

120 FERC 61,171
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 20, 2007

In Reply Refer To:
Florida Power & Light Company
Docket No. ER07-1070-000

Florida Power & Light Company
4200 West Flagler Street
Miami, FL 33134

Attention: Hector J. Sanchez
Director, Transmission Services & Planning

Reference: Agreement for Generator Balancing Service

Dear Mr. Sanchez:

1. On June 22, 2007, Florida Power & Light Company (FPL) filed a Generator Balancing Service Agreement (Agreement) between FPL and New Hope Power Partnership (New Hope).¹ The Commission accepts the filing, effective August 1, 2007, as requested, on the condition that FPL refiles the Agreement subject to the revision discussed below.

2. According to FPL, New Hope operates an electrical generation facility consisting of one 74.9 MW generator and one 65 MW generator, which are both fueled primarily by biomass fuels (the Facility). New Hope is a qualifying cogeneration facility that operates within FPL's control area. FPL purchases as-available energy from New Hope from time to time. Additionally, New Hope may schedule energy from the Facility through the FPL transmission system for sale to others.

3. FPL explains that in the past, New Hope has sometimes experienced difficulty in assuring that its deliveries of power match the amounts scheduled from the Facility through the FPL transmission system for sale to others. In the event these difficulties continue into the future, FPL proposes to provide generator balancing service to New Hope for these sales under the Agreement.

¹ Rate Schedule FERC No. 306.

4. Notice of the filing was published in the *Federal Register*, with interventions, comments and protests due on or before July 13, 2007. No protests or adverse comments were filed.
5. Article 4.03 of the Agreement sets forth circumstances in which generator balancing service will be provided and explains how charges will be determined. We note that this service is similar to the generator imbalance service added to the new Schedule 9 of the *pro forma* Open Access Transmission Tariff (OATT) by Order No. 890.² However, there is one noteworthy distinction. The *pro forma* OATT uses a tiered structure for generator imbalances, in which imbalance charges escalate as the imbalance increases. While the Agreement uses this tiered structure in the case of under deliveries, over deliveries will be settled at a fixed cost (100 percent of avoided energy cost), regardless of the magnitude of the imbalance. We find FPL's proposal to settle over deliveries at avoided energy cost appropriate, given New Hope's status as a qualifying cogeneration facility.³
6. We accept the Agreement; however, the Agreement's designation as a stand alone rate schedule does not conform to the requirements of Order No. 890. Order No. 890 required FPL to submit a section 206 compliance filing to revise its OATT by July 13, 2007.⁴ Thus, any agreements for generator balancing service effective after July 13, 2007 should be placed under the new Schedule 9. The Agreement between FPL and New Hope has an effective date of August 1, 2007. Therefore, we direct FPL to refile the Agreement as a non-conforming service agreement under Schedule 9 of its OATT within 30 days of the date of this order.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

²*Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 18 C.F.R. §§ 35, 37 (2007), FERC Stats. & Regs. ¶ 31,241 (2007).

³ A qualifying cogeneration facility (QF) is entitled to a payment at the utility's avoided cost under the Public Utility Regulatory Policies Act of 1978 (PURPA). Public Utility Regulatory Policies Act of 1978, 16 U.S.C. §§ 2601-2645 (1978).

⁴ FPL submitted this filing in Docket No. OA07-46-000.