



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

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**DATE:** JANUARY 11, 2000

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

**FROM:** DIVISION OF ELECTRIC AND GAS (BREMAN, BALLINGER) *93 can DS PJT*  
DIVISION OF LEGAL SERVICES (ELIAS, JAMES) *RVE*

**RE:** DOCKET NO. 992014-EI - TAMPA ELECTRIC COMPANY'S PETITION FOR APPROVAL OF ITS PLAN TO BRING ITS GENERATING UNITS INTO COMPLIANCE WITH THE CLEAN AIR ACT.

**AGENDA:** 01/18/00 - REGULAR AGENDA - DECISION PRIOR TO HEARING - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\EAG\WP\992014.RCM

### CASE BACKGROUND

I. Department of Environmental Protection Lawsuit Against Tampa Electric Company

The Florida Department of Environmental Protection (DEP), which has a State Implementation Plan (SIP) in place with the United States Environmental Protection Agency (EPA) and administers the Clean Air Act on behalf of the EPA in Florida, filed a lawsuit against Tampa Electric Company (TECO) on December 7, 1999, for non-compliance with the Clean Air Act. Shortly after the lawsuit was filed, TECO and DEP settled the suit by entering a Consent Final Judgment (CFJ). The CFJ became effective on December 16, 1999. The CFJ requires the Gannon coal-fired units to be repowered as

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natural gas combined cycle units by December 31, 2004, with necessary controls to achieve an NO<sub>x</sub> emission rate of 3.5 ppm. TECO's self build estimate is \$673 million for the repowering of Gannon Station.

II. The Requirements of the Consent Final Judgment

In addition to the Gannon repowering requirement discussed above, the CFJ specifically requires the TECO engage in the following activities:

1. Reduction of Big Bend Station NO<sub>x</sub> emissions by 2010 through retrofit control technology, or repowering with natural gas, or by shutting down the station;
2. Improvements of the Big Bend Units 1 and 2 SO<sub>2</sub> scrubber;
3. A Big Bend Station precipitator optimization study;
4. Evaluation of "zero-ammonia" nitrogen oxide control technology at the Gannon facility;
5. Feasibility of and/or addition of a particulate matter continuous emissions monitor;
6. \$2 million contribution to the Hillsborough Environmental Protection Commission for use in the Bay Regional Air Chemistry Experiment (BRACE) program;
7. Collaborate with the DEP to develop and implement a State tax policy aimed at emission reductions and other such programs; and
8. Cooperate with DEP and the EPA in an effort to clarify the NSR regulations.

TECO's petition, however, does not provide estimated costs for any of the above specific activities. Instead, TECO states in paragraph 33 of its petition that "\$327 million represents a high-level estimate of expected costs for environmental compliance activities required by the CFJ."

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should TECO be required to issue a Request For Proposal (RFP) for the shutdown/repowering of the Gannon Station?

**RECOMMENDATION:** Yes. To ensure that TECO selects the lower cost option between purchased power and refurbishing Gannon, TECO should be required to issue an RFP in lieu of the repowering at the Gannon Station. The RFP should solicit proposals that minimize total costs, including the construction of transmission capacity, and ensure that the emission requirements of the CFJ are achieved or exceeded. The RFP results should be filed by May 1, 2000 in order to avoid any further delay in emission reductions that would otherwise result from TECO's Compliance Plan. [BALLINGER, BREMAN, JAYE]

**STAFF ANALYSIS:**

I. Commission Authority and the Requirements of Section 366.825, Florida Statutes

A. Commission Authority

While there is no specific statute or rule mandating a RFP in this circumstance, staff believes this action is well within the Commission's authority. Section 366.01, Florida Statutes, states:

The regulation of public utilities as defined herein is declared to be in the public interest and this chapter shall be deemed to be an exercise of the police power of the state for the protection of the public welfare and all the provisions hereof shall be liberally construed for the accomplishment of that purpose.

Section 366.06(1), Florida Statutes, provides in part that a public utility's rates shall be based upon ". . . the money honestly and prudently invested by the public utility company in such property used and useful in serving the public." A RFP is consistent with the Commission's statutory responsibility to assure that the Gannon repowering is prudent.

B. The Requirements of Section 366.825, Florida Statutes

On December 23, 1999, TECO filed a Petition for Approval of its Plan to Bring its Generating Units into Compliance with the

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Clean Air Act pursuant to Section 366.825(2), Florida Statutes, which states in part:

Each public utility which owns or operates at least one electric generating unit affected by s. 404 or s. 405 of the Clean Air Act may submit for commission approval, a plan to bring generating units into compliance with the Clean Air Act . . . .

The statutory requirements for Commission approval of a plan filed under this statute are stated in Section 366.825(3).

The Commission shall review a plan to implement the Clean Air Act compliance submitted by public utilities pursuant to this section in order to determine whether such plans, the costs necessarily incurred in implementing such plans, and any effect on rates resulting for such implementation are in the public interest. The commission shall by order approve or disapprove plant to implement compliance submitted by public utilities within 8 months after the date of filing. Approval of a plan submitted by a public utility shall establish that the utility's plan to implement compliance is prudent and the commission shall retain jurisdiction to determine in a subsequent proceeding that the actual costs if implementing the compliance plan are reasonable; provided, however, that nothing in this section shall be construed to interfere with the authority of the Department of Environmental Protection to determine whether a public utility is in compliance with ss. 403.087 and 403.0872 or the State Air Implementation Plan for the Clean Air Act.

Section 366.825(2), Florida Statutes, also requires that the public utility filing a plan describe its proposed plan, estimated effects, and alternative actions considered by the public utility to comply with federal, state, and local requirements of the Clean Air Act. TECO's petition and attachments to its petition, provide summary information addressing these statutory requirements. Paragraph 33 of TECO's petition, states the total 10 year cost of its plan to estimated to be \$1 billion. All of the projected \$ 1 billion in costs appear to result from the CFJ entered into with DEP.

## II. Tampa Electric Company's Petition

On page 15, of its petition, TECO provides a summary of the relief it is seeking. TECO is asking that three specific Commission determinations. TECO's requests are that the Commission:

- (1) review the company's compliance plan including its plan to implement the requirement of the CFJ and find the plans reasonable, prudent and in the public interest;
- (2) determine that the portion of the compliance plan calling for the conversion of its Gannon Station is reasonable, prudent and in the public interest; and,
- (3) determine that the costs required by the CFJ and associated with emissions monitoring and SO<sub>2</sub>, NO<sub>x</sub> and particulate matter emissions reduction are the types of costs which are recoverable through the Environmental Cost Recovery Clause in accordance with Section 366.8255, Florida Statutes and provides such additional relief as the Commission finds is appropriate.

In order to comply with the 180 day clock in Section 366.825, Florida Statutes, this matter is currently set for hearing May 30 through June 2, 2000.

## III. Discussion of the Facts

Part of TECO's compliance plan is to repower three existing coal-fired units (Units 3, 4, and 5) with natural gas at the Gannon Station by the year end 2004. The remaining three coal-fired units (Units 1, 2, and 6) at the Gannon Station will be shut down and removed from active service. The Gannon Station will realize a net increase in capacity of approximately 380 MW after the repowering is complete. Staff understands that this increase in capacity will not require a power plant site act need determination because there will be no net change in the steam capacity at the Gannon Station.

Florida Statutes, section 366.825(2) subsections (b) and (c) states that a Clean Air Act compliance plan submitted for approval must include:

(b) A description of the proposed action, and alternative actions considered by the public utility, to reduce sulfur dioxide emissions to levels required by the Clean Air Act at each affected unit;

(c) A description of the proposed action, and alternative actions considered by the public utility, to

comply with nitrogen oxide emission rates required by the Clean Air Act at each affected unit.

In 1993 the Commission adopted Rule 25-22.082, Florida Administrative Code, establishing the policy that the most compelling method to test the cost-effectiveness of a major generation addition was through an RFP process prior to petitioning for a determination of need. Although the instant petition is not a "need" petition pursuant to the Power Plant Site Act or Rule 25-22.082, Florida Administrative Code, staff believes the outcome is the same. Approval of TECO's petition will obligate retail customers to pay for a power plant and the associated fuel and other operating costs for the 30 to 40 year life of the plant. Before having retail customers incur this obligation, the wholesale market alternative should be tested with an RFP and the lowest cost alternative selected.

In TECO's petition, the company claims that a market analysis shows purchased power to be more costly than the repowering project at the Gannon Station. According to TECO's petition, a purchased power alternative was more costly primarily because of incremental transmission costs necessary to maintain voltage stability after the entire Gannon Station is placed on reserve standby, the imputed financial risks associated with Independent Power Producer financing, and the cost of wheeling the purchased power. While TECO's market analysis may eventually pass muster at the hearing, staff recommends that a more compelling method of testing the market is to issue an RFP and select the lowest cost alternative. In addition, TECO has taken an "all or nothing" approach to the purchased power alternative. In other words, TECO has assumed that the only purchased power option is to shut down the entire Gannon Station and purchase approximately 1,100 MW. There may be a middle ground where TECO shuts down a portion and repowers a portion of the Gannon Station in order to maintain voltage stability. The remaining capacity, if needed, could be purchased. Any such scenario should mitigate any substantial transmission improvements and insure that the CFJ emission levels are achieved or exceeded. There may be other combinations of generation and transmission alternatives that have not been addressed in TECO's market analyses.

Staff acknowledges there is argument against recommending TECO issue an RFP now. TECO has (as of this writing) not filed their testimony and exhibits in support of their market analysis. Staff has approached TECO regarding our concerns with relying only on the internal market analysis. TECO appears confident that their market analysis is sufficient to justify the \$673 million expenditure. To

date no generating companies have intervened in this docket or questioned TECO's market analysis. Further, the Commission's Rule 25-22.082, Florida Administrative Code, requires investor-owned utilities to issue an RFP only for proposed power plants subject to Power Plant Site Act certification. The details of the RFP, such as MWs and contract term, were left to be determined by the utility. In 1993, repowering projects of this magnitude were not envisioned and Rule 25-22.082, Florida Administrative Code, is not applicable to the repowering of an existing plant. As such, TECO is not required by any current rules to issue an RFP for the repowering of Gannon.

Pursuant to Section 366.825(3), Florida Statutes, the Commission must issue a final Order in this docket no later than August 23, 2000. Because of this deadline, staff is making this recommendation now in order to have the RFP results available for the hearing. The Commission could then make a decision using the most compelling evidence to select the lowest cost alternative.

If an RFP is not issued soon and upon conclusion of the hearing the Commission were to require TECO to issue an RFP, the emission reductions required by the CFJ could be delayed. In addition, potential bid respondents may be faced with unrealistic in service dates due to the emission reduction timetable specified in the CFJ of December 31, 2004. This means the viability of an RFP result may be negated if there is a delay in issuing an RFP on the Gannon repowering project.

#### IV. Conclusion

Based on the above, staff recommends that TECO be required to issue an RFP for the repowering at the Gannon Station. The RFP should solicit proposals that minimize total costs, including the construction of transmission capacity, and ensure that the emission requirements of the CFJ are achieved or exceeded. The RFP results should be filed by May 1, 2000 in order to avoid any further delay in emission reductions that would result from TECO's Compliance Plan.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** No. This matter is currently set for hearing May 30 through June 2, 2000. This docket must remain open until the conclusion of all post hearing proceedings.

**STAFF ANALYSIS:** This docket must remain open until the conclusion of all post hearing proceedings.