

State of Florida



Public Service Commission

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DATE: MARCH 20, 2003

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYO)

FROM: DIVISION OF ECONOMIC REGULATION (BREMEN, D. LEE)
OFFICE OF THE GENERAL COUNSEL (STERN) MKS *JSB WBN DL*

RE: DOCKET NO. 021255-EI - PETITION FOR APPROVAL OF NEW ENVIRONMENTAL PROGRAM FOR COST RECOVERY THROUGH ENVIRONMENTAL COST RECOVERY CLAUSE, BY TAMPA ELECTRIC COMPANY. *JDJ*

AGENDA: 04/01/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\ECR\WP\021255.RCM

CASE BACKGROUND

Tampa Electric Company's ("TECO" or "Company") current base rates were established by Order No. PSC-93-0758-FOF-EI, issued May 19, 1993, in Docket No. 920324-EI.

On December 16, 1999, TECO and the Florida Department of Environmental Protection ("DEP") entered into a Consent Final Judgement ("CFJ") resolving an alleged violation of the Clean Air Act. On February 29, 2000, the United States Environmental Protection Agency ("EPA") initiated a Consent Decree with TECO which settled similar alleged violations of the Clean Air Act. Both the CFJ and the Consent Decree require TECO to replace the direct coal fired technology at the Gannon Station with natural gas fired combined cycle technology. Section V.B. of the CFJ and Paragraph 26 of the Consent Decree direct TECO to achieve emissions of 3.5 ppm for oxides of nitrogen ("NO_x") from the repowered Gannon

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Generation station. The repowered Gannon Generation Station will be renamed the Bayside Generating Station.

On December 20, 2002, TECO petitioned this Commission for approval of the Company's Bayside Selective Catalytic Reduction ("SCR") Consumables as a new activity for cost recovery through the Environmental Cost Recovery Clause ("statute" or "ECRC").

Section 366.8255, Florida Statutes, the ECRC, gives the Commission the authority to review and decide whether a utility's environmental compliance costs are recoverable through an environmental cost recovery factor. Electric utilities may petition the Commission to recover project environmental compliance costs required by environmental laws or regulations. See Section 366.8255(2), Florida Statutes. Environmental laws or regulations include "all federal, state or local statutes, administrative regulations, orders, ordinances, resolutions, or other requirements that apply to electric utilities and are designed to protect the environment." Section 366.8255(1)(c). If the Commission approves the utility's petition for cost recovery through this clause, only prudently incurred costs shall be recovered. See Section 366.8255(2), Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve TECO's petition for cost recovery of the Bayside Selective Catalytic Reduction Consumables, for the life of the Bayside facility, as a new activity for cost recovery through the ECRC?

RECOMMENDATION: Yes. (Breman, Stern)

STAFF ANALYSIS: The Bayside SCR Consumables activity is part of the SCR technology being installed at the Bayside Station to reduce air emissions of oxides of nitrogen ("NO_x"). The requirement to control NO_x emission appears in the air permit issued by the DEP for the Bayside Generating Station. Conditions No. 8, 14, and 22 of Air Permit No. PSD-FL-301A, the DEP establishes that SCR will be installed and that SCR consumables, such as ammonia, will be used

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to achieve the permitted NO_x emission rate of 3.5 ppm. TECO asserts that the Air Permit for Bayside was developed through consultation with the EPA and DEP to assure compliance with the Consent Decree and the CFJ. Consequently, there is no other viable alternative that would achieve compliance with the applicable environmental requirements.

TECO requests that the cost of SCR consumables be approved for the life of the facility. The projected ammonia expenses for 2003 are \$72,000 and will increase to \$252,000 as the Bayside Station becomes fully operational. The first full year of operation will be 2005. The estimated ammonia expenses are based on current ammonia market prices.

Staff believes that TECO's Bayside SCR Consumables activity satisfies the requirements of Section 366.8255, Florida Statutes, and qualifies for recovery through the ECRC. The Consent Decree and Consent Final Judgement satisfy the definition of environmental law or regulation in Section 366.8255(1), Florida Statutes. The actual expenditures will be addressed in the up-coming ECRC true-up cycle and will be subject to audit. Issues that will determine the specific amount recoverable through the ECRC, such as whether specific costs were prudently incurred and whether they have already been recovered in other mechanisms, will be further examined and resolved in Docket 030007-EI. TECO is not requesting a change in the ECRC factors that have been approved for 2003. Based on the information currently available, it appears that there is no potential for a significant rate impact. Therefore, the review of TECO's expenses should be addressed at the November 2003 ECRC hearing.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed upon issuance of the Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest with 21 days of the issuance of the proposed agency action. (Stern)

STAFF ANALYSIS: If no timely protest to the proposed agency action is filed within 21 days of the date of issuance, this docket should be closed upon the issuance of a Consummating Order.