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FMPA Wins Complaint Against Duke, Restoring Queue Positions

May 16, 2019 | *Cynthia S. Bogorad, William S. Huang*

On May 16, 2019, FERC granted a Florida Municipal Power Agency (FMPA) complaint against Duke Energy Florida (DEF), reinstating FMPA's previously submitted requests for transmission service to supply its members with power generated from the Poinsett Solar Facility, a NextEra 75 MW solar installation that is part of the largest solar project in Florida.

FMPA requested transmission service from DEF for its All-Requirements Project and member cities Bartow, Wauchula, and Winter Park in September 2018. Because NextEra's interconnection request for the Poinsett Solar Facility was still pending, DEF rejected the transmission service requests based on its unwritten policy requiring an executed generator interconnection agreement before a transmission service request can be submitted. DEF's rejection of these requests resulted in FMPA losing its transmission queue position, advantaging other transmission requests, including those of DEF. FMPA's complaint asked FERC to find that DEF had violated its OATT and other requirements, and to restore the wrongfully denied transmission service requests and associated queue positions.

Three and a half months after FMPA filed the complaint, FERC granted it. FERC found that DEF's rejection of the FMPA transmission service requests violated DEF's tariff, its business practices, the Federal Power Act, and FERC precedent—every ground on which FMPA had based its complaint. FERC also granted FMPA's requested remedy: restoration of the transmission service requests and their queue positions.

FMPA's complaint, filed by Spiegel attorneys Cindy Bogorad and William Huang, can be found here, and FERC's Order can be found here.

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