameters associated with it, including, at a minimum, the following information:
 1. a description of the utility's generating unit and its proposed location;
 2. MW size;
 3. estimated in-service date;
 4. primary and secondary fuel type;
 5. an estimate of the total direct cost;
 6. an estimate of the annual revenue requirements;

³ Fla. Admin. Code Ann. R. 25-22.082.

⁴ Cost is broadly defined as environmental and economic impacts.

7. an estimate of the annual economic value of deferring construction;
 8. an estimate of the fixed and variable operation and maintenance expense;
 9. an estimate of the fuel cost;
 10. an estimate of the planned and forced outage rates, heat rate, minimum load and ramp rates, and other technical details;
 11. a discussion of the actions necessary to comply with environmental requirements; and
 12. a summary of all major assumptions used in developing the above estimates
- A description of the price and non-price evaluation criteria to be addressed by each alternative generating proposal including, but not limited to:
 1. technical and financial viability;
 2. dispatchability;
 3. deliverability;
 4. fuel supply;
 5. water supply;
 6. environmental compliance and impacts;
 7. performance criteria; and
 8. pricing structure;

 - A detailed description of the criteria and the methodology, including any weighting and ranking factors, to be used to evaluate alternative generating proposals on the basis of price and non-price attributes.

SUMMARY AND CONCLUSIONS

The importance of § 403.519, Florida Statutes, is to seek courses of action that will fully balance the increasing demands for electrical power plant location and operation with the broad interests of the public. It requires that conservation and

renewable energy be given full consideration, and that the most cost-effective alternatives be selected.

One important consequence of the Capacity RFP process is that it opens the door for innovative alliances between equipment vendors, and promotes innovative means by which proposers can aid the host utility in managing various aspects of risk. For example, while IGCC is an expensive emerging technology that GRU might not otherwise select due to cost and reliability considerations, it is conceivable that a major supplier (such as Texaco or Conoco) could bundle its tax incentives, its need to promote its product, and its deep financial resources into a proposal that would meet GRU's risk and cost objectives.