

State of Florida



Public Service Commission

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RECORDS AND REPORTING AUG-5 11:10

DATE: AUGUST 5, 1999
TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)
FROM: DIVISION OF ELECTRIC AND GAS (GING, GOAD)
DIVISION OF AUDITING AND FINANCIAL ANALYSIS (SLEMKEWICZ)
DIVISION OF LEGAL SERVICES (KEATING)
RE: DOCKET NO. 990037-EI - PETITION OF TAMPA ELECTRIC COMPANY TO CLOSE RATE SCHEDULES IS-3 AND IST-3, AND APPROVE NEW RATE SCHEDULES GSLM-2 AND GSLM-3.
AGENDA: 08/17/99 - REGULAR AGENDA - TARIFF FILING - INTERESTED PERSONS MAY PARTICIPATE
CRITICAL DATES: 8-MONTH EFFECTIVE DATE: 09/09/99
SPECIAL INSTRUCTIONS: NONE
FILE NAME AND LOCATION: S:\PSC\EAG\WP\990037.RCM

CASE BACKGROUND

On January 8, 1999, TECO filed a petition to close its Interruptible Service-3 (IS-3), Interruptible Service Time of Use-3 (IST-3), and Interruptible Standby and Supplemental Service-3 (SBI-3) rates on the basis that the rates were no longer cost effective. On June 18, 1999, TECO filed an amendment to that petition requesting approval of two new rates, General Service Industrial Load Management Rider (GSLM-2) and General Service Industrial Standby and Supplemental Load Management Rider (GSLM-3).

TECO currently provides service to industrial customers under two interruptible schedules, the IS-1/IST-1 and the IS-3/IST-3 schedules. The IS-1 rates were closed to new customers at TECO's request during its 1985 rate case (Docket No. 850050-EI) because the rates were no longer cost effective. In Docket No. 870408-EI, the Commission approved a methodology for determining the cost

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effectiveness of non-firm load. Based on that methodology, TECO has now determined that the IS-3 rates are no longer cost-effective. TECO has proposed two new load management rates for customers with at least 500 kW of demand to replace the IS-3 and IST-3 rates. Rather than base non-firm rates set on cost of service, the new GSLM rates would provide for a credit to the otherwise applicable firm rate, similar to residential load management programs. TECO currently offers a GSLM option for all commercial customers.

### **DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission approve TECO's petition to close its rate schedules IS-3 and IST-3 to new customers? (GING)

**RECOMMENDATION:** Yes. The currently effective rates show a negative cost-benefit analysis with a cumulative present worth revenue requirements cost of \$35,751,000 over the 30-year evaluation period.

**STAFF ANALYSIS:** TECO has demonstrated that the IS-3 and IST-3 rate schedules are no longer cost-effective to the general body of rate payers using the Commission-approved methodology. The currently effective rates show a negative cost-benefit ratio with a cumulative present worth revenue requirements (CPWRR) cost of \$35,751,000 over the 30-year evaluation period. Thus, these rate schedules should be closed to new customers. Existing IS-3 and IST-3 customers will not be affected, and will continue to receive service under the existing rates.

The cost-effectiveness test for interruptible load is based on a comparison of present worth revenue requirements associated with two generation expansion plans -- one with no additional interruptible load and one with sufficient interruptible load to defer the first needed plant for one year. The costs for interruptible load are the lost revenues that occur because of the rate differential between interruptible and firm customers, and the benefits are the capacity deferral benefits.

Because the cost of new generation facilities is decreasing, the benefits associated with deferring such facilities are decreasing. The rationale for offering interruptible customers a lower rate is that these customers do not contribute to system peak and thereby defer the need to build generation to serve their load.

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It follows that as new generation facilities decrease in cost, existing interruptible tariffed rates become less cost effective.

The most recent analysis of the cost effectiveness of the IS-3 and IST-3 rate schedules was made in Order No. PSC-94-1046-FOF-EI, Docket No. 930372-EI, Investigation of Non-Firm Load Cost Effectiveness of Tampa Electric Company. In its order, the Commission determined the IS-3 and IST-3 rate schedules to be cost effective. TECO's cost effectiveness analysis for the IS-3 and IST-3 class indicated a positive CPWRR savings of \$1,798,000 over the 30 year evaluation period.

Before TECO signs up any new customers to the interruptible rate schedules a two prong test is performed. The first prong is to determine if the utility has a need for more interruptible load. The second prong is to determine whether or not the current interruptible rates are cost effective. Over the past two years TECO has not signed up any new customers on the IS-3 and IST-3 rates because they did not have a need for any additional interruptible load. When TECO performed its annual determination for interruptible need in January 1999, they determined a need for additional interruptible load. Then, TECO used the Commission-approved methodology to determine if adding new interruptible load at the current interruptible rates would be cost effective. When TECO determined that it was not cost effective, TECO petitioned the Commission to close the IS-3 and IST-3 rate schedules to new customers.

Florida Industrial Cogeneration Association (FICA) submitted comments in opposition to TECO's petition to close the IS-3 and IST-3 rate schedules to new customers. FICA's basis for objection focuses on three points: legal concerns, reserve margin concerns, and earnings concerns. FICA's legal concerns in part draw a distinction between interruptible service and standby/supplemental service. FICA identifies Commission Rule 25-6.0438(4), Florida Administrative Code which states in part:

"If a utility believes that providing interruptible service or another type of non-firm service to a specific customer who otherwise qualifies for such service under the utility's tariff will not result in benefits accruing to its general body of ratepayers, that utility shall apply to the Commission for authorization to refuse non-firm service to that customer. The provision of non-firm service for standby and supplemental purposes shall be consistent with the Federal Energy Regulatory Commission rule, 18 C.F.R. Sec. 292.305."

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FICA concedes that closure of TECO's IS-3 and IST-3 rate schedules is contemplated in Rule 25-6.0438(4), Florida Administrative Code (F.A.C.). However, FICA takes exception to TECO's proposed language on the Interruptible Standby And Supplemental Service (SBI-3) rate schedule which requires customers to have been taking service under rate schedules IS-3 or IST-3 prior to January 8, 1999 to be eligible. The purpose of Interruptible supplemental service is to require all self-generating customers who generate more than 20% of their own load to take standby power for the portion of load not normally served by the utility and is used when their own generator is down for maintenance or during a forced outage.

Staff believes there are two reasons why the closure of the SBI-3 rate schedule is appropriate. First, a customer can not request SBI-3 service unless the customer is taking service under the IS-3 or IST-3 rate schedules. Therefore, it is only appropriate that the proposed closure of the SBI-3 tariff coincide with the closure of the IS-3 and IST-3 tariffs to new customers. Standby and Supplemental service is offered at the otherwise applicable firm or interruptible rate. Second, the SBI-3 rate should be closed to new customers because it is offered at the same non cost-effective rate as the IS-3 and IST-3 rate.

FICA states that absent a waiver, FERC regulations require TECO to offer interruptible standby and supplemental service to qualifying facilities regardless of whether IS-3 and/or IST-3 are cost-effective.

However, the Commission ruled on this matter in Order No. 17159, issued February 6, 1987, stating in part:

"We find that the proper policy, consistent with the FERC rules and our rules, regarding the provision to Self-generating customers (SGC) of interruptible backup, maintenance, and supplemental power, is that it should be offered if it can be shown to result in demonstrable net benefits to the utility's general body of ratepayers. Absent such a demonstration, it should not be offered."

FICA also argues that the Commission should consider the effect of closing rate schedules IS-3 and IST-3 on the reserves of all of peninsular Florida and not limit the analysis to TECO's system. FICA suggests the Commission wait until the final disposition of Docket No. 981890-EU, the Commission's investigation into reserve margins. Staff believes that the reserve margin docket and TECO's petition are separate and distinct and should be

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treated as such. Pursuant to Rule 25-6.0438(4), Florida Administrative Code, TECO's IS-3 and IST-3 rate schedules must show a demonstrable benefit to its general body of ratepayers regardless of the impact on peninsular Florida.

FICA is also concerned with the impact the closure of rate schedules IS-3 and IST-3 might have on TECO's earnings and whether or not this would violate the stipulation concerning the freezing of base rates in Docket No. 950379-EI. FICA suggests that new customers who otherwise would have applied for the IS-3 and IST-3 rate schedules will be required to take service at the higher priced firm service rates. FICA further suggests that such an increase in revenues could be construed as a rate increase which is subject to the stipulation. In staff's opinion, this does not represent a rate increase because it does not affect any existing ratepayers. Staff notes, however, that existing customers who take service under the IS-3 and IST-3 rate schedules will not be required to take service under the otherwise applicable firm rate. TECO is petitioning to close only the IS-3 and IST-3 rate schedules to new customers.

Staff believes TECO has demonstrated that the IS-3 and IST-3 rate schedules are not cost-effective using a Commission-approved methodology. Staff suggests that not closing the rate schedules would result in all other customers subsidizing the IS-3 and IST-3 customers because the rates are no longer cost-effective. It is not prudent to continue offering these rate schedules if they can no longer be shown to result in demonstrable benefits to rate payers.

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**ISSUE 2:** What is the appropriate effective date of the proposed tariff change? (GING)

**RECOMMENDATION:** The effective date of the tariff should be the date of the Commission vote.

**STAFF ANALYSIS:** If the Commission votes to close the IS-3 and IST-3 rate schedules to new customers, staff believes that the closure should be effective on August 17, 1999, the day of the Commission vote.

TECO has requested that the IS-3 and IST-3 rates be closed effective as of the day its petition was filed on January 8, 1999, because it was determined that the rates were no longer cost-effective at that time. Staff believes that TECO's request is not appropriate, since it asks the Commission to retroactively close a rate schedule. Staff believes that the closure of the tariff can not be effective prior to the date the Commission votes to close it.

This is consistent with the Commission's decision in Docket No. 960130-EG, Order No. PSC-96-0468-FOF-EG, Petition to limit availability of Commercial/Industrial Load Control Program by Florida Power & Light Company. Which states:

The Company (FPL) has requested that the CILC rate be closed effective on February 5, 1996, the date their petition was filed. We believe that date is inappropriate because it requires us to retroactively close a rate schedule. The closure of the tariff shall be effective March 19, 1996, the date of the agenda conference when we approved the change.

FPL asserts that the February 5, 1996, closure date is appropriate because as of that date the CILC rate is already oversubscribed, and they do not wish to exacerbate the situation. An adequate remedy in this situation exists under Rule 25-6.0438(4)(c), Florida Administrative Code. Under the rule, if a utility believes that providing interruptible service to a customer who otherwise qualifies will not result in benefits to the general body of ratepayers, the utility may apply to the Commission for authorization to refuse service to the customer. We believe that this rule provides adequate opportunity for FPL to justify not offering the rate to customers who made application

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between February 5, 1996, and March 19, 1996, the date of closure, based on the contention that their addition will result in a level of participation that is not cost-effective.

Staff therefore believes that if the Commission votes to close the IS-3 and IST-3 rate schedules to new customers, the closure should be effective on August 17, 1999, the date of the Commission vote. It should be noted that TECO has not signed any new customers to the IS-3 and IST-3 rate schedules for at least two years.

**ISSUE 3:** Should the Commission approve TECO's petition to offer rate schedules General Service Industrial Load Management Rider (GSLM-2) and General Service Industrial Standby and Supplemental Load Management Rider (GSLM-3)?

**RECOMMENDATION:** No. The GSLM-2 and GSLM-3 rate schedules are cost effective with a benefit/cost value of 1.2 to 1. and a net present value benefit of \$1,619,000 over the life of the program. However, staff recommends denial of the proposed GSLM-2 and GSLM-3 rate schedules because of the "Penalty Clause for Transfer Without Full Notice" provision included in the filing.

**STAFF ANALYSIS:** TECO's new GSLM-2 and GSLM-3 rate schedules are intended to be a cost-effective alternative to the IS-3 and IST-3 rate schedules under consideration for closure in this docket. Unlike the IS-3 and IST-3 rate schedules, TECO is petitioning to offer the GSLM-2 and GSLM-3 rate schedules as demand side management programs (DSM). This is consistent with the final order issued in TECO's last rate case (FPSC Order No. PSC-93-0165-FOF-EI, Docket No. 920324). By its order the Commission recommended that TECO treat the interruptible rate schedules as DSM programs at the time of their next rate case. Although TECO has petitioned for approval of the rates outside of a rate case, TECO's filing is consistent with the Commission's directive.

If approved as a DSM program in this proceeding, customers taking service under the proposed GSLM-2 and GSLM-3 rate schedules will contract for a 36 month term and receive a credit on their monthly bills based on the Contracted Credit Value (CCV) determined on an annual basis in the Energy Conservation Cost Recovery Clause proceeding. Customers who take service under the GSLM-2 and GSLM-3 rate schedules will pay all charges associated with the otherwise applicable firm rate schedules. This includes all the cost recovery clause charges, which are significantly higher than the recovery charges associated with the interruptible rate schedules.

The credit will be determined using the Rate Impact Measure (RIM) test calculation methodology set forth in Rule 25-17.008, Florida Administrative Code. The appropriate avoided unit for the DSM evaluation will be based on TECO's annual Ten Year Site Plan filing. The initial credit on the demand charge would be \$3.65 per contracted kW, with a minimum demand of 500kW. Based on the assumptions used in the RIM analysis, the CCV can range from \$0 up to the otherwise applicable demand charge. Although the CCV will be recalculated annually, customers who sign up for the 36 month



contract term will maintain the same credit value for the duration of the contract. If a customer signs up for a new 36 month term, the new CCV will be based on the CCV on file at the Commission at that time. The credit will be established using a RIM benefit/cost value of 1.2 to 1. Because the RIM test is based on many assumptions, using a 1.2 to 1 benefit/cost value will allow for a margin of error to ensure cost effectiveness.

A portion of the GSLM tariffs addresses a minimum notice to transfer to firm service and a possible transfer without full notice. Rule 25-6.0428, Florida Administrative Code, requires that non-firm customers provide five years minimum notice prior to switching from non-firm to firm service. The rule provides that a utility can request a different minimum notice period if it can be demonstrated that a different notice requirement is appropriate. TECO has requested that the minimum notice for the GSLM tariffs be reduced to 36 months. TECO argues that this more closely reflects the planning horizon of constructing a new combustion turbine. Staff agrees with this argument and believes that the minimum notice should coincide with TECO's planning horizon. A notice of 36 months is consistent with Florida Power Corporation's notice period in its Interruptible General Service tariff which was adopted in June 1996.

However, with the shorter notice period, TECO has also included the ability to impose a penalty on customers who choose to transfer to firm service without the full three years notice. It is this penalty provision that causes staff sufficient concern to recommend denial of the tariff as filed.

Penalty Provision. In TECO's 1985 rate case, the then existing interruptible rate, IS-1, was closed and the IS-3 rate was opened. As part of the rate case, the Commission approved language providing for a penalty for transfer from interruptible to firm prior to a minimum length of time. The existing language is as follows:

PENALTY CLAUSE FOR TRANSFER WITHOUT FULL NOTICE: Any customer choosing to transfer to firm service from interruptible service without giving the full five (5) years notice shall pay a charge amounting to the value of the credits given the period of time immediately prior to the changeover that is equal to the period that the changeover will be less than the required notice period.

This penalty may be waived by the Company if the following two conditions can be demonstrated:

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- 1) The customer has been on the IS rate for at least five (5) years.
- 2) It can be demonstrated that there is sufficient capacity to provide firm service to the customer and that allowing the customer to receive firm service will have no adverse effect on the Company's generation expansion plan.

The Commission declined to set a minimum term of service in the 1985 rate case and the penalty provision was presumably a means to prevent customers from gaming the rate by getting on the rate when capacity was flush and off when capacity became tight. In a subsequent generic docket, utilities agreed to set a minimum term of five years for any one opting for an interruptible rate but the penalty language remained in TECO's interruptible tariff. To date, it has not been applied or formally challenged.

Following the interruptions experienced by customers last April, TECO received requests about the amount of penalty for transfer to firm service without full notice. At that point, it became clear to TECO that some customers had interpreted the existing language to allow a customer to transfer to firm service simply upon payment of a monetary penalty. TECO maintains that before any customer could be considered for transfer to firm from interruptible service, there must be sufficient capacity so that the additional load would not have any adverse impact on the existing firm customers. On June 4, 1999, TECO filed for approval of a clarification to the IS-1 and IS-3 tariffs in Docket No. 990724-EI to clearly state its interpretation of the penalty clause. For consistency, TECO included its proposed clarification language in the proposed GSLM tariffs. The proposed language is as follows:

PENALTY CLAUSE FOR TRANSFER WITHOUT FULL NOTICE: The Company may permit transfer to firm service without full notice upon satisfaction of the initial term of service (36 months) and upon a determination by the Company that there is sufficient capacity to provide firm service to the customer. Any customer allowed to cease taking interruptible service under this rider without giving full notice shall pay a charge amounting to the value of the credits given the period of time immediately prior to the changeover that is equal to the period that the changeover will be less than the required notice period.

This penalty may be waived by the Company if the Following two conditions can be demonstrated:

- 1) The customer has been on the interruptible service for at least 36 months; and
- 2) There will be no adverse effect to existing firm customers or the Company's generation expansion plan.

TECO met with staff and other interested parties on July 13, 1999, in Docket No. 990724-EI to discuss the intent of the clarification. When the matter was not resolved, the parties agreed to continue to meet to try to reach agreement. They apparently failed to do so, and on August 3, 1999, TECO withdrew the clarification petition. Since the language remains troublesome to staff, and is likely to generate conflicts in the future, staff believes it should be deleted from the proposed tariffs in favor of the following language:

Transfer Without Full Notice: The Company may permit transfer to firm service without full notice if the customer has been on the interruptible service for at least 36 months and there will be no adverse affect to existing firm customers or the Company's generation expansion plan.

This proposed language is similar to that found in other utilities' non-firm tariffs and staff believes it captures the minimum term of service and the concept of protecting the general body of ratepayers from adverse impacts that TECO is attempting to achieve.

Staff agrees with the basic structure and approach used to develop the proposed GSLM tariffs but not with the penalty language as stated. However, the decision must be to approve or deny the tariff as filed. Neither staff nor the Commission can unilaterally modify a utility's filing. Staff would recommend approval of the proposed GSLM-2 and GSLM-3 tariff if TECO were to resubmit them with the deletion of the existing penalty language and the substitution of the staff's proposed language.

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**ISSUE 4:** Should this docket be closed?

**RECOMMENDATION:** Yes, no protest is filed within 21 days of the issuance of the order.

**STAFF ANALYSIS:** If a protest is filed within 21 days of the Commission order approving this tariff, the tariff should remain in effect pending resolution of the protest. If no protest is filed, this docket should be closed upon the issuance of a Consumating Order.